CHAPTER 354

GENERAL ELECTIONS ACT

To make provision for the qualification of voters, the constitution of Electoral Divisions, the method of registration of voters and the Election and Co-option of Members of Parliament.

27th September, 1991

ACT XXI of 1991 as amended by Acts XXIV of 1995, XV of 1996; Legal Notice 178 of 1996; Acts VI of 2001, XVI of 2002 and XXI of 2007; Legal Notice 425 of 2007; Acts VII of 2009, XIV of 2012; Legal Notice 426 of 2012; Acts VII, XVII of 2014; Legal Notice 284 of 2014; Act XXIV of 2015, Legal Notice 350 of 2017, , IV of 2018 and XIX of 2018 and XI of 2019.

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PART I

General Provisions

Short title.

1. The short title of this Act is the General Elections Act.

Interpretation. *Amended by: XV. 1996.2; XVI. 2002.2; L.N. 426 of 2012; XIX.2018.3; XI.2019.3.*

2. (1) In this Act and in any regulations made thereunder, unless the context otherwise requires -

"ballot box" means a box wherein voters are obliged to place their marked ballot papers;

"Commission" shall mean the Electoral Commission established by article 60 of the Constitution;

Electronic Counting System" means the process, computer program and/or computer hardware, other equipment, data and services as may be necessary in order to:

(*a*) maintain relevant data in relation to the election being held;

(*b*) take an image of each ballot paper and interpret the preferences;

(*c*) establish a link between each vote stored electronically and the equivalent ballot papers by means of a unique identifier;

(*d*) process the collected data and ballots in such manner as to calculate the number of votes cast for each candidate at the election and determine the final result in terms of this Act; and

(*e*) ensure the retention of proper records;

"House" means the House of Representatives established by the Constitution;

"an identification document" means a document which is a legally valid identification document for the purposes of the Identity Card and other Identity Documents Act; Cap. 258.

"non-searchable" means not capable of being searched on the basis of name, surname or Identity Card number;

"official mark" means the stamp which the Commission and the political parties direct the Assistant Commissioner as respectively nominated by each of them, to use on the ballot paper prior to giving such ballot paper to the voter and may be of such form as each of them may determine provided that it may not in any way constitute any form of propaganda and the marks of the political parties shall not be necessary for the validity of the ballot paper. Political parties opting to use official marks shall deposit an imprint of the stamp to be so used at least one hour before the start of the poll;

"the period of time reserved for viewing" means the period of time which starts from such time when the Commission grants access to the party delegates to the images of each Electronic Ballot together with their interpretation and to the complete data set containing the preferences of voters as shown in the Electronic Ballots, and which

expires four hours after the time the Commission forwards a copy of the Draft Result to party delegates in terms of regulation 13;

"political party" shall, for the purposes only of articles 10 and 14, mean any person or group of persons who having contested the general election under one name is represented in the House by, at least, one member or was so represented when the House was last dissolved, and in all other cases "political party" shall mean any person or group of persons contesting the election as one group bearing the same name;

"polling booth" means the room wherein voters attend on the day of the poll to receive and mark a ballot paper and insert the same in a ballot box;

"polling day" means the proper day established for voting in the President's Writ referred to in article 44;

"polling place" means the school, building or other complex or structure wherein one or more polling booths are situated and shall, saving the provisions of article 66, include the grounds, if any, of such complex or structure;

"the first voting day" means the Saturday before polling day when advanced voting takes place according to the particular provisions of this Act, by voters being abroad or who shall be recovered in a hospital on polling day, by residents in homes for the elderly, by members of the Commission and by residents of the Corradino Correctional Facility;

"the second voting day" means the Tuesday before polling day when voting takes place according to the particular provisions of this Act, by voters who are assigned as Assistant Electoral Commissioners;

"the third voting day" means the Thursday before polling day when voting takes place according to the particular provisions of this Act, by voters recovered in hospitals;

"voting compartment" means such part of a polling booth wherein voters are to mark their ballot papers, and which is to be furnished with an adequate writing surface and instruments for such purpose;

"voting document"' means the voting document which is to be forwarded to voters in terms of article 46.

(2) Whenever by this Act a penalty is attached to the performance of any act "before, during or after", an election, no account shall be taken of anything done earlier than -

(*a*) in the case of any election held in consequence of a dissolution of Parliament under article 76(1) of the Constitution, the issue of the Proclamation dissolving the House;

(*b*) in the case of any election held in consequence of a dissolution of Parliament under article 76(2) of the Constitution of Malta, three months before the date of such dissolution.

Power to make regulations. *Amended by: XV. 1996.3; VI. 2001.21.*

3. (1) The Commission may make regulations not inconsistent with or repugnant to, the provisions of this Act, for prescribing any form or procedure for which no express procedure is contained in this Act, for amending the forms contained in the schedules to this Act and, generally, for carrying the provisions of this Act into effect. The Prime Minister shall upon the publication of such regulations lay the same upon the Table of the House.

(2) The Minister responsible for justice may by regulations under this sub-article establish the fees payable in the registries of the Courts of Magistrates (Malta) and the Court of Magistrates (Gozo) in connection with the filing of appeals and applications to Revising Officers under this Act:

Provided that until such fees are so established by the Minister, the fees contained in Schedule A to the Code of Organization and Civil Procedure shall apply.

Cap. 12.

(3) The board established under article 29 of the Code of Organization and Civil Procedure may make rules, not inconsistent with this Act, governing appeals and applications to Revising Officers.

Appropriation of moneys required for the purposes of this Act.

4. (1) The Minister responsible for finance shall, from time to time by warrant under his hand addressed to the Accountant General, authorise and direct that all such moneys as are reasonably required for meeting any expenses lawfully incurred in the execution of the provisions of this Act be paid out of the Consolidated Fund without any further appropriation other than this Act.

(2) A statement of the expenses so paid shall, so soon as practicable, be laid on the Table of the House.

Extension of periods of time. *Amended by: XV. 1996.4.*

5. Where any period of time prescribed by any of the provisions of this Act for carrying into effect any procedure is in the opinion of the President of Malta, insufficient for the purpose, the President of Malta may, by notice published in the Gazette, extend such period as he may deem necessary.

Delivery of applications or communications to the Commission regarding the registration or transfer of votes. *Amended by: XV. 1996.5.*

6. (1) All applications which may be made to the Commission under this Act regarding the registration, cancellation, correction or transfer of a voter may either be delivered to the Electoral Office or to the Local Council office wherein the voter resides or to any police officer in any police station in Malta or Gozo, or forwarded to the Commission free of any charge for posting.

(2) Every Local Council secretary and every police officer to whom an application as is referred to in sub-article (1) hereof is delivered shall give a receipt to the person delivering the application, write on the application the date on which the application is received and shall forward the application forthwith to the Commission.

(3) The Commission shall give or forward to each applicant a receipt in respect of each such application received by it.

(4) Any notice or other written communication which may be made by the Commission under this Act may be forwarded through the post and shall be deemed to have been received by the person to whom it was addressed on the day on which a letter regularly posted would in the normal course of postage have been received:

Provided that any notice or written communication sent by the Commission to any person regarding his rights as a voter shall be sent by registered post.

(5) It shall be the duty of the Electoral Commission to ensure that an adequate supply of forms is available at all times at Local Council offices and at police stations.

PART II

Electoral Commission and Office

Electoral Commission. *Amended by: XV. 1996.6; XVI. 2002.3.*

7. (1) The registration, transfer, correction and cancellation of voters, the compilation of the Electoral Register, the election of members of the House of Representatives and the administration of the Electoral Office shall be the sole responsibility of the Commission established by article 60 of the Constitution. The Chief Electoral Commissioner shall be responsible for the day to day running of the Electoral Office and for the implementation of the decisions of the Commission.

(2) The Commission shall be composed of the Chief Electoral Commissioner as chairman and eight members as Electoral Commissioners.

(3) The Electoral Commission shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its functions, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise of its functions under this Act.

(4) The legal representation of the Commission shall vest in the Chief Electoral Commissioner or in such other member or such other members of the Commission, as the Commission may establish by resolution, which resolution shall not come into force before it is published in the Gazette.

Oaths to be taken by Commissioners.

8. The Commissioners shall, on their appointment, take before the Attorney General the oath of allegiance set out in the Constitution and the oath of office set out in the First Schedule of this Act.

Powers of commissioners.

9. (1) In the execution of their duties under this Act, the Commissioners shall, in the absence of any express provision in this Act contained, do all such things as appear to them to be necessary for the performance of their duties.

(2) In the execution of their duties under this Act, the Commissioners shall have the powers conferred by law on the Courts of Magistrates for the purpose of enforcing order at their

sittings and ensuring the respect due to them.

Party Delegates. *Amended by: XV. 1996.7; XVI. 2002.4; L.N. 426 of 2012.*

10. (1) Every political party shall have the right to nominate two delegates (hereinafter referred to as the "party delegates") to the Commission.

(2) Party delegates shall represent the political party nominating them with the Commission and shall have the right in general to be informed in writing at least once a month of all sittings of the Commission and decisions taken thereat.

(3) The party delegates shall notwithstanding the provisions of any other law, have full and free right of access to the Electoral Office, to all records kept therein, to be given copies thereof in written or electro-magnetic format, and to check, verify and obtain any information regarding the work of the Electoral Office; provided that the Commission shall have the right to nominate an official of the Commission to accompany such delegates at all times.

(4) The party delegates shall continue in office until removed by the political party nominating them.

(5) Party delegates shall have the right to seek and obtain from the Commissioners as well as from any other official connected with the running, supervising or security of the elections or of any aspect thereof, information showing whether or not such persons are taking adequate measures to comply with the provisions of the law in the forthcoming elections, and the Commissioners or such other persons shall, notwithstanding any other law or regulation, be bound to furnish such information immediately.

(6) Notwithstanding any provision in this Act granting party delegates and political parties the right to seek and obtain information or their right to be given copies of documents and lists by the Commission or by Government departments, such right shall not include the right of access to medical records or to adoption records of voters or to photographs of persons holding a legally valid identification document and the right to be made aware prior to the day of the poll of security features relating to ballot papers, voting documents and the official mark used by the Commission on ballot papers. The information, documents or lists shall be given to the party delegates orally or in written, printed or electronic format as the delegates may require and the Commission is technically able to provide. Where the information, documents or lists are of a confidential nature the party delegates shall have the same obligations as to secrecy as the person from whom such information, documents or lists are obtained.

Establishment of Electoral Office. *Amended by: XV. 1996.8.*

11. (1) There shall be an Electoral Office for the purpose of effecting the registration, transfer and cancellation of voters, the organisation required for the running of elections and all such administrative work as may be required by the Electoral Commission.

(2) The Electoral Office shall be staffed by persons in the public service and whilst serving in the Electoral Office such

persons shall only be responsible to the Commission in matters concerning the preparation for and the running of general elections.

(3) The Commission is to ensure that there is full observance of procedures of control and security, especially with regards to access of terminals, the introduction, use and processing of information and in the printing of documents of identification. The Commission is also to ensure that the Electoral Register database includes only the details of those persons eligible to vote. The parties are further to have the right, prior to the carrying out of any electro-magnetic process during the electoral process, to demand the holding of a dummy run in order to ascertain the validity of the said electro-magnetic process.

Oath to be taken by staff of Electoral Office and power to administer oath.

12. (1) The staff of the Electoral Office shall, on their appointment, take an oath before the Chief Electoral Commissioner, that they will faithfully perform the duties of their office according to law.

(2) Any one of the Commissioners and any other officer authorised by the Commission on their behalf, may administer an oath to any person whenever they shall deem the taking of an oath to be necessary for the purpose of making enquiries according to this Act.

Appointment of Revising Officers. *Amended by: XV. 1996.9.*

13. (1) By virtue of this Act all Magistrates serving in the Court of Magistrates (Malta) and the Court of Magistrates (Gozo) shall be deemed to be Revising Officers.

(2) Revising Officers may hold sittings in any court or in any Local Council office for the purpose of dealing with any application or appeal regarding the registration, transfer, correction, or cancellation of any voter.

(3) All such applications or appeals to a Revising Officer shall be signed by the applicant or by any person on behalf of and authorised by the applicant or appellant or by an advocate or legal procurator and shall be filed in the Registry of the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be.

(4) The Revising Officer shall appoint a day for the hearing of the application or appeal and shall direct that a copy of the application or appeal together with the day fixed for the hearing shall be served on the applicant or appellant, on the Commission and on any other person whom such application or appeal concerns.

(5) Service shall be effected by registered post. Where any of the persons to be served with the application or appeal by registered post is not found, the Revising Officer shall direct that the person shall be served by an officer of the court. Where the person is not found by such officer of the court, the Revising Officer shall, on the report of the officer of the court direct that the application or appeal be posted on the notice board of the police station and the Local Council office of the locality in which the person concerned resides and to be published twice in all local daily newspapers and where necessary, shall appoint another day

for the hearing.

(6) Service on all the persons concerned shall be effected at least three days before the day fixed for the hearing of the application or appeal.

(7) If the applicant or appellant shall fail to appear on the day appointed for the hearing and is not represented by an advocate or legal procurator or other person, the application or appeal shall be considered as abandoned.

(8) In the case of an application for the removal of the name of a person from the Electoral Register, if such person shall fail to appear on the day appointed for the hearing and is not represented by an advocate or legal procurator or other person, the application may be decided in default.

(9) In the case of an application or appeal based on the grounds of mental infirmity the Revising Officer shall, notwithstanding the absence of the applicant or appellant or of an advocate, legal procurator or other person representing him, refer the application or appeal to the Medical Board for determination.

(10) In determining the application the Revising Officer shall state the reasons for his decision and the applicant or appellant, the Commission or the voter concerned shall have the right to appeal to the Court of Appeal on any point of law by means of an application filed within seven days of the delivery of the decision by the Revising Officer.

(11) No fee shall be charged in the Registry on any application or appeal, for the service thereof, for any other proceeding in consequence thereof or for any decision thereon.

Appointment of Medical Board.

14. (1) There shall be a Medical Board to whom shall be referred questions as to whether a person who has applied to be registered as a voter or is already registered is disqualified from being so registered in terms of paragraph (*a*) of article 58 of the Constitution.

(2) The Medical Board shall consist of a doctor appointed by the Commission, who shall act as chairperson, and a doctor appointed by each of the political parties. The Medical Board shall be deemed to be validly constituted once the chairperson or any one of the members is appointed.

PART III

Voters

Qualification of voters.

15. Subject to the provisions of the next following article, a person shall be entitled to be registered as a voter for the election

of Members of the House if, and shall not be entitled to be registered unless, he has the qualifications required by article 57 of the Constitution and provided he is not so disqualified in terms of article 58 of the Constitution or in accordance with the provisions of this Act.

Right to vote at elections. *Amended by: XV. 1996.10.*

16. (1) Subject to the following provisions of this Act every person registered as a voter in an electoral division shall, while so registered, be entitled to vote at the election of Members of the House for that division.

(2) No person shall vote at the election of Members of the House in any division other than a division in which he is registered as a voter.

(3) Any person who contravenes the provisions of sub-article (2) shall be guilty of an offence and shall on conviction be liable to the penalties established for offences against article 112.

PART IV

Electoral Divisions and Method of Election

Electoral Divisions and number of Members of Parliament.

17. (1) For the purpose of the election of members of the House, the Island of Malta and its Dependencies shall be divided into thirteen electoral divisions.

(2) Subject to the provisions of article 52(1) of the Constitution the House shall consist of sixty-five members, each electoral division returning five members.

(3) The boundaries of the electoral divisions referred to in sub-article (1) shall be those established in accordance with article 61 of the Constitution.

(4) Any change in the number of electoral divisions, or in the boundaries thereof, or in the number of Members of the House shall have effect as provided in article 61(2) and (3) and article 66(6) of the Constitution:

Provided that, where an alteration to the boundaries of the electoral divisions has been published under article 61(3)(*d*) of the Constitution, nothing in this sub-article shall be construed as preventing the publication of a revised electoral register or preventing any other requirement under this Act connected with the registration of voters being carried out in accordance with such alteration, before the dissolution of Parliament upon which the alteration comes into effect.

Method of Election.

18. The election of Members of the House shall be according to the principle of proportional representation, each voter having one transferable vote.

PART V

Registration of Voters

Enquiries by Commission. *Amended by: XV. 1996.11.*

19. (1) The Commission shall make all such enquiries, and require from any person such information, as it may deem necessary for the purpose of determining whether a person is entitled to be registered as a voter or to remain so registered or where he is to be registered.

(2) The Electoral Commission shall ensure that adequate staff are deployed for the specific purpose of verifying voter qualifications and registration and shall carry out such verification both with the voter and other persons who may provide the necessary information as well as with any government departments which may have relevant information.

Duty of Government officers to give information. *Amended by: XXIV. 1995.362; XV. 1996.12; L.N. 426 of 2012; VII. 2014.7; IV.2018.7.*

20. (1) All public officers in the service of the Government of Malta and all officers of bodies corporate established by law are, notwithstanding the provisions of any other law, hereby authorised and required to furnish to the Commission all information that it may require in order to be able to determine whether a person is entitled to be registered as a voter or to remain so registered.

(2) The Commissioner of Police shall assist the Commission by causing enquiries to be made, information to be collected, and claims to be checked and in such other manner as may be necessary.

(3) The public officer or officers responsible for the Public Registries of Malta and Gozo shall, within the first five days of each month, forward to the Commission a list containing the name, surname, a legally valid identification document number, if any, and other particulars of each person whose death has been registered during the preceding month as well as a list containing similar particulars of all persons who have contracted marriage in the preceding month and a list containing similar particulars of all persons who have reached, the age of sixteen years in the preceding month.

(4) The Registrar of Courts in Malta and the Registrar of the Courts of Gozo or other persons having such function shall, each with regard to the courts to which he is attached, within the first five days of each month, forward to the Commission a list containing the name, surname, a legally valid identification document number, if any, and other particulars of each person who has been interdicted for reasons of mental incapacity by a competent court as well as a list containing similar particulars of all persons who have been sentenced by any Court in Malta to imprisonment (by whatever name called) for a term exceeding twelve months.

(5) Any public officer or other person responsible for any prison in Malta shall within the first five days of each month forward to the Commission a list containing the name, surname, a legally valid identification document number, if any, and other particulars of any person who has been released from prison in the preceding month.

(6) The public officer or other person responsible for the office responsible for the grant or withdrawal of citizenship shall within

the first five days of each month, forward to the Commission a list containing the name, surname, a legally valid identification document number, if any, and other particulars of any person who has been granted citizenship or whose citizenship has been withdrawn in the preceding month.

(7) The Commission shall forward to the party delegates a copy of such lists within five days of the receipt thereof.

Application for registration.

21. (1) Any person who has the requisite qualifications to vote at elections of members of the House may apply for registration to the Commission in the form set out in the Second Schedule to this Act; provided that the Commission shall register as a voter any person who is entitled to be so registered whether or not such an application has been made.

(2) The Commission shall refuse an application, by a person to be registered as a voter and the Commission shall not, on its own initiative in accordance with sub-article (1), register a person as a voter only if such person:

(*a*) has lost any of the qualifications necessary to be registered as a voter in accordance with article 57 of the Constitution; or

(*b*) has become disqualified for being so registered for any of the reasons mentioned in article 58 of the Constitution.

Method of registration.

22. A person who is qualified to be registered as a voter shall only be registered in the division and under the address at which he ordinarily resides:

Provided that if it is proved to the satisfaction of the Commission that any person is not registered in the division and under the address at which he ordinarily resides, the Commission shall not have the right to cancel the registration of such person but shall apply the provisions of article 23.

Transfers and corrections.

23. Any person registered as a voter and who requires any correction in his designation or other particulars or to have his name transferred to another address or electoral division may apply to the Electoral Commission in the form set out in the Third, Fourth or Fifth Schedule to this Act, as the case may be:

Provided that such correction or transfer shall be made by the Commission whether or not any such application has been made, either on its own initiative or following the application by any other registered voter, hereinafter referred to as the applicant, if it is satisfied that such correction or transfer is justified and provided that it shall first communicate its decision in writing to the person to whom it relates and to the applicant, if any, either of whom shall have the right to appeal to a Revising Officer.

Cancellation of registration.

24. Where the Commission is satisfied following the application by any other registered voter, hereinafter referred to as the applicant, or on its own initiative, that any person who is registered as a voter and whose name appears on the Electoral

Register is not qualified to be registered as a voter, the Commission shall, subject to the provisions of article 26, cancel the registration of such voter and expunge his name from the Electoral Register.

Decision by Commission on application for registration, transfer, correction or cancellation.

25. (1) The Commission shall inform the applicant and the voter concerned of its decisions on any application for registration as a voter or to correct, to transfer or cancel the registration of a voter and of any registration, correction, transfer or cancellation made on its own initiative.

(2) The Commission shall effect the necessary changes in the Register in accordance with its decision and shall inform the voter concerned and the applicant of his right to appeal to a Revising Officer.

Requirement of information by commission. *Amended by: XV. 1996.13; XVI. 2002.5; XI.2019.4.*

26. (1) Prior to proceeding to the cancellation of the registration of any voter in terms of article 24 the Commission shall by notice in writing by means of a registered letter and, separately and at the same time, an identical letter sent by ordinary post, require such person to provide such information or such proof or evidence as it may deem necessary to establish such person's right to remain registered as a voter and if such person fails, within ten days of the posting of such notice by the Commission, to provide in writing such information, proof or evidence to the satisfaction of the Commission, the Commission may cancel his registration or expunge his name from the Electoral Register:

Provided that in the case of a person's total failure to answer the aforesaid notice within the aforesaid period of time, the Commission shall not proceed to cancel his registration or expunge such person's name from the Electoral Register before it shall have served upon such person a further notice in writing to provide such information, proof or evidence to the satisfaction of the Commission within a period of ten days from such further notice. Copies of notices made pursuant to this article shall also be delivered to the party delegates:

Provided further that in the case of the Local Councils' Electoral Register and the European Union Electoral Register, in the event of a person (a) having not been effectively served with his voting document and not having collected his voting document pertaining to elections in the past 12 years; and (b) not having a valid identity card or residence card; and (c) having totally failed to answer the aforesaid notices within the aforesaid period, the Commission shall, on the lapse of the period established in sub-article (1), proceed to cancel the registration of the voter or expunge the voter's name from the Local Councils' Electoral Register and, or the European Union Electoral Register but on doing so it shall attempt to serve upon such person a further notice in writing stating that such cancellation or expunging have been made and it shall publish a notice of the said cancellation or expunging in the Gazette and in at least one local newspaper. The cancellation or expunging aforesaid shall come into effect on the lapse of one month from the date when notice of the same is published in the Gazette.

(2) Any written communication which the Commission requires to be made to it under this article may either be delivered

at the Electoral Office or forwarded to the Commission free of any charge for posting.

(3) The further notice referred to in the first proviso to sub-article (1) shall be served by a police officer or by any other person appointed for the purpose by the Commission and such notice shall be deemed to have been served by delivery of the notice to the person to whom it is addressed, or to a person who is or reasonably appears to be not under fourteen years of age and who is either a member of the family or household or in its service, at the address of the voter as shown in the Electoral Register.This sub-article does not apply in the case of the Local Councils' Electoral Register and the European Union Electoral Register.

(4) Where the Commission decides to expunge the name of a voter from the Electoral Register, it shall inform the voter accordingly by means of a letter addressed to him , which letter shall also advise the person that if he possesses all the qualifications to be registered as a voter, he should immediately reapply to be so re-registered, and shall copy such letter to the party delegates.

Refusal or cancellation due to mental incapacity.

27. (1) The Commission may not refuse an application by a person to be registered as a voter, or cancel the registration of a voter, or expunge his name from the Electoral Register in terms of article 58(*a*) of the Constitution before it obtains the decision of the Medical Board established in terms of article 14 or unless such person has been interdicted for mental incapacity by a competent court.

(2) The decision of the Medical Board shall be final and binding on the Commission and the voter and no appeal shall lie therefrom.

(3) Decisions of the Medical Board that a voter is of unsound mind shall be taken by unanimous vote and shall be communicated in writing to the Commission who shall thereupon inform the voter.

(4) Every public officer shall be in duty bound to provide the Board with any information it may require regarding the health of the person whose entitlement to be registered or to continue to be registered as a voter is being considered.

(5) The Medical Board shall regulate its own procedure.

Information regarding new registrations, etc. *Amended by: XV. 1996.14.*

28. The Commission shall, at least, every calendar month give to each party delegate a list showing new registrations, corrections, transfers and cancellations carried out by it in virtue of the preceding provisions of this Act indicating the name and all particulars of the person concerned and the reason for effecting any change as well as a list showing any change effected to street names and all the particulars of voters affected by any such change.

Rights of party delegates to information. *Amended by: XV. 1996.15.*

29. The party delegates shall have the same powers granted to the Commission by virtue of article 19 to seek, through the Commission, information from public officers regarding the entitlement of a person to be registered as a voter and the duty of such public officers to give such information shall also apply in relation to the party delegates. This information is to be given with

all the necessary details and is to be given forthwith. The Commission shall give a copy of all requests for information and of all replies also to the other party delegates.

PART VI

Publication of Electoral Register

Electoral Register.

30. (1) The lists of all persons who are entitled to be registered as voters for the election of Members to the House in accordance with the provisions of this Act, shall constitute the Electoral Register.

(2) The Electoral Register shall be compiled in accordance with the provisions of this Act.

(3) The Electoral Register shall be compiled in such manner that the public may be aware of the persons who are registered as voters, and in such manner to enable the identification of every voter and giving every voter the opportunity to object to the inclusion of any other voter in accordance with the provisions of this Act.

Compilation of Electoral Register. *Amended by: XV. 1996.16; L.N. 426 of 2012.*

31. (1) The Electoral Register shall consist of as many parts as there are localities, one for each locality, and each locality may be subdivided into as many parts as the Commission may deem necessary or convenient. For the purposes of this Part of the Act, the word "locality" shall have the same meaning assigned to it in the Local Government Act.

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(2) The Electoral Register shall, in each article be drawn up in alphabetical order according to the name of each street and voters shall be shown in alphabetical order of surnames under the name of the street where they are registered and against the name of each voter his ordinary place of residence and a legally valid identification document number shall be shown.

(3) The Electoral Register may also include against the name of each voter any other particulars which may be considered necessary for the proper identification of each voter.

(4) Any printing error in any particular so shown shall not of itself affect a person's entitlement to vote.

Contents of Electoral Register.

32. (1) The Electoral Register shall include all persons who are entitled to be registered as voters in accordance with the provisions of this Act, on the day mentioned in the following article.

(2) The Electoral Register shall not include any person who is not entitled to be registered as a voter in accordance with the preceding provisions of this Act, on the day mentioned in the following article.

Publication of Electoral Register. *Amended by: XV. 1996.17; XIV. 2012.2; XVII. 2014.2; IV.2018.8; XI.2019.5.*

33. (1) The Commission shall cause a revised Electoral Register to be published in a non-searchable electronic format on its website twice a year, that is to say, in the month of April and in the month of October. Such Register shall contain all corrections, additions, transfers and cancellations as on the thirty-first day of March and the thirtieth day of September immediately preceding the publication thereof. The Commission shall publish in the Gazette a notice that the relevant Register has been published.

(2) The Electoral Register shall be published in two distinct formats. The first format shall be divided into as many parts as there are localities whilst the second format shall be divided into as many parts as there are divisions:

For all the purposes of this Act the Electoral Register published in the first format shall be considered to be the Electoral Register required by this Act and changes relative to the registration of voters in the said register appearing in the said first format shall also be made and published by the Commission in the register published in the second format.

(3) Each format of the Electoral Register shall indicate the total number of voters registered in each locality or division as the case may be subdivided by street, part of locality or locality as the case may be, as well as the total number of voters for each locality and division, as the case may be, that have been added, deleted, transferred from one locality or division, as the case may be, to another and shall indicate by a distinguishing mark the names of all voters who have been registered for the first time or who have been added to the register after their registration had been previously cancelled by the Commission. Such information shall be given in such format as the Commission may deem makes it most comprehensible to the public.

(4) Where the Commission in exercise of its powers under article 31(1), subdivides any locality it shall show such information for each part of that locality so subdivided.

(5) The Commission shall cause to be published in the Gazette and in a non-searchable electronic format on its website as soon as possible after the dissolution of Parliament and in any case not later than five days after the publication of the Writ in the Gazette, a revised Electoral Register, the revision of which shall include:

(*a*) any alteration to the boundaries of the electoral divisions which may have been approved by the House under the provisions of article 61 of the Constitution in the interim between the publication of the last revised Electoral Register and the dissolution of Parliament;

(*b*) all corrections, additions, transfers and cancellations effected from the date of the publication of the last revised Electoral Register published in terms of sub-article (1); and

(*c*) any person who has since the publication of the last revised Electoral Register attained or shall attain the age of sixteen years up to and including the day preceding the

day on which the election is to be held provided that such persons are, except for the fact that they are not listed in the last revised Electoral Register published in terms of sub-article (1), qualified to be registered as voters in accordance to article 57 of the Constitution of Malta.

Additions, cancellations and corrections by Revising Officer.

34. Any additions, cancellations or corrections to the Electoral Register ordered by a Revising Officer in accordance with the provisions of this Act shall be published by the Commission in the Government Gazette and shall form part of the Electoral Register.

Voters at election to be those in last Electoral Register. *Substituted by: XIV. 2012.3.*

35. (1) Whenever an election is to be held, the voters shall be those whose name appears in the revised Electoral Register published in terms of article 33(5), subject to such additions, cancellations or corrections ordered by the Revising Officer, and the Commission shall not have the right to withhold any voting document to any voter who is so registered unless such voter has died:

Provided that nothing in this article shall entitle any person to vote, who has ceased to have the necessary qualifications to vote or relieve such person from penalties to which he may be liable for so voting. Nor shall anything in this article entitle any person to vote unless he satisfies the requirements of this Act.

(2) The public officers indicated in article 20, the Commissioner of Police, the Registrar of the Courts of Malta and the Registrar of the Courts of Gozo, shall be required to furnish the Commission with all information it may require to determine whether or not a person is entitled to be registered as a voter..

PART VII

Appeals to Revising Officer

Appeals in case of forced correction or transfer. *Amended by: XV. 1996.18.*

36. Any person who has his designation or other particulars in the Electoral Register corrected or his name transferred to another address or division by virtue of the power vested in the Commission by the proviso of article 23 may appeal to a Revising Officer not later than twenty-one days from the day when he is officially informed of the decision of the Commission.

Appeals in case of refusal of application. *Amended by: XV. 1996.19.*

37. Any person whose application to be registered as a voter or for the correction of his designation or other particulars appearing in the Register or for the transfer of his name to another address or division is rejected by the Commission shall have the right to appeal to a Revising Officer not later than twenty-one days from the day when he is officially informed of the decision of the Commission.

Appeals in the case of cancellation of registration. *Amended by: XV. 1996.20; XVI. 2002.6.*

38. (1) Any person whose registration as a voter is cancelled from the Electoral Register by virtue of the power vested in the Commission in terms of article 24 shall have the right to appeal to a Revising Officer.

(2) Such appeal may be filed at any time up to fifteen days before the date fixed for the election, and any such appeal shall be allowed if the applicant had, on the day in which he filed the

appeal, all the qualifications to be registered as a voter.

Appeals following publication of Electoral Register.

39. (1) Any person whose name has not been included in the Electoral Register and who claims that he has the necessary qualifications to vote, and, every voter who claims that his designation, address or other particulars have not been correctly shown in the Electoral Register may appeal to a Revising Officer to have his name included in the Electoral Register or to have his designation, address or other particulars corrected, as the case may be, not later than twenty-one days after the publication of the Electoral Register.

(2) A Revising Officer may order the inclusion of a person's name in the Electoral Register or the correction of the designation, address or other particulars in accordance with sub-article (1), notwithstanding that no prior application may have been made to the Commission for such purpose.

Appeals by third person following publication of Electoral Register. *Amended by: XV. 1996.21.*

40. (1) Any registered voter who claims that any other person whose name appears in the Electoral Register either is not entitled to be registered as a voter, or, that the relative designation, address or other particulars are not correctly shown in the Electoral Register in accordance with the provisions of this Act, shall have the right to appeal to a Revising Officer not later than twenty-one days after the publication of the Electoral Register either to have the name of such voter expunged from the Electoral Register or to have the designation, address or other particulars correctly shown.

(2) A Revising Officer may order the cancellation of the registration of such voter or the correction of the designation, address or other particulars in accordance with sub-article (1), notwithstanding no prior application may have been made to the Commission for such purpose.

Hearing of appeals. *Amended by: XV. 1996.22.*

41. (1) A Revising Officer shall before determining any appeal hear the appellant, the Commission and the person, if any, against whom the appeal is made, and shall admit such other evidence and hear such other persons as he may consider necessary.

(2) Where the application is for the cancellation of the registration of a voter on the grounds of mental infirmity, the Revising Officer shall forthwith refer such application to the Medical Board referred to in article 27.

(3) The provisions of sub-article (1) shall *mutatis mutandis* apply to proceedings before the Medical Board as they apply to proceedings before a Revising Officer.

(4) The decision of the Medical Board shall be signed by all the members of the Medical Board and its Chairman shall refer it to the Revising Officer who shall determine the appeal in accordance with such decision.

Adjournment of pending appeals. *Amended by: XV. 1996.23; XIX.2018.4.*

42. Revising Officers and the Court of Appeal shall adjourn *sine die* the consideration of all applications filed under the provisions of this Act and still pending fourteen days before the date fixed for the election or referendum.

Certificates to be forwarded to Commission. *Amended by: XV. 1996.24.*

43. The registrar of each of the Courts of Magistrates shall without delay forward to the Commission a certificate signed by the registrar personally giving the names, addresses and particulars of all persons who, by order of the Revising Officer are to be added to or expunged from the Electoral Register or whose designation, address or other particular are to be corrected and the Commission shall revise the Electoral Register accordingly. Copies of such certificates shall be sent by the Commission to the party delegates within five days of their receipt and shall be published in the Gazette as soon as possible.

PART VIII

Notices, Voting Documents and Ballot Papers

Election Writ.

44. (1) Whenever an election is to be held, the President shall give notice thereof to the Commissioners by a Writ under his hand, hereinafter referred to as "the Writ" in the form set out in the Sixth Schedule to this Act.

(2) The Commissioners shall cause the Writ to be published in the Gazette.

Notice to be published by Commissioners. *Amended by: XV. 1996.25; XI.2019.6.*

45. Within three days of the publication of the Writ, the Commissioners shall cause a notice or notices to be published in the Gazette stating:

(*a*) the website and/or manner in which candidates may submit their nominations electronically; the place where, and date and time when, the Commissioners will be in attendance to receive nominations of candidates for election as Members of the House, and any objections to such nominations, such place being referred to in this Act as the Electoral Office. The time during which nominations of candidates for election may be made shall not be less than five days and shall not commence to run before six days from the date of the publication of the notice referred to in this article, and the time during which objections to such nominations may be made shall not extend beyond one day from the expiration of the time fixed for the receipt of nominations;

(*b*) the places where, and the days and hours when voting shall be held. Voting shall not take place before the expiration of three days from the date of the publication of the notice referred to in article 54(3);

(*c*) the place to which the ballot boxes shall be taken by the Assistant Commissioners after the close of voting, which shall also be the place where such boxes shall be kept until the counting of the votes;

(*d*) the place where, the date and time when the ballot boxes shall be opened and the counting of votes shall take place.

(*e*) whether the Commission has decided to use an Electronic Counting System:

Provided that a published decision to use an Electronic Counting System shall not operate so as to prevent the Commission, in its considered opinion, from rescinding or retracting at any time, its decision to use an Electronic Counting System to revert to the manual system as outlined in the Thirteenth Schedule.

Voting Document. *Amended by: XV. 1996.26; XIV. 2012.4; L.N. 426 of 2012. XIX.2018.5.*

46. (1) Within nineteen days of the publication of the Writ, the Commission shall forward to each voter, whose name appears in the last revised Electoral Register, a document hereinafter referred to as the "voting document" in the form set out in the Seventh Schedule to this Act and made of such security paper and material and in such manner as in the opinion of the Commission provides adequate security against forgery. Voting documents shall be numbered consecutively, each document having such distinctive number stamped on the face of it:

Provided that wherever the Commission is satisfied that a person whose name appears on the Electoral Register is dead, the relative voting document shall not be forwarded, and where such voting document has been forwarded the Commission shall withdraw it:

However the voting documents of the persons listed in the list of residents of the Corradino Correctional Facility according to article 77(3)(e) shall be kept by the Commission and shall be distributed to the voting residents in the mentioned Facility on the polling day established in article 77(4)(e)(ii)(cc):

Provided further that the Commission shall not forward a voting document to any voter in respect of whom the Commission does not possess a photograph, and in respect of such voters the Commission shall follow the following procedure:

(i) within three days of the publication of the writ, the Commission shall publish in the Gazette a list of the said voters stating their name, surname, place of residence and a legally valid identification document number;

(ii) the names of such voters shall not be published in the list mentioned in sub-article (6);

(iii) the voting document of such voters shall only be issued if the voter satisfies the requirements of article 47 and shall be in accordance with the provisions of that article.

(2) The political parties shall be granted all reasonable facilities to watch the printing of all voting documents, to check the exactness thereof and generally to ensure that only voting documents of voters entitled to receive them are printed. The Commission shall also print on the voting document such reasonable security code as requested by the political parties and as the Commission may think fit, provided that the political parties

shall deliver such security code to the Commission immediately prior to the start of printing of the voting documents or not later than such time, not being prior to twenty-four hours prior to such printing, that the Commission may establish because of technical necessity; the delegates shall be given the facility to verify the exactness thereof even by means of a dummy run of the process and by means of an audit trail that establishes the validity of the system at any stage of the process and to be given a copy of the audit trail.

(3) The voting documents printed in accordance with the previous sub-article of this article shall, until such time as they are forwarded to voters, be kept in boxes sealed with the seal of the Commission. The party delegates shall have the right to affix their own seals to such boxes and to be present whenever such seals are broken. This article shall *mutatis mutandis* also apply with regard to the voting documents which remain undistributed, in terms of sub-article (4), when voting documents are issued in terms of sub-article (6), and to the voting documents which remain undistributed.

(4) The voting document shall be served on each voter by a police officer or by any other person appointed for the purpose by the Commission, and such document shall be deemed to have been served by delivery to the person to whom it is addressed, or to an adult person, who either resides at the same address or is in his employment, at the address of the voter as shown in the Electoral Register. The political parties shall have the right to each nominate one representative to accompany each police officer or other person effecting service as aforesaid.

(5) (*a*) Any voter who is registered as a voter in Gozo may, in the period of ten days after the publication of the Writ, inform in writing the Commission that such voter desires that his document is collected by himself from the office of the Commission in Malta in the period starting from when undelivered voting documents can be collected in terms of sub-article (9) up to the Thursday before polling day.

(*b*) In such event the Commission shall, unless such voting document had already been delivered prior to the receipt of such request, ensure that such voting document is withheld or retrieved, and made available for collection by the voter personally from the office of the Commission in Malta on the days appointed for collection in terms of this sub-article.

(*c*) Any voter who is registered as a voter in Malta may, in the period of ten days after the publication of the Writ, inform in writing the Commission that such voter desires that his document is collected by himself from the office of the Commission in Gozo in the period starting from when undelivered voting documents can be collected in terms of sub-article (9) up to the Thursday before polling day.

(*d*) In such event the Commission shall, unless such

voting document had already been delivered prior to the receipt of such request, ensure that such voting document is withheld or retrieved, and made available for collection by the voter personally from the office of the Commission in Gozo on the days appointed for collection in terms of this sub-article.

(*e*) The Commission shall keep a written record of all requests made by virtue of this sub-article and shall provide the parties with a list of such requests received, with such list being supplied first within two days after the publication of the Writ and updated every two days thereafter.

(*f*) Any voter, who is registered as a voter in Malta or Gozo, may request the Commission to retrieve such voting document from either Malta or Gozo, as the case may be. Such requests shall reach the Electoral Commission before 6.00 p.m. of the Thursday before polling day in terms of sub-article (9).

(6) When the Commissioners are unable to effect service of the document aforesaid they shall within six days from the time established in sub-article (1), publish in the Gazette a list containing the names, a legally valid identification document number and addresses of the persons on whom the voting document has not been served, and shall state the reason why service has not been effected.

(7) Any person on whom the voting document has not been served and whose name appears in the list published in accordance with the preceding sub-article, may up to the Thursday immediately preceding the day of the voting, appear personally before one of the Commissioners or other person appointed by the Commission to act on behalf of the Commissioners and claim delivery of the document.

(8) The Commissioner or other person appointed by the Commission to act on behalf of the Commissioners may examine on oath any person so appearing for the purpose of ascertaining his identity and of establishing his claim to receive the document:

Provided that the document aforesaid shall not be delivered to him unless he produces his legally valid identification document to the Commissioners.

(9) The Commission shall publish the place and times when voters may take delivery of their voting documents in terms of sub-article (7). The Commission may designate any place for the collection of undelivered voting documents provided that the Commission shall allow a sufficient period for the collection of documents from each locality and a further period of time for collection from its office.

(10) Notwithstanding anything contained in sub-articles (7), (8) and (9), where the Commission is aware that any person whose name appears on the list mentioned in sub-article (6) is registered in a retirement home, or is in a hospital, or suffers from a disability or is bed-ridden or is otherwise physically unable to appear at one

of the places designated by the Commission in terms of sub-article (9) to claim delivery of his voting document, it shall be the duty of the Commission to effect service of such document on the person concerned either through one of the Commissioners or by any person appointed for the purpose by the Commission in their stead. The Commissioner or person appointed as aforesaid may examine such person on oath for the purpose of establishing his identity and of establishing the claim to receive the document. The document aforesaid shall not be delivered to such person unless he produces his legally valid identification document to the Commissioner or person appointed as aforesaid, as the case may be.

(11) If for any reason whatsoever other than any of the reasons mentioned in article 47, the Commission decides that it is necessary to reprint any voting document or documents it shall immediately inform the political parties accordingly giving them all relative information thereto. Any documents so reprinted shall bear the mark 'REPRINT' which mark shall not in any way obscure any of the information contained in the document.

(12) The political parties shall be given the faculty to supervise the process mentioned in the preceding sub-articles.

Special Voting Document. *Amended by: XV. 1996.27; L.N. 426 of 2012.*

47. Where a person whose name appears in the last revised Electoral Register, but does not appear in the list published under article 46(6), has not received the voting document or, after the receipt of such document, has lost or destroyed such document such person may not later than 9.00 p.m. of the Wednesday immediately preceding the commencement of voting, appear before one of the Commissioners, and if -

(*a*) he proves his identity by the production of his legally valid identification document; and

(*b*) makes a declaration on oath before any such Commissioner that he has not received the voting document or that, after the receipt of such document, he has lost or destroyed it, and such further declarations on oath as the Commissioner may require,

he shall be given a voting document which shall bear the mark "SPECIAL" which mark shall not in any way obscure any of the information contained in the document. The word "SPECIAL" shall also be entered against the name of such voter in the list mentioned in article 64(1) and a list of all the persons to whom a voting document is issued under this sub-article shall be kept at the Electoral Office and shall be open to inspection by any candidate, election agent, party agent or party delegate at all reasonable times until the poll closes.

Number of Voting Documents. *Amended by: XV. 1996.28; L.N. 426 of 2012.*

48. (1) Not later than the Friday before the start of the poll, the Commissioners shall cause to be published in the Government Gazette a list indicating the number of voting documents printed, the number distributed in terms of article 46(1), the names and addresses of the persons who up to that time have claimed delivery thereof in terms of article 46(7), the number of voting documents issued in terms of article 47 and the name, address and a legally

valid identification document number of the persons to whom such documents have been delivered, the number and reasons for voting documents withheld and the names, addresses and a legally valid identification document number of the voters concerned and the number of voting documents remaining uncollected and the names, addresses and a legally valid identification document number of the voters concerned.

(2) Any political party shall have the right to nominate representatives to be present during the issuing of the voting documents in terms of article 46(7) and article 47 and for this purpose the said parties shall be provided by the Commission with all such information as is required by them and as they may deem necessary for the better performance of their duties.

Ballot Paper. *Amended by: XV. 1996.29; XVI. 2002.7; XXI. 2007.7; XIX.2018.6; XI.2019.7.*

49. (1) The Commission shall, not earlier than twenty-one days but not later than ten days before the poll, print according to the Eighth Schedule such number of ballot papers as may be necessary for the poll in such form and on such material as may be prescribed under this Act. This does not apply to the printing on the rear of ballot papers according to Schedule 8A. Not later than five days from the printing of the ballot papers, the Commission shall produce a Braille template for use as a guide on the ballot paper as well as a playback listening device by which a blind person may recognize the political parties and their candidates in the same manner as they are printed. Such materials shall be available for reasonable scrutiny by the representatives of the political parties contesting the poll to ascertain the transparency of the procedure, which scrutiny shall be exercised not later than five days before the first poll. Should no objection be raised the materials shall be deemed to have been approved by the Commission:

Provided that any objection raised by any political party representative shall be decided by the Commission within twenty four hours of it being raised and should the objection be accepted by the Commission any alteration or amendment to the material shall be made within twenty-four hours of the decision of the Commission and communicated to the political party representatives.

(2) The Commission shall ensure that ballot papers are made of such security paper and carry such markings as to ensure that they may not be duplicated and not later than two days prior to the commencement of the voting, the Commission shall cause to be published in the Government Gazette the number of ballot papers printed for each electoral division and the number to be distributed to each individual polling booth.

(3) The ballot-paper of each voter shall consist of a paper in the form set out in the Eighth Schedule of this Act, containing a list of candidates described by the name (including any nickname), address and profession or occupation as given in their respective nomination paper, and a photograph taken in black with a white background of each of them and as approved by the Electoral Commission. The photograph shall be submitted to the Commission by electronic means by the fifth day after the established time for objections

to a nomination. In the case where the candidate does not conform himself, the Commission shall be authorised to use the photograph which the candidate has on his identity card.

(4) Candidates shall be arranged by political party and, within each party group alphabetically in the order of their surname. If there are two or more candidates of one party with the same surname, they will be arranged in order of their other name or names.

(5) Every political party contesting the election shall provide the Commission with the names of the candidates contesting the election in its own interest. The list shall be conclusive evidence as to whether a particular candidate belongs to that political party and such list shall be delivered to the Commission by the last day of the day fixed for the receipt of nominations.

(6) If supplied by the party to which he belongs, there shall be printed on the ballot paper immediately preceding the name of each candidate belonging to that party any badge or device, approved by the Electoral Commission, indicating the political party, if any, to which the candidate belongs, or otherwise calculated to assist the identification of the candidate by the voter.

(7) Ballot-papers shall show different colours for parties contesting all electoral divisions and having not less than four candidates in each division. Such colours shall be assigned by the Electoral Commission:

Provided that any party may decline the colour so assigned to it, and in any such case the ballot paper shall not show any special colour for that party.

(8) Parties will be placed on the ballot paper in alphabetical order.

Distribution of ballot papers. *Amended by: XIX.2018.7*

50. (1) On the day or days as near as practicable to the day of voting, the Commission shall prepare in different packets the ballot papers and all other documents and materials to be consigned to the Assistant Commissioners on polling day.

(2) The Electoral Commission shall retain possession of all packets until the day of the poll when it shall deliver the same to the Assistant Commissioners prior to the start of voting.

(3) Representatives of the political parties shall be granted all reasonable facilities to oversee the printing and checking of all ballot papers, the packing thereof and their distribution to the Assistant Commissioners, and to affix their seals to all packets prepared by the Electoral Commission for delivery to the Assistant Commissioners.

PART IX

Nomination of Candidates

Nomination of Candidates. *Amended by: XV. 1996.30; XVI. 2002.8; XI.2019.8.*

51. (1)A candidate for election shall be nominated in writing or by electronic means:

(*a*) where a candidate is nominated in writing, the nomination paper, which shall be in the form set out in the Ninth Schedule to this Act, shall be signed by the candidate himself, (or, in the event of his absence from these Islands, by a duly appointed representative), and by, at least, four voters registered in the electoral division for which the candidate is nominated. The nomination paper shall be delivered to one of the Commissioners at the Electoral Office by the candidate himself or if he is prevented by illness or absence from these Islands by` his lawful representative, authorised in writing, within the period specified in the notice referred to in article 45;

(*b*) where a candidate is nominated by electronic means, the nomination form, which shall be in the form set out in the Ninth Schedule to this Act, shall be filled in through a website prepared for that purpose by the Commission which nomination shall be electronically signed by the candidate. The nomination will also include an attestation to the nomination by at least four voters registered in the electoral division for which the candidate is nominated, which attestation shall be provided through the said website in the manner and form established by the Commission. The nomination is to be submitted within the period specified in the notice referred to in article 45.

(2) Immediately after a nomination has been delivered to the Commission the name of the candidate shall be posted at the entrance of the Electoral Office with an indication of the division for which the candidate was nominated. Delivery of the nomination paper to the Commission and acceptance of delivery by the Commission shall not of itself indicate the validity of the nomination and the Commission shall not make any statement thereon other than inform the candidate accordingly and to take delivery of the form and deposit, if any, and give due receipt.

(3) Objections may be made to a nomination on the ground that the candidate is not registered as a voter in the last published Electoral Register or that the description of the candidate is insufficient to identify the candidate, that the nomination does not comply with, or was not delivered in accordance with the provisions of this Act, that the deposit prescribed by article 52 has not been paid or that the candidate already stands nominated for two electoral divisions:

Provided that no such objection may be made after the expiration of the time fixed for the making of such objection in the

notice, referred to in article 45.

(4) Every objection shall be in writing and signed by the objector and shall specify the ground of the objection. The Commission itself shall raise an objection if it believes that any of the grounds mentioned in sub-article (3) exist.

(5) For the purpose of this article, any voter may ask the Commissioners to be allowed to see and examine any nomination paper accepted by them.

(6) On receipt of any objection in terms of sub-articles (3) and (4), the Commission shall fix a date for the hearing of the objection, shall immediately inform in writing the candidate objected to, giving him a copy of the objection filed against him, and shall inform both the objector as well as the candidate of the day appointed for the hearing of the objection. Service shall be effected by any means which the Commission deems proper to ensure receipt by the parties concerned of the said notices in the least possible time.

(7) All objections shall be determined by the Commission not later than two days after the expiration of the time allowed for the making of objections by this Act and both the objector as well as the candidate shall have the right to appear before the Commission accompanied by any other person they may think fit to assist them in their representations to the Commission.

(8) The Commission shall at least two days before delivering its decision publicly announce the time and date when its decision shall be delivered. The decision shall be delivered in writing and shall contain the grounds upon which it is based. The Commission shall cause such decision to be posted up in a public place at its office where any person interested may view it:

(9) Where the decision of the Commission does not uphold the objection, it shall be final. Where the decision upholds the objection the candidate may contest the decision by filing an application in contestation with the Commission before the Court of Appeal within twenty four hours of the delivery of the decision by the Commission. The Court of Appeal shall hear such applications with urgency and shall determine the same before the time when in terms of article 49 the Commission is to start printing the ballot papers.

Deposit by candidates at elections. *Amended by: L.N. 425 of 2007.*

52. (1) A candidate at any election shall deposit, or cause to be deposited on his behalf, with the Commission, before his nomination can be accepted, the sum of ninety euro (90) in respect of each nomination, and if he fails to do so, the nomination in respect of which no deposit has been made shall not be accepted by the Commissioners.

(2) If after the deposit is made the candidature is withdrawn in pursuance of the provisions of this Act, the deposit shall be returned to the person by whom it was made; and if the candidate dies after the deposit is made and before the voting has commenced, the deposit, if made by him, shall be returned to his heirs and if not made by him, shall be returned to the person by

whom it was made.

(3) If a candidate who has made the required deposit is not elected, and the number of votes polled by him does not exceed one-tenth of the number of votes polled divided by the number of members to be elected for that division, the amount deposited shall be forfeited and paid by the Commissioners into the Consolidated Fund but in any other case the amount shall be returned to the candidate, where the candidate is elected, as soon as he has taken the oath as a member, and where the candidate is not elected, as soon as practicable after the result of the election is declared.

(4) Where a candidate is nominated at an election in two divisions he shall not recover his deposit more than once unless he is elected in both divisions, and if such candidate fails to obtain, in either division, the minimum number of votes required in accordance with sub-article (3) he shall forfeit both deposits.

(5) For the purpose of this article the number of votes polled by a candidate shall be the highest number of votes credited to him at any time during the counting of the votes.

Report by Commissioners if no candidates are nominated. *Amended by: XV. 1996.31.*

53. If at the expiration of the time fixed for the nominations of candidates, no candidate shall have been nominated for an electoral division, the Commissioners shall cause a report to that effect to be published in the Gazette on the following day, and in such case the President may issue a new Writ for an election for that division.

Uncontested and contested elections.

54. (1) If at the expiration of the time fixed for the receipt of a nomination, the number of candidates nominated for an electoral division is equal to or less than the number of candidates that the voters in such divisions are entitled to return, the Commissioners shall return to the President the names of the candidates nominated as members elected to the House to represent that division and such return shall be published in the Gazette.

(2) If the number of candidates nominated for an electoral division be less than that which the voters in that division are entitled to return, the President on the return made to him in terms of sub-article (1), shall issue a new Writ for the election of members to fill the remaining vacant seats in that electoral division, and if thereupon no candidates are nominated, or if the number of candidates nominated is less than the number of vacant seats, the seats thereafter remaining vacant may be filled by the co-option of a member or members by the House and the President shall not issue a new Writ in respect thereof.

(3) If more than such number of candidates as aforesaid be nominated for an electoral division, the Commissioners shall cause a notice to be published in the Gazette over their signature stating the names of the candidates and the division for which they have been nominated. No person whose name has not been published in the said notice may be elected to be a Member of the House.

Withdrawal of candidature. *Amended by: XV. 1996.32; XIX.2018.9; XI.2019.9.*

55. (1) A candidate may, until fourteen days prior to polling day, withdraw his candidature by giving notice to the Commission to that effect. Such notice shall be signed by the candidate or if he is absent from these Islands, by his duly appointed representative.

(2) In the case when a candidate dies after the ballot papers have been printed, the candidacy shall be deemed to remain valid for all intents and purposes of the law. Provided that a candidate as referred to in this sub-article may still be declared to be elected but in such case the Commission shall, as soon as possible, give notice of an election to fill the said vacancy.

Threatening the secrecy of the vote. *Added by: XI.2019.10.*

55A. Any person who, having been given access to the images of the Electronic Ballots together with their interpretation and/or the data set containing the preferences of voters as shown in the Electronic Ballots, uses the said data for any purpose other than that provided in regulation 14(1) of the Thirteenth-A Schedule or otherwise retains or fails to remove the said data following the conclusion of the verification process shall be guilty of the offence of threatening the secrecy of the vote.

PART X

Assistant Commissioners

Appointment of Assistant Commissioners. *Amended by: XIX.2018.10.*

56. (1) Subject to the provisions of the following articles of this Act, the Commission shall appoint as many Assistant Electoral Commissioners hereinafter referred to as "Assistant Commissioners" as may be necessary, to superintend the election in the manner herein prescribed. No Assistant Commissioner shall be appointed to superintend the poll in the electoral division in which he resides or where he habitually exercises his profession or calling.

(2) The Commission may appoint one official referred to as "Polling Place Officer" for each polling place containing more than two polling booths. This officer or officers who will have the exclusive role of coordinator between the Electoral Commission and the Chairpersons, nominated in accordance with article 57(6), to follow instructions of the Commission and they shall in no way take any decisions regarding any situations which may arise, which decisions shall remain the exclusive responsibility of the Electoral Commission.

(3) The Assistant Commissioners shall take the oath of office as set out in the Tenth Schedule to this Act, before one of the Commissioners and shall follow the instructions which they may receive from the Electoral Commission for the discharge of their duties.

Nomination of Assistant Commissioners. *Amended by: XV. 1996.33; XVI. 2002.9; XIX.2018.11.*

57. (1) Every political party shall, within twelve days of publication of the Writ, be entitled to nominate a number of persons, equal to one and one-third the number of polling booths that there are in the electoral divisions being contested by it, to act as Assistant Commissioners, and to the extent that such persons have the necessary ability to perform the functions of Assistant Commissioner and are not disqualified from so acting by the

provisions of this Act, the Commission shall appoint Assistant Commissioners from amongst such persons.

(2) In submitting such lists the political parties may distinguish between those persons whom they wish to see appointed to a polling place or a particular polling booth and those persons whom they wish to be held in reserve and shall moreover have the right to indicate who of the persons nominated by them should be assigned to polling places in retirement homes and hospitals. The political parties may, if they so prefer, submit such lists in electro-magnetic format. Notwithstanding the nomination by a political party each person so nominated shall still file any application required by the Commission from any other person wishing to serve as Assistant Commissioner; provided that the actual filing of such application may be made by the political party on behalf of such person.

(3) For the purpose of the time established in sub-article (1), the Commission shall not later than two days after the publication of the Writ inform the parties of the number of Assistant Commissioners that each party will be required to nominate.

(4) The Commission shall moreover itself nominate as Assistant Commissioners such number of persons as is necessary in order that in each of the polling booths there be in attendance at all times at least one person nominated by the Commission to act as Assistant Commissioner.

(5) In no case shall there be less than three Assistant Commissioners nominated to superintend the poll in each polling booth and should all or any of the political parties fail to nominate all or any Assistant Commissioners in terms of and within the time established in sub-article (1), the Commission shall itself nominate other Assistant Commissioners in order to ensure that, at least, three Assistant Commissioners are in attendance in each polling booth.

(6) The Assistant Commissioner nominated by the Commission shall act as Chairperson at the polling booth to which each group of Assistant Commissioners are assigned and during voting only the Chairperson shall, when required, communicate with the voters.

(7) The Commission shall, at least five days prior to the start of the poll, forward to each Assistant Commissioner or to the party on their behalf a tag to be worn by them in the polling place indicating their office as Assistant Commissioners and their names.

Disqualifications and publication of names of Assistant Commissioners. *Amended by: XV. 1996.34; XVI. 2002.10; L.N. 426 of 2012.*

58. (1) A person shall not hold the office of Assistant Commissioner if he is a candidate for election to the House, or is a relative by consanguinity or affinity up to the second degree to any candidate for election, or is not registered as a voter in the last published Electoral Register or is manifestly in the opinion of the Commission, after consulting the party delegates, unsuitable or not sufficiently qualified to perform the functions of Assistant Commissioner.

(2) Within two days following the day mentioned in article 57(1) the Commission shall deliver to the political parties a list of all persons nominated to act as Assistant Commissioners indicating

their names, a legally valid identification document number, addresses, occupation and the political party nominating each person as well as the polling booth at which each will be in attendance.

Objections to Assistant Commissioners. *Amended by: XV. 1996.35; XVI. 2002.11; L.N. 426 of 2012.*

59. (1) The political parties, not later than four days after the day mentioned in article 58(2), shall have the right to object in writing to the Commission with respect to the appointment of any person as Assistant Commissioner on any of the grounds mentioned in article 58(1).

(2) Where an objection is received by the Commission in terms of the preceding sub-article of this article, it shall, not later than the next following day, call a meeting of the party delegates to discuss such objections. Each party delegate may nominate a representative to attend at such meeting in his stead.

(3) Any objection made in accordance with the preceding sub-articles shall be determined by the Commission. The determination by the Commission shall be final and binding on all concerned. Where after hearing such objections the Commission determines that a person nominated by a political party to be appointed as an Assistant Commissioner shall not be so appointed, the political party which had nominated that person shall have the right to nominate another person in his stead.

(4) The fresh nominations mentioned in the preceding sub-article of this article shall be made immediately after the determination of all the objections. The times mentioned in sub-articles (1) and (2) shall apply to objections to persons nominated as Assistant Commissioners in terms of sub-article (3), and if any objection is received and upheld by the Commission, the Commission itself shall appoint another person to be Assistant Commissioner in his stead and such appointment shall be final and no objection may be made in respect thereof.

(5) Upon final determination of all objections the Commission shall assign the Assistant Commissioners to the various polling booths; such distribution shall be made in such manner as to ensure that in each polling booth there is, at least, one Assistant Commissioner nominated by the Commission and one Assistant Commissioner nominated by each party contesting the election in that division:

Provided that where a political party has not nominated a sufficient number of persons to be appointed Assistant Commissioners, the Commission shall only be required to assign, in respect of that political party, such Assistant Commissioners as have been nominated by it and appointed Assistant Commissioners.

(6) The Commission shall, within two days of the final determination referred to in the preceding sub-article, cause a list to be published in the Gazette showing the name, address, a legally valid identification document number and occupation of each Assistant Commissioner appointed, the polling booths to which each has been assigned, and indicating the Assistant Commissioners who are assigned but held in reserve.

(7) After the final distribution of all Assistant Commissioners and up to the end of voting, the Commission alone shall have the right to substitute Assistant Commissioners and then only for grave and sufficient reasons and in such manner as to ensure that where the Assistant Commissioner substituted is one nominated by a political party, his substitute shall be a person nominated by the same party, provided a sufficient number of Assistant Commissioners have been nominated by that party.

PART XI

Voting

Appointment of Candidate's Agent. *Amended by: XV. 1996.36.*

60. (1) On or before the day of nomination at an election a person shall be named in writing by or on behalf of each candidate as his agent for such election and such person is in this Act referred to as the candidate's agent.

(2) A candidate may name himself as candidate's agent, and thereupon shall, so far as circumstances admit, be subject to the provisions of this Act, both as a candidate and as an candidate's agent, and any reference in this Act to an candidate's agent shall be construed to refer to the candidate acting in his capacity of candidate's agent.

(3) One candidate's agent only shall be appointed for each candidate, but the appointment, whether the candidate's agent appointed be the candidate himself or not, may be revoked, and in the event of such revocation or of the death of the candidate's agent, whether such event is before, during, or after the election, then forthwith another candidate's agent shall be appointed, and his name and address declared in writing to the Commissioners, who shall forthwith give public notice of the same.

Appointment of party agents. *Amended by: XV. 1996.37; XVI. 2002.12; L.N. 426 of 2012.*

61. (1) Every political party shall have the right to nominate as its agents such number of persons as is equal to the number of ballot boxes and such persons are in this Act referred to as party agents. A political party may designate as a party agent, a person already nominated by it as Assistant Commissioner in which case such person may act both as Assistant Commissioner and party agent.

(2) The party agents so nominated shall have the right to be present in the polling booths prior to the start and at the close of the poll for the purposes provided for in this Act.

(3) Political parties exercising the right granted to them by sub-article (1) shall forward a list to the Commission containing the names and the legally valid identification document numbers of the persons nominated by them as its agents not later than the day appointed for the nomination of Assistant Commissioners in terms of article 57.

(4) Any political party which has exercised its right to nominate agents, may up to the Thursday before the poll, substitute not more than ten per centum thereof and the procedures for nomination, objection and decision regarding Assistant

Commissioners nominated by political parties shall *mutatis mutandis* apply to substitute agents.

District agents. *Added by: XV. 1996.38. Amended by: XVI. 2002.13; L.N. 426 of 2012.*

61A. (1) Each political party may nominate a number of persons equal to the number of electoral divisions that are being contested by it to act as district co-ordinators for it and such persons are in this Act referred to as district agents.

(2) The district agents shall represent the party nominating them with the Commission in the district to which they are appointed and for this purpose shall have access to the Commissioners at all times and shall have the right, notwithstanding any other provision of this Act to the contrary, to accompany any Commissioner into any polling place or polling booth for the purpose of determining any matter that may arise during voting:

Provided that a district agent may not so accompany a Commissioner unless a district agent of another party is also present.

(3) Unless exceptionally authorised to do so by any Commissioner, in no case may a district agent interrogate any person lawfully entrusted by the Commission to carry out any duty during the elections or to seek information from them nor may they without such authorisation interrogate any voter.

(4) Political parties exercising the right granted to them by sub-article (1) shall forward a list to the Commission containing the names and the legally valid identification document numbers of the persons nominated by them as district agents not later than the day appointed for the nomination of Assistant Commissioners in terms of article 57.

Persons guilty of corrupt practices not to be appointed agents. *Amended by: XV. 1996.39; XVI. 2002.14.*

62. No person shall be appointed district agent, transport agent or party agent who is not registered as a voter in the last published Electoral Register or who has within seven years previous to such appointment been found guilty of any corrupt practice under this Act or is determined by the Commission to be manifestly unsuitable to act as such.

Identification of agents. *Amended by: XV. 1996.40; XVI. 2002.15; L.N. 426 of 2012.*

63. (1) The Commissioners shall not later than seven days before the start of the voting forward to such agent a tamper proof identity document bearing the photograph of the agent franked with the seal of the Commission and indicating the name, address and a legally valid identification document number of the agent and by whom he has been nominated. The identity documents as issued shall be progressively numbered, shall be of a different colour so as to easily distinguish election, transport and party agents and shall be worn in a conspicuous manner by the agent concerned in the exercise of his functions.

(2) The Commission shall forward to each political party which asks for them in writing the lists of all agents submitted by all the other political parties as well as all candidates' agents submitted by the candidates and by whom they have been nominated within two days of the receipt thereof and the political parties may make

objections thereto within four days thereof.

Polling places and polling days. *Amended by: XV. 1996.41; XVI. 2002.16; L.N. 426 of 2012.*

64.(1)(*a*) In each polling booth a list of voters entitled to vote in that polling booth together with copies of the photograph of each voter shall be kept by the Assistant Commissioners. Every page of such list and every correction or cancellation thereon shall be signed by a Commissioner and a party delegate of each political party or by such other person appointed by each political party in writing for the purpose.

(*b*) Copies of such lists without photographs shall be forwarded by the Commission to all political parties contesting the election at least fifteen days prior to the day fixed for voting and the Commission shall keep the political parties informed of all changes effected to such lists. The lists shall identify the polling booth where each voter entitled to vote shall exercise his right to vote, shall list the voters who are to vote in each polling booth in alphabetical order according to the surnames of the voters, assigning to each voter a distinct and consecutive number and indicating the name, surname, address and a legally valid identification document number of each voter as well as the registered number of the respective voting document of each voter.

(*c*) The Commission shall also forward to political parties receiving such lists any alteration, addition or deletion to or from such lists on a daily basis up to the day immediately preceding the poll and such political parties may check the correctness of the information held or received by them with the Commission at any time.

(*d*) The name of every voter who delivers a valid voting document and to whom a ballot paper is delivered by the Assistant Commissioners shall be marked on such list kept for the purpose by the Assistant Commissioners and in such manner as is directed by the Commission.

(*e*) the list, given to Assistant Commissioner, of persons entitled to vote, shall be printed on security paper.

(2) Voting shall be held on a Saturday. Voting shall start at 7.00 a.m. and shall close at 10.00 p.m.:

Provided that every voter, who at the close of time of voting is present in a polling place for the purpose of voting shall be entitled to receive a ballot paper and to vote:

Provided further that, where the Commission are satisfied that the time allowed for voting has been, or will be, for any reason beyond their control, reduced at all or in any one or more of the places, they may, whether before or after the poll has commenced, extend the time fixed for the poll at such polling place or places so as to make good for the time lost, as aforesaid.

(3) The Commission shall, as far as possible, provide facilities so that handicapped persons, including persons in wheelchairs, may vote in comfort.

Prohibition of public meetings and demonstrations.

65. No public meeting or public demonstration shall be held on the day immediately preceding the commencement of voting and on the day fixed for voting.

Maintenance of order within 50 metres of each polling place. *Amended by: XIV. 2012.5.*

66. During the time fixed for voting at any polling place, no person, other than a person waiting to vote, shall loiter within a distance of fifty metres from that polling place nor shall any person within the said distance of fifty metres make political propaganda in any manner. Any political party club within the distance of fifty metres from the centre of the width of the door used as an entrance to the polling place shall be kept closed on polling day:

Provided that the Electoral Commission and the Commissioner of Police may order the closure of any club, shop or other public establishment within such distance of fifty metres if in their opinion, such closure is necessary to maintain public order or prevent undue influence on voters during voting.

Maintenance of order outside 50 metres from polling place.

67. No person shall congregate during voting, in any street, square or other place, leading from the place of residence of any voter to any polling place, in such numbers or otherwise in such manner as to be likely to intimidate any voter, or to obstruct his approach to or from a polling place, or to lead to a breach of the peace.

Provisions with regard to polling booths and voting compartments. *Substituted by: XV. 1996.42. Amended by: XVI. 2002.17.*

68. (1) The Commission shall ensure that, as far as possible, there is in each polling booth an adequate distance between the place where the Assistant Commissioners sit and the voting compartments within which voters are to mark their ballot papers. The voting compartments shall be constructed in such a manner as to exclude the possibility that any person may see how the voter is marking his ballot paper.

(2) The Commission shall request the political parties to furnish it with a sufficient number of photographs, each not exceeding seventeen centimetres by twenty three centimetres, of its candidates in order that the Commission may affix one photograph of each candidate in each polling booth of the electoral division in which the candidate is contesting. Each photograph shall have the name of the candidate and the name and badge of the party he is representing, if any, and photographs shall be displayed in the order that the candidates' names appear on the ballot paper. The Commission shall give such directions as it may deem appropriate regarding the size and format of such photographs.

(3) The Commission shall ensure that in each voting compartment a copy of the Instructions to Voters set out in Schedule 8B to this Act are affixed in a place clearly visible to the voter and that writing instruments are available for use by voters.

(4) The Commission shall direct the Assistant Commissioners to ensure that they place the ballot boxes as near as possible to where they will be sitting and in such manner as they may clearly

see the voter introducing the ballot paper into it and to ensure that the voter folds the ballot paper in such manner as to leave the official mark visible.

(5) The Commission shall prepare a room or rooms in each polling place wherein to store until the polling day the ballot boxes, the list of persons entitled to vote, ballot papers and other relevant documents and materials to be used in that polling place on polling day. The room shall have adequate lighting facilities and shall allow the visual checking of the inside through a small opening in the door.

(6) The political parties shall be afforded all facilities to inspect all polling places well in advance of polling day and to make suggestions to the Commission on the use thereof.

(7) The ballot boxes shall be of such size and shall be manufactured of such material as the Commission shall determine provided that the Commission shall ensure that it is suitable to be sealed during voting and may not be tampered with without detection. The top of the ballot box is to be made of translucent material, in as far as this is technically possible.

Ballot boxes and documents for polling booths. *Added by: XV. 1996.42.*

68A. (1) On any day as near as practicable to the day of the poll but not earlier than three days therefrom, the Commission shall deliver to each polling place the ballot boxes, the list of persons entitled to vote thereat, ballot papers and other relevant documents and materials to be used in that polling place on polling day and shall seal such documents and materials in the room designated for the purpose in accordance with the previous article of this Act. The room shall be lit at all times.

(2) The political parties shall have the right to oversee such transportation, to affix their seals to the room and all the openings thereto and to visually check the room through the door opening at all times.

Transfer of ballot boxes to polling booths. *Substituted by: XV. 1996.42.*

69. (1) On the day fixed for polling and thirty minutes prior to the start thereof, the room in the polling place where the ballot boxes and other documents and materials have been stored by the Commission shall be opened and the boxes, documents and materials transferred to each polling booth by the relative Assistant Commissioners.

(2) Prior to the start of polling the Assistant Commissioners, in the presence of any candidates or agents as may be present shall open the ballot box consigned to them and ensure that it is empty prior to sealing it and opening the poll. If no candidate or agent is present the Assistant Commissioners shall ask any person present in the polling place to enter the polling booth and witness the sealing of the ballot boxes.

(3) After ascertaining that the ballot box is empty, if necessary by removing any extraneous material therein, the Chairperson of the Assistant Commissioners shall proceed to seal the ballot box in the manner and with the seal provided to him by the Commission ensuring that he does not seal the opening through which the ballot

papers are to be inserted by voters.

(4) One agent or candidate for each of the political parties present at such sealing may affix the party seal to the ballot box.

(5) After the ballot box has been sealed the Chairperson of the Assistant Commissioners shall so attest on the form provided by the Commission and shall ask all the persons present at the sealing to sign as witnesses whereupon all shall leave the room except for the Assistant Commissioners and the poll shall start.

(6) In the event of any disagreement which cannot be resolved between those present the Chairperson of the Assistant Commissioners shall ask a Commissioner to give the necessary direction.

Voting. *Amended by: XV. 1996.43.*

70. (1) Any voter wishing to vote shall attend at the polling booth, specified in the voting document received by him and shall deliver such document to an Assistant Commissioner at such polling booth during the hours appointed for voting.

(2) No person shall be allowed to vote unless he produces and delivers the voting document to the Assistant Commissioners.

(3) No inquiry shall be permitted at the time of voting as to the right of any person to vote, so long as the name of such person is included in the list referred to in article 64(1), but the Assistant Commissioners may, before the delivery of the ballot paper to a voter, put to him such questions as they may deem proper to satisfy themselves of the identity of such voter. All communications between the Assistant Commissioners and the voter whilst the latter is in the polling booth shall be made through the Chairperson of the Assistant Commissioners.

(4) The Assistant Commissioners, upon the production and delivery to them of the voting document and having satisfied themselves of the identity of the voter, shall strike out the name of the voter from the list aforesaid and shall deliver to him, after marking it with official marks, a ballot paper. Only the official mark of the Commission shall be required for the validity of the ballot paper.

(5) The Assistant Commissioners may at their discretion administer an oath to any voter in the form set out in the Eleventh Schedule to this Act.

(6) Any person refusing to answer any questions put to him under sub-article (3) or to take the oath referred to in sub-article (5) shall not be permitted to vote.

(7) The Assistant Commissioners shall not refuse a ballot paper to any person whose name is included in the list referred to in article 64(1) and otherwise satisfies the requirements of this article, unless the person so claiming to vote, upon being questioned under this article, appears to the Assistant Commissioners not to be the person whose name is on the aforesaid list or to have previously voted at the same election.

(8) The Assistant Commissioners shall keep a written record of

the taking of any oath administered to any person under this article, and of their refusal to allow any person to vote.

(9) Saving the provisions of article 77 no voter shall be allowed to vote except at the polling booth specified in the voting document produced by him for purposes of voting.

(10) A voter, who has inadvertently spoilt his ballot-paper may, on delivering the spoilt ballot paper to the Assistant Commissioner, and proving the fact of inadvertence to the satisfaction of the Assistant Commissioner, obtain another ballot paper in its place and the spoilt ballot paper shall be immediately cancelled.

Method of Voting. *Amended by: XV. 1996.44.*

71. (1) Each voter shall have one transferable vote.

(2) A voter, in recording his vote:

(*a*) must place on his ballot paper the figure 1 against the name of the candidate for whom he votes; and

(*b*) may in addition indicate the order of his choice or preference for as many other candidates as he pleases by placing against their respective names the figure 2, 3, 4, 5 and 6 and so on in consecutive numerical order.

(3) A ballot paper shall be invalid in which:

(*a*) the figure 1 standing alone indicating a first preference for one candidate is not placed; or

(*b*) the figure 1 standing alone indicating a first preference is set against the name of more than one candidate; or

(*c*) the figure 1 standing alone indicating a first preference and some other number is set against the name of the same candidate; or

(*d*) it cannot be determined with certainty for which candidate the first preference of the voter is expressed; or

(*e*) any writing or mark is made by which the voter can be identified; or

(*f*) the official mark of the Commission is not made.

(4) A voter shall record his vote secretly in the voting compartment. After marking the ballot paper the voter shall fold the ballot paper so as to show the official mark while concealing his vote, show the official mark to the Chairperson of the Assistant Commissioners, so that the Assistant Commissioners may verify the same, and shall then put the ballot paper in the ballot box in the presence of the Assistant Commissioners.

Illiterate or incapacitated voters. *Amended by: XV. 1996.45; XXI. 2007.7.*

72. (1) Any voter who declares to, and shows to the satisfaction of, the Assistant Commissioners that he is unable by reason of blindness, other physical cause or illiteracy to mark his ballot paper, may request an Assistant Commissioner to mark the paper on his behalf indicating for which candidate or candidates he wishes to vote and the order in which he wishes to record his vote:

Provided that the voter may not ask for any particular

Assistant Commissioner to mark the ballot paper on his behalf:

Provided further that a person who is unable to vote independently by reason of blindness may either request an Assistant Commissioner to mark the ballot paper on his behalf indicating for which candidate or candidates he wishes to vote and the order in which he wishes to record his vote, or request the provision of a Braille template as well as a playback listening device as approved under the provisions of sub-article (1) of article 49.

(2) The Assistant Commissioners are bound to secrecy with regard to the voting of persons whom they have assisted to vote.

(3) There shall be not less than two Assistant Commissioners present when the vote is being recorded under the provisions of sub-article (1), but no other person shall be allowed in the room.

(4) When an Assistant Commissioner is authorised to assist a voter to record his vote, the Assistant Commissioner shall require such voter to confirm his declaration on oath using the format shown in the Fifteenth Schedule annexed to this Act, and on satisfying himself of the correctness of such declaration he shall record the vote of such voter on the ballot paper, in accordance with the indication made by such voter and following the procedure set down hereunder:

(*a*) The Assistant Commissioner shall ask the voter: "Which of the candidates do you most desire to see elected?" and shall place the figure 1 on the ballot paper opposite the name of the candidate indicated by the voter.

(*b*) The Assistant Commissioner shall then ask the voter: "For which of the candidates do you desire to express a second choice?" and shall place the figure 2 on the ballot paper opposite the name of the candidate indicated by the voter.

(*c*) The Assistant Commissioner shall repeat the operation in reference to a third or any subsequent preference until the voter shall declare that he does not desire to express any further choice.

(*d*) In order to assist such voter in indicating his preferences, the Assistant Commissioners may refer the voter to the photographs of the candidates displayed in the polling booth in accordance with article 68.

(*e*) At the commencement of these operations and at any subsequent stage the Assistant Commissioner shall, if desired by the voter, read out in the order in which they appear on the ballot paper, the names of all candidates for whom a choice has not already been expressed by the voter.

(*f*) If any such voter, however, shall request the Assistant Commissioner to read out the names of the candidates of one particular political party only, the Assistant

Commissioner shall do so by reading in alphabetical order the names of the candidates who have supplied an indication of their adhesion to that political party and omitting the names of the other candidates.

Assistant Commissioners not to see vote recorded.

73. While a voter is recording his vote, the Assistant Commissioners shall keep at sufficient distance so as not to be able to see the vote recorded.

Ballot paper not to be removed from polling place.

74. The Assistant Commissioners shall in no case permit any person to take his ballot paper out of the room or out of their sight until it is inserted into the ballot box.

Assistant Commissioners not to make suggestions as to manner of voting.

75. Saving the provision of article 72, no Assistant Commissioner or any other person shall record the vote for any voter, or shall, at any polling place make any suggestion to him directly or indirectly regarding the candidate or candidates for whom he should vote or regarding his choice of preference.

No unauthorised person to enter polling place.

76. Except where otherwise stated in this Act the Assistant Commissioners shall not allow any person not being a police officer on duty, or a person lawfully entrusted with some duty in connection with the elections, or a person entitled to vote at that polling place, to enter such polling place; nor shall they permit any voter or other person to remain in the polling place longer than necessary.

Mixed polling places. *Substituted by: XV. 1996.46. Amended by: VII. 2009.2; XIV. 2012.6; L.N. 426 of 2012; VII. 2014.8; XIX.2018.12.*

77. (1) Notwithstanding anything to the contrary contained in this Act, the Commission shall provide mixed polling places for the purposes and in the manner provided for by this article.

(2) A mixed polling place is a polling place which contains one or more mixed ballot boxes for different divisions, as the case may be, and where the voters mentioned in sub-article (4)(a) and (b) shall vote independently of the division where they may be registered in the last published Electoral Register by casting their vote in the mixed ballot box appertaining to the divisions where they are registered.

(3) The Commission shall only provide mixed polling places in the following localities:

(*a*) in a place in Malta for registered voters in Malta and in a place in Gozo for registered voters in Gozo, that the Commission shall establish by notice in the Gazette according to article 45;

(*b*) at Saint Vincent de Paule;

(*c*) at Mater Dei Hospital Msida, Karen Grech Hospital Gwardamanġa, Mount Carmel Hospital Attard, and Gozo General Hospital;

(*d*) at such places designated for the casting of votes by voters who are resident at retirement homes as defined in article 80 on the Saturday prior to polling day, as the Commission may, by notice in the Gazette published within ten days from the publication of the writ for the election, establish:

Provided that the Commission shall, wherever

possible, designate as such mixed polling places the retirement homes themselves:

Provided further that for the purposes of this paragraph every person who is resident in a retirement home fourteen days before polling day shall be deemed to be a resident at the retirement home:

Provided further that article 83 shall *mutatis mutandis* apply to mixed polling places designated in terms of this paragraph;

(*e*) all the voters residing at the Corradino Correctional Facility shall vote in the place indicated in this sub-article and it shall be the duty of the person responsible of the mentioned Facility to submit to the Commission a list with the name, surname, identity card number and the date of birth of such voters within three days of the publication of the Writ for the election, which list must continue to be updated everyday up to fourteen days prior to the polling day. Every person residing at the Corradino Correctional Facility listed in the list shall be deemed to be a person residing at the same Facility.

Voting before polling day.

(3A) (*a*) Notwithstanding the other provisions of this Act or of any other law, every registered voter who is entitled to vote at a general election, at an election of Members of the European Parliament or at a Local Council election and who is entitled to receive the voting document and who declares on oath before the Electoral Commission or such other persons appointed by the Commission to act instead of the Commissioners that he will not be in Malta or that he will be hospitalised in a hospital on the day of the election, shall be entitled to cast his vote at the place indicated in sub-article (3)(*a*) between 7.00am and 10.00pm seven days before polling day.

(*b*) The sworn declaration referred to in paragraph (*a*):

(i) may be made, as of right, until noon of the Friday immediately preceeding the day established for voting before polling day in accordance with paragraph (*a*), and

(ii) shall be made in such form and in accordance with such procedure as the Electoral Commission may require.

(*c*) All the provisions of this Act applicable to voting by Assistant Commissioners shall, without prejudice to this sub-article, be applied *mutatis mutandis* to registered voters entitled to vote before polling day in accordance with paragraph (*a*):

Provided that any person who takes the oath as aforesaid and who did not receive his voting document, shall be given, by the Commission or persons nominated by the Commission to act on behalf of the Commissioners, such document when such person takes such oath; or in default, such document may be collected by

such person himself from the place designated by the Commission for the purpose of such person voting seven days prior to polling day; provided that such person produces his legally valid identification document to the representative of the Commission who is delegated by the Commission for the purpose of delivering such document:

Provided further that a person who, after having made a sworn declaration in accordance with paragraph (*a*) does not vote on the day established for voting before polling day, shall have the right to vote on polling day.

(3B) Notwithstanding the provisions of this Act or of any other law, the Chairman and Members of the Electoral Commission shall, in a general election, in an election of Members of the European Parliament and in a Local Council election, vote at the place indicated in sub-article (3)(*a*) between 7.00 am and 10.00 pm seven days before polling day.

(4) (*a*) Notwithstanding any other provision of this Act, every person who shall have been selected to serve as an Assistant Electoral Commissioner, including those selected to serve as reserves, shall cast their vote at the place in Malta, if he is a registered voter in Malta, and at the place in Gozo if he is a registered voter in Gozo, as indicated in sub-article (3)(a), and shall do so on Tuesday prior to the polling day between 7.00 a.m. and 10.00 p.m.:

Provided that the Assistant Commissioners and the reserves chosen to serve in Malta and Gozo on the day allocated for the Assistant Commissioners to vote, shall cast their vote on the first polling day at the place established in article 77(3)(a) between 7.00 a.m. and 10.00 p.m.

(*b*) For all effects and purposes of this article, the persons who shall vote in accordance with paragraph (*a*) shall be all those whose name is published in the list referred to in article 59(6), even if any one of such persons shall have resigned his appointment after the publication of that list.

(*c*) All voters who fourteen days before polling day shall be resident, but not registered as voters, at Saint Vincent de Paule shall vote at the place indicated in sub-article (3)(*b*), and it shall be the duty of the sub-committee set up under article 81, to determine who these voters shall be.

(*d*)All voters who four days prior to polling day shall be registered as patients at Mater Dei Hospital, Karen Grech Hospital, Mount Carmel Hospital, and at the Gozo General Hospital, shall vote in the place indicated in sub-article (3)(*c*) and it shall be the duty of the sub-committee set up under article 81, to determine who these voters shall be.

(*e*)Notwithstanding the other provisions of this Act:

(i) voters who vote in a hospital in accordance with paragraph (*d*) shall vote on the Thursday prior to polling day between 7.00 am and 10.00 pm;

(ii) voters -

(*aa*) who are residing at Saint Vincent de Paule; or

(*bb*) who are residing in retirement homes as defined in article 80 and who are entitled to vote at such places designated in accordance with sub-article (3)(*d*),

(*cc*) who are residing in the Corradino Correctional Facility,

shall vote on the Saturday prior to polling day between 7.00 am and 10.00 pm.

(5) For all effects and purposes of this Act a mixed polling place shall be considered as an ordinary polling place and the rights and duties imposed on the Commission and persons appointed by it, political parties, agents and candidates shall *mutatis mutandis* apply.

(6) In the case of those voters voting in the localities indicated in sub-article (3)(*a*), (*b*) and (*d*), a copy of the list of persons entitled to vote in such mixed polling place shall be given by the Electoral Commission to the political parties, at least four days prior to polling day. The list of the persons entitled to vote in locality indicated in sub-article (3)(*c*) shall be given by the Electoral Commission to the political parties by not later than midnight of the Thursday preceding the polling date.

Closure of Voting. *Amended by: XV. 1996.47; XVI. 2002.18; L.N. 426 of 2012.*

78. (1) After the expiration of the time fixed for voting, the Assistant Commissioners shall seal the opening of the ballot box, shall place in a packet all unused and spoilt ballot papers and all printed or written records kept by them, affixing their seal thereto, after stating and signing on the said packet the number thereof, and shall place in a separate packet all voting documents delivered to them. The official marks used by the Assistant Commissioners including those used by the Assistant Commissioners nominated by the political parties shall be put in a separate packet which shall be sealed with the seal of the Commission after all Assistant Commissioners have affixed their signature thereto.

(2) For the purposes of the previous sub-article of this article the Assistant Commissioners shall physically count and reconcile the number of unused and spoilt ballot papers, the number of persons marked as having voted on the list referred to in sub-article (1) article 64 and the number of voting documents delivered to them.

(3) After the close of the poll and before the ballot boxes are removed from the polling booths, the Assistant Commissioners shall affix a notice on the door of each polling booth and signed by all the Assistant Commissioners stating the number of voters entitled to vote at that polling booth, the number of ballot papers received by them from the Commission, the number of voting documents delivered to them distinguishing as to whether they are ordinary or special, the number of spoilt ballot papers and the number of unused ballot papers being returned by them to the

Commission and the number of persons who have voted in that polling booth. The said notice shall in this article be henceforth referred to as the "ballot paper account".

A copy of the ballot paper account shall be delivered by the Assistant Commissioners to each political party by handing it to any candidate, election or party agent representing such party as may be present, and shall also be delivered to the Commission at the place specified in article 45(*c*) and the Commission shall immediately thereon provide a copy to the party delegates.

(4) On completion of all the duties mentioned in the preceding sub-article of this article, the Assistant Commissioners shall deliver the ballot box or boxes and all documents and packets entrusted to them to the Commission at the place specified in article 45 (*c*).

(5) Party delegates, candidates, and party agents shall have the right to attend at the reconciliation and sealing of papers and sealing of ballot boxes, mentioned in the preceding sub-articles of this article, to affix their own personal seals to the packages containing the papers and to the ballot boxes and shall, subject to the provision of the following sub-articles of the article, be granted facilities to watch and accompany the transportation of the ballot boxes from the polling place up to their delivery to the Commission.

(6) (*a*) No more than one party agent from each political party may be present in each polling booth at any one time during the procedure for the sealing of ballot boxes;

(*b*) The Assistant Commissioners shall ensure that candidates, party agents or party delegates as may be present shall be called in prior to their starting the procedures outlined in the previous sub-articles of this article for the sealing of ballot boxes and packets and reconciliation;

(*c*) The candidates, party agents and party delegates that may be present shall be granted all reasonable facilities to oversee, record and request recounts of all the operations undertaken by the Assistant Commissioners in terms of the previous sub-articles of this article and without prejudice to the generality of the above -

(i) to reconcile the number of persons who have voted as stated in the ballot paper account with the number of persons which the Assistant Commissioners have struck off the list referred to in article 64 and the number of voting documents received by the Assistant Commissioners;

(ii) to reconcile the names of the voters which the Assistant Commissioners have struck off the list referred to in article 64 with the names or the voting documents received by them;

(iii) to record the names, the legally valid

identification document numbers and, or, the particulars of the persons who have not voted;

(*d*) After all the procedures indicated in the previous sub-article of this sub-article have been completed, the Assistant Commissioners shall keep the ballot box and all documents and packets in the polling booth until such time as the vehicle designated by the Commission for the transfer of the ballot boxes arrives at the polling place. Any candidate, or party agent or party delegate as may be present shall also have the right to remain at such polling booth;

(*e*) During the transportation from the polling place to the place designated by the Commission for the delivery of ballot boxes in terms of article 45(3) no more than one representative from each of the political parties may board the vehicle designated by the Commission for transportation;

(*f*) The representatives mentioned in the previous paragraph of this sub-article shall be designated by the political parties and shall be duly authorised by the Commission and shall bear identification similar to that required by article 63(1) and shall have these names publicised in terms of article 63(2);

(*g*) The refusal by any Assistant Commissioner to sign any declaration or document shall not of itself invalidate the contents thereof.

Assistant Commissioners responsible for the maintenance of order.

79. The Assistant Commissioners shall keep order in the polling place under their charge and shall be responsible for any irregularity in the voting in that place in so far as such irregularity could have been prevented by them.

PART XII

Voting in Retirement Homes and Hospitals

Amended by: XIV. 2012.7.

Retirement Home and hospitals. Substituted by: XIV. 2012.8.

80. For the purpose of this Part, "a retirement home" means such place or places principally used for the care of elderly persons in which at least fifty voters reside and "hospitals" means Mater Dei Hospital, Karen Grech Hospital and Mount Carmel Hospital in Malta, and the General Hospital in Gozo:

Provided that the provisions of article 81(3)(*a*), of article 82(1)(*b*) and of article 83 shall not apply to retirement homes not run or administered by the Government.

Sub-committee for Retirement Homes and hospitals. *Amended by: XIV. 2012.9.*

81. (1) Within twenty-four hours of the publication of the Writ for the election of members to the House, the Commission shall form a sub-committee consisting of a Commissioner, who shall act as chairperson, and a representative of each of the political parties and shall delegate to the sub-committee the running of the election in all retirement homes and hospitals.

(2) The sub-committee shall have the duty to ensure that no undue pressure is brought to bear on voters in old age homes and hospitals, that proper and adequate facilities are given to all political parties to canvass such voters, that adequate arrangements for voting are made in view of the special needs of such voters and that no political party enjoys any unfair advantage.

(3) Without prejudice to the generality of the above provisions, the sub-committee shall ensure that:

(*a*) immediate steps are taken to temporarily remove and substitute members of staff gravely suspected to have attempted to influence voters;

(*b*) arrangements are made for the receipt and proper delivery of propaganda material and for canvassing during visiting hours by candidates and political parties contesting that electoral division;

(*c*) complaints by political parties and, or, candidates are speedily investigated and rectified when found to be justified.

Duties of persons responsible for the administration of retirement homes and hospitals. *Amended by: XIV. 2012.10; L.N. 426 of 2012; VII. 2014.9.*

82. (1) Within three days of the publication of the Writ the person responsible for the administration of a retirement home shall send to the sub-committee:

(*a*) a list of all persons resident at such retirement home, indicating the name, a legally valid identification document number, last known address, age, ward number, name and address of next of kin and whether registered as a voter in the home address or otherwise;

(*b*) a list of all staff at the retirement home indicating the name, a legally valid identification document number, address, grade and working hours up to the day following the day fixed for voting.

(2) Fourteen days prior to polling day the person responsible for the administration of hospitals shall send to the sub-committee:

(*a*) a list of all patients currently in the hospitals indicating the name, a legally valid identification document number, last known address, ward number, name and address of the next of kin. The person responsible for the administration shall send updated lists of the patients on a daily basis to the sub-committee until the day preceding the Thursday prior to polling day; and

(*b*) a list of all staff at the hospital indicating the name, a legally valid identification document number, address, grade and working hours up to the day following the day fixed for voting.

(3) On receipt thereof the sub-committee shall immediately provide the political parties with copies of such lists.

(4) The administrator of every retirement home and hospital shall keep such lists updated and shall immediately send to the sub-

committee any amendments thereto and the sub-committee shall immediately inform the political parties of such amendments.

(5) Members of the staff in retirement homes and hospitals are expressly prohibited from engaging in propaganda for any political party or candidate and any employee contravening this article shall be guilty of an offence and shall, on conviction, be liable to the penalty of general interdiction for a period of ten years and the provisions of the Probation Act and of article 22 of the Criminal Code shall not apply.

Cap. 446.
Cap. 9.

Voting at Retirement Homes and hospitals.
Amended by: XV. 1996.48; XIV. 2012.11; XIX.2018. 13

83. (1) The voting documents of voters registered in retirement homes shall be delivered to the voters personally in the retirement home. Unless delivered to the voter prior to admittance as a patient into a hospital, the voting documents of patients in hospitals shall be delivered to the voter personally in the hospitals. The voter may opt to deliver the voting document to the Chairperson of the Sub-Committee for safekeeping, and such Chairperson shall return the same to the voter on the day fixed for voting or on such earlier day as may be requested by the voter

(2) Voters in retirement homes and hospitals shall have the option to proceed to the polling place:

(*a*) without the assistance of any person;

(*b*) with the assistance of members of the staff;

(*c*) with the assistance of members of their families;

and it shall be the responsibility of the sub-committee to ascertain the option chosen by each voter. The sub-committee shall ascertain the option chosen by each voter as soon as possible after the delivery of the voting documents to the voters and shall inform in writing the party delegates of the option chosen by each voter.

(3) A medical consultant having in his care any voter resident at a hospital or retirement home may, by issuing a medical certificate to that effect, draw the attention of the Commission to any dangers inherent to the health of his patient should he be moved for the purposes of being taken to vote. Such certificate will, however, in no way effect the right of that voter, to ignore the medical warning and decide to cast his vote.

(4) Voters opting to be assisted by members of the staff shall be accompanied by members of the staff chosen from a pool thereof nominated in equal numbers by all the political parties. Political parties shall have the right to demand, and the Commission shall have the duty to ensure, that if the ordinary staff at such homes and hospitals is not sufficient for the purposes of this article other persons are transferred to such homes and hospitals for such purpose.

(5) Voters opting to be assisted by members of the staff or by members of their families shall, notwithstanding any other provision of this Act, be so accompanied up to the door of the relative polling booth.

(6) (*a*) During the day fixed for the voting no person shall

without the authority of the Commission be allowed to enter retirement homes and hospitals.

(*b*) The provisions of paragraph (*a*) shall not apply to members of the sub-committee, members of the staff and relatives of patients who have been previously authorised to accompany voters to vote:

Provided that such relatives shall at all times wear proper identification tags issued to them by the Commission for the purpose.

(7) Except with the special authorisation of the sub-committee, no voter in a retirement home and hospital who has chosen the option to vote on his own or to be accompanied by members of his family may be taken to vote by members of the staff.

Direction by Electoral Commission.

84. The sub-committee appointed in terms of article 81 shall function under the general direction of the Commission and shall be bound to implement the decisions of the Commission.

PART XIII

Counting of ballot papers

Amended by: XV. 1996.49.

Start of counting of ballot papers. *Amended by: XV. 1996.49, 50.*

85. The counting of ballot papers shall take place at the place and time specified in the notice referred to in article 45(*d*) and shall be conducted in accordance with the provisions of this Act. The sorting of ballot papers shall not commence until all the procedures set down in Parts XIII and XIV of this Act have been completed and the Commission declares that it is satisfied that there has been no tampering. The sorting of all ballot papers shall commence at the same time in all electoral districts.

Tampering with ballot boxes. *Amended by: XV. 1996.49, 51; XVI. 2002.19.*

86. (1) Political parties contesting the elections shall have the right to nominate a sufficient number of agents, to be determined by the Commission, to oversee at all times the receipt of the ballot boxes, documents and packets, by the Commission from the Assistant Commissioners and the storage of the said ballot boxes, documents and packets after the receipt thereof. These agents shall henceforth in this Act be referred to as "delivery agents".

(2) Party delegates, candidates as well as delivery agents shall have the right to monitor the receipt of the ballot boxes by the Electoral Commission from the Assistant Commissioners and to make representations thereon.

(3) If any of the Commissioners or any party delegate, candidate or delivery agent claims that any ballot box or package is received in a state that it gives rise to suspicion that it may have been tampered with, the Commission shall order such box or packet to be dealt with separately from the other boxes or packets, and shall immediately call a meeting of the Commission and at such meeting the Commission shall have the power to hear such evidence under oath as it deems necessary.

(4) Where the Commission decides that there is no evidence that justifies the suspicion that the box or packet has been tampered

with, its decision shall be final and no appeal shall lie therefrom.

(5) Any claim as is referred to in the previous sub-articles of this article shall be made as soon as the ballot box or packet is delivered by the Assistant Commissioners to the Commission and for this purpose the Commission shall ensure that the party delegates, candidates or delivery agents are given adequate facilities to attentively inspect the ballot boxes, documents or packets.

(6) It shall be the duty of the Commission to ensure the mathematical accuracy of the ballot paper account and that this tallies with the declared number of voting documents returned by the Assistant Commissioners. Political parties shall have the right to demand that the Commission shall for this purpose open all packets containing voting documents relative to not more than ten per cent of all ballot boxes in order to physically check the accuracy of such returns.

(7) Political parties shall select the ballot boxes in relation to which the packets containing voting documents are to be opened during delivery of the ballot boxes to the Commission and prior to the storage of the ballot boxes.

(8) As each ballot box is received and cleared by the Commission in terms of this article it shall be transferred to the room designated by the Commissioners for the storage of all ballot boxes in terms of article 45. Ballot boxes shall be transferred from this room to the counting area as soon as the first ballot box arrives for the purpose of undertaking the Ballot Paper Account Reconciliation process mentioned in the following Part of this Act.

(9) As soon as practicable after all ballot boxes have been received and cleared in terms of this article and prior to the start of the sorting process the Electoral Commission shall publicly declare the total number of ballot papers declared to be cast in accordance with the ballot paper accounts delivered by the Assistant Commissioners as well as the number of ballot papers in each ballot box as resulting from the same account.

(10) The Commission shall preserve until the publication of the official results of the next following election all papers delivered to them by the Assistant Commissioners, as well as the unused ballot papers and the voting documents, in separate sealed packets indicating on each packet the nature of the documents contained therein, and the electoral division to which they appertain.

(11) On every packet as is referred to in the preceding sub-article there shall be affixed the seal of the Electoral Commission and the signature of at least two Commissioners, and of any party delegate, candidate or delivery agent who may wish to sign it.

Counters, supervisors and calculators. *Amended by: XV. 1996.49, 52; XVI. 2002.20.*

87. (1) The Commission shall appoint a number of persons to act as counters, supervisors and calculators to assist it in the counting and transfer of ballot papers which shall be effected under the direct supervision of the Commission.

(2) The provisions of article 58(1) shall *mutatis mutandis* apply

to the office of the counter, supervisor and calculator as it applies to the office of Assistant Commissioner.

(3) A list of the persons appointed as counters, supervisors and calculators shall be published by the Commission in the Gazette, together with the list of persons appointed as Assistant Commissioners and the procedure established for the nomination by political parties and for objections to Assistant Commissioners shall *mutatis mutandis* apply to supervisors and counters.

(4) All counters, supervisors and calculators shall be issued with identity documents specifying the details provided for party agents. The identity documents shall be worn at all times by the counters, supervisors and agents whilst in the precincts of the building where the counting of ballot papers is held.

(5) The calculators shall perform all mathematical calculations connected with the counting of ballot papers and the Commission shall ensure that the persons so chosen are proficient in mathematical calculations.

(6) Supervisors shall be responsible for a number of counters and shall oversee the opening of ballot boxes, and the sorting and counting of ballot papers for every electoral division. The Electoral Commission shall ensure that at all times during the counting of ballot papers there are no less than two supervisors for each electoral division and that the political parties are adequately represented in the choice of persons to act as supervisors for each electoral division.

(7) Counters shall work under the direction of the supervisors; they shall physically sort and count the ballot papers. The Electoral Commission shall ensure that there are a sufficient number of counters in every electoral division to ensure a quick and efficient counting process and that the political parties are adequately represented at all times during the counting of ballot papers in the choice of persons to act as counters in each electoral division.

Commissioners may appoint persons to assist them in the counting of ballot papers.
Amended by: XV. 1996.49.

88. (1) The Commission may authorise any one or more of its members or any other person or persons appointed by it to do anything on its behalf in connection with the receipt and storage of ballot boxes and the counting and transfer of ballot papers and anything done by virtue of such authority shall be deemed to have been done by the Commission.

(2) The Commissioners or any one or more of them shall administer to every person authorised to act for the Commission under the provisions of this article, an oath for the faithful discharge of the duties assigned to him.

Candidates and Agents.
Amended by: XV. 1996.49, 53; XVI. 2002.21; L.N. 426 of 2012; XIX.2018.14.

89. (1) Unless this Act otherwise provides, candidates and candidates' agents shall have free access to the building where the counting of ballot papers will take place, and to the counting hall, at all times.

(2) Every political party shall moreover have the right to nominate a number of agents equal to ten more than double the number of candidates presented by it to contest the election and

such agents shall at all times have access to the said building and to the counting hall at all times. These agents shall henceforth in this Act be referred to as "counting agents".

The list of such agents shall, at least, seven days prior to the start of the poll, be sent to the political parties and be published by the Commission in the Gazette indicating the name, address and a legally valid identification document number of each agent and the party nominating him.

The list of such agents shall be presented to the Commission at least twenty one days prior to the start of the poll; the Commission shall inform the political parties of all the agents so nominated so that the said political parties may have an opportunity to make representations to the Commission before the same accepts or rejects them; the agents so nominated are to be of good character and acceptable to the Commission.

The list of such agents shall, at least, seven days prior to the start of the poll, be published by the Commission in the Gazette indicating the name, address and a legally valid identification document number of each agent and the party nominating him.

The political parties nominating such agents may up to the Thursday before the poll substitute not more than ten per centum of the number of agents appointed by it and the procedure established in this article shall apply to the nomination, objection and acceptance of the substitute agents.

(3) The party delegates, candidates and counting agents shall be issued with an identity document indicating the details required for election agents and such identity document is to be worn at all times on entry into and inside the building or complex wherein the ballot papers are counted.

Identity documents shall be printed on security paper and shall clearly distinguish between each group of delegates and agents as well as between delegates and agents nominated by one political party and those nominated by other political parties.

Building where counting of ballot papers will take place.
Amended by: XV. 1996.49, 54; XVI. 2002.22.

90. With respect to the building designated by the Commission for the counting of ballot papers the Commission shall ensure that:

(*a*) all roads of access at least within 500 metres of the said building are closed and patrolled by the Police who shall permit entry only to authorised persons and only after scrupulously having ascertained their identity;

(*b*) entry into the actual building or perimeter shall be checked by both the Police, the Commission and representatives of the political parties;

(*c*) a number of rooms as may be necessary either in or as near as possible to the building wherein the counting hall is situated shall be provided to ensure full press and broadcasting coverage of the counting and transfer of ballot papers provided that the entrance to such room shall at all times be guarded by the Police who

shall only allow entry to *bona fide* broadcasting personnel and newspaper reporters who shall have been previously accredited by the Commission; the Commission having the right and the duty to ensure that all the broadcasting personnel and newspaper reporters so accredited by it, carry out only those functions directly related to their profession, failing which such an accreditation is to be cancelled by the Commission. The Commission is further bound to give the delegates of the political parties, not later than five days prior to the date of the poll, a detailed list of all those persons accredited by it to carry out any functions at the counting hall during the counting process;

(*d*) an area adjacent and communicating with the counting hall shall be provided for the storage of the ballot boxes and that during the time the boxes are stored in such area they shall at all times be visible from all parts of the counting hall; and the party delegates and their sub-delegates shall have the right of free access thereto at all times;

(*e*) a number of rooms as near as possible to the counting hall shall be provided for every political party contesting the election and shall be equipped with such facilities as the Commission, after consulting the political parties, thinks fit;

(*f*) in the counting hall itself counters shall be separated from the candidates and agents by a wall of unbreakable transparent material or similar sturdy transparent material except for some means, including any appropriate electronic device, of clear communication for the purpose of speaking through and except in the cases expressly provided for in this Act, access to the area designated by the Commission for the counting of ballot papers shall only be allowed to candidates and agents with the express consent of the Commission; provided that the party delegates and six substitutes thereof, previously nominated by such delegates, shall have free access to the counting area at all times;

(*g*) the disposition of the counting area shall be such that as far as possible all the counting process can be closely viewed by candidates, agents and representatives of political parties;

(*h*) all rooms and corridors which are not being used for a purpose designated by the Commission shall be barred and all areas leading thereto closed;

(*i*) adequate back up facilities for services failure are provided especially with respect to lighting;

(*j*) there is strict security at all times in and around the building, that entry is restricted to authorised persons

only and that no lethal instruments or instruments which may be rendered lethal are introduced in the building;

(*k*) at least thirty days before the start of voting the Commissioners shall show the party delegates how they propose to allocate and separate the different areas of the said building and shall consider suggestions made by the said delegates in this regard;

(*l*) notwithstanding anything else contained in this Act, the party delegates and their substitutes, shall at all times have access to any part of the building including any restricted area for the purpose of ensuring that the provisions of this Act are being enforced.

Broadcasting coverage. *Amended by: XV. 1996.49.*

91. The Commission shall ensure that as far as practicable full and constant broadcasting coverage is given of the counting and transfer of ballot papers and for such purpose shall allow entry into the building to *bona fide* broadcasting personnel and apparatus.

Appointment of persons to ensure proper running of building, etc. *Substituted by: XV. 1996.55.*

92. (1) The Commission shall appoint such persons as it considers appropriate to ensure the proper running and maintenance of the building designated for the storage of ballot boxes and the counting of votes and a list of such persons shall be sent to the political parties at least six days prior to the poll.

Extraordinary circumstances.

(2) In extraordinary circumstances, the Commission shall allow entry to the building designated for the storage of ballot boxes and the counting of votes to such other persons as it considers necessary provided that in no case shall it allow entry to the public generally.

Identification cards.

(3) All persons, except for Police officers and members of the Armed Forces of Malta, allowed entry into the building designated for the storage of the ballot boxes and the counting of votes shall be issued by the Commission with identity cards specifying the details required for counting agents and shall wear such identification at all times when they are within the said building or the precincts thereof.

Representations to Commissioners. *Amended by: XV. 1996.56; XVI. 2002.23.*

93. Notwithstanding anything else contained in this Act, candidates and the counting agents shall at all times have access to the Commissioners for the purpose of making representations on their own behalf or on behalf of the party represented by them.

Direction of building. *Amended by: XV.1996.49.*

94. The Commission shall have the sole direction of the building designated for the counting and transfer of ballot papers and shall have the right to give such orders as are necessary for the maintenance of order and security within the building.

PART XIV

Ballot Paper Account Reconciliation

Reconciliation of ballot paper account. *Substituted by: XV. 1996. 57. Amended by: XVI. 2002.24.*

95. Immediately after ballot boxes start being deposited in the room designated by the Commission to hold the ballot boxes in terms of article 45, the Commission shall immediately proceed to reconcile the Ballot Paper Account of each box delivered by the Assistant Commissioners with the actual number of votes in that box and for this purpose shall release from the said room (immediately after they are received therein ensuring that no confusion is created on the counting tables) the ballot boxes to the counting tables of each appropriate electoral division for the purpose of effecting such reconciliation.

Removal of ballot boxes from strong room.

96. (1) Prior to the removal of each ballot box from the room designated by the Commission to hold all the ballot boxes in terms of article 45, the party delegates or their substitutes shall have the right to examine the seals affixed to each ballot box.

(2) Any objection raised by the party delegates or their substitutes as to the integrity of such seals shall be examined by the Commission whose decision thereon shall be final and not subject to appeal.

Opening of each ballot box. *Amended by: XV. 1996.58.*

97. The Commission may order any number of ballot boxes to be opened simultaneously in each electoral division provided that adequate precautions are taken to ensure that the ballot papers from different ballot boxes are kept separate and prior to the opening of each ballot box the Commission shall cause the ballot paper account for that ballot box to be affixed in such a manner that it may be clearly seen by the candidates and agents and shall show the candidates and agents the seals on the ballot box in order that they may ascertain that such seals are intact.

Objections to opening of ballot box.

98. Any party delegate, candidate or agent may, prior to the opening of the ballot box, make representations claiming that the seals of the box have been tampered with. Where such an objection is made the box shall not be opened until the Commission, after consulting the party delegates or their substitutes, shall have given such directions and taken such measures as it may consider necessary.

Checking of ballot paper account. *Amended by: XV. 1996.59; XI.2019.11.*

99. Where no objections are made and where the Electoral Commission in terms of the previous article of this Act so directs, the ballot box shall be opened and the number of ballot papers contained therein shall be counted, face downwards, to ascertain that the number of ballot papers in that ballot box corresponds to the ballot paper account:

Provided that where the Commission decides to use an Electronic Counting System the ballot box shall be opened and the ballot papers shall be placed faced downwards on the counting table. When all the ballot papers found in a ballot box have been placed faced downwards on the counting table, the supervisor shall place the ballot papers together in one parcel faced downwards and in a separate tray for each ballot box with the polling booth number and, where applicable, the division. The supervisor shall immediately place the tray on a rack in a place clearly visible to the counting agents. This process shall be repeated until all ballot boxes have been opened. The counting and tallying of the ballot papers shall be done in accordance to the rules

stated in Thirteenth-A Schedule.

When ballot papers do not tally with ballot paper account.

100. Where the ballot papers in the ballot box do not tally with the ballot paper account the attention of the Commission shall be drawn to the fact and the Commission, after consultation with the party delegates, or their substitutes, shall give such directions as it may deem fit and such decision shall be final.

When ballot papers and ballot paper account tally. *Amended by: XV. 1996.60.*

101. Where the ballot papers in the ballot box and the ballot paper account tally, the ballot papers shall be put together and placed in a pigeon hole indicating the number of the ballot box. The pigeon hole and ballot papers must at all times be clearly visible by parties, candidates and agents. The ballot papers in each pigeon hole shall be put in parcels of fifty ballot papers each with any remainder being put at the bottom of the pile and the supervisor shall ensure that each parcel is counted for accuracy by more than one counter.

All ballot boxes to be opened.

102. The process described in articles 95 to 101 shall be repeated until all ballot boxes have been opened to ascertain that the ballot papers in each box tally with the ballot paper account relative to it.

Ballot papers belonging to other Electoral Divisions.

103. **(***Repealed by Act XVI.2002.25*).

Number of votes cast.

104. (1) After all ballot boxes in all electoral divisions have been opened and reconciled with the relative ballot paper account the Electoral Commission shall prior to proceeding to the sorting of votes declare the total number of votes cast and their distribution by ballot box and electoral division.

(2) The Electoral Commission shall cause the papers held in each electoral division and belonging to other divisions to be transferred to the divisions to which they properly belong.

(3) The Electoral Commission shall declare the total number of votes which each electoral division will be transferring subdivided according to the electoral division it will be transferring them to.

(4) The physical transportation of the papers from one division to another shall be performed either by the Commissioners or by the supervisors and in such a manner as not to create confusion.

PART XV

Sorting of Votes, Casual Elections and Co-options

Sorting of ballot papers, casual elections and co-options. *Amended by: XI.2019.12.*

105. (1) Ballot papers shall be sorted in accordance with such regulations which the Prime Minister may make from time to time.

(2) Regulations made in accordance with this article shall also regulate casual elections and co-option of members to fill vacancies among the membership of the House.

(3) Regulations made in accordance with sub-article (1) shall not come into force unless and until the House so resolves by resolution. Notice of the approval of such resolution shall be

published in the Gazette by the Clerk of the House.

(4) The regulations contained in the Thirteenth Schedule or, when an Electronic Counting System is being used, Thirteenth-A Schedule to this Act shall, until such time as regulations are made in accordance with sub-articles (1) to (3), regulate the sorting of ballot papers, casual elections and co-option of members to fill vacancies among the membership of the House.

PART XVI

Publication of results

Publication of result of election and of counting details.

106. (1) The Commission shall, not later than on the working day following that on which the result of the counting of the votes has been ascertained, publish a declaration containing the names of the candidates elected and such other particulars as the Commission may consider necessary.

(2) The Commission shall deposit the declaration aforesaid with the Clerk of the House and shall cause a copy of such declaration to be published without delay in the Gazette.

(3) Every candidate whose name is published in the Gazette in accordance with the provisions of article 54(1) or who is declared elected in accordance with the provisions of this article shall be considered to be a Member of the House of Representatives.

(4) The Commission shall publish in the Gazette not later than seven days after the end of counting a declaration of the result of the election which declaration shall include a record of the total votes cast, both on a national level and subdivided by polling booth, the total valid and invalid votes, the total votes credited to each political party, the quota for each electoral division, the record and result in all stages of any transfer of votes between political parties, the first preference credited to each candidate, any transfer of votes made, and of the total number of votes credited to each candidate after any such transfer, and any such other information as the Electoral Commission may consider necessary. Such declaration shall be in such form as the Electoral Commission may determine as likely to impart easily all the information likely to be required by the public.

(5) Within three months of the publication of the official results of the election the Election Commission shall publish a report explaining in detail what steps were taken by them to perform the various duties imposed on them by this Act, to give all relevant statistics connected with the election including the publication of all statistics regarding eligible voters, printing and distribution of voting documents and ballot papers, voters per polling place, returns submitted by Assistant Commissioners and the like, and to make such suggestions as they consider necessary.

Preservations of documents. *Amended by: XV. 1996.61; XVI. 2002.26; XI.2019.13.*

107. (1)The Commission shall preserve until the publication of the official result of the next following election all used ballot papers for each electoral division in separate sealed packets, as follows Where an Electronic Counting System is used:

All ballot papers contained in each ballot box sorted in unique identifier order in all other cases:

(*a*) the spoilt ballot papers;

(*b*) the invalid ballot papers;

(*c*) the papers at the completion of the counting in the parcel of each elected candidate and of each non-elected candidate whose papers have not been transferred;

(*d*) all the non-transferable papers not retained in the parcel of an elected candidate.

(2) The Commissioners shall endorse on each packet a description of its contents, the date of the election and the number of the electoral division to which they relate.

(3) The Commission shall further preserve for the same period for each electoral division a copy of the declaration of the result of the count and of any document showing the operations of the transfer of each surplus:

Provided that where the Commission decides to use an Electronic Counting System, the Commission shall preserve all data introduced to or used by the Electronic Counting System including but not limited to data processed or produced by the Electronic Counting System for all intermediate steps prior to the final results. The data is to be preserved in digital format on suitable media and in at least two separate copies identical to the original, as decided by the Commission, for the long term storage of the same data which media shall be kept in separate sealed packets and in separate locations established by the Commission. The said copies shall be preserved until the publication of the result of the next following election and shall be erased thereafter.

(4) Party delegates, candidates and counting agents shall have the right to affix their seals and signatures to such packets.

Power of court to order unsealing of packets.

108. It shall be lawful for the Constitutional Court before which any question is brought as to the right of any person to be or to remain an elected Member of the House and for any court before which any proceedings are commenced in accordance with the provisions of this Act to order the opening of the packets referred to in article 78(1) and in article 107 and the production of one or more of the documents therein contained under such conditions and precautions as may be necessary to maintain the secrecy of the voting consistently with the due administration of justice.

Candidates returned in both divisions.

109. (1) If at an election any person is returned as a member for two divisions, such person shall, by a writing under his hand delivered to the Clerk of the House on or before appearing to take the oath or to make the affirmation prescribed by article 68 of the Constitution declare which of the two divisions he elects to represent.

or delete anything displayed, written or made in contravention of any of the provisions of sub-article (1).

(2) As soon as a person who is returned for two divisions declares which of the two divisions he elects to represent, he shall be deemed to have vacated his seat in the other division.

PART XVII

Penal Provisions

Penalty for giving false information. *Amended by: XVI. 2002.27; L.N. 425 of 2007.*

110. Any person who knowingly makes or subscribes to a false declaration or otherwise gives false information in connection with the registration, transfer or cancellation of any voter shall be guilty of an offence against this Act and shall, on conviction, be liable to imprisonment for a term not exceeding one month or to a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (232.94) or to both such imprisonment and fine.

Penalty for misconduct in polling places, etc. *Amended by: XVI. 2002.28; L.N. 425 of 2007.*

111. Every person who misconducts himself in any polling place or contravenes any of the provisions of article 66 or 67 or takes part in any public meeting or public demonstration held in contravention of any of the provisions of this Act, or fails to obey the lawful order of the Assistant Commissioners or other lawful authority in relation to an election, shall, on conviction, be liable to a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (232.94).

Penalty for offences in respect of nomination, etc. *Amended by: XV. 1996.62; L.N. 425 of 2007; XIX.2018.15.*

112. (1) Every person who -

(*a*) forges or fraudulently defaces or fraudulently destroys any nomination paper or delivers to the Commissioner any nomination paper knowing the same to be forged; or

(*b*) forges or counterfeits or fraudulently defaces or fraudulently destroys any voting document or ballot paper or the official mark on any ballot paper; or

(*c*) without due authority supplies any voting document or ballot paper to any person; or

(*d*) forges or counterfeits or is in unlawful possession of any stamp or seal used by the Chief Electoral Commissioner or the Election Commissioners or the Assistant Commissioners; or

(*e*) is in unlawful possession of any voting document or ballot paper; or

(*f*) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(*g*) fraudulently takes out of the polling place any ballot paper; or

(*h*) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purpose of the

election; or

(*i*) accepts a voting document, whether belonging to him or to any other person, when he is aware that he or such other person to whom the voting document refers has lost his right to vote; or

(*j*) votes when he knows that he has lost the right to vote;

(*k*) without authorisation of the Commission takes any photographic or video image at a polling place on any polling day,

shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) Every person who aids or abets the commission of an offence under this article or attempts to commit any such offence shall be liable, on conviction, to the punishment provided for the offence.

Infringement of secrecy as to manner of voting. *Amended by: XVI. 2002.29; L.N. 425 of 2007.*

113. Every Assistant Commissioner who shall reveal the manner of voting of any voter when such manner of voting shall have come to his knowledge in the course of the exercise of his functions under this Act shall be guilty of an offence, and shall, on conviction, be liable to a fine (*multa*) not exceeding four hundred and sixty-five euro and eighty-seven cents (465.87) or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

Prohibition of activities capable of influencing voters immediately before the election. *Amended by: L.N. 425 of 2007.*

114. (1) During the day on which an election of Members of the House is held and during the day immediately preceding such an election, no person shall address any public meeting or any other gathering whatsoever in any place or building accessible to the public, or on the broadcasting media, on any matter intended or likely to influence voters in the exercise of the franchise, or publish or cause to be published any newspaper, printed matter or other means of communication to the public containing any matter aforesaid, or issue or cause to be issued any statement or declaration on any matter aforesaid or knowingly distribute any newspaper, printed matter, or other means of communication, or any statement or declaration as aforesaid, and any person acting in contravention of any of the provisions of this article shall be liable on conviction to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(2) Every person who aids or abets the commission of an offence under this article or attempts to commit any such offence, shall be liable on conviction to the punishment provided for the offence.

Competent courts.

115. (1) All questions regarding the right of any person to be or remain a Member of the House shall be referred to and decided

by the Constitutional Court.

(2) Any criminal proceedings for offences under this Act shall be brought before the Courts of Magistrates and subject to the following provisions of this article, the provisions of the Criminal Code shall apply to any such proceedings.

Cap. 9.

Cap. 446.

(3) Notwithstanding anything contained in the Probation Act, a person who commits any offence under this Act shall be convicted and sentenced in respect of that offence and may not be placed on probation or discharged under that Act.

(4) Every decision of the Courts of Magistrates in respect of an offence under this Act, may, in all cases, be appealed against by the Attorney General and by the party convicted.

Prohibition of display of posters, etc.
Amended by: XV. 1996.63; L.N. 425 of 2007.

116. (1) Except as provided in sub-article (2) it shall not be lawful for any person, at any time in contemplation or in anticipation of an election, to display or cause to be displayed in a public place, or in a place accessible to the public or visible from any public place, any bill, poster or other advertisement intended or likely to influence voters in the exercise of the franchise, or to write or make or cause to be written or made on any wall or other place visible from a public place any word or sign intended or likely to influence voters in the exercise of the franchise.

(2) The provisions of sub-article (1) shall not apply to any bill, poster or other advertisement which -

(*a*) is worn or carried by a person; or

(*b*) which is displayed on the inside of a private building even though it may be visible from a public place;

(*c*) is displayed on a duly authorised billboard; and

(*d*) is displayed on a duly authorised streamer.

(3) Any person acting in contravention of any of the foregoing provisions of this article shall be liable on conviction in respect of each offence to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) or to imprisonment for a period of not more than six months, and in respect of any second or subsequent offence to both such fine and imprisonment.

(4) It shall be the duty of the Police to remove or otherwise cancel or delete anything displayed, written or made in contravention of any of the provisions of sub-article (1).

PART XVIII

Saving and Repeal

Right of action before Constitutional Court.

117. Notwithstanding any other provision contained in this Act, whereby the decision of the Commission is declared as final and/ or not subject to appeal such provision shall not exclude recourse to the Constitutional Court by any person on an action to invalidate the election, whether in any or in all divisions.

118. Subject to the provisions of article 12 of the Interpretation Act, the Electoral (Franchise, Method of Election and Registration of Voters) Ordinance, and the Electoral Polling Ordinance, except articles 41 to 62 thereof, which articles are reproduced in the Fourteenth Schedule to this Act, are hereby repealed.

Repeal. Cap. 249. Cap. 99. Cap. 102.

PART XIX

Saving as to Right of Political Parties

119. The non-exercise by any political party, delegate, candidate, agent or any person nominated for appointment by a political party, of any right, power or privilege granted by this Act shall not of itself invalidate any action or procedure in respect of which the right, power or privilege has been granted by this Act.

Non-exercise of certain rights.

120. The Commission may make use of electronic equipment to count the ballot papers in accordance with Schedule 13 of this Act.

Electronic Equipment. *Added by: XIX.2018.16.*

FIRST SCHEDULE

(Article 8)

Form of Oath of Office to be taken by the Election Commissioners

I, ... , *Chief Electoral Commissioner/Electoral Commissioner do swear / affirm that I will faithfully perform the duties of Commissioner to conduct the election of Members of the House of Representatives according to law. (So help me God.)

* *delete where necessary*

SECOND SCHEDULE
(Article 21)

Amended by:
L.N. 426 of 2012.
Substituted by:
L.N.350 of 2017.

FORM NO. 1

Form of Application for Registration as a Voter

To the Electoral Commission, Valletta, Malta.

Surname _____ I.D. Card No. _____

Name _____

Place of Birth _____ Date of Birth _____

Name of town / village _____

Street and number / name of premises _____

_____

_____

_____

_____

Parent's Name, Surname and Surname at birth _____

Place of Birth _____ Nationality* _____
* *(if applicant's parent shown above is dead, state nationality at the time of death)*

Parent's name, Surname and Surname at birth _____

Place of Birth _____ Nationality ** _____
** *(if applicant's parent shown above is dead, state nationality at the time of death)*

I hereby apply to be registered as a voter for the election of Members of the House of Representatives fo
_____ (1) electoral division in accordance with the 1991 General Elections A

Date _____

_____
Signature or mark of applicant

(1) Insert number of electoral division

FOR OFFICIAL USE ONLY

Remarks

Vtd. _____

Chkd. _____

_____

Amended by:
L.N. 426 of 2012.

THIRD SCHEDULE

(Article 23)

Form of Corrections or Transfers

To the Electoral Commission:

I (1) ..... legally valid identification document number ..... formerly residing at (2) ..... , do hereby give notice that I have transferred my residence to (3) .....

Date .....

.....

Signature or mark of applicant (4)

.....

Signature and legally valid identification document number of witness

Address of witness .....

(1) Name and surname (also nickname, if any)

(2) Former address as shown on Electoral Register

(3) Present address

(4) Should applicant be unable to write, the person filling in the form is to affix his or her signature and furnish his or her full address and legally valid identification document number below applicant's mark.

FOURTH SCHEDULE

Amended by:
L.N. 426 of 2012.
Substituted by:
L.N. 284 of 2014;
L.N.350 of 2017.

FORM NO. 3 REFERENCE NO.

Application Form for change in details

To the Electoral Commission, Valletta, Malta.

My name and/or address* as shown on the Electoral Register together with other details as shown hereunder (1):

_____ Identity Card No. of applicant _____

_____ Date of Birth _____

_____ Place of Birth _____

_____ Nationality _____

_____ Gender _____

Surname at birth _____ Status _____

As a result of changes thereto, I request that my name and/or address* together with other details be shown as follows (2):

_____ Date of Birth _____

_____ Place of Birth _____

_____ Nationality _____

_____ Gender _____

Surname at birth _____ Status _____

* Delete where not applicable.

_____
Signature or mark of applicant (3)

Date: _____

_____
Signature and Identity Card Number of witness

Address of witness _____

(1) Full name and full address as shown on the Electoral Register. (Details before change)

(2) Changes required by the applicant. (Details after change)

(3) If the person who is requesting the change is not able to write, the person who fills in the form has to sign, write the full address and Identity Card Number under the mark of the applicant.

Amended by:
L.N. 426 of 2012.
Substituted by:
L.N.350 of 2017.

FIFTH SCHEDULE

(Article 23)

FORM NO. 2A

Application by Elector for the Correction of Surname and Address in consequence of Marriage/Civil Union

To the Electoral Commission:

As (1) on the _____ I married/contracted a Civil Union with (2) _____

I.D. Number _____ I (3) _____

I.D. Number _____ formerly residing at (4) _____

_____ and registered as an elector under that address, do hereby apply that my surname (and/or address *) be now shown as follows (5) _____

_____

Date _____

_____
(6) Signature or mark of applicant

_____
Signature and I.D. of witness

Address of witness _____

(*) Cancel the words which do not apply.
(1) Date of marriage/civil union.
(2) Name, surname in full and I.D. Number of applicant's spouse/civil partner.
(3) Name, surname at birth and I.D. Number of applicant.
(4) Address as shown on Electoral Register.
(5) Present address.
(6) Should applicant be unable to write, the person filling in the form is to sign and furnish the full address and I.D. Number below applicant's mark.

SIXTH SCHEDULE

(Article 44)

Form of Writ to the Electoral Commissioners by the President of Malta

To,

Electoral Commissioners appointed for conducting the election of Members of the House of Representatives.

Whereas an election of Members of the House of Representatives is to be held for the electoral division;

You are hereby commissioned to cause an election of Members of the House of Representatives to be held according to the law.

Given at the Palace, Valletta

this .....day ..... of ..... 19 .....

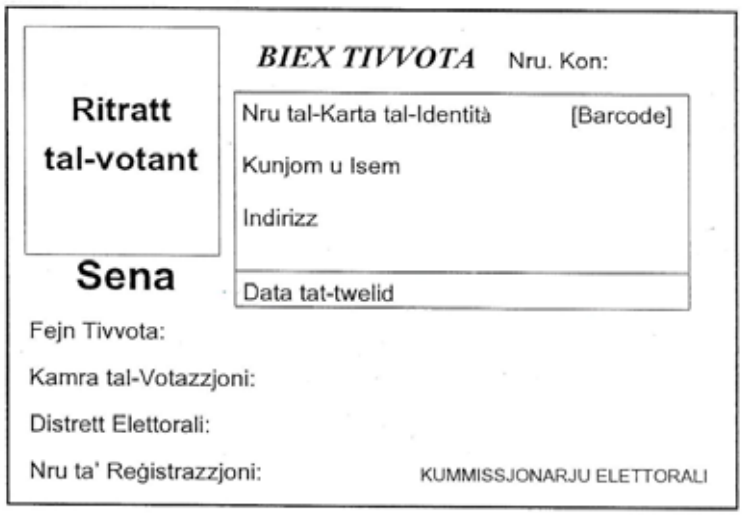
PRESIDENT

Substituted by:
L.N.350 of 2017.

SEVENTH SCHEDULE

(article 46)

Form of Voting Document



EIGHTH SCHEDULE
(Article 49)

Substituted by:
XV. 1996.64;
XI.2019.14.

POLZA TAL-VOT — *BALLOT PAPER*

Għadd ta' Membri tal-Kamra tad-Deputati li għandhom jiġu eletti Number of Members of the House of Representatives to be elected		Distrett Division	

Sejħa tal-Kandidat *Sejħa of Candidate*	Ismijiet tal-Kandidati *Names of Candidates*	Ritratt tal-Kandidat *Photo of Candidate*	Immarka skont il-preferenza li tixtieq *Mark order of preference in spaces below*

PARTIT A

	AZZOPARDI ALBERT, Ta' Gawdenz, ta' 140, Triq il-Kapuċċini, San Ġiljan, Perit		
	LIA PATRICK, ta' 44, 'Daffodil', Triq il-Kavallieri ta' Malta, l-Isla, Avukat		

PARTIT B

	ABDILLA FRANCIS SAVIOUR [Frankie], ta' 21, 'La Paloma Blanca', Triq San Pilju XIV, San Pawl il-Baħar, Impjegat il-Bank		
	BALDACCHINO MARK ANTHONY, ta' 'April Love', Triq il-Konvoj ta' Santa Marija, Marsaskala, Avukat		
	VELLA DEGIORGIO JAMES, ta' 240, 'Old Trafford', Triq l-Iżbark tal-Franċiżi, San Pawl il-Baħar, Nutar		
	ZAMMIT HENRY ALFRED, ta' 18, Fl 3, Triq il-Vittmi tal-Gwerra, Bormla, Pensjonant		

PARTIT Ċ

	ABELA CHRISTOPHER [Chris], ta' 107, 'San Siro', Triq Santa Marija, L-Imġarr, Tabib/Konsulent fis-Saħħa Pubblika		
	BORG MALLIA NOREEN, ta' 6, Misraħ Diċembru Tlettax, San Pawl il-Baħar, Procurement Officer		
	GALEA GWENITH [Gwen], ta' 35, 'Shalom', Triq Nikola Briffa, Is-Siġġiewi, Konsulent Finanzjarju		
	SANT BRIAN [Abraham], Ta' Bramu, ta' 21, 'Bianco Nero', Triq il-Gran Mastru Wignacourt, Fleur-De-Lys. Birkirkara, Negozjant		
	UNGARO TRACY, Dr, ta' 'Villa Genesis', Triq il-Bajja s-Sabiħa, Il-Mellieħa, Tabiba		

KANDIDATI INDIPENDENTI

	BUSUTTIL MATTHEW, il-Kitarrist, ta' 21, 'Villa Madama', Triq Valletta, Mosta, Direttur Artistiku		
	TANTI PHILIP, ta' 89, Flat 6, Marigold Flats, Triq il-Vopa, Marsaskala, Pensjonant		

Added by:
XI.2019.15.

SCHEDULE 8A
(Article 49)

Rear of Ballot Paper

SCHEDULE EIGHT B

(Article 68(3))

Substituted by: XV. 1996.64; L.N.350 of 2017.

DIRECTIONS FOR THE GUIDANCE OF THE VOTER IN VOTING

1. Vote by placing the number 1 against the name of the candidate you most desire to see elected.

2. You are invited (and it is advisable) to place the number 2 against the name of your second choice, the number 3 against the name of your third choice, and so on.

3. It is advisable to go on numbering the candidates in the order of your preference until you are indifferent as to the candidates whom you have not marked.

4. If you do not place the number 1 on your ballot paper or if you place the number 1 (indicating a first preference) and some other number against the same name, or if you place the number 1 against the name of more than one candidate, your ballot paper will be invalid and will not be counted.

5. Do not vote with an X.

6. If you inadvertently spoil a ballot paper you may return it to the Chairperson, who will, if satisfied that such inadvertence is genuine and without bad intentions, give you another ballot paper.

Amended by:
L.N. 426 of 2012.

NINTH SCHEDULE

(Article 51)

Form of Nomination Paper

To the Election Commissioners

We, the undersigned, being voters entitled to vote at an election of Members of the House of Representatives and being registered on the Electoral Register for the (1) Electoral Division, do hereby nominate (2) ..... as a candidate for the said division and in the interests of the (3)

I, (2) ..... residing at .....

consent to the above nomination.

Date

Signature of candidate
(or of lawful representative
as the case may be)

1. Number of division
2. Name, surname, address, and legally valid identification document number and occupation of person nominated
3. Name of political party

TENTH SCHEDULE

Amended by:
L.N. 426 of 2012.

(Article 56)

Form of Oath to be taken by Assistant Electoral Commissioners

I, ... , Assistant Election Commissioner duly appointed to superintend the taking of the poll at the election of the Members of the House of Representatives swear/ affirm that I will faithfully perform the duties of such office according to the provisions of the law, and to report by letter addressed to the Clerk of the House of Representatives any irregularity observed by me in the conduct of the election.

I also swear/affirm to maintain secrecy regarding the vote given by any elector which may become known to me. (So help me God.)

Date ..... Signature .....

Legally valid identification document number
.....

Amended by:
L.N. 426 of 2012.

ELEVENTH SCHEDULE

(Article 70)

Form of oath which an Assistant Commissioner may administer to a voter

I, (1)

of (2) do swear/affirm that I am the same person whose name appears as A.B. in the Electoral Register and that I have not already voted either here or elsewhere at this election for members of the House of Representatives. (So help me God.)

Date..... Signature or mark of voter .....

Sworn/Affirmed before me this .....day of .....

Signature of Assistant Election Commissioner

1. Name in full

2. Address and legally valid identification document number of voter

TWELFTH SCHEDULE

Amended by: L.N. 425 of 2007; XXIV. 2015.48.

(Article 118)

(Article 50, Cap. 102, vide Fourteenth Schedule)

Return of election expenses

1. Under the head of receipts there shall be shown the name and description of every person (including the candidate), club, society or association from whom any money, security, or equivalent of money was received in respect of expenses incurred on account of or in connection with or incidental to the election, and the amount received from each person, club, society or association separately.

2. Under the head of expenditure there shall be shown:

a) the personal expenses of the candidate incurred or paid by him or his election agent;

b) the name, the rate, and total amount of the pay of each person employed as an agent (including the election agent), clerk or messenger;

c) the travelling expenses and any other expenses incurred by the candidate or his election agent on account of agents (including the election agent), clerks or messengers;

d) the travelling expenses of persons, whether in receipt of a salary or not, incurred in connection with the candidature and whether paid or incurred by the candidate, his election agent, or the person so travelling;

e) the cost whether paid or incurred, of:

i) printing;

ii) advertising;

iii) stationery;

iv) postage;

v) telegrams;

vi) rooms hired either for public meetings or as committee rooms;

f) any other miscellaneous expenses, whether paid or incurred.

Note:

1) All expenses incurred in connection with the candidature whether paid by the candidate, his election agent or any other persons, or remaining unpaid on the date of the return, are to be set out.

2) For all items over fifty-eight cents (0.58) unless from the nature of the case (e.g. postage) a receipt is not obtainable, vouchers have to be attached.

3) All sums paid out, but for which no receipt is attached, are to be set out in detail with dates of payments.

4) All sums unpaid are to be set out in a separate list.

FORM OF DECLARATION BY CANDIDATE

I, ... , being a candidate for election in the .....Electoral Division, do hereby swear/affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses therein set out, no expenses of any nature whatsoever have to my knowledge or belief been incurred in connection with or for the purposes of my candidature.

Candidate

Sworn/Affirmed before me

Magistrate/Commissioner of Oaths

THIRTEENTH SCHEDULE

Amended by: XV. 1996.65; L.N. 178 of 1996; XXI. 2007.7.

(Article 105)

The General Elections (Sorting of Ballot Papers, Casual Elections and Co-opting) Regulations, 1991

PART I

Preliminary

Citation.

1. These regulations may be cited as the General Elections (Sorting of Ballot Papers, Casual Elections and Co-options) Regulations, 1991.

Interpretation. *Amended by: L.N. 178 of 1996.*

2. In these regulations unless the context otherwise requires:

(1) The expression "continuing candidate" means any candidate not elected and not excluded from the poll.

(2) The expression "first preference" means the figure "1" standing alone against the name of a candidate; the expression "second preference" means the figure "2" standing alone against the name of a candidate; and the expression "third preference" means the figure "3" standing alone against the name of a candidate, and so on.

(3) The expression "next available preference" means a second or subsequent preference recorded in consecutive numerical order for a continuing candidate, the preferences next in order on the ballot paper for candidates already elected or excluded from the poll being ignored.

(4) The expression "transferable paper" means a ballot paper on which, following a first preference, a second or subsequent preference is recorded in consecutive numerical order for a continuing candidate.

(5) The expression "non-transferable paper" means a ballot paper on which no second or subsequent preference is recorded for a continuing candidate:

Provided that a paper shall be deemed to have become a non-transferable paper whenever:

(*a*) the names of two or more candidates, (whether continuing or not) are marked with the same number, and are next in order of preference; or

(*b*) the name of the candidate next in order of preference (whether continuing or not) is marked:

(i) by a number not following consecutively after some other number on the ballot paper or

(ii) by two or more numbers; or

(*c*) for any other reason it cannot be determined with certainty for which of the continuing candidates the next available preference of the voter is recorded.

(6) The expression "original vote" in regard to any candidate means a vote derived from a ballot paper on which a first preference is recorded for that candidate.

(7) The expression "transferred vote" in regard to any candidate means a vote derived from a ballot paper on which a second or subsequent preference is recorded for that candidate.

(8) The expression "surplus" means the number of votes by which the total number of the votes, original and transferred, credited to any candidate, exceeds the quota.

(9) The expression "count" means:

(*a*) all the operations involved in the counting of the first preferences recorded for candidates; or

(*b*) all the operations involved in the transfer of the surplus of an elected candidate; or

(*c*) all the operations involved in the transfer of the votes of an excluded candidate or of two or more candidates excluded together.

PART II

Sorting of votes

Sorting of ballot papers.

3. In any general election, after the stage referred to in Part XIV of the General Elections Act, the Commission shall cause the ballot papers to be sorted out into parcels according to their first preference recorded for each candidate, rejecting any that are invalid.

Method of sorting.

4. The sorting of ballot papers indicated in the previous regulation shall be carried out in the following manner:

(1) the supervisor of each counting table shall take the topmost bundle of ballot papers form each pigeon hole and, in full view of the candidates and agents, place the bundles on a rack to pass to the counters;

(2) when a parcel of ballot papers has been taken from each different pigeon hole and placed on the rack as provided in the previous paragraph of this regulation, the supervisor shall pass to each counter one parcel at a time in order that the ballot papers may be sorted;

(3) the counters shall open each parcel with the ballot papers and ascertain whether each paper is valid or invalid;

(4) if the counters decide that there is a possibility that, for any reason according to the General Elections Act, a ballot paper may be invalid or if any candidate or agent for the same reason so claims, the counter shall place such ballot paper in a tray marked "dubious";

(5) if the ballot paper is considered as valid the counter shall place the ballot paper in a tray indicating the candidate to which the first preference has been given on that ballot paper.

Continuation of sorting process. *Amended by: XV. 1996.65.*

5. (1) When a counter has so disposed of the parcel of ballot papers mentioned in the previous regulation he shall be given another parcel to sort in the same manner and so on and so forth until all the parcels on the rack have been counted.

(2) When all the parcels on the rack have been counted the supervisor shall take the next topmost parcel of ballot papers from each pigeon hole repeating the sorting process mentioned in regulation 4 and in paragraph (1) of this regulation and so on and so forth until all ballot papers have, in phases, been removed from the pigeon holes, put on the rack and sorted.

Dubious Votes.

6. (1) Whenever the supervisor in charge of the sorting of votes of an electoral division determines that in the tray marked as "dubious" there are a sufficient number of ballot papers he shall call one of the Electoral Commissioners to collect such papers.

(2) The dubious ballot papers may only be removed from the tray by an Electoral Commissioner who shall take them to the table of the Electoral Commission personally.

(3) The Electoral Commission, or any number of members thereof not being less than three, shall, after hearing the representations of the party delegates, or their substitutes decide in respect of each paper, whether it is valid or invalid and if they decide that it is invalid they shall so stamp the paper on its face.

(4) The decision of the Electoral Commission in this regard shall be final and not subject to appeal.

(5) Once all the dubious ballot papers have been declared valid or invalid by the Electoral Commission, they shall be returned to the appropriate electoral division by an Electoral Commissioner who shall pass them on to a supervisor of that division.

(6) The supervisor shall cause the invalid ballot papers to be put in a tray marked Invalid and the valid ballot papers to be sorted in accordance with the preceding regulations.

Counting papers. *Amended by: XV. 1996.65.*

7. (1) The Commission shall then count the number of papers in the tray of each candidate, and credit each candidate with a number of votes equal to the number of valid papers on which a first preference has been recorded for such candidate, and they shall ascertain the total number of valid papers in that division.

(2) When counting the number of papers placed in the tray of each candidate, the supervisor shall direct that such papers be bundled in packets of fifty papers each and that each packet is counted by at least two counters.

(3) The Electoral Commission may order that in the same electoral division the votes of more than one candidate shall be counted contemporaneously provided that they ensure that the ballot papers belonging to different candidates are kept separate.

(4) At the end of the count in a particular electoral division the Commission shall declare the total number of valid ballot papers in that division and the total number of valid votes credited to each candidate in that electoral division.

Ascertainment of quota.

8. The Commission shall then divide the total number of valid papers in each division by a number exceeding by one the number of vacancies to be filled. The result increased by one, disregarding any fractional remainder, shall be the number of votes sufficient to secure the return of a candidate. This number is herein called the "quota".

Candidate with quota elected.

9. If at the end of any count the number of votes credited to a candidate is equal to or greater than the quota, that candidate shall thereupon be elected.

Transfer of surplus. *Amended by: XV. 1996.65.*

10. (1) If at the end of any count the number of votes credited to a candidate is greater than the quota, the surplus shall be transferred, as in this regulation provided, to the continuing candidates for whom the next available preferences have been recorded on the ballot papers in the parcel or sub-parcel received by the elected candidate at that count.

Priority of surplus.

(2) A surplus which arises from any count shall be transferred before a surplus which may arise from a subsequent count.

(3) If more than one candidate has a surplus arising from the same count, the largest surplus shall first be dealt with.

Equality of surplus.

(4) If two or more candidates have each an equal surplus arising from the same count, the surplus of the candidate with the greatest number of votes at the first count at which the candidates in question had an unequal number of votes shall first be dealt with. Where the number of votes credited to such candidates were equal at all counts the Commission shall determine by lot which surplus they will first deal with.

Original votes only.

(5) (*a*) If the votes credited to an elected candidate consist of original votes only, the Commission shall examine all the papers in the parcel of the elected candidate whose surplus is to be transferred.

Original and transferred votes.

(*b*) If the votes credited to an elected candidate consist of original and transferred votes, or of transferred votes only, the Commission shall examine the papers contained in the last sub-parcel last received by the elected candidate whose surplus is to be transferred.

Papers sorted to next available preference.

(*c*) In either case the Commission shall sort the transferable papers into sub-parcels according to the next available preference recorded thereon, shall make a separate sub-parcel of the non-transferable papers and shall ascertain the number of papers in each sub-parcel of transferable papers and in the sub-parcel of non-transferable papers.

Transferable papers equal or less than surplus.

(6) If the total number of papers in the sub-parcels of transferable papers is not greater than the surplus, the Commission shall transfer the whole of each sub-parcel of transferable papers to the continuing candidate indicated thereon as the voter's next available preference, and shall set aside as a separate parcel so many of the non-transferable papers as are not required for the quota of the elected candidate. The particular papers set aside shall be those last filed in the sub-parcel of non-transferable papers.

(7) (*a*) If the total number of transferable papers is greater than the surplus, the Commission shall transfer from each sub-parcel of transferable papers to the continuing candidate indicated thereon as the voters' next available preference the number of papers which bears the same proportion to the number of papers in the sub-parcel as the surplus bears to the total number of transferable papers. Transferable papers exceed surplus; proportionate transfer.

(*b*) The number of papers to be transferred from each sub-parcel shall be ascertained by multiplying the number of papers in the sub-parcel by the surplus and dividing the result by the total number of transferable papers. A note shall be made of the decimal parts (to four significant places), if any, of each number so ascertained. Ascertainment of number of papers to be transferred.

(*c*) If, owing to the existence of such decimal parts (to four significant places), the number of papers to be transferred is less than the surplus, so many of these decimal parts (to four significant places) taken in the order of their magnitude, beginning with the largest as are necessary to make the total number of papers to be transferred equal to the surplus, shall be reckoned as of the value of unity, and the remaining decimal parts (to four significant places) shall be ignored. Treatment of decimal parts (to four significant places).

(*d*) If two or more decimal parts (to four significant places) are of equal magnitude, those decimal parts (to four significant places) shall be deemed to be the largest which arise from the largest sub-parcels and if the sub-parcels in question are equal in size, the decimal parts (to four significant places) credited to the candidate with the greatest number of votes at the first count at which the candidates in question had an unequal number of votes shall be deemed to be the largest. Where the numbers of votes credited to such candidates were equal at all counts the Commission shall determine by lot which decimal parts (to four significant places) shall be deemed to be the largest. Equality of decimal parts (to four significant places).

(*e*) The particular papers transferred from each sub-parcel shall be those last filed in the sub-parcel, and each paper so transferred shall be marked with the number of the count at which the transfer took place. Papers transferred from sub-parcels.

11. (1) If at the end of any count no candidate has a surplus and one or more vacancies remain unfilled, the Commission shall exclude from the poll the candidate credited with the lowest number of votes; shall examine all the papers of that candidate; shall sort the transferable papers into sub-parcels according to the next available preferences recorded thereon for continuing candidates; shall transfer each sub-parcel to the candidate for whom that preference is recorded; and shall make a separate sub-parcel of the non-transferable papers. Exclusion of candidates. One candidate excluded.

(2) If the total of the votes of the two or more candidates Two or more excluded.

lowest on the poll is less than the number of the votes credited to the next highest candidate the Commission may at the same count exclude those candidates from the poll and transfer their votes as in this regulation provided.

Selection of candidate for exclusion.

(3) If, when a candidate has to be excluded, two or more candidates have each the same number of votes and are lowest on the poll, the candidate with the lowest number of votes at the first count at which the candidates in question had an unequal number of votes shall be excluded, and, where the numbers of votes credited to those candidates were equal at all counts, the Commission shall decide by lot which shall be excluded.

Last vacancies.

12. Notwithstanding anything in these regulations contained:

(1) If at the end of any count the number of elected candidates is equal to the number of vacancies to be filled, no further transfer of votes shall be made.

(2) If on the exclusion of a candidate or candidates the number of the then continuing candidates is equal to the number of vacancies to be filled, the continuing candidates shall thereupon be elected and no further transfer of votes shall be made.

Procedure in transferring votes. Papers transferred.

13. (1) Whenever any transfer is made each sub-parcel of papers transferred shall be placed on the top of the parcel, if any, of papers of the candidate to whom the transfer is made, and that candidate shall be credited with a number of votes equal to the number of papers transferred to him.

Non-transferable papers set aside.

(2) Non-transferable papers, except such as in the transfer of a surplus may be required for the quota of the elected candidate, shall be set aside as a separate parcel together with any parcel of non-transferable papers already set aside.

Papers retained for quota.

(3) On the transfer of the surplus of an elected candidate, all papers not transferred to continuing candidates and not set aside as provided in the preceding paragraph shall be placed together in one parcel as the quota of the elected candidate and the parcel shall be marked with the name of the elected candidate.

Partial re-counts.

14. Any candidate or agent may, at the end of any count, request the Commission to re-examine and re-count all or any of the papers dealt with during that count, and the Commission shall forthwith re-examine and re-count accordingly the papers indicated without making any alterations in the arrangements of the papers in the various parcels save where such alteration may be necessary in consequence of any error discovered in the re-count; the Commission may also at their discretion re-count papers either once or more often in any case in which they are not satisfied as to the accuracy of any previous count; provided that nothing herein shall make it obligatory on the Commission to recount the same papers more than once.

Election petitions.

15. (1) Upon an election petition the court may direct the whole or any part of the ballot papers to be re-counted, and the result of the election to be ascertained in accordance with these regulations.

(2) On any re-count, subject to such modifications as may be necessary by reason of any order of the court, each paper originally declared valid shall, whenever any transfer of votes takes place, follow the same course as at the original counting of the votes.

Decision of returning officers on transfer.

16. (1) If any question shall arise in relation to any transfer of votes, the decision of the Commission whether expressed or implied by their acts, shall be final unless an objection is made in writing by any candidate or agent before the declaration of the poll, and in that event the decision of the Commission may be reversed upon an election petition.

(2) If any decision of the Commission is so reversed, the transfer in question and all operations subsequent thereto shall be void and the court shall direct what transfer is to be made in place of the transfer in question, and shall cause the subsequent operations to be carried out and the result of the election to be ascertained in accordance with these regulations.

Result of poll. Form of declaration.

17. The declaration of the result of the poll shall include a record of any transfer of votes made under these regulations, and of the total number of votes credited to each candidate after any such transfer, and shall be in the form shown in the Schedule to these regulations, or in a form to the like effect.

PART III

Casual Vacancies

Notice of vacancy.

18. In the event of a seat becoming vacant the Commission shall, within five working days from the date of the receipt of the President's Writ, give notice, to be published in the Gazette, of an election to fill the seat vacated.

Nominations.

19. Within five working days after the publication of such notice any person who:

(*a*) at the general election held immediately prior to the occurrence of the said vacancy was a candidate nominated for election as a Member of the House for the electoral division in respect of which the vacancy has arisen, and did not withdraw from the election and was not elected, and

(*b*) is still qualified to be so elected

may with his consent, be nominated as a candidate for the said vacancy.

Notice of valid nominations.

20. Within three working days after the last day fixed for the receipt of nominations, the Commission shall decide on the validity of the nominations, and shall publish in the authorised form, the names, and description of the persons validly nominated, and the electoral division the seat whereof is to be filled.

If two or more nominations, ballot papers of vacating member are examined.

21. If there are any valid nominations, the Commission shall, within four working days, proceed to examine the ballot papers in the sealed parcel of the vacating member and the following provisions shall apply:

(1) All candidates for the electoral division at the general election shall be deemed to be candidates excluded from the poll except those who have been validly nominated for the vacant seat.

(2) The papers preserved under seal in accordance with the General Elections Act in the parcel of the vacating Member shall be examined and transferred to the validly nominated candidates first available in order of preference shown upon such papers, and each validly nominated candidate shall be credited with one vote in respect of each paper transferred.

(3) In any case where there is only one validly nominated candidate, if such candidate is credited with votes in number equal to or exceeding half the number of papers in the parcel of the vacating Member, he shall be declared elected.

(4) In any case where there are two or more validly nominated candidates, the Commission shall exclude from the poll the candidate credited with the lowest number of votes and shall transfer his votes according to the next available preferences shown upon the ballot papers for the continuing candidate or candidates. The process of excluding the candidate lowest in the poll and of transferring his votes according to the next available preferences shall be continued until there is only one candidate remaining. If such candidate shall have then been credited with votes in number equal to or exceeding half the number of papers in the parcel of the vacating Member, that candidate shall be declared elected:

Provided that if at any time any candidates shall have been credited with votes exceeding the combined total of votes of all other candidates, and at the same time equal to or exceeding half the number of papers in the parcel of the vacating Member, he shall be declared elected without further transfer.

Vacancy filled by co-option in special cases.

22. (1) If a vacancy occurs in a seat which has been filled in accordance with this Part of these Regulations, or in accordance with sub-article (1) of article 54 of the General Elections Act, or if on a vacancy occurring no candidate is validly nominated, or if after examination of the ballot papers of the vacating Member no candidate secures election, the vacancy shall be filled by co-option, by the Members of the House of a person duly qualified for membership of the House.

(2) In filling a vacancy by co-option, regard shall be had to the representation as nearly as may be of the interests and opinions represented and held by the vacating Member.

PART IV

Article 52 of the Constitution

Additional members. *Added by: XXI. 2007.7.*

23. For the purpose of electing the additional members, if any, required in terms of sub-paragraphs (i) and (ii) of the first proviso to sub-article (1) of article 52 of the Constitution and of sub-paragraphs (i) and (ii) of the second proviso to the same sub-article, the Commission shall:

(1) establish the total valid votes credited at first count to each of the parties that has elected members to the

House of Representatives;

(2) establish the number of members elected to the House of Representatives by each of the parties;

(3) for the purpose of sub-paragraph (i) of the first proviso to sub-article (1) of article 52 of the Constitution, when there is more than one party that has obtained less than fifty per centum of all the valid votes cast at first count at that election (hereinafter referred to as the "minority party") the Electoral Commission shall add together the totals of sub-regulations (1) and (2) of this regulation for all the minority parties so that, for the purposes of that sub-paragraph, there is effectively one minority party;

(4) for each party, divide the number arrived at in pursuance of sub-paragraph (1) by the number arrived at in pursuance of subparagraph (2) obtaining the average vote per seat for each party, disregarding any remainders;

(5) adopting the lowest average vote per seat obtained in terms of sub-paragraph (4) as the benchmark, hereinafter referred to as the "low average", divide the number of first count votes credited to the party with a higher average, hereinafter referred to as the "disadvantaged party" by the low average to obtain the total number of members of the House of Representatives that should be credited to the disadvantaged party;

(6) the result obtained by subtracting the number of members elected to the House of Representatives by the disadvantaged party from the number of total members obtained by that party at sub-paragraph (5) above shall be the additional number of members of the House of Representatives that are to be declared elected in terms of the Constitution;

(7) the total composition of the House of Representatives shall be such number of seats as is established in sub-paragraph (6) of this paragraph provided that if the total number of seats includes a remainder that remainder shall be eliminated by increasing or decreasing the number of seats to the nearest odd number.

Annex to the Thirteenth Schedule

Art. 52 of the Constitution

Regulation 23 of the General Elections (Sorting of Ballot Papers, Casual Elections and Co-Opting) Regulations 1991

Examples for calculating additional Members of Parliament in terms of article 52 of the Constitution

1. Examples in terms of sub-paragraph (i) of the first proviso to sub-article (1) of article 52 of the Constitution

Example A - when only two parties elect members and the party with an absolute majority of votes elects a minority of members

Party A is credited with 150,000 valid first count votes and elects 30 members

Party B is credited with 140,000 valid first count votes and elects 35 members

Party C is credited with 5,000 valid first count votes and elects no members

1. Once all counts have been terminated in terms of these regulations and all 65 members have been declared elected, the Electoral Commission establishes that Party A has more than 50% of all valid first count votes (150,000 versus 145,000) BUT has a minority of elected members (30 versus 35 of Party B);

2. Since Party C has not elected candidates, the first count votes credited to its candidates are eliminated from all subsequent calculations;

3. Party A has a right to increase the number of its candidates to be declared elected so that, in percentage terms, the same proportion used for Party B when electing its own members is also used for Party A;

4. To establish that proportion, the Commission proceeds to determine the average number of votes used by each of the parties to elect each of its candidates and it does so by dividing the total number of votes credited at first count to all the candidates of each party that has elected candidates, by the number of candidates declared elected on behalf of that party, disregarding any remainders, so in this example:

- Party A - 150,000/30 = 5,000
- Party B - 140,000/35 = 4,000

5. The Commission adopts the lowest number so obtained (4000) as the average votes per seat to be applied for determining the final number of elected candidates to be credited to Party A and arrives at the total number by dividing the total first count votes credited to all its candidates (150,000) by the resultant lowest average votes per seat (4000), which result will represent the total number of candidates that are to be elected by the Party A:

- Party A - 150,000/4000 = 37.5

6. From the result so obtained, representing the total number of candidates that are to be declared elected for Party A (37.5), the Commission deducts the number of candidates of that Party already declared elected (30) and the result thereof (7.5) represents the additional number of members that are to be declared elected on behalf of Party A

7. The total number of seats credited to Party A (37.5 seats) plus the total number of seats credited to Party B (35 seats) gives a total of 72.5 seats and since the total number of seats according to the Constitution has to be odd the total number of seats becomes 73

which is the nearest odd number to the total seats (72.5 seats) and the last seat assigned to the Party with the highest remainder, which in this case is Party A (Party A = 37.5 seats, Party B = 35 seats).

8. The final result would therefore be: Party A 38 seats and Party B 35 for a House of Representatives with 73 seats

Example B - when only two parties elect members and the party with an absolute majority of votes elects an absolute majority of members which is not proportionate to the share of the votes obtained by that party

Party A is credited with 160,000 valid first count votes and elects 33 members

Party B is credited with 140,000 valid first count votes and elects 32 members

Party C is credited with 5,000 valid first count votes and elects no members

1. Once all counts have been terminated in terms of these regulations and all 65 members have been declared elected, the Electoral Commission establishes that Party A has more than 50% of all valid first count votes (160,000 versus 145,000);

2. Since Party C has not elected candidates, the first count votes credited to its candidates are eliminated from all subsequent calculations;

3. Party A has a right to increase the number of its candidates to be declared elected so that, in percentage terms, the same proportion used for Party B when electing its own members is also used for Party A;

4. To establish that proportion, the Commission proceeds to determine the average number of votes used by each of the parties to elect each of its candidates and it does so by dividing the total number of votes credited at first count to all the candidates of each party that has elected candidates, by the number of candidates declared elected on behalf of that party, disregarding any remainders, so in this example:

- Party A - 160,000/33 = 4,848
- Party B - 140,000/32 = 4,375

5. The Commission adopts the lowest number so obtained (4375) as the average votes per seat to be applied for determining the final number of elected candidates to be credited to Party A and arrives at the total number by dividing the total first count votes credited to all its candidates (160,000) by the resultant lowest average votes per seat (4375), which result will represent the total number of candidates that are to be elected by the Party A:

- Party A - 160,000/4375 = 36.57

6. From the result so obtained, representing the total number of candidates that are to be declared elected for Party A (36.57), the Commission deducts the number of candidates of that Party already declared elected (33) and the result thereof (4.75) represents the

additional number of members that are to be declared elected on behalf of Party A.

7. The total number of seats credited to Party A (36.57 seats) plus the total number of seats credited to Party B (32 seats) gives a total of 68.57 seats and since the total number of seats according to the Constitution has to be odd the total number of seats becomes 69 which is the nearest odd number to the total seats (68.57 seats) and the last seat assigned to the Party with the highest remainder, which in this case is Party A (Party A = 36.57 seats, Party B = 32 seats).

8. The final result would therefore be: Party A 37 seats and Party B 32 for a House of Representatives with 69 seats.

Example C - when three (or more) parties elect members

Party A is credited with 150,000 valid first count votes and elects 29 members

Party B is credited with 140,000 valid first count votes and elects 35 members

Party C is credited with 5,000 valid first count votes and elects 1 member

1. Once all counts have been terminated in terms of these regulations and all 65 members have been declared elected, the Electoral Commission establishes that Party A has more than 50% of all valid first count votes (150,000 versus 140,000) BUT has a minority of elected members (29 versus 36 of Party B + Party C);

2. Party A has a right to increase the number of its candidates to be declared elected and, in doing so, the same proportion of votes used to elect members is to be used for all parties;

3. Since there are more than one minority parties, the Commission adds together the total first count votes of both minority parties (140,000 + 5,000 = 145,000) as well as the seats obtained by both of them (35 + 1 = 36) and considers them as one minority party.

4. To establish the proportion provided for in subregulation 2, the Commission proceeds to determine the average number of votes used by each of the parties to elect each of its candidates and it does so by dividing the total number of votes credited at first count to all the candidates of each party that has elected candidates, by the number of candidates declared elected on behalf of that party, disregarding any remainders, so in this example:

- Party A - 150,000/29 = 5172
- Party B + C - 145,000/36 = 4027

5. The Commission adopts the lowest number so obtained (4027) as the average votes per seat to be applied to determine the final number of elected candidates to be credited to Party A and arrives at the total number by dividing the total first count votes credited to all the candidates of Party A (150,000) by the resultant lowest average votes per seat (4027), which result will represent the total number of candidates that are to be elected by the Party A:

• Party A - 150,000/4027 = 37.2

6. From the result so obtained, representing the total number of candidates that are to be declared elected for Party A (37.2), the Commission deducts the number of candidates of Party A already declared elected (29) and the result thereof (8.2) represents the additional number of members that are to be declared elected on behalf of Party A.

7. The total number of seats credited to Party A (37.2) seats plus the total number of seats credited to Party B (35) and those credited to Party C (1) gives a total of 73.2 seats and since the total number of seats has, according to the Constitution, to be odd the total number of seats is reduced to 73 which is the nearest odd number to the total seats (73.2 seats).

8. The final result would therefore be: Party A 37 seats, Party B 35 and Party C 1 seat for a House of Representatives with 73 seats

Example D - When three or more parties elect members and the party with an absolute majority of votes elects an absolute majority of members which is not proportionate to the share of the votes obtained by that party

Party A is credited with 160,000 valid first count votes and elects 33 members

Party B is credited with 140,000 valid first count votes and elects 31 members

Party C is credited with 5,000 valid first count votes and elects 1 member

1. Once all counts have been terminated in terms of these regulations and all 65 members have been declared elected, the Electoral Commission establishes that Party A has more than 50% of all valid first count votes (160,000 versus 145,000);

2. Party A has a right to increase the number of its candidates to be declared elected and, in doing so, the same proportion of votes used to elect members is to be used for all parties;

3. Since there are more than one minority parties, the Commission adds together the total first count votes of both minority parties (140,000 + 5,000 = 145,000) as well as the seats obtained by both of them (31 + 1 = 32) and considers them as one minority party.

4. To establish the proportion provided for in subregulation 2, the Commission proceeds to determine the average number of votes used by each of the parties to elect each of its candidates and it does so by dividing the total number of votes credited at first count to all the candidates of each party that has elected candidates, by the number of candidates declared elected on behalf of that party, disregarding any remainders, so in this example:

• Party A - 160,000/33 = 4848

• Party B + C - 145,000/32 = 4531

5. The Commission adopts the lowest number so obtained (4531) as the average votes per seat to be applied to determine the final number of elected candidates to be credited to Party A and arrives at the total number by dividing the total first count votes credited to all the candidates of Party A (160,000) by the resultant lowest average votes per seat (4531), which result will represent the total number of candidates that are to be elected by Party A:

• Party A - 160,000/4531 = 35.31

6. From the result so obtained, representing the total number of candidates that are to be declared elected for Party A (35.3), the Commission deducts the number of candidates of Party A already declared elected (33) and the result thereof (2.3) represents the additional number of members that are to be declared elected on behalf of Party A.

7. The total number of seats credited to Party A (35.31) seats plus the total number of seats credited to Party B (31) and those credited to Party C (1) gives a total of 67.31 seats and Constitution, to be odd the total number of seats is reduced to 67 which is the nearest odd number to the total seats (67.31seats).

8. The final result would therefore be: Party A 35 seats, Party B 31 and Party C 1 seat for a House of Representatives with 67 seats

2. Example in terms of sub-paragraph (ii) of the first proviso to sub-article (1) of article 52 of the Constitution

Example 1A above will apply but the votes of Party C at first count would be taken at 15,000 and it would still not elect any candidate.

3. Example in terms of sub-paragraph (i) of the second proviso to sub-article (1) of article 52 of the Constitution

Party A is credited with 150,000 valid first count votes and elects 35 members

Party B is credited with 140,000 valid first count votes and elects 30 members

Party C is credited with 5,000 valid first count votes and elects no members

1. Once all counts have been terminated in terms of these regulations and all 65 members have been declared elected, the Electoral Commission establishes that Party A has more than 50% of all valid first count votes (150,000 versus 145,000);

2. Since Party C has not elected candidates, the first count votes credited to its candidates are eliminated from all consequent calculations;

3. The Commission proceeds to establish whether Party B has a disproportionately lower share of seats by establishing the average number of votes used by each of the parties to elect each of its candidates and it does so by dividing the total number of votes

credited at first count to all the candidates of each party that has elected candidates, by the number of candidates declared elected on behalf of that party, disregarding any remainders, so that in this example:

- Party A - 150,000/35 = 4,285
- Party B - 140,000/30 = 4,666

4. Party B has a right to increase the number of its candidates to be declared elected so that, in percentage terms, the same proportion is used for Party B when electing its own members as is also used for Party A;

5. The Commission adopts the lowest number so obtained (4285) as the average votes per seat to be applied for determining the final number of elected candidates to be credited to Party B and arrives at the total number by dividing the total first count votes credited to all its candidates (140,000) by the resultant lowest average votes per seat (4285), which result will represent the total number of candidates that are to be elected by the Party A:

- Party A - 140,000/4285 = 32.6

6. From the result so obtained, representing the total number of candidates that are to be declared elected for Party B (32.6), the Commission deducts the number of its candidates already declared elected (30) and the result thereof (2.6) represents the additional number of members that are to be declared elected on behalf of Party B.

7. The total number of seats credited to Party A (35) seats plus the total number of seats credited to Party B (32.6) gives a total of 67.6 seats and since the total number of seats has, according to the Constitution, to be odd the total number of seats is reduced to 67 which is the nearest odd number to the total seats (67.6).

8. The final result would therefore be: Party A 35 seats and Party B 32 for a House of Representatives with 67 seats.

4. Example in terms of sub-paragraph (ii) of the second proviso to sub-article (1) of article 52 of the Constitution

Example 3 above will apply but the votes of Party C at first count would be taken at 15,000 and it would still not elect any candidate.

SCHEDULE

Declaration of Result of Poll

Name of Electoral Division

Election of Members of the House of Representatives for the above Electoral Division in the year

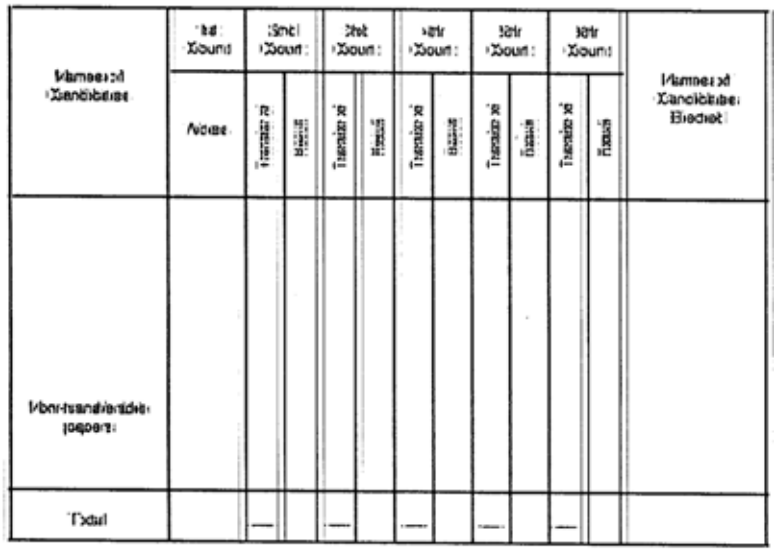
We the undersigned, being the Electoral Commissioners at the poll for the election of Members of the House of Representatives for the said Electoral Division held on the day of ..... of the year

....., do hereby give notice that the result of the Poll and of the transfer of votes is as follows:

Number of valid votes .....

Number of members to be elected .....

Quota (number of votes sufficient to secure election of a candidate) .....



And we do hereby declare the said ..... duly elected Members of the House of Representatives for the said Electoral Division.

Dated this .....day of .....of the year.....

.....

Electoral Commissioners

Substituted by: L.N. 178 of 1996.

EXAMPLE OF THE METHOD OF COUNTING THE BALLOT PAPERS AT AN ELECTION CONDUCTED ON THE PROPORTIONAL REPRESENTATION SYSTEM OF THE SINGLE TRANSFERABLE VOTE

(*See Part I of Regulations*)

Let it be assumed that there are six members to be elected and that there are eleven candidates, A, B, C, D, E, F, G, H, I, K, L.

FIRST COUNT

The ballot papers having been mixed and examined, the invalid papers being excluded, and the valid papers sorted into separate parcels under the names of the candidates marked with the figure 1, each separate parcel is counted, and each candidate is credited with a number of votes equal to the number of the papers on which a first preference has been recorded for him.

The results of the count may be supposed to be as follows:

	Votes
B	140
F	62
H	50
C	25
L	24
G	14
I	12
D	10
A	7
E	4
K	-
Total	348

THE QUOTA

It is found that the total of all the valid ballot papers is 348. This total is divided by seven (i.e. the number which exceeds by one the number of vacancies to be filled), and 50 (i.e. the quotient 49 increased by l, neglecting the fraction) is the "quota", or the number of votes sufficient to elect a member.

The votes obtained by B, F and H exceed or equal the quota, and they are thereupon elected.

SECOND COUNT

B has 90 surplus votes (i.e. B's total 140, less the quota 50), and it is necessary to transfer this surplus first as being the largest.

All B's 140 papers are examined and arranged in separate sub-parcels according to the next available preferences indicated thereon.

In general the next available preference will be the second preference. But any paper on which the second preference is given to either F or H, both already elected, passes to the next available preference after such candidates. A paper marked with 1 for B, 2 for H, 3 for F, 4 for I, is placed in the sub-parcel for I.

A separate sub-parcel is also formed of those papers on which no further available preference, i.e., no further preference for any continuing candidate is shown, and which are therefore not transferable.

The result is found to be as follows:

A next available preference is shown for D on ..... 80 papers

A next available preference is shown for E on ..... 2 papers

A next available preference is shown for I on ..... 25 papers

A next available preference is shown for K on ..... 29 papers

Total of *transferable* papers ..... 136 papers

Total of *non-transferable* papers ..... 4 "

Total of B's papers..... 140

Since the total number of transferable papers (136) exceeds the surplus (90), only a portion of each sub-parcel can be transferred, and the number of papers to be transferred from each sub-parcel must bear the same proportion to the total number of papers in the sub-parcels as that which the surplus bears to the total number of transferable papers.

In other words, the number of papers to be transferred from each sub-parcel is ascertained by multiplying the number of papers in the sub-parcel by 90 (the surplus), and dividing the result by 136 (the total number of transferable papers) giving 0.6617647.

The process is as follows:

D's sub-parcel contains 80 papers, and his share of the surplus is therefore	80 x 0.6617647 or 52.9412
E's sub-parcel contains 2 papers, and his share of the surplus is therefore.....	2 x 0.6617647 or 1.3235
I's sub-parcel contains 25 papers, and his share of the surplus is therefore	25 x 0.6617647 or 16.5441
K's sub-parcel contains 29 papers, and his share of the surplus is therefore	29 x 0.6617647 or 19.1912
Total	90

The numbers of papers to be transferred as determined by the preceding process contain decimal parts, and since only whole papers can be transferred, so many of the largest of these decimal parts, taken in order of their magnitude as will make the total number of papers to be transferred equal to the surplus are reckoned as of the value of unity.

Thus as the *whole* numbers determined above amount to only 88 viz. (52+1+16+19), or two short of the surplus, 90, the two largest decimal parts .9412 and .5441 are reckoned as unity, and the number of papers actually transferred are as follows:

To D	53 papers
To E	1 paper
To I	17 papers

To D ..... 53 papers
To K ..... 19 papers

Total, being B's surplus ..... 90 papers

The particular papers to be transferred to D, E, I and K are those last filed in their respective sub-parcels, and, therefore at the top of the sub-parcels. The papers transferred are marked with the number of the count at which the transfer is made.

These papers are added in separate sub-parcels to the parcels of D, E, I and K. (Note: K had no parcel of original votes).

The totals of the votes credited to these candidates then become:

D ..... 10+53 = 63
E ..... 4 + 1 = 5
I ..... 12+17 = 29
K ..... 0+19 = 19

The remainders of the papers in the sub-parcels (i.e. those papers not transferred), together with the papers on which no further available preferences were marked are collected together and formed into one parcel, representing B's quota of votes (50).

The parcel is made up as follows:

The remainder of D's sub-parcel, 80 less 53 = 27

The remainder of E's sub-parcel, 2 less 1 = 1

The remainder of I's sub-parcel, 25 less 17 = 8

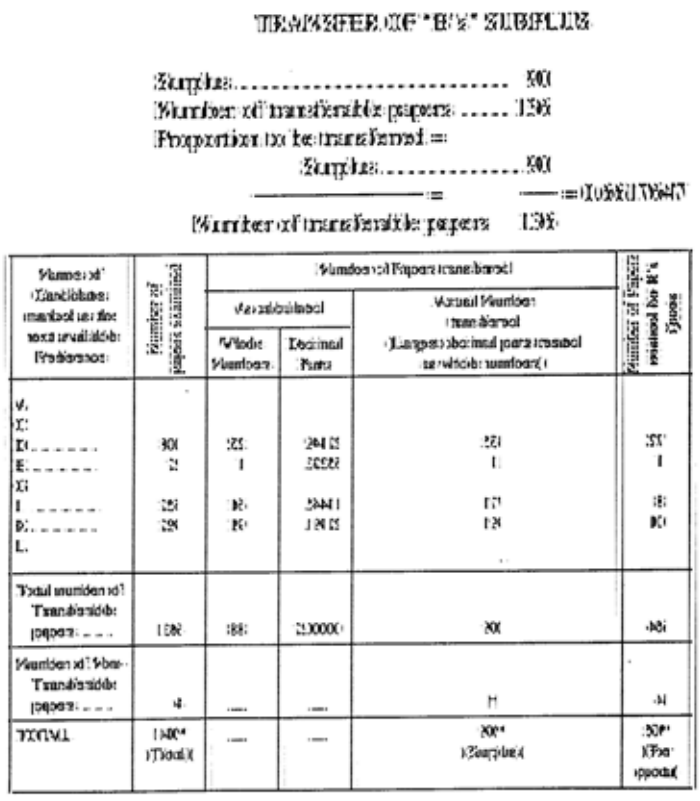
The remainder of K's sub-parcel, 29 less 19 = 10

Non-transferable papers 4

Total, being B's quota 50

The operations involved in this transfer are summarised in the following table:

COUNT No.2



TRANSFER OF "B's" SURPLUS

Surplus 90
Number of transferable papers 136
Proportion to be transferred =
Surplus 90
——————— = ——— = 0.66176[illegible]
Number of transferable papers 136

Names of Candidates marked as the next available Preference	Number of papers examined	Number of Papers transferred			Number of Papers retained for B's Quota
		As calculated		Actual Number transferred (Largest decimal parts treated as whole number)	
		Whole Numbers	Decimal Parts		
A					
C					
D	30	25	24.[illegible]	25	25
E	2	1	0.[illegible]	1	1
G					
I	25	16	5.[illegible]	17	8
B	29	19	12.[illegible]	19	10
L					
Total number of Transferable papers	136	88	2.00000	90	46
Number of Non-Transferable papers	4	.....	.....	4	4
TOTAL	140* (Total)	.....	.....	90* (Surplus)	50* (Per quota)

Notes for Electoral Commissioners

* It will be found convenient to begin filling in the transfer sheet by inserting the totals in the spaces marked with an asterisk. These totals are known before the count is commenced.

† When transferring a surplus *all* the non-transferable papers are usually retained as part of the quota, *but when the number of transferable papers is less than the surplus*, the difference should be inserted in the space marked with a dagger, and a corresponding number of non-transferable papers should be transferred to the non-transferable box. These papers should be taken from the top of the parcel of non-transferable papers and the number taken should be shown on the Result Sheet on the line provided for non-transferable papers.

The state of the poll on the conclusion of the count is as follows:

	Votes
B	50 (elected)
F	62 (elected)
H	50 (elected)
D	63 (elected)
I	29

C 25

L 24

K 19

G 14

A 7

E 5

Total 348

D now has 63 votes, a number which is more than the quota. He is accordingly elected.

THIRD COUNT

There are now two surpluses that of F (12) and that of D (13). F's surplus, though the smaller, is first dealt with as it arose on a prior count. F's surplus is distributed proportionately among the next available preferences on F's original 62 papers in exactly the same manner as in the case of B, with the result that 9 papers are transferred to L, 2 to C and 1 to A.

The papers forming F's quota are placed together in one parcel, which is marked with F's name.

The papers forming the quota of H (who obtained an exact quota at the first count) are likewise placed together in one parcel, which is marked with H's name.

FOURTH COUNT

D's surplus (13) must now be distributed. For this purpose only the sub-parcel last transferred, containing 53 papers, is considered. These are examined and sorted into sub-parcels, according to the next available preferences, with the following result:

A next available preference is shown for I on ..... 42 papers

A next available preference is shown for K on ..... 10 papers

Total of *transferable* papers ..... 52 papers

No further preference is shown on ..... 1 paper

Total 53

The number of papers to be transferred from each sub-parcel is ascertained by multiplying the number of papers in the sub-parcel by 13 (the surplus) and dividing the result by 52 (the total number of transferable papers); therefore

I's share of the surplus is.....42 x 0.25 = 10.5

K's share of the surplus is.....10 x 0.25 = 2.5

As the decimal parts above are equal, that which arises from the larger sub-parcel is deemed to be the larger. I's share of D's surplus is, accordingly, 11 votes, and K's share is 2 votes.

The number of votes transferred and retained are in accordance

with the simplified transfer sheet following:

COUNT No. 4

TRANSFER OF "D's" SURPLUS

Surplus 13

Number of transferable papers 52

Proportion to be transferred =

$$\frac{\text{Surplus}}{\text{Number of transferable papers}} = \frac{13}{52} = 0.25$$

Names of Candidates marked as the next available Preference	Number of Papers examined	Number of Papers transferred	Number of Papers retained for D's Quota
I	42	0.25 (11)	31
K	10	0.25 (2)	8
Total number of Transferable papers	52	0.25 (13)	39
Number of Non-Transferable papers	1	—	1
Totals	53 (Total)	13 (Surplus)	40 (For quota)

Sub-parcels of 11 papers and 2 papers marked with the number of the count at which the transfer took place are added to parcels of I and K respectively, and the remainders (31 and 8) together with the 1 non-transferable paper and the 10 papers received by D on the first count, making 50 papers altogether, are formed into one parcel, making D's quota of votes.

The state of the poll on the conclusion of the count is as follows:

	Votes
B	50 (elected)
F	50 (elected)
H	50 (elected)
D	50 (elected)
I	40
L	33
C	27
K	21
G	14

A 8

E 5

Total 348

FIFTH COUNT

There being now no surplus required to be dealt with, the Electoral Commissioner proceeds to transfer the votes of the candidate with the smallest total of votes. The candidate lowest on the poll is E, with 5 votes, but since the combined totals of E and A (5+8=13) are less than 14, the total of G, the next highest candidate, the Electoral Commissioner transfers the papers of both E and A at the same count.

The papers in the parcels of E and A (total 13) are examined, and is found that:

C is marked next available preference on ... ... 1 paper

G is marked next available preference on ... ... 7 papers

I is marked next available preference on ... ... 4 papers

Non- transferable papers ... ... 1 paper

Total ... ... 13 papers

The operation is completed by the transfer of 1 paper to C, 7 papers to G, 4 papers to I, and the 1 non-transferable paper is set aside as a separate parcel.

The state of the poll is now as follows:

Votes

B ..... 50 (elected)

F ... . 50 (elected)

H ..... 50 (elected)

D ..... 50 (elected)

I 44

L 33

C 28

G 21

K 21

Non-transferable paper 1

Total 348

SIXTH COUNT

No candidate is elected as the result of the fifth count and the next operation has to be determined upon. Candidates G and K have

each the same number of votes (21) and are lowest on the poll. K's papers are distributed, as he obtained fewer votes than G in the first count. From the distribution of K's papers (21), 3 papers are transferred to C, 15 to I, 1 to L, and 2 are non-transferable. I thereby reaches a total of 59 votes, and is elected.

The state of the poll is now as follows:

	Votes
B	50 (elected)
F	50 (elected)
H	50 (elected)
D	50 (elected)
I	59 (elected)
L	34
C	31
G	21
Non-transferable papers	3
Total	348

SEVENTH COUNT

I's surplus (9) must now be distributed.

For this purpose only the sub-parcel of papers last transferred to I (15 papers) is taken into account.

These are examined and arranged in sub-parcels for the continuing candidates, with the following result:

C is next available preference on ... ... 4 papers

L is next available preference on ... ... 3 papers

Total transferable papers 7

Non-transferable papers 8

Total 15

In this case the total number of transferable papers (7) is less than the surplus (9), therefore the Electoral Commissioner transfers the whole sub-parcels of transferable papers to the continuing candidates indicated thereon as next available preference. This accounts for 7 votes out of the surplus 9. There is a difference of 2 papers. The sub-parcel of non-transferable papers is therefore divided into two portions, one containing 2 papers (which form part of the surplus) the other containing 6 papers (which are required for I's quota). The portion of 2 papers is set aside as a separate parcel with the other parcels of non-transferable papers, and the portion of 6 papers is retained to make up I's quota (6+44=50).

The number of votes transferred and retained are in accordance with the transfer sheet following:

COUNT No. 7

TRANSFER OF THE SURPLUS

Surplus ..... S
Number of transferable papers ..... T
Proportion to be transferred =

$$\frac{\text{Surplus}}{\text{Number of transferable papers}} = \frac{S}{T}$$

Name of Candidates marked in the next available Preference	Number of papers examined	Number of Papers transferred			Number of Papers retained for the Quota
		As calculated		Actual Number transferred (Papers + decimal parts treated as whole numbers)	
		Whole Numbers	Decimal Parts		
C	A	A1	—	A	—
D	B	B	—	B	—
Total number of Transferable papers	T	T	—	T	—
Number of Non-Transferable papers	B	—	—	† B	B
TOTAL	S* (Total)	—	—	S* (Surplus)	S* (For quota)

Notes for Electoral Commissioners

* It will be found convenient to begin filling in the transfer sheet by inserting the totals in the spaces marked with an asterisk. These totals are known before the count is commenced.

† When transferring a surplus *all* the non-transferable papers are usually retained as part of the quota, *but when the number of transferable papers is less than the surplus*, the difference should be inserted in the space marked with a dagger, and a corresponding number of non-transferable papers should be transferred to the non-transferable box. These papers should be taken from the top of the parcel of non-transferable papers and the number taken should be shown on the Result Sheet on the line provided for non-transferable papers.

The state of the poll after the seventh count is as follows:

	Votes
B	50 (elected)
F	50 (elected)
H	50 (elected)
D	50 (elected)
I	50 (elected)
L	37
C	35
G	21
Non-transferable papers	5
Total	348

EIGHTH COUNT

There being now no surplus, the votes of G, the candidate lowest on the poll, are distributed.

G's parcel of 21 papers is found to contain 7 papers on which C is the next preference, and 12 on which L is the next preference, and 2 papers which are non-transferable.

Therefore 7 papers are transferred to C, and 12 to L, and 2 are filed as separate parcel with the other parcels of non-transferable papers.

The state of the poll is now as follows:

	Votes
B	50 (elected)
F	50 (elected)
H	50 (elected)
D	50 (elected)
I	50 (elected)
L	49
C	42
Non-transferable papers	7
Total	348

There being now no surplus, C, the candidate lowest on the poll, is excluded from the poll. But, as there remains only one vacancy to be filled, and only one continuing candidate, namely L, L is elected without any further transfer of votes.

The final result is that B, F, H, D, I and L, are elected.

The details of the various operations in this election are shown in the subjoined form of "Result-Sheet".

RESULT SHEET

No. of Votes ... 348 No. of Seats ... 6 Quota = $\frac{348}{7} + 1 = 50$

Names of Candidates	1st Count	2nd Count		3rd Count		4th Count		5th Count		6th Count		7th Count		8th Count		Members elected
		Transfer of B's Surplus	Result	Transfer of F's Surplus	Result	Transfer of D's Surplus	Result	Transfer of A's and E's Votes	Result	Transfer of K's Votes	Result	Transfer of I's Surplus	Result	Transfer of G's Votes	Result	
A	7	—	7	+1	8	—	8	-8	—	—	—	—	—	—	—	—
B	140	-90	50	—	50	—	50	—	50	—	50	—	50	—	50	B
C	25	—	25	+2	27	—	27	+1	28	+3	31	+4	35	+7	42	—
D	10	+53	63	—	63	-13	50	—	50	—	50	—	50	—	50	D
E	4	+1	5	—	5	—	5	-5	—	—	—	—	—	—	—	—
F	62	—	62	-12	50	—	50	—	50	—	50	—	50	—	50	F
G	14	—	14	—	14	—	14	+7	21	—	21	—	21	-21	—	—
H	50	—	50	—	50	—	50	—	50	—	50	—	50	—	50	H
I	12	+17	29	—	29	+11	40	+4	44	+15	59	-9	50	—	50	I
K	—	+19	19	—	19	+2	21	—	21	-21	—	—	—	—	—	—
L	24	—	24	+9	33	—	33	—	33	+1	34	+3	37	+12	49	L
Non-transferable papers	—	—	—	—	—	—	—	+1	1	+2	3	+2	5	+2	7	—
TOTALS ...	348	—	348	—	348	—	348	—	348	—	348	—	348	—	348	—

Added by: XI.2019.16.

SCHEDULE THIRTEENTH-A

The General Elections
(Electronic Counting and Sorting) Regulations, 2019

PART I
Preliminary

Citation.

1. These regulations may be cited as The General Elections (Electronic Counting and Sorting) Regulations, 2019.

Interpretation.

2. In these regulations unless the context otherwise requires the expressions used will be given the same interpretation as those used in the Thirteenth Schedule, furthermore:

"Electronic Ballot" means the electronic representation of a physical ballot paper in a machine-readable format obtained from the programmatic interpretation of the preferences indicated on the ballot paper together with a unique identifier matching the Electronic Ballot to the ballot paper and such other data the Electoral Commission may deem fit to store;

"Non-transferable Ballot" means an Electronic Ballot on which no second or subsequent preference is recorded for a continuing candidate:

Provided that an Electronic Ballot shall be deemed valid but has become a Non-transferable Electronic Ballot whenever:

(a) the names of two or more candidates, (whether continuing or not) are marked with the same number, and are next in order of preference; or

(b) the name of the candidate next in order of preference (whether continuing or not) is marked:

(i) by a number not following consecutively after some other number on the ballot paper; or

(ii) by two or more numbers; or

(c) for any other reason it cannot be determined with certainty for which of the continuing candidates the next available preference of the voter is recorded;

"Unique identifier" means a sequence of numbers used to identify each particular ballot paper and consisting of:

District number – 2 digits

Ballot box number – 4 digits

Ballot paper number – 4 digits.

Applicability of the Thirteenth Schedule.

3. Save as otherwise provided by these regulations when sorting and counting votes the Electronic Counting System is to respect and incorporate, *mutatis mutandis*, the regulations, requirements and the "Example Of The Method Of Counting The Ballot Papers At An Election Conducted On The Proportional Representation System Of The Single Transferable Vote" stated in the Thirteenth Schedule, to the exclusion of regulations 4, 5, 6, 7(2), 7(3),11(2) and 14.

PART II
Sorting of Ballot Papers

Assistants.

4. The Commission shall ensure that all the staff that it may appoint to assist, supervise and operate the Electronic Counting System and all other necessary electronic equipment for the process shall be technically trained to efficiently carry out their assigned functions.

Processing of Ballot Paper Account.

5. Upon receipt of the ballot boxes by the Commission the declared number of votes cast as stated on the Ballot Paper Account shall be registered on the Electronic Counting System. The number of ballot papers in each box according to the Ballot Paper Account shall be displayed on a monitor for the information of the candidates and their agents.

Sorting of ballot papers.

6. Once the ballot boxes are opened each ballot paper shall be taken out and first placed faced downwards to ascertain that each ballot paper contains the official stamp of the Commission, and that there are no other marks on the reverse side except the official stamp of the Commission and of the political parties that opt to put the official mark and then it shall be turned, shown and placed with its face upwards to ascertain that there are no other marks on the front of it except the numbers indicating the preferences of the voter. After the completion of the said process, the ballot papers shall then be placed with their face upwards in an appropriate tray marked with the polling booth number and, where applicable, the division or table number and locality name. A copy of the Ballot Paper Account together with the ballot papers and their trays shall be stored in such area that shall at all times be visible to candidates and their agents:

Provided that if a counter decides that there is a possibility that, for any reason according to the General Elections Act, a ballot paper may be invalid or if any candidate or agent for the same reason so claims, the counter shall inform the supervisor of such ballot paper and the supervisor shall stamp such ballot paper as "Dubious" on the top part of the front of the ballot paper and place such ballot papers on the top of the parcel:

Provided that no reconciliation of the ballots in each tray and those stated in the ballot paper Account shall be done at this stage but shall be done following the scanning phase according to regulation 8(2).

Processing of ballot papers.

7. (1) The ballot papers are to be processed, in an orderly manner, through the Electronic Counting System which shall create and store a digital image of each ballot paper and shall proceed to convert the ballot paper into an Electronic Ballot. As part of this process the ballot paper shall be marked with a unique identifier matching that given to the Electronic Ballot in order to allow the Commission, should the need arise, to identify and match the processed ballots with the ballot papers and in order to ascertain that a ballot paper is only processed and counted once.

(2) Persons supervising this process shall confirm that the number of ballots found in each box reconciles with that stated in the Ballot Paper Account as indicated by the Assistant Electoral Commissioners. When the number of votes found does not tally the Commission must be notified immediately in order to carry out the necessary investigation and give all necessary instructions.

(3) When converting the ballot papers into a machine readable format the Electronic Counting System is to identify and bring to the notice of the Commission all dubious ballot papers, that is all such ballot papers which give rise to any difficulty in interpreting the preferences or which may, for any reason according to the Act, be found to be invalid or non-transferable.

Dubious Votes.

8. (1) The Commission shall investigate all the dubious Electronic Ballots. In doing so the Commission may consult the ballot paper marked with the matching unique identifier as the Electronic Ballot:

Provided that ballot papers shall only be temporarily removed from the original tray on the order of and by an Electoral Commissioner or other persons specifically delegated by the Commission.

(2) The Electronic Counting System will bring the dubious ballots to the notice of the Commission once all the ballot papers in a particular tray are scanned and verified.

(3) Upon investigation, a dubious ballot may be determined to be:

(i) invalid and consequently the Electronic Ballot shall be put aside and ignored in all counts;

(ii) non-transferable and consequently the non-transferable portion of the Electronic Ballot shall be set aside and ignored, whilst the valid preferences shall be recorded and included in the first and subsequent counts as the case may be; or

(iii) valid and consequently the numerical sequence

on the Electronic Ballot shall be set to correctly and faithfully reflect the valid ballot paper:

Provided that in all such cases any amendment or manual operation that may have been performed on an Electronic Ballot shall be logged in the Electronic Counting System, as well as the reason where a vote is found to be invalid:

Provided further that nothing in these regulations shall prevent the Commission from examining all other Electronic Ballots.

Adjudicating Process – first tier.

(4) The Commission may appoint such persons as it deems fit to review and examine dubious ballots and to perform the relevant action required in terms of the preceding sub-regulation. A party delegate from each Party or a substitute, shall be entitled to make observations and may raise objections, in which case the dubious ballot shall be referred to the Commission for its final decision in terms of the following sub-regulations.

Adjudicating Process – Second tier.

(5) The Commission, or any number of members thereof not being less than two, shall investigate any Electronic Ballot to determine whether it is valid, transferable or non-transferable or invalid and shall, after hearing the representations of the party delegates, or their substitutes, decide in respect of each Electronic Ballot, whether it is valid, transferable or non-transferable or invalid, or shall make any amendment to the interpretation of the vote to correctly reflect the preferences stated in the ballot paper.

(6) The decision of the Commission, or any number of members thereof not being less than two, in this regard shall be final and not subject to appeal.

(7) Once all the dubious Electronic Ballots in a tray have been investigated and declared valid, transferable or non-transferable or invalid, the number of valid and invalid Electronic Ballots in that box is to be displayed on a monitor or such other method for the information of the candidates and their agents. Any ballot papers that may have been removed as directed by a Commissioner for further investigation shall be returned to its correct sequence in the ballot tray.

(8) Once all the boxes of an electoral division have been processed the total number of valid and invalid votes for that division is to be displayed on a monitor or announced in such other method as the Commission may deem fit.

Other preparatory work.

9. (1) Prior to initiating the electronic counting, the Commission may carry out such audit, verifications or other tests it may deem fit in order to ensure the correctness and completeness of the Electronic Counting System. The Commission shall produce

reports showing the number of valid votes in respect of each box together with a separate report indicating that all candidates are starting with nought (0) votes.

(2) For the purposes of enabling the counting to be conducted using the Electronic Counting System the Commission may carry out any functions or perform any procedures to be undertaken in connection with the counting by electronic means as is deemed necessary or consequential to the same.

(3) The Commission shall issue an order to commence the counting of votes only after it is satisfied that all procedures and requisites established by the Law and the Commission have been satisfied.

PART III
Counting

Counting of votes.

10. Once the input data is verified the Electronic Counting System shall determine the quota as established in regulation 8 of the Thirteenth Schedule.

Commencement of the Electronic Counting System.

11. (1) The Electronic Counting System shall commence the first count with a set of Electronic Ballots ordered in ascending order by ballot paper number and ballot box number in a division by assigning all valid Electronic Ballots to parcels according to the preferred candidate indicated in each electronic ballot and each candidate shall be credited with a number of votes equal to the number of Electronic Ballots recording a first preference for such candidate.

(2) In subsequent counts, the transferable Electronic Ballots shall be transferred and assigned to the parcel of that candidate in accordance with the same rules of the Thirteenth Schedule.

(3) The System will proceed to calculate the first count and all subsequent counts without pause, save where instructions are required from the Commission in terms of these regulations, including where a candidate has to be selected for exclusion by lot in terms of sub-regulation 11(3) of the Thirteenth Schedule.

Draft report showing the number of votes.

12. The Electronic Counting System will produce a draft report showing the number of votes obtained by each candidate at each count. The draft report, will not, at this stage be considered an official result.

Reporting of the vote.

13. The Commission shall forward a copy of the draft result to party delegates in order for them to view the result in terms of regulation 12:

Provided that the Commission shall accord the party delegates or their substitutes, in writing, an adequate, equal and reasonable period of time from the production of the draft result to view the result, which period of time may be extended by the

Commission on receiving a request by a party delegate stating the reasons to justify the request. The decision of the Commission shall be final.

Access to images of each Electronic Ballot.

14. (1) During the period of time reserved for viewing, the Party Delegates shall have the right to access the images of each Electronic Ballot together with its interpretation, and to access a complete data set containing the preferences of voters as shown in the Electronic Ballots and this solely and exclusively for the purposes of verifying that the ballot papers were correctly interpreted by the System and that the preferences stated in the ballots were correctly allocated to candidates:

Provided that the party delegates shall not retain the said information and shall ensure the complete deletion and destruction of the information received and any copies that may have been made following the verification of the ballot papers and their allocation, and this immediately upon the expiry of the period of time reserved for viewing:

Provided further that any person who having been granted access to the image of each Electronic Ballot together with its interpretation, and/or the complete or partial data set containing the preferences of voters as shown in the Electronic Ballots uses the data for purposes other than those allowed in terms of this sub-regulation or retains the said information beyond the period of time required to conduct these purposes or fails to delete or destroy the information following the conclusion of the verification shall be guilty of an offence, and shall, on conviction, be liable to a fine (*multa*) not exceeding ten thousand euro (€10,000) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(2) When providing the parties and party delegates with the information specified in the preceding sub-regulation, the Commission shall ensure that the recipients are aware of their obligations in terms of these regulations and shall be empowered to impose such non-disclosure and other obligations, including penalty clauses by which the Parties, party delegates and their substitutes shall confirm and bind themselves not to copy, retain, publish or otherwise use the data set other than for verification purposes within the time-frame allocated to them and to ensure that upon the expiry of the said time-frame they shall delete and/or return the data to the Commission.

(3) The Commission shall investigate as it deems fit any reasoned objection or complaint that a party delegate, or a contesting Party may bring forward with regards to the correctness of the result.

(4) Following the publication of the result, the Commission shall not provide access to the images of each Electronic Ballot or to their interpretation or to the complete data set containing the preferences of voters as shown in the Electronic Ballots and shall ensure that it does not

provide any information that may remove the secrecy of the vote.

Announcement of results.

15. (1) Following the declaration by the parties that they are satisfied with the result or the expiry of the time allowed for verification as indicated in regulation 13 of this Schedule, the Commission shall declare and publish the final and definite results of the first count.

(2) The Commission shall display on one or more monitors for the information of the candidates and their agents the results for the first count, the Commission shall allow a short period of time and then publish the final and definite result of the second and subsequent counts. The length of period of time between each count shall be determined by the Commission at its sole discretion.

Recount.

(3) Any candidate or agent may, before the next count is shown, request the Commission to re-examine all or any of the Papers dealt with during that count, in which case the Commission shall suspend the display of the individual counts and instead shall display on a monitor or monitors all the Electronic Ballots that were processed in that count sequentially.

(4) When examining the votes in this manner any suspected error is to be brought immediately to the attention of the Commission which shall investigate the matter and decide on how to proceed. The decision of the Commission is final and not subject to appeal.

(5) Following the display of all the counts on the monitor the result will be final and definite:

Provided that all Parties shall have the same rights at law to contest the result as emanating from the Law and from the General Elections Act and its Schedules.

Devices and software to be used.

16. (1) The Electronic Counting System and all devices or software intended to work together with the System shall be tested adequately before being approved by the Electoral Commission to carry out the process of Electronic Counting and Sorting. The Commission shall ensure that the Counting Engine and any subsequent revision shall be accredited and confirmed to operate in a correct manner in conformity with the Thirteenth Schedule and this Schedule by an accreditation authority as may be deemed appropriate by the Commission.

Security and Integrity.

(2) At least three (3) identical sets of the final and approved version of the software for the Counting Engine and the Interpretation and Transcription into machine readable language for voting preferences shall be stored in digital format on a suitable medium for the long term storage of the same data in packets; which packets shall be sealed by the Commission and the party delegates and stored by the Commission in a secure location. Party delegates shall have the right

to a set of the software installed on a secure server provided by the Commission at the Counting Complex, on polling day, and prior to the commencement of the electronic sorting and counting or at any other time as may be decided by the Commission.

(3) The Commission shall verify and ensure in the presence of the party delegates that the software made available to the party delegates as provided in sub-regulation (2) above is identical to the software that will be used in the Electronic Counting System.

Auditing of the Electronic Counting System.

17. The Commission is to ensure that the Electronic Counting System is operated independently from other systems and free from any form of electronic interference.

Further procedures established by the Commission.

18. The Commission may define and establish such further procedures that may be required to better operate the System.

Fall Back clause.

19. The Commission may, should it deem it so necessary in the circumstances, order the suspension of the use of the Electronic Counting System for counting and sorting votes and instead revert to the rules of the Thirteenth Schedule or such other regulations issued under article 105 as may be in force from time to time:

Provided that in such circumstances the Commission shall, for all intents and purposes of law, be deemed to have decided to not use an Electronic Counting System for the counting and sorting of votes.

Casual Vacancies.

20. In the event of a seat becoming vacant regulations 18 to 22 of the Thirteenth Schedule shall be applied so however that the examination of the ballot papers shall be done by the Electronic Counting System using the final resulting parcel of the Candidate as produced by the System.

Article 52 of the Constitution.

21. For the purpose of electing the additional members, if any, required in terms of sub-paragraphs (i) and (ii) of the first proviso to sub-article (1) of article 52 of the Constitution and of sub-paragraphs (i) and (ii) of the second proviso to the same sub-article, the rules and regulations found in Part IV to the Thirteenth Schedule shall be applied.

EXAMPLE OF THE METHOD OF COUNTING THE BALLOT PAPERS AT AN ELECTION CONDUCTED ON THE PROPORTIONAL REPRESENTATION SYSTEM OF THE SINGLE TRANSFERABLE VOTE USING AN ELECTRONIC VOTE COUNTING SOLUTION

Let it be assumed that there are six members to be elected and that there are eleven candidates A, B, C, D, E, F, G, H, I, K, L.

THE QUOTA

Once all ballot papers are scanned, verified and adjudicated, an ordered (by vote number, ballot box number) set of valid Electronic Ballots is formed. The total number of valid Electronic Ballots submitted to the count engine is 348. This total is divided by seven (i.e. the number which exceeds by one the number of vacancies to be filled), and 50 (i.e. the quotient 49 increased by 1, neglecting the fraction) is the "quota", or the number of votes sufficient to elect a member.

FIRST COUNT

The ordered set of Electronic Ballots is treated as the initial parcel within the count engine. This initial parcel is analysed, and all Electronic Ballots are assigned into separate sub-parcels under the name of the candidate for which a first preference has been recorded.

The results of the count may be supposed to be as follows:

Candidate	Votes
A	7
B	140
C	25
D	10
E	4
F	62
G	14
H	50
I	12
K	0
L	24
Non-Transferable	0
Total	348

The votes obtained by B, F and H exceed or equal the quota, and they are thereupon elected.

SECOND COUNT

B has 90 surplus votes (i.e. B's total 140, less the quota 50), and it is necessary to transfer this surplus first as being the largest.

All B's 140 Electronic Ballots are analysed and assigned into separate sub-parcels according to the next available preferences indicated therein.

In general, the next available preference will be the second preference. But any Electronic Ballot on which the second preference is given to either F or H, both already elected, passes to the next available preference after such candidates. An Electronic Ballot marked with 1 for B, 2 for H, 3 for F, 4 for I, is placed in the sub-parcel for I.

A separate sub-parcel is also formed of those Electronic Ballots on which no further available preference, i.e. no further preference for any continuing candidate is shown, and which are therefore not transferable.

The result is found to be as follows:

A next available preference is shown for D on	80 ballots
A next available preference is shown for E on ….....	2 ballots
A next available preference is shown for I on	25 ballots
A next available preference is shown for K on	29 ballots
Total of *transferable* ballots ……	136 ballots
Total of *non-transferable* ballots ……	4 ballots
Total of B's ballots ……..	140 ballots

Since the total number of transferable ballots (136) exceeds the surplus (90), only a portion of each sub-parcel can be transferred, and the number of ballots to be transferred from each sub-parcel must bear the same proportion to the total number of ballots in the sub-parcels as that which the surplus bears to the total number of transferable ballots.

In other words, the number of Electronic Ballots to be transferred from each sub-parcel is ascertained by multiplying the number of ballots in the sub-parcel by 90 (the surplus) and dividing the result by 136 (the total number of transferable ballots) giving 0.6617647.

The calculation is as follows:

Candidate	Sub-Parcel		Whole	Fraction		Actually Transferred
D	80	x 0.6617647	52	.9412	+1	53

E	2	x 0.6617647	1	.3235		1
I	25	x 0.6617647	16	.5441	+1	17
K	29	x 0.6617647	19	.1912		19
Total			88	2		90

The numbers of Electronic Ballots to be transferred as determined by the preceding process contain decimal parts, and since only whole ballots can be transferred, so many of the largest of these decimal parts, taken in order of their magnitude as will make the total number of Electronic Ballots to be transferred equal to the surplus, are reckoned as of the value of unity.

Thus as the whole numbers determined above amount to only 88 viz. (52+1+16+19), or two short of the surplus, 90, the two largest decimal parts .9412 and .5441 are reckoned as unity, and the number of Electronic Ballots actually transferred are as follows:

To D	53 ballots
To E ……...	1 ballot
To I …….	17 ballots
To K …….....	19 ballots
Total, being B's surplus …….....	90 ballots

The particular Electronic Ballots to be transferred to D, E, I and K are those last filed in their respective sub-parcels, and, therefore at the bottom of the sub-parcels.

These Electronic Ballots are added in separate sub-parcels to the parcels of D, E, I and K. (Note: K had no parcel of original ballots).

The totals of the votes credited to these candidates then become:

To D.....	10 + 53 = 63	2 parcels
To E …….……..... ……	4 + 1 = 5	2 parcels
To I …….……...	12 + 17 = 29	2 parcels
To K ……..……..….....	0 + 19 = 19	1 parcel

The remainder of the Electronic Ballots in the sub-parcel of the elected candidate B, i.e. those ballots not transferred together with the ballots on which no further available preferences were marked, now form the parcel, representing B's quota of votes (50). This parcel retains the order of B's original parcel.

The parcel is made up as follows:

The remainder of D's sub-parcel	80 – 53 = 27
The remainder of E's sub-parcel …….....	2 – 1 = 1
The remainder of I's sub-parcel …….....	25 – 17 = 8
The remainder of K's sub-parcel ……	29 – 19 = 10
Total of *non-transferable* ballots …….....	4
Total, being B's quota ……..….….....	50

The state of the poll on the conclusion of the second count is as follows:

Candidate	Votes
A	7
B	50 (elected)
C	25
D	63 (elected)
E	5
F	62 (elected)
G	14
H	50 (elected)
I	29
K	19
L	24
Non-Transferable	0
Total	348

D now has 63 votes, a number which is more than the quota. He is accordingly elected.

THIRD COUNT

There are now two surpluses, that of F (12) and that of D (13). F's surplus, though the smaller, is first dealt with as it arose on a prior count. F's surplus is distributed proportionately among the next available preferences on F's original 62 ballots in exactly the same manner as in the case of B, with the result that 9 ballots are transferred to L, 2 to C and 1 to A.

The totals of the votes credited to these candidates then become:

To L	24 + 9 = 33	2 parcels
To C …….....	25 + 2 = 27	2 parcels
To A ……...	7 + 1 = 8	2 parcels

The remainder of the Electronic Ballots in the sub-parcel of the elected candidate F, i.e. those ballots not transferred together with the ballots on which no further available preferences were marked, now form the parcel representing F's quota of votes (50). This parcel retains the order of F's original parcel.

The Electronic Ballots in the sub-parcel of the elected candidate H (who obtained an exact quota at the first count) retain the order of the original parcel and form the parcel representing H's quota of votes (50).

FOURTH COUNT

D's surplus (13) must now be distributed. For this purpose only the sub-parcel last transferred, containing 53 ballots, is considered. These are analysed and assigned into sub-parcels, according to the next available preferences, with the following result:

A next available preference is shown for I on	42 ballots
A next available preference is shown for K on ….....	10 ballots
Total of *transferable* ballots ……....	52 ballots
Total of *non-transferable* ballots ……....	1 ballot
Total	53 ballots

The number of ballots to be transferred from each sub-parcel is ascertained by multiplying the number of ballots in the sub-parcel by 13 (the surplus) and dividing the result by 52 (the total number of transferable ballots); therefore

I's share of the surplus ……..	42 x 0.25 = 10.5
K's share of the surplus ……	10 x 0.25 = 2.5

As the decimal parts above are equal, that which arises from the larger sub-parcel is deemed to be the larger. I's share of D's surplus is, accordingly, 11 votes, and K's share is 2 votes.

The totals of the votes credited to these candidates then become:

To I.....	12 + 17 + 11 = 40	3 parcels

To K ..... 19 + 2 = 21 2 parcels

The remainder of the Electronic Ballots in the sub-parcel of the elected candidate D, i.e. those ballots not transferred (39) together with the ballots on which no further available preferences were marked (1) and the 10 ballots received on the first count, making 50 ballots altogether, now form the parcel representing D's quota of votes.

The state of the poll on the conclusion of the fourth count is as follows:

Candidate	Votes
A	8
B	50 (elected)
C	27
D	50 (elected)
E	5
F	50 (elected)
G	14
H	50 (elected)
I	40
K	21
L	33
Non-Transferable	0
Total	348

FIFTH COUNT

There being now no surplus required to be dealt with, the Electoral Commissioner proceeds to transfer the votes of the candidate with the smallest total of votes. The candidate lowest on the poll is E, with 5 votes. The ballots in the sub-parcel of candidate E are analysed and assigned into sub-parcels, according to the next available preferences, with the result that 4 ballots are transferred to I, and 1 non-transferable ballot is set aside as a separate parcel, whilst respecting the original order of ballots for candidate E.

The totals of the votes credited to these candidates then become:

To I	12 + 17 + 11 + 4 = 44	4 parcels
Non-Transferable	1	1 parcel

The state of the poll on the conclusion of the fifth count is as follows:

Candidate	Votes
A	8
B	50 (elected)
C	27
D	50 (elected)
E	0 (eliminated)
F	50 (elected)
G	14
H	50 (elected)
I	44
K	21
L	33
Non-Transferable	1
Total	348

SIXTH COUNT

The Electoral Commissioner proceeds to transfer the votes of candidate A, who is the candidate with the smallest total of votes on the poll with 8. The ballots in the sub-parcel of candidate A are analysed and assigned into sub-parcels, according to the next available preferences, with the result that 1 ballot is transferred to C and 7 ballots are transferred to G.

The totals of the votes credited to these candidates then become:

To C.....	25 + 2 + 1 = 28	3 parcels
To G …….....	14 + 7 = 21	2 parcels

The state of the poll on the conclusion of the sixth count is as follows:

Candidate	Votes
A	0 (eliminated)
B	50 (elected)
C	28
D	50 (elected)
E	0 (eliminated)
F	50 (elected)
G	21
H	50 (elected)
I	44
K	21
L	33
Non-Transferable	1
Total	348

SEVENTH COUNT

No candidate is elected as the result of the sixth count and the next operation has to be determined upon. Candidates G and K have each the same number of votes (21) and are lowest on the poll. K's ballots are analysed and assigned, as he obtained fewer votes than G in the first count. From the distribution of K's ballots (21), 3 ballots are transferred to C, 15 to I, 1 to L, and 2 are non-transferable. I thereby reaches a total of 59 votes and is elected.

The totals of the votes credited to these candidates then become:

To C.....	25 + 2 + 1 + 3 = 31	4 parcels
To I ……..	12 + 17 + 11 + 4 + 15 = 59	5 parcels
To L …….	24 + 9 + 1 = 34	3 parcels
Non-Transferable	1 + 2 = 3	2 parcels

The final state of the poll on the conclusion of the seventh count is as follows:

Candidate	Votes
A	0 (eliminated)
B	50 (elected)
C	31
D	50 (elected)
E	0 (eliminated)
F	50 (elected)
G	21
H	50 (elected)
I	59 (elected)
K	0 (eliminated)
L	34
Non-Transferable	3
Total	348

EIGHTH COUNT

I's surplus (9) must now be distributed. For this purpose only the sub-parcel of ballots last transferred to I (15 ballots) is taken into account. These are analysed and assigned into sub-parcels for the continuing candidates, with the following result:

A next available preference is shown for C on	4 ballots
A next available preference is shown for L on	3 ballots
Total of *transferable* ballots ……	7 ballots
Total of *non-transferable* ballots …….	8 ballots
Total	15 ballots

In this case the total number of transferable ballots (7) is less than the surplus (9), therefore the Electoral Commissioner transfers the whole sub-parcels of transferable ballots to the continuing candidates indicated thereon as next available preference. This accounts for 7 votes out of the surplus 9. There is a difference of 2 ballots. The sub-parcel of non-transferable ballots is therefore divided into two portions, one containing 2 ballots (which form part of the surplus) the

other containing 6 ballots (which are required for I's quota). The portion of 2 ballots is set aside as a separate parcel with the other parcels of non-transferable ballots, and the portion of 6 ballots is retained to make up I's quota (6+44=50).

The totals of the votes credited to these candidates then become:

To C.....	25 + 2 + 1 + 3 + 4 = 35	5 parcels
To L …….....	24 + 9 + 1 + 3 = 37	4 parcels
Non-Transferable	1 + 2 + 2 = 5	3 parcels

The state of the poll on the conclusion of the eighth count is as follows:

Candidate	Votes
A	0 (eliminated)
B	50 (elected)
C	35
D	50 (elected)
E	0 (eliminated)
F	50 (elected)
G	21
H	50 (elected)
I	50 (elected)
K	0 (eliminated)
L	37
Non-Transferable	5
Total	348

NINTH COUNT

There being now no surplus, the votes of G, the candidate lowest on the poll, are analysed and assigned. G's parcel of 21 ballots is found to contain 7 ballots on which C is the next preference, and 12 on which L is the next preference, and 2 ballots which are non-transferable. Therefore 7 ballots are transferred to C, and 12 to L, and 2 are filed as a separate parcel with the other parcels of non-transferable ballots.

The totals of the votes credited to these candidates then become:

To C	25 + 2 + 1 + 3 + 4 + 7 = 42	6 parcels
To L	24 + 9 + 1 + 3 +12 = 49	5 parcels
Non-Transferable	1 + 2 + 2 + 2 = 7	4 parcels

The state of the poll on the conclusion of the ninth count is as follows:

Candidate	Votes
A	0 (eliminated)
B	50 (elected)
C	42
D	50 (elected)
E	0 (eliminated)
F	50 (elected)
G	0 (eliminated)
H	50 (elected)
I	50 (elected)
K	0 (eliminated)
L	49
Non-Transferable	7
Total	348

There being now no surplus, C, the candidate lowest on the poll, is excluded from the poll. But, as there remains only one vacancy to be filled, and only one continuing candidate, namely L, L is elected without any further transfer of votes.

The final result is that B, F, H, D, I and L are elected.

Amended by: L.N. 425 of 2007; XXIV. 2015.49.

FOURTEENTH SCHEDULE

(Article 118)

Articles 41 to 62 of the Electoral (*Polling*) *Ordinance* (*Cap 102*)

Making of contracts in respect of election expenses.

41. A contract whereby any expenses are incurred on account of or in respect of the conduct or management of an election shall not be enforceable against a candidate at such election, unless made

by the candidate himself or by his election agent; provided that the inability under this article to enforce such contract against the candidate shall not relieve the candidate from the consequences of any corrupt or illegal practice committed by his agent.

Payment of expenses through election agent.

42. (1) Except as permitted by or in pursuance of this Ordinance, no payment and no advance or deposit shall be made by a candidate at an election, or by any agent on behalf of the candidate, or by any other person, whether before, during or after such election, in respect of any expenses incurred on account of or in respect of the conduct or management of such election, otherwise than by or through the election agent of the candidate; and all money provided by any person other than the candidate for any expenses incurred on account of or in respect of the conduct or management of the election, whether as gift, loan, advance or deposit, shall be paid to the candidate or his election agent and not otherwise; provided that this article shall not be deemed to apply to any sum disbursed by any person out of his own money for any small expense legally incurred by himself, if such sum is not repaid to him.

(2) A person who makes any payment, advance, or deposit in contravention of this article or pays in contravention of this article any money so provided as aforesaid, shall be guilty of an illegal practice.

Periods for sending in claims and making payments for election expenses. *Amended by: L.N. 425 of 2007.*

43. (1) Every payment made by an election agent in respect of any expenses incurred on account of or in respect of the conduct or management of an election shall, except where less than fifty-eight cents (0.58), be vouched for by a bill stating the particulars and by a receipt.

(2) Every claim against a candidate at an election or his election agent in respect of any expenses incurred on account of or in respect of the conduct or management of such election, which is not sent in to the election agent within the time limited by this Ordinance, shall be barred and shall not be paid; and subject to such exception as may be allowed in pursuance of this Ordinance, an election agent who pays a claim in contravention of this article shall be guilty of an illegal practice.

(3) Except as by this Ordinance permitted, the time limited by this Ordinance for sending in claims shall be fourteen days after the day on which the candidate returned is declared elected.

(4) All expenses incurred by or on behalf of a candidate at an election, which are incurred on account of or in respect of the conduct or management of such election, shall be paid within the time limited by this Ordinance and not otherwise; and, subject to such exception as may be allowed in pursuance of this Ordinance, an election agent who makes a payment in contravention of this provision shall be guilty of an illegal practice.

(5) Except as by this Ordinance permitted, the time limited by this Ordinance for the payment of such expenses as aforesaid shall be twenty-eight days after the day on which the candidate returned is declared elected.

(6) Where it has been proved to the satisfaction of the court by a candidate that any payment made by an election agent in contravention of this article was made without the sanction or connivance of such candidate, the election of such candidate shall not be void, nor shall he be subject to any incapacity under this Ordinance by reason only of such payment having been made in contravention of this article.

(7) If the election agent in the case of any claim sent in to him within the time limited by this Ordinance disputes it, or refuses or fails to pay it within the said period of twenty-eight days, such claim shall be deemed to be a disputed claim.

(8) The claimant may, if he thinks fit, bring an action for a disputed claim in the competent civil court; and any sum paid by the candidate or his agent in pursuance of the judgment or order of such court shall be deemed to be paid within the time limited by this Ordinance, and to be an exception from the provisions of this Ordinance requiring claims to be paid by the election agent.

(9) On cause shown to the satisfaction of the competent civil court, the court on application by the claimant or by the candidate or his election agent may, by order, give leave for the payment by a candidate or his election agent of a disputed claim, or of a claim for any such expenses as aforesaid, although sent in after the time in this article mentioned for sending in claims, or although the same was sent in to the candidate and not to the election agent.

(10) Any sum specified in any such order may be paid by the candidate or his election agent, and when paid in pursuance of such leave shall be deemed to be paid within the time limited by this Ordinance.

Remuneration of election agent.

44. So far as circumstances admit, this Ordinance shall apply to a claim for his remuneration by an election agent and to the payment thereof in like manner as if he were any other creditor, and if any difference arises respecting the amount of such claim, the claim shall be a disputed claim within the meaning of this Ordinance, and be dealt with accordingly.

Personal expenses of candidate and petty expenses. *Amended by: L.N. 425 of 2007.*

45. (1) The candidate at an election may pay any personal expenses incurred by him on account of or in connection with or incidental to such election to an amount not exceeding twenty-seven euro and ninety-five cents (27.95), but any further personal expenses so incurred by him shall be paid by his election agent.

(2) The candidate shall send to the election agent within the time limited by this Ordinance for sending in claims, a written statement of the amount of personal expenses paid as aforesaid by such candidate.

(3) The personal expenses of a candidate include his reasonable travelling expenses and the reasonable expenses of his living at hotels or elsewhere for the purposes of the election.

(4) Any person may, if so authorized in writing by the election agent of the candidate pay any necessary expense for stationery, postage, telegrams, and other petty expenses to a total amount not

exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.

(5) A statement of the particulars of payments made by any person so authorized shall be sent to the election agent within the time limited by this Ordinance for the sending in of claims, and shall be vouched for by a bill containing the receipt of that person.

Expense in excess of maximum to be illegal practice. *Substituted by: L.N. 425 of 2007; XXIV. 2015.49.*

46. (1) The maximum sum paid and, or expenses incurred by or on behalf of a candidate at an election of members of the House of Representatives, and, or by his election agent, whether before, during, or after an election on account of or in respect of the conduct of such election, shall not exceed the sum of twenty thousand euro (€20,000) from every electoral district:

Provided that a candidate contesting two electoral districts shall not be obliged to spend the total amount of permissible campaign expenditure as aforesaid, equally between the two districts but may apportion the said permissible campaign expenditure between the two districts in such a manner as the candidate deems fit:

Provided further that in the computation of campaign expenditure as aforesaid, where a candidate charges a fee for participation in political activities or for any goods or services made available at such activities the amount of any such fees charged and properly accounted for shall be deducted from the total amount of campaign expenditure.

(2) Any candidate or election agent who knowingly acts in contravention of this article shall be guilty of an illegal practice.

Certain expenditure to be illegal practice.

47. (1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made -

(*a*) on account of the conveyance of voters to or from the poll, whether for the hiring of vehicles, or otherwise; or

(*b*) to or with a voter on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice.

(2) Subject to such exception as may be allowed in pursuance of this Ordinance, if any payment or contract for payment is knowingly made in contravention of this article either before, during, or after an election, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment or being a party to any such contract, knowing the same to be in contravention of this article, shall also be guilty of an illegal practice:

Provided that where it is the ordinary business of a voter as an advertising agent or publisher to exhibit for payment bills and advertisements, a payment to or contract with such voter, if made in the ordinary course of business, shall not be deemed to be an illegal

practice within the meaning of this article.

Certain employment to be illegal.

48. (1) No person shall, for the purpose of promoting or procuring the election of a candidate at any election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for the purposes or in the capacities following:

(*a*) one election agent and no more;

(*b*) a reasonable number of clerks and messengers, having regard to the area of the electoral division and the number of voters on the electoral register for such division.

(2) Subject to such exception as may be allowed in pursuance of this Ordinance, if any person is engaged or employed in contravention of this article, either before, during or after an election, the person engaging or employing him shall be guilty of an illegal practice.

Saving for creditors.

49. The provisions of this Ordinance prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of any expense in excess of a certain maximum, shall not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Ordinance.

Return and declaration respecting election expenses.
Amended by: XXIV. 2015.50.

50. (1) Within thirty-one days after the date of the publication of the result of an election in the Government Gazette, every candidate at that election shall transmit to the commissioners a return of his election expenses, containing the particulars specified in the Seventh Schedule to this Ordinance, signed by the candidate. In the case of the candidate's absence from Malta the duties imposed on him may be performed by a duly appointed representative:

Provided that in the case of candidates who have been elected:

(i) the time limit for the transmission of the return of election expenses to the commissioners shall be of ten days from the date when the candidate was declared elected irrespective of the date of publication of the official result in the Gazette;

(ii) the commissioners shall, notwithstanding the other provisions of this Act or of any other law, proceed and shall complete the said examination within one month from when they receive them and the provisions of article 52(3) shall apply in respect of such returns and of such elected candidates.

(2) Every such return shall contain a statement of all payments made by the candidate or by his election agent, or by any persons on behalf of the candidate, or in his interest, for expenses incurred on account of, or in respect of, the conduct and management of the election, and a further statement of all unpaid claims in respect of such expenses, of which he is aware.

(3) The return shall be accompanied by declarations to be made on oath before a magistrate by the candidate, in the form contained in the Seventh Schedule to this Ordinance.

(4) If any candidate acts in contravention of the requirements of this article, he shall, subject to the provisions of article 56, be guilty of an illegal practice.

Publication of notice in respect of return of election expenses. *Substituted by: L.N. 425 of 2007.*

51. When any return of election expenses and the declarations made in respect thereof have been lodged with the commissioners, the commissioners shall, as soon as may be, cause a notice of the date on which the return and the declarations have been lodged, and of the time and place at which they can be inspected to be affixed in some conspicuous place in the commissioners' office and to be published in the Government Gazette, and any person shall be entitled, on payment of a fee of twelve cents (0.12), to inspect any such return or declarations and, on payment of a fee of fourteen cents (0.14) for every folio of 120 words, to obtain a copy or copies of any part thereof.

Punishment on conviction for illegal practice. *Amended by: L.N. 425 of 2007; XXIV. 2015.51.*

52. (1) Any person committing an illegal practice shall, on conviction, be liable to a fine (*multa*) not exceeding four hundred and sixty-five euro (465) and shall in consequence of such conviction become incapable, during a period of four years from the date of conviction, of being registered as a voter or voting at any election or of being elected a member, and if before that date he has been elected a member, his election shall, subject to the provisions of article 55 of the Constitution of Malta, be vacated from the date of such conviction.

(2) No prosecution for an illegal practice shall be instituted without the sanction of the Attorney General.

(3) Notwithstanding but without prejudice to the provisions of sub-articles (1) and (2) where the commissioners, after examining the return of the election expenses of an elected candidate in terms of article 50, determine that an elected candidate has *prima facie* given information which is false in the return of election expenses or that an elected candidate has incurred election expenses in an amount exceeding the amount permissible by law, the Electoral Commission shall forthwith file an application in the Constitutional Court asking that Court to determine the question as to whether the seat of the said elected candidate has become vacant in terms of paragraph (*ff*) of sub-article (1) of article 55 of the Constitution. The Constitutional Court shall hear and determine such case with urgency.

PART V

CORRUPT PRACTICES

Personation.

53. Any person who at an election held under this Ordinance applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person or, who having voted once at any such election,

applies at the same election for a ballot paper in his own name, shall be guilty of the offence of personation.

Treating.

54. (1) Any person who corruptly by himself or by any other person, either before, during or after an election, directly or indirectly, gives or provides, or pays wholly or in part the expense of giving or providing any food, drink, entertainment, or provision to or for any person, for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting or being about to vote or refrain from voting at such election, shall be guilty of the offence of treating.

(2) Every voter who corruptly accepts or takes any such food, drink, entertainment, or provision shall also be guilty of the offence of treating.

Undue influence.

55. Every person who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts, or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who by abduction, duress, or any fraudulent device or contrivance, impedes or prevents the free exercise of the franchise of any voter or thereby compels, induces, or prevails upon any voter either to give or refrain from giving his vote at any election, shall be guilty of the offence of undue influence.

Bribery.

56. The following persons shall be deemed guilty of the offence of bribery:

(*a*) every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers, promises or promises to procure, or to endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election under this Ordinance;

(*b*) every person who, directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises or promises to procure or to endeavour to procure any office, place or employment to or for any voter or to or for any person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election under this Ordinance;

(*c*) every person who, directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person in order to induce such person to procure or endeavour to procure the return of any person as a member of the House, or the vote of any voter at any election under this Ordinance;

(*d*) every person who, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procures or engages, promises or endeavours to procure, the return of any person as a member of the House or the vote of any voter at any election under this Ordinance;

(*e*) every person who advances or pays or causes to be paid any money to or for the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election under this Ordinance, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election;

(*f*) every person being a voter who, before or during any election under this Ordinance, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election;

(*g*) every person who, after any election under this Ordinance, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or to refrain from voting at any such election.

Punishment and incapacities for corrupt practice. *Amended by: L.N. 425 of 2007.*

57. (1) Any person who commits the offence of personation, treating, undue influence, or bribery or aids, abets, counsels, or procures the commission of the offence of personation, and any candidate or election agent who knowingly makes the declaration, as to election expenses required by article 50, falsely, shall be guilty of a corrupt practice and shall be liable, on conviction, in the discretion of the court, to a fine (*multa*) not exceeding one thousand and one hundred and sixty euro (1,160), or to imprisonment for a term not exceeding six months, or to both such fine (*multa*) and imprisonment, and shall in consequence of such conviction become incapable, for a period of seven years from the date of his conviction of being registered as a voter or voting at an election under this Ordinance, or of being elected a member, and if at that date he has been elected member, his election shall, subject to the provisions of article 55 of the Constitution of Malta, be vacated

from the date of such conviction.

(2) No prosecution for a corrupt practice shall be instituted without the sanction of the Attorney General.

(3) For the purposes of this Part of this Ordinance, references to "voting" or to "refraining from voting", or to "giving" or "refraining from giving a vote", shall include references to "voting" or "refraining from voting" in a particular way.

PART VI

EXCUSE FOR CORRUPT AND ILLEGAL PRACTICES

Reasons exonerating candidates in certain cases of corrupt and illegal practice by agents.

58. The election of a candidate, who has been guilty, by his agents, of the offence of treating and undue influence, and illegal practice, or of any such offences, in reference to such election shall not, by reason of such offences, be declared void, nor shall the candidate be subject to any incapacity under this Ordinance, if the court is satisfied after giving the Attorney General an opportunity of being heard that the candidate has proved -

(*a*) that no corrupt or illegal practice was committed at such election by the candidate or his election agent and the offences aforesaid were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent; and

(*b*) that such candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at such election; and

(*c*) that the offences aforesaid were of a trivial, unimportant and limited character; and

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

Power of court to except innocent act from being illegal practice, etc.

59. Where, in any proceedings, it is shown to the court by such evidence as seems to the court sufficient -

(*a*) that any act or omission of a candidate at any election, or of his election agent or of any other agent or person, would, by reason of being the payment of a sum or the incurring of expense in excess of any maximum amount allowed by this Ordinance, or of being a payment, engagement, employment, or contract in contravention of this Ordinance, or of otherwise being in contravention of any of the provisions of this Ordinance, be but for this article an illegal practice; and

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

and under the circumstances it seems to the court, after giving the

Attorney General an opportunity of being heard, to be just that the candidate at the said election and other agent and person or any of them, should not be subject to any of the consequences under this Ordinance, the court may allow such act or omission to be an exception from the provisions of this Ordinance which would otherwise make the same an illegal practice, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under this Ordinance of the said act or omission.

Authorised excuse for non-compliance with provisions as to return and declaration respecting election expenses.

60. (1) Where the return and declarations respecting election expenses of a candidate at an election have not been transmitted as required by this Ordinance, or being transmitted contain some error or false statement, then -

(*a*) if the candidate in any criminal or civil proceedings under this Ordinance proves to the satisfaction of the court that the failure to transmit such return and declarations, or any of them or any part thereof, or any error or false statement therein, has arisen by reason of his illness or of the absence, death, illness or misconduct of his election agent or of any clerk or officer of such agent, or by reason of inadvertence, or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the candidate; or

(*b*) if the election agent of the candidate proves to the satisfaction of the court that the failure to transmit the return and declarations which he was required to transmit or any part thereof, or any error or false statement therein, arose by reason of his illness or of the death or illness of any prior election agent of the candidate or of the absence, death, illness or misconduct of any clerk or officer of an election agent of the candidate, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the election agent,

the court may, after giving the Attorney General an opportunity of being heard, make such order for allowing an authorized excuse for the failure to transmit such return and declarations, or for an error or false statement in such return and declarations, as to the court seems just.

(2) Where in any proceedings it appears to the court that any person being or having been election agent has refused or failed to make such return or to supply such particulars as will enable the candidate and his election agent, respectively, to comply with the provisions of this Ordinance as to the return and declaration respecting election expenses, the court, before making an order allowing the excuse as in this article mentioned, shall order such person to appear, and shall, unless he attends, and shows cause to the contrary, order him to make the return and declaration, or to deliver a statement of the particulars required to be contained in the return, as to the court seems just, and to make or deliver the same

within such time and to such person and in such manner as the court may direct, or may order him to be examined with respect to such particulars, and in default of compliance with any such order, such person shall be guilty of an illegal practice.

(3) The court may allow the excuse conditionally upon the making of a return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court, seem best calculated for carrying into effect the objects of this Ordinance; and an order allowing an authorized excuse shall relieve the candidate or the election agent, as the case may be, from any liability or consequences under this Ordinance in respect of the matter excused by the order; and where it is proved by the candidate to the court that any act or omission of the election agent in relation to the return and declaration respecting election expenses was without the sanction or connivance of the candidate and that the candidate took all reasonable means for preventing such act or omission, the court shall relieve the candidate from the consequences of such act or omission on the part of his election agent.

(4) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Ordinance as the date of the allowance of the excuse.

PART VII

GROUNDS FOR AVOIDING ELECTIONS

Avoidance by conviction of candidates.

61. Subject to the provision of article 55 of the Constitution of Malta the election of a candidate as a member of the House is avoided by his conviction for any corrupt or illegal practice.

Avoidance of election on other grounds.

62. Subject to the provisions of article 55 of the Constitution of Malta where applicable, the election of a candidate as a member of the House shall be declared void on any of the following grounds which may be proved to the satisfaction of the court namely:

(*a*) if by reason of general bribery, general treating, or general intimidation, or other misconduct, or other circumstances, the majority of electors were or may have been prevented from electing candidates whom they preferred;

(*b*) non-compliance with the provisions of this Ordinance relating to election or of the polling regulations if it appears to the court that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance affected the result of the election;

(*c*) that a corrupt practice or an illegal practice was committed in connection with the election by the candidate, or with his knowledge or consent, by any agent of the candidate;

(*d*) that the candidate personally engaged a person as his

election agent, or as a canvasser or agent knowing that such person had within seven years previous to such engagement been found guilty of a corrupt practice;

(*e*) that the candidate was at the time of his election a person disqualified for election as a member.

FIFTEENTH SCHEDULE

Added by: XV. 1996.66. Amended by: L.N. 426 of 2012.

(Article 72)

Form of Oath which an Assistant Electoral Commissioner may administer to a voter.

I, (1) ..... having a legally valid identification

document number ..... of (2) ..... do swear/solemnly affirm that I am requesting the assistance of the Assistant Electoral Commissioners so that I may vote since I cannot mark the ballot paper. (So help me God).

Date ..... Signature or mark of voter

.....

Sworn/Affirmed before me this ..... day of .....

.....

Signature of Assistant Electoral Commissioner

(1) Name in full

(2) Address of voter

SIXTEENTH SCHEDULE

Added by:
L.N. 284 of 2014.
Substituted by:
L.N.350 of 2017.

FORM NO. 4

ELECTORAL OFFICE
Evans Building, Merchants Street,
Valletta

+356 2258 3000 electoral.office@gov.mt

Details and Questionnaire Required with Form No. 1 in the case of a Maltese Person who never applied to be Registered as a Voter

SECTION 'A' – THIS SECTION MUST BE FILLED IN BY ALL APPLICANTS

Full Name _____ Identity Card No. _____

Residing at _____

Telephone/Mobile No. _____ Email Address _____

(a) Grandparent's name, surname and surname at birth: _____

(b) Grandparent's place of birth: _____

(c) Grandparent's name, surname and surname at birth: _____

(d) Grandparent's place of birth: _____

Status:
☐ Single ☐ Separated
☐ Married ☐ Divorced
☐ Widowed ☐ Civil Union

Do you hold more than one nationality? Yes ☐ No ☐

If yes, state other Nationality: _____

Are you a new applicant, over 16 years of age and have always resided in Malta?

If YES, sign here _____ _____
Signature Date

If NO, go to SECTION 'B'

SECTION 'B' – THIS SECTION MUST BE FILLED BY PERSONS WHO ARE OLDER THAN 16 YEARS OF AGE AND WHO HAVE SPENT SOME TIME LIVING ABROAD

Maltese Passport No. _____

Date of Issue _____ Place of Issue _____

Foreign Passport No. and Nationality _____

Date of Issue _____ Place of Issue _____

State the date when you returned to Malta permanently: _____

Write down the arrival and departure dates in Malta during the last 18 months:

Arrivals	Departures	No. of days in Malta	Arrivals	Departures	No. of days in Malta

Total No. of days in Malta _____ Total No. of days in Malta _____

*Did you reside here in Malta for a period of 180 days in the last 18 months before the closing date of the publicaiton of the next electoral register? Yes ☐ (Fill Section 'C') No ☐ (Fill Section 'D')

SECTION 'C' – This section must be filled if you have answered YES to the last question marked with an * in Section 'B'

I, the undersigned, hereby declare that I have been residing in Malta for a period of 180 days in the last 18 months before the closing date of the publication of the next electoral register.

Applicant's Signature	Identity Card No.	Date	Signature and Identity Card No. of Witness

SECTION 'D' – This section must be filled if you have answered NO to the last question marked with an* in Section 'B'

Write down your country of residence: _____

If you were residing in a European Union Member State, you can choose to vote in Malta for the European Parliament Elections. Choose one and sign once:

Do you wish to vote in Malta? _____ (Signature) _____ (Date)

OR

Do you with to vote in your country of residence? _____ (Signature) _____ (Date)

SECTION 'E'

Have you ever been interdicted or incapacitated for any mental infirmity by a Court in Malta or is otherwise determined in Malta that you are of unsound mind? Yes ☐ No ☐

I confirm that the above information in this form is correct:

Applicant's Signature	Identity Card No.	Date	Signature and Identity Card No. of Witness