Organic Law on National and Local-level Government Elections

No. 3 of 1997.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

Organic Law on National and Local-level Government Elections.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

Organic Law on National and Local-level Government Elections,

Being an Organic Law to implement Section 125 (electorates) Section 126 (elections) and Section 187C (Constitution, functions, etc., of Provincial Governments and Local-level Governments) of the Constitution by providing for–

(*a*) a Boundaries Commission; and
(*b*) the defining of boundaries of National Electorates; and
(*c*) an Electoral Commission; and
(*d*) the holding of National Elections; and
(*e*) the holding of Local-level Government Elections,

and to repeal the Organic Law on National Elections and other laws and to make consequential amendments to the Organic Law on Provincial Governments and Local-level Governments and for related purposes.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

This Organic Law, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (qualified rights) of the Constitution, namely–

(*a*) the right to freedom from arbitrary search and entry conferred by Section 44 of the Constitution; and
(*b*) the right to freedom of conscience, thought and religion conferred by Section 45 of the Constitution; and
(*c*) the right to freedom of expression conferred by Section 46 of the Constitution; and
(*d*) the right to freedom of assembly and association conferred by Section 47 of the Constitution; and
(*e*) the right to privacy conferred by Section 49 of the Constitution; and
(*f*) the right to vote and stand for public office conferred by Section 50 of the Constitution; and
(*g*) the right to freedom of information conferred by Section 51 of the Constitution,

is a law that is made for the purpose of giving effect to the public interest in public safety, public order and public welfare.

2. APPLICATION OF THIS LAW.

Subject to Part XXII, Section 3 and Parts II to XVIII inclusive of this Law–

(*a*) apply to and in respect of elections to the National Parliament; and
(*b*) apply to and in respect of elections to Local-level Governments–

(i) only to the extent authorized by Part XIX; and
(ii) subject to such modification as is authorized by Part XIX.

3. INTERPRETATION.

(1)[1] In this Law, unless the contrary intention appears–

"candidate", in Parts II and XVII, includes a person who, within three months before the first day of the polling period, announces himself as a candidate for election as a member of the

Parliament;
“elector” means a person whose name appears on a Roll as an elector;
“electoral officer” includes the Electoral Commissioner, a Returning Officer, presiding officer, substitute presiding officer, assistant presiding officer, poll clerk, interpreter and doorkeeper;
[2][3]“electorate” means an open electorate;
“electronic advice” means communication by any electronic means;
“member” means a member of the Parliament;
“officer” means an officer or employee of the National Public Service, a member of the Defence Force, a member of the Police Force, a member of the Correctional Service, an officer or employee of a Provincial Government or an officer or employee of a Local-level Government or an officer or employee of a governmental body;
“polling booth” means the polling place or part of the polling place determined by the presiding officer to be a polling booth under Section 118(2);
“polling period”, in relation to an election, means the period for polling the first and last days of which are specified in the writ for that election and includes any extension of that period granted under Section 176;
“population” means–

(*a*) in the case where a National Census of Population has, in the opinion of the National Statistician, been completed and–

(i) from which in his opinion he is able to provide satisfactory estimates of population; and

(ii) in relation to which a redistribution has not previously been carried out,

the population as at the date of that National Census of Population as estimated by the National Statistician; and

(*b*) in any other case–the population as estimated by the National Statistician as at such date prior to the date of the redistribution as in the opinion of the National Statistician is the most recent date at which he can give a satisfactory estimate;

“Province” includes the National Capital District;
“Roll” means an Electoral Roll under this Law;
“the Boundaries Commission” means the Boundaries Commission established by Section 26;
“the Committee” means the Electoral Commission Appointments Committee established by Section 6;
“the Electoral Commission” means the Electoral Commission continued in establishment by Section 5;
“the Electoral Commissioner” means the Electoral Commissioner appointed under Section 5;
“the Parliament” means the National Parliament;
“the Returning Officer”, in relation to an electorate, means the Returning Officer for that electorate;
“this Law” includes any regulations made under this Law.

(2) Notwithstanding any other law, where a time limit is imposed under this Law for the taking of an action, then unless the contrary intention appears, that time limit is mandatory.

(3) An opinion given by the National Statistician as to the population is non-justiciable.

4. REFERENCE OF CERTAIN QUESTIONS TO NATIONAL COURT.

Any question as to whether a person has been validly elected as a member of the Parliament or whether the seat of a member has become vacant shall be determined by the National Court.

PART II. – ADMINISTRATION.

5. ELECTORAL COMMISSION.

(1) The Electoral Commission established under the Organic Law on National Elections (repealed by this Law) continues in establishment.

(2) The Electoral Commission shall consist of the Electoral Commissioner.

(3) The Electoral Commissioner shall be appointed by the Head of State, acting with, and in accordance with, the advice of the Committee, by notice published in the National Gazette.

6. ELECTORAL COMMISSION APPOINTMENTS COMMITTEE.

There is hereby established an Electoral Commission Appointments Committee consisting of–

(*a*) the Prime Minister or a Minister appointed by him, who shall be Chairman; and
(*b*) the Leader of the Opposition or in his absence the Deputy Leader of the Opposition; and
(*c*) the Chairman of the appropriate Permanent Parliamentary Committee; and
(*d*) the Chairman of the Public Services Commission.

7. MEETINGS OF THE ELECTORAL COMMISSION APPOINTMENTS COMMITTEE.

(1) The Committee shall meet at such times and places as, in the opinion of the Chairman, are necessary for the efficient conduct of its affairs.

(2) Questions arising at a meeting of the Committee shall be decided by a majority of the votes of the members.

(3) The Chairman has a deliberative vote and, in the event of an equality of votes on a question, also a casting vote.

(4) The procedures of the Committee are as determined by the Committee.

8. CASUAL VACANCY, ETC.

(1) At any time when–

(*a*) the office of Electoral Commissioner is not filled on a permanent basis; or
(*b*) the Electoral Commissioner is away from the country or for any reason is not able to carry out his duties,

the Head of State, acting with, and in accordance with, the advice of the Committee, may appoint a person to act in the office of Electoral Commissioner for a period not exceeding six months.

(2) An acting Electoral Commissioner has and may exercise and perform all the powers, duties and functions of the Electoral Commissioner.

(3) This Law applies to an acting Electoral Commissioner in the same way as it applies to the Electoral Commissioner.

9. TERM OF OFFICE.

The Electoral Commissioner shall be appointed for a term of six years and is eligible for re-appointment.

10. DECLARATION OF OFFICE.

Before entering upon the duties of his office, the Electoral Commissioner shall make the Declaration of Office before the Chief Justice or a Judge of the National Court appointed by the Chief Justice.

11. DISQUALIFICATIONS FROM OFFICE.

A person is not qualified to be, or to remain, the Electoral Commissioner if he is–

(*a*) a member of the Parliament; or
(*b*) a member of a Provincial Assembly; or
(*c*) a member of a Local-level Government; or
(*d*) an office holder in a registered political party; or
(*e*) an undischarged bankrupt or insolvent; or
(*f*) of unsound mind within the meaning of any law relating to the protection of the person and property of persons of unsound mind; or
(*g*) under sentence of death or imprisonment.

12. SPECIAL CONDITIONS OF EMPLOYMENT.

(1) The Electoral Commissioner shall not–

(*a*) actively engage in politics; or
(*b*) except on leave granted by the Head of State, or because of illness, absent himself from duty for more than 14 consecutive days or more than 28 days in any period of 12 months; or
(*c*) subject to Subsection (3), acquire by way of a gift or otherwise, or use or hold in any other manner, any interest in any property of Papua New Guinea or solicit, accept or receive any other benefit in addition to his terms and conditions of employment.

(2) Nothing in Subsection (1) prevents the Electoral Commissioner from holding office in a professional body in relation to which his qualifications are relevant.

(3) Subject to any Organic Law made for the purposes of Division III.2 (leadership code) of the Constitution, the Electoral Commissioner may purchase, lease or otherwise acquire land in the same manner and subject to the same conditions as any other citizen.

13. RESIGNATION.

(1) The Electoral Commissioner may resign by giving three months notice in writing of his intention to do so to the Head of State.

(2) The period of three months referred to in Subsection (1) shall be deemed to commence on the twenty-second day after the receipt of the notice by the Head of State except where the Head of State, acting with, and in accordance with, the advice of the Committee, by notice in writing to the Electoral Commissioner, fixes an earlier date for the commencement.

(3) The Electoral Commissioner may withdraw his resignation at any time before the period of three months referred to in Subsection (1) commences.

14. RETIREMENT.

(1) Subject to Subsection (2), a person who has attained the age of 55 years shall not be appointed or re-appointed as the Electoral Commissioner and a person shall not be appointed or re-appointed for a period that extends beyond the date on which he will attain the age of 55 years.

(2) The Head of State, acting with, and in accordance with, the advice of the Committee, may, for special reasons in a particular case, appoint or re-appoint a person who is over 55 years of age to be the Electoral Commissioner but in no case shall the Electoral Commissioner continue to act as the Electoral Commissioner after he has attained the age of 60 years.

15. PRIME FUNCTION OF THE ELECTORAL COMMISSION.

It is the prime function of the Electoral Commission to organize and conduct all elections for the Parliament and the legislative arms of the Local-level Governments.

16. STAFF TO BE MADE AVAILABLE BY CERTAIN BODIES.

[4]Where so requested by the Electoral Commission –

(*a*) the Department responsible for personnel matters; and
(*b*) any governmental body,

shall make available to the Electoral Commission and to each Returning Officer such staff as may be necessary for the discharge of the functions conferred on the Electoral Commission.

17. APPLICATION OF **PUBLIC FINANCES (MANAGEMENT) ACT 1995**.

Part VIII of the Public Finances (Management) Act 1995 applies to and in relation to the Electoral Commission.

18. DELEGATION.

(1) The Electoral Commission may, by instrument in writing, delegate to an officer all or any of its powers and functions under this Law (except this power of delegation and any prescribed power and function), so that the delegated powers or functions may be had, exercised

and performed by the delegate in relation to such electorate or electorates, or to such matters or class of matters, or to the whole of the country or such part of the country, as is specified in the instrument of delegation.

(2) Every delegation under Subsection (1) is revocable, in writing, at will.

(3) No delegation under this Section prevents the exercise or performance of a power or function by the Electoral Commission.

19. RETURNING OFFICERS.

[5](1) The Electoral Commission shall, by notice in the National Gazette, appoint a Returning Officer for each electorate, who shall be charged with the duty of giving effect to this Law within or for his electorate, subject to any directions of the Electoral Commission.

(2) A person maybe appointed Returning Officer for more than one electorate and may perform the functions and duties of a Returning Officer for more than one electorate at the same time.

(3) A Returning Officer may, following consultations with the Electoral Commission, seek the assistance of such persons, both individuals and group of individuals including a committee, to plan for the preparation or updating of Rolls and the conduct of elections provided that the functions performed, or the powers exercised, by a Returning Officer under or in accordance with this Law remain the functions and powers of the Electoral Commission.

(4) Regulations may make provisions for the Committees to be established by a Returning Officer to assist him in the exercise of his powers and functions under Subsection (3).

(5) The Electoral Commission may, on the nomination of a Returning Officer, appoint authorized enrolment agents in a Ward under the responsibility of that Returning Officer to undertake enrolment in that Ward and perform such other duties and responsibilities as are prescribed.

(6) Regulations make further provisions for the duties and responsibilities of authorized enrolment agents appointed under Subsection (5).

(7) A direction from the Electoral Commission to a returning Officer not to make a declaration of result shall bind the Returning Officer and if the Returning Officer or any other Electoral Officer makes a declaration despite the direction, that declaration in invalid.

20. ASSISTANT RETURNING OFFICER.

(1) Subject to this section, the Electoral Commission may, by notice published in the National Gazette, appoint a person to be an Assistant Returning Officer for a portion of an electorate.

(2) A person appointed to be an Assistant Returning Officer for a portion of an electorate may, subject to this Law and to the Regulations and to the control of the Returning Officer, perform

the functions and exercise the powers of the returning Officer, in, or in relation to, that portion of the electorate.

(3) An Assistant Returning Officer shall not be appointed for a portion of an electorate for which less than 100 electors are enrolled.

(4) Where the services of an Assistant Returning Officer are required for the purposes of one election only, the appointment may be made by the Returning Officer by instrument in writing, and in that case the appointment terminates upon the completion of the election.

(5)[6] [7]The failure to publish a notice in the National Gazette under this section shall not be a ground for invalidating an election.

21. APPOINTMENT IN CASES OF EMERGENCY.

(1) Subject to Subsection (2), in the event of a vacancy occurring in an office of Returning Officer or Assistant Returning Officer, or in the absence from duty of any such officer, the Electoral Commission may, by notice in writing, appoint a person to perform the duties of the office during the period of the vacancy or absence.

(2) The Electoral Commission shall publish each notice under Subsection (1) in the National Gazette.

(3) In the event of a vacancy occurring in an office of Assistant Returning Officer appointed under Section 20(4), or in the absence from duty of any such officer, the Returning Officer may, by instrument in writing, appoint a person to perform the duties of the office during the period of the vacancy or absence.

(4) An appointment under Subsection (1) is temporary only, and does not confer on the appointee any right or claim to be permanently appointed to the position.

(5)[8] [9]The failure to publish a notice in the National Gazette under this section shall not be a ground for invalidating an election.

22. DATE FROM WHICH APPOINTMENTS ARE TO TAKE EFFECT.

A person appointed to be a Returning Officer or an Assistant Returning Officer under Section 21 shall be deemed to have been appointed as from the date specified in his appointment, or, if no such date is specified, as from the date of his appointment.

23. CANDIDATES NOT TO BE ELECTORAL OFFICERS.

No candidate shall be appointed an electoral officer, and if an electoral officer becomes a candidate he thereby vacates his office.

24. KEEPING OF FORMS.

All Returning Officers shall keep forms of claim for enrolment and transfer and such other forms as are prescribed, and shall without fee supply them to the public and assist the public in their proper use.

PART III. – ELECTORATES.

25. ELECTION OF MEMBERS TO THE PARLIAMENT.

(1) Subject to this Law, for the purposes of elections to the Parliament there shall be such electorates in the country as are provided by this Law.

(2) One member shall be elected for each electorate by electors entitled to vote in respect of that electorate.

26. BOUNDARIES COMMISSION.

[10](1) For the purposes of a redistribution of Papua New Guinea into electorates, there is hereby established a Boundaries Commission consisting of–

(*a*) the Electoral Commissioner who shall be Chairman; and
(*b*) the Surveyor-General; and
(*c*) the National Statistician; and
(*d*) three persons, other than officers, (one of whom being a person with experience in conducting an inquiry), appointed by the Head of State, acting with, and in accordance with, the advice of the Electoral Commission.

(2) Where there is no substantive holder of any of the offices referred to in Subsection (1)(a), or (c), an acting holder of the office may, in relation to his position as a member of the Boundaries Commission, exercise all the powers and privileges of and perform the functions of a substantive holder of the office.

27. TERM OF OFFICE.

A member of the Boundaries Commission referred to in Section 26(1)(d) shall be appointed for a term of six years.

28. DISQUALIFICATIONS FROM OFFICE.

A person is not qualified to be, or to remain, a member of the Boundaries Commission if he is–

(*a*) a member of the Parliament; or
(*b*) a member of a Provincial Assembly; or
(*c*) a member of a Local-level Government; or
(*d*) an office-holder in a registered political party; or
(*e*) an undischarged bankrupt or insolvent; or
(*f*) of unsound mind within the meaning of any law relating to the protection of the person and property of persons of unsound mind; or
(*g*) under sentence of death or imprisonment.

29. SPECIAL CONDITIONS OF EMPLOYMENT.

(1) A member of the Boundaries Commission shall not–

(*a*) actively engage in politics; or
(*b*) except on leave granted by the Head of State, or because of illness, absent himself from duty; or
(*c*) subject to Subsection (3), acquire by way of gift or otherwise, or use or hold in any other manner any interest in any property in Papua New Guinea or solicit, accept or receive any other benefit in addition to his terms and conditions of employment.

(2) Nothing in Subsection (1) prevents a member of the Boundaries Commission from holding office in a professional body in relation to which his qualifications are relevant.

(3) Subject to any Organic Law made for the purposes of Division III.2 (leadership code) of the Constitution, a member of the Boundaries Commission who is a citizen may purchase, lease or otherwise acquire land in the same manner and subject to the same conditions as any other citizen.

30. RESIGNATION.

(1) A member of the Boundaries Commission, other than a member referred to in Section 26(a), (b) or (c) may resign by giving three months' notice in writing of his intention to do so to the Head of State.

(2) The period of three months specified in Subsection (1) shall be deemed to commence on the twenty-second day after the receipt by the Head of State of the notice except where the Head of State. acting with, and in accordance with, the advice of the Committee, by notice in writing to the member. fixes an earlier date for the commencement.

(3) A member of the Boundaries Commission may withdraw his resignation at any time before the period of three months referred to in Subsection (1) commences.

31. RETIREMENT.

(1) Subject to Subsection (2), a person who has attained the age of 55 years shall not be appointed or re-appointed as a member of the Boundaries Commission and a person shall not be appointed or re-appointed for a period that exceeds beyond the date on which he will attain the age of 55 years.

(2) The Head of State, acting with, and in accordance with, the advice of the National Executive Council, may, for special reason in a particular case, appoint or re-appoint a person who is over 55 years of age to be a member of the Boundaries Commission but in no case can any member of the Boundaries Commission continue to act as a member after he attained the age of 60 years.

32. ACTING APPOINTMENTS TO THE COMMISSION.

(1) At any time when a position of a member of the Boundaries Commission is not filled on a permanent basis, or when a permanent member of the Boundaries Commission is away from

the country or for any reason is not able to carry out his duties, the Head of State, acting with, and in accordance with, the advice of the Electoral Commission may appoint a person to be an acting member of the Boundaries Commission.

(2) Subsection (1) does not apply to the position of a member of the Boundaries Commission who has been appointed in accordance with Section 26(1)(d).

(3) In a case referred to in Subsection (2) the Head of State, acting with, and in accordance with, the advice of the Electoral Commission may appoint a person to be an acting member of the Boundaries Commission.

(4) The appointment of an acting member of the Boundaries Commission continues until a permanent member is appointed or the permanent member returns to the country or becomes able again to carry out his duties, as the case may be.

(5) An acting member of the Boundaries Commission has and may exercise and perform all the powers, duties and functions of the position on the Boundaries Commission to which he was appointed.

(6) This Law applies to an acting member of the Boundaries Commission in the same way as it applies to a permanent member who held the position to which he was appointed.

33. PROCEEDINGS AT MEETINGS.

(1) At a meeting of the Boundaries Commission, the Chairman shall preside if he is present.

(2) In the absence of the Chairman from a meeting of the Boundaries Commission, the members of the Commission present shall appoint one of their number to preside at the meeting.

(3) At a meeting of the Boundaries Commission, three members of the Commission form a quorum.

(4) Questions arising before the Boundaries Commission shall be decided by a majority of votes of the members present and voting.

(5) The person presiding at a meeting of the Boundaries Commission has a deliberative vote, and, in the event of an equality of votes on a question, also a casting vote.

34[11]. [*REPEALED*.]

35. OPEN ELECTORATES.

(1)[12] [13]The number of open electorates shall be as determined by the Boundaries Commission but in no case shall the number of open electorates be less than 110 or more than 120.

(2) There shall be at least one open electorate in each Province.

(3)[14] [15]The Boundaries Commission may –

(*a*) determine the name of a new open electorate; or
(*b*) inquire into and, where it considers that the name of an open electorate does not appropriately describe the electorate as a whole or for any other reason a name is considered inappropriate at any time, change the name of that open electorate.

36. SIZE OF OPEN ELECTORATES.

(1) For the purposes of a proposed redistribution of the country into open electorates, the Boundaries Commission shall determine a population quota by the following formula:–

Q = P/N

where–

"Q" is the population quota for the electorate; and
"P" is the total population of the country; and
"N" is the provisional number of open electorates as determined by the Boundaries Commission within the limits specified in Section 35.

(2) Subject to Subsection (3), in drawing the boundaries of open electorates, the Boundaries Commission shall not draw them in such a way that–

(*a*) the population of any electorate is more than 20 per centum more than or less than 20 per centum less than the population quota prescribed by Subsection (1) except in circumstances which in the opinion of the Boundaries Commission would otherwise lead to an unreasonable result; or
(*b*)[16] the boundaries of an open electorate cut across the boundary of a province.

(3) Where the Boundaries Commission has–

(*a*) at a meeting determined the provisional number of electorates and proceeded to determine the population quota calculated for that number of electorates in accordance with Subsection (1); and
(*b*) a later meeting determines that there be more or less electorates than the provisional number determined at the earlier meeting,

the Boundaries Commission shall not redetermine the population quota.

(4) In determining the degree of variation of size between electorates (within the 20 per centum plus or minus allowable) the Boundaries Commission shall give due consideration to–

(*a*) density of population; and
(*b*) physical features and communications; and
(*c*) existing electoral boundaries; and
(*d*) Local-level Government and provincial and other administrative areas; and
(*e*) the community and diversity of interest, where it considers it relevant to do so.

37. NOTICE OF PROPOSED REDISTRIBUTION.

[17](1) In accordance with Section 125 (Electorates) of the Constitution or otherwise, where the Boundaries Commission, after its own initial investigation, is of the opinion that a redetermination of boundaries is required, it shall –

(*a*) give public notification of its intention to redetermine boundaries in –

(i) the National Gazette; and
(ii) a national newspaper circulating throughout the country; and

(*b*) cause a map with a description of the boundaries of the proposed electorates to be exhibited at such National, Provincial and Local-level Government offices as will give the people of the country a reasonable opportunity of seeing it.

(2) A notification under Section (1)(a) shall –

(*a*) invite public attention to the map referred to in Subsection (1)(b) and state the places and times at which the map may be inspected; and
(*b*) fix a date (being a date not less than two months following the date of publication of the the notification under Subsection (1)(a)) on which and a place at this a public inquiry into the proposed redistribution will be heard; and
(*c*) invite any of the following to attend the ublic inquiry and make representations or objections on the proposed redistribution: –

(i) any member of the Parliament affected by the proposed redistribution;
(ii) the members of the Provincial Government and of any Local-level Government Council of the area affected by the proposed redistribution;
(iii) the officers of the National Public Service employed in the areas affected by the proposed redistribution;
(iv) any cultural or land groups in the ares affected by the proposed redistribution;
(v) any other person whom the Boundaries Commission considers relevant.

(3) Any written representations or objections reffered to in Subsection (2)(c) may be lodged with the Chairman of the Boundaries Commission at any time before the date fixed for a public inquiry under Subsection (2)(b).

38. PUBLIC INQUIRY.

[18]The Boundaries Commission shall hold a public inquiry on the date at the place fixed under Section 37(2) and shall consider all representations and objections made at the public inquiry or previously submitted to the Chairman of the Boundaries Commission.

39. REPORT OF BOUNDARIES COMMISSION.

(1)[19] [20]The Boundaries Commission shall, as soon as practicable after completion of the public inquiry referred to in Section 38, forward to the Minister a report of its proposals for the re-distribution of the country into electorates, together with a map signed by not less than three members of the Boundaries Commission showing the boundaries of each proposed electorate.

(2) The report shall state, as nearly as can be ascertained, the population in each proposed electorate.

40. REPORT TO BE LAID BEFORE THE PARLIAMENT.

The report and map forwarded under Section 39 shall be presented by the Minister to the Parliament within seven sitting days after its receipt by him.

41. DETERMINATION OF NEW ELECTORATES.

[21](1) The Parliament shall consider a report presented under Section 40 and shall, subject to Subsection (2), by resolution made within two months of the date of presentation of the recommendations –

(*a*)[22] accept the recommendations pf the Boundaries Commission for a proposed redistribution; or
(*b*) reject the recommendations of the Boundaries Commission for a proposed redistribution; or
(*c*) reject the recommendations of the Boundaries Commission for a proposed redistribution and refer back to the Boundaries Commission specific matters relating to the recommendations for redistribution.

(2) The Parliament may refer a report presented under Section 40 to an appropriate Parliamentary Committee to consider and report back to Parliament, and where Parliament makes such a referral, the period of two months referred to in Subsection (1) shall be read as four months.

(3) Where the Parliament –

(*a*)[23] by resolution under Subsection (1)(a) accepts the recommendations of the Boundaries Commission for a proposed redistribution; or
(*b*) fails to make a resolution under Subsection (1)(a), (b) or (c) on the recommendations of the Boundaries Commission for a proposed redistribution,

the recommendations of the Boundaries Commission for a proposed redistribution constitute a determination of the open electorates and their boundaries and those electorates until altered shall, Subject to Subsection (5), be the open electorates for the purposes of election of members to the Parliament.

(4) The Minister shall cause the number of open electorates and their boundaries determined in accordance with Subsection (3) or (9) to be published in the National Gazette.

(5) Until –

(*a*) in the case of a determination under Subsection (3) or (9) in respect of redistribution in pursuance of Section 125 (Electorates) of the Constitution –the dissolution or expiration of the Parliament scheduled to be elected in 2002; and
(*b*) in the case of any other determination under Subsection (3) or (9) –the dissolution or expiration of the Parliament next following the determination,

the redistribution shall not affect the election of a new member to fill a vacancy happening in Parliament, but for the purposes of any such election the electorates as previuosly existing, and the Rolls in respect of these electorates, shall continue to have full force and effect, notwithstanding that the new Rolls for the electorates may have been prepared.

(6) Where the Parliament –

(*a*) by resolution under Subsection (1)(b) rejects the recommendations of the Boundaries Commission for a proposed redistribution; or
(*b*) by resolution under Subsection (1)(c) rejects the recommendations of the Boundaries Commission for a proposed redistribution and refers back to the Boundaries Commission specific matters relating to the recommendations for reconsideration,

the Boundaries Commission shall, within 40 days of the date of the resolution –

(*c*) in a case to which Paragraph (a) applies, reconsider the recommendations in the report submitted under Section 40; and
(*d*) in a case to which Paragraph (b) applies reconsider the specific matters referred to it,

and shall submit a further report making new recommendations or confirming its previous recommendations and shall forward to the Minister a copy of the further report, together with, in the case of any new recommendations, a map signed by not less than three members of the Boundaries Commission showing the boundaries of each proposed open electorate.

(7) The report and any map forwarded to him under Subsection (6) shall be presented by the Minister to the Parliament within seven sitting days after its receipt by him.

(8) The Parliament shall consider a report presented under Subsection (6) and may, by resolution made within 40 days of such presentation –

(*a*) by a simple majority, accept; or
(*b*) by two thirds absolute majority, reject,

the recommendations of the Boundaries Commission for a proposed redistribution.

(9) Where –

(*a*) a resolution under Subsection (8)(a) accepts the recommendations of the Boundaries Commission for a proposed redistribution; or
(*b*) a resolution under Subsection (8)(b) fails to obtain a two thirds absolute majority; or
(*c*) the period of 40 days referred to in Subsection (8) has expired without the determination of a resolution under Subsection (8)(a) or (b),

the recommendations of the Boundaries Commission for a proposed redistribution shall constitute a determination of the open electorates and their boundaries and those electorates until altered shall, subject to Subsection (5), be open electorates for the purposes of election of members of Parliament.

(10) Where the Parliament, in accordance with Subsection (8)(b), rejects the recommendations of the Boundaries Commission for a proposed redistribution, the recommendations shall not take effect.

42. CHANGE OF ELECTORS FROM ONE ROLL TO ANOTHER.

(1) When boundaries of an electorate are alerted, such changes as are thereby rendered necessary for the transfer of the names of the electors from one Roll to another shall be made by removing the names of those electors from the Roll from which they are changed, and by inserting the names so removed in the Roll to which they are changed.

(2) The transfer of names of electors from one Roll to another Roll under this Section shall be notified by the Electoral Commission in the National Gazette and in a newspaper circulating in the part of the country concerned.

(3) If the Electoral Commission considers that a notification in accordance with Subsection (2) is not effective as notice to a particular elector whose enrolment has been transferred, it may cause notice of the transfer to be sent by post or otherwise to the elector, or may take such other action as it considers desirable to ensure adequate publicity.

PART IV. – POLLING PLACES.

43. POLLING PLACES.

(1) The Electoral Commission may, by notice published in the National Gazette or in a newspaper circulating in the electorate–

(*a*) appoint such number of polling places for each electorate as it thinks necessary and practicable; and
(*b*) abolish a polling place.

(2) No polling place shall be abolished after the issue of the writ and before the time appointed for its return.

PART V. – ELECTORAL ROLLS.

Division 1.

[24]Electoral Rolls.

44. ROLLS.

[25](1) There shall be a Roll for each electorate.

(2) A Roll of an electorate may be made up of a number of Ward Rolls in the case of an open electorate and a number of open electorate Rolls in the case of a provincial electorate.

45. FORM OF ROLLS.

(1) A Roll shall be in such form as is determined by the Electoral Commission, and shall set out the name, address and occupation (or other prescribed particulars) and sex of each elector, and shall contain such further particulars as are prescribed or as the Electoral Commission directs.

(1A)[26] [27]A Roll determined by the Electoral Commission under Subsection (1) may be kept in electronic form.

(2) A direction under Subsection (1) may relate to the whole or a part of the country.

Division 2.

[28]New Rolls.

46. NEW ROLLS.

[29]All persons who are entitled to be enrolled on a Roll shall, subject to this Law, be so enrolled.

46A. PREPARATION OF NEW ROLLS.

[30](1) A new Roll for an electorate shall be prepared whenever the Electoral Commission, by notice published published in the National Gazette, directs.

(2) A notice under Subsection (1) may specify the manner in which the Rolls shall be prepared, and may require any person, or member of a classs of persons, entitled to enrolment on a new Roll and whose name does not appear on it to sign and send to the proper officer a form of claim for enrolment and otherwise to comply with the provisions of this Law relating to compulsory enrolment.

(3) A new Roll may be prepared where: –

(*a*) a new electorate is created; or
(*b*) there has been a major movement of people out of or into an existing electorate; or
(*c*) the Electoral Commission considers that it is necessary for other reasons to create a new Roll.

(4) Subject to Subsection (5), no names on an existing Roll may be automatically transferred to a new Roll.

(5) The entries in an existing Roll may, at the discretion of the Electoral Commission, be transferred to a new Roll without the need for the persons whose names are in the transferred entires to make any further claim for enrolment.

(6) The Electoral Commission may appoint persons to assit in the compilation of a new Roll.

(7) The Electoral Commission shall, as soon as it is practicable to do so after the preparation of new Rolls, by notice published in the National Gazettee, notify that the new Rolls have been prepared.

47. ADDITIONS, ETC., TO NEW ROLLS.

Upon the receipt by the Returning Officer of a new Roll for an electorate, the Returning Officer shall–

(*a*) make additions, alterations and corrections in it; and
(*b*) remove names from it,

in accordance with information received by him between the date of the notice directing the preparation of new Rolls and the date of the notification that the Rolls have been prepared, where the additions, alterations or corrections have not already been made in, or the removals have not been made from, the Roll.

48. OBJECTIONS AND NOTICES TO HAVE EFFECT IN RELATION TO NEW ROLLS.

Where objections have been lodged or notices of objection have been issued and action in respect of those objections or notices has not been completed before the notification of the preparation of new Rolls, the objections or notices have effect in relation to the new Rolls as if those Rolls had been in existence at the time of the lodging of the objections or the issuing of the notice.

Division 4.

[31]Printing and Inspection.

Division 3.

Existing Rolls.

48A. EXISTING ROLLS.

[32](1) A Returning Officer shall be responsible for the revision and compilation of an existing Roll.

(2) A Returning Officer may revise or compile a ward Roll at such times as he considers necessary.

(3) A Returning Officer may obtain the assistance of any person as he considers necessary to revise an existing Roll.

(4) A Returning Officer shall follow such directions as are given by the Electoral Commission in the revision of an existing Roll.

(5) Where an elector is enrolled in respect of an address in an electorate for which he is entitled to be enrolled, he shall not be required to sign and send in any further claim for enrolement in connection with the compilation or revision of an existing Roll.

49. PRINTING OF ROLLS.

(1) Rolls shall be printed whenever the Electoral Commission so directs.

(2) Supplemental Rolls, setting out additions since the latest print of the Rolls, may, as necessary, be prepared and printed immediately after the issue of the writs for an election, and at such other times as the Electoral Commission directs.

50. INSPECTION.

(1) Copies of the latest print of the electorate Roll and of all supplemental prints shall be open for public inspection at the office of the Returning Officer at all convenient times during his ordinary office hours without fee, and at such other places as the Returning Officer appoints for the purpose.

(2) Copies of the latest print of the electorate Roll and of all supplemental prints shall be obtainable at the office of the Returning Officer on payment of the prescribed fee.

51. OFFICERS AND OTHERS TO FURNISH INFORMATION.

All officers and all occupiers of habitations and all persons who are, or appear to be, entitled to enrolment shall upon application furnish to the Electoral Commission or to a Returning Officer, or to an electoral officer acting under the directions of the Electoral Commission or the Returning Officer, all information that it or he requires in connection with the preparation, maintenance or revision of the Rolls.

PART VI. – QUALIFICATIONS AND DISQUALIFICATIONS FOR ENROLMENT AND FOR VOTING.

52. PERSONS ENTITLED TO ENROLMENT.

(1) All persons who have a right to vote under Section 50 (right to vote and stand for public office) of the Constitution who comply with the requirements of Part VII for enrolment for an electorate are entitled to enrolment.

(2) All persons whose names are on the Roll for an electorate shall, subject to this Law and to the provisions of any other law in force, vote at elections of a member for the electorate, but no person is entitled to vote more than once at an election, or at more than one election held at the same time.

(3)[33] [*Repealed*.]

PART VII. – ENROLMENT.

Division 1.

[34]Application.

52A. APPLICATION OF THIS PART.

[35]This Part applies to the preparation of a new Roll and the revision and compilation of an existing Roll.

Division 2.

[36]Officers.

53. OFFICERS.

(1)[37] [38]The Electoral Commission may appoint persons to assist in the preparation, compilation and revision of the Rolls.

(2) A person appointed under Subsection (1) has such functions and duties as are prescribed or as the Electoral Commission directs.

(3)[39] [40]Notwithstanding Subsections (1) and (2), the Electoral Commission may, on the recommendation of a Returning Officer, appoint enrolment agents to assist in the preparation, compilation or revision of a Roll.

(4)[41] [42]The Regulations may provide for the duties to be preformed by the enrolment agents and for the publication of their names either in the National Gazette or in other documentation released to the area in which the appointments relate.

(5)[43] [44]A person appointed as an enrolment agent under Subsection (3) who deliberately: –

(*a*) completes a claim for enrolment for an ineligible person; or
(*b*) completes a claim for enrolment for a person who is already enrolled on a Roll or who has already completed an enrolment form; or
(*c*) includes in any list the name of a person referred to in Paragraphs (a) or (b) with the purpose of having the persons name included on a Roll, is guilty of an offence.

Penalty: (*a*) a fine not exceeding K1,000.00; and

(*b*) ineligibility to hold elective public office, whether at the National, Provincial or Loca-level Government level; and

(*c*) ineligibility for employment as a Public Servant in the Public Service or in the provincial service including a Provincial Government and a Local-level Government.

(6)[45] [46]A person, who encourages, procures, aids or abets an enrolment agent to commit the offence referred to in Subsection (5), is guilty of an offence.

Penalty: (*a*) a fine not exceeding K1,000.00; and

(*b*) ineligibility to hold elective public office, whether at National, Provincial or Local-level Government Level; and

(*c*) ineligibility for employment as a Public Servant in the Public Service or in the provincial service including a Provincial and Local-level Government.

Division 3.

[47]Claims for enrolment and transfer.

54. ADDITION OF NAMES TO ROLLS.

In addition to any other method provided for by law, names may be added to Rolls in accordance with claims for enrolment or transfer of enrolment.

55. CLAIMS FOR ENROLMENT.

(1) Subject to this Section and to Section 52, a person who–

(*a*) has resided in the area of an electorate for a period of not less than six months immediately preceding the date of his claim for enrolment; or
(*b*) is nominated for an electorate for which he is not enrolled and was either born in the electorate or lived in the electorate for five years at any time, is entitled to have his name placed on the Roll for that electorate.

(2) Where the name of a person is placed on a Roll in accordance with Subsection (1)(a), he shall be enrolled in respect of the address of his last residence in the electorate.

(3) Where the name of a person is placed on a Roll in accordance with Subsection (1)(b), he shall be enrolled in respect of his last-known place of residence in the electorate.

(4)[48] [49]The Electoral Commission may, in relation to a person or class of persons, direct that a claim for enrolment be in the prescribed form and shall be signed: –

(*a*) by the claimant and attested by a person who shall sign his name as wtiness in his own handwriting; or
(*b*) by an authorized enrolment agent.

(5)[50] [51]Regulations may prescribe when a claim for enrolment may be rejected for irregularities in the form including the rejection of claims for enrolment without serial numbers or with the wrong serial numbers.

(6)[52] [53]It is an offence: –

(*a*) for a person whose name is on an existing Roll to make a claim for enrolment; or
(*b*) for a person to make multiple claims for enrolment in his own name or in the names of others; or
(*c*) for a person to make claims for enrolment in the name of an ineligible persons or non-existent persons; or
(*d*) for a person, other than an enrolment agent who is duly appointed, to make a claim for enrolment of another person.

(7)[54] [55]A person witnessing a claim for enrolment or transfer of enrolment shall, before he affixes his signature to it, satisfy himself, by an inquiry from the claimant or otherwise, that the statements contained in the claim are true, unless he knows that the statements contained in the claim are true.

Penalty: A fine not exceeding K400.00.

56. PROVISIONAL ENROLMENT.

[56](1) A person who is not yet eligible to be on the Roll but who will become eligible to be in the Roll before the issue of a writ for the next planned election in the electorate may be provisionally placed on the Roll.

(2) A person who is provisionally enrolled shall not vote in an election held earlier than an election to which he was provisionally enrolled under this section.

(3) A Returning Officer may, at any time, remove the name of a person who is provisionally on a Roll if the person does not become entitled to remain on the Roll.

(4) Regulations may make other provisions on provisional enrolments including how names are entered on a Roll.

57. COMPULSORY ENROLMENT AND TRANSFER.

(1) A person who is entitled to have his name placed on the Roll for an electorate, whether by way of enrolment or transfer of enrolment, and whose name is not on that Roll shall, at the first reasonably practicable opportunity, make a claim in the prescribed form to the Returning Officer for that electorate.

(1A)[57] [58]The Electoral Commission or a Returning Officer maypublish a notice in the National Gazette and a newspaper circulating in the electorate concerned that the Returning Officer is ready to accept claims for enrolment or transfer of enrolment in the whole of the electorate or a part of the electorate and shall state the period within which he is so available and where is available.

(2)[59] [60]A person, who is entitled to have his name placed on the Roll for an electorate, whether by way of enrolment or transfer of enrolment, and whose name is not on the Roll during the period referred to in Subsection (1A) and fails to lodge a claim for enrolment and is not entered on a Roll, is guilty of an offence unless he proves that his non-enrolment is not in consequence of his failure to comply with the provisions of Subsection (1).

(3) It is a defence to a charge of an offence against Subsection (2), if the defendant shows that he did not know, and had no reasonable opportunity of knowing, that his name was not on a Roll for which he was entitled to be enrolled.

(4) A person who is enrolled for the electorate in which he is residing and who changes his place of residence from one address in the electorate to another address in that electorate, and who has

failed to notify, in the prescribed form, the new address to the Returning Officer for that electorate at the first reasonably practicable opportunity, is guilty of an offence.

(5) A person who is guilty of an offence against this Section is punishable, upon conviction–

(*a*) in the case of a first offence–by a fine not exceeding K10.00; or
(*b*) in any other case–by a fine not exceeding K25.00.

(6) A prosecution for an offence against this Section shall not be instituted without the consent of the Electoral Commission.

Division 4.

[61]Registration and rejection of claims.

58. REGISTRATION OF CLAIM.

(1) Upon receipt of a claim for enrolment or transfer of enrolment, notification of change of address within an electorate, or application for the alteration or correction of particulars of an existing enrolment, the Returning Officer shall note the date of its receipt by him, and if the claim, notification or application is in order and he is satisfied that the claimant is entitled to be enrolled or to have his name transferred or the particulars of his enrolment altered or corrected, as the case may be, the Returning Officer shall, subject to Section 60–

(*a*) enter on the Roll kept by him the name of the claimant and the particulars relating to him; and
(*b*) notify the claimant in writing that he has been enrolled; and
(*c*) in the case of a transfer of enrolment, give notice of the transfer to the Returning Officer keeping the Roll from which the elector's name has been transferred.

(2) An interim acknowledgment of the receipt, after the issue of the writ for an election and before the close of the polling at the election, of a claim for enrolment or transfer of enrolment may be issued to the claimant by the Returning Officer in a form approved by the Electoral Commission.

(3) The Returning Officer keeping the Roll from which an elector's name has been transferred shall, upon receipt of notice of the transfer in the prescribed form, remove the elector's name from the Roll kept by him.

59. NOTIFICATION OF REJECTION OF CLAIM.

The Returning Officer, on receipt of a claim, shall, subject to Section 60, after making such inquiry as he considers necessary if he is satisfied that the claimant is not entitled to enrolment or transfer of enrolment in accordance with the claim, notify the claimant as soon as practicable in the prescribed manner that his claim has been rejected, specifying the reason for the rejection, and advise the claimant that he is entitled, at any time within three months after the receipt of the notification, to appeal against the rejection in accordance with this Law.

60. PENALTY ON OFFICER FAILING TO ENROL CLAIMANTS.

[62]An officer, who receives a claim for enrolment or transfer of enrolment and who, without just excuse, the burden of proof of which lies upon him, fails to do everything necessary on his part to be done to secure the enrolment of the claimant in pursuance of the claim, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

Division 5.

[63]Alterations of Rolls.

61. PENALTY ON OFFICER NEGLECTING TO ENROL CLAIMANTS.

[64]Notwithstanding anything in this Law: –

(*a*) claims for enrolment or transfer of enrolment which are received after 4.00 p.m. on the day of the issue of the writ for an election shall not be registered until after the end of the polling period for the election; and
(*b*) except by direction of the Returning Officer, no name shall be removed from a Roll under a notification of transfer of enrolment received after 4.00 p.m. on the day of the issue of the writ for an election and before the end of the polling period for the election.

62. ALTERATION OF ROLLS.

(1) In addition to other powers of alteration conferred by this Law, a Returning Officer may alter a Roll kept by him by–

(*a*) correcting a mistake or omission in the Roll; and
(*b*) correcting a mistake or omission in the particulars of the enrolment of an elector; and
(*c*) altering, on the application of an elector, the original name, address or occupation of the elector on the same Roll; and
(*d*) removing the name of a deceased elector; and
(*e*) striking out the superfluous entry where the name of the same elector appears more than once on the same Roll; and
(*f*) reinstating a name removed by mistake; and
(*g*) reinstating a name removed as the result of an objection where he is satisfied that the objection was based on a mistake as to fact and that the person objected to still retains and has continuously retained his right to the enrolment in respect of which the objection was made; and
(*h*)[65] removing a name from the Roll where he is satisfied that the elector has ceased to be qualified for enrolment on the Roll and has secured enrolment on another Roll; and.
(*i*)[66] removing a name from the Roll where he is reasonably satisfied that the name is not the name of a person entitled to be on the Roll.

(2) Where the name of an elector has, in error, been incorrectly placed on the Roll for an electorate for which he is not entitled to be enrolled, and the elector is entitled to have his name placed on the Roll for another electorate, the Returning Officer for the electorate for which the elector is wrongly enrolled shall remove the name of the elector from that Roll and shall notify the Returning Officer for the electorate for which the elector is entitled to be enrolled

accordingly, and that last-mentioned Returning Officer shall place the name of the elector on his Roll and shall notify the elector of the change of enrolment.

(2A)[67] [68]A name removed under this Part by an honest mistake shall not be the basis of any claim against the Electoral Commission, a Returning Office or an enrolment agent who has made a recommendation for the name to be removed.

(3) No alteration under this Section shall, without the authority of the Returning Officer, be made at any time after 4 p.m. on the day of the issue of the writ for an election and before the end of the polling period for the election.

63. ALTERATIONS TO BE INITIALED.

[69](1) Every alteration of a printed Roll shall be made in such a manner that the original entry shall not be obliterated, and the reason for each alteration and the date of the alteration shall be set aginst the alteration, together with the initials of the Returning Officer or of the person who makes the alterations on behalf of the Returning Officer.

(2) Where a Roll is kept electronically, an alteration shall be clearly indicated with the original entry noted and the date and person authorizing the alteration noted against the entry.

Division 6.

[70]Special provisions for certain candidates.

64. SPECIAL PROVISIONS FOR CERTAIN NOMINATIONS.

[71](1) Notwithstanding anything in this Law but subject to this section, where a person who is entitled to do so has nominated for an electorate other than the electorate for which he is enrolled: –

(*a*) the Returning Officer for the electorate for which he nominates shall place his name on the Roll for that electorate and notify the Returning Officer for the electorate for which he is enrolled who shall remove his name from the Roll for that electorate; and
(*b*) if the nomination is withdrawn, the Returning Officer for the electorate for which he was nominated shall remove his name from the Roll for that electorate and notify the Returning Officer for the other electorate who shall (unless electorate) restore his name to the Roll for that other electorate; and
(*c*) if he fails to be elected, the Returning Officer for the electorate for which he was nominated shall remove his name from the Roll for that electorate and notify the Returning Officer for the other electorate who shall restore his name to the Roll for that other electorate; and
(*d*) if he is elected and later ceases to be the member for the electorate, the Returning Office for the electorate for which he was the member shall remove his name from the Roll for that other electorate unless he has ceased to be eligible for enrolment in that electorate and has been enrolled in another electorate.

65. INCORRECT ENROLMENT.

[72]Where a person whose name has been placed on the Roll for an electorate is not entitled to enrol for that electorate and that person secured enrolment under a claim in which he made a false statement, the Returning Officer may, at any time between the date of the issue of the writ for an election for that electorate and before the end of the polling period for that election, remove the name of that person from that Roll.

PART VIII.[73] – OBJECTIONS.

Division 1.

[74]Normal Objection.

66. NAMES ON ROLL MAY BE OBJECTED TO.

[75](1) person may, by written notice to the Returning Officer, object to a name on the Roll.

(2) A sum of K10.00 shall be deposited in respect of each objection lodged by a person other than an electoral officer or authorized agent, to be forfeited to Papua New Guinea if the objection is held by the Returning Officer to be frivolous.

67. OBJECTION.

[76]An objection under Section 66 shall be in the prescribed form, and shall be signed by an elector enrolled on the same Roll as the person objected to, or by the Returning Officer or by an authorized agent.

68. NOTICE OF OBJECTION.

[77](1) When an objection is made by or lodged with a retuning Officer, the Returning Officer shall, subject to Subsection (3), give notice as soon as practicable of the objection to the person objected to.

(2) A notice under Subsection (1) may be in the prescribed from, and may be served by being posted or delivered to the last-known place of abode or place of work of the person objected to.

(3) Where the Returning Officer is satisfied that the ground of objection stated in an objection is not good ground of objection or is frivolous, he may dismiss the objection, in which case no notice of the objection need be given to the person objected to.

(4) Any objection on the ground that a person does not reside in the electorate for which he is enrolled shall be deemed not to be good unless it alleges necessary to qualify him for enrolment for that electorate.

Division 2.

[78]Objection by enrolment agent.

69. OBJECTION BY ENROLMENT AGENT OR OTHER PRESCRIBED OFFICER.

[79](1) An enrolment agent may, during the time of his appointment to conduct enrolment in a Ward, object to a class of persons or group of people in a prescribed list by providing such list to the Returning Office.

(2) Upon receipt of a prescribed list under this section, the Returning Officer may give notice of the objection in the prescribed form: –

(*a*) by forwarding it to the area where the persons reside; or
(*b*) by providing it to the village elder, councillor, village court magistrate or other reliable person who, in the opinion of the Returning Officer, is likely to bring the objection to the notice of the persons named in the notice.

(3) A person, who knowingly encourages or procures an authorized agent to include in a prescribed list named of persons who should not be in the list and which results in the removal of the name of any person form a Roll, is guilty of an offence and is liable to the same penalties under Section 53(5).

(4) A person, who encourages or procures an authorized to cause a fraudulent deletion, is guilty of an offence and is liable to the same penalties as those applying to fraudulent enrolment.

Division 3.

[80]Determination of objections.

70. ANSWER TO OBJECTION.

[81]A person objected to under this Part may, orally or in writing in the prescribed manner, answer the objection.

71. DETERMINATION OF OBJECTION.

[82](1) Subject to Subsection (2), the Returning Officer shall determine an objection under this Part as soon as practicable after receipt by him of the answer of the person objected to, or, if no answer is received within a period of one month after the posting or delivery of the notice referred to in Section 68(1) and if it appears that the person objected to is not entitled to be enrolled on the Roll in respect of which the objection has been made, the Returning Officer shall–

(*a*) remove the name of the person from the Roll; and
(*b*) cause a copy of the notice of determination to be posted to or served on the objector and the person objected to.

(2) No name shall be removed from a Roll under this Section after 4 p.m. on the day of issue of the writ for an election and before the end of the polling period for the election.

PART 8A.[83] – VOTE IDENTIFICATION SYSTEM.

71A. VOTER IDENTIFICATION SYSTEM.

[84](1) The Electoral Commission may establish and manage a system to identify voters entitled to vote.

(2) A system of identification established under Subsection (1) may take any one or more of the following forms: –

(*a*) manual finger print system;
(*b*) computer recorded and recognized finger print system;
(*c*) computer recorded and recognized palm recognition system; or
(*d*) computer, electronic or other photogenic system.

(3) The Regulation may make provisions on how the system is kept and used.

71B. MAINTENANCE AND OPERATION OF VOTER IDENTIFICATION SYSTEM.

[85](1) The Electoral Commission may authorize a person to maintain and operate an identification system.

(2) An authorization under Subsection (1) shall be on the following conditions: –

(*a*) the initial period of authorization shall not exceed 15 years which may be renewed for periods of not less than 5 years thereafter;
(*b*) the system shall be in such form as the Electoral Commission directs;
(*c*) not more than one person shall be authorized to keep a system at a time.

71C. NON-DISCLOSURE OF DETAILS OF VOTER IDENTIFICATION SYSTEM.

[86]The Electoral Commission or other person operating an identification system shall not divulge any information, images or other details kept in the voter identification system except for election relates purposes and for the purposes of using the information for any criminal investigations or prosecutions.

PART IX. – APPEALS.

72. APPEAL TO DISTRICT COURT.

(1) A person–

(*a*) who has made a claim for enrolment or transfer of enrolment in accordance with this Law, and has not been enrolled; or
(*b*) whose name has been removed from a Roll by the Returning Officer after an objection,

may at any time within two months after the receipt of notice of the rejection of the claim or of notice of the determination of the objection, as the case may be, make application in the prescribed manner to a District Court for an order directing that his name be enrolled or reinstated on the Roll, as the case requires.

(2) Where an objection has been determined by the Returning Officer adversely to the person objecting, that person may in the prescribed manner apply to a District Court for an order sustaining the objection.

(3) Where an application under this Section has reference to the decision of the Returning Officer upon an objection, the applicant shall, as prescribed, serve the objector or the person objected to, as the case requires, with notice of the application, and the person so served may appear, or may in writing authorize any person to appear on his behalf, to resist the application.

(4) The court may hear and determine an application under this section, and may make such order as it thinks fit as to the costs of the application.

(5) Costs ordered by the court to be paid may be recovered in the same manner as the costs of any other proceeding before the court.

(6) The Clerk of the Court shall send by post to the Returning Officer a certified copy of the order of the court, and the Returning Officer shall make such entries (if any) upon the Roll as are necessary to give effect to the order.

(7)[87] [88]There shall not be any appeal by an enrolment agent under this section.

PART X. – WRITS FOR ELECTIONS.

73. WRITS FOR GENERAL ELECTIONS.

The Head of State, acting with, and in accordance with, the advice of the Electoral Commission, shall issue his writ for a general election of members in accordance with the provisions of Section 105 (general elections) of the Constitution.

74. WRITS FOR VACANCIES.

In the case of an election under Section 106 (by-election) of the Constitution, the Head of State, acting with, and in accordance with, the advice of the Electoral Commission, shall, as soon as practicable after the vacancy occurs, issue his writ for the election of a new member.

75. FORM OF WRITS.

(1) The writs for elections shall be in Form 1 or Form 2, as the case requires, in Schedule I, and shall fix the date for–

(*a*) nominations; and
(*b*)[89] the first and last days of the period during which polling shall take place; and
(*c*) the return of the writ.

(2) The Electoral Commission shall, as soon as practicable after the issue of a writ–

(*a*) advertize its issue and particulars in at least one newspaper circulated in the electorate to which the writ relates; and
(*b*) forward a copy to each Provincial Government and Local-level Government in the electorate; and
(*c*) take such further steps as it considers desirable to ensure adequate publicity.

76. TIME OF ISSUE OF WRITS.

For the purposes of this Law, a writ shall be deemed to have been issued at the hour of 4 p.m. on the day on which the writ was issued.

77. ADDRESS OF WRITS.

(1) Writs for election of members shall be addressed to the respective Returning Officers for the electorates for which the elections are to be held, and may be issued through the Electoral Commission.

(2) The Electoral Commission may advise any Returning Officer by electronic advice of the issue of the writ for an election and the particulars of the writ, and for the purposes of Section 82 the Returning Officer may act on the advice as if the writ had been received by him.

78. DATE AND PERIOD OF NOMINATION.

Nomination of the candidates shall commence on the date of the writ, and the period of nomination shall not exceed seven days, including the date of the writ.

79. DATE OF POLLING.

[90](1) The date fixed for the commencement of the polling period shall be a Saturday and shall be not less than eight weeks not more than 11 weeks after the date of the writ.

(2) Where special circumstances require, the Electoral Commission may, by notice in the National Gazette: –

(*a*) fix a date for commencement of polling on a day other than a Saturday; and
(*b*) determine whether the period specified in Subsection (1) shall be increased or decreased.

80. DATE OF RETURN OF WRIT.

[91](1) The date fixed for the return of the writ shall not be more than 21 days after the end of the polling period.

(2) Where special circumstances require, the Electoral Commission may, by notice in the National Gazette, extend the period specified in Subsection (1).

81. GENERAL ELECTION TO BE HELD ON SAME DAY.

[92](1) Subject to this section, in the case of a general election, the same day shall be fixed for the commencement of the polling period in each electorate, and all writs shall be made returnable on the same day.

(2) Where special circumstances make it necessary for the Electoral Commission to fix different polling commencement dates for different electorates, the Commission may do so by notice in the National Gazette provided that the date schedules for the return of writs is the same day for all electorates.

(3) Where special circumstances make it necessary, the Electoral Commission may return a writ after the date fixed for the return of writs.

82. DUTY OF RETURNING OFFICER ON RECEIPT OF WRIT.

On the receipt of a writ, the officer to whom it is directed shall endorse on it the date of its receipt.

82A. USE OF SPECIAL PROCEDURES IN ELECTIONS.

[93](1) An Act of the Parliament may define circumstances which amount to special circumstances for the purposes of this section and where the Electoral Commission is of the opinion that such special circumstances exist or may exist in relation to an election, it may within seven days of the date of issue of the writ under Section 73 or 74 for that election, by notice in the National Gazette, declare that special procedures shall be used in that election in relation to all or any of the following: –

(*a*) the polling;
(*b*) the voting;
(*c*) the scrutiny.

(2) in the case of a general election the special procedures may apply to all or any of the electorates and the special procedures to be used may differ from one electorate to another.

(3) The special procedures referred to in this section –

(*a*) shall –

(i) be as to ensure that the principles of democratic elections prescribed by Section 126 (Elections) of the Constitution are observed and upheld; and
(ii) be within the spirit of this Law; and
(iii) be used only where special circumstances so require; and

(*b*) may include, but not limited to, all or any of the following: –

(i) finger-printing to identify voters and their entitlements to vote;
(ii) identity cards to identify voters and their entitlement to vote;
(iii) alteration of polling;
(iv) modification of scrutiny procedures.

(4) A declaration under Subsection (1) shall specify –

(*a*) the election to which it applies; and
(*b*) in the case of a general election, the electorates to which it applies; and
(*c*) the special procedures to be used; and
(*d*) the special circumstances that exist or may exist which give rise to the declaration.

(5) A Constitutional Regulation or an Act of the Parliament may prescribe the manner in which finger-printing and identity cards may be used for the pruposes of identifying voters and their entitlement to vote.

82B. FAILURE TO OBSERVE REQUIREMENT UNDER PART X.

[94]The failure to observe a requirement under Part X shall not be a ground for invalidating an election.

PART XI. – THE NOMINATIONS.

83. CANDIDATES MUST BE NOMINATED.

No person is qualified to be elected as a member unless he has been duly nominated.

84. QUALIFICATIONS FOR NOMINATION.

No person is qualified for nomination for an electorate while he is nominated for another electorate and that last-mentioned nomination has not been withdrawn.

85. MODE OF NOMINATION.

A nomination shall be in the prescribed form and shall–

(*a*) name the candidate, his place of residence and occupation; and
(*b*) set out the qualifications by virtue of which he is qualified for nomination; and
(*ba*)[95] state the political party that endorses the candidate or, if no political party endorses the candidate, state the word“ independent”; and
(*c*) be witnessed by a person to whom the candidate is personally known.

86. TO WHOM NOMINATION MADE.

(1)[96] [97]Nominations of members may be made to the Returning Officer for the electorate for which the election is to be held, to the Provincial Returning Officer of the province in which the Open electorate is located, to an Assistant Returning Officer for that electorate, or to a person thereunto authorized by the Electoral Commission.

(2) Nominations may be made at any time after the issue of the writ and–

(*a*) in the case of a nomination made to the Returning Officer–before the hour of nomination; and
(*b*) in the case of a nomination made–

(i) to an Assistant Returning Officer or other person referred to in Subsection (1); or
(ii) in respect of a person who is not enrolled for the electorate,

before the commencement of the period of 48 hours immediately preceding the hour of nomination.

(3) Where a nomination is made to an Assistant Returning Officer or other person referred to in Subsection (1), he shall immediately notify the Returning Officer by electronic advice, in the prescribed form, of the details of the nomination and deposit and forward the nomination to the Returning Officer.

87. REQUISITES FOR NOMINATION.

[98](1) No nomination is valid unless–

(*a*) the person nominated consents to act if elected, and declares that he is qualified under the laws of Papua New Guinea to be elected as a member; and
(*b*) the nomination paper, or the electronic advice referred to in Section 86(3), as the case may be, is received by the Returning Officer after the issue of the writ and before the hour of nomination; and
(*c*) at the time of the delivery of the nomination paper the person nominated or some person on his behalf pays to the Returning Officer or other person to whom the nomination is made the nomination fee of K1,000.00 in money or in a banker's cheque.

(2) Where, in relation to a nomination, objection is made by anyone, or the Electoral Commission on its own motion believes, that a person who has nominated is not qualified to be a Member of Parliament, the Electoral Commission may reject the nomination.

(3) Only one nomination form per candidate is valid and acceptable and, where more than one nomination is received and the additional nomination or nomination forms have not been withdrawn in accordance with Section 94, the nomination received first in time is valid.

88. FORM OF CONSENT TO ACT.

The consent and the declaration of qualifications referred to in Section 87(a) shall be sufficient if the candidate signs the form of consent and declaration in the nomination paper, but the Returning Officer receiving the nomination, or the electronic advice of the nomination, as the case may be, may accept any other form of consent and declaration, whether accompanying the nomination paper or not, that he considers satisfactory, and that acceptance is final.

89. FORMAL DEFECTS.

No nomination shall be rejected by reason of a formal defect or error if the Returning Officer receiving the nomination, or the electronic advice of it, as the case may be, is satisfied that the provisions of this Law have been substantially complied with.

90. NOMINATION FEE NON-REFUNDABLE.

Subject to Section 95, the nomination fee paid by or on behalf of a candidate at an election is non-refundable.

91. PLACE OF NOMINATION.

[99]The following places shall be the places for nomination: –

(*a*) the office of the Returning Officer;
(*b*) the office of the Provincial Returning Officer; and
(*c*) the office of the Electoral Commissioner before a person authorized by the Electoral Commissioner to accept nominations.

92. HOUR OF NOMINATION.

The hour of nomination is 4 p.m. on the day of nomination.

93. DECLARATION OF NOMINATIONS.

The Returning Officer for the electorate for which an election is being held shall, at the hour of nomination, attend at the place of nomination for the electorate, and shall there publicly produce all nomination papers and electronic advices of nominations received by him, and declare the names, addresses and occupations of all candidates nominated.

94. WITHDRAWAL OF NOMINATION.

(1) A candidate may withdraw his nomination by lodging with the Returning Officer for the electorate, or with an Assistant Returning Officer for the electorate or a person authorized for that purpose by the Electoral Commission, a notice of withdrawal in the prescribed form, and thereupon the nomination shall be cancelled and the deposit lodged shall be returned.

(2) A withdrawal of nomination may be made–

(*a*) in the case of a notice of withdrawal lodged with the Returning Officer–at any time before the hour of nomination; or
(*b*) in the case of a notice of withdrawal lodged with an Assistant Returning Officer or other person referred to in Subsection (1)–more than 24 hours before the hour of nomination.

(3) Where a notice of withdrawal of nomination is lodged with an Assistant Returning Officer or other person referred to in Subsection (1), he shall immediately notify the Returning Officer by electronic advice, in the prescribed form, of the withdrawal and forward the notice to the Returning Officer.

(4)[100] [101]A political party endorsement made on a nomination form shall not be withdrawn or otherwise amended after the hour of nomination.

95. RETURN OF NOMINATION FEE IN CASE OF CANDIDATE'S DEATH.

In the case of the death of a candidate before the end of the polling period, the nomination fee paid by him shall be returned to his legal personal representative.

96. PROCEEDINGS ON NOMINATION DAY.

(1) If one candidate only is nominated for an electorate, the Returning Officer shall declare that candidate duly elected.

(2) If in an election more candidates than one are nominated, the proceedings shall, subject to the provisions of this Law relating to voting before the commencement of the polling period, stand adjourned to the commencement of the polling period.

96A. CANCELLATION OF AN ELECTION.

[102](1) Notwithstanding any provision in this Law, the Head of State may, acting on the advice of the Electoral Commissioner given in accordance with Subsection (2), withdraw a writ issued for an election.

(2) Where the Electoral Commission, acting only on the recommendation of the Electoral Advisory Committee, and between the issue of a writ and the declaration of result, if the

circumstances prevailing in an electorate are such that a proper conduct of elections in that electorate is not practicable, the Electoral Commission may advise the Head of State to withdraw the writ.

(3) Where a writ is withdrawn under this section, a supplementary election shall be held as soon as the circumstances resulting in the withdrawal of writ have changed and, in the opinion of the Electoral Commission, it is practical to conduct an election.

96B. DISQUALIFICATION FROM HOLDING ELECTIVE OFFICE.

[103](1) A person who is convicted of an offence under this Law or other offence (including an accessory, aiding or being a party in other way provided by law) that relates to or which offence contributed to the creation of the circumstances responsible for resulting in the withdrawal of a writ shall be, in addition to any other penalty provided for that offence, disqualified from nominating for an elective public office.

(2) A court hearing a criminal prosecution brought against an accused person in relation to an offence referred to in Subsection (1) may impose the penalty specified therein in addition to any other penalty.

96C. ELECTION ADVISORY COMMITTEE.

[104](1) An Election Advisory Committee is hereby established.

(2) The functions of the Election Advisory Committee are to provide recommendations and advice to the Electoral Commission: –

(*a*) on matters provided in this Law; and
(*b*) on any other matters relating to elections as are referred to it by the Electoral Commission.

(3) The members of the Election Advisory Committee are: –

(*a*) the Chief Ombudsman (or his nominee); and
(*b*) two other persons of whom: –

(i) one shall be nominated by the Board of the Transparency International (PNG) Inc.; and
(ii) one shall be a retired judge or lawyer qualified to be appointed a judge nominated by the Electoral Commissioner after consulting the Chief Ombudsman and the Chairman of Transparency International (PNG) Inc.;

appointed by the Head of State, acting on advice of the Electoral Commission.

(4) The Election Advisory Committee shall make recommendations or advice the Electoral Commission only.

(5) The Election Advisory Committee shall meet as often as required and shall adopt its own procedures to regulate its proceedings.

(6) The Electoral Commission may pay the reasonable expenses of the Members of the Election Advisory Committee incurred in the performance of the functions under this section but they shall not be paid any remuneration.

PART 11A. – [105]ELECTION CANCELLATION AND FAILURE.

97. FAILURE OF ELECTION.

(1) Subject to this Law, whenever an election fails a new writ shall be issued for a supplementary election by the Head of State, acting with, and in accordance with, the advice of the Electoral Commission, as soon as practicable after the failure occurs.

(2) An election shall be deemed to have failed if no candidate is nominated or returned as elected.

PART XII. – VOTING BY POST.

98. APPLICATION BY ELECTORS FOR A POSTAL VOTE CERTIFICATE AND POSTAL BALLOT-PAPER.

(1) An elector who–

(*a*) will not, throughout the polling period–

(i) be within the electorate for which he is enrolled; or
(ii) be within 16km by the nearest practicable route of a polling booth open in the electorate for which he is enrolled; or

(*b*) will be travelling or be away from his residence under conditions which will preclude him from voting at a polling booth open in the electorate for which he is enrolled; or
(*c*) is seriously ill or infirm, and by reason of that illness or infirmity will be precluded from attending at a polling booth to vote, or, in the case of a woman, will by reason of approaching maternity or of the necessity for caring for her infant be precluded from attending at a polling booth to vote; or
(*d*) is, by reason of his membership of a religious order or of his religious beliefs–

(i) precluded from attending at a polling booth; or
(ii) precluded from voting at a reasonably accessible polling place; or

(*e*) is a citizen residing abroad,

may make application for a postal vote certificate and postal ballot-paper.

(2) An application under this section, setting out the grounds upon which the elector claims to vote by post, may be made in writing, in person or by letter or electronic advice after the tenth day after the issue of the writ for the election to the Returning Officer for the electorate for which the applicant is enrolled.

(3) An application under this Section shall not be deemed to have been duly made if it reaches the officer to whom it is made after the commencement of the polling period for the election for which the applicant is enrolled.

(4) An elector shall not make, and a person shall not induce an elector to make. a false statement in an application for a postal vote certificate and postal ballot-paper.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding six months, or both.

99. PENALTY FOR IMPROPERLY INDUCING ELECTOR TO APPLY FOR POSTAL VOTE.

A person shall not improperly persuade or induce, or associate himself with a person in improperly persuading or inducing, an elector to make application for a postal vote certificate and postal ballot-paper.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding one month.

100. ISSUE OF CERTIFICATE AND BALLOT-PAPERS.

(1) Subject to Subsection (2), the Returning Officer who receives an application under this Part, if he is satisfied that it is properly made, shall deliver or post to the applicant a postal vote certificate printed on an envelope addressed to the Returning Officer for the electorate for which the applicant declares that he is enrolled, a postal ballot-paper and the prescribed directions to the elector and the authorized witness.

(2) Before delivering or posting a postal vote certificate and postal ballot-paper under Subsection (1), the Returning Officer shall insert in the certificate the name, address, occupation and sex of the elector and, if necessary, shall insert the name of the electorate and the names of the candidates and complete the instructions on the ballot-paper.

(3) Where an application under this Part is received after 4 p.m. on the day preceding the first day of the polling period in the electorate for which the elector is enrolled, a Returning Officer shall not post to the elector a postal vote certificate or postal ballot-paper.

(4) The postal vote certificate and postal ballot-paper shall be in the prescribed form.

101. INSPECTION OF APPLICATIONS.

(1) All applications for postal vote certificates and postal ballot-papers received by a Returning Officer shall be kept by him.

(2) All applications for postal vote certificates and postal ballot-papers shall be open to public inspection at all convenient times during office hours from and including the third day after the last day of the polling period until the election can no longer be questioned.

102. NUMBERING OF APPLICATIONS AND CERTIFICATES.

(1) The Returning Officer shall number all applications for postal vote certificates and postal ballot-papers received by him in consecutive order, and shall number each postal vote certificate with a number corresponding with the number of the application.

(2) The Returning Officer shall initial the back of all postal ballot-papers issued, in such a position as to be easily seen when the ballot-paper is folded so as to conceal the vote.

103. RETURNING OFFICER TO NOTIFY ISSUE OF POSTAL VOTE CERTIFICATE AND POSTAL BALLOT-PAPER.

(1) The Returning Officer for an electorate in respect of which postal vote certificates and postal ballot-papers have been issued shall, if there is time conveniently to do so, note on the certified lists of votes the names of all electors to whom postal vote certificates and postal ballot-papers have been issued.

(2) If there is not time conveniently to note on a certified list of voters the issue of a postal vote certificate and postal ballot-paper, the Returning Officer shall, if practicable and reasonable, advise the presiding officer to whom the certified list of voters has been furnished of the issue of the postal vote certificate and postal ballot-paper.

(3) An elector to whom a postal vote certificate has been issued is not entitled to vote at a polling booth unless he first delivers to the presiding officer for cancellation his postal vote certificate and postal ballot-paper.

104. AUTHORIZED WITNESSES.

(1) Subject to Subsection (2), the following persons are authorized witnesses within the meaning of this Law:–

(*a*) an elector or person who is qualified to be an elector;
(*b*) where the vote is recorded outside the country, a person to whom the elector is well known.

(2) A person who is a candidate at an election is not an authorized witness at that election or at any other election held at the same time.

105. DIRECTIONS FOR POSTAL VOTING.

The following directions for regulating voting by means of postal ballot-papers shall be substantially observed:–

(*a*) the elector shall exhibit his postal ballot-paper (unmarked) and his postal vote certificate to an authorized witness;
(*b*) the elector shall indicate the grounds on which he wishes to vote by post by striking out those grounds in the postal vote certificate which do not apply to his particular case;
(*c*) the form of declaration printed on the envelope bearing the postal vote certificate shall, after being filled in, be signed by the elector in the space provided for the signature of the voter in the presence of the authorized witness;
(*d*) the authorized witness shall then and there sign his name in his own handwriting in the declaration printed on the envelope bearing the postal vote certificate in the place provided for

the signature of the authorized witness, and shall add the title under which he acts as an authorized witness and the date;
(*e*) the elector shall then and there, in the presence of the authorized witness but so that the authorized witness cannot see the vote, mark his vote on the ballot-paper in the prescribed manner, fold the ballot-paper, place it in the envelope addressed to the Returning Officer for the electorate in which he is entitled to vote;
(*f*) the elector shall promptly post or deliver the envelope or cause it to be posted or delivered, to the Returning Officer for the electorate in which he is entitled to vote;
(*g*) in the case of an elector suffering from a disability referred to in Section 140 the authorized witness shall mark the elector's vote on the ballot-paper and shall then and there fold the ballot-paper so that the vote cannot be seen, place it in the envelope addressed to the Returning Officer, fasten the envelope, and hand it to the voter, who shall post or deliver it, or cause it to be posted or delivered, to the Returning Officer for the electorate in which he is entitled to vote;
(*h*) the authorized witness shall not suffer or permit any person (other than the elector) to see or become acquainted with the elector's vote, or to assist the elector to vote, or to interfere in any way with the elector in relation to his vote.

106. DUTY OF AUTHORIZED WITNESS.

(1) An authorized witness shall–

(*a*) comply with the provisions of Section 105 insofar as they are to be complied with on his part; and
(*b*) see that the directions in that Section are complied with by every elector voting by post before him, and by every person present when the elector votes; and
(*c*) refrain from disclosing any knowledge of the vote of an elector voting by post before him.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding six months

(2) An authorized witness shall not influence, or attempt to influence, in any way the vote of an elector voting by post before him.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding one year.

107. PENALTY FOR UNLAWFULLY MARKING POSTAL BALLOT-PAPER.

No person other than–

(*a*) the elector to whom the postal ballot-paper has been issued; or
(*b*) an authorized witness, acting under Section 105, assisting an elector in accordance with that section,

shall mark a vote upon a postal ballot-paper.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding one year.

108. UNLAWFULLY OPENING POSTAL BALLOT-PAPER.

No person other than the Returning Officer for the electorate in respect of which a postal ballot-paper has been issued, or an officer acting under his directions, shall open the envelope in which a postal ballot-paper has been placed under Section 105 and which has been fastened by the elector or by an authorized witness in accordance with the provisions of that section.

Penalty: A fine not exceeding K500.00.

109. PENALTY FOR FAILURE TO POST OR DELIVER POSTAL BALLOT-PAPER.

A person to whom an application for a postal vote certificate and postal ballot-paper, or an envelope containing or purporting to contain a postal ballot-paper, is entrusted by a voter for the purpose of posting or delivering to a Returning Officer or Assistant Returning Officer, or delivery to a presiding officer, and who fails as soon as practicable to post or deliver the application or envelope, is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding three months.

110. PENALTY FOR INDUCING ELECTOR TO HAND OVER POSTAL BALLOT-PAPER.

A person shall not persuade or induce an elector to hand over to him a postal ballot-paper upon which a vote has been recorded.

111. DUTY OF PERSONS PRESENT WHEN AN ELECTOR VOTES BY POST.

A person present when an elector is before an authorized witness for the purpose of voting by post shall–

(*a*) obey all directions of the authorized witness; and
(*b*) refrain from making any communication whatever to the elector in relation to his vote; and
(*c*) refrain from assisting the elector or in any manner interfering with him in relation to his vote; and
(*d*) refrain from looking at the elector's vote or from doing anything whereby he may become acquainted with the elector's vote.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding six months.

112. BALLOT-BOX FOR POSTAL VOTES.

The Returning Officer shall keep a locked ballot-box on which the words "Postal Ballot Box" are conspicuously marked, and shall place and keep in that ballot-box, until the preliminary scrutiny under Section 155, all envelopes containing or bearing a postal vote certificate and purporting to contain a postal ballot-paper issued in respect of his electorate which–

(*a*) are delivered to him before the end of the polling period; or
(*b*) are received by him through the post up to the end of the polling period.

PART XIII. – THE POLLING.

Division 1.

Polling Schedule.

113. POLLING SCHEDULE.

(1) Subject to any directions given by the Electoral Commission, the Returning Officer shall, as soon as practicable after the close of nominations, prepare a polling Schedule showing the anticipated dates and times, within the polling period for the electorate, during which the polling booths will open at the polling places in the electorate, in such manner as he considers will give all electors in the electorate a reasonable and sufficient opportunity to vote at the election.

(2) Nothing in Subsection (1) or in this Law shall be construed to mean that polling shall be conducted on each day throughout the polling period or on any particular day in the polling period.

114. PUBLICATION OF POLLING SCHEDULE.

(1) The polling Schedule shall be published in the National Gazette and in a newspaper circulating in the electorate, and the Returning Officer shall take such other action as he considers necessary or desirable, or as is directed by the Electoral Commission, to ensure adequate publicity for the polling schedule.

(2) A copy of the polling Schedule shall be forwarded to each Provincial Government and Local-level Government in the electorate and shall be exhibited at such other places in the electorate as the Returning Officer appoints.

(3) A copy of the polling Schedule for an electorate shall be forwarded to each candidate in the electorate.

115. ADHERENCE TO POLLING SCHEDULE.

(1) As far as possible, polling booths shall be open in accordance with the polling schedule, and the Returning Officer and presiding officers shall take all such action as is necessary or desirable for that purpose, whether expressly authorized by this Law or not.

(2) Subject to any directions given by the Electoral Commission, the Returning Officer may, where it becomes impracticable to adhere to a polling schedule, vary the schedule, in which case the provisions of Section 114 shall, as far as practicable, be observed in relation to the variation.

(3) Subject to any directions given by the Returning Officer, a presiding officer may where in his opinion it is necessary or desirable in order to meet an unforeseen contingency of emergency and it is impracticable for the Returning Officer to vary the polling Schedule under Subsection (2), depart from the polling Schedule in relation to a polling place, and shall advise the Returning Officer of the departure and of the reasons for it as soon as practicable.

(4) Where the presiding officer departs from the polling Schedule in relation to a polling place, he shall take such action as is practicable to ensure adequate publicity for that departure at that polling place and amongst the electors likely to vote at it.

116. APPEAL.

(1) An elector may, not less than 14 days before the commencement of the polling period for an electorate, appeal to the Electoral Commission for an order varying a polling Schedule on the ground that it does not give to all electors in the electorate or in a part of the electorate a reasonable opportunity for voting in the election.

(2) Notwithstanding an appeal under Subsection (1), but subject to Section 115, a polling Schedule remains valid and in force until varied by order of the Electoral Commission under Subsection (1).

(3) In making an order under Subsection (1) the Electoral Commission shall give such directions as it considers desirable and practicable to ensure adequate publicity for the order.

117. ELECTION NOT OPEN TO CHALLENGE.

An election shall not be challenged on the ground of failure to observe a polling Schedule or to comply with the provisions of Section 114, or of a variation or a departure from a polling schedule.

Division 2.

General Provisions.

118. RETURNING OFFICER TO MAKE ARRANGEMENTS.

(1) If, on the day of nomination, the proceedings stand adjourned to the commencement of the polling, the Returning Officer shall immediately make all necessary arrangements for taking the poll, and in particular shall–

(*a*) appoint a presiding officer to preside at each polling place and all necessary assistant presiding officers, poll clerks, and door-keepers; and
(*b*) provide and furnish proper polling booths and ballot-boxes; and
(*c*) provide ballot-papers and all necessary certified lists of voters.

(2) The presiding officer shall, on or before the day of polling, determine the whole or the part of the polling place that shall be the polling booth in relation to that polling place.

(3) In an emergency during the polling due to the absence of an assistant presiding officer, poll clerk or door-keeper, or to unforeseen and continued pressure at the polling which cannot be met by the duly appointed electoral officers, the presiding officer may appoint a person to act as assistant presiding officer, poll clerk or door-keeper, and the person so appointed or acting shall be deemed to have duly been appointed if the Returning Officer afterwards ratifies the appointment.

(4) No person under the age of 18 years shall be appointed to be or to act as a presiding officer or assistant presiding officer.

(5) An assistant presiding officer may, subject to any directions of the presiding officer, exercise all or any of the powers of the presiding officer, and shall, in respect of the exercise of those powers, be deemed to be the presiding officer.

119. SUBSTITUTE.

A presiding officer may appoint a person not under the age of 18 years to be his substitute to perform his duties during his temporary absence, and the substitute may, while so acting, exercise all the powers of the presiding officer and shall, in the exercise of those powers, be deemed to be the presiding officer.

120. NO LICENSED PREMISES TO BE USED.

No part of any premises licensed, or the subject of a permit, under–

(*a*) the Liquor (Licensing) Act 1963; or
(*b*) a Provincial law relating to liquor licensing,

shall be used for the purpose of a polling booth.

121. SEPARATE VOTING COMPARTMENTS.

Polling booths shall have one or more separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot-papers, and each voting compartment shall be furnished with a pen for the use of voters.

122. BALLOT-BOXES.

(1) Each polling booth shall be provided with the necessary ballot-box or ballot-boxes.

(2) A ballot-box shall have a cleft in the cover through which the ballot-papers may be deposited in the box, and shall be provided with means for securely closing the cleft so that, when the cleft is so closed, no ballot-papers or other matters or things can be deposited or placed in the box or withdrawn from it.

(3) A ballot-box shall be capable of being securely fastened with a lock.

123. CERTIFIED LIST OF VOTERS.

[106](1) The certified list of voters to be used by a presiding officer at a polling place shall be the list of the electors on the Roll enrolled for the electorate for which the polling place is prescribed certified by the Returning Officer, and shall before the hour of commencing the poll in the polling area be delivered to the presiding officer for his guidance during the polling.

(2) The list of voters referred to in Subsection (1) may be provided in electronic form instead of, or in addition to, a hard copy.

124. BALLOT-PAPERS.

[107](1) Ballot-papers to be used in an election shall be in the prescribed form.

(2) ballot-paper shall have: –

(*a*) three spaces or boxes for a voter to indicate his preferences – 1, 2 and 3 – either by the prescribed candidate identification number or by candidate name; and
(*b*) any other feature as the Electoral Commission determines is necessary to be included.

(3) Regulations may make detailed provisions on the form, content and manner of use of ballot-papers and on any other matters considered necessary.

125. CANDIDATE POSTERS.

[108](1) The Electoral Commission shall make available at a polling place candidate posters containing the prescribed particulars of candidates to be displayed for voters to identify candidates for the purposes of marking their ballot-papers.

(2) Candidate posters to be used in an election shall be in the prescribed form.

(3) Regulations may make detailed provisions on the form, content and manner of use of candidate posters and on any other matter considered necessary.

(4) With the approval of the Electoral Commission given in writing and subject to such conditions as the Electoral Commission prescribes in writing (which may include a fee), a candidate may print the candidate posters for his use in his election.

126. BALLOT-PAPERS TO BE INITIALLED.

(1) No ballot-paper shall be delivered to a voter without being first initialled or affixed with an official mark as prescribed by the presiding officer, and an exact account shall be kept of all initialled ballot-papers.

(2) The initials of the presiding officer shall be placed on the back of the ballot-paper in such a position as to be easily seen when the ballot-paper is folded so as to conceal the names of the candidates.

127. SCRUTINEERS AT THE POLLING.

(1) Scrutineers may be appointed by candidates to represent them at polling places during the polling, but so that not more than one scrutineer, other than relieving scrutineers, shall be allowed to each candidate at each polling booth or subdivision of a polling booth on any one day.

(2) Appointments of scrutineers shall be made by notice in writing or by electronic advice addressed to the Returning Officer or presiding officer, and the notice or electronic advice shall be signed by the candidate and shall give the name and address of the scrutineer.

128. PROVISIONS RELATING TO SCRUTINEER.

(1) A scrutineer shall not–

(*a*) interfere with or attempt to influence an elector within the polling booth; or
(*b*) communicate with a person in the polling booth except so far as is necessary in the discharge of his functions; or
(*c*) enter a compartment of a polling booth whilst a voter is present in that compartment.

Penalty: A fine not exceeding K100.00.

(2) A scrutineer shall not be prevented from entering or leaving a polling booth during the polling, and during his absence, a relieving scrutineer may act in his place, but so that only one scrutineer for each candidate shall be present in the polling booth or a subdivision of the polling booth at any one time.

(3) A scrutineer who commits a breach of this section, or who misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling booth by a member of the Police Force or by a person authorized by the presiding officer to remove him.

(4) A scrutineer may not be used to assist any voter to vote under Section 140 or 143.

129. PERSONS PRESENT AT POLLING.

A candidate shall not in any way take part in the conduct of the polling, and no person, other than the presiding officer, assistant presiding officers, officers, poll clerks, interpreters, door-keepers and scrutineers, and the electors voting and about to vote, shall enter or remain or be permitted to enter or remain in the polling booth during the polling except by permission of, and on such conditions as are determined by, the presiding officer.

130. THE POLLING.

(1) Subject to Subsections (2) and (3), the polling shall be conducted as follows:–

(*a*) before the first ballot-paper is placed in an empty ballot-box, the Returning Officer or, if he is not present, the presiding officer, shall exhibit the ballot-box empty, and shall then securely fasten its cover;
(*b*) the poll shall open at each polling place at 8 a.m. on each day (other than a Sunday or a public holiday) during the period for taking the poll at that polling place, and shall not close until all electors present in the polling booth at 6 p.m. and desiring to vote, have voted;
(*c*) the doors of the polling booth shall be closed at 6 p.m. and no person shall be admitted after that hour to the polling booth for the purpose of voting;
(*d*) at the close of the polling on each day of the polling period at a polling place, the presiding officer shall, in the presence of the poll clerk and of any scrutineers who are in attendance, publicly close, fasten, lock and take charge of the ballot-box;
(*e*) when a ballot-box is full or no longer required for the polling, or at the end of the polling period for all polling places for which he is the presiding officer, whichever first occurs, the presiding officer shall, with the least possible delay, forward the ballot-box for the purposes of scrutiny, and it shall on no account be opened except in accordance with this Law.

(2) Notwithstanding anything in Subsection (1), where–

(*a*) the Returning Officer or the presiding officer considers it necessary the polling may commence at any particular polling place at a time later than 8 a.m. and, except on the last day of the polling period for the electorate, may close at a time later than 6 p.m.; and
(*b*) the presiding officer considers that all electors entitled and likely to vote at any particular polling place have done so, or the Returning Officer so directs, the poll may close at that polling place at a time earlier than 6 p.m.

(3)[109] [*Repealed*.]

131. ELECTIONS AT WHICH ELECTORS ARE ENTITLED TO VOTE.

(1)[110] [111]Subject to this Section and Division 3, an elector shall only be admitted to vote for the election of a member for the electorate for which he is enrolled.

(2)[112] [113]A candidate is entitled to vote in the electorate for which he is a candidate whether or not his name is on the Roll for that electorate.

(3) For the purposes of this section, the Rolls in force at the time of the election are, subject to Subsection (2), evidence of the right of each person so enrolled to vote at an election, unless he shows by his answer to a question prescribed by Section 134 that he is not entitled to vote.

132. WHERE ELECTORS MAY VOTE.

[114](1) Subject to this section, an elector is entitled to vote at any prescribed polling place for the electorate for which he is enrolled while that polling place is open.

(2) The Electoral Commission may, by notice in the National Gazette, require an elector in an electorate or a part of an electorate to vote only in the part of the electorate where his name appears on the Roll.

(3) Where a notice is given under Subsection (2), an elector shall vote only in that part of the electorate where his name appears on the Roll.

(4) Nothing in this section authorizes an elector to vote more than once at an election.

133. PERSONS CLAIMING TO VOTE TO GIVE NAME AND OTHER PARTICULARS.

[115](1) A person claiming to vote at a polling booth shall–

(*a*) state his full name or names; and
(*b*) if so directed by the presiding officer for the purpose of identifying him, his finger or palm print is to be placed on the ballot-paper, electronic pad or system or other material; and
(*c*) if so desired by the presiding officer for the purpose of identifying the name under which the vote is claimed, give any other particulars necessary to be stated in the Roll or to enable him to be identified in the Roll.

(2) For the purposes of Subsection (1)(b), the Electoral Commission may establish a finger, palm or other identification system, whether manually or electronically, for the purposes of identifying a voter and his entitlement to vote and to prevent multiple voting.

(3) Where the Electoral Commission establishes an identification system referred to in Subsection (2), the manner and the way the system is established are as prescribed.

(4) Regulations made under Subsection (3) shall ensure that the way a voter votes is not immediately disclosed.

(5) The Electoral Commission may itself establish and administer the identification system or it may authorize another person to do so and the same provisions as those applying to identification systems relating to enrolment on a Roll shall apply.

(6) Regulations may make detailed provisions for: –

(*a*) an identification system to be used may be administered and managed by the Electoral Commission or by any other person; and
(*b*) the use of manual finger printing or electronic identification system to verify entitlement to vote; and
(*c*) the Electoral Commission to use such system where it considers necessary; and
(*d*) the discretion of the Electoral Commission to use any identification system to the whole of the country, a part of the country, an electorate or a part of any electorate; and
(*e*) where the Electoral Commission decides to use an identification system only for electorates in a part of the country or for a part of an electorate, notification is to be made in the National Gazette; and
(*f*) the systems to be used may include one or more of the following: –

(i) manual finger print system;
(ii) computer or electronic recorded and recognized finger print system;
(iii) computer or electronic recorded and recognized palm print system;
(iv) computer or electronic or other photographic system; and

(*g*) a voter may be required: –

(i) to put his finger print on the ballot-paper or any other document; or
(ii) to place his finger on any instrument that records the print, whether or not it checks the data base; or
(iii) a combination of Paragraphs (i) and (ii); or
(iv) a combination of Paragraphs (i) and (ii) with other features; or
(v) a combination of Paragraphs (i) or (ii) with other features; and

(*h*) where a finger print is required to be impressed on a ballot-paper making it possible to establish or identify a person and the way the person has voted:

(i) the finger print is to be checked only for the purposes of verifying a vote and not to identify who the voter has voted; and
(ii) any system used is to ensure that the system does not reveal to any unauthorized person how a voter has voted,

and a breach of this provision is to incur penalty of a term of imprisonment.

134. QUESTIONS TO BE PUT TO VOTER.

(1) Subject to this Law, the presiding officer–

(*a*) may, and at the request of a scrutineer shall, put to a person claiming to vote the following questions:–

(i) "Have you already voted either here or elsewhere in this election (or these elections, as the case requires)?";
(ii) "Did you reside within this electorate for a period of more than six months before your claim for enrolment?";
(iii) "Are you at least 18 years of age?";
(iv) "Are you a citizen of Papua New Guinea?";
(v) "Are you qualified to vote?"; and

(*b*) may, and at the request of a scrutineer shall, also put to any person claiming to vote, whose name appears on the certified list of voters the following question:–

"Are you the person whose name appears as (here state name) onthe certified list of voters for this electorate?".

(2) If a person claiming to vote to whom any of the questions specified in Subsection (1) are put–

(*a*) refuses to answer fully a question so put to him; and
(*b*) does not answer the question prescribed in Subsection (1)(a)(i) absolutely in the negative, if so put to him; or
(*c*) does not answer the question prescribed in Subsection (1)(a)(ii) absolutely in the affirmative when put to him; or
(*d*) does not answer a question specified in Subsection (1)(a)(iii), (iv), (v) or (b) absolutely in the affirmative when put to him,

his claim to vote shall be rejected unless he is a candidate for election for that electorate.

(3)[116] [117]Where a person claiming to vote refuses to give a finger or palm print or fails to pass a finger print or the prescribed palm identification system, his claim to vote shall be rejected.

135. CERTAIN ERRORS NOT TO FORFEIT VOTE.

No error or omission in the Roll for an electorate of part of a name or entry of a wrong name, address or occupation and no mistake in the spelling of a name warrants the rejection of a claim to vote, and no person shall be disqualified from voting under the name appearing on the Roll because of a change of name.

136. RIGHT OF ELECTOR TO RECEIVE BALLOT-PAPER.

(1) The presiding officer or a poll clerk shall, at the polling, hand to each person claiming to vote a ballot-paper duly initialled or affixed with an official mark as prescribed by the presiding officer–

(*a*) if the name under which he claims to vote is on the certified list of voters for the polling place and his right to vote is not challenged; or
(*b*) if the name under which he claims to vote is on the certified list of voters for the polling place

and his right to vote is challenged, and his answers to the prescribed questions show that he is entitled to vote; or
(*ba*)[118] if he passes the identification system established under Section 134; or
(*c*) if he claims to vote under Division 3 and complies with the provisions of that Division.

(2) The presiding officer, at the request of a scrutineer, shall note any objection by the scrutineer to the right of a person to vote, and shall keep a record of that objection.

(3) If the presiding officer puts to a person all or any of the prescribed questions, his right to vote shall be deemed to have been challenged.

137. LIST OF VOTERS TO BE MARKED ON ISSUE OF BALLOT-PAPER.

Immediately upon handing the ballot-paper to a person claiming to vote, the presiding officer or a poll clerk shall place a mark against the person's name on the certified list of voters.

138. VOTES TO BE MARKED IN PRIVATE.

[119]Except as otherwise prescribed, a voter upon receipt of a ballot-paper shall without delay–

(*a*) retire alone to some unoccupied compartment of the booth, and in there, in private, mark votes for three candidates in order of preference or, where there are less than three candidates for each candidates in order of preference on the ballot-paper in the prescribed manner; and
(*b*) fold the ballot-paper so as to conceal his votes and to show clearly the initials of the presiding officer or the affixed mark and exhibit it so folded to the presiding officer, and then openly, and without unfolding it, deposit it in the ballot-box; and
(*c*) quit the booth.

139. METHOD OF MARKING BALLOT-PAPER.

[120](1) Subject to this Law, an elector shall record his votes on his ballot-paper: –

(*a*) where there are three or more candidates: –

(i) by placing in the three square brackets on the ballot-paper, in the order of preference from 1, 2 and 3, the identification numbers appearing beside the name of the candidate on the candidate poster; or
(ii) by writing in the three line spaces on the ballot-paper the names of the candidates in the order of preference from 1, 2 and 3; or

(*b*) where there are two candidates: –

(i) by placing in the first two of the square brackets on the ballot-paper, in the order of preference of 1 and 2, the identification numbers appearing beside the name of the candidate on the candidate poster; or
(ii) by writing in the first two line spaces on the ballot-paper the names of the candidates in the order of preference of 1 and 2.

(2) Where a voter inserts the name of a candidate on a ballot-paper, the misspelling of the name shall not render a vote informal if the intention of the voter is clear.

(3) Where a voter completes on the ballot-paper both the identification number of a candidate in a square box and states the name of the candidate in a line space, if there is inconsistency between the two as to who the voter intended to vote, the preference indicated by the name shall be accepted as valid and not the identification number.

140. ASSISTANCE TO CERTAIN VOTERS.

(1) If a voter satisfies the presiding officer that–

(*a*) his sight is impaired; or
(*b*) that he is so physically incapacitated that he is unable to vote without assistance; or
(*c*) that he is so illiterate that he is unable to vote without assistance,

the presiding officer shall permit such number of persons appointed by the voter to enter an unoccupied compartment of the booth with the voter, and mark, fold and deposit the voter's ballot-paper for him.

(1A)[121] [122]A voter may present to a Presiding Officer or other polling officer a list indicating the candidates the voter wants to vote for and upon receipt of such a list and in the presence of another polling official, the Presiding Officer or polling officer shall read to the voter the candidates named on the list and confirm if the voter wishes to mark votes for these candidates and in the order of preference so indicated and only after this can the Presiding Officer or other polling officer complete a ballot paper for the voter in accordance with the voters instructions.

(2) A person appointed under Subsection (1) to assist a voter shall restrain from disclosing any knowledge of the vote of the voter.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding three months.

Division 3.

Special Provisions in Certain Cases.

141. VOTER CLAIMING TO VOTE WHOSE NAME ON ROLL HAS BEEN MARKED.

(1) Notwithstanding anything in this Law, where a voter, against whose name on the certified list of voters used at a polling place prescribed for the electorate for which he is enrolled a mark has been placed in accordance with Section 137, claims to vote in an election at that polling place he may, subject to Sections 52 and 134 and to the Regulations be permitted to vote.

(2) The ballot-paper of a voter voting under this Section shall be dealt with as prescribed.

142. PERSON CLAIMING TO VOTE WHOSE NAME IS NOTED AS PERSON TO WHOM POSTAL VOTE CERTIFICATE, ETC., ISSUED.

(1) Where a person whose name has been noted on the certified list of voters used at a polling place prescribed for the electorate for which he is enrolled as an elector to whom a postal vote certificate and postal ballot-paper have been issued, claims to vote in an election at that polling place and states, when requested to deliver to the presiding officer for cancellation his

postal vote certificate and postal ballot-paper, that he has not received a postal vote certificate and postal ballot-paper, he may, subject to this Law, be permitted to vote, if he makes a declaration in the prescribed form before the presiding officer at the polling place.

(2) The ballot-paper of a voter voting under this Section shall be dealt with as prescribed, but no such ballot-paper shall be scrutinized unless the Returning Officer is satisfied that the voter is entitled to vote in the election, and that a postal vote certificate or postal ballot-paper has not been received by him.

143. BLIND OR PHYSICALLY INCAPACITATED VOTERS.

(1) If a voter who claims to vote under Section 141 or 142 satisfies the presiding officer that his sight is so impaired or that he is so physically incapacitated that he is unable to vote without assistance, the presiding officer shall–

(*a*) fill in the form of declaration with the required particulars relating to the enrolment of the voter as required by the voter; and
(*b*) read over to the voter the form of declaration; and
(*c*) require the voter to sign the form of declaration–

(i) in his own handwriting if he is able to do so; or
(ii) with his mark as his personal signature if he is unable to sign his name in his own handwriting; and

(*d*) cause the signature of the voter, if made by means of a mark, to be witnessed by a scrutineer present, or if no scrutineer be present, by the poll clerk; and
(*e*) complete and attest the declaration; and
(*f*) permit such number of persons appointed by the voter to enter an unoccupied compartment of the booth with the voter and to mark and fold the ballot-paper for the voter; and
(*g*) enclose the ballot-paper in the envelope bearing the declaration of the voter, securely fasten the envelope and deposit it in the ballot-box.

(2) If a voter to whom Subsection (1) applies fails to appoint a person under that subsection, the presiding officer shall take action in accordance with Subsection (1)(a) to (e) (inclusive) and shall, in the presence of a person appointed by the voter for the purpose if the voter so desires, or, in the absence of any such appointment, the poll clerk–

(*a*) mark and fold the ballot-paper for the voter; and
(*b*) enclose the ballot-paper in the envelope bearing the declaration of the voter, securely fasten the envelope and deposit it in the ballot-box.

144. DEALING WITH VOTERS, ETC., UNDER THIS DIVISION.

(1) The presiding officer shall, upon receiving a ballot-paper from a person voting under this Division, in the presence of the voter and of such scrutineers as are present and without unfolding the ballot-paper, enclose it in an envelope bearing the declaration of the voter under Section 143, and addressed to the Returning Officer, and shall securely fasten the envelope and deposit it in the ballot-box.

(2) An Assistant Returning Officer who is authorized under this Law to open the ballot-box shall, without opening the envelope, transmit it to the Returning Officer.

(3) Where the claim of a person to vote under this Division is refused, the presiding officer shall make a note in writing of the fact of the claim and the reasons for the refusal, and the presiding officer and a poll clerk shall sign a note in the presence of such scrutineers as are present, who may also sign the note.

Division 4.

Miscellaneous.

145. SPOILT BALLOT-PAPERS.

If a voter, before depositing his ballot-paper in the ballot-box, satisfies the presiding officer that he has spoilt the ballot-paper by mistake or accident, he may, on giving it up, receive a new ballot-paper from the presiding officer, who shall there and then cancel the spoilt ballot-paper, write the word "Spoilt" across the face of it, place it in an endorsed envelope and forward it to the Returning Officer after the polling.

146. ADJOURNMENT OF POLLING ON ACCOUNT OF RIOT.

(1) The presiding officer may adjourn the polling from day to day where the polling is interrupted or obstructed by riot or open violence.

(2)[123] [124]If from any cause a polling booth at a polling place is not open on any day during the period for taking the poll at that polling place, the presiding officer may adjourn the polling for a period not exceeding seven days and shall forthwith give public notice of the adjournment.

(3) Where for any reason the polling is adjourned at a polling place, those electors only–

(*a*) who are enrolled for the electorate for which the polling place is prescribed; or
(*b*) who are otherwise entitled to vote as electors for the electorate,

and have not already voted, are entitled to vote at the adjourned polling at that polling place.

(4) Nothing in this Section shall be deemed to affect the provisions of Division 1.

PART XIV. – THE SCRUTINY.

Division 1.

Preliminary.

147. SCRUTINY.

The result of the polling shall be ascertained by scrutiny.

148. COUNTING CENTRES.

[125](1) The scrutiny shall be conducted at such places, to be known as "counting centres", as are appointed by the Returning Officer for the purpose.

(2) The counting centre shall be within the electorate where the election was held.

(3) Where circumstances make it difficult for the counting centre to be located within the electorate, the Returning Officer may appoint a place outside the electorate to be the counting centre.

149. OFFICERS TO CONDUCT SCRUTINY.

The scrutiny at a counting centre shall be conducted by the Returning Officer or, in the absence of the Returning Officer from that counting centre, by an Assistant Returning Officer.

150. SCRUTINEERS AT SCRUTINY.

(1) A candidate may appoint one or more scrutineers to represent him at the scrutiny, but only one such scrutineer for each candidate may be present in the counting centre at any one time during the scrutiny.

(2) The appointment of a scrutineer under this Section to represent a candidate at a counting centre–

(*a*) shall be made by notice in writing signed by the candidate, or by electronic advice signed by the candidate before it is tendered for transmission, given or sent to the officer who is to conduct, or who is sent to the officer who is to conduct, or who is conducting, the scrutiny at the counting centre; and
(*b*) shall specify the name and address of the scrutineer.

151. CONDUCT OF SCRUTINY.

The scrutiny shall be conducted as follows:–

(*a*) it shall commence as soon as voting in the electorate is completed;
(*b*) any scrutineers duly appointed under Section 150 and any persons approved by the officer conducting the scrutiny, may be present;
(*c*) all the proceedings at the scrutiny shall be open to the inspection of the scrutineers;
(*d*) the scrutiny may be adjourned from time to time as necessary until the counting of the votes is complete.

152. ACTION ON OBJECTIONS TO BALLOT-PAPERS.

(1) If a scrutineer objects to a ballot-paper as being informal, the officer conducting the scrutiny shall mark the ballot-paper "Admitted" or "Rejected", according to his decision to admit or reject the ballot-paper.

(2) Nothing in this Section prevents the officer conducting the scrutiny from rejecting a ballot-paper as being informal although it is not objected to.

153. INFORMAL BALLOT-PAPERS.

[126](1) Subject to this section, and to Divisions 3 and 4 and the Regulations, a ballot-paper is informal where: –

(*a*) it is not authenticated by the initials of the presiding officer or by an official mark as prescribed; or
(*b*) subject to Subsections (2) and (3), it has no vote indicated on it or it does not have the voter's first preference for one candidate and his contingent votes for two other candidates or where there are less than two other candidates, for the remaining candidate; or
(*c*) subject to Subsection (4), it has on it any mark or writing (not authorized by this Law or Regulations made under this Law to be put on it) by which, and on the face of the ballot-paper alone, in the opinion of the officer conducting the scrutiny, the voter can be identified.

(2) Where there are two candidates only and the voter has indicated his vote by inserting the identification numbers or the name of one candidate for the first preference and left the other two squares and lines blank, the voter shall be deemed to have indicated the order of his preference for both candidates.

(3) Where there are three candidates only and the voter has indicated his vote by inserting the identification numbers and/or the names of two candidates for the first and second preferences, and the square and line for the third preference has been left blank, the voter's preference shall be deemed to have indicated his preferences for all candidates.

(4) Subsection (1)(c) does not apply to a mark or writing placed on a ballot-paper by an officer, notwithstanding that the placing of the mark or writing on the ballot-paper is a contravention of this section.

(5) Subject to Divisions 3 and 4, a ballot-paper shall not be informal for any reason other than a reason specified in this section.

153A. EXCLUDING BALLOT-BOX FROM SCRUTINY.

[127](1) Subject to this section, a Returning Officer may refuse to admit to scrutiny a ballot-box containing marked ballot-papers where he is of the opinion that: –

(*a*) the ballot-papers in it were not lawfully casted; or
(*b*) the ballot-box was tampered with and the integrity of the ballot-papers in it were compromised.

(2) Where objection is taken to a ballot-box being admitted to scrutiny by a scrutineer or by a polling officer who polled with the ballot-box, the Returning Officer may require the objection and the grounds of the objection to be reduced into writing and may require any responses from a scrutineer to be in writing and for the relevant President Officer and other polling officers as are available at the scrutiny to comment on the objections and the responses given before making a decision on such objection.

(3) A ballot-box that is damaged but its contents have not been disturbed is not to be rejected for the reason of the damage.

(4) A decision of a Returning Officer under this section may not be challenged other than by way of petition.

Division 2.

Provisions relating to the Scrutiny of Ordinary Votes.

154. SCRUTINY OF ORDINARY VOTES IN ELECTIONS.

(1)[128] [129]In an election the scrutiny shall, subject to the provisions of Divisions 3 and 4 and Regulations be conducted in accordance with the succeeding provisions of this section.

(2) The electoral officer conducting the scrutiny shall, in the presence of a presiding officer, poll clerk or an officer and of such authorized scrutineers as choose to attend and any other person approved by the Returning Officer–

(*a*) open all ballot-boxes received from polling places within the electorate; and
(*b*)[130] reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference vote is indicated for the same candidate; and
(*c*)[131] count the first preference votes given for each candidate on all unrejected ballot-papers; and
(*d*)[132] make out and sign a statement (which may be counter-signed by the presiding officer, poll clerk or officer present and, if they so desire, by such scrutineers as are present) setting out the number of first preference votes given for each candidate, and the number of informal ballot-papers; and
(*e*) place in a separate parcel all the ballot-papers which have been rejected as informal; and
(*f*) where an Assistant Returning Officer conducts the scrutiny, transmit the following information, by electronic advice or in some other expeditious manner, to the Returning Officer:–

(i)[133] the number of first preference votes given for each candidate;
(ii) the total number of ballot-papers rejected as informal; and

(*g*) seal up the parcels and endorse on each parcel a description of the contents of it, and permit any scrutineers present, if they so desire, to counter-sign the endorsement; and
(*h*) where an Assistant Returning Officer conducts the scrutiny, transmit the parcels to the Returning Officer with the least possible delay, together with the statement referred to in Paragraph (d).

(3)[134] [135]The Regulations may provide for the counting of votes to be done electronically following the opening of the ballot-boxes and after rejecting informal ballot-papers and ballot-boxes not admitted to scrutiny.

Division 3.

Provisions Relating to the Scrutiny of Postal Votes.

155. SCRUTINY OF POSTAL VOTES.

The scrutiny of postal votes shall be conducted by the Returning Officer with the assistance of an Assistant Returning Officer or an officer, in the presence of such authorized scrutineers as chosen to attend and any other persons approved by the Returning Officer.

156. PRELIMINARY SCRUTINY OF POSTAL VOTES.

(1) The Returning Officer conducting the scrutiny shall–

(*a*) subject to Subsection (2), as soon as practicable after the end of the polling period for an electorate, produce and open the postal voters' ballot-box in which the envelopes containing the voters' ballot-papers have been placed and produce unopened all envelopes containing postal votes received by him before the end of the polling period; and
(*b*) examine each certificate and, if satisfied that–

(i) the person making the vote is an elector enrolled for the electorate; and
(ii) the declaration purports to be witnessed by an authorized witness,

accept the ballot-paper for further scrutiny, and place a mark against the name of the elector on a certified copy of the Roll used by him for the purpose of the scrutiny, but, if not so satisfied, disallow the ballot-paper without opening the envelope in which it is contained; and

(*c*) place in one parcel the unopened envelopes bearing the duly signed and attested declarations of those persons whose ballot-papers have been accepted for further scrutiny; and
(*d*) place in another parcel the unopened envelopes bearing the declarations of those persons whose ballot-papers he has disallowed, fasten and seal the parcel, endorse on it the words "Postal voters' ballot-papers rejected at the preliminary scrutiny" and add the name of the electorate, his signature and the date; and
(*e*) place the envelopes containing the ballot-papers which he has decided to accept for further scrutiny before him on a table in such a manner that the address side of each envelope is visible; and
(*f*) number each envelope consecutively from one upwards in the top right-hand corner until all of the envelopes have been dealt with; and
(*g*) without further examining the certificate or declaration of any voter or permitting any other person to do so, withdraw from the envelope each ballot-paper contained in it, and, without inspecting or unfolding the ballot-paper or allowing any other person to do so, place on it a number corresponding with that placed on the envelope from which the ballot-paper has been withdrawn and deposit the folded ballot-paper in a locked ballot-box for further scrutiny; and
(*h*) place the envelopes in a parcel endorsed with the words "Envelopes bearing postal voters' declarations from which ballot-papers have been withdrawn for further scrutiny", fasten the parcel, and add the name of the electorate, his signature and the date.

(2) The Returning Officer shall, as far as practicable, keep in the Postal Voters' Ballot-box sufficient envelopes containing ballot-papers to ensure that all ballot-papers, when counted, shall be taken from a number sufficient to prevent the identity of voters from being disclosed.

157. FURTHER SCRUTINY OF POSTAL VOTES.

At the further scrutiny, the officer conducting the scrutiny shall, as soon as practicable after the preliminary scrutiny under Section 156 open the ballot-box referred to in Section

156(g), examine the postal voters' ballot-papers contained in the ballot-box, and take similar action to that set out in Section 154(2)(b), (c), (d), (e) and (g).

158. MISTAKES.

A postal vote shall not be rejected as informal merely because, in the case of a candidate, part only of his name has been written on it if there is no possibility of confusion with some other candidate, or by reason of a mistake in spelling or otherwise where there is no doubt as to the identity of the candidate and the elector's intention is clear.

Division 4.

Provisions relating to the Scrutiny of Votes under Division 3 of Part XIII.

159. CONDUCT OF SCRUTINY.

The scrutiny of votes under Division XIII.3 shall be conducted by the Returning Officer and shall commence as soon as practicable after the end of the polling period for an electorate in the presence of an Assistant Returning Officer or an officer and such scrutineers as chosen to attend.

160. ACTION ON RECEIPT OF BALLOT-PAPERS UNDER DIVISION XIII.3.

The Returning Officer shall produce unopened all envelopes containing ballot-papers used for voting under Division XIII.3 and shall, before opening an envelope or allowing any other person to do so, examine the declaration of the voter and, if it is in order and shall deal with the ballot-paper in accordance with this Division, and make such correction (if any) to the Roll as is necessary.

161. PRELIMINARY SCRUTINY OF VOTES CAST UNDER DIVISION XIII.3.

(1) The Returning Officer shall, in relation to envelopes containing ballot-papers used for voting under Division XIII.3–

(*a*) place in one parcel the envelopes bearing the declarations of persons who he is satisfied are entitled to vote in respect of the electorate, accept for further scrutiny the ballot-papers contained in the envelopes and in respect of envelopes under Sections 141 and 142, make a notation on a certified copy of the Roll used by him for the purposes of the scrutiny against the names of the persons voting that those persons have been permitted to vote under Section 141 or 142, as the case may be; and

(*b*) place in another parcel the envelopes bearing the declarations of persons who he is satisfied are not entitled to vote in respect of the electorate, or whose declarations are not signed and attested, fasten and seal the parcel, endorse thereon the words "Division 3 voters' ballot-papers rejected at the preliminary scrutiny", and add the name of the electorate, his signature and the date; and

(*c*) place the envelopes containing the ballot-papers accepted for further scrutiny before him on a table in such a manner that the face only of each envelope bearing the address of the Returning Officer is visible; and

(*d*) number each envelope consecutively from one upwards in the top right-hand corner until all

of the envelopes have been dealt with; and
(*e*) without further examining the declaration of a voter, or permitting any other person to do so, withdraw from the envelope each ballot-paper contained in it, and, without inspecting or unfolding the ballot-paper or allowing any other person to do so, place on it a number corresponding with that placed on the envelope from which the ballot-paper has been withdrawn, and deposit the folded ballot-paper in a locked ballot-box for further scrutiny; and
(*f*) place the envelopes in a parcel, endorsed with the words "Envelopes bearing Division 3 voters declarations from which ballot-papers have been withdrawn for further scrutiny", fasten the parcel and add the name of the electorate, his signature and the date.

(2) A Division 3 voter's ballot-paper shall not be rejected at the preliminary scrutiny by reason only of the fact that the presiding officer has omitted to attest the declaration of the elector.

162. FURTHER SCRUTINY.

At the further scrutiny, the officer conducting the scrutiny shall, as soon as practicable after the preliminary scrutiny under Section 161, open the ballot-box referred to in Section 161(1)(e), examine the Division 3 voters' ballot-papers contained in the ballot-box, and take similar action to that set out in Section 154(2)(b) (c), (d), (e) and (g).

163. INFORMAL BALLOT-PAPERS.

In addition to the matters specified in Section 153, a Division 3 voter's ballot-paper is informal if it is not contained in an envelope bearing the declaration of the elector.

164. PARCELLING OF BALLOT-PAPERS.

The officer conducting the scrutiny shall place in separate parcels–

(*a*) all Division 3 voters' ballot-papers allowed or admitted as formal; and
(*b*) all Division 3 voters' ballot-papers disallowed or rejected as informal, and shall fasten and seal each parcel, and endorse on it particulars of the contents of it and the name of the electorate, and add his signature and the date.

165. OPENING OF SEALED PARCELS OF BALLOT-PAPERS.

The sealed parcels of Division 3 voters' ballot-papers may only be opened–

(*a*) for the purposes of an authorized re-count; or
(*b*) by direction of the National Court.

166. OPENING OF SEALED PARCELS OF DECLARATIONS.

The sealed parcels of Division 3 voters' declarations may only be opened–

(*a*) by direction of the National Court; or
(*b*) as provided in the Regulations.

167. PRESERVATION OF BALLOT-PAPERS AND DECLARATIONS.

Subject to any action referred to in Section 165 or 166, the Returning Officer shall preserve the sealed parcels of–

(*a*) Division 3 voters' ballot-papers allowed or admitted to the scrutiny; and
(*b*) Division 3 voters' ballot-papers disallowed or rejected at the scrutiny; and
(*c*) envelopes bearing Division 3 voters' declarations from which ballot-papers have been withdrawn for further scrutiny; and
(*d*) envelopes bearing Division 3 voters' declarations and containing ballot-papers rejected at the preliminary scrutiny,

until their destruction has been authorized by the Electoral Commission.

Division 5.

Mode of Determining the Result of the Scrutiny.

168. SCRUTINY OF VOTES IN ELECTIONS.

[136](1)[137] [138]Subject to this section and the Regulations, the result of an election shall be determined by scrutiny in the following manner:–

(*a*) the Returning Officer shall ascertain the total number of first preference votes given for each candidate;
(*b*) the candidate who has received the largest number of first preference votes, if that number be an absolute majority of votes, is elected;
(*c*) if no candidate has received an absolute majority of votes, a second count shall be held;
(*d*) on the second count the sealed parcels of ballot-papers shall be opened by the Returning Officer, the candidate who has received the fewest number of first preference votes shall be excluded and each ballot-paper counted to him shall be counted to the candidate next in order of the order of the voter's preference;
(*e*) where a candidate then has an absolute majority of votes he shall be deemed to be elected, but where no candidate then has an absolute majority of votes the process of excluding the candidate who has the fewest votes and counting each of the ballot-papers to the unexcluded candidate next in order of the voter's preference shall be repeated until one candidate has received an absolute majority of votes;
(*f*) the candidate who has received an absolute majority if the votes is elected;
(*g*) if, in any count, two or more candidates have an equal number of votes and one of them has to be excluded, the candidate who received the lowest number of votes in the immediately preceding count shall be excluded and if the same candidates or some of them received the same number of lowest votes in the immediately preceding count, the candidate who received the lowest number of votes in the count preceding the immediately preceding count shall be excluded and this process shall continue as far back as is necessary;
(*h*) if, and only if, in the situation referred to under Paragraph (g), there is no further preceding count to determine elimination of candidates on equal votes, the candidate who is lowest on the candidate poster shall be excluded;
(*i*) if, in the final count, two candidates have an equal number of votes, the candidate who received the highest number of votes in the immediately preceding count shall be elected and if the same two candidates received the same number of votes in the immediately preceding count,

the candidate who received the highest number of votes in the count preceding the immediately preceding count shall be elected and this process shall continue as far back as is necessary;
(*j*) if, in the final count, in a situation referred to in paragraph (i), there is no further preceding count to determine a candidate to be elected, the candidate who is highest on the candidate poster shall be elected.

(2) Where on any count being conducted in accordance with Subsection (1)(d) or (e), a ballot-paper shows no preference capable, in accordance with this Law, of being counted, in that count, to an excluded candidate, that ballot-paper –

(*a*) shall be deemed to be exhausted; and
(*b*) shall be excluded from that count and on any subsequent count; and
(*c*) shall not be taken into account in the calculation of an absolute majority in relation to that count and any subsequent count.

(3)[139] [140]The Regulations may provide for the scrutiny to be done electronically under such electronic system as approved by the Electoral Commission but which electronic system shall be programmed to follow the scrutiny rules in this section.

(4) In this section, " an absolute majority of votes "in relation to any count, means a greater number than one-half of the whole number of ballot-papers (other than informal ballot-papers and ballot-papers excluded from that count under subsection (2)).

169. FURTHER PROVISIONS RELATING TO SCRUTINY.

The officer conducting the scrutiny shall, in respect of ballot-papers scrutinized by him–

(*a*) place in a separate parcel all the ballot-papers which have been rejected as informal; and
(*b*) place in a separate parcel the unrejected ballot-papers; and
(*c*) seal up the parcels and endorse on each parcel a description of its contents, and permit any scrutineers present, if they so desire to countersign the endorsement.

Division 6.

Re-count of Ballot-paper.

170. RE-COUNT.

(1)[141] [142]Subject to Subsections (4) and (5), where on the final count, the margin of votes between the candidate who polled the highest number of votes and the candidate who polled the next highest number of votes does not exceed 0.25% of the number of votes polled by the candidate who polled the highest number of votes, the candidate who polled the next highest number of votes may, at any time before the declaration of the result of the election, request the Returning Officer to re-count the ballot-papers contained in a parcel.

(2) On receipt of a request under Subsection (1) the Returning Officer shall re-count the ballot papers contained in the parcel.

(3) The officer conducting a re-count has the same powers as if the re-count were the scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of any ballot-paper.

(4)[143] [144]Where the scrutiny is conducted by the use of an electronic system, a candidate may request and the Returning Officer shall, subject to compliance with provisions of Subsection (5), count the votes without the electronic system.

(5)[145] [146]The candidate demanding a recount shall be required to pay a deposit of an amount of money that the Returning Officer estimates will be the cost of conducting a recount and the candidate must pay the amount determined by the Returning Officer and agree to cover further costs of the recount before a recount is granted under Subsection (4).

(6)[147] [148]If a recount conducted under Subsection (4) produces a result different from the result produced by the electronic count, the Returning Officer shall refund to the candidate the deposit paid but if the result remains the same, the deposit shall be forfeited to cover the expenses of the recount, and, if any excess cost is not covered by the recount, the Electoral Commission shall claim the excess from the candidate who demanded the recount as a debt but if there is a balance remaining in the deposit after deducting the cost of recount, the balance shall be paid to the candidate.

171. RESERVATION OF DISPUTED BALLOT-PAPERS.

(1) The officer conducting a re-count may, and at the request of a scrutineer shall, reserve any ballot-paper for the decision of the Electoral Commission.

(2) The Electoral Commission shall decide whether a ballot-paper reserved for its decision under this Section is to be allowed and admitted or disallowed and rejected.

(3) In the event of the validity of the election being disputed, the National Court may consider any ballot-papers which were reserved for the decision of the Electoral Commission, but shall not order a further re-count of the whole or part of the ballot-papers in connection with the election unless it is satisfied that the re-count is justified.

172. CONDUCT OF RE-COUNT.

(1) Before proceeding to re-count any ballot-papers, the Returning Officer shall send to each candidate notice of the time and place of the re-count.

(2) The Returning Officer shall, at the time and place fixed for the re-count, in the presence of the scrutineer or scrutineers in attendance and of an officer, open every sealed parcel of ballot-papers to be re-counted and count the votes in it.

(3) Each parcel of ballot-papers to be re-counted shall be opened separately without destroying or rendering illegible any endorsement on the parcel, and every care shall be taken to prevent the ballot-papers in the parcel from being mixed with the ballot-papers in any other parcel.

(4) After a parcel has been opened and the votes in it counted, the Returning Officer shall replace the ballot-papers in their original cover, which he shall reseal, refasten and then place in a new cover which he shall also seal and fasten and endorse with the fact and date of the re-count, and the Returning Officer and such persons authorized to be present at the re-count as chosen to do so shall sign the endorsement.

(5) When any ballot-papers at a re-count are reserved for the decision of the Electoral Commission, the Returning Officer shall, in the presence of the scrutineer or scrutineers in attendance, place the ballot-papers in a properly fastened and sealed parcel bearing his signature and the signature or signatures of the scrutineer or scrutineers, together with an endorsement setting out the number of ballot-papers contained in the parcel, the name of the electorate and the date, and shall place the parcel in a fastened and sealed outer cover fully addressed to the Electoral Commission, and transport the parcel to it by hand or registered post.

(6) On receipt of the parcel, the Electoral Commission shall, in the presence of an officer and, if a candidate so desires, of a person appointed by the candidate, open the parcel and scrutinize the ballot-papers, and shall mark each ballot-paper "Admitted" or "Rejected", according to its decision to admit or reject the ballot-paper.

(7) When the Electoral Commission has given its decision on the ballot-papers reserved for its decision, it shall restore them to their original cover, refasten and reseal the cover and endorse on it–

(*a*) the number of ballot-papers contained in the cover; and
(*b*) a statement that the ballot-papers have been the subject of decision by it; and
(*c*) the signature of the Electoral Commissioner and the date,

and shall request the persons in whose presence it scrutinized the ballot-papers to add their signatures, and shall then place the parcel in a new cover, which it shall cause to be fastened, sealed and returned by hand or registered post to the Returning Officer.

(8) The Electoral Commission shall advise the Returning Officer, in writing, as to the number of ballot-papers admitted or rejected by it, and the decision of the Electoral Commission shall be accepted by the Returning Officer in completing his re-count of the ballot-papers.

(9) The receipt of every parcel of ballot-papers shall be acknowledged in writing by the Electoral Commission and the Returning Officer respectively.

PART XV. – INTERPRETERS.

173. INTERPRETERS.

(1) Notwithstanding the provisions of this Law, for the purposes of, and at any stage of, the proceedings at the polling or at the scrutiny, a person may, with the approval of the presiding officer or the officer conducting the scrutiny, as the case requires, make use of the services of a person as an interpreter.

(2) A candidate shall not be an interpreter, and a scrutineer shall not be an interpreter except for another scrutineer.

174. DUTY OF INTERPRETERS.

(1) An interpreter referred to in Section 173 shall–

(*a*) to the best of his ability, correctly interpret any matter which he is required to interpret; and
(*b*) comply with any directions given by the presiding officer of the officer conducting the scrutiny, as the case may be; and
(*c*) refrain from disclosing any knowledge of the vote of an elector for or to whom he interprets.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding six months, or both.

(2) An interpreter shall not influence, or attempt to influence, in any way, the vote of an elector for or to whom he interprets.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding six months, or both.

PART XVI. – THE RETURN OF THE WRITS.

175. RETURN OF WRITS.

(1)[149] [150]Subject to this section, the Returning Officer or the Electoral Commission shall, as soon as conveniently may be after the result of an election has been ascertained–

(*a*) at the place of nomination or any other place appointed by the Returning Officer, publicly declare the result of the election and the name of the candidate elected; and
(*b*) by endorsement under his hand certify on the writ the name of the candidate elected, and return the writ through the Electoral Commission to the Head of State who shall then forward all the writs to the Speaker of the Parliament.

(1A)[151] [152]Where the Electoral Commission has directed the Returning Officer not to declare a result: –

(*a*) unless the direction is withdrawn, the Returning Officer shall not declare a result and any result declared in contravention of a direction is invalid; and
(*b*) in special circumstances, the Electoral Commission may declare the result based on information concerning scrutiny and other information provided by the Returning Officer or an Assistant Returning Officer.

(2) Where the Returning Officer cannot complete his inquiries into the facts set out in the declarations received by him under Section 141 or 142, without unduly delaying the declaration of the poll, and he is satisfied that the votes recorded on the ballot-papers could not possibly affect the result of the election, he may, subject to the concurrence of the Electoral Commission, declare the result of the election and return the writ without awaiting the receipt of the ballot-papers or the completion of inquiries, as the case may be.

176. CORRECTION OF ERRORS.

Any delay, error or omission in the printing, preparation, issue, transmission or return of any Roll, writ, ballot-paper or certified list of voters may be remedied, removed, rectified and supplied by the Electoral Commission by notice published in the National Gazette, specifying the matter dealt with and providing for the course to be followed, and that course shall be valid and sufficient.

177. EXTENSION OF TIME.

[153](1) Notwithstanding any provisions of this Law but subject to this section, the Head of State, acting with, and in accordance with, the advice of the Electoral Commission, may, where special circumstances require and he is of the opinion that it is necessary to do so, extend such time as is necessary: –

(*a*) for holding the election; or
(*b*) for taking of nominations; or
(*c*) for polling; or
(*d*) for returning the writ,

and provision so made shall be valid and sufficient.

(2) In exercising the powers under this section to extend time, the Electoral Commission shall endeavor to ensure that the majority of the writs in a general election are returned at least five days before the anniversary of the term of the current Parliament.

(3) In the case of an extension of time under Subsection (1), public notice of the extension shall be immediately given in the electorate or the portion of the electorate for which the election is to be held.

PART XVII. – OFFENCES.

178. ILLEGAL PRACTICES.

(1) Subject to Subsection (2), the following are illegal practices at elections:–

(*a*) publishing an electoral advertisement, handbill or pamphlet or issuing an electoral notice (other than the announcement by advertisement in a newspaper of the holding of a meeting) without the name and address of the person authorizing the publication or issue being printed at the foot of it;
(*b*) printing or publishing a printed electoral advertisement, handbill or pamphlet (other than an advertisement in a newspaper) without the name and place of business of the printer being printed at the foot of it;
(*c*) printing, publishing or distributing an electoral advertisement, notice, handbill, pamphlet or card containing a representation of a ballot-paper or a representation apparently intended to represent a ballot-paper, and having on it any directions intended or likely to mislead or improperly interfere with an elector in or in relation to the casting of his vote;
(*d*) printing, publishing or distributing an electoral advertisement, notice, handbill, pamphlet or card containing an untrue or incorrect statement intended or likely to mislead or improperly

interfere with an elector in or in relation to the casting of his vote;
(*e*)[154] wilfully informing an elector during the polling period that he is not enrolled or entitled to be enrolled for a particular electorate, or is not entitled to vote, when as a fact he is enrolled or entitled to be enrolled, or is enrolled or entitled to be enrolled for that electorate, or is entitled to vote, as the case may be;
(*f*)[155] obstructs, damages or interferes with a public street or road with the intention to interfere with the conduct of an election; and
(*g*)[156] assaulting or threatening to assault a Returning Officer, Assistant Returning Officer, Presiding Officer, other polling officer or police officer assisting in an election; and
(*h*)[157] inciting or encouraging, whether publicly or otherwise, disturbances to interfere in an election.

(2) Nothing in Subsection (1)(c) or (d) prevents the printing, publishing or distributing of a card not otherwise illegal, which contains instructions on how to vote for a particular candidate, so long as those instructions are not intended or likely to mislead an elector in or in relation to the casting of his vote.

(3) A person guilty of an illegal practice is liable to a penalty of a fine not exceeding K1,000.00 or imprisonment for a term not exceeding six months.

(4)[158] [159]The Electoral Commission may prosecute an offence referred to in: –

(*a*) Sections 178, 191 and 195; and
(*b*) subject to the approval of the Public Prosecutor, Sections 99, 100, 102, 103, 108 and 110 of the Criminal Code Act (Chapter 262).

179. HEADING TO ELECTORAL ADVERTISEMENT.

(1) The proprietor of a newspaper shall cause the work "advertisement" to be printed as a headline, in letters not smaller than 10 point or long primer, to each article or paragraph in his newspaper containing electoral matter, the insertion of which is or is to be paid for or for which a reward or compensation or promise of reward or compensation is or is to be made.

Penalty: A fine not exceeding K500.00.

(2) In Subsection (1), "electoral matter" includes all matter intended or calculated to affect the result of the election, and a report of the speech of a candidate if the report is or is to be paid for.

180. ARTICLES TO BE SIGNED.

(1) On and after the date of issue and before the return of a writ for the election of a member, every article, report, letter or other matter commenting upon a candidate or political party, printed and published in a newspaper, circular, pamphlet or dodger shall be signed by the author, giving his true name and address at the end of the article report, letter or other matter, or where part only of the article, report, letter or matter appears in any issue of a newspaper, circular, pamphlet or dodger at the end of that part.

Penalty: A fine not exceeding K500.00.

(2) A newspaper editor or proprietor who permits, in a newspaper which he edits or owns, the publication of an unsigned article, report, letter or other matter commenting upon a candidate or political party, after the issue and before the return of any writ for the election of a member, is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(3) This section does not apply to the publication in a newspaper of–

(*a*) a leading article; or
(*b*) an article which consists solely of a report of a meeting and does not contain any comment (other than comment made by a speaker at the meeting) upon a candidate or political party.

181. MATTER BROADCAST.

(1) On and after the date of issue and before the return of a writ for the election of a member, a person who broadcasts or permits to be broadcast, from a broadcasting station an announcement, statement or other matter commenting upon a candidate or political party is, unless that announcement, statement or other matter includes the true name and address of the author of it, guilty of an offence.

Penalty: A fine not exceeding K500.00.

(2) Where an announcement, statement or other matter is broadcast in contravention of Subsection (1), the person who supplied the announcement, statement or other matter to the broadcasting station for broadcasting is, unless he proves that the true name and address of the author were included in the announcement, statement or other matter so supplied, guilty of an offence.

Penalty: A fine not exceeding K500.00.

(3) This section does not apply to the inclusion in a summary of news of a report of a meeting which contains no comment (other than comment made by a speaker at the meeting) upon a candidate or political party.

(4) For the purposes of this section, "broadcasting station" means a station broadcasting messages by means of wireless telegraphy.

182. DISPLAY OF CERTAIN ELECTORAL POSTERS PROHIBITED.

(1) Subject to this section, a person who writes, draws or depicts electoral matters directly on a roadway, footpath, building, vehicle, vessel, hoarding or place (whether it is or is not a public place or in a public place, and whether on land or water or in the air), is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(2) The application of Subsection (1) extends in relation to an election although the writ for that election has not been issued.

(3) Nothing in this section prohibits–

(*a*) the posting up, exhibiting, writing, drawing or depicting of a sign or at the office or committee room of a candidate or political party indicating only that the office or room is the office or committee room of the candidate or party, and specifying the name of the candidate or the name of the party concerned; or
(*b*) the projection, by means of a cinematograph or other similar apparatus, of electoral matter on to a screen in a public theatre, hall or premises used for public entertainment.

(4) In this section–

"electoral matter" means any matter intended or calculated to affect the result of an election;
"electoral poster" means any material whatsoever on which electoral matter is written, drawn or depicted.

183. REMOVAL OF PROHIBITED ELECTORAL POSTERS.

(1) A member of the Police Force may, and shall, if so directed by the Electoral Commission or by a Returning Officer–

(*a*) remove an electoral poster which appears to have been posted up or to be exhibited in contravention of Section 182; or
(*b*) obliterate electoral matter which appears to have been written, drawn or depicted in contravention of Section 182.

(2) A person shall not obstruct or hinder a member of the Police Force in the exercise or attempted exercise of any power or in the discharge or attempted discharge of any duty, conferred or imposed upon him under this section.

Penalty: A fine not exceeding K500.00.

184. LOUD-HAILERS, ETC.

(1) Subject to Subsection (2), a person, who uses a loud-hailer, megaphone or other similar device during the polling period, is guilty of an offence.

Penalty: A fine not exceeding K600.00.

(2) Subsection (1) does not apply to a police officer or electoral officer who uses a loud-hailer, megaphone or other similar device for the purposes of maintaining order or giving instructions.

185. INJUNCTIONS.

For the purpose of ensuring compliance with Section 182, the National Court may, upon the application of an officer, grant an injunction–

(*a*) restraining an apprehended contravention of that section; or
(*b*) directing the removal of an electoral poster posted up or exhibited in contravention of that section, or the obliteration of electoral matter written, drawn or depicted in contravention of that section,

and may make an order incidental or supplementary to an order under this section, including an order as to costs.

186. CARDS IN POLLING BOOTHS.

(1) A person who exhibits or leaves in a polling booth a card or paper having on it a direction or instruction as to how an elector should vote or as to the method of voting is guilty of an offence.

Penalty: A fine not exceeding K300.00.

(2) This section does not apply to official instructions exhibited by electoral officers at the direction of the Electoral Commission at a polling booth.

187. UNTRUE STATEMENT IN ELECTORAL PAPERS, ETC.

(1) A person who makes an untrue statement in an electoral paper, or in answer to a question under this Law or in information supplied to an officer for the purposes of the preparation, maintenance or revision of a Roll is guilty of an offence.

Penalty: A fine not exceeding K300.00.

(2) In Subsection (1), "electoral paper" includes a prescribed form.

188. SIGNATURE TO ELECTORAL PAPER.

(1) Every electoral paper which by this Law has to be signed by a person shall be signed by that person with his personal signature and in the case of the Electoral Commission by the personal signature of the Electoral Commissioner.

(2) Where a person who is unable to sign his name in writing makes his mark as his signature to an electoral paper, the mark shall be deemed to be his personal signature, if it is identifiable as such and is made in the presence of a witness who signs the electoral paper as a witness to the signature.

(3) A person who makes the signature of any other person on an electoral paper is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(4) In this section, "electoral paper" includes a prescribed form.

189. WITNESSING ELECTORAL PAPERS.

(1) A person who–

(*a*) signs his name as witness on a blank electoral paper; or
(*b*) signs his name as witness on an electoral paper which has been wholly or partly filled in unless it has been signed by the person intended to sign it; or
(*c*) signs his name as witness on an electoral paper unless he has seen the persons whose signature he purports to witness sign it; or
(*d*) writes on an electoral paper as his own name–

(i) the name of another person; or
(ii) any name not being his own name;

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(2) In Subsection (1), "electoral paper" includes a prescribed form.

190. MAKING MARKS ON BALLOT-PAPERS.

Except where expressly authorized by or under this Law, a person, other than the elector to whom the ballot-paper has been lawfully issued, who makes a mark or writing on the ballot-paper of an elector is guilty of an offence.

Penalty: A fine not exceeding K500.00.

191. ELECTORAL OFFENCES.

The matters specified in Column 1 of the table in this section are electoral offences punishable in accordance with the provision in Column 2 of that table opposite the statement of the offence in Column 1.

TABLE OF ELECTORAL OFFCENCES AND PUNISHMENTS.

Nos.	**Column 1** **Offences**	**Column 2** **Punishments**
1.	**Voting more than once at the same election**	**K400.00 or imprisonment for three months.**
2.	**Wagering on the result of an election**	**K400.00.**
3.	**Wilfully defacing, mutilating, destroying or removing a notice, list or other document affixed by a Returning Officer or by his authority**	**K20.00.**
4.	**Knowingly making a false statement in a claim, application, return or declaration, or in answer**	**Imprisonment for two years.**

	to a question under this Law	
5.	**Any contravention of this Law for which no other punishment is provided**	**K500.00.**
6.	**Falsely personating a person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purposes of voting**	**Imprisonment for two years.**
7.	**Fraudulently destroying or defacing a nomination paper or ballot-paper**	**Imprisonment for two years.**
8.	**Fraudulently putting a ballot-paper or other paper into a ballot-box**	**Imprisonment for six months.**
9.	**Fraudulently taking a ballot-paper out of a polling booth**	**Imprisonment for six months.**
10.	**Taking a ballot-paper out of a polling booth**	**K500.00.**
11.	**Forging, or uttering knowing it to be forged, a nomination paper or ballot-paper**	**Imprisonment for two years.**
12.	**In a polling booth during the polling, misconducting himself, or failing to obey the lawful directions of the presiding officer**	**K200.00 or imprisonment for one month.**
13.	**Supplying ballot-papers without authority**	**Imprisonment for six months.**
14.	**Unlawfully destroying, taking, opening, or otherwise interfering with ballot-boxes or ballot-papers**	**Imprisonment for six months.**

192. PROHIBITION OF CANVASSING NEAR POLLING BOOTH.

(1) The following acts are, during the polling period and on all days to which the polling is adjourned, prohibited at an entrance of or within a polling booth, or within 7m of an entrance of a polling booth:–

(*a*) canvassing for votes;
(*b*) soliciting the vote of an elector;
(*c*) inducing an elector not to vote for a particular candidate;
(*d*) inducing an elector not to vote at the election;
(*e*) exhibiting a notice or sign (other than an official notice) relating to the election.

Penalty: A fine not exceeding K500.00.

(2) Where–

(*a*) a building used as a polling booth is situated in grounds within an enclosure; and
(*b*) the presiding officer at the polling booth causes to be displayed throughout the polling period at each entrance to those grounds a notice signed by him stating that those grounds are part of the polling booth,

those grounds shall, for the purposes of Subsection (1), be deemed to be part of a polling booth.

193. BADGES OR EMBLEMS IN POLLING BOOTHS.

An officer or scrutineer who wears or displays in a polling booth during the polling period a badge or emblem of a candidate or political party is guilty of an offence.

Penalty: A fine not exceeding K500.00.

194. FAILURE TO TRANSMIT CLAIMS.

A person who accepts a claim for enrolment or transfer of enrolment for transmission to a Returning Officer shall forthwith transmit the claim to the Returning Officer.

Penalty: A fine not exceeding K500.00.

195. FORGING OR UTTERING ELECTORAL PAPERS.

(1) A person who–

(*a*) forges an electoral paper; or
(*b*) utters a forged electoral paper, knowing it to be forged,

is guilty of an offence.

Penalty: Imprisonment for a term not exceeding two years.

(2) In Subsection (1), "electoral paper" includes a prescribed form.

196. EMPLOYERS TO ALLOW EMPLOYEES LEAVE OF ABSENCE TO VOTE.

(1) If an employee who is an elector notifies his employer that he desires leave of absence to enable him to vote at an election, the employer shall, if the absence desired is necessary to enable the employee to vote at the election, allow him leave of absence without any penalty or disproportionate deduction of pay for such reasonable period as is necessary to enable the employee to vote at the election.

Penalty: A fine not exceeding K500.00.

(2) An employee who obtains leave of absence under this section under pretence that he intended to vote at the election but without the bona fide intention of doing so, is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(3) This section does not apply to an elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

197. PROTECTION OF THE OFFICIAL MARK.

(1) A person who, without lawful authority, the burden of proof of which lies upon him–

(*a*) makes an official mark on or in a paper; or
(*b*) has in his possession a paper bearing an official mark; or
(*c*) makes use of or has in his possession an instrument capable of making on or in a paper an official mark,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(2) A person who, without lawful authority, the burden of proof of which lies upon him, makes on or in a ballot-paper, or on or in a paper purporting to be a ballot-paper, an official mark, shall be deemed to have forged a ballot-paper and is punishable accordingly.

(3) All paper bearing an official mark, and all instruments capable of making on or in paper an official mark, made or used by, or in the possession of, a person without lawful authority (the burden of proof of which authority lies upon him) is forfeited to Papua New Guinea, and may without warrant be seized by any member of the Police Force and destroyed or dealt with as prescribed.

(4) In this section, "official mark" means a prescribed mark to be placed or made on or in an electoral paper, and includes a mark so nearly resembling an official mark as to be likely to deceive.

198. DISORDERLY BEHAVIOUR AT MEETING.

(1) This section applies to any lawful public political meeting held in relation to an election between the date of the issue of the writ for the election and the date of the return of the writ.

(2) A person who, at a public meeting to which this section applies, acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is held is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding two months.

(3) The Chairman of a public meeting to which this section applies may direct any member of the Police Force to remove from the room, building or place in which the meeting is being held a person who, in the opinion of the Chairman, is preventing the transaction of the business for which the meeting is held, and thereupon the member of the Police Force may take such steps as are necessary for the removal of the person from the room, building or place.

(4) A person–

(*a*) who has been removed from a room or building in accordance with a direction given under Subsection (3); or
(*b*) whose removal from a room, building or place has been directed under Subsection (3) and who has left that room, building or place,

and who, without the authority of the Chairman (proof of which authority lies upon that person) returns to that room or building while the meeting is in progress, is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding two months.

(5) A member of the Police Force may arrest without warrant a person who commits an offence against Subsection (4).

199. NEGLECT TO INITIAL BALLOT-PAPER, ETC.

An officer who, contrary to his duty, fails to initial a ballot-paper or affix as official mark as prescribed, correctly to mark a certified list of voters, or properly to attest a declaration is guilty of an offence.

Penalty: A fine not exceeding K500.00.

200. OFFENDER MAY BE REMOVED FROM POLLING BOOTH.

(1) A person who, in a polling booth during the polling, misconducts himself, or fails to obey the lawful direction of the presiding officer, may be removed from the polling booth by a member of the Police Force or by a person authorized by the presiding officer.

(2) A person who has been removed from a polling booth by direction of the presiding officer under Subsection (1) and who re-enters the polling booth without the permission of the presiding officer is guilty of a further electoral offence, punishable on conviction by twice the penalty prescribed by Section 191 for the original offence.

201. DEFAMATION OF CANDIDATE.

(1) Subject to Subsection (2), a person shall not make or publish a false and defamatory statement in relation to the personal character or conduct of a candidate.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding six months.

(2) It is a defence to a prosecution for an offence against Subsection (1), if the defendant proves that he has had reasonable ground for believing and did in fact believe the statement made or published by him to be true.

(3) A person who makes a false and defamatory statement in relation to the personal character or conduct of a candidate in contravention of this section may be restrained by injunction, at the suit of the candidate aggrieved, from repeating the statement or any similar false and defamatory statement.

202. PUBLICATION OF MATTER REGARDING CANDIDATES.

(1) Subject to this section, if, in any matter announced or published by a person, or caused by a person to be announced or published, on behalf of an association, league, organization or other body of persons, it is, without the authority of the candidate (the burden of proof of which authority lies upon that person)–

(*a*) claimed or suggested that a candidate in an election is associated with, or supports the policy or activities of, that association, league, organization or other body of persons; or
(*b*) expressly or impliedly advocated or suggested that candidate is the candidate for which a vote should be given,

that person is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding three months.

(2) Where any matter, the announcement or publication of which by a person without the written authority of a candidate would be an offence against Subsection (1) on the part of that person, is announced or published by or on behalf of, or with the support of, an association, league, organization or other body of persons, every person who was an officer of that association, league, organization or body at the time of that announcement or publication shall be deemed to be guilty of an offence against that subsection.

(3) For the purposes of this section, where any matter purports expressly or impliedly to be announced or published by or on behalf of, or in the interests or with the support of, an association, league, organization or other body of persons the matter shall, in the absence of proof to the contrary, be deemed to be announced or published by or on behalf of, or with the support of, as the case may be, that association, league, organization or other body of persons.

(4) Nothing in the preceding provisions of this section applies to or in relation to an announcement or publication made or authorized by a bona fide political party or by a bona fide branch of a political party respecting a candidate who, by public announcement, has declared his candidature to be a candidature on behalf of or in the interests of that party.

203. VOTING IN AN ELECTORATE WHEN QUALIFIED TO ENROL IN ANOTHER ELECTORATE.

A person who is enrolled in respect of an electorate and votes at an election in that electorate knowing that at some time after the date he was enrolled for that electorate and before the date of the issue of the writ for an election in that electorate he became qualified to enrol in, or to transfer his enrolment to, another electorate is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding six months.

204. LIABILITY FOR INDIRECT ACTS.

Every person is liable for an illegal practice or an offence against this Part committed directly or indirectly by himself, or by any other person on his behalf and with his knowledge or authority.

205. APPLICATION OF CRIMINAL CODE.

Nothing in this Law shall derogate or be deemed to derogate the provisions of the Criminal Code, but a person is not liable to be prosecuted or punished both under this Law and under the Criminal Code for the same offence.

PART XVIII. – DISPUTED ELECTIONS, RETURNS, ETC.

Division 1.

Disputed Elections and Returns.

206. METHOD OF DISPUTING RETURNS.

The validity of an election or return may be disputed by petition addressed to the National Court and not otherwise.

207. JURISDICTION OF NATIONAL COURT EXERCISABLE BY SINGLE JUDGE.

The jurisdiction of the National Court in relation to any matter under this Part may be exercised by a single Judge.

208. REQUISITES OF PETITION.

A petition shall–

(*a*) set out the facts relied on to invalidate the election or return; and
(*b*) specify the relief to which the petitioner claims to be entitled; and
(*c*) be signed by a candidate at the election in dispute or by a person who was qualified to vote at the election; and
(*d*) be attested by two witnesses whose occupations and addresses are stated; and
(*e*) be filed in the Registry of the National Court at Port Moresby or at the court house in any Provincial headquarters within 40 days after the declaration of the result of the election in accordance with Section 175(1)(a).

209. DEPOSIT AS SECURITY FOR COSTS.

[160]At the time of filing the petition the petitioner shall deposit with the Registrar of the National Court the sum of K5,000.00 as security for costs.

210. NO PROCEEDINGS UNLESS REQUISITES COMPLIED WITH.

Proceedings shall not be heard on a petition unless the requirements of Sections 208 and 209 are complied with.

211. RIGHT OF RETURNING OFFICER TO BE REPRESENTED.

The Electoral Commission may, by leave of the National Court, enter an appearance in any proceedings in which the validity of an election or return is disputed, and be represented and heard in the proceedings, and in that case shall be deemed to be a party respondent to the petition.

212. POWERS OF COURT.

(1) In relation to any matter under this part the National Court shall sit as an open court and may, amongst other things–

(*a*) adjourn; and
(*b*) compel the attendance of witnesses and the production of documents; and
(*c*) grant to a party to a petition leave to inspect, in the presence of a prescribed officer, the Rolls and other documents (except ballot-papers) used at or in connection with an election and take, in the presence of the prescribed officer, extracts from those Rolls and documents; and
(*d*) order a re-count of ballot-papers in an electorate; and
(*e*) examine witnesses on oath; and
(*f*) declare that a person who was returned as elected was not duly elected; and
(*g*) declare a candidate duly elected who was not returned as elected; and
(*h*) declare an election absolutely void; and
(*i*) dismiss or uphold a petition in whole or in part; and
(*j*) award costs; and
(*k*) punish contempt of its authority by fine or imprisonment.

(2) The Judges of the National Court may make rules of court with respect to pre-trial conferences and procedures relating to procedures under this Part.

(3) The Court may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks just and sufficient.

(4) Without limiting the powers conferred by this section, the power of the Court to declare that a person who was returned as elected was not duly elected, or to declare an election absolutely void, may be exercised on the ground that illegal practices were committed in connection with the election.

213. PRODUCTION OF POSTAL VOTE CERTIFICATE, ETC.

(1) Without limiting the powers conferred by Section 212–

(*a*) when it is proved that a ballot-paper issued under Section 100, 141, 142 or 143 has, in an election, been marked by a person who was not entitled to vote at the election, the Court may require the production of–

(i) the postal vote certificate delivered to or posted to that person; or
(ii) any other papers or documents relating to the ballot-papers issued under those sections,

as the case may be; and

(*b*) the Court may reject a ballot-paper.

(2) The production from proper custody of a ballot-paper purporting to have been used in an election and bearing an official number, and of a postal vote certificate or other papers or documents referred to in Subsection (1)(a)(ii) an official number corresponding to the official number on the ballot-paper, is prima facie evidence that the person who marked the ballot-paper was the person to whom the postal vote certificate was delivered or posted or who made the declaration, as the case may be.

(3) In Subsection (2), "official number" means a number purporting to have been placed on the ballot-paper or postal vote certificate, as the case may be, under this Law.

214. INQUIRIES BY COURT.

The National Court shall inquire whether or not the petition is duly signed, and so far as Rolls and voting are concerned may inquire into the identity of persons and whether their votes were improperly admitted or rejected, assuming the Roll to be correct, but the Court shall not inquire into the correctness of a Roll.

215. VOIDING ELECTION FOR ILLEGAL PRACTICES.

(1) If the National Court finds that a candidate has committed or has attempted to commit bribery or undue influence, his election, if he is a successful candidate, shall be declared void.

(2) A finding by the National Court under Subsection (1) does not bar or prejudice a prosecution for an illegal practice.

(3) The National Court shall not declare that a person returned as elected was not duly elected. or declare an election void–

(*a*) on the ground of an illegal practice committed by a person other than the candidate and without the candidate's knowledge or authority; or
(*b*) on the ground of an illegal practice other than bribery or undue influence or attempted bribery or undue influence,

unless the Court is satisfied that the result of the election was likely to be affected, and that it is just that the candidate should be declared not to be duly elected or that the election should be declared void.

216. COURT TO REPORT, ETC., CASES OF OFFENCES.

[161]Where the National Court, in the trial of a Petition under this Part, finds that a person has committed an offence under this Law or any other law, the Registrar of the court shall promptly –

(*a*) report the finding to –

(i) the Speaker; and
(ii) the electoral Commission; and
(iii) the Public Prosecutor; and
(iv) the Commissioner of Police; and

(*b*) forward all papers relevant to the finding to the Commissioner of Police.

217. REAL JUSTICE TO BE OBSERVED.

The National Court shall be guided by the substantial merits and good conscience of each case without regard to legal forms or technicalities, or whether the evidence before it is in accordance with the law of evidence or not.

218. IMMATERIAL ERRORS NOT TO VITIATE ELECTION.

(1) Subject to Subsection (2), an election shall not be avoided on account of a delay in the declaration of nominations, the polling, the declaration of the poll or the return of the writ, or on account of the absence or an error of, or an omission by, an officer which did not affect the result of the election.

(2) Where an elector was, on account of the absence or an error of, or an omission by, an officer, prevented from voting in an election, the National Court shall not for the purpose of determining whether the absence or error of, or the omission by, the officer did or did not affect the result of the election, admit evidence of the way in which the elector intended to vote in the election.

219. EVIDENCE THAT PERSON NOT PERMITTED TO VOTE.

On the trial of a petition, the National Court shall not admit the evidence of a witness that he was not permitted to vote in an election during the hours of polling in the polling period unless the witness satisfied the Court–

(*a*) that he claimed to vote in the election, under that provision of this Law under which he was entitled or might be permitted to vote; and
(*b*) that he complied with the requirements of this Law relating to voting by electors in so far as he was permitted to do so.

220. DECISION TO BE FINAL.

A decision of the National Court is final and conclusive and without appeal, and shall not be questioned in any way.

221. COPIES OF PETITION AND ORDER OF COURT TO BE SENT TO THE PARLIAMENT.

The Registrar of the National Court shall promptly after the filing of a petition forward to the Clerk of the Parliament a copy of the petition, and after the trial of the petition shall promptly forward to the Clerk a copy of the order of the Court.

222. COUNSEL OR SOLICITOR.

(1) A party to a petition shall not, except by consent of all parties or by leave of the National Court, be represented by counsel or solicitor.

(2) In no case shall more than one counsel appear on behalf of a party.

223. COSTS.

The National Court may award costs against an unsuccessful party to a petition.

224. DEPOSITS APPLICABLE FOR COSTS.

If costs are awarded to a party against the petitioner, the deposit lodged under Section 209 is applicable in payment of the sum ordered, but otherwise the deposit shall be paid to the petitioner.

225. OTHER COSTS.

All other costs awarded by the National Court, including any balance above the deposit payable by the petitioner, are recoverable as if the order of the Court were a judgement of the National Court, and the order, certified by the Court, may be entered as a judgement of the National Court and enforced accordingly.

226. EFFECT OF DECISION.

Effect shall be given to a decision of the National Court as follows:–

(*a*) if a person returned is declared not to have been duly elected, he shall cease to be a member;
(*b*) if a person not returned is declared to have been duly elected, he may take his seat accordingly;
(*c*) if an election is declared absolutely void a new election shall be held.

227. DEFINITION OF "PETITION".

In this Division, "petition" means a petition disputing an election or return.

Division 2.

Qualifications and Vacancies.

228. REFERENCE OF QUESTION OF QUALIFICATION OR VACANCY.

A question respecting the qualifications of a member or respecting a vacancy in the Parliament may be referred by resolution to the National Court by the Parliament and the Court shall thereupon have jurisdiction to hear and determine the question.

229. SPEAKER TO STATE CASE.

When a question is referred to the National Court under this Division, the Speaker shall transmit to the Court a statement of the question upon which the determination of the Court is desired, together with any proceedings, papers, reports or documents relating to the question in the possession of the Parliament.

230. PARTIES TO THE REFERENCE.

The National Court may allow a person who, in the opinion of the Court, is interested in the determination of a question referred to it under this Division to be heard on the hearing of the reference, or may direct notice of the reference to be served on a person, and a person so allowed to be heard or so directed to be served shall be deemed to be a party to the reference.

231. POWERS OF COURTS.

On the hearing of a reference under this Division, the National Court shall sit as an open court and has the powers conferred by Section 212 so far as they are applicable, and in addition has power–

(*a*) to declare that a person was not qualified to be a member; and
(*b*) to declare that a person was not capable of being chosen or of sitting as a member; and
(*c*) to declare that there is a vacancy in the Parliament.

232. ORDER TO BE SENT TO THE PARLIAMENT.

After the hearing and determination of a reference under this Division, the Registrar of the National Court shall promptly forward to the Clerk of the Parliament and the Electoral Commissioner a copy of the order or declaration of the National Court.

233. APPLICATION OF CERTAIN SECTIONS.

The provisions of Sections 217, 218, 219, 220, 221 and 222 apply so far as they are applicable, to proceedings on a reference to the National Court under this Division.

PART XIX. – LOCAL-LEVEL GOVERNMENT ELECTIONS.

Division 1.

Preliminary.

234. APPLICATION OF THIS PART.

(1) Subject to Part XXII, this Part applies to and in relation to elections of members of Local-level Governments.

(2) The Head of State, acting on advice, may determine that the heads of Local-level Governments be directly elected by electors, and where such a determination is made–

(*a*) the election of heads of Local-level Governments shall be in accordance with this Part subject to such modification as is prescribed or as is required in the circumstances; and
(*b*) where an election for a member of a Local-level Government and an election for the head of that Local-level Government are held simultaneously an elector may vote in respect of each election.

235. INTERPRETATION.

(1) In this Part, unless the contrary intention appears–

"approved form" means a form approved under Section 240;
"Assistant Returning Officer" means an officer provided under Section 237;
"ballot-box" means a box

(*a*) capable of being securely fastened with a lock; and
(*b*) having a cleft in the cover through which the ballot-papers may be deposited in the box and

provided with means for securely closing the cleft so that, when the cleft is so closed, no ballot-papers or other matters or things can be deposited or placed in the box or withdrawn from it;

"ballot-paper" means a ballot-paper in accordance with this Law;
"candidate" means a candidate in an election;
"election petition" means a petition under Division 14.;
"elector" means a person whose name appears on a roll and who is entitled to vote at the election in question;
"illegal practice" means an illegal practice specified in Division 13, and includes an offence under the Criminal Code;
"interpreter" means a person in respect of whom approval is given under Division 11.;
"Local-level Government" means a Local-level Government established in accordance with Sections 26 and 27 of the Organic Law on Provincial Governments and Local-level Governments;
"official mark" means a mark authorized by the Returning Officer;
"polling booth" means a polling booth designated under Part IV.;
"Presiding Officer" means a Presiding Officer appointed under Section 238;
"the Returning Officer", in relation to a Local-level Government, means the Returning Officer provided for that Local-level Government under Section 236;
"roll" means a roll of electors compiled under Division 3;
[162]"ward" means the electorate for an elected member of a Local-level Government;
"writ" means a writ for an election issued under Section 271 and 272.

(2) Where under this Part, another Part of this Law is applied to and in relation to Local-level Government elections, words used in that other Part and defined in Subsection (1) shall have the meaning given to them in Subsection (1).

Division 2.

Administration.

236. RETURNING OFFICERS.

The Returning Officer, appointed under this Law for an open electorate, shall be the Returning Officer for Local-level Governments within that open electorate.

237. ASSISTANT RETURNING OFFICERS.

(1) The Assistant Returning Officer appointed under this Law for an open electorate shall be the Assistant Returning Officer for Local-level Governments within that open electorate.

(2) An Assistant Returning Officer may, subject to the control of the Returning Officer, exercise the powers and perform the duties of the Returning Officer.

238. PRESIDING OFFICERS, ETC.

(1) The Returning Officer may appoint one or more persons as Presiding Officers to assist, subject to the control of the Returning Officer, in the conduct of polling at an election.

(2) The Presiding officer may assist the Returning Officer in the scrutiny and counting of votes at the election.

(3) The Returning Officer may appoint one or more persons as Poll Clerks to assist, subject to the control of the Returning Officer, in the conduct of the polling.

239. GENERAL REQUIREMENTS.

A person appointed under this Part shall–

(*a*) make such declarations as the Electoral Commissioner requires; and
(*b*) comply with any directions given by the Electoral Commissioner under his power of supervision under Section 19 of this Law.

240. APPROVED FORMS.

The Electoral Commissioner may, by instrument, approve forms for the purposes of this Regulation.

241. AVAILABILITY OF FORMS.

A Returning Officer shall–

(*a*) keep available copies of approved forms required by members of the public for the purposes of this Regulation; and
(*b*) without fee, supply them as required; and
(*c*) assist the public in their proper use.

Division 3.

Electoral Rolls.

242. ROLLS.

[163](1) The Roll in use for an open electorate for elections to the Parliament shall be used for elections to Local-level Governments within that open electorate.

(2) Notwithstanding any provisions in this Part, where a Roll for an open electorate is prepared in parts that conform to a Ward or other Local-level Government electorate, a Roll so prepared and kept for such open electorate is sufficient and may be used for an election to a Local-level Government.

243. FORM OF ROLLS.

(1) A Roll shall be in such form as is determined by the Electoral Commission, and shall set out the name, address and occupation (or other prescribed particulars) and sex of each elector, and shall contain such further particulars as are prescribed or as the Electoral Commission directs.

(2) A direction under Subsection (1) may relate to the whole or a part of the country.

244. NEW ROLLS.

(1) All persons who are entitled to be enrolled on a Roll shall, subject to this Law, be so enrolled.

(2) New Rolls for any wards shall be prepared whenever the Electoral Commission, by notice published in the Local-level Government Gazette, directs.

(3) Subject to Subsection (4), a notice under Subsection (2) may specify the manner in which the Rolls shall be prepared, and may require any person, or member of a class of persons, entitled to enrolment on a new Roll and whose name does not appear on it to sign and send to the proper officer a form of claim for enrolment and otherwise to comply with the provisions of this Law relating to compulsory enrolment.

(4) Notwithstanding anything in Subsection (3), where an elector is enrolled in respect of an address in a ward for which he is entitled to be enrolled, he shall not be required to sign and send in any further claim for enrolment in connection with the preparation of a new Roll under this section.

(5) The Electoral Commission shall, as soon as it is practicable to do so after the preparation of new Rolls, by notice published in the Local-level Government Gazette, notify that the new Rolls have been prepared.

245. ADDITIONS, ETC., TO NEW ROLLS.

Upon the receipt by the Returning Officer of a new Roll for a ward, the Returning Officer shall–

(*a*) make additions, alterations and corrections in it; and
(*b*) remove names from it,

in accordance with information received by him between the date of the notice directing the preparation of new Rolls and the date of the notification that the Rolls have been prepared, where the additions, alterations or corrections have not already been made in, or the removals have not been made from, the Roll.

246. OBJECTIONS AND NOTICES TO HAVE EFFECT IN RELATION TO NEW ROLLS.

Where objections have been lodged or notices of objection have been issued and action in respect of those objections or notices has not been completed before the notification of the preparation of new Rolls, the objections or notices have effect in relation to the new Rolls as if those Rolls had been in existence at the time of the lodging of the objections or the issuing of the notice.

247. PRINTING OF ROLLS.

(1) Rolls shall be printed whenever the Electoral Commission so directs.

(2) Supplemental Rolls, setting out additions since the latest print of the Rolls, may, as necessary, be prepared and printed immediately after the issue of the writs for an election, and at such other times as the Electoral Commission directs.

248. INSPECTION.

(1) Copies of the latest print of the electorate Roll and of all supplemental prints shall be open for public inspection at the office of the Returning Officer at all convenient times during his ordinary office hours without fee, and at such other places as the Returning Officer appoints for the purpose.

(2) Copies of the latest print of the electorate Roll and of all supplemental prints shall be obtainable at the office of the Returning Officer on payment of the prescribed fee.

249. OFFICERS AND OTHERS TO FURNISH INFORMATION.

All officers and all occupiers of habitations and all persons who are, or appear to be, entitled to enrolment shall upon application furnish to the Electoral Commission or to a Returning Officer, or to an electoral officer acting under the directions of the Electoral Commission or the Returning Officer, all information that it or he requires in connection with the preparation, maintenance or revision of the Rolls.

Division 4.

Qualifications and Disqualifications for Enrolment and for Voting.

250. PERSONS ENTITLED TO ENROLMENT.

(1) All persons who have a right to vote under Section 50 (right to vote and stand for public office) of the Constitution who comply with the requirements of Division 5 for enrolment for a ward are entitled to enrolment.

(2) All persons whose names are on the Roll for a ward shall, subject to this Law and to the provisions of any other law in force, vote at elections of a member for the ward but no person is entitled to vote more than once at an election or at more than one election held at the same time.

Division 5.

Enrolment.

251. OFFICERS.

(1) The Electoral commission may appoint persons to assist in the compilation and revision of the Rolls.

(2) A person appointed under Subsection (1) has such functions and duties as are prescribed or as the Electoral Commission directs.

252. ADDITION OF NAMES TO ROLLS.

In addition to any other method provided for by law, names may be added to Rolls in accordance with claims for enrolment or transfer of enrolment.

253. CLAIMS FOR ENROLMENT.

(1) Subject to this section and to Section 250, a person who–

(*a*) has resided in the area of a ward for a period of not less than six month immediately preceding the date of his claim for enrolment; or
(*b*) is nominated for a ward for which he is not enrolled and was either born in the ward or lived in the ward for five years at any time,

is entitled to have his name placed on the Roll for that ward.

(2) Where the name of a person is placed on a Roll in accordance with Subsection (1)(a), he shall be enrolled in respect of the address of his last residence in the ward.

(3) Where the name of a person is placed on a Roll in accordance with Subsection (1)(b), he shall be enrolled in respect of his last-known place of residence in the ward.

(3) The Electoral Commission may, in relation to a person or class of persons, direct that a claim for enrolment be in the prescribed form and, if in the prescribed form, shall be signed by the claimant and attested by a prescribed person who shall sign his name as witness in his own handwriting.

254. WITNESS TO APPLICATION MUST SATISFY HIMSELF OF TRUTH OF STATEMENT.

A person witnessing a claim for enrolment or transfer of enrolment shall, before he affixes his signature to it, satisfy himself, by inquiry from the claimant or otherwise, that the statements contained in the claim are true, unless he knows that the statements contained in the claim are true.

Penalty: A fine not exceeding K400.00.

255. COMPULSORY ENROLMENT AND TRANSFER.

(1) A person who is entitled to have his name placed on the Roll for a ward, whether by way of enrolment or transfer of enrolment, and whose name is not on that Roll shall, at the first reasonably practicable opportunity, make a claim in the prescribed form to the Returning Officer for that ward.

(2) A person who is entitled to have his name placed on the Roll for a ward, whether by way of enrolment or transfer of enrolment, and whose name is not on that Roll on the expiration of 21 days from the date on which he became so entitled, is guilty of an offence unless he proves that his non-enrolment is not in consequence of his failure to comply with the provisions of Subsection (1).

(3) It is a defence to a charge of an offence against Subsection (2) if the defendant shows that he did not know, and had no reasonable opportunity of knowing, that his name was not on a Roll for which he was entitled to be enrolled.

(4) A person who is enrolled for the ward in which he is residing and who changes his place of residence from one address in the ward to another address in that ward, and who has failed to notify, in the prescribed form, the new address to the Returning Officer for that electorate at the first reasonably practicable opportunity, is guilty of an offence.

(5) A person who is guilty of an offence against this section is punishable, upon conviction–

(*a*) in the case of a first offence–by a fine not exceeding K10.00; or
(*b*) in other any case–by a fine not exceeding K25.00.

(6) A prosecution for an offence against this section shall not be instituted without the consent of the Election Commission.

256. REGISTRATION OF CLAIM.

(1) Upon receipt of a claim for enrolment or transfer of enrolment, notification of change of address within a ward, or application for the alteration or correction of particulars of an existing enrolment, the Returning Officer shall note the date of its receipt by him, and if the claim, notification or application is in order and he is satisfied that the claimant is entitled to be enrolled or to have his name transferred or the particulars of his enrolment altered or corrected, as the case may be, the Returning Officer shall, subject to Section 258–

(*a*) enter on the Roll kept by him the name of the claimant and the particulars relating to him; and
(*b*) notify the claimant in writing that he has been enrolled; and
(*c*) in the case of a transfer of enrolment, give notice of the transfer to the Returning Officer keeping the Roll from which the elector's name has been transferred.

(2) An interim acknowledgement of the receipt, after the issue of the writ for an election and before the close of the polling at the election, of a claim for enrolment or transfer of enrolment may be issued to the claimant by the Retuning Officer in a form approved by the Electoral Commission.

(3) The Returning Officer keeping the Roll from which an elector's name has been transferred shall, upon receipt of notice of the transfer in the prescribed form, remove the elector's name from the Roll kept by him.

257. NOTIFICATION OF REJECTION OF CLAIM.

The Returning Officer, on receipt of a claim, shall, subject to Section 258, after making such inquiry as he considers necessary if he is satisfied that the claimant is not entitled to enrolment or transfer of enrolment in accordance with the claim, notify the claimant as soon as practicable in the prescribed manner that his claim has been rejected, specifying the reason for the rejection, and advise the claimant that he is entitled, at any time within three months after the receipt of the notification, to appeal against the rejection in accordance with the Law.

258. TIME FOR ALTERING ROLLS.

Notwithstanding anything in this Law–

(*a*) claims for enrolment or transfer of enrolment which are received after 3 p.m. on the day of the issue of the writ for an election shall not be registered until after the end of the polling period for the election; and
(*b*) except by direction of the Returning Officer, no name shall be removed from a Roll under a notification of transfer of enrolment received after 4 p.m. on the day of the issue of the writ for an election and before the end of the polling period for the election.

259. PENALTY ON OFFICER NEGLECTING TO ENROL CLAIMANTS.

An officer who receives a claim for enrolment or transfer of enrolment and who, without just excuse, the burden of proof of which lies upon him, fails to do everything necessary on his part to be done to secure the enrolment of the claimant in pursuance of the claim is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

260. ALTERATION OF ROLLS.

(1) In addition to other powers of alteration conferred by this Law, a Returning Officer may alter a Roll kept by him by–

(*a*) correcting a mistake or omission in the Roll; and
(*b*) correcting a mistake or omission in the particulars of the enrolment of an elector; and
(*c*) altering, on the application of an elector, the original name, address or occupation of the elector on the same Roll; and
(*d*) removing the name of a deceased elector; and
(*e*) striking out the superfluous entry where the name of the same elector appears more than once on the same Roll; and
(*f*) reinstating a name removed by mistake; and
(*g*) reinstating a name removed as the result of an objection where he is satisfied that the objection was based on a mistake as to fact and that the person objected to still retains and has continuously retained his right to the enrolment in respect of which the objection was made; and
(*h*) removing a name from the Roll where he is satisfied that the elector has ceased to be qualified for enrolment on the Roll and has secured enrolment on another roll.

(2) Where the name of an elector, has, in error, been incorrectly placed on the Roll for a ward for which he is not entitled to be enrolled, and the elector is entitled to have his name placed on the Roll for another ward, the Returning Officer for the ward for which the elector is wrongly enrolled shall remove the name of the elector from that Roll and shall notify the Returning Officer for the ward for which the elector is entitled to be enrolled accordingly, and that last-mentioned Returning Officer shall place the name of the elector on his Roll and shall notify the elector of the change of enrolment.

(3) No alteration under this section shall, without the authority of the Returning Officer, be made at any time after 4 p.m. on the day of the issue of the writ for an election and before the end of the polling period for the election.

261. SPECIAL PROVISIONS FOR CERTAIN NOMINATIONS.

Notwithstanding anything in this Law, where a person who is entitled to do so has nominated for a ward other than the ward for which he is enrolled–

(*a*) the Returning Officer for the ward for which he nominates shall place his name on the Roll for that ward and notify the Returning Officer for the electorate for which he is enrolled who shall remove his name from the Roll for that ward; and
(*b*) if the nomination is withdrawn, the Returning Officer for the ward for which he was nominated shall remove his name from the Roll for that ward and notify the Returning Officer for the other ward who shall (unless he has in the meantime nominated for some other ward) restore his name to the Roll for that other ward; and
(*c*) if he fails to be elected, the Returning Officer for the ward for which he was nominated shall remove his name from the Roll for that ward and notify the Returning Officer for the other ward who shall restore his name to the Roll for that other ward; and
(*d*) if he is elected and later ceases to be member for the ward, the Returning Officer for the ward for which he was the member shall remove his name from the Roll for that ward and notify the Returning Officer for the other ward who shall restore his name to the Roll for that other ward unless he has ceased to be eligible for enrolment in that ward and has been enrolled in another ward.

262. INCORRECT ENROLMENT.

Where a person whose name has been placed on the Roll for a ward is not entitled to enrol for that ward and that person secured enrolment under a claim in which he made a false statement, the Returning Officer may, at any time between the date of the issue of the writ for an election for that ward and before the end of the polling period for that election, remove the name of that person from that Roll.

263. ALTERATIONS TO BE INITIALLED.

Every alteration of a Roll shall be made in such manner that the original entry shall not be obliterated, and the reason for each alteration and the date of the alteration shall be set against the alteration, together with the initials of the Returning Officer or of the person who makes the alteration on behalf of the Returning Officer.

Division 6.

Objections.

264. NAMES ON ROLL MAY BE OBJECTED TO.

(1) A name on a Roll may be objected to by objection in writing lodged with or made by the Returning Officer.

(2) A sum of K4.00 shall be deposited in respect of each objection lodged by a person other than an electoral officer, to be forfeited to Papua New Guinea if the objection is held by the Returning Officer to be frivolous.

265. OBJECTION.

An objection under Section 264 shall be in the prescribed form, and shall be signed by an elector enrolled on the same Roll as the person objected to, or by the Returning Officer or a prescribed officer.

266. DUTY TO OBJECT.

It is the duty of the Returning Officer and of any prescribed officer to lodge or make an objection in writing, setting out the grounds of the objection, in respect of any name which he has reason to believe ought not be retained on the Roll.

267. NOTICE OF OBJECTION.

(1) When an objection is made by or lodged with a Returning Officer, the Returning Officer shall, subject to Subsection (3), give notice as soon as practicable of the objection to the person objected to.

(2) A notice under Subsection (1) may be in the prescribed form, and may be served by being posted or delivered to the last-known place of abode of the person objected to.

(3) Where the Returning Officer is satisfied that the ground of objection stated in an objection is not a good ground of objection or is frivolous, he may dismiss the objection, in which case no notice of the objection need be given to the person objected to.

(4) An objection on the ground that a person does not reside in the ward for which he is enrolled shall be deemed not to be good unless it alleges that the person objected to has not resided in the electorate for the period necessary to qualify him for enrolment for that electorate.

268. ANSWER TO OBJECTION.

A person objected to under this Part may, orally or in writing in the prescribed manner, answer the objection.

269. DETERMINATION OF OBJECTION.

(1) Subject to Subsection (2), the Returning Officer shall determine an objection under this Part as soon as practicable after receipt by him of the answer of the person objected to, or, if no answer is received within a period of one month after the posting or delivery of the notice referred to in Section 267(1) and if it appears that the person objected to is not entitled to be enrolled on the Roll in respect of which the objection has been made, the Returning Officer shall–

(*a*) remove the name of the person from the roll; and
(*b*) cause a copy of the notice of determination to be posted to or served on the objector and the person objected to.

(2) No name shall be removed from a Roll under this action after 4 p.m. on the day of issue of the writ for an election and before the end of the polling period for the election.

Division 7.

Appeals in relation to Enrolment.

270. APPEAL TO DISTRICT COURT.

(1) A person–

(*a*) who has made a claim for enrolment or transfer of enrolment in accordance with this Law, and has not been enrolled; or
(*b*) whose name has been removed from a Roll by the Returning Officer after an objection,

may at any time within two months after the receipt of notice of the rejection of the claim or of notice of the determination of the objection, as the case may be, make application in the prescribed manner to a District Court for an order directing that his name be enrolled or reinstated on the Roll, as the case requires.

(2) Where an objection has been determined by the Returning Officer adversely to the person objecting, that person may in the prescribed manner apply to a District Court for an order sustaining the objection.

(3) Where an application under this section has reference to the decision of the Returning Officer upon an objection, the applicant shall, as prescribed, served the objector or the person objected to, as the case requires, with notice of the application, and the person so served may appear, or may in writing authorize any person to appear on his behalf, to resist the application.

(4) The court may hear and determine an application under this section, and may make such order as it thinks fit as to the costs of the application.

(5) Costs ordered by the court to be paid may be recovered in the same manner as the costs of any other proceeding before the court.

(6) The Clerk of the Court shall send by post to the Returning Officer a certified copy of the order of the court, and the Returning Officer shall make such entries (if any) upon the Roll as necessary to give effect to the order.

Division 8.

Writs for Elections.

271. WRITS FOR GENERAL ELECTIONS.

The Minister responsible for Provincial and Local-level Government Affairs acting with, and in accordance with, the advice of the Electoral Commission, shall issue his writ for a general

election so as to accord with the provisions of Section 34 of the Organic Law on Provincial Governments and Local-level Governments.

272. WRITS FOR VACANCIES.

In the case of the need for a by-election. acting with, and in accordance with, the advice of the Electoral Commission, shall, as soon as practicable after the vacancy occurs, issue his writ for the election of a new member.

273. FORM OF WRITS.

(1) The writs for elections shall be in the prescribed form and shall fix the date for–

(*a*) nominations; and
(*b*)[164] the first and last days of the period during which polling shall take place; and
(*c*) the return of the writ.

(2) The Electoral Commission shall. as soon as practicable after the issue of a writ–

(*a*) advertise its issue and particulars in at least one newspaper circulated in the ward to which the writ relates; and
(*b*) forward a copy to the Provincial Government and Local-level Government in which the ward is situated; and
(*c*) take such further steps as it considers desirable to ensure adequate publicity.

274. TIME OF ISSUE OF WRITS.

For the purposes of this Law. a writ shall be deemed to have been issued at the hour of 4 p.m. on the day on which the writ was issued.

275. ADDRESS OF WRITS.

(1) Writs for election of members shall be addressed to the respective Returning Officers for the wards for which the elections are to be held, and may be issued through the Electoral Commission.

(2) The Electoral Commission may advise any Returning Officer by electronic advice of the issue of the writ for an election and the particulars of the writ, and for the purposes of Section 378 the Returning Officer may act on the advice as if the writ had been received by him.

276. DATE AND PERIOD OF NOMINATION.

Nomination of the candidates shall commence on the date of the writ, and the period of nomination shall not exceed seven days, including the date of the writ.

277. DATE OF POLLING.

[165](1) The date fixed for the commencement of the polling period shall be a Saturday and shall be not less than eight weeks and not more than 11 weeks after the date of the writ.

(2) Where special circumstances require, the Electoral Commission may, by notice in the National Gazette: –

(*a*) fix a date of commencement of polling on a day other than a Saturday; and
(*b*) determine that the period specified in Subsection (1) shall be reduced or extended.

278. DATE OF RETURN OF WRIT.

[166](1) The date fixed for the return of the writ shall not be more than 21 days after the end of the polling period.

(2) Where special circumstances require, the Electoral Commission may, by notice in the National Gazette, extend the period specified in Subsection (1).

279. DUTY OF RETURNING OFFICER ON RECEIPT OF WRIT.

On the receipt of a writ, the officer to whom it is directed shall endorse, on it the date of its receipt.

280. GENERAL ELECTION TO BE HELD ON SAME DAY.

[167](1) Subject to this section, in the case of a general election, the same day shall be fixed for the commencement of the polling period in each electorate, and all writs shall be made returnable on the same day.

(2) Where special circumstances make it necessary for the Electoral Commission to fix different polling commencement dates for different electorates, the Commission may do so by notice in the National Gazette.

(3) Where special circumstances make it necessary, the Electoral Commission may return a writ after the date fixed for the return of writs.

280A. FAILURE TO OBSERVE REQUIREMENTS.

[168]A failure to observe a requirement under this Division shall not be a ground for invalidating an election.

Division 9.

Nominations and Polling.

281. NOMINATIONS.

(1)[169] [170]Subject to Subsection (2), the provisions of Part XI and Part XIA of this Law (other than Sections 87(c), 90 and 95) shall apply as the provisions of this Law relating to Local-level Government elections.

(2) References in Part XI to an ‘electorate’ shall be read as references to ‘a ward’.

(3) No nomination is valid unless at the time of delivery of the nomination the person nominated or some person on his behalf pays to the Returning Officer or other person to whom the nomination is made the sum prescribed by the Regulations in money or in a banker's cheque.

282. POLLING.

[171](1) Subject to Subsection (2), the provisions of Part XIII of this Law shall apply as the provisions of this Law relating to Local-level Government elections.

(2) References in Part XIII to an 'electorate' shall be read as references to a" ward".

282A. VOTE TO BE MARKED IN PRIVATE.

[172]Except as otherwise prescribed, a voter upon receipt of a ballot-paper shall without delay –

(*a*) retire alone to some unoccupied compartment of the booth, and in there in private, mark his vote on the ballot-paper in the prescribed manner; and
(*b*) fold the ballot-paper so as to conceal his vote and to show clearly the initials of the presiding officer, and then openly, and without unfolding it, deposit it in the ballot-box; and
(*c*) quit the booth.

282B. METHOD OF MARKING BALLOT-PAPER.

[173]Subject tho this Law, an elector shall record his vote on his ballot-paper by placing an " X "in the square opposite the name of the candidate for whom he wishes to vote in such a way as to indicate clearly his preference for that candidate only.

Division 10.

Scrutiny.

283. SCRUTINY.

[174](1) Subject to Subsection (2), the provisions of Part XIV of this Law shall apply as the provisions of this Law relating to Local-level Government elections.

(2) References in Part XIV to an 'electorate' shall be read as references to a" ward".

283A - 283C[175]. [*REPEALED*.]

Division 11.

Interpreters.

284. INTERPRETERS.

The provisions of Part XV of this Law shall apply as the provisions of this Law relating to Local-level Government elections.

Division 12.

Return of the Writs.

285. RETURN OF THE WRITS.

(1) Subject to Subsection (2), the provisions of Part XVI of this Law shall apply as the provisions of this Law to Local-level Government elections.

(2) References on Part XV to an 'electorate' shall be read as references to a 'ward'.

Division 13.

Offences.

286. ILLEGAL PRACTICES.

(1) Subject to Subsection (2), the following are illegal practices:–

(*a*) publishing an electoral advertisement, handbill or pamphlet or issuing an electorate notice (other than the announcement by advertisement in a newspaper of the holding of a meeting) without the name and address of the person authorizing the publication or issue appearing at the end of it;
(*b*) printing or publishing a printed electorate advertisement, handbill or pamphlet (other than an advertisement in a newspaper) without the name and place of business of the printer being printed at the foot of it;
(*c*) printing, publishing or distributing a printed electoral advertisement, notice, handbill, pamphlet or card containing a representation of a ballot-paper, or a representation apparently intended to represent a ballot-paper, and having on it directions intended, or being likely, to mislead or improperly interfere with an elector in relation to the casting of his vote;
(*d*) printing, publishing or distributing an electoral advertisement, notice, handbill, pamphlet or card containing an untrue or incorrect statement intended, or being likely, to mislead or improperly interfere with an elector in relation to the casting of his vote;
(*e*) wilfully informing an elector during the election period that he is not–

(i) enrolled or entitled to be enrolled; or
(ii) enrolled or entitled to be enrolled for a particular ward; or
(iii) entitled to vote,

when, as a fact, he is enrolled or entitled to be enrolled, or is enrolled or entitled to be enrolled for the ward, or is entitled to vote, as the case may be;

(*f*) before, during or after an election, corruptly providing food, drink or lodging to or for a person on account of anything done, or to be done by an elector at an election;
(*g*) being an elector, corruptly receiving food, drink or lodging on account of anything done at an election;
(*h*) by force, threat, fraud, misrepresentation, undue influence or in any other manner inducing or attempting to induce another person to vote or fail to vote at an election, or to vote for a particular person at an election;
(*i*) falsely personating a person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purpose of voting;

(*j*) fraudulently destroying or defacing a nomination paper or ballot-paper;
(*k*) fraudulently taking a ballot-paper out of a polling booth;
(*l*) fraudulently putting a ballot-paper or other paper into a ballot-box;
(*m*) taking a ballot-paper out of a polling booth;
(*n*) forging, or uttering, knowing it to be forged, a nomination paper or ballot-paper;
(*o*) in a polling booth during the polling, misconducting oneself, or failing to obey the lawful directions of the Returning Officer or the Presiding Officer;
(*p*) supplying ballot-papers without authority;
(*q*) unlawfully destroying, taking, opening or otherwise interfering with ballot-boxes or ballot-papers;
(*r*) voting more than once at the same election;
(*s*) wagering on the result of an election;
(*t*) wilfully defacing, mutilating, destroying or removing a notice, list or other document affixed by a Returning Officer or by his authority;
(*u*) knowingly making a false statement in a claim, application, return or declaration, or in answer to a question under this Law;
(*v*) distributing an advertisement, handbill or pamphlet published in contravention of Paragraph (a), (b), (c) or (d).

(2) Subsection (1)(c) or (d) does not prevent the printing, publishing or distributing of a card, not otherwise illegal, that contains instructions as to how to vote for a particular candidate, so long as the instructions are not intended, or likely, to mislead an elector in relation to the recording of his vote.

(3) A person who contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding one month or both.

Division 14.

Disputed Elections and Returns.

287. DISPUTED ELECTIONS AND RETURNS.

(1) Subject to this section, the provisions of Part XVIII of this Law, other than Sections 208(e), 209, 210, 212(2), and 213, shall apply as the provisions of this law relating to disputed Local-level Government elections and returns.

(2) References in Part XVIII to–

(*a*) "Clerk of Parliament" shall be read as to "clerk of the Local-level Government"; and
(*b*) "electorate" shall be read as to a "ward"; and
(*c*) "member" shall be read as to "member of the Local-level Government"; and
(*d*) 'National Court" shall be read as to "District Court"; and
(*e*) "Registrar of National Court" shall be read as to "Clerk of the District Court"; and
(*f*) "Speaker" shall be read as to "head of the Local-level Government.

(3) A petition to dispute an election or return shall be filed at the District Court in the town in which are situated the headquarters of the Provincial Government of the Province which includes the area of the Local-level Government in respect of which the election was held.

(4) At the time of filing the petition the petitioner shall deposit with the Clerk of the District Court the sum of K50.00 as security for costs.

(5) Proceedings shall not be heard on a petition unless the requirements of Subsections (3) and (4) and Section 208(a) to (d) inclusive are complied with.

PART XX. – MISCELLANEOUS.

288. LOCAL GOVERNMENT RULES ON ADVERTISING, ETC.

Any rule of a Local Level Government dealing with advertising, publishing of matter or any similar matter that–

(*a*) discriminates or may discriminate against any candidate or class of candidates at an election; or
(*b*) gives preference or may give preference to be given to one candidate over another candidate in an election; or
(*c*) gives preference or may give preference to one registered political party over another registered political party; or
(*d*) allows a Local-level Government to do any of the matters specified in Paragraph (a), (b) or (c),

is, to the extent that it discriminates, may discriminate, gives preference, may give preference, or allows a Local-level Government to discriminate or give preference, void.

289. INSTITUTION OF PROCEEDINGS FOR DEFENCES.

(1)[176] [177]The Electoral Commission shall, where the Public Prosecutor so advises, institute legal proceedings against a person committing an offence against this Law and Sections 99, 100, 102, 103, 108 and 110 of the Criminal Code Act (Chapter 262)..

(1A)[178] [179]A person convicted of an offence under Section 191 (offences in table numbered 1, 4, 6, 7, 8, 9, 11, 13 and 14), Section 195 of this Law and Sections 99, 100, 102, 103, 108 and 110 of the Criminal Code Act (Chapter 262) shall be disqualified from voting, holding elective public office or being employed in the Public Service, in a provincial government or a local-level government.

(2) Nothing in Subsection (1) affects the rights of any person to institute proceedings in respect of an offence against this Law.

289A. CIVIL CLAIMS AGAINST THE ELECTORAL COMMISSION.

[180]No claim for damages may be maintained against the Electoral Commission, the Electoral Commissioner or an electoral officer for cancelling an election, breach of statutory

duty, negligence or other claim under the underlying law for any act or omission with respect to the conduct of elections.

290. CERTIFICATE EVIDENCE.

On a prosecution under this Law, the certificate of the Electoral Commission or the Returning Officer that an election referred to in the certificate was duly held and that the person named in the certificate was a candidate at the election is evidence of the matters stated.

291. ELECTORAL MATTER MAY BE SENT BY ELECTRONIC MEANS.

(1) In all cases where it is impracticable to communicate any electoral matter by post without occasioning undue delay, any electronic advice communicated in the ordinary course shall suffice for all the purposes of this Law as if the matter sent through electronic means had been communicated in the manner prescribed by this Law.

(2) Subject to Subsection (3), where, after the result of an election has been declared, the Returning Officer has certified by electronic means addressed to the Electoral Commission–

(*a*) that by reason of distance, or the infrequency of, or any interruption to, the postal services, the writ for the election, endorsed by the Returning Officer with the name of the candidate elected, cannot reach the Electoral Commission within 21 days; and
(*b*) the name of the candidate elected,

the Electoral Commission may endorse upon a copy of the writ a certified copy of the telegram received by it, and the copy so endorsed shall have the same force and effect as if it were the original writ duly endorsed by the Returning Office.

(3) If, upon the return of an original writ, any inconsistency is found to exist between the original writ and the copy of the writ endorsed under Subsection (2) as to the name of the candidate elected, the copy shall thereupon cease to have any force or effect, and action shall be taken in accordance with the endorsement on the original writ.

292. AVERMENTS DEEMED TO BE PROVED.

In a prosecution in a court of summary jurisdiction in respect of a contravention of the provisions of this Law relating to compulsory enrolment, instituted by an officer or by a person acting under the direction of an officer, the averments of the prosecutor contained in the information or complaint shall be deemed to be proved in the absence of evidence to the contrary.

293. DEFENDANT MAY BE CALLED UPON TO GIVE EVIDENCE.

Where a person has secured enrolment in pursuance of an electoral claim, or has made a claim for enrolment or transfer of enrolment, and proceedings arise in a court of competent jurisdiction in respect of the claim for enrolment or transfer of enrolment, the person may be called upon to give evidence upon oath to the court as to the truth of the statements contained in the claim for enrolment or transfer of enrolment.

294. PRODUCTION OF CLAIMS FOR ENROLMENT, ETC.

(1) A person who is, or has been, an officer shall not, except for the purposes of this Law, be required–

(*a*) to produce in court, or give evidence of, a claim for enrolment or transfer of enrolment under this Law; or
(*b*) to divulge or communicate to a court any matter or thing in relation to a claim for enrolment or transfer of enrolment under this Law, being a matter or thing that has come to his notice in the performance of his duties or functions under this Law.

(2) In this section, "officer" includes any person performing duties, or exercising powers or functions, under or in relation to this Law.

295. PRESERVATION OF BALLOT-PAPERS.

(1) Subject to Subsection (2), all ballot-papers, certified lists of voters and declarations used at or in connection with an election shall be preserved as prescribed until the election can no longer be questioned, when they shall be destroyed.

(2) Ballot-papers, certified lists of voters and declarations referred to in Subsection (1) shall be preserved for a period of 40 days after the date of the declaration of the poll.

296. PRESCRIBED OFFENCES.

For the purposes of Section 47(1)(b) (right to vote and stand for public office) of the Constitution the offences contained in the sections specified hereunder are prescribed offences:–

"Sections 106, 107, 174(2), 178(1)(c), (d) and (e), 188(3), 191(1), (4), (7), (8), (9), (10), (12), (14) and (15), 195, 197(1) and 201."

297. CONSTITUTIONAL REGULATIONS.

As authorized by Section 258 (Constitutional Regulations) of the Constitution, the Head of State, acting with, and in accordance with, the advice of the National Executive Council may make Constitutional Regulations, not inconsistent with this Law, prescribing all matters that by this Law are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Law, and in particular for prescribing–

(*a*) penalties not exceeding K200.00 for contraventions of the Regulations; and
(*b*) the procedure in relation to the imposition and recovery of penalties for offences against the compulsory enrolment provisions of this Law.

PART XXI. – REPEAL AND CONSEQUENTIAL AMENDMENT.

298. REPEAL.

The following laws are repealed:–

(*a*) Organic Law on National Elections;
(*b*) Organic Law on National Elections (Amendment No. 1 Law);
(*c*) Electoral Regulation 1977;
(*d*) Electoral (Marking of Votes) Regulation 1982;

(*e*) Electoral (Amendment) Regulation 1987;
(*f*) Parts V.1 and 2 of the Local Government Act (Chapter 57);
(*g*) Local Government (Electoral Provisions) Regulation (Chapter 57);
(*h*) Local Government (Urban Council Electoral Provisions) Regulation (Chapter 57).

299. CONSEQUENTIAL AMENDMENTS TO **ORGANIC LAW ON PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS**.

The Organic Law on the Provincial Governments and Local-level Governments is amended–

(*a*) in Section 29(1)–

(i) in Paragraph (a) by inserting after the words "in accordance with" the following:– "an Organic Law or"; and
(ii) in Paragraph (b), by inserting after the words "in accordance with" the following:– "an Organic Law or"; and

(*b*) by repealing Section 34(1) and replacing it with the following:–

> "(1) Wherever practicable, the term of a Local-level Government shall be the same as and run concurrently with the term of the Parliament, but in order to ensure the effective conduct of respective elections, this may be varied, provided that the date for the return of writs in a general election to Local-level Governments is fixed for a date not later than three months after the date fixed for the return of the writs of the general election to the Parliament."; and

(*c*) in Section 37, by inserting after the words "in accordance with" the following:–

"an Organic Law or".

PART XXII. – SAVINGS AND TRANSITIONAL PROVISIONS.

300. INTERPRETATION.

In this Part, "repealed laws" means the laws repealed by Section 298.

301. ELECTORAL COMMISSIONER.

The Electoral Commissioner, appointed under the repealed laws and holding office immediately prior to the coming into operation of this Law, continues, after that coming into operation, to hold the office of Electoral Commissioner on the same terms and conditions for the remainder of the term for which he was appointed or until his appointment is earlier terminated according to law and the repealed laws do not operate so as to abolish the Office of Electoral Commissioner.

302. RETURNING OFFICERS AND ASSISTANT RETURNING OFFICERS.

Returning Officers and Assistant Returning Officers appointed under the repealed laws and holding office as such immediately prior to the coming into operation of this law, continue, on that coming into operation, to hold the office for the remainder of the term for which they were appointed or where no term is specified until their appointment is revoked.

303. STAFF.

Staff made available under the repealed laws to the Electoral Commission by the Department responsible for personnel matters and serving as staff of the Electoral Commission immediately prior to the coming into operation of this law shall continue to serve as staff of the Electoral Commission.

304. PROCEDURES RELATING TO 1997 GENERAL ELECTION.

All procedures of or pertaining to the general election to the Parliament and to the Local-level Government elections to be held during 1997 carried out under and in accordance with the repealed laws prior to the coming into operation of this law, are, on that coming into operation, deemed to have been carried out under and in accordance with this Law, and in so far as such procedures have not been completed, shall be completed in accordance with the procedures of this Law.

305. CONSTITUTIONAL REGULATIONS PERTAINING TO 1997 ELECTIONS.

In order to ensure compliance with–

(*a*) the Constitution, under which a general election to the Parliament falls to be held in 1997; and
(*b*) the Organic Law on Provincial Governments and Local-level Governments, under which the term of Local-level Governments shall be the same as and run concurrently with the term of the Parliament so that elections to Local-level Governments fall to be held in 1997,

the Head of State, acting on advice, may make Constitutional Regulations (as authorized by Section 258 (Constitutional Regulations) of the Constitution)–

(*c*) modifying this Law to such an extent; and
(*d*) making such incidental, consequential and supplementary amendments to this Law,

as may be necessary to enable the elections referred to in Paragraphs (a) and (b) to take place, and any such modifications and amendments have, in relation to those elections, full force and effect and on publication of the Constitutional Regulation shall apply in respect of those elections.

SCHEDULE **1**

PAPUA NEW GUINEA.

Organic Law on National and Local-level Government Elections.

Form 1 *– Writ for a general election of members of the National Parliament.*

Sec. 73. Form 1

PAPUA NEW GUINEA.

Organic Law on National and Local-level Government Elections.

Form 2 *– Writ for a election of a member of the National Parliament to fill a casual vacancy.*

Sec. 74. Form 2.

Office of Legislative Counsel, PNG

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[1] Section 3 Subsection (1) amended by No. 28 of 2002, s. 2.
[2] Section 3 Subsection (1) amended by No. 28 of 2002, s. 2.
[3] Section 3 Subsection (1) amended by No. 28 of 2002, s. 2.

[4] Section 16 Substituted by No. 28 of 2002, s. 3.

[5] Section 19 Substituted by No. 00 of 2006, s. 1.

[6] Section 20 Subsection (5) inserted by No. 00 of 2006, s. 2.
[7] Section 20 Subsection (5) inserted by No. 00 of 2006, s. 2.

[8] Section 21 Subsection (5) inserted by No. 00 of 2006, s. 3.
[9] Section 21 Subsection (5) inserted by No. 00 of 2006, s. 3.

[10] Section 26 Substituted by No. 28 of 2002, s. 4.

[11] Section 34 Repealed by No. 28 of 2002, s. 5.

[12] Section 35 Subsection (1) amended by No. 28 of 2002, s. 6.
[13] Section 35 Subsection (1) amended by No. 28 of 2002, s. 6.

[14] Section 35 Subsection (3) inserted by No. 28 of 2002, s. 6.
[15] Section 35 Subsection (3) inserted by No. 28 of 2002, s. 6.

[16] Section 36 Subsection (2) amended by No. 28 of 2002, s. 7.

[17] Section 37 Substituted by No. 28 of 2002, s. 8.

[18] Section 38 Amended by No. 00 of 2006, s. 4; Substituted by No. 28 of 2002, s. 8.

[19] Section 39 Subsection (1) amended by No. 28 of 2002, s. 9.
[20] Section 39 Subsection (1) amended by No. 28 of 2002, s. 9.

[21] Section 41 Substituted by No. 28 of 2002, s. 10.
[22] Section 41 Subsection (1) amended by No. 00 of 2006, s. 5.

[23] Section 41 Subsection (3) amended by No. 00 of 2006, s. 5.

[24] Division 1 of Part V Heading inserted by No. 00 of 2006, s. 6.

[25] Section 44 Substituted by No. 00 of 2006, s. 7.

[26] Section 45 Subsection (1A) inserted by No. 00 of 2006, s. 8.
[27] Section 45 Subsection (1A) inserted by No. 00 of 2006, s. 8.

[28] Division 2 of Part V Heading inserted by No. 00 of 2006, s. 9.

[29] Section 46 Substituted by No. 00 of 2006, s. 10.

[30] Section 46A Inserted by No. 00 of 2006, s. 10.

[31] Division 4 of Part V Heading inserted by No. 00 of 2006, s. 12.

[32] Section 48A of Part V Inserted by No. 00 of 2006, s. 11.

[33] Section 52 Subsection (3) omitted by No. 28 of 2002, s. 11.

[34] Division 1 of Part VII Heading inserted by No. 88 of 2006, s. 1.

[35] Section 52A Amended by No. 88 of 2006, s. 2; Inserted by No. 00 of 2006, s. 13.

[36] Division 2 of Part VII Heading inserted by No. 88 of 2006, s. 3.

[37] Section 53 Subsection (1) amended by No. 00 of 2006, s. 14.
[38] Section 53 Subsection (1) amended by No. 00 of 2006, s. 14.

[39] Section 53 Subsection (3) inserted by No. 00 of 2006, s. 14.
[40] Section 53 Subsection (3) inserted by No. 00 of 2006, s. 14.

[41] Section 53 Subsection (4) inserted by No. 00 of 2006, s. 14.
[42] Section 53 Subsection (4) inserted by No. 00 of 2006, s. 14.

[43] Section 53 Subsection (5) inserted by No. 00 of 2006, s. 14.
[44] Section 53 Subsection (5) inserted by No. 00 of 2006, s. 14.

[45] Section 53 Subsection (6) inserted by No. 00 of 2006, s. 14.
[46] Section 53 Subsection (6) inserted by No. 00 of 2006, s. 14.

[47] Division 3 of Part VII Heading inserted by No. 88 of 2006, s. 4.

[48] Section 55 Subsection (4) substituted by No. 00 of 2006, s. 15.
[49] Section 55 Subsection (4) substituted by No. 00 of 2006, s. 15.

[50] Section 55 Subsection (5) inserted by No. 00 of 2006, s. 15.
[51] Section 55 Subsection (5) inserted by No. 00 of 2006, s. 15.

[52] Section 55 Subsection (6) inserted by No. 00 of 2006, s. 15.
[53] Section 55 Subsection (6) inserted by No. 00 of 2006, s. 15.

[54] Section 55 Subsection (7) inserted by No. 00 of 2006, s. 15.
[55] Section 55 Subsection (7) inserted by No. 00 of 2006, s. 15.

[56] Section 56 Substituted by No. 00 of 2006, s. 16.

[57] Section 57 Subsection (1A) inserted by No. 00 of 2006, s. 17.
[58] Section 57 Subsection (1A) inserted by No. 00 of 2006, s. 17.

[59] Section 57 Subsection (2) substituted by No. 00 of 2006, s. 17.
[60] Section 57 Subsection (2) substituted by No. 00 of 2006, s. 17.

[61] Division 4 of Part VII Heading inserted by No. 88 of 2006, s. 5.

[62] Section 60 Substituted by No. 00 of 2006, s. 18.

[63] Division 5 of Part VII Heading inserted by No. 88 of 2006, s. 6.

[64] Section 61 Substituted by No. 00 of 2006, s. 18.

[65] Section 62 Subsection (1) amended by No. 00 of 2006, s. 19.
[66] Section 62 Subsection (1) amended by No. 00 of 2006, s. 19.

[67] Section 62 Subsection (2A) inserted by No. 00 of 2006, s. 19.
[68] Section 62 Subsection (2A) inserted by No. 00 of 2006, s. 19.

[69] Section 63 Substituted by No. 00 of 2006, s. 20.

[70] Division 6 of Part VII Heading inserted by No. 88 of 2006, s. 7.

[71] Section 64 Substituted by No. 00 of 2006, s. 20.

[72] Section 65 Substituted by No. 00 of 2006, s. 20.

[73] Part VIII Substituted by No. 00 of 2006, s. 21.

[74] Division 1 of Part VIII Heading inserted by No. 88 of 2006, s. 8.

[75] Section 66 Substituted by No. 00 of 2006, s. 21.

[76] Section 67 Substituted by No. 00 of 2006, s. 21.

[77] Section 68 Substituted by No. 00 of 2006, s. 21.

[78] Division 2 of Part VIII Heading inserted by No. 88 of 2006, s. 9.

[79] Section 69 Substituted by No. 00 of 2006, s. 21.

[80] Division 3 of Part VIII Heading inserted by No. 88 of 2006, s. 10.

[81] Section 70 Substituted by No. 00 of 2006, s. 21.

[82] Section 71 Substituted by No. 00 of 2006, s. 21.

[83] Part 8A Inserted by No. 00 of 2006, s. 21.

[84] Section 71A Inserted by No. 00 of 2006, s. 21.

[85] Section 71B Inserted by No. 00 of 2006, s. 21.

[86] Section 71C Inserted by No. 00 of 2006, s. 21.

[87] Section 72 Subsection (7) inserted by No. 00 of 2006, s. 22.
[88] Section 72 Subsection (7) inserted by No. 00 of 2006, s. 22.

[89] Section 75 Subsection (1) amended by No. 00 of 2006, s. 23.

[90] Section 79 Substituted by No. 00 of 2006, s. 24.

[91] Section 80 Substituted by No. 00 of 2006, s. 24.

[92] Section 81 Substituted by No. 00 of 2006, s. 24.

[93] Section 82A Inserted by No. 28 of 2002, s. 12.

[94] Section 82B Inserted by No. 00 of 2006, s. 25.

[95] Section 85 Amended by No. 00 of 2006, s. 26.

[96] Section 86 Subsection (1) substituted by No. 00 of 2006, s. 27.
[97] Section 86 Subsection (1) substituted by No. 00 of 2006, s. 27.

[98] Section 87 Substituted by No. 00 of 2006, s. 28.

[99] Section 91 Substituted by No. 00 of 2006, s. 29.

[100] Section 94 Subsection (4) inserted by No. 00 of 2006, s. 30.
[101] Section 94 Subsection (4) inserted by No. 00 of 2006, s. 30.

[102] Section 96A Inserted by No. 00 of 2006, s. 32.

[103] Section 96B Inserted by No. 00 of 2006, s. 32.

[104] Section 96C Inserted by No. 00 of 2006, s. 32.

[105] Part 11A Heading inserted by No. 00 of 2006, s. 31.

[106] Section 123 Substituted by No. 00 of 2006, s. 33.

[107] Section 124 Substituted by No. 00 of 2006, s. 33.

[108] Section 125 Substituted by No. 00 of 2006, s. 33.

[109] Section 130 Subsection (3) omitted by No. 00 of 2006, s. 34.

[110] Section 131 Subsection (1) substituted by No. 00 of 2006, s. 35.
[111] Section 131 Subsection (1) substituted by No. 00 of 2006, s. 35.

[112] Section 131 Subsection (2) substituted by No. 00 of 2006, s. 35.
[113] Section 131 Subsection (2) substituted by No. 00 of 2006, s. 35.

[114] Section 132 Substituted by No. 00 of 2006, s. 36.

[115] Section 133 Substituted by No. 00 of 2006, s. 36.

[116] Section 134 Subsection (3) substituted by No. 00 of 2006, s. 37.
[117] Section 134 Subsection (3) substituted by No. 00 of 2006, s. 37.

[118] Section 136 Subsection (1) amended by No. 00 of 2006, s. 38.

[119] Section 138 Substituted by No. 28 of 2002, s. 13.

[120] Section 139 Substituted by No. 28 of 2002, s. 13; Substituted by No. 00 of 2006, s. 39.

[121] Section 140 Subsection (1A) inserted by No. 00 of 2006, s. 40.
[122] Section 140 Subsection (1A) inserted by No. 00 of 2006, s. 40.

[123] Section 146 Subsection (2) amended by No. 00 of 2006, s. 41.
[124] Section 146 Subsection (2) amended by No. 00 of 2006, s. 41.

[125] Section 148 Substituted by No. 00 of 2006, s. 42.

[126] Section 153 Substituted by No. 28 of 2002, s. 14; Substituted by No. 00 of 2006, s. 43.

[127] Section 153A Inserted by No. 00 of 2006, s. 43.

[128] Section 154 Subsection (1) amended by No. 00 of 2006, s. 44.
[129] Section 154 Subsection (1) amended by No. 00 of 2006, s. 44.

[130] Section 154 Subsection (2) amended by No. 28 of 2002, s. 15.
[131] Section 154 Subsection (2) amended by No. 28 of 2002, s. 15.
[132] Section 154 Subsection (2) amended by No. 28 of 2002, s. 15.
[133] Section 154 Subsection (2) amended by No. 28 of 2002, s. 15.

[134] Section 154 Subsection (3) inserted by No. 00 of 2006, s. 44.
[135] Section 154 Subsection (3) inserted by No. 00 of 2006, s. 44.

[136] Section 168 Substituted by No. 28 of 2002, s. 16.
[137] Section 168 Subsection (1) substituted by No. 00 of 2006, s. 45.
[138] Section 168 Subsection (1) substituted by No. 00 of 2006, s. 45.

[139] Section 168 Subsection (3) substituted by No. 00 of 2006, s. 45.
[140] Section 168 Subsection (3) substituted by No. 00 of 2006, s. 45.

[141] Section 170 Subsection (1) substituted by No. 00 of 2006, s. 46.
[142] Section 170 Subsection (1) substituted by No. 00 of 2006, s. 46.

[143] Section 170 Subsection (4) inserted by No. 00 of 2006, s. 46.
[144] Section 170 Subsection (4) inserted by No. 00 of 2006, s. 46.

[145] Section 170 Subsection (5) inserted by No. 00 of 2006, s. 46.
[146] Section 170 Subsection (5) inserted by No. 00 of 2006, s. 46.

[147] Section 170 Subsection (6) inserted by No. 00 of 2006, s. 46.
[148] Section 170 Subsection (6) inserted by No. 00 of 2006, s. 46.

[149] Section 175 Subsection (1) substituted by No. 00 of 2006, s. 47.
[150] Section 175 Subsection (1) substituted by No. 00 of 2006, s. 47.

[151] Section 175 Subsection (1A) inserted by No. 00 of 2006, s. 47.
[152] Section 175 Subsection (1A) inserted by No. 00 of 2006, s. 47.

[153] Section 177 Substituted by No. 00 of 2006, s. 48.

[154] Section 178 Subsection (1) amended by No. 00 of 2006, s. 49.
[155] Section 178 Subsection (1) amended by No. 00 of 2006, s. 49.
[156] Section 178 Subsection (1) amended by No. 00 of 2006, s. 49.
[157] Section 178 Subsection (1) amended by No. 00 of 2006, s. 49.

[158] Section 178 Subsection (4) inserted by No. 00 of 2006, s. 49.
[159] Section 178 Subsection (4) inserted by No. 00 of 2006, s. 49.

[160] Section 209 Amended by No. 00 of 2006, s. 50.

[161] Section 216 Substituted by No. 28 of 2002, s. 17.

[162] Section 235 Subsection (1) amended by No. 28 of 2002, s. 18.

[163] Section 242 Substituted by No. 00 of 2006, s. 51.

[164] Section 273 Subsection (1) amended by No. 00 of 2006, s. 52.

[165] Section 277 Substituted by No. 00 of 2006, s. 53.

[166] Section 278 Substituted by No. 00 of 2006, s. 53.

[167] Section 280 Substituted by No. 00 of 2006, s. 54.

[168] Section 280A Inserted by No. 00 of 2006, s. 54.

[169] Section 281 Subsection (1) amended by No. 00 of 2006, s. 55.
[170] Section 281 Subsection (1) amended by No. 00 of 2006, s. 55.

[171] Section 282 Subsection (1) substituted by No. 28 of 2002, s. 19; Substituted by No. 00 of 2006, s. 56.

[172] Section 282A Inserted by No. 28 of 2002, s. 20.

[173] Section 282B Inserted by No. 28 of 2002, s. 20.

[174] Section 283 Substituted by No. 28 of 2002, s. 21; Substituted by No. 00 of 2006, s. 57.

[175] Section 283 Substituted by No. 28 of 2002, s. 21; Substituted by No. 00 of 2006, s. 57.

[176] Section 289 Subsection (1) amended by No. 00 of 2006, s. 59.
[177] Section 289 Subsection (1) amended by No. 00 of 2006, s. 59.

[178] Section 289 Subsection (1A) inserted by No. 00 of 2006, s. 59.
[179] Section 289 Subsection (1A) inserted by No. 00 of 2006, s. 59.

[180] Section 289A Inserted by No. 00 of 2006, s. 60.