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GOVERNMENT OF FIJI

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ELECTORAL ACT 2014
(ACT NO. 11 OF 2014)

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SCHEDULE

ELECTORAL ACT 2014
(ACT NO. 11 OF 2014)

IN exercise of the powers vested in me as the President of the Republic of Fiji and the Commander in Chief of the Republic of Fiji Military Forces by virtue of the Executive Authority of Fiji Act 2009 and section 165(2) of the Constitution of the Republic of Fiji, I hereby make the following Act—

AN ACT TO REGULATE THE CONDUCT OF THE ELECTION OF MEMBERS OF PARLIAMENT

PART 1—PRELIMINARY

Short title and commencement

1.—(1) This Act may be cited as the Electoral Act 2014.

(2) This Act shall come into force on the date of its publication in the *Gazette*.

Interpretation

2. In this Act, unless the contrary intention appears—

"approved form" means a form approved for the purposes of this Act by the Electoral Commission or the Supervisor, as the case may be;

"ballot paper" or "ballot" means the paper in the form prescribed in the Schedule and which is used by a voter to cast his or her vote in an election;

"banker's cheque" means a cheque from a bank registered in Fiji;

"bribery" means the offence set out in section 140;

"broadcast" includes any transmission, whether or not encrypted, by radio waves, satellite or other means of telecommunication for reception by the public;

"by-election" means an election held when the seat of a member of Parliament becomes vacant under section 63 of the Constitution;

"campaign" means any act done for or in connection with promoting or opposing, directly or indirectly, a registered political party or the election of a candidate or candidates, or any act done for the purposes of influencing, directly or indirectly, the voting at an election, through any medium;

"campaign rules" means the rules prescribed in section 116 and any rules issued by the Electoral Commission in relation to campaigns";

"candidate" means a person whose nomination has been accepted as either an independent candidate or a party candidate;

"Candidate Allocation Form" means the form prepared by the Electoral Commission for the purposes of allocation of seats under section 104;

"Chief Registrar" means the Chief Registrar of the High Court;

"code of conduct" means the code of conduct established by the Supervisor;

"Constitution" means the Constitution of the Republic of Fiji;

"corrupt practice" includes bribery or undue influence;

"Court" means the High Court of Fiji;

"Court of Disputed Returns" means the High Court of Fiji as prescribed under section 66 of the Constitution;

"day" mean a period of 24 hours;"

"disciplined forces" means the Republic of Fiji Military Forces, Fiji Police Force, and the Fiji Corrections Service;

"election" means a general election or a by-election which is held to elect a member or members of Parliament and includes such other elections as prescribed in section 154;

"election official" includes the Supervisor and all persons appointed by the Supervisor under section 42;

"Electoral Commission" means the Electoral Commission continued or established under section 75 of the Constitution;

"electoral matter" means a matter that affects or is intended or likely to affect voting in an election;

"electoral sub-offices" means those offices of the Fijian Elections Office which are set up under section 10 in divisions or districts outside Suva;

"FICAC" means the Fiji Independent Commission Against Corruption established under the Fiji Independent Commission Against Corruption Promulgation 2007;

"Fijian Elections Office" means the office of the Supervisor which is responsible ~~to the Electoral Commission and the Supervisor~~ for the conduct of elections in accordance with the Constitution and this Act;

"Final National Results Tally" means the form prepared by the Supervisor under section 103;

"*force majeure*" includes storm, tempest, flood, or any other natural disaster, whether actual or imminent, riot or open violence, whether actual or imminent, and other circumstances such as structural damage to polling premises, loss of electricity, insufficient material or human resources to conduct polling;

"general election" means an election for all the seats in Parliament;

"Government" means the Government of the Republic of Fiji;

"illegal practice" means a contravention of this Act, ~~or the Regulations~~ the Regulations or the Rules;

"independent candidate" means an individual who is nominated to stand in an election in accordance with this Act and is not a party candidate;

"invalid ballot paper" means a ballot paper that is invalid under section 94;

"media" or "media organisation" means all media organisations as defined under the Media Industry Development Act 2010 and shall include any person or entity which has been issued with a licence by the relevant regulatory authority under the Regulation of National Spectrum Act 2009;

"Media Industry Development Authority" means the Media Industry Development Authority established under section 3 of the Media Industry Development Act 2010;

"Minister" means the Minister responsible for elections;

"National Candidates List" means the list of all the candidates for an election, prepared under section 36;

"National Results Tally" means the form prepared by the Supervisor under section 102;

"nominating party" means a political party that nominates candidates on a party list;

"nomination period" in relation to an election, means the period of 14 days after the issue of the writ, for the receipt of nomination of candidates for the election under section 22;

"observer" means any person appointed or invited under section 119;

"officer" means a person appointed to the staff of the Fijian Elections Office;"

"party" or "political party" means a political party duly registered under the Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013;

"party candidate" means an individual who is included in the party list for a registered political party;

"party list" means a list of individuals nominated by a party to be candidates in an election in an approved form;

"person" means a natural or legal person, including a company or association or body of persons whether corporate or unincorporated;

"petition" means an election petition brought under Part 5;

"place of nomination" in relation to an election, means the place appointed by the Electoral Commission for the receipt of nominations of candidates for the election under section 22;

"polling" means the casting of votes on polling day, and includes the casting of votes through postal or pre-poll voting;

"polling agent" means a person appointed pursuant to section 45 as a polling agent by an independent candidate or a political party;

"polling day" means the day prescribed by the President in the writ for polling to take place in an election~~, and for the first general election for the members of Parliament under the Constitution and this Act, means the day determined by the President under section 170(1) of the Constitution~~;

"polling station" means a building, structure, vehicle, vessel or enclosure, or a part of a building, structure, vehicle, vessel or enclosure, which is identified pursuant to section 41 for the purpose of taking votes during polling;

"polling venue" means a location that has one or more polling stations at that location;

~~"postal ballot voting officer" or "postal ballot counting officer" means an officer appointed under section 66;~~

"presiding officer" means any person performing the duties of a presiding officer at a polling station, appointed under section 42;

"protocol of results" means the form which records the number of votes cast for each candidate at a polling station;

"public officer" means a person who holds a public office as defined in section 57 of the Constitution;

"publish" means to produce, including electronically, and make available to the public;

"racial vilification" includes conduct that offend, insult, humiliate, intimidate, incite hatred against or serious contempt for, or revulsion or severe ridicule of another person or group of persons on the grounds of their race, colour, national or ethnic group;

"Register" or "Register of Voters" means the National Register of Voters established under the Electoral (Registration of Voters) Act 2012;

"Register of Postal Voters" means the register prepared by the Supervisor in accordance with section 69;

"Regulations" means Regulations made under section 156;

"religious vilification" includes conduct that offend, insult, humiliate, intimidate, incite hatred against or serious contempt for, or revulsion or severe ridicule of another person or group of persons on the grounds of their religious belief or activity;

"returning officer" means the Supervisor and any other person performing the functions of a returning officer under this Act;

"Rules" means rules made under section 155;

"Speaker" means the Speaker of Parliament elected under section 77 of the Constitution;

"spoiled ballot" or "spoiled ballot paper" has the meaning given to it by section 56;

"Standing Orders" means the orders, rules and procedures established by the Supervisor;

"Supervisor" means the Supervisor of Elections appointed under section 76 of the Constitution;

"tendered ballot" or "tendered ballot paper" means a ballot paper referred to in section 55;

"undue influence" means the offence set out in section 141;

"university" means the University of the South Pacific, the Fiji National University and the University of Fiji;

"voter number" means a unique identification number assigned to every voter under the Electoral (Registration of Voters) Act 2012;

"voter" means a person who is registered as a voter under the Electoral (Registration of Voters) Act 2012; and

"writ" means the writ for the election of members of Parliament, issued by the President under section 59 of the Constitution.

PART 2—ELECTION ADMINISTRATION

Duties and powers of Electoral Commission

3.—(1) The Electoral Commission has the responsibility and authority to formulate policy and to oversee the conduct of elections in accordance with this Act and any other related law, including responsibility and authority with respect to the following matters—

(a) registration of voters;

(b) registration of political parties;

(c) determination of the number of members of Parliament in accordance with section 54(2) of the Constitution;

(d) receipt and return of the writ for an election;

(e) declaration of the election results and allocation of seats in Parliament;

(f) adjudication of electoral disputes, including disputes relating to or arising from the right to be nominated as a candidate, but excluding petitions and disputes subsequent to the declaration of election results;

(g) monitoring and enforcing compliance with this Act and any law governing political parties, on its own initiative or in response to a formal complaint; and

(h) adopting Rules and instructions consistent with this Act and the Constitution that are necessary for the transparent and orderly conduct of free and fair elections.

(2) Prior to an election, the Electoral Commission must ensure that a nationwide voter information and education programme is implemented on a timely basis, to inform and educate voters concerning—

(a) the voter registration process;
(b) candidates and political parties;
(c) voting procedures, including postal and pre-poll voting, if applicable; and
(d) procedures for protecting electoral rights.

(3) No member, officer, employee or agent of the Electoral Commission or the Supervisor or any officer, employee or agent of the Fijian Elections Office shall be held liable in any way in any criminal or civil proceeding for any act or matter done or omitted to be done since the date of their appointment in the *bona fide* exercise or attempted exercise of any of the powers, functions and duties, whether conferred by this Act or otherwise.

Independence of Electoral Commission

4.—(1) In the performance of its functions and exercise of its powers, the Electoral Commission is not subject to the direction or control of any person or authority, provided however, the Electoral Commission shall be subject to any decision of a court of law exercising jurisdiction in relation to a question as to whether the Electoral Commission performed its functions or exercised its powers in accordance with the Constitution and the law or whether the Electoral Commission should or should not perform its functions or exercise its powers.

(2) Notwithstanding subsection (1), the Electoral Commission may consult the Minister on any matter.

Meetings of Electoral Commission

5.—(1) The Electoral Commission must adopt all of its decisions at its meetings, which must be held at such place and at such times as determined by the Chairperson or a majority of the members of the Electoral Commission, provided however the Electoral Commission by agreement may hold meetings through the use of electronic medium.

(2) If the Chairperson of the Electoral Commission is unable to attend a meeting of the Electoral Commission, the other members who are present at the meeting must elect a member from amongst themselves to chair the meeting.

(3) A decision of the Electoral Commission requires the concurrence of a majority of its members, and at least 4 members must attend and vote at each meeting to constitute a quorum.

(4) The Electoral Commission may adopt a decision despite the absence or abstention of any member at a meeting but if, in a particular matter, a vote is taken to decide a question and the votes cast are equally divided, the member presiding must exercise a casting vote.

(4A) The Electoral Commission must, within 5 days of its meeting, publish a copy of the decisions taken by the Commission at the meeting.

(5) In exercising its powers and functions, the Electoral Commission and each of its members must act in a professional, collegial and impartial manner.

(6) The validity of the transaction of business of the Electoral Commission is not affected if a person who was not entitled to do so took part in the proceedings.

(7) Subject to subsection (8), the Supervisor shall act as the secretary of the Electoral Commission and must attend all the meetings of the Electoral Commission.

(8) Where the Electoral Commission is dealing with objections or appeals against the actions or decisions of the Supervisor, the Supervisor must not be present at such meetings.

Duties and powers of Supervisor

6.—(1) The Supervisor, as head of the Fijian Elections Office—

(a) administers the registration of political parties;

(b) administers the registration of voters and maintains the Register of Voters;

(c) administers the registration of candidates;

(d) implements voter information and education initiatives;

(e) conducts election of members of Parliament and such other elections as prescribed under section 154, including the conduct of voting, counting and tabulation of election results;

(f) oversees compliance with campaign rules and reporting requirements; and

(g) performs any other function as conferred by this Act or any other written law.

(2) The Supervisor shall have the authority to appoint, remove and take disciplinary action against any employee of the Fijian Elections Office, and shall have the authority to determine all matters pertaining to the employment of all staff in the Fijian Elections Office, including the—

(a) terms and conditions of employment;
(b) qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
(c) salaries, benefits and allowances payable in accordance with the budget of the Fijian Elections Office; and
(d) total establishment or the total number of staff that are required to be appointed, in accordance with the budget of the Fijian Elections Office.

(3) In making appointments of any person to the Fijian Elections Office, the Supervisor must ensure that the independence, impartiality and integrity of the Fijian Elections Office is upheld and maintained.

(4) In exercising his or her powers to remove or to take disciplinary action against any employee of the Fijian Elections Office, the Supervisor must ensure that the process followed in the exercise of his or her powers is transparent and is in accordance with the Standing Orders which must be publicly available.

(5) The Supervisor will serve as the returning officer.

Exercise of powers of Supervisor

7.—(1) The Supervisor must conduct his or her duties and exercise his or her powers in an impartial manner and in accordance with the law.

(2) Except as provided in this Act, the Supervisor may delegate any or all of his or her functions to other election officials, and may issue to election officials such instructions in writing as he or she from time to time considers necessary to ensure the effective performance of his or her functions.

(3) In the course of performing his or her functions, the Supervisor may correct any error, omission or duplication on any application, the Register of Voters, the Register of Postal Voters, voter lists or any other document made or issued under this Act which appears to have been made inadvertently.

Independence of Supervisor

8. In the performance of his or her functions and the exercise of his or her powers, the Supervisor is not subject to the direction or control by any person, except that he or she must comply with—

(a) the directions or instructions that the Electoral Commission gives him or her concerning the performance of his or her functions; and

(b) a decision of a court of law exercising its jurisdiction in relation to a question on whether he or she has performed the functions or exercised the powers in accordance with the Constitution and the law, or whether he or she should or should not perform those functions or exercise those powers.

Fijian Elections Office

9. The Fijian Elections Office shall be an independent office which must be properly staffed and equipped to perform its duties and functions in accordance with the Constitution and this Act, with such organisational structure, key positions and authorities, as approved by the Supervisor.

Electoral sub-offices

10.—(1) The Fijian Elections Office shall be based in Suva with a number of divisional or district electoral sub-offices as deemed necessary by the Supervisor for operational purposes.

(2) The Supervisor must, as soon as practicable, determine the number and location of each divisional or district electoral sub-offices and must make such information publicly available.

Staffing of Fijian Elections Office

11.—(1) Recruitment and hiring of management and other staff of the Fijian Elections Office must be conducted by the Supervisor on a timely basis to ensure sufficient time to conduct effective training of staff and to ensure the efficient administration of elections.

(2) All employees of the Fijian Elections Office must be Fijian citizens, and the appointment or engagement of any person in the Fijian Elections Office who is not a Fijian citizen must require the prior approval of the Minister.

(3) Election officials responsible for the administration of elections at all levels must be trained on a timely basis, including training to interpret and implement this Act and any procedures and instructions adopted by the Fijian Elections Office relating to the administration of elections.

(4) State and local government officials, including divisional commissioners, must not be appointed as heads of divisional or district electoral sub-offices.

Assistance of State and State agencies

12.—(1) The State and all State agencies must facilitate the efficient and effective organisation and implementation of an election.

(2) The State and all State agencies must provide on a timely basis and to the extent of their capacity, any information, material and human resource assistance as requested by the Fijian Elections Office in the conduct of their duties and functions.

(3) Subsection (2) includes assistance in the identification of polling station locations, preparation and distribution of the voter lists, delivery of ballot papers, ballot boxes and other material required for the conduct of elections, and determination of arrangements for storage, distribution and security of election materials.

(4) The Fijian Elections Office has the power to requisition the use of any publicly owned building for the purpose of the conduct of polling and any other election-related activities.

(5) The Fiji Police Force must provide such resources and appropriate personnel as required by the Supervisor to assist the Fijian Elections Office in the conduct of elections.

(6) Any State agency which is required by the Supervisor to provide assistance to the Fijian Elections Office, must comply with all directions and instructions issued by the Supervisor.

Impartiality in election administration

13.—(1) The members of the Electoral Commission, the Supervisor, and all election officials, including employees, agents and contractors of the Fijian Elections Office, must conduct their duties and functions and exercise their powers with utmost impartiality, in compliance with the law and the Constitution, and without regard to any political or personal factor.

(2) The members of the Electoral Commission, the Supervisor, and all election officials, including employees, agents and contractors of the Fijian Elections Office, are not entitled to undertake any political or campaign activities at any time during the period of their appointment, employment or contract with the Electoral Commission or the Fijian Elections Office.

(3) The members of the Electoral Commission, the Supervisor, and all election officials, employees, agents and contractors of the Fijian Elections Office must refrain from participating in any decision in the course of their work that raises a conflict of interest, and where it raises a conflict of interest, the person in question must step down from his or her office.

(4) For the purposes of subsection (3), "conflict of interest" includes conflict between the public duty and private interests of an official, in which the official has private-capacity interests which could unduly influence the way in which that official fulfils his or her obligations and responsibilities.

Transparency in election administration

14. All activities of the Fijian Elections Office must be conducted in a transparent manner including, as follows—

(a) the Electoral Commission must promptly adopt its own rules of procedure for its meetings;

(b) the Supervisor must promptly adopt the Standing Orders, which must include all aspects of the internal operations of the Fijian Elections Office;

(c) the Fijian Elections Office must publish and make public all laws, rules, procedures and instructions that govern the implementation of elections;

(d) a database of complaints and appeals lodged with the Electoral Commission must be maintained by the Fijian Elections Office, and the database must include a synopsis of the complaints, appeals, resulting actions and decisions;

(e) the Electoral Commission and the Supervisor shall hold meetings with political parties, independent candidates, observers, and the media, to update and discuss matters related to the administration of elections and campaign processes as required to be held by the Electoral Commission or the Supervisor;

(f) the Electoral Commission must submit an annual report to the President and Parliament concerning the operations of the Electoral Commission, and may submit additional reports; and

(g) in the year in which a general election is held, the Electoral Commission and the Supervisor must submit a joint post-election report, within 3 months after the date of the election, to the President and Parliament concerning the conduct of the general election.

Funding of the Fijian Elections Office

15.—(1) Parliament must ensure that the Fijian Elections Office is allocated sufficient financial resources from the State budget for the timely and effective performance of its duties and functions and exercise of its powers.

(2) The Fijian Elections Office shall submit to Parliament a multi-year budget for each electoral cycle of four years for planning purposes, and shall submit to Parliament on an annual basis, an estimated budget for the following year, based on which the budgetary funding for the Fijian Elections Office for the following year will be determined.

Financial authorities

16.—(1) The Supervisor is authorised to conduct public procurement procedures through such simplified and expedited means as established under the Standing Orders for the purpose of unimpeded conduct of elections.

(2) Until such time the Supervisor establishes its own procurement rules under the Standing Orders, the Fijian Elections Office shall follow the procurement rules established under the Financial Management Act 2004.

Complaints against Supervisor

17.—(1) Political parties and candidates may submit to the Electoral Commission written complaints against any decision of the Supervisor or any election official or employee of the Fijian Elections Office made under Part 3 of this Act, or any decision of the Supervisor made under the Electoral (Registration of Voters) Act 2012 or the Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013.

(2) Except as otherwise provided in this Act, complaints to the Electoral Commission must be submitted within 2 days of the complainant becoming aware of the decision, action or inaction.

(3) A written complaint lodged under subsection (1) must include the name, position, political party (if any), and contact information of the complainant and the alleged facts.

(4) Except as otherwise provided in this Act, the Electoral Commission must issue a decision in writing within 3 days of receipt of any complaint, and in any case, a complaint filed prior to the polling day must be adjudicated before polling.

(5) A decision of the Electoral Commission on adjudication of complaints must be in written form, and include all relevant facts and reasoning for the decision.

(6) The consideration and adjudication of complaints by the Electoral Commission must respect the fundamental principle of due process, including the right to a fair hearing, at which relevant evidence in support and in response to the complaint may be submitted.

(7) In adjudicating complaints, the Electoral Commission has the power to reverse, alter or amend decisions of the Supervisor or other election officials and employees, to order such persons to take certain decisions or actions, or to cease certain actions.

(8) The decision of the Electoral Commission on any complaint from the decision of the Supervisor shall be final and shall not be subject to any further appeal to or review by any court, tribunal or any other adjudicating body.

Co-operation with law enforcement bodies

18. If the Electoral Commission or the Supervisor becomes aware at any time of the probable commission of an election-related criminal offence including any criminal offence prescribed in this Act, it must immediately report the matter in writing to FICAC, and all election officials must fully cooperate in the investigation of any election-related offence.

Court to finalise decisions

18A. A court must promptly make a decision with respect to a charge filed for an election related offence under this Act, the Electoral (Registration of Voters) Act 2012 and the Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013.

PART 3—CONDUCT OF ELECTIONS

Division 1—Writ

Writ

19. The President, acting in accordance with section 59 of the Constitution, must issue a writ to the Electoral Commission in every election.

Vacancy in Parliament

20.—(1) If it appears to the Speaker that the seat of a member of Parliament has become vacant under section 63 of the Constitution, the Speaker must publish in the *Gazette* a notice of the vacancy and the cause of the vacancy, and forward a copy to the Electoral Commission.

(2) If the Electoral Commission is unable to award that vacant seat to another candidate in accordance with section 64(1) of the Constitution, then, subject to section 64(3) of the Constitution and to subsection (3) of this section, the Electoral Commission must notify the President, who must within 7 days from the date of the vacancy issue a writ to fill the vacancy.

(3) If a petition or an application is made to the Court under section 66 of the Constitution, then a writ must not be issued for a by-election unless the Court has made its determination on the petition or the application.

(4) If after the issue of a writ for a by-election but before the declaration of the election of a member of Parliament pursuant to the writ, the President issues a proclamation dissolving Parliament, then the by-election has failed and the Electoral Commission shall return the writ to the President and publish a notice to that effect in the *Gazette*.

Requirement for writ

21.—(1) The President must forward the writ for every election to the Electoral Commission which must publish a copy of the writ in the *Gazette* and in all national daily newspapers and broadcast on radio and free-to-air television within 7 days of receipt.

(2) Every writ must specify the—

(a) number of members of Parliament to be returned at the election;

(b) date on or before which the writ is returnable to the President;

(c) date and time on which, and the place at which, nominations of candidates for the election are to be received by; and

(d) date on which the poll will be held if the election is contested.

(3) The Electoral Commission may conduct postal and pre-poll voting in the days preceding polling day.

Division 2—Nomination

Notice of nomination

22. The Electoral Commission must, upon receipt of a writ for an election, publish in the *Gazette* and in all national daily newspapers and broadcast on radio and free-to-air television, a notice of the—

(a) nomination period; and

(b) place of nomination.

Candidate eligibility

23.—(1) A person is not eligible to be elected as a member of Parliament unless duly nominated as a candidate in the election.

(2) A candidate for election to Parliament may be nominated by a registered political party or nominated as an independent candidate in accordance with the procedures prescribed in this Act.

(3) A person is not eligible to be nominated as a candidate unless he or she is a registered voter, and a person who has been disqualified from voting by an order of a court under section 151 shall for this purpose be regarded as not registered to vote.

(4) A person is eligible to be nominated as a candidate for election to Parliament only if the person—

(a) is a citizen of Fiji, and does not hold citizenship of any other country;

(b) is registered in the Register of Voters;

(c) is ordinarily resident in Fiji for at least 2 years immediately before being nominated;

(d) is not an undischarged bankrupt;

(e) is not a member of the Electoral Commission, and has not been a member of that Commission at any time during the 4 years immediately before being nominated;

(f) is not subject to a sentence of imprisonment when nominated;

(g) has not, at any time during the 8 years immediately before being nominated, been convicted of any offence under any law for which the maximum penalty is a term of imprisonment of 12 months or more; and

(h) has not been guilty of any offence under a law relating to elections, registration of political parties or registration of voters, including any offence prescribed under this Act.

~~(5) For the purposes of subsection (4)*(c)*, a person is deemed to be ordinarily resident in Fiji if that person has been out of Fiji for official Government business or duties or has been holding an official Government position in any other country.~~

(5) For the purposes of subsection (4) *(c)*, a person shall only qualify to be ordinarily resident in Fiji for at least 2 years immediately before being nominated, if that person has been present and living in Fiji for an aggregate period of not less than 18 months out of the 2 years immediately before being nominated; and

(6) Notwithstanding anything contained in subsection (5), any person who has been out of Fiji for official Government business or duties or has been holding an official Government position in any other country, shall be deemed to be ordinarily resident in Fiji for the purposes of subsection (4) *(c)*.

(7) For the purpose of verification, the Supervisor may make enquiries and, where necessary, require the person to provide the necessary authorisations and declarations to the relevant authorities to assist with the enquiries.

Candidates who are public officers

24.—(1) A person who holds a public office (as defined in section 57(3) of the Constitution) is deemed to have vacated that office at the time at which his or her signed nomination as a candidate for election to Parliament is delivered to the Supervisor.

(2) If any person to whom section 57(1) of the Constitution or to whom subsection (1) applies continues to hold, or is appointed to, any public office after the time at which his or her signed nomination as a candidate for election to Parliament is delivered to the Supervisor, then the nomination of that person shall be deemed to be invalid and that person shall be regarded as not been nominated for the election to which the nomination relates.

(3) If any person to whom section 57(1) of the Constitution or to whom subsection (1) applies continues to hold the public office after the time at which his or her signed nomination as a candidate for election to Parliament is delivered to the Supervisor, then that person commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Nomination of independent candidates

25.—(1) A person wishing to stand as an independent candidate in an election must be duly nominated in writing on a nomination paper in the form approved by the Electoral Commission.

(2) The nomination paper must set out the following details of the independent candidate—

(a) the full name;

(b) the residential address;

(c) occupation; and

(d) the voter number.

(3) The nomination paper must be accompanied by a photograph of the independent candidate, which must comply with such requirements as approved by the Supervisor.

(4) A nomination of an independent candidate is not valid unless the candidate indicates his or her consent by signing the nomination paper and making a declaration on the nomination paper that—

(a) to the best of his or her knowledge and belief, he or she is qualified under the Constitution and this Act to be elected as a member of Parliament in the election to which the nomination relates; and

(b) he or she is not, and does not intend to be, nominated as a party candidate in the election to which the nomination relates.

(5) If a person is nominated as an independent candidate and as a party candidate in the election to which the nomination relates to, then both nominations shall be invalid.

(6) In the nomination paper, an independent candidate must specify a place within Fiji as his or her address for service.

(7) Delivery at the place specified under subsection (6) of any notice, claim, writ of summons, petition or any other document addressed to the candidate is deemed to be service on the candidate of the document.

(8) The nomination paper must be delivered to the Supervisor by the candidate, or by a person appointed by the candidate in writing, at the place of nomination, by the close of nominations for the election.

(9) A nomination must not be rejected because of any defect or error in the nomination if the Supervisor is satisfied that this section has been substantially complied with.

(10) The Supervisor is entitled to satisfy himself or herself, after making any enquiry he or she considers appropriate that an independent candidate is duly nominated.

Nomination of party candidates

26.—(1) Only political parties registered in accordance with the Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013 can nominate party candidates for an election, and must do so in accordance with this section.

(2) The total number of candidates which a political party may nominate for any general election must not be more than the total number of seats in Parliament, and the total number of candidates which a political party may nominate for any by-election must not be more than the total number of vacant seats in Parliament for which the by-election is being held.

(3) A political party wishing to nominate one or more party candidates in an election must—

(a) include the name of each party candidate in a party list;

(b) rank candidates in the party list in the order they are to be assigned seats in Parliament, in accordance with the Constitution and this Act; and

(c) send the party list to the Supervisor by the close of nominations for the election.

(4) A party list must be in writing and signed by the ~~leader~~ president and the ~~secretary~~ registered officer of the political party.

(5) A party list must include a certificate certifying that the order of candidates was agreed to in accordance with the rules of procedure of the political party.

(6) The party list must set out the following details of each party candidate the—

(a) full name;

(b) residential address;

(c) occupation; and

(d) voter number.

(7) The party list must be accompanied by a photograph of each party candidate, which must comply with such requirements as approved by the Supervisor.

(8) Inclusion of a party candidate on a party list is not valid unless the candidate consents by signing the party list and a declaration attached to the party list that—

(a) to the best of his or her knowledge and belief, he or she is qualified under the Constitution to be elected as a member of Parliament in the election to which the nomination relates; and

(b) he or she is not, and does not intend to be, nominated as an independent candidate or as a party candidate for any other political party in the election to which the nomination relates.

(9) Inclusion of a person as a party candidate on a party list of a political party shall be deemed to be a nomination duly made by that person for the purposes of this Act and any other written law.

(10) A person can be nominated as a party candidate for only a single political party, and if a person is nominated as a party candidate for more than one political party, then his or her nomination shall be invalid for each of the political parties for which he or she is nominated.

(11) If a person is nominated as a party candidate and as an independent candidate in the election to which the nomination relates to, then both nominations shall be invalid.

(12) The party list of a political party must be delivered to the Supervisor in writing, at the place of nomination, during the time appointed for receiving nominations.

(13) A nomination must not be rejected because of any defect or error in the nomination if the Supervisor is satisfied that this section has been substantially complied with.

(14) The Supervisor is entitled to satisfy himself or herself, after making any enquiry he or she considers appropriate that a party candidate is duly nominated.

Deposits and statements of support

27.—(1) A nomination of a party candidate by a political party is not valid unless it is accompanied by a deposit of $1,000 in legal tender or a banker's cheque for each party candidate on the party list of the political party, provided however that a political party may submit one or more banker's cheques containing the amount of deposit payable by one or more party candidates nominated by the party.

(2) A nomination of an independent candidate is not valid unless it is accompanied by a—

(a) deposit of $1,000 in legal tender or a banker's cheque; and

(b) statement of demonstrated support in the approved form.

(3) A statement of demonstrated support for an independent candidate must—

(a) be received by the Supervisor by the close of nominations for the election;

(b) contain signatures of at least 1,000 registered voters as supporters; and

(c) contain the full names, residential addresses, occupation and voter numbers of the supporters.

Withdrawal of candidacy

28.—(1) An independent or a party candidate may withdraw his or her candidacy by giving notice in writing to the Supervisor before 12.00pm on the day following the close of nominations for the election, after which a candidate may not withdraw.

(2) No new nomination may be made to replace any candidate who withdraws his or her nomination after the close of nominations for the election.

(3) If a nomination is withdrawn by a candidate before the close of nominations for the election, a new nomination may be made before the close of nominations for the election to replace that candidate, and no new nomination can be made to replace that candidate after the close of nominations for that election.

(4) If a party candidate withdraws his or her candidacy in accordance with this section, then the Supervisor shall strike off the name of that person from the party list.

Nominations to be displayed

29.—(1) The Supervisor, if satisfied that a nomination of an independent candidate complies with the requirements of the Constitution and this Act, must cause a—

(a) copy of the nomination paper to be prominently displayed at the place of nomination; and

(b) notice of the nomination of that independent candidate to be published.

(2) The Supervisor, if satisfied that the nomination of party candidates on a party list complies with the requirements of the Constitution and this Act, must cause the names of the party candidates whose nomination complies with the requirements of the Constitution and this Act to be—

(a) prominently displayed at the place of nomination; and

(b) published in alphabetical order, with the last name (if any) of the candidate appearing before the first name.

(3) The nominations of independent candidates and party candidates must be displayed and published in accordance with this section on the day following the close of nominations for the election.

(4) A political party shall not amend its party list after the close of nominations for the election, and no new nomination can be made by the political party after the close of nominations for the election.

Objections

30.—(1) A person who is a registered voter may object to the nomination of any candidate on the ground that the—

(a) candidate is not qualified to be nominated; or

(b) nomination of the candidate as an independent candidate or as a party candidate on a party list does not comply with the requirements of the Constitution or this Act.

(2) An objection under subsection (1) must be in writing and must—

(a) set out the full name as it appears in the Register of Voters or voter lists, the address and the voter number of the person objecting;

(b) set out the ground or grounds of the objection;

(c) set out the facts giving rise to the ground or grounds of the objection; and

(d) contain a statutory declaration that the person objecting has made a conscientious effort to ascertain the truth of those facts and that they are true to the best of his or her knowledge and belief.

(3) An objection must be delivered or sent by the person objecting, to the Electoral Commission, before 4.00pm on the day following the close of nominations for the election.

(4) Upon receipt of the objection, the Electoral Commission must arrange to provide a copy of the objection to the candidate whose nomination is being objected to and must provide the candidate with an opportunity to respond to the objection within such time as determined by the Electoral Commission.

(5) The Electoral Commission must make a decision on the objection with written reasons, as soon as possible and in any event within 3 days upon receipt of the objection.

(6) Upon making a decision on the objection, the Electoral Commission must immediately notify its decision to the person objecting, ~~and~~ the candidate whose nomination is objected to and the Supervisor as soon as possible but no later than 12.00pm on the day following its decision.

(7) The decision of the Electoral Commission under subsection (5) shall be final and shall not be subject to any further appeal, or review by any court, tribunal or any other adjudicating body.

(8) If the Electoral Commission upholds any objection made under this section, the Electoral Commission shall order that the name of the candidate against whom the objection was made, be removed as a candidate (whether as an independent candidate or a party candidate on a party list) for the purpose of the election for which the nomination was made.

(9) No new nomination may be made to replace any candidate whose name is removed as a candidate under subsection (8).

Appeals on nominations

31.—(1) Any person—

(a) who applied for nomination as an independent candidate or as a party candidate on a party list; and

(b) whose nomination has not been accepted by the Supervisor,

may lodge an application to the Electoral Commission for a review of the decision of the Supervisor.

(2) An application under subsection (1) must be in writing and must be delivered to the Electoral Commission before 4.00pm on the day following the close of nominations for the election.

(3) Upon receipt of the application, the Electoral Commission must provide a copy of the application to the Supervisor and provide the Supervisor with an opportunity to respond to the application within such time as determined by the Electoral Commission.

(4) The Electoral Commission must make a decision on the application as soon as possible and in any event within 3 days upon receipt of the application.

(5) Upon making the decision on the application, the Electoral Commission must immediately notify the person making the application and the Supervisor of its decision as soon as possible but no later than 12.00pm on the day following its decision.

(6) The decision of the Electoral Commission under this section shall be final and shall not be subject to any further appeal to, or review by any court, tribunal or any other adjudicating body.

Death of candidate after nomination

32.—(1) If an independent candidate or a party candidate who is duly nominated in any election dies before or on the polling day (including the period for pre-polling and postal voting), the Supervisor must remove or strike out the name and number of that candidate from the National Candidates List and in the event that ballot papers had already been printed, the Supervisor must, where practicable, ensure that a notice or notices are placed at every polling station.

(2) The Supervisor must immediately ensure that appropriate public notice is published in the *Gazette* and all national daily newspapers and broadcast on radio and free-to-air television informing voters of the candidate's death.

(3) No new nomination may be made to replace any candidate who is duly nominated for election to Parliament in any election and who dies before the polling day.

(4) For the avoidance of doubt, any vote cast for a candidate who dies before the polling day (including the period for pre-polling and postal voting) shall be deemed to be invalid and shall not be counted in any way for the purposes of determining the results of the election.

(5) If a party candidate who is duly nominated for election to Parliament in any election dies during the polling day (including the period for pre-polling and postal voting) or at any time between the polling day and the sitting of Parliament after the election, then any vote cast for that candidate shall be counted in determining the total allocation of seats to that party, and where necessary, section 64 of the Constitution shall apply in awarding the seat to the next available candidate.

(6) If an independent candidate who is duly nominated for election to Parliament in any election dies during the polling day (including the period for pre-polling and postal voting) or at any time before the declaration of results of the election under section 106, then any vote cast for that candidate shall be deemed to be invalid and shall not be counted in any way for the purposes of determining the results of the election.

Disqualification of candidate after nomination

33.—(1) If an independent candidate or a party candidate who is duly nominated in any election ceases to be eligible under the Constitution or under this Act to be nominated as a candidate for election to Parliament at any time before the polling day, the Electoral Commission shall disqualify that candidate and the Supervisor must remove the name and number of that candidate from the National Candidates List and in the event that ballot papers had already been printed, the Supervisor must, where practicable, ensure that a notice or notices are placed at every polling station.

(2) The Supervisor shall immediately ensure that appropriate public notice is published informing voters of the candidate's disqualification.

(3) No new nomination may be made to replace any candidate who is nominated for election to Parliament in any election and who is disqualified before the polling day.

(4) For the avoidance of doubt, any vote cast for a candidate who is disqualified before the polling day shall be deemed to be invalid and shall not be counted in any way for the purposes of determining the results of the election.

(5) The decision of the Electoral Commission under this section shall be final and shall not be subject to any further appeal to or review by any court, tribunal or any other adjudicating body.

Return and forfeiture of deposits

34.—(1) Any deposit that accompanied the nomination of a candidate must be returned if the—

(a) candidate withdraws his or her nomination under section 28;

(b) candidate dies before the polling day;

(c) candidate is elected or would have been had he or she not died between the close of the poll and the declaration of the election results; or

(d) candidate is not elected, but the number of votes cast in favour of the candidate is at least 1% of the total number of votes cast in the election.

(2) The deposit in respect of the candidate must be returned within 30 days of the date of declaration of the election results to the person who submitted the deposit, or to his or her personal representative.

(3) Any deposit that accompanied the nomination of any nominee will not be returned if that nominee is rejected ~~registration~~ and such deposit is forfeited to the State and paid into the Consolidated Fund.

(4) If a person's nomination is invalid under the Constitution or this Act, then any deposit paid by that person is forfeited to the State and paid into the Consolidated Fund.

Division 3—Preparations for Poll

Notice of poll

35.—(1) If an election for candidates to Parliament is contested (that is, if the number of candidates nominated are more than the total number of seats for which the election is being held), then the Electoral Commission must, within 7 days after the close of nominations, ~~give a notice of poll in the *Gazette* and in all national daily newspapers and broadcast on radio and free-to-air television~~ publish a notice of poll.

(2) The notice given under subsection (1) must contain, in relation to each candidate in alphabetical order, particulars of the candidate as described in his or her nomination paper, with the last name (if any) of the candidate appearing before the first name, including the following—

(a) residential address, occupation and voter number of each candidate;

(b) the place or places at which polling stations and venues will be established for the purpose of taking votes during polling; and

(c) the date and hours between which the Supervisor or presiding officer will attend at the various polling stations to take votes.

National Candidates List

36.—(1) Following the receipt by the Supervisor of the names of the independent candidates nominated for election to Parliament in an election, and of the names of party candidates nominated for election to Parliament in an election as contained in the party lists of the political parties, the Supervisor shall, within 7 days following the close of nominations for the election, prepare a National Candidates List containing the names of all candidates.

(2) To determine the order in which names of the candidates should appear on the National Candidates List, the Supervisor must, ~~at the place of nomination,~~ on the date and time which shall be published, and before all persons present ~~at that place~~ —

(a) prepare a list of all the duly nominated candidates in alphabetical order with the last name (if any) of the candidate appearing before the first name;

(b) read out the list;

(c) place a number of balls equal to the number of candidates, being balls of equal size and weight and each of which is distinctly marked with a number commencing from ~~number 135~~ a 3-digit number approved by the Electoral Commission, in a container large enough to allow all the balls to move about freely when the container is rotated;

(d) rotate the container and permit any other person present who wishes to do so, to rotate the container;

(e) cause a person who is blindfolded and has been blindfolded prior to the rotation of the container in accordance with paragraph *(d)*, to take the balls, or cause the balls to come out of the container one by one and, as each ball is taken or comes out, pass it to the Supervisor who must call out the number on the ball; and

(f) place or allocate that number to the first candidate on the list and then place or allocate the numbers as they are called out under paragraph *(e)* for each subsequent candidate on the list until all the candidates on the list have been allocated with a number.

(3) After completing the process outlined in subsection (2), the Supervisor shall prepare a National Candidates List, which shall contain the names of the candidates in as many rows and columns as the Supervisor deems appropriate, and the names in the National Candidates List shall be arranged in sequential order commencing with the candidate who was allocated ~~number 135~~ the lowest number.

(4) The Supervisor must ensure that the number allocated to each candidate, together with a photograph of each candidate submitted with his or her nomination, are recorded next to, or before, the name of each candidate on the National Candidates List, and the Supervisor must ensure that the number allocated to each candidate is recorded and displayed in such a manner so that there is no confusion as to the number allocated to any candidate.

(5) The Supervisor must, as soon as practicable after the preparation of the National Candidates List, publish the National Candidates List ~~in the *Gazette* and in all national daily newspapers and broadcast on radio and free-to-air television,~~ and must provide a copy of the National Candidates List to all registered political parties and to each nominated ~~independent and party~~ candidate.

(6) The National Candidates List must not contain any party name or party symbol.

(7) For the purpose of subsection (2)*(c)*, the numbers used in an election of members of Parliament must not be used at the next election of members of Parliament.

Voting by ballot

37.—(1) The votes in a poll must be taken by ballot and the ballot of each voter must consist of a paper prepared in accordance with this Act.

(2) The ballot paper must be in, or substantially in accordance with, the form prescribed in the Schedule.

(3) Ballot papers must be capable of being folded and must be bound in books with serially numbered counterfoils.

(4) The ballot papers must be kept in safe custody at all times.

Printing and distribution of ballot papers

38.—(1) The Supervisor must ensure that there are adequate security features incorporated into the design and printing of the ballot papers as a safeguard.

(2) The Supervisor must ensure that all ballot papers are printed and ready for distribution before polling day.

(3) The number of ballot papers to be printed must equal the total number of registered voters in the Register of Voters plus a contingency determined by the Supervisor.

(4) The Supervisor must ensure that the transfer of ballot papers to polling stations is done before the commencement of voting on polling day.

(5) Each polling station must receive a number of ballot papers equal to the number of registered voters on the voter list of the polling station plus a contingency determined by the Supervisor.

(6) At all times during the printing and distribution process, the Supervisor must ensure that the ballot papers are stored in highly secure conditions.

(7) The Supervisor must give to the person printing the ballot papers a receipt specifying the total number of ballot papers to be printed and received by the Supervisor, and the printer must see that all copies of the ballot papers other than those delivered to the Supervisor are immediately destroyed.

(8) Every presiding officer must take personal responsibility for the safe custody of each ballot paper at the polling station at which he or she presides.

Assignment of voters to polling stations

39.—(1) For the conduct of polling, registered voters must be assigned to specific polling stations.

(2) Each polling station will have a total number of assigned voters to be determined according to clear and objective criteria ~~adopted~~ approved by the Electoral Commission.

(3) Except in exceptional circumstances, voters must be assigned to polling stations that are located within a reasonable walking distance from their place of residence.

Voter lists

40.—(1) The Supervisor must ensure that the Register of Voters is sub-divided into voter lists for each established polling station with such details of all the voters assigned to that polling station as determined by the Supervisor.

(2) The Supervisor must ensure that each voter list prepared under subsection (1) is printed and distributed to the respective polling station for the use of the election officials at the polling station.

(3) The Supervisor must ensure that special voting lists are compiled for those voters voting by alternative methods under this Act.

(4) The Supervisor may require the heads of any institution at which polling will take place, including hospitals and other health and long-term care facilities, pre-trial detention centres, prisons, and military units, if applicable, to compile a list of voters residing at their facilities and forward them to the Supervisor.

(5) The heads of any institution in subsection (4) must comply with the directions of the Supervisor and must assist the Supervisor with any other request made by the Supervisor.

(6) The Supervisor is responsible for compiling the Register of Postal Voters and any other special voter list applicable under this Act.

(7) The Supervisor must include a notation beside the name of each voter on the regular voter list who is also on a special voter list under subsection (3) indicating that the person is registered for an alternative voting method, and any such notation shall indicate that such person is not entitled to vote on the polling day at the polling station to which he or she is assigned.

(8) The voter list for each polling station must be published by the Supervisor and must be made available to the voters at suitable locations to allow voters to be informed of their polling stations, and the voter list published or made available under this subsection shall only contain the names of the voters, their voter numbers and their assigned polling stations.

(9) Any political party or any candidate may, upon the payment of such fees as ~~approved~~ prescribed by the Supervisor, acquire a ~~written~~ copy of the voter lists ~~published under subsection (8)~~ containing the names, genders, address details and voter numbers of the voters.

Polling stations and polling venues

41.—(1) The Supervisor shall identify the physical locations of all polling stations and polling venues no later than 30 days prior to the polling day.

(2) The Supervisor must publish ~~in the *Gazette* and in all national daily newspapers and broadcast on radio and free-to-air television,~~ the addresses of all polling stations and polling venues.

(3) All polling stations and polling venues must be located in a place that is adequate for the efficient and orderly conduct of polling and is readily accessible to the voters.

(4) More than one polling station may be located in a polling venue, provided there is sufficient space for the efficient and orderly conduct of polling.

(5) After the publication of the address of all polling stations and polling venues, the location of a polling station or polling venue may not be changed prior to the polling day except under conditions of *force majeure* and only consequent to a decision of the Supervisor.

(6) The Supervisor may establish polling stations in military units, hospitals, long-term care facilities, pre-trial detention centres, prisons and remote locations prior to the polling day, and special procedures for the conduct of polling at such polling stations may be ~~adopted~~ approved by the Electoral Commission.

Presiding officers

42.—(1) The Supervisor must appoint a presiding officer to preside at each polling station.

(2) The presiding officer is responsible for the orderly conduct of the voting and counting process at the polling station.

(3) A person appointed as a presiding officer must—

(a) be present at the relevant polling station on the polling day; and

(b) subject to this Act, receive the votes of all persons whose names are on the voter list for that polling station concerned and who appear and apply for a ballot paper.

(4) The Supervisor may appoint a deputy presiding officer or assistant presiding officer to perform the duties of a particular presiding officer at a polling station during the temporary absence of the presiding officer.

(5) The Supervisor may appoint as many election officials as he or she considers necessary to effectively conduct an election at any polling station.

(6) A deputy presiding officer or assistant presiding officer may do any act that the presiding officer is authorised or required to do under this Act.

(7) A person appointed under this section must not begin to perform his or her duties unless he or she has signed a declaration or a code of conduct in the approved form.

Facilities at polling stations

43.—(1) The Supervisor must ensure that every polling station is provided with—

(a) ~~polling booths~~ voting screens of a sufficient number to accommodate an orderly flow of the number of voters assigned to that polling station;

(b) an appropriate number of translucent ballot boxes of a sufficient size and number to accommodate all voters assigned to that polling station, with each ballot box provided with a seal or seals, and so constructed that the ballot papers can be placed in them but cannot be taken out without the boxes being unsealed;

(c) sufficient number of official seals with serial numbers for securing ballot boxes;

(d) a copy of the voter list for the polling station concerned;

(e) materials for voters to mark the ballot papers; and

~~*(f)* written directions for the guidance of voters in a form approved by the Supervisor, and in such language or languages as the Supervisor considers appropriate.~~

(f) sufficient copies of the National Candidates List together with instructions on how to vote which must be made available to or accessible by each voter; and

(g) such written directions not inconsistent with the National Candidates List or any provision of this Act issued by the Supervisor to every presiding officer with respect to the orderly conduct of the election.

(2) The ~~polling booths~~ voting screens in a polling station must be so constructed and arranged that voters can cast their vote in private.

(3) The arrangement of the polling station must be such that it ensures an orderly flow of voters.

(4) The facilities provided at a polling station where practicable must be reasonably equipped and designed to enable persons with disabilities or other special needs to cast their vote.

Arrangements for persons with disabilities

44. The Supervisor must, to the extent feasible, ensure that appropriate arrangements are made for persons with disabilities or other special needs to enable the effective realisation of their electoral rights, including the following—

(a) polling activities located at ground level and ramp access at polling stations; and

(b) ~~polling booths~~ voting screens designed for persons in wheelchairs to allow such persons to vote.

Polling agents

45.—(1) Each independent candidate, and each nominating party, may appoint one or more polling agents, only one of whom may be present at a polling station at any one time, and the candidate and party must notify the presiding officer in writing of any appointment at the polling station.

(2) A notice under subsection (1) must specify the names and addresses of the polling agent or polling agents appointed who must be provided with an official badge issued by the Fijian Elections Office.

(3) A polling agent must, before being allowed to act, make a declaration or sign a code of conduct in the approved form before the presiding officer.

Division 4—The Poll

Times for polling

46.—(1) The poll at every polling station must take place during the hours appointed by the Electoral Commission in the notice of poll.

(2) Unless otherwise specified in the notice of poll issued by the Electoral Commission, the poll at every polling station must open at 7.30am and must not close until all voters in the queue at the polling station at 6.00pm, and desiring to vote, have voted.

(3) After the last person in queue at 6.00pm has voted or after the last person has voted at the end of any period specified by the Electoral Commission in the notice of poll, the presiding officer must announce the closing of the poll and a person must not be admitted to a polling station after that time for the purpose of voting.

(4) Notwithstanding subsection (2), a special polling station (those located in hospitals and other inpatient medical facilities, long-term care facilities, pre-trial detention centres, prisons, and military units, and in places difficult to access) may ~~close prior to 6.00pm if all voters registered at that polling station have voted~~ operate during the times approved by the Electoral Commission.

Adjournment of polling

47.—(1) In circumstances of *force majeure*, one or more polling stations may not commence polling or polling may be adjourned on polling day.

(2) A presiding officer must immediately notify the Supervisor of a need to not commence or to adjourn polling at the polling station on the polling day due to *force majeure*.

(3) The Supervisor, upon consultation with the Electoral Commission, may approve the non-commencement or adjournment of the polling.

(4) Following the approval of the Supervisor under subsection (3), the presiding officer must post a public notice at the polling station to this effect, ~~and publish in the *Gazette* and in all national daily newspapers and broadcast on radio and free-to-air television,~~ and any vote cast by that time shall be cancelled and polling at the affected polling station must take place on a date determined ~~under this section~~ and approved by the Electoral Commission.

(5) The Electoral Commission, with the advice of the Supervisor, may order the non-commencement of polling or may adjourn polling in a particular geographic region due to *force majeure*.

(6) If a decision is made by the Electoral Commission to not commence polling or to adjourn polling under subsection (5), the Supervisor must notify the relevant presiding officers of the adjournment and the presiding officers must post a public notice at the polling station to this effect, ~~and publish in the *Gazette* and in all national daily newspapers and broadcast on radio and free-to-air television, and any vote cast by that time shall be cancelled and polling at the affected polling stations must take place on a date determined under this section~~ and any vote cast by that time shall be cancelled and polling at the affected polling station must take place on a date determined and approved by the Electoral Commission.

(7) If, in the opinion of the Electoral Commission, on the advice of the Supervisor, the number of polling stations which cannot and will not open or at which polling is adjourned due to *force majeure*, is a significantly high number such that the adjournment of the entire election is warranted, the Supervisor shall immediately make a public announcement of the adjournment of the election and publish a notice to that effect in the *Gazette* and in all national daily newspapers and broadcast on radio and free-to-air television.

(8) If the Electoral Commission adjourns the entire election under subsection (7), it shall, when feasible and in consultation with the Supervisor, determine another date for the election and at such time make a public announcement to inform the public of the new date for the election and publish a notice to that effect in the *Gazette* and in all national daily newspapers and broadcast on radio and free-to-air television.

(9) If the election continues as planned despite the non-commencement or adjournment at one or more polling stations under subsections (3) or (5), the polling for those affected polling stations shall, if possible, be held on the day after the election (for the same hours the election was held on polling day), and if polling is not feasible the next day, the election shall be held on the second day after the polling day and if not feasible that day then on the third day after the polling day or soon thereafter.

(10) If polling at a polling station is held on another day other than polling day, the presiding officer of the affected polling station must post a public notice at the polling station notifying voters of the new polling day~~, and publish a notice to that effect in the *Gazette* and in all national daily newspapers and broadcast on radio and free-to-air television~~.

Polling station record book

48.—(1) The Supervisor must provide a record book for each polling station, which must remain under the control of the presiding officer who must record in the record book all election procedures and significant matters, including but not limited to—

(a) the names of all election officials, polling agents and observers present during the polling and counting process;

(b) number of ballot papers received and a note of any missing election materials;

(c) key events including the opening and closing times;

(d) serial numbers of seal or seals used to secure ballot boxes;

(e) names of assisted voters;

(f) any disturbance or incident that take place in or around the polling station and requests for police assistance; and

(g) any complaints filed and decisions on complaints.

(2) The record book may be accessed in the course of adjudication of any complaint.

Preparations for opening of polling station

49.—(1) The presiding officer and election officials must have the polling stations prepared for polling at least 30 minutes prior to the start of the polling, in the presence of any polling agent and observer.

(2) The presiding officer must confirm that all assigned election officials and all ballot papers and other material necessary for the conduct of the polls are present in the polling station.

(3) All unused ballot papers received by the polling station must be brought out of the secure place by the presiding officer and counted, and the total number recorded in the record book.

(4) All unused ballot papers should be returned to and kept in a secure place in the polling station when not in use throughout the polling day.

(5) If any election official, ballot papers or other necessary material is missing, the presiding officer should immediately notify the Supervisor who must address the deficiency in resources where possible.

(6) The presiding officer at a polling station must, immediately before the start of the poll at that polling station—

(a) show each of the ballot boxes empty to the persons present at the polling station;

(b) secure each ballot box with the official numbered plastic seal or seals in such a way to prevent it being opened without breaking the seal or seals, and record the serial number of the seal or seals in the record book; and

(c) place each ballot box within his or her view for the receipt of ballot papers.

(7) Each ballot box, after being sealed in accordance with this section must not be opened until the time designated for counting the votes or where section 47 is invoked.

Where voters are entitled to vote

50.—(1) On polling day, a registered voter is entitled to vote only at the polling station at which he or she is assigned according to the voter list of the polling station.

(2) Notwithstanding subsection (1), election officials and police officers appointed to work on polling day at a polling station to which they are not assigned to vote or public servants with election duties in an area not convenient to the location of the polling station to which they are assigned to vote, may vote at the polling station at which they are working or at a polling station convenient to their location of assignment, provided they are not registered in the Register of Postal Voters and have obtained an absentee certificate according to a process established by the Supervisor.

(3) A voter on a voter list with an indication beside his or her name that he or she is registered as a postal voter or that he or she is registered on any other special voter list for alternative voting under this Act may not vote at the polling station to which he or she is assigned.

Identification of voter

51.—(1) Prior to being issued a ballot paper, a voter must present his or her voter identification card to the election official to substantiate that he or she is in fact a person registered to vote at that polling station, or must present another form of identification to the satisfaction of the Supervisor or presiding officer.

(2) If a voter does not have any identification card or any other form of identification, the Supervisor or presiding officer must take necessary measures to verify the identification of the voter, including the verification of the voter's thumbprint or asking the voter such questions as necessary to verify his or her identity.

(3) A mistake in spelling of the name, address, date of birth or occupation of a voter does not warrant the rejection of a person to vote at a polling station if, in the opinion of the presiding officer, the voter is sufficiently identified in the voter list of that polling station.

(4) If a registered voter has since the compilation of the Register of Voters or voter list changed his or her name by marriage or deed poll, he or she is not disqualified from voting under the name appearing in the register, provided he or she can provide sufficient proof to the presiding officer that he or she is in the Register of Voters or voter list.

(5) If the voter list indicates that the voter is registered in the Register of Postal Voters, he or she is not entitled to cast a vote in the polling station and must be so notified by the election official.

(6) Prior to issuing a ballot paper, a designated election official must check the voter to determine if he or she has on a finger the indelible substance marked in the way directed under this Act to indicate that the voter has voted.

(7) If a voter's finger is marked with such indelible substance to indicate he or she has voted, the voter must not be issued a ballot paper.

(8) If a voter whose finger has been inked attempts to vote a second time, the election official must notify the presiding officer that a voter has attempted to vote more than once and the presiding officer must notify the police to detain the person in question and investigate the matter as a criminal offence.

(9) In all other circumstances the person's claim to vote must be accepted and he or she must be given a ballot paper.

Number of votes

52.—(1) Each voter is entitled to cast one vote only in an election.

(2) It shall be unlawful for any ~~person~~ voter to bring into a polling station or polling venue any type of paper or any specimen or sample of a ballot paper or any card or instruction on how to vote.

~~(3) If the Supervisor or presiding officer has reasonable suspicion that a voter is in breach of subsection (2), he or she may request the assistance of a police officer to search the voter, and it shall be lawful for a police officer to take such measures as necessary to conduct a search of the voter.~~

(3) Subject to section 60(1A), a polling agent or an approved observer may only bring into a polling station materials prescribed under section 60(1A) that he or she shall use to carry out his or her duties as an agent or observer.

(4) Any ~~person~~ voter who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years or to both.

Voting procedure

53.—(1) Once an election official verifies that a voter present at a polling station is registered to vote at that polling station and is entitled to vote, the presiding officer or a designated election official must—

(a) strike out the name of each voter from the voter list before he or she is given a ballot paper;

(b) hand one ballot paper to the voter; and

(c) immediately have the voter sign next to his or her name on the voter list to denote that the voter has received a ballot paper.

(1A) The presiding officer or designated election official must make available to the voter or provide the voter with access to a copy of the National Candidates List together with instructions on how to vote.

(2) The voter must—

(a) upon receipt of the ballot paper, retire to a ~~polling booth~~ voting screen;

(b) secretly mark his or her vote on the ballot paper in the way prescribed in section 54;

(c) fold the ballot paper so as to conceal his or her vote;

(d) after the voter has marked his or her vote and before he or she has placed the ballot paper in the ballot box, have one finger marked with an indelible substance; and

(e) place the ballot paper in a ballot box in the presence of the presiding officer or a designated election official.

(3) The voter must vote without undue delay and must leave the polling station as soon as he or she has put the ballot paper in the ballot box.

(4) While in the polling station, a voter is not permitted to reveal or announce the content of his or her ballot paper, and any voter who does so, must have his or her ballot paper confiscated and invalidated by the presiding officer, provided it has not yet been inserted into the ballot box.

(5) A voter whose ballot paper has been invalidated under subsection (4) is not entitled to receive another ballot paper.

(6) During the polling process, it is prohibited for any person, other than the presiding officer, to remove any ballot paper from the polling station.

(7) The presiding officer may only remove a ballot paper from a polling station under the following circumstances —

(a) if a voter, who has been assigned to that polling station is unable to appear and cast his or her vote due to any illness, physical disability or for any reason approved by the Supervisor; or

(b) if another polling station has run out of ballot papers and the Supervisor expressly authorises that ballot papers be transferred by the presiding officer to that other polling station.

(8) If a presiding officer removes a ballot paper in subsection (7)*(a)*, the presiding officer must ensure that he or she is accompanied by one other election official and the procedures for assisted voting in accordance with section 57 is followed.

(9) It is prohibited for any person to use a mobile phone, camera or any other electronic device while in the polling station with the exception of the presiding officer or a person authorised by the Supervisor.

(10) Proxy voting is prohibited.

(11) Any person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

Casting of votes

54. A voter shall vote for a single candidate by placing a circle around, or a tick or a cross on, the number of his or her preferred candidate on the ballot paper.

Tendered ballot papers

55.—(1) If a person, representing himself or herself to be a particular voter named on a voter list, applies for a ballot paper after another person has voted as that voter, the applicant is, upon being substantiated with proof of identification that he or she is on the voter list and showing that he or she is not marked on any finger with the indelible substance, entitled to mark a ballot paper in the same manner as any other voter, but instead of being put into a ballot box, the ballot paper (called "tendered ballot") must be sealed by the voter in a special envelope and given to the presiding officer who must place the envelope in a separate packet marked "tendered ballot papers".

(2) Tendered ballot papers must not be counted unless a Court so directs.

(3) The name of the voter and his or her voter number must be entered in the record book of that polling station.

Spoiled ballot papers

56.—(1) A voter who has inadvertently dealt with a ballot paper in such a way that it cannot be conveniently or validly used as a ballot paper may, on giving it to the presiding officer, get another ballot paper to replace it.

(2) The spoiled ballot paper must, in the presence of the voter, be cancelled by the presiding officer by writing or stamping the word "Cancelled" across its face, marking his or her initials on it and placing it in an envelope marked "spoiled ballot paper" and sealing it.

(3) A voter may receive only one replacement ballot.

Assisted voting

57.—(1) If any voter at a polling station is illiterate or is incapacitated by blindness or other physical reason from voting in the manner prescribed by this Act, the voter may request the presiding officer to assist him or her to cast a vote.

(2) When assisting an illiterate or incapacitated voter to cast his or her vote, the presiding officer must ensure that one other election official is present with the presiding officer.

(3) When assisting the illiterate or incapacitated voter, the presiding officer must mark the ballot paper of the voter in the manner directed by the voter while in a ~~polling booth~~ voting screen and place the ballot paper so marked in the ballot box.

(4) The presiding officer must ensure that after the illiterate or incapacitated voter has voted and before the voter's ballot paper is placed in the ballot box, the voter must have one finger marked with an indelible substance in the way directed.

(5) The name and voter number of every assisted voter must be entered in the record book for the polling station.

(6) Except for cases of assisted voting under this section, it is prohibited for more than one person to be present in the ~~polling booth~~ voting screen at the same time.

Persons authorised to remain in polling stations

58.—(1) Only the following persons not actually engaged in voting may remain in a polling station during the voting process—

(a) the Supervisor and members of the Electoral Commission;

(b) the presiding officer for the polling station;

(c) the deputy or assistant presiding officer (if any);

(d) the election officials;

(e) police officers on duty, if requested by the presiding officer or his or her representative for the sole purpose of restoring peace and order and only for the time necessary to do so;

(f) one polling agent from each political party or independent candidate at any one time, who must remain in an area designated by the Supervisor;

(g) observers who must remain in an area designated by the Supervisor;

(h) any other person authorised by the Supervisor.

(2) Notwithstanding subsection (1), if the number of polling agents and observers, in a polling station at any one time is, in the opinion of the presiding officer, interfering in the orderly administration of the polling, the presiding officer may limit the total number of such persons in the polling station at any one time by employing a fair rotation process that ensures that all such persons have an opportunity to observe the polling throughout polling day.

(3) In limiting the number of persons in subsection (2) or in removing a person from the polling station, a presiding officer may require the assistance of a police officer and such police officer must comply with any directive of the presiding officer.

Authorised persons to wear badges

59.—(1) All authorised persons present in a polling station must at all times wear the official badge provided by the Supervisor or the presiding officer.

(2) The official badge under subsection (1) shall include the person's full name, position (e.g. police officer, presiding officer, election official, polling agent, observer and any other person), and the affiliated political party or organisation.

(3) The official badges provided by the Supervisor for each type of authorised person shall be in a different colour for ease of identification.

Participation of polling agents

60.—(1) The polling agents, if any, may sit or stand and walk around any area of the polling station designated by the Supervisor in section 58(1)*(f)* where they are able to see each person who presents himself or herself as a voter in the election, see the issuance of ballot papers, see the voters put their ballot papers in the ballot box, and any other aspect of the voting process, but must not be where they can see how a voter votes.

(1A) The Supervisor shall prescribe materials allowed to be taken into a polling station by a polling agent or an approved observer to carry out his or her duties, within 7 days of the issuance of the Writ.

(2) A polling agent must not conduct, in a passive or active manner, any campaigning in or around the polling station.

(3) A polling agent must not interfere with or attempt to influence any voter within a polling station.

(3A) A candidate at an election must not be appointed as a polling agent.

(4) A polling agent who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

Presiding officers to maintain order

61.—(1) Every presiding officer in respect of the polling station where he or she is conducting a poll—

(a) must maintain order and keep the peace;

(b) must regulate the number of voters to be admitted at a time; and

(c) may cause to be removed any person who—

(i) obstructs the approaches to the polling station;

(ii) wilfully and unnecessarily obstructs the proceedings at the polling;

(iii) conducts himself or herself in a disorderly manner, or causes a disturbance;

(iv) wilfully acts in defiance of the lawful directions of the presiding officer;

(v) is not an authorised person and is not lawfully within the polling station; or

(vi) acts contrary to section 63.

(2) Police officers must assist presiding officers in maintaining order at polling stations during the voting and counting process, but may not enter a polling station during the voting and counting except on the request of the presiding officer or his or her designated representative and may remain inside the polling station only for a period long enough to restore order.

Communication with voters in polling station prohibited

62.—(1) No person may communicate with any voter in a polling station on a matter related to the election either before or after the voter has voted, except that—

(a) the presiding officer may, either directly or through an election official—

(i) do anything that the presiding officer is authorised to do, ask the questions that the presiding officer is authorised to ask and give such general directions as may assist any voter to mark his or her vote; and

(ii) do what is necessary to keep order within the polling station; and

(b) a police officer or other person may act in pursuance of any lawful instructions of the presiding officer.

(2) A person who contravenes subsection (1) may be removed from the polling station by order of the presiding officer.

(3) Any person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

Campaign restrictions during polling

63.—(1) At least 1 hour before the commencement of polling on the polling day to the close of polling on the polling day at all polling stations, it shall be unlawful for any person at any place within the 300 metre radius from the boundary of the property where the polling venue is located (and as marked by the election official) or, at any place within the 300 metre radius of the polling venue where the boundary is not ascertainable, to—

(a) wear any emblem, clothing, badge, apparel or accessory of a political party or of a candidate in the election;

(b) display slogans, banners, posters, flags or colours of a political party or a candidate in the election;

(c) approach voters for the purposes of campaigning;

(d) distribute printed campaign material or communicate political messages, including calls to vote for or against a particular political party or candidate in the election; or

(e) use public address or sound systems that could be heard in the polling station or polling venue or its surroundings.

(2) In the 48 hour period prior to polling day and on the polling day until the close of polling at all polling stations, it is strictly prohibited for any person to—

(a) engage in any campaign, including any broadcast, advertisement or publication and distribution of any campaign material;

(b) display slogans, banners, posters, flags or colours of a political party or a candidate in the election;

(c) approach voters for the purposes of campaigning; or

(d) distribute in any manner (including through telephone, internet, email, social media or other electronic means) any campaign material or communicate political messages, including calls to vote for or against a particular political party or candidate in the election.

(3) In the 48 hour period prior to polling day and on the polling day until the close of polling at all polling stations, it shall be unlawful for any person, any political party or any candidate (or any person on behalf of the registered political party who is involved in the administration of the affairs of the registered political party including any office holder of the registered political party or any person on behalf of any candidate), at any place within the 300 metre radius from the boundary of the property where the polling venue is located (and as marked by the election official) or at any place within the 300 metre radius of the polling venue where the boundary is not ascertainable, to—

(a) construct or erect any structure;

(b) organise any meeting, gathering or assembly of persons;

(c) provide any enticement, incentive or inducement, including food and beverage to any person;

(d) engage in any campaign;

(e) distribute any material for the purposes of campaigning; or

(f) use public address or sound systems that could be heard in the polling station or polling venue or its surroundings.

(4) Prior to the opening of the polls and during polling, the presiding officer must ensure that there is no campaign material posted at any place within the 300 metre radius from the boundary of the property where the polling venue is located (and as marked by the election official) or at any place within the 300 metre radius of the polling venue where the boundary is not ascertainable.

(5) In ensuring there are no campaign materials as specified in subsection (4), a presiding officer may request the assistance of a police officer and such police officer must comply with any request or directive of the presiding officer.

(6) Any person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

Complaints during polling

64.—(1) Any registered voter or any polling agent may submit a complaint in writing to a presiding officer during the hours of polling concerning any breach of polling procedure, unlawful campaign activity, or interference with the rights of a voter or polling agent at the polling station.

(2) The presiding officer must register a complaint under subsection (1) in the record book of the polling station and provide an immediate response and, if the presiding officer is satisfied that there is a substantial breach, then the presiding officer must immediately take such action as appropriate to remedy the breach.

(3) If the presiding officer refuses to recognise or address any substantiated breach, the complainant may immediately lodge a complaint to the Supervisor, who must consider the complaint on an immediate basis and make such order as he or she deems appropriate to remedy any substantiated breach.

Closing of polls

65. (1) Immediately after the last voter who was in the queue at 6.00pm or in the case of pre-poll at the time approved by the Electoral Commission has voted, the presiding officer must announce that the polls are closed. ~~and the counting of the ballot papers shall begin immediately after the close of the polls~~.

(2) On polling day, the counting of the ballot papers shall begin as soon as practicable after the close of the polls.

Division 5—Postal Voting

Postal ballot voting and counting officer

66.—(1) The Supervisor shall appoint ~~in writing postal ballot voting officers~~ an officer to administer the postal voting process with respect to an election and such other officers as are required.

~~(2) A sufficient number of postal ballot counting officers must be appointed by the Supervisor to undertake the verification and counting of postal ballot papers.~~

~~(3) A postal ballot voting officer and postal ballot counting officer must, before entering into the duties of office, sign the code of conduct in the approved form.~~

Application and grounds for registration as postal voter

67.—(1) A registered voter may apply in writing to the Supervisor to be registered in the Register of Postal Voters to vote by post in an election.

(2) The application for postal voting must be in the form approved by the Supervisor and an application can be made from the announcement of the date of election.

(3) The Supervisor must ~~mail out an application for postal voting, upon request by any registered voter, and the approved form must be available at all electoral sub-offices~~ make available an application for postal voting in both printed and electronic form that any registered voter can access or to whom the application can be sent.

(4) The application for registration in the approved form as a postal voter is to be submitted by mail or in person or by electronic means where the signature of the voter can be seen by the Supervisor.

(5) The application to be registered in the Register of Postal Voters must specify the—

(a) full name of the applicant;

(b) residential address of the applicant;

(c) voter number of the applicant;

(d) ~~postal address~~ address to which the postal ballot paper should be sent; and

(e) ground or grounds upon which the application is made.

(6) The application to be registered in the Register of Postal Voters must include a copy of the voter's identification card and the signature or thumbprint of the voter, and where the application is made in person the voter's identification card is not required.

(7) An application for registration in the Register of Postal Voters may only be made on one of the following grounds—

(a) the applicant is living outside of Fiji or will be outside of Fiji on the polling day;

(b) because of serious illness or infirmity, the applicant is unable to travel from his or her place of living to his or her assigned polling station;

(c) the applicant is under pre-trial detention or sentence of imprisonment;

(d) because of the applicant's religious beliefs or membership of a religious order, he or she—

(i) is precluded from attending a polling station; or

(ii) for the greater part of the hours of polling is precluded from attending a polling station; or

(e) because the applicant will be away from his or her usual place of residence and in a place not convenient to his or her assigned polling station due to work commitments on the polling day.

(8) An application under this section must be accompanied by a statutory declaration by the applicant.

Deadline to submit application as postal voter

68. An application for postal voting cannot be received prior to the announcement of the date of election and must be received by the Supervisor not later than 21 days prior to the polling day and not later than 5.00pm on the twenty first day, and any application received after that date must not be considered.

Register of Postal Voters

69.—(1) The Supervisor must keep a Register of Postal Voters.

(2) The Register of Postal Voters is a temporary register established for each election and is to be updated at 4.00pm every day.

(3) The names of the voters in the Register of Postal Voters must be published by the Supervisor and made available at the Fijian Elections Office during ordinary office hours for inspection by members of the public, provided however that the Register of Postal Voters published or made available under this subsection shall only contain the names of the voters and their voter numbers.

(4) Any political party or any candidate may, upon the payment of such fees as approved by the Supervisor, acquire a written copy of the Register of Postal Voters published under subsection (3).

Decision on registration as postal voter

70.—(1) The Supervisor must decide whether to accept or reject an application for inclusion in the Register of Postal Voters under section 67 within 48 hours of receipt, and if the application is delivered in person, the decision to register the applicant as a postal voter may be made on the spot.

(2) If the Supervisor is satisfied that an application by a person for inclusion in the Register of Postal Voters has been made in accordance with this Act and that the person is a registered voter, the Supervisor must ~~immediately~~ enter the applicant in the Register of Postal Voters.

(3) Registration of a person as a postal voter is effected by entering in the Register of Postal Voters the following particulars—

(a) his or her full name;

(b) the address shown in the Register of Voters as the person's residential address;

~~*(c)* his or her postal address;~~

(c) address to which the postal ballot paper should be sent;

(d) a registration or voter number; and

(e) date on which voting material would be despatched to the voter.

(4) If the Supervisor decides that the application for registration as a postal voter under section 67 does not meet legal requirements, he or she may reject the application and not register the person as a postal voter, and the Supervisor must immediately notify the person in writing of the decision and give the reasons for it.

(5) A decision under subsection (4) may be appealed to the Electoral Commission within 1 day of the receipt of the rejection which must issue its decision on appeal within 1 day.

(6) Any decision of the Electoral Commission under subsection (5) shall be final and shall not be subject to any further appeal to or review by any court, tribunal or any other adjudicating body.

Cross-notation on Register of Voters

71.—(1) Immediately upon entering a person in the Register of Postal Voters, the Supervisor must enter a notation next to the name of that person in the Register of Voters and the voter list indicating that the person is registered as a postal voter.

(2) The notation under subsection (1) will indicate to election officials at a polling station that the person is not entitled to cast a ballot in person at that polling station.

(3) The updating of the Register of Voters and the voter list with the notations of which persons are registered as postal voters must be concluded prior to the distribution of the voter lists to the polling stations for use on the polling day.

Delivery of postal ballot papers

72.~~—(1) If the person registered in the Register of Postal Voters has not been provided the postal ballot paper and other postal voting material in person at the time of application, the Supervisor must, upon entering a person in the Register of Postal Voters —~~

~~*(a)* immediately despatch a postal ballot paper and any other voting material by the best means available to the address indicated on the application; or~~

~~*(b)* if the ballot papers are not yet printed, mail out a postal ballot paper and any other postal voting material immediately after the printing of the ballot papers.~~

(1) The Supervisor must, upon entering a person in the Register of Postal Voters, dispatch, once available, a postal ballot paper and any other voting material by the best means available to the address indicated on the application.

~~(2) All postal ballot papers and other postal voter material that are mailed to a registered postal voter must be sent by registered post or courier and include an official paid return envelope for those ballot papers posted in Fiji addressed to the Supervisor.~~

(3) The issuance of a postal ballot paper to a person, in-person or mailed, must be immediately recorded in the Register of Postal Voters.

(4) ~~Subject to Division 6, no postal ballot papers are to~~ Postal ballot papers must not be distributed to polling stations and postal ballot papers cannot be used for in-person voting on polling day.

Form of postal ballot papers and materials

73.—(1) Regular ballot papers will also be used as postal ballot papers, except that the postal ballot papers will be marked on the back with the term "postal ballot".

(2) Instructions on postal voting and a postal voting declaration form approved by the Supervisor must be sent out together with the postal ballot paper.

(3) The postal voting declaration form under subsection (2) must include—

(a) the voter's name, date of birth, address, and voter number; and

(b) a declaration, subject to the penalty of perjury, that the person who has cast the enclosed postal ballot paper has done so freely and in secret and will not vote or attempt to vote on the polling day at his or her assigned polling station.

Deadline for printing and distribution of postal ballot papers

74. The postal ballot papers and all other postal voting materials must be printed and ~~mailed out or couriered~~ despatched to registered postal voters prior to the polling day.

Postal voting process

75.—(1) A voter to whom a postal ballot paper has been issued must mark on the ballot paper in the manner prescribed in section 54 for the marking of ballot papers.

(2) The voter must then fold the postal ballot paper and insert it in the secret envelope and seal the secret envelope, and the voter must not mark the secret envelope in any other manner.

(3) The voter must then insert the secret envelope into the transmission envelope together with the completed and signed (or thumbprint) postal voting declaration form prescribed under section 73.

(4) The voter should send the envelope by registered post or courier to the Supervisor, or must cause the envelope to be delivered by hand, so as to be received by the Supervisor by the deadline for receipt of postal ballot papers under section 76.

Deadline for receipt of postal ballot papers

76.—(1) Postal ballot papers must be received by the Supervisor at the Fijian Elections Office or any of its sub-offices, excluding a polling station no later than 6.00pm on the polling day.

(2) Any postal ballot paper that is received by the Supervisor after the deadline under subsection (1) must not be opened and the envelopes must be marked "late", dated, timed and initialled.

Observation of postal voting

77. Any person authorised as a polling agent or an observer is permitted to observe the process of postal ballot voting.

Records and safe keeping of postal ballot papers

78.—(1) The Supervisor must establish a system for recording all outgoing postal ballot packages and incoming transmission envelopes with marked postal ballot papers.

(2) The Supervisor must keep all unused postal ballot papers and all transmission envelopes with marked postal ballot papers in safe custody and unopened until the time for the verification and counting of the postal ballot papers.

(3) At the conclusion of the postal voting process, a reconciliation to account for all postal ballot papers must be completed before the start of the count of the postal ballot papers.

Verification of postal ballot papers

79.—(1) The Supervisor may commence the verification of the returned postal ballot papers up to 7 days prior to the polling day.

(2) The Supervisor must, before the polling day, prominently display within the Fijian Elections Office a written notice of the day, time and place at which postal ballot papers will be verified. ~~and counted~~.

(3) Only persons that are authorised to be present during the polling at polling stations as established in this Act are authorised to be present at the verification of postal ballot papers.

(4) The ~~postal ballot counting~~ officer shall verify in accordance with the following—

(a) open up each of the transmission envelopes containing the postal voting declaration form, and secret envelope with the postal ballot papers, and discard the transmission envelope;

(b) check if the voter indicated on the declaration form is registered in the Register of Postal Voters;

(c) compare the signature or thumbprint of the voter on the postal voting declaration form with the signature or thumbprint on the application form and determine whether or not the signature or thumbprint on the postal voting declaration form is that of the applicant; and

(d) each allowed unopened secret envelope must be placed inside the designated postal ballot box.

(5) The postal ballot transmission must be rejected if—

(a) in the opinion of the ~~postal ballot counting~~ officer the signature or thumbprint is not that of the voter;

(b) the postal voting declaration form is missing or unsigned; or

(c) there is no secret envelope.

(6) The inclusion of any extraneous material in the envelope is not a ground for rejecting a postal ballot transmission.

(7) The ~~postal ballot counting~~ officer must, after the verification of the postal ballot papers is complete, seal up in separate parcels—

(a) all transmission envelopes rejected under this section and the applications for postal ballot papers relating to them;

(b) all transmission envelopes allowed under this section and the applications for postal ballot papers relating to them; and

(c) all other applications for postal ballot papers,

and must endorse on each parcel a description of the contents, the date, and must sign the endorsement and forward the parcels to the Supervisor together with any official stamps and the completed verification protocol.

(8) Following the verification and reconciliation of the postal ballot transmissions, the counting of the postal ballot papers can begin but not before the close of polling on the polling day.

Objection to postal ballot verification

80. The decision of the ~~postal ballot counting~~ officer in respect of any postal ballot paper shall be reviewed by the Supervisor, and any decision of the Supervisor shall be final and not subject to any appeal to or review by any court, tribunal or any other adjudicating body.

Counting of postal ballot papers

81.—(1) At the start of the postal ballot counting process, the postal ballot papers are to be removed from the secret envelopes by ~~postal ballot counting officers~~ the officers.

(2) The procedure for counting postal ballot papers is the same as for regular ballot papers as established in this Act.

(3) A special protocol of results for postal voting in a form approved by the Supervisor must be completed by the ~~postal ballot counting~~ officer.

(4) The results of the postal ballot voting must be included in the tabulation of the national results.

Division 6—Pre-poll Voting

Pre-poll voting

82.—(1) The Electoral Commission may authorise voters to vote in advance of the polling day.

(2) The grounds for a voter to vote in advance are if the voter—

(a) resides in a locality that is remote or the number of voters in a locality is not sufficient for the establishment of a polling station;

(b) is a resident of a nursing home or health care facility;

(c) is a member of the disciplined forces; or

(d) is under pre-trial detention or sentence of imprisonment.

(e) is in any other place approved by the Electoral Commission.

(3) Within 7 days after the close of nominations, the Electoral Commission shall ~~give notice of pre-poll voting in the *Gazette* and in all national daily newspapers and broadcast on radio and free-to-air television~~ publish a notice of pre-poll.

(4) The notice of pre-poll voting must contain the venue or venues where pre-poll voting shall take place and the date and hours between which the Supervisor or presiding officer will attend at those venues for the conduct of pre-poll voting.

(5) The Supervisor must ensure that ballot papers are taken to all venues where pre-poll voting will take place.

(6) Every place where pre-poll voting will take place must have its separate voter list, with such details of all the voters assigned to that venue as determined by the Supervisor.

(7) The voter list for each venue where pre-poll voting will take place must be published by the Supervisor and must be made available to the voters at suitable locations to allow voters to be informed of their pre-poll voting venue, and the voter list published or made available under this subsection shall only contain the names of the voters, their voter numbers and their pre-poll voting venue.

(8) Any political party or any candidate may, upon the payment of such fees as approved by the Supervisor, acquire a ~~written~~ copy of the voter lists published under subsection (7).

(9) Every venue where pre-poll voting will take place must be presided by a presiding officer and must have as many election officials as determined by the Supervisor.

(10) Sections 43, 44 and 45 shall apply to all places where pre-poll voting will take place.

(11) Every venue where pre-poll voting will take place must have a record book, which must contain all matters, as prescribed in section 48.

(12) The presiding officer must ensure that all preparations for the opening of the place or places where pre-poll voting will take place are undertaken in the same manner as prescribed in section 49.

(13) The procedures for identification of voters, as prescribed in section 51, shall also apply to pre-poll voting.

Voting

83.—(1) A voter shall vote by use of a secret envelope, as that prescribed for postal voting.

(2) A voter is entitled to cast one vote only at any venue where pre-poll voting takes place.

(3) An institution or facility (except in the case of a locality that is remote or the number of voters in a locality is not sufficient for the establishment of a polling station) must provide a list of voters voting in that location.

(4) A place at which pre-poll voting is being conducted shall, for the purposes of this Act and to the extent applicable, be a polling station.

(5) A voter shall, having his or her name marked off the voter list for the location, institution or facility, be issued with a pre-poll ballot paper and instructions and materials to vote.

(6) A voter to whom a pre-poll ballot paper has been issued must mark on the ballot paper in the manner prescribed for the marking of ballot papers in section 54.

(7) After having voted, the voter must fold the pre-poll ballot paper and insert it in the secret envelope and seal the secret envelope.

(8) The voter must put the completed and sealed envelope into a ballot box and must not mark the secret envelope in any manner.

(9) The voter must vote without undue delay and must leave the polling station as soon as he or she has put the sealed envelope in the ballot box.

(10) Before placing the completed and sealed envelope in a ballot box, the voter shall be required to have a finger inked with the indelible substance.

(11) While in the place where pre-poll voting is being conducted, a voter is not permitted to reveal or announce the content of his or her ballot paper, and any voter who does so, must have his or her ballot paper confiscated and invalidated by the election official in charge, provided it has not yet been inserted into the ballot box.

(12) A voter whose ballot paper has been invalidated under subsection (11) is not entitled to receive another ballot paper.

(13) During the pre-poll voting process, it is prohibited for any person other than the presiding officer to remove any ballot paper from the polling station.

(14) It is prohibited for any person to use a mobile phone, camera or any other electronic device while in the ~~polling booth~~ voting screen with the exception of the presiding officer or a person authorised by the Supervisor.

(15) Proxy voting is prohibited.

(16) Any person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(17) To the extent relevant, sections 54 to 64 shall apply to a venue or venues where pre-poll voting will take place.

Observation of pre-poll voting

84. Any person authorised as a polling agent or observer is permitted to observe the process of pre-poll voting.

Closing of pre-poll voting

85.—(1) At any place where pre-poll voting is being conducted, the presiding officer, immediately after the last voter who was in the queue at end of the time prescribed for pre-poll voting at that venue, must announce that polling at that venue is closed.

(2) Once polling at any venue where pre-poll voting is being conducted is closed, the presiding officer must immediately seal the ballot box or ballot boxes used at that venue and arrange for the ballot boxes to be sent to the Fijian Elections Office.

Records and safe keeping of pre-poll ballot papers

86.—(1) The Supervisor must establish a system for recording all incoming ballot boxes containing secret envelopes with marked pre- polling ballot papers.

(2) The Supervisor must keep all ballot boxes containing secret envelopes with marked pre-poll ballot papers sealed and in safe custody until the time for the ~~verification and~~ counting of all pre-poll ballot papers.

~~*Verification of pre-poll ballot papers*~~

~~87. (1) The Supervisor must, before the polling day, prominently display within the Fijian Elections Office a written notice of the day, time and place at which pre-poll ballot papers will be verified and counted.~~

~~(2) Only persons that are authorised to be present at polling stations during the counting process as prescribed in section 90 are authorised to be present at the verification and counting of pre-poll ballot papers.~~

Counting of pre-poll ballot papers

88.—(1) The Supervisor shall appoint ~~in writing pre-poll ballot~~ counting officers to administer the counting of all pre-poll ballot papers.

(2) At the start of the pre-poll ballot counting process, the pre-poll ballot papers are to be removed from the secret envelopes by ~~pre-poll ballot~~ counting officers.

(3) The procedure for counting pre-poll papers is the same as for regular ballot papers as prescribed in Division 7 of this Part.

(4) A special protocol of results for pre-poll voting in a form approved by the Supervisor must be completed by the ~~pre-poll ballot~~ counting officer.

(5) The results of the pre-poll ballot voting must be included in the tabulation of the national results.

(6) The decision of the ~~pre-poll ballot~~ counting officer in respect of any pre-poll ballot paper shall be reviewed by the Supervisor, and any decision of the Supervisor shall be final and not subject to any appeal to or review by any court, tribunal or any other adjudicating body.

Division 7—The Count

Counting process at polling station

89.—(1) Immediately upon closing of the polls, the counting of ballot papers is to be undertaken and completed in the respective polling station by the presiding officer and such election officials designated by him or her.

(2) The figures in the protocol of results must be entered by the presiding officer at each step of the counting process.

(3) The protocol of results must be completed only in pen with black or blue ink.

(4) Changes can be made to the figures already entered on a protocol of results, and if technical errors in any figures in the protocol of results are made during the counting process, the protocol of results must be amended, and the presiding officer must sign the amendments.

(5) The presiding officer must proceed continuously with the counting of the votes until the count is complete.

(6) The Supervisor may conduct a recount of any ballot box.

Who may be present at the count

90. Only the following persons may remain in a polling station at the opening of the ballot boxes and during the counting process—

(a) the presiding officer for the polling station;

(b) the deputy presiding officer or assistant presiding officer (if any);

(c) the election officials;

(d) police officers who have been requested by the presiding officer or his or her representative for the sole purpose of restoring peace and order and only for the time necessary to do so;

(e) one polling agent from each political party and independent candidate at any one time;

(f) observers;

(g) members of the Electoral Commission;

(h) the Supervisor; and

(i) any other person authorised by the Supervisor.

Preliminary procedures

91.—(1) Prior to opening the ballot boxes at each polling station, the presiding officer or any designated election official must, in the presence of any polling agent and observer—

(a) count the number of voters who have voted by counting the number of voters' signatures on the voter list and announce and record this number on the protocol of results;

(b) count the number of unused ballot papers and announce and record this number on the protocol of results;

(c) count the number of spoiled ballot papers and announce and record this number on the protocol of results; and

(d) count the number of tendered ballot papers and announce and record this number on the protocol of results.

(2) The number of voter signatures should equal the total number of ballot papers issued for that polling station less the unused ballot papers, spoiled ballot papers and tendered ballot papers.

(3) If after the recount the figures still do not reconcile, the presiding officer must immediately notify the Supervisor and provide a written explanation for the discrepancy on the protocol of results and the record book.

Opening ballot boxes and counting ballot papers

92.—(1) Prior to ~~opening the ballot boxes~~ opening a ballot box, the presiding officer or a designated election official must check the serial number of the ~~seals of the ballot boxes~~ seal of the ballot box against the serial number recorded in the record book at the opening of the polling station.

(2) If the actual serial number of the seal does not correspond with the serial number recorded in the record book, the presiding officer must immediately notify the Supervisor and the ballot box must not be opened and its contents quarantined for further investigations or instruction from the Supervisor, and a note entered in the record book.

(3) If the actual and recorded serial numbers of the seals correspond, the ballot box is to be opened.

(4) The presiding officer or a designated election official must open all ballot boxes at the same time.

(5) All ballot papers must be taken out of the ballot box or boxes and counted and the total number of all ballot papers announced and recorded on the protocol of results.

(6) If the total number of ballot papers counted and the total number of voters who voted (based on the number of voters' signatures on the voter list) are not the same, a recount of the number of voters' signatures on the voter list and the total number of ballot papers must be conducted.

(7) If, after any recount under subsection (6), the figures still do not correspond, the presiding officer must immediately notify the Supervisor and a written explanation for the discrepancy must be provided by the presiding officer on the protocol of results and the record book.

(8) The Supervisor may, having received the report of the presiding officer, conduct a recount of any ballot box.

Counting the votes

93. The presiding officer must ~~mix together all the ballot papers from the different ballot boxes and must~~ —

(a) reject all invalid ballot papers;

(b) count and record on the protocol of results, the number of votes given for each candidate on all valid ballot papers; and

(c) count and record the number of ballot papers which have been rejected.

Invalid ballot papers

94.—(1) A ballot paper—

(a) on which anything is written or marked by which, in the opinion of the presiding officer, the voter can be identified;

(b) which has no vote indicated on it;

(c) which does not clearly indicate the candidate for whom the voter wishes to vote; or

(d) which indicates a vote for more than one candidate,

is invalid and must be rejected and not counted.

(2) Any ballot paper that is marked in such a manner that the intention of the voter is clear, must not be invalidated and must be counted in accordance with the clear intention of the voter.

Action on objections to ballot papers

95.—(1) If a polling agent objects to a ballot paper as being invalid, the presiding officer must mark the ballot paper "admitted" or "rejected" according to the presiding officer's decision to admit or reject the ballot paper.

(2) The presiding officer must consider every objection raised by a polling agent regarding the validity of a ballot paper or any marks on it and must decide the objection forthwith.

(3) Nothing in this section prevents a presiding officer from rejecting any ballot paper as being invalid even though it is not objected to.

(4) Subject to any review on a petition under this Act, the decision of a presiding officer on a question arising as to the validity of any ballot paper is final.

(5) Where the Supervisor conducts a recount, the Supervisor may overturn any decision taken by the presiding officer.

Vote count recorded in protocol of results

96.—(1) Upon completion of the count of votes for each candidate, the figures for the number of votes received by each candidate and the number of rejected (invalid) ballot papers must be entered in the protocol of results.

(2) If the total number of votes counted, including the number of rejected (invalid) ballot papers, does not equal the total number of ballot papers in the ballot box counted at the start of the counting process, the presiding officer must conduct a recount of the number of votes for each candidate and the number of rejected (invalid) ballot papers and record the correct figures in the protocol of results.

Signing and posting of protocol of results

97.—(1) Following completion of the protocol of results, the presiding officer must sign it and immediately notify the Supervisor by the most expeditious method, including by telephone or any electronic means, of the results or the total number of votes cast for each candidate, as contained in the final protocol of results.

(2) A copy of the final protocol of results must be immediately posted by the presiding officer in a publicly accessible place at the polling station, such as a notice board, another copy kept inside the ballot box and a ~~third~~ copy sent to the Supervisor by the most expeditious method.

~~(3) The original of the final protocol of results must be enclosed in a tamper evident envelope.~~

Request for recount at polling station

98.—(1) Following the count and at any time prior to the posting of the final protocol of results, a polling agent present during the count may submit a request in writing to the presiding officer to conduct a recount, with reasons for the request.

(2) The presiding officer must immediately respond to the request for recount under subsection (1).

(3) If the presiding officer decides there is sufficient reason to conduct a recount of the ballot papers, including due to discrepancies in the reconciliation figures on the protocol of results, a recount is to be immediately conducted at the polling station by the presiding officer or designated election officials.

(4) Any recount under subsection (3) is to be conducted on an uninterrupted basis, in the presence of any polling agent and observer.

(5) Based on the results of any recount under subsection (3), the presiding officer must decide the correct figures and results and if errors were made in the protocol of results, the presiding officer must cancel the incorrect protocol of results and then create the final protocol of results.

(6) Subject to any review on a petition under this Act, the decision of a presiding officer on a request for a recount is final.

Complaints during counting process

99.—(1) Any polling agent may submit a complaint in writing to a presiding officer during the counting process concerning any breach of counting procedure, interference with the rights of candidates or polling agents, or other irregularities at the polling station.

(2) The presiding officer must register any complaint under subsection (1) in the record book of the polling station and provide an immediate response.

(3) The presiding officer must order an immediate remedy of any substantiated breach.

(4) Subject to any review on a petition under this Act, the decision of a presiding officer on the complaint is final.

Packaging and transfer of ballot papers and other election materials after count

100.—(1) Immediately upon completion of the protocol of results, the presiding officer or a designated election official must pack the ballot papers including the following election materials—

(a) the unused ballot papers;

(b) the spoiled ballot papers;

(c) the rejected ballot papers;

(d) the counterfoils of all used, spoiled and tendered ballot papers;

(e) the marked copies of the voter lists;

(f) the ballot papers containing the votes for each candidate;

(g) unopened tendered ballot papers;

(h) record book; and

(i) the original of the final protocol of results,

into separate packets or parcels sealed and clearly labelled with the name and number of the polling station, a description of their contents, and the date of the election.

(2) All unused, used and spoiled ballot papers, together with the voter list are to be put into the ballot box which must then be sealed with the official numbered security seals.

(3) All other packets and parcels under subsection (1), except the unopened tendered ballot papers, record book, and the protocol of results (including any cancelled and the final protocol of results), together with the ballot box must then be made up into one parcel and the name and number of the polling station and date of the election noted on the package, which must then be delivered to a collection point as designated by the Supervisor, accompanied by at least the presiding officer.

(4) The original of the final protocol of results must be enclosed in a tamper evident envelope together with the record book of the polling station and any unopened tendered ballot papers and the envelope, expeditiously and securely delivered by the presiding officer and a designated election official to the collection point as designated by the Supervisor.

(5) A police officer may accompany the transfer of any election material at the request of the presiding officer.

(6) Polling agents and observers may follow the transportation of election materials.

(7) The Supervisor must take all necessary measures to timely and precisely record the transmission of all election materials, to collect all election materials, and to store them in a secure place.

Division 8—Tabulation and Declaration of Results

Authorised officials to conduct tabulation process

101.—(1) The process for tabulation of results received from each polling station must be conducted by the Supervisor at the Fijian Elections Office in Suva or such other publicly accessible place as designated by the Supervisor.

(2) Candidates, polling agents, observers, and the media must be given access to observe the tabulation process.

Tabulation process

102.—(1) The Supervisor shall prepare a National Results Tally, which shall record the total number of votes cast for each candidate at all the polling stations.

(2) The National Results Tally shall be conspicuously displayed (whether in electronic format or otherwise) to all persons who are present to observe the tabulation process.

(3) As the protocol of results are received from each polling station, in accordance with section 97(1) or (2), the Supervisor shall progressively amend the National Results Tally to reflect the total number of votes received by a candidate.

(4) In addition to displaying the number of votes received by each candidate, the Supervisor must ensure that the National Results Tally also progressively displays the total number of votes received by each political party, which shall be calculated by adding the total number of votes received by all the party candidates nominated by that political party.

Final National Results Tally

103.—(1) After the original of the final protocol of results are received from all the polling stations and after all the votes received by each candidate at each polling station is recorded on the National Results Tally, the Supervisor shall prepare the Final National Results Tally, which must contain the total number of votes received by each candidate and the total number of votes received by each political party.

(2) The Supervisor shall ensure that the party list of all the political parties in the Final National Results Tally is re-arranged in the descending order with the party candidate who received the most votes listed at the top of the party list, and, in the case where two or more candidates have received the same number of votes, then the ranking of these candidates as contained in the party list submitted under section 26 shall be followed.

(3) Immediately after preparing the Final National Results Tally, the Supervisor shall publicly announce the results as contained in the Final National Results Tally, and the announcement must include the announcement of the total number of votes received by each candidate, and the total number of votes received by each political party.

(4) Once prepared, the Supervisor must sign the Final National Results Tally and immediately send it to the Electoral Commission.

(5) The Final National Results Tally must be publicly displayed and copies of the Final National Results Tally must be made available upon request to any candidate, polling agent, observer or to the media.

Allocation of seats

104.—(1) Upon receipt of the Final National Results Tally, the Electoral Commission must immediately proceed to determine the names of the candidate or candidates who have been elected as a member of Parliament.

(2) The Electoral Commission must first ascertain the total number of votes received by each political party and each independent candidate from the Final National Results Tally, and must enter those totals at the head of separate columns under the name of each political party and each independent candidate on the Candidate Allocation Form.

(3) The Electoral Commission must then disregard any total number of votes received under the name of any political party or any independent candidate that has not received a total that is at least 5% of the total number of votes received by all the political parties and independent candidates.

(4) After disregarding any total under the name of any political party or any independent candidate in accordance with subsection (3), the Electoral Commission must proceed to divide each of the remaining totals by 1, and the quotient of this division must be recorded on the Candidate Allocation Form in the first row under the names of each remaining political party and independent candidate.

(5) The Electoral Commission must then proceed to divide each of the remaining totals of each political party (and not the total under the name of any independent candidate) successively by a series of numbers beginning with 2, 3, 4, 5, 6, 7, 8, 9, 10 and thereafter by every whole number until the number that is equal to the total number of ~~seats being contested~~ candidates nominated by that party in the election, and the quotient of each successive division shall be recorded on the Candidate Allocation Form in successive rows under the names of each remaining political party.

(6) Each quotient shall be rounded off to the nearest whole number.

(7) Once the quotient of each successive division is recorded on the Candidate Allocation Form, the Electoral Commission must then proceed to ascertain, from a comparison of all the quotients on the Candidate Allocation Form, the highest quotients equal to the total number of seats being contested in the election, which, for the first general election of members of Parliament held under the Constitution, shall be 50.

(8) In any case where the lowest of the quotients required to be ascertained under subsection (7) constitutes 2 or more quotients in different columns which are of exactly the same value, the Electoral Commission must determine by lot which of these quotients is to be selected for the purpose of subsection (7).

(9) The Electoral Commission must cause a circle to be drawn on the Candidate Allocation Form around the highest quotients equal to the total number of seats being contested in the election.

(10) The Electoral Commission must then immediately proceed to ascertain the number of seats in Parliament to which each political party or independent candidate is entitled to by adding the number of circles in the column of numbers under the name of that party or independent candidate.

(11) Upon completion of the procedures contained in this section, the duly completed Candidate Allocation Form must be publicly displayed and copies of the Candidate Allocation Form must be made available upon request to any candidate, polling agent, observer or the media.

Selection of candidates

105.—(1) Upon completing the procedures outlined in section 104, the Electoral Commission shall immediately proceed to determine which of the party candidates whose names appear on the party list of each political party on the Final National Results Tally are entitled to be elected to Parliament.

(2) The Electoral Commission must determine which party candidates are entitled to be elected to Parliament by selecting such number of candidates from the party list of each political party as contained in the Final National Results Tally, beginning with the first candidate on the party list, which are equal to the number of seats which that party is entitled to pursuant to section 104(10).

(3) If the quotient under the name of an independent candidate is circled under section 104(9), then the Electoral Commission shall select the name of that independent candidate as a person entitled to be elected to Parliament.

Declaration of results and names of elected members

106.—(1) The Electoral Commission must, immediately after selecting the names of those candidates who are entitled to be elected—

(a) publicly declare those candidates to be elected as members of Parliament;

(b) publish the names of those candidates who are declared to be elected as members of Parliament in the *Gazette* and in all national daily newspapers and broadcast on radio and free-to-air television; and

(c) forward to the Secretary-General of Parliament the list of the names of the members elected.

(2) Upon determining the names of the members elected, the Electoral Commission shall endorse the names of the elected members on the writ and shall return the writ to the President.

Declaration of results to be made within 24 hours

107. The declaration of results and the names of those candidates who are elected as members of Parliament must be done within 24 hours from the receipt of the original of the final protocol of results from all polling stations; provided however that the Electoral Commission may extend this time if the Electoral Commission considers that there are good reasons for doing so.

Safe keeping of election materials

108.—(1) After an election, the Supervisor must keep all relevant election materials, including unused ballot papers, voted ballot papers (valid, invalid, spoiled, tendered), counterfoils, protocols of results, signed voter lists, copies of complaints and appeals, record books, and any official stamp, in safe custody and not allow any person to have access, unless ordered to do so by a court.

(2) Notwithstanding subsection (1), if a petition has been presented questioning the validity of any election or return or a criminal prosecution arising out of any election has been instituted, the Supervisor must, if so ordered by a court, deliver to the proper officer of the court the papers relating to the election or return involved.

Report of Supervisor

109.—(1) Within one month after the date of the return of the writ, the Supervisor must submit a report to the Electoral Commission of the results of the election in the approved form.

(2) The Electoral Commission must cause the report made under subsection (1) to be published ~~in the *Gazette*~~.

PART 4—ELECTION CAMPAIGN AND MEDIA

Restrictions on opinion polls

110.—(1) It shall be unlawful for any person to publish the results of any election-related opinion on the polls on any day during the 7 days prior to the polling day and on the polling day until the close of polling at all polling stations.

(2) Any person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Non-interference in campaign

111.—(1) No private citizen or public official may hinder in any manner whatsoever the lawful campaign activity of any political party or candidate, including the distribution and placement of campaign material and holding of campaign rallies and meetings.

(2) It shall be unlawful for any person to tear, remove, or cover up any campaign material posted in designated public places.

(3) Any person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Campaign materials

112.—(1) Any campaign material published and distributed by political parties and candidates must include, in a print size easily legible, the following information—

(a) name and address of the person and organisation who authorised and paid for printing of the material;

(b) name of the company that printed the material and their business address; and

(c) date of issue.

(2) Political parties and candidates may place their campaign posters and flags on private premises, with permission of the owner of any such private premises.

(3) It shall be unlawful for any person, any political party or any candidate (or any person on behalf of the political party including any office holder of the political party or any person on behalf of any candidate) to place campaign posters and flags on public buildings, monuments, electricity or lamp posts, and other public structures, except in public places specifically designated by the Supervisor for placement of campaign material.

(4) Any person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Prohibition on use of State resources to campaign

113.—(1) It shall be unlawful to use State authority, including law and tax enforcement authorities, to pressure or intimidate political opposition.

(2) It shall be unlawful for any public officer to conduct campaign activities.

(3) It shall be unlawful to force, pressure, or intimidate public officers to participate in campaign activities, to attend campaign rallies or meetings, or to assist a political party or candidate in campaigning in any manner, in or outside work hours.

(4) It shall be unlawful to conduct campaign activities or to post or distribute any campaign material inside a public office.

(5) Any person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

Prohibition on vote buying

114.—(1) It shall be unlawful for political parties, candidates and their representatives, either personally or through other persons, to give or offer to any citizen money, gifts, material goods of any value (except for campaign material) or services free of charge, to sell goods or services to persons at a preferential price, or to promise to provide any monetary fund, gift, material goods or services of any value for the purpose of gaining or influencing votes in an election.

(2) Any person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

Restrictions on campaigns

115.—(1) Following the announcement of the date of the election, it shall be unlawful for any person, entity or organisation (including any person employed or engaged by any such person, entity or organisation) that receives any funding or assistance from a foreign government, inter-governmental or non-governmental organisation or multilateral agency to engage in, participate in or conduct any campaign (including organising debates, public forum, meetings, interviews, panel discussions, or publishing any material) that is related to the election or any election issue or matter.

(2) It shall be unlawful for any person, entity or organisation (including any person employed or engaged by any such person, entity or organisation) to engage in, or to undertake any act which, under the Constitution or under this Act, is given to or assigned to the Electoral Commission or the Supervisor, unless authorised in writing by the Electoral Commission or the Supervisor.

(3) Any person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(4) Nothing in subsection (1) prevents any university from organising inclusive public forums or panel discussions that are related to the election.

(5) This section shall not apply to the Electoral Commission or the Supervisor.

Campaign rules

116.—(1) Any political party, any candidate for election to Parliament and any person representing, or acting under the direction of, any political party or any candidate must—

(a) respect the rights and freedoms of all other political parties and candidates to campaign, and to disseminate their political ideas and principles without fear; and

(b) conduct itself in a manner that respects the rights of other political parties and candidates, and respects the rights of voters.

(2) Any political party, any candidate for election to Parliament and any person representing, or acting under the direction of, any political party or any candidate must—

(a) co-operate with election officials in order to ensure—

(i) peaceful and orderly polling; and

(ii) complete freedom for voters to exercise their franchise without being subjected to any annoyance, harassment or obstruction;

(b) ensure the safety and security of electoral officials before, during and after the polling;

(c) respect and co-operate with observers;

(d) maintain and aid in maintaining the secrecy of the vote; and

(e) organise and conduct its election campaign in a manner that contributes toward a congenial and peaceful atmosphere during the campaign.

(3) Any political party, any candidate for election to Parliament and any person representing, or acting under the direction of, any political party or any candidate must not—

(a) prevent the distribution of handbills and leaflets, and the display of posters, of other parties and candidates;

(b) deface or destroy the posters of other parties and candidates;

(c) use any language or publish or distribute pamphlets, newsletters or posters or make any broadcast containing language or material that amounts to racial or religious vilification or that threatens or incites violence;

(d) prevent any other party from holding rallies, meetings, marches or demonstrations;

(e) imitate the symbols of another political party or candidate, or steal, disfigure or destroy political or campaign materials of another political party or candidate;

(f) encourage, engage in or permit any kind of violent activity to demonstrate party strength or to prove supremacy;

(g) cause damage to any public or private property during any campaign;

(h) coerce or offer monetary or other kinds of direct inducements to persons to vote for or against a particular party or candidate, or to abstain from voting;

(i) coerce or offer monetary or other kinds of direct inducements to persons to stand or not to stand as candidates, or to withdraw or not to withdraw their candidacies;

(j) procure the support or assistance of any election official or public servant to promote or hinder the election of a candidate;

(k) seek to prevent any person from attending the political rallies of another party; or

(l) encourage, incite or permit its supporters to do anything prohibited by this subsection.

(4) Any political party, any candidate for election to Parliament and any person representing, or acting under the direction of, any political party or any candidate must not—

(a) procure votes by forcible occupation of polling stations or through illegal activities in the polling stations;

(b) interfere unjustifiably or in bad faith with the duties of election officials, disturb the process of casting or counting of votes;

(c) falsely assert to voters that their votes will not be secret; or

(d) use any language or publish any document that seeks to threaten or incite hatred or violence in any form against any other person or group of persons or which may amount to racial or religious vilification.

(5) Any person who contravenes subsections (3) or (4) commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

Paid campaign advertisement

117. Any broadcast or print advertisement paid for by a political party or candidate must clearly indicate that it is a paid political advertisement and include the name of the political party, the authorising officer of the party or the candidate who authorised and paid for the advertisement.

Media restrictions during campaigns

118.—(1) During the 48 hour period prior to the polling day and on the polling day until the close of polling at all polling stations, it is prohibited for any media organisation to publish, print or broadcast any campaign advertisement, debate, opinion or interview on any election issue or on any political party or candidate.

(2) During the 48 hour period prior to polling day and on the polling day until the close of polling at all polling stations, any publication or broadcast by any media organisation relating to the election must obtain the prior approval of the Media Industry Development Authority to ensure compliance with subsection (1).

(3) The Media Industry Development Authority must ensure that all media organisations comply with the provisions of this section.

(4) If any media organisation contravenes this section, the editor, publisher or the owner of the media organisation (as the case may be) commits an offence and shall be liable upon conviction to a term of imprisonment not exceeding 5 years.

Observers

119. The Minister may appoint or invite any person, organisation or entity to be observers for any election on such terms of reference as determined by the Minister.

PART 5—COURT OF DISPUTED RETURNS

Filing and serving of petition

120.—(1) A petition must be presented by filing it in the Court registry at Suva.

(2) A petition must be served in the way in which a writ of summons is served or in such other manner as is prescribed by the rules of the Court.

Respondent to petition

121. The member whose election or return is complained of must be the respondent to the petition, and if the petition complains of the conduct of the Supervisor, then the Supervisor must also be a respondent.

Requisites of petition

122. Every petition must—

(a) set out the facts relied on to invalidate the election or return;

(b) set out those facts with sufficient particularity to identify the specific matter or matters on which the petitioner relies as justifying the grant of relief;

(c) contain a prayer asking for the relief the petitioner claims to be entitled to, including, but not limited to—

(i) request for a recount of ballot papers in one or more polling stations or a recount of all ballot papers in the election;

(ii) request for the invalidation of the protocol of results in one or more polling stations, invalidation of the election of one or more candidates, or invalidation of the entire election; and

(iii) request for repeat polling in one or more polling stations or request for a repeat election;

(d) be signed by the petitioner, except in the case of a petition filed by the Attorney-General under section 124 of this Act or section 66 of the Constitution; and

(e) be filed in the registry of the Court within the period specified in section 66 of the Constitution.

No fees, deposit or security for costs

123. A petitioner is not required to pay any fees or deposit or security for costs with the petition.

Intervention by Attorney-General or Supervisor

124.—(1) The Attorney-General may file a petition disputing an election or return.

(2) A petition referred to in subsection (1) must be signed by the Solicitor-General for and on behalf of the Attorney-General.

(3) The Attorney-General or the Supervisor may—

(a) intervene and enter an appearance in any proceeding in which the validity of any election or return is disputed; or

(b) be represented and heard on any such intervention, in which case he or she shall be a respondent to the petition.

No proceedings unless requirements complied with

125.—(1) Subject to this Act, proceedings must not be had on a petition unless the requirements of sections 120 and 122 are complied with.

(2) The Court may, at any time after the filing of a petition and on such terms (if any) as it thinks fit, relieve the petitioner wholly or in part from compliance with section 122*(b)*.

(3) The Court must not grant relief under subsection (2) unless it is satisfied that—

(a) in spite of the failure of a petition to comply with section 122*(b)*, the petition sufficiently identifies the specific matters on which the petitioner relies; and

(b) the grant of relief would not unreasonably prejudice the interests of another party to the petition.

Powers of the Court

126.—(1) The Court must sit as an open court and its powers include the following to—

(a) order the Supervisor to recount the ballot papers of one or more polling stations;

(b) declare invalid the results in one or more polling stations;

(c) order the Supervisor to conduct repeat voting in one or more polling stations;

(d) declare that any person who was returned as elected was not duly elected;

(e) declare any candidate duly elected who was not returned as elected;

(f) declare an election to be absolutely void and to order a new election;

(g) dismiss or uphold the petition in whole or in part;

(h) adjourn;

(i) compel the attendance of witnesses and the production of documents;

(j) grant to a party to the petition leave to inspect, in the presence of the Supervisor or an officer of the Court, the registers and other documents used at or in connection with any election and to take, in the presence of the Supervisor or the officer of the Court, extracts from those registers and documents;

(k) examine witnesses on oath; and

(l) punish any contempt of its authority by fine or imprisonment.

(2) If more than one petition is presented relating to the same election or return, the Court may direct that all those petitions be dealt with as one petition.

(3) Where a petitioner withdraws, or applies to withdraw from proceedings on a petition, the Court may permit any other person who was entitled to present the same petition but chose not to do so to be substituted for the petitioner who withdraws.

(4) Where a sole petitioner, or the sole survivor of several petitioners, dies, the Court may treat the petition as abated and take no further action on it, unless the Attorney-General or the Supervisor or both have intervened under section 124 and one or the other wishes the proceedings or the petition to be heard.

Evidence that a person is not permitted to vote

127.—(1) On the trial of a petition the Court must not admit the evidence of a witness that the witness was not permitted to vote in any election unless the witness satisfies the Court that—

(a) the witness claimed to vote in the election pursuant to a provision of the Constitution or this Act under which he or she was entitled to vote; and

(b) the witness complied with the requirements of the Constitution and this Act relating to voting by voters so far as he or she was permitted to do so.

(2) If any voter, on account of the absence or error of, or omission by, an election official, is prevented from voting in an election, the Court must not, for the purpose of determining whether the absence or error of, or omission by, the election official did or did not affect the result of the election, admit any evidence of the way in which the voter intended to vote in the election.

Irregularities not to invalidate election

128.—(1) An election or the results from any polling station may not be declared invalid and the Court may not declare that any person, who is returned as elected, is not duly elected on the grounds of a failure to comply with this Act if the Court is satisfied that the failure did not affect the result of the election, and that the election was conducted in a manner substantially in accordance with the requirements of the Constitution and this Act.

(2) Without limiting the effect of subsection (1), an election or the results from any polling station may not be declared invalid and the Court may not declare that any person, who is returned as elected, is not duly elected on grounds of—

(a) any failure to comply with the time prescribed in this Act;

(b) any omission or irregularity in filling up a form prescribed by or under this Act (other than a ballot paper);

(c) any defect or invalidity in the appointment of an election official or polling or counting agent, or any failure by any such person to sign or make a declaration; or

(d) any absence of, or mistake, omission or breach of duty by, an election official, whether before, during or after the polling,

if the Court is satisfied that the failure, omission, irregularity, defect, invalidity, absence, mistake, breach, or illegal or corrupt practice did not affect the result of the election, and that the election was conducted in a manner substantially in accordance with the provisions of the Constitution and this Act.

Voiding election for corrupt or illegal practices

129.—(1) If the Court finds that a person to whom a seat was awarded, or some other person with the knowledge and consent of the person to whom the seat was awarded, has committed or has attempted to commit a corrupt practice, the award of the seat to that person must be declared void.

(2) The Court may not declare that any person to whom a seat was awarded should not have had the seat awarded, or declare any election to be void—

(a) on the ground of any illegal practice committed by a person other than the person to whom the seat was awarded and without the knowledge and consent of the person; or

(b) on the ground of any illegal practice other than a corrupt practice,

unless the Court is satisfied that the result of the election was likely to be affected, and that it is just that there should be a declaration that the seat should not have been awarded to that person, or that the election should be declared void.

(3) A finding by the Court in respect of any conduct or matter does not bar or prejudice any prosecution for an illegal practice in respect of the same conduct or matter.

Repeat polling

130.—(1) If the Court declares the results in one or more polling stations to be invalid, the entire election must not be voided.

(2) Repeat polling is to be ordered by the Court for those polling stations where the results were voided if the results in those polling stations could affect the overall results of the election.

(3) If it is determined by the Court that the overall election results could not be affected by any repeat polling in those polling stations in which results were invalidated, the Court may not order repeat polling.

(4) Any repeat polling ordered by the court under subsection (2) must take place within 60 days of the decision of the Court under the supervision of the Supervisor.

Effect of Court decision

131. Effect must be given to decisions of the Court as follows—

(a) if any person returned is declared not to have been duly elected, the person ceases to be a member of Parliament;

(b) if any person not returned is declared to have been duly elected, the person may take his or her place in the Parliament accordingly; or

(c) if any election is declared void, a new election must be held within 60 days of the decision of the Court.

Copies of petition and order to be served on certain officials

132. The Chief Registrar must as soon as possible after the filing of a petition forward to the Speaker of Parliament, to the Attorney-General, if he or she is not a petitioner, to the Supervisor, and to the Electoral Commission a copy of the petition, and, after the hearing of the petition, must forward to each of them a copy of the decision and order of the Court.

Withdrawal of petition

133.—(1) A petitioner may not withdraw a petition without the leave of the Court.

(2) If there is more than one petitioner, an application to withdraw the petition may not be made except with the consent of all the petitioners.

(3) On the withdrawal of a petition, notice of the withdrawal must be published by the Chief Registrar in the *Gazette* and in a daily newspaper.

Rules of Court

134.—(1) The Chief Justice may make rules of the Court to give effect to this Part and, in particular, for regulating the practice and procedure of the Court and forms to be used.

(2) Until rules of Court are made pursuant to subsection (1), the rules of the Court applicable to ordinary civil actions apply, with all necessary changes, for the purposes of this Part.

PART 6—ELECTORAL OFFENCES

Accomplices

135.—(1) For the purposes of this Part, a person who aids, abets, counsels, procures, or by any act or omission, or is directly or indirectly concerned in, or party to, the contravention of a provision of this Act, is deemed to have contravened that provision.

(2) In this Part, a reference to a person includes a political party that causes an act to be done or an omission to be made with the authority of the registered officer or executive body of the political party.

Offences in connection with applications and declarations

136. Any person who—

(a) knowingly and wilfully makes a false statement or declaration in connection with an application for registration as a voter or any other statement or declaration for the purposes of this Act;

(b) knowingly and wilfully makes a second application for registration as a voter if he or she is already registered as a voter;

(c) applies to be registered as a voter, or induces or procures another person to apply to be registered as a voter, knowing that he or she or the other person is not entitled to be so registered;

(d) knowingly and wilfully misleads the Supervisor or an election official in the compilation, maintenance or revision of the Register of Voters or voter list or any list required to be compiled under this Act, or wilfully enters or causes to be entered on any such Register or list any false or fictitious name or the name of any person whom he or she knows to be dead or missing; or

(e) signs the name of any other person, whether requested to do so or not, or any false or fictitious name, to any form of application or objection for the purposes of this Act, whether as applicant, objector or witness,

commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

Offences in connection with forms, etc.

137.—(1) Any person who—

(a) publishes, issues, prints, or makes a copy of a ballot paper or a form prepared for the purposes of this Act without the authority of the Supervisor and without printing on the copy the words "copy only" or "specimen only" in letters at least 2 centimetres high;

(b) forges, counterfeits, fraudulently defaces or destroys a nomination form, ballot paper or a form prepared for the purposes of this Act;

(c) without due authority supplies to any person a ballot paper or a form prepared for the purposes of this Act; or

(d) without due authority removes, alters, obliterates, mutilates or destroys a ballot paper or a form prepared for the purposes of this Act,

commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(2) Subsection (1)*(a)* does not apply to a card or paper prepared on behalf of a candidate or registered political party having on it an instruction as to how a voter should vote for that party or candidate.

(3) Any person who, having obtained possession of an application for registration as a voter signed by another person, for the purpose of it being delivered to the Supervisor, fails without reasonable excuse to deliver it, with the result that the applicant's name is not entered in the Register of Voters, commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Offences in relation to electoral information

138.—(1) Any person, other than the Supervisor or a person authorised by the Supervisor, who processes, manipulates or changes by electronic, mechanical or other means, any information contained in the Register of Voters, Register of Postal Voters or voter list commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(2) Any person who uses any information contained in the Register of Voters, Register of Postal Voters or voter list for a commercial purpose or other purpose unrelated to an election commits an offence and shall be liable upon conviction to a term of imprisonment not exceeding 5 years.

Offences in relation to ballot papers

139.—(1) Any person who induces or attempts to induce another person—

(a) to obtain a postal ballot paper with the intention of influencing the other person by bribery or intimidation to mark a vote in favour of a particular candidate; or

(b) to hand over to the first mentioned person a postal ballot paper whether or not a vote has been marked on it,

commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(2) Except as otherwise expressly authorised by this Act, any person (other than the voter to whom the ballot paper has been lawfully issued) who marks a vote or makes any other mark on the ballot paper of a voter, commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(3) Any person who prints, publishes or distributes or causes, permits or authorises to be printed, published or distributed, any matter or thing with the intention of encouraging any voter to fill in a ballot paper otherwise than in accordance with this Act, commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(4) Any person who by any spoken word or by any gesture, publicly encourages any voter to fill in a ballot paper otherwise than in accordance with this Act commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(5) Any person who—

(a) puts into a ballot box a paper other than the ballot paper that he or she is authorised by this Act to put into the ballot box;

(b) takes any ballot paper out of a polling station; or

(c) without due authority, destroys, takes, opens or otherwise interferes with a ballot box or packet or parcel of ballot papers in use for the purposes of an election,

commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

Bribery

140.—(1) Any person who asks for, receives or obtains, or offers or agrees to ask for, or to receive or obtain, any property or benefit of any kind, whether for the same or for any other person, on an understanding that any—

(a) vote of the first mentioned person;

(b) candidature of the first mentioned person; or

(c) support of, or opposition to, a candidate or a political party by the first mentioned person,

will, in any way, be influenced or affected, commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(2) Any person who, in order to influence or affect any—

(a) vote of another person;

(b) candidature of another person; or

(c) support of, or opposition to, a candidate or a political party by another person,

gives or confers, or promises or offers to give or confer directly or through any other person, any property or benefit of any kind to that other person or to a third party, commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(3) This section does not apply in relation to a declaration of public policy or a promise of public action.

Undue influence

141. Any person who hinders or interferes with the free exercise or performance by any other person, of any political right or duty that is relevant to an election commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

Personation

142. Any person who—

(a) applies for a ballot paper in the name of—

(i) another person, whether the name is that of a person living or dead; or

(ii) a fictitious person;

(b) has already voted in an election, attempts to vote again by applying for another ballot paper at the same election; or

(c) knowingly and wilfully impersonates an election official,

commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

Heading to electoral advertisements

143. Any editor, publisher and proprietor of a media organisation who fails to cause the word "electoral advertisement" to be published or broadcast as a headline or heading to each article, advertisement, publication, broadcast or notice in the publication or broadcast—

(a) that contains electoral matter; and

(b) that is, or is to be, paid for or for which any reward, compensation or promise of reward or compensation is or is to be made,

commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Printing and publishing of electoral advertisements, notices, etc.

144.—(1) Any person who prints, publishes, broadcasts or distributes or causes, permits or authorises to be printed, published, broadcast or distributed, an electoral advertisement, handbill, pamphlet, notice or electoral audio or video recording in which—

(a) the name and residential address of the person who authorised the electoral advertisement, handbill, pamphlet, notice or electoral audio or video recording do not appear; and

(b) in the case of an electoral advertisement, handbill, pamphlet or notice that is printed otherwise than in a newspaper—the name and place of business of the printer do not appear,

commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

(2) Subsection (1)*(b)* does not apply in relation to a car sticker, clothing, apparel, label, badge, pen, pencil or balloon.

(3) Any person who produces, publishes or distributes or causes, permits or authorises to be produced, published or distributed an electoral audio or video recording in which the name and residential address of the person who authorised the electoral audio or video recording does not appear, commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

(4) Any person who—

(a) at any time between announcement of the date of the election and the close of the poll in any election, prints, publishes, broadcasts or distributes, or causes, permits or authorises to be printed, published, broadcast or distributed, any matter or thing that is likely to mislead or deceive a voter in relation to the casting of a vote;

(b) at any time between the announcement of the date of the election and the close of the poll in any election publishes or exposes, or causes to be published or exposed, to public view any document or writing or printed matter containing any untrue and defamatory statement in relation to the person, character or conduct of any candidate in the election calculated to influence the vote of any voter; or

(c) before, or during an election, knowingly publishes any false statement of the withdrawal of a candidate at the election, for the purpose of promoting or procuring the election of another candidate,

commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

(5) It is a defence to a prosecution for an offence against subsection (4)*(b)* if the defendant proves that he or she had reasonable ground for believing and did in fact believe the statement to be true.

(6) In this section—

"electoral advertisement, handbill, pamphlet or notice" means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper or any other medium announcing the holding of a meeting;

"electoral audio or video recording" includes an audio or video recording that contains electoral matter; and

"publish" includes publication by radio or television or on electronic media including internet.

Badges, emblems, etc. in polling stations

145. Any person who wears or displays in a polling station or at any place where pre-poll voting takes place, any badge, emblem, clothing, apparel or accessory of a candidate in the election or of a political party, commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Campaigning prohibited during poll

146.—(1) Any person who on polling day and on any day to which the polling is adjourned—

(a) in, or in view or hearing of, any public place, holds or takes part in any meeting, demonstration or procession having direct or indirect reference to the poll;

(b) either in a polling station or within a 300 metre radius from the boundary of the property where the polling venue is located (and as marked by the election official) or, at any place within the 300 metre radius of the polling venue where the boundary is not ascertainable, in any way interferes or attempts to interfere with any voter, with the intention of—

(i) canvassing for votes;

(ii) soliciting the vote of the voter;

(iii) inducing the voter not to vote for a particular candidate;

(iv) inducing the voter not to vote at the election; or

(v) ascertaining for whom the voter intends to vote or has voted;

(c) either in a polling station or within a 300 metre radius from the boundary of the property where the polling venue is located (and as marked by the election official) or, at any place within the 300 metre radius of the polling venue where the boundary is not ascertainable, conducts a public opinion poll in relation to the election; or

(d) exhibits or leaves in a polling station any card or paper or any material containing a direction or indication as to how a person should vote or as to the method of voting,

commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

(2) Subsection (1) does not apply to an official statement or announcement made by an election official or exhibited pursuant to this Act.

Power to remove statements, etc.

147.—(1) The presiding officer may at any time on any polling day before the close of the poll at any polling station cause to be removed, obliterated or concealed—

(a) any statement, publication or electronic device advising or intended or likely to influence any voter as to the candidate or party for whom he or she should or should not vote; or

(b) any statement, publication or electronic device advising or intended or likely to influence any voter to abstain from voting,

that is exhibited in or in view of a public place in any polling station or within a 300 metre radius from the boundary of the property where the polling venue is located (and as marked by the election official) or, at any place within the 300 metre radius of the polling venue where the boundary is not ascertainable.

(2) All expenses incurred in exercising a power under subsection (1) may be recovered from the person or persons by whom or by whose direction the statement, publication or electronic device was exhibited as a debt due by them jointly and severally to the Fijian Elections Office.

(3) Subsection (1)*(a)* does not apply to the National Candidates List exhibited inside or outside a polling station pursuant to this Act.

Disobeying lawful directions, etc.

148.—(1) Any person who—

(a) while in a polling station, disobeys a lawful direction given by the presiding officer or an election official; or

(b) enters or remains in a polling station without the permission of the presiding officer or an election official,

commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

(2) Subsection (1)*(b)* does not apply to any—

(a) person authorised under this Act to be in a polling station;

(b) person acting at the request of the presiding officer; or

(c) voter who is there for no longer than is reasonably necessary to vote.

(3) Any person who hinders election officials from conducting their duties and functions in accordance with this Act commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Breach of official duty

149.—(1) Any election official who contravenes a—

(a) provision of this Act for which no other penalty is provided; or

(b) direction given to him or her under this Act,

commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(2) Any person who is or has been an election official who, directly or indirectly divulges or communicates any information with respect to the vote of a voter acquired by him or her in the performance of his or her functions, or in the exercise of his or her powers, under this Act in a way that could lead to the identification of the voter, commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(3) Any election official who, before the close of the poll in any election, makes known the state of the poll or gives or purports to give any information by which the state of the poll may be known, commits an offence and shall be liable upon conviction to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years, or to both.

(4) Subsection (3) does not apply to the provision of general information as to the number of voters who have voted in an election and the number who have yet to cast their vote, in a particular polling station.

(5) An election official must not do any act or thing for the purpose of influencing the vote of any person.

Offences related to campaign

150. Any person who—

(a) engages or participates in any campaign which is not authorised or is prohibited under this Act;

(b) obstructs the seizure of election campaign messages, statements, papers, posters, photos and other materials which are or have been used for campaign prohibited by this Act;

(c) conducts any campaign in the premises of any educational institution or in any place where campaigns are prohibited by this Act or by the Rules made by the Electoral Commission; or

(d) places campaign materials at any place where the placement of such campaign materials are prohibited by this Act or by the Rules made by the Electoral Commission,

commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Disqualification

151.—(1) Where a court convicts a person of an offence under this Part it may, in addition to any other penalty it imposes under this Part, disqualify the person from the date of conviction from being registered as a voter or from voting in any election.

(2) A disqualification imposed under subsection (1) will be for such period, not exceeding 6 years, proportionate to the seriousness of the offence.

Definition of persons

152.—(1) Where a person contravenes a section of this Act, the person shall include—

(a) in the case of a political party— the registered officer and office holders of the political party;

(b) in the case of a company— each director or persons occupying the position of director by whatever name called and includes any person in accordance with whose direction or instructions the person occupying the position of directors of the company are accustomed to act;

(c) in the case of a non-governmental organisation— the director or any person occupying the position of the officer in charge of the non-governmental organisation and includes the chairperson, trustees or members of the board of the non-governmental organisation; and

(d) in the case of a media organisation— means each director or persons occupying the position of director by whatever name called and includes any person in accordance with whose direction or instructions the person occupying the position of directors of the company are accustomed to act, and includes any editor and publisher.

PART 7—MISCELLANEOUS

Power to destroy records

153. The Supervisor may destroy or cause to be destroyed records in relation to an election one year after the election unless a Court orders otherwise.

Conduct of other elections

154.—(1) Following the completion of the first general election of the members of Parliament under the Constitution and this Act, the Fijian Elections Office shall be responsible for the conduct of elections of all registered trade unions, municipalities and such other elections as determined by the Minister by a notice published in the *Gazette*.

(2) The Minister may by Regulations prescribe the rules and procedures with respect to any election mentioned in subsection (1).

Rules

155.—(1) The Electoral Commission may make Rules relating to—

(a) registration of political parties;

(b) voter registration and maintenance of the Register of Voters;

(c) nomination of candidates;

(ca) campaign activity by political parties and candidates;

(d) conduct of polling, counting and tabulation of results;

(e) determination of the number of members of Parliament, allocation of seats and declaration of results; and

(f) filing and adjudication of complaints and appeals.

(2) Any Rules adopted by the Electoral Commission must not be contrary to or inconsistent with the provisions of the Constitution and this Act.

Regulations

156. The Minister may make Regulations to give effect to this Act.

Given under my hand this 27th day of March 2014.

EPELI NAILATIKAU
President of the Republic of Fiji

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SCHEDULE
(Section 37)

BALLOT PAPER FOR THE ELECTION OF MEMBERS OF PARLIAMENT

CIRCLE [O] OR TICK [✓] OR CROSS [X] THE NUMBER OF THE CANDIDATE YOU WISH TO VOTE FOR

DO NOT CIRCLE, TICK OR CROSS MORE THAN ONE NUMBER

135	155	175	195	215	235	255	275	295	315	335	355	375	395
136	156	176	196	216	236	256	276	296	316	336	356	376	396
137	157	177	197	217	237	257	277	297	317	337	357	377	397
138	158	178	198	218	238	258	278	298	318	338	358	378	398
139	159	179	199	219	239	259	279	299	319	339	359	379	399
140	160	180	200	220	240	260	280	300	320	340	360	380	400
141	161	181	201	221	241	261	281	301	321	341	361	381	401
142	162	182	202	222	242	262	282	302	322	342	362	382	402
143	163	183	203	223	243	263	283	303	323	343	363	383	403
144	164	184	204	224	244	264	284	304	324	344	364	384	404
145	165	185	205	225	245	265	285	305	325	345	365	385	405
146	166	186	206	226	246	266	286	306	326	346	366	386	406
147	167	187	207	227	247	267	287	307	327	347	367	387	407
148	168	188	208	228	248	268	288	308	328	348	368	388	408
149	169	189	209	229	249	269	289	309	329	349	369	389	409
150	170	190	210	230	250	270	290	310	330	350	370	390	410
151	171	191	211	231	251	271	291	311	331	351	371	391	411
152	172	192	212	232	252	272	292	312	332	352	372	392	412
153	173	193	213	233	253	273	293	313	333	353	373	393	413
154	174	194	214	234	254	274	294	314	334	354	374	394	414

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