BERMUDA

PARLIAMENTARY ELECTION ACT 1978

1978 : 23

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SCHEDULE

[preamble and words of enactment omitted]

PART I

PRELIMINARY

Interpretation

1 (1) In this Act, unless the context otherwise requires—

"bye-election" means a parliamentary election to fill a casual vacancy in the House of Assembly;

"constituency" means one of the constituencies into which Bermuda is divided in accordance with the Constitution [*title 2 item 1*];

"election agent" has the meaning given in section 32(6);

"election room" means the place appointed in a writ of election for a parliamentary election to take place;

"excepted day" means a Sunday or other public holiday as defined by the Public Holidays Act 1947 [*title 28 item 8*];

"general election" means a parliamentary election to constitute a new House of Assembly pursuant to section 51(1) of the Constitution [*title 2 item 1*];

"House of Assembly" means any House of Assembly about to assemble or being assembled in Bermuda pursuant to the Constitution [*title 2 item 1*];

"independent candidate" has the meaning given in section 32(4);

"nomination day" means the day appointed for the nomination of candidates for a parliamentary election in accordance with section 30;

"parliamentary election" means an election of a person to serve as a member of the House of Assembly and consists of the nomination of candidates, the taking of a poll if necessary and the declaration of the result of the election, in accordance with this Act;

"parliamentary elector" or "elector" means a person entitled to vote at a parliamentary election in a constituency in accordance with section 4;

"parliamentary register" means the parliamentary register prepared, revised and maintained by the Registrar pursuant to section 7(1), and includes a part of the register relating to a constituency;

"party candidate" has the meaning given in section 32(3);

"person" means an individual natural person;

"polling place" means that part of an election room which is set aside, and separated by a barrier, from the other parts of an election room pursuant to sub-paragraph (a) of paragraph (1) of rule 2 of the Rules contained in the Schedule;

"qualifying date" means the date referred to in section 3(4);

"Registrar" means the Parliamentary Registrar appointed under section 6 and, to the extent that a registration officer is authorized to exercise the powers or perform the duties of the Parliamentary Registrar under section 6(4), includes such registration officer;

"registration" with its grammatical variations and cognate expressions includes the transfer of registration from the parliamentary register of one constituency to that of another;

"registration officer" means a person appointed as such under section 6;

"Returning Officer" has the meaning given in section 29 and, to the extent that a presiding officer appointed pursuant to section 29(3) is authorized to exercise the powers or perform the duties of a Returning Officer, includes such presiding officer;

"scrutineer" means a person appointed under section 14 to be a scrutineer for a constituency;

"voter's identification card" means a card for which provision is made in section 25;

(2) In reckoning a period of time for any of the purposes of this Act all days, whether excepted days or not, shall be counted unless it is otherwise expressly provided.

(3) Where in this Act any person is required to make or sign a declaration he shall do so on oath or with solemn affirmation.

[Section 1(1) definition of "general register" and "voters' list" deleted, and definition of "parliamentary register" and "qualifying date" substituted by 1999:15 s.3 effective 11 May 1999]

Meaning of resident and ordinarily resident

2 (1) For the purpose of this Act, the place where a person is ordinarily resident shall be taken to be the place where he is resident unless he satisfies the Registrar that he is ordinarily resident in some other place,

(2) Subject to this section, the place where a person is resident shall be taken to be—

(a) if the person is a married person, the place where his family lives and sleeps and to which, when away he intends to return or, if he is living apart from his family with the intent of remaining apart from it, then the place where he lives and sleeps and to which when away he intends to return, without regard to the place where he takes his meals or is employed; and

(b) if the person is unmarried, then the place where he lives and sleeps the majority of the time.

(3) No person shall, for the purpose of this Act, be deemed to be resident in lodgings, or a hostel, refuge or similar institution conducted for charitable or benevolent purposes, unless that person has been in continuous residence in such lodgings or such hostel, refuge or similar institution for at least ten days immediately preceding the qualifying date and intends to live there indefinitely.

(4) No person shall, for the purposes of this Act, be deemed to be resident in a hospital, a home for the aged, or other institution for the treatment of any chronic illness or disability unless that person has been in continuous residence therein for at least ten days immediately preceding the qualifying date and intends to live there indefinitely.

(5) A person shall not be deemed to have changed his place of residence by reason only of his absence from Bermuda for a period of not more than six months if he intends to continue to reside in Bermuda.

PART II

THE RIGHT OF REPRESENTATION

Qualifications and disqualifications for registration

3 (1) A person is qualified for registration in the parliamentary register of a constituency if he is qualified and is not disqualified, under section 55 of the Constitution [*title 2 item 1*] and this Act on the qualifying date.

(2) For the purposes of section 55(2)(c) of the Constitution [*title 2 item 1*] a person is disqualified for registration as an elector if on the qualifying date, he is in prison or is detained in a senior training school or if, having been sentenced to a term of imprisonment, preventive detention or corrective training the adjudged term of his sentence has not yet expired, whether or not he is then at large on licence, unless he has been granted a free pardon or has been granted remission under section 10 of the Prisons Act 1979 [*title 10 item 32*].

(3) For the purposes of section 55(2)(d) of the Constitution [*title 2 item 1*] a person is disqualified for registration as an elector if, on the qualifying date, he is disqualified for voting at a parliamentary election under section 71.

(4) For the purposes of section 55(3) of the Constitution and of this Act, the qualifying date shall be—

(a) the date on which a person applies for registration as an elector under section 10(1); or

(b) where a person is registered in the parliamentary register for a constituency—

(i) the date on which the Registrar is given notice of any change in the elector's registered particulars in accordance with section 10A or 10C; or

(ii) if the Registrar is not given the notice referred to in subparagraph (i), the date on which the Registrar notifies the elector under section 10C that the elector is required to give notice of any change in his registered particulars; or

(iii) in a case where the Legislature is dissolved and, upon that dissolution, a constituency boundaries Order comes into operation under section 54(6) of the Constitution, the date that the Order comes into operation.

[Section 3(4) substituted by 1999:15 s.4 effective 15 May 1999; Section 3 subsection (4) repealed and substituted by 2012 : 17 s. 2 effective 4 May 2012]

Entitlement to vote

4 (1) Subject to subsection (2), a person is entitled to vote at a parliamentary election in a constituency if, and only if, on the polling day, he is registered as an elector in the parliamentary register of that constituency.

(2) Notwithstanding that a person may be registered in the parliamentary register of a constituency, he is not entitled to vote at a parliamentary election in that constituency if, on the polling day—

(a) he has ceased to be a Commonwealth citizen; or

(b) he has ceased to be ordinarily resident in Bermuda; or

(c) he is registered in the parliamentary register of another constituency; or

(d) he is disqualified from voting at a parliamentary election under section 71; or

(e) he is in prison or detained in a senior training school or having been sentenced to a term of imprisonment, preventive detention or corrective training the adjudged term of his sentence has not yet expired, whether or not he is then at large on licence, unless he has been granted a free pardon or has been granted remission under section 10 of the Prisons Act 1979 [*title 10 item 32*]; or

(f) he is a person suffering from mental disorder within the meaning of the Mental Health Act 1968 [*title 11 item 36*] or is otherwise adjudged to be of unsound mind under any statutory provision.

Qualification for election

5 (1) A person may be elected as a member of the House of Assembly for a constituency if—

(a) he is qualified and not disqualified under sections 29 and 30 of the Constitution [*title 2 item 1*]; and

(b) his nomination as a candidate has been duly accepted by the Returning Officer for that constituency pursuant to section 32.

(2) For the purposes of section 30(1)(e) of the Constitution [*title 2 item 1*] a person is disqualified for membership of the House of Assembly if he is disqualified from being elected as such a member under section 71 of this Act.

PART III

PARLIAMENTARY REGISTERS

Parliamentary Registrar and registration officers

6 (1) The Governor shall appoint a Parliamentary Registrar (hereinafter referred to as "the Registrar") for the purposes of this Act, and may appoint such number of registration officers as are from time to time required to enable the Registrar to carry out his functions under this Part.

(2) The Registrar shall be a public officer and every registration officer shall be deemed to be such an officer in carrying out his functions under this Act.

(3) Any duty of a registration officer under this Act may be performed by the Registrar.

(4) The Registrar may authorize any registration officer to exercise such powers and perform such duties on his behalf as he may in any case direct.

(5) Subject to this Act, the Registrar shall exercise general supervision and control over the conduct of Returning Officers in and about the conduct of elections.

(6) Expenses incurred by the Registrar pursuant to this section shall be defrayed from moneys provided by the Legislature.

Parliamentary register

7 (1) As soon as practicable after the commencement of the Parliamentary Election Amendment (No. 2) Act 1999, the Registrar shall prepare, and shall thereafter revise and maintain a parliamentary register of persons qualified to be registered as electors in accordance with the provisions of this Part.

(2) The parliamentary register shall be framed in separate parts for each constituency.

(3) The parliamentary register shall comprise—

(a) the particulars of persons registered as electors in the parliamentary registers published on 15 June 1998, as altered by corrections made by the Registrar, which were used for the general election held on November 9, 1998; and

(b) the particulars of other persons who have applied for registration under section 10(1), who appear to the Registrar to be qualified under section 3(1) to be registered as electors.

(4) The particulars to be entered in the parliamentary register in relation to each person ("the registered particulars") shall include the full name of such person and the address at which he is ordinarily resident, including the postcode.

(5) The misdescription of any person or his address in the parliamentary register shall not invalidate the registration of such person as an elector if the description is such as to be commonly known.

(6) A person whose name is entered on the parliamentary register prepared pursuant to this Part shall remain registered therein and, except as provided in section 20, the Registrar shall not remove the name of any person from the register.

[Section 7 repealed and replaced by 1999:15 s.5 effective 11 May 1999]

Publication of parliamentary register

8 (1) The Registrar shall, not later than the 15th day of June in each year, publish the parliamentary register by—

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

(b) making copies thereof available at police stations, post offices, and such other places as the Registrar may select in each constituency.

(2) The parliamentary register published under subsection (1) shall, in addition to the particulars of persons referred to in section 7(3)(a), contain the particulars of all persons who are qualified to be registered and who have applied for registration before the 1st day of June in each year.

(3) The Registrar shall at the time of publishing the parliamentary register publish a notice in such manner as the Registrar thinks best calculated to bring it to the attention of electors, drawing attention to the publication of the parliamentary register and to the procedures for the making of claims and objections.

(4) The Registrar shall not be required to publish the parliamentary register on 15 June in any year if in that year the parliamentary register has been published under section 26A.

(5) The Registrar shall provide copies of the parliamentary register for sale to the public at the office of the Registrar and at such other places as he shall appoint for such fee as may be prescribed.

[Section 8 amended by 1989:57 effective 1 January 1990; and repealed and substituted by 1999:15 s.6 effective 11 May 1999]

Preparation of parliamentary registers

9 *[Repealed by 1999:15]*

[Section 9 repealed by 1999:15 s.7 effective 11 May 1999]

Application for registration

10 (1) A person who is qualified to be registered as an elector for the purpose of a parliamentary election under section 3(1) shall as soon as practicable after qualifying apply in the prescribed form to the Registrar for registration in the parliamentary register.

(2) Such application may be made on behalf of such person by a member of his household.

(3) The Registrar on being satisfied that a person is so qualified shall register such person in the parliamentary register.

(4) Notwithstanding subsection (1), where the Governor issues a writ of election pursuant to section 27, a person otherwise qualified to be registered as an elector after the issue of the writ if he will attain voting age on or before polling day is entitled to be registered in the parliamentary register; and his entry in the parliamentary register shall give the date on which he shall attain that age; and until the date given in the entry he shall not be entitled by virtue of the entry to be treated as an elector for any purpose other than the purpose of an election at which the date fixed for the poll is that or a later date.

(5) Before registering any person as an elector, the Registrar may, if he thinks necessary, require such person to produce to him his birth certificate and such other documentary evidence relating to his entitlement to be registered.

(6) Any person who knowingly makes a statement in an application form which is false in a material particular, or submits any document in support of the application which is false in a material particular or which has been altered without lawful authority is guilty of an offence and liable on summary conviction to 12 months imprisonment or a fine of $500 or to both.

(7) For the purposes of subsection (4) "voting age" means the age of eighteen years.

[Section 10 repealed and substituted by 1999:15 s.8 effective 11 May 1999]

Elector to notify Registrar of change in particulars

10A Where there occurs any change in the registered particulars of an elector, the elector shall within twenty-eight days from the date of such change give to the Registrar notice in the prescribed form of the change of particulars; and the Registrar shall alter the parliamentary register accordingly.

[Section 10A inserted by 1999:15 s.9 effective 11 May 1999]

Person occupying premises to give information to the Registrar

10B (1) The Registrar may require any person eighteen years or older who is occupying any premises to give information required for the purposes of revising the parliamentary register.

(2) Without prejudice to the generality of subsection (1), the Registrar may, for the purpose of obtaining the information required for the revision of the parliamentary register, require any person eighteen years or older who is occupying any premises to complete and return to him, within 14 days of its receipt by him, such questionnaire as may be determined by the Registrar.

(3) The duly completed questionnaire referred to in subsection (2) shall be returned to the Registrar—

(a) by, at the request of the Registrar or a registration officer, giving the questionnaire to him;

(b) by delivery to the office of the Registrar during the ordinary working hours of that office; or

(c) by registered post.

(4) A questionnaire returned by registered post under subsection (3)(c) shall be deemed to be delivered on the expiration of two days after it is posted.

(5) Notwithstanding anything in any other provision of law, no postage charge shall be levied on questionnaires sent to the Registrar by virtue of subsection (3)(c).

(6) Any person who without reasonable excuse fails to give any information required under subsection (1) or to complete and return a questionnaire in accordance with this section commits an offence:

Punishment on summary conviction: a fine of $200.

[Section 10B inserted by 2012 : 17 s. 3 effective 4 May 2012]

Transfer of registration

10C (1) Where the Registrar has reasonable grounds to believe that an elector is no longer ordinarily resident in the constituency in which he is registered but is ordinarily resident in another constituency, the Registrar shall give notice that—

(a) the elector is required to notify him, in the prescribed form, of any change in his registered particulars; and

(b) if the elector fails to so notify him within 14 days after the Registrar's notice, the Registrar intends to transfer the elector's registration to the constituency in which the elector is qualified to be registered.

(2) Notice under subsection (1) shall—

(a) be given in such manner as the Registrar believes will best bring the notice to the attention of the elector and, without prejudice to the generality of the foregoing, may be done by publication of a notice in the Gazette;

(b) inform the elector of the constituency to which it is intended to transfer his registration;

(c) inform the elector that the elector is required, within 14 days after the Registrar's notice is given, to either—

(i) give notice in the prescribed form of any change in his registered particulars; or

(ii) object to the intended transfer of his registration; and

(d) inform the elector—

(i) of the manner in which notice under paragraph (c)(i) is to be given;

(ii) of the manner in which an objection under paragraph (c)(ii) is to be given; and

(iii) that if neither a duly completed notice of change in the elector's registered particulars nor an objection to the transfer in registration is received by the Registrar before the expiration of 14 days after the date

on which notice is given under subsection (1), the Registrar intends to transfer the elector's registration accordingly.

[Section 10C inserted by 2012 : 17 s. 3 effective 4 May 2012]

Voters' lists

11 *[Repealed by 1999:15]*

[Section 11 amended by 1994:19 effective 1 July 1994; and repealed by 1999:15 s.10 effective 11 May 1999]

Householders and others to give information to the Registrar

12 *[Repealed by 1999:15]*

[Section 12 repealed by 1999:15 s.10 effective 11 May 1999]

Registrar may require attendance of persons

13 *[Repealed by 1999:15]*

[Section 13 repealed by 1999:15 s.10 effective 11 May 1999]

Scrutineers

14 (1) For the purpose of assisting the Registrar in preparing the parliamentary register there shall be appointed annually for each constituency two scrutineers, who shall be persons registered as electors in that constituency and who shall not be members of either House of the Legislature or public officers.

(2) Every scrutineer appointed under this section shall be so appointed by the Governor acting upon the recommendation of the Premier in respect of one such scrutineer for each constituency and upon the recommendation of the Opposition Leader in respect of the other such scrutineer.

(3) It shall be the duty of the two scrutineers to examine the parliamentary register of the constituency for which they are appointed, to consult together in order to advise the Registrar as to any alteration which ought in their opinion to be made in order to ensure its accuracy and in particular in order to remove therefrom the names of any persons who have died, who have ceased to be ordinarily resident in Bermuda, who are disqualified by reason of serving a term of imprisonment or who have ceased to be ordinarily resident in the constituency for which they are registered as electors.

(4) If the scrutineers are unable to agree on the advice they shall give to the Registrar then they shall each advise him separately.

(5) If for any reason only one scrutineer advises him, then the Registrar shall consider that advice.

(6) On receipt of advice from the scrutineers the Registrar may in his discretion amend the parliamentary register.

(7) If for any reason the Registrar receives no advice from scrutineers then he shall act without such advice.

[Section 14(1),(3) and (6) amended by 1999:15 s.11 effective 11 May 1999]

Publication of draft registers

15 *[Repealed by 1999:15]*

[Section 15 amended by 1999:5 s.3 effective 24 March 1999; and repealed by 1999:15 s.12 effective 11 May 1999]

Notice of claim or objection

16 *[Repealed by 1999:15]*

[Section 16 repealed by 1999:15 s.12 effective 11 May 1999]

Objections to registration

17 (1) Subject to this section any person may deliver to the Registrar an objection to the registration of any other person in the parliamentary register and if the Registrar, after consultation whenever possible with the two scrutineers appointed for the constituency concerned, is satisfied that the grounds of such objection are established, then he shall remove the name of that person from the parliamentary register or shall alter or cancel the particulars to which the objection relates.

(2) An objection under subsection (1) shall be disregarded if it is delivered to the Registrar after the 15th July.

(3) The Registrar shall not consider an objection made under this section unless the person objecting submits to him in writing a statement of the grounds of the objection and deposits with him the sum of five dollars.

(4) The Registrar shall not determine an objection made under this section unless and until he has given the person affected by the objection at least fourteen days notice thereof and an opportunity to reply thereto and, if such person so desires, an opportunity to be heard with respect thereto.

(5) Where the Registrar finds that the grounds of an objection are established, he shall refund the sum of five dollars to the person objecting, but where he finds that such grounds are not established he shall pay that sum to the person affected by the objection.

[Section 17 amended by 1999:5 s.4 effective 24 March 1999; and subsections (1) and (2) by 1999:15 s.13 effective 11 May 1999]

Objections to omissions

18 (1) Subject to this section, a person may deliver to the Registrar an objection that his name has been irregularly omitted from the parliamentary register or that the particulars relating to his name in such register are incomplete or inaccurate or both and if the Registrar, after (if possible) consultation with the two scrutineers appointed for the constituency concerned, is satisfied that the grounds of such objection are established, he shall rectify the parliamentary register.

(2) An objection under subsection (1) shall be disregarded if delivered to the Registrar after the 15th July.

(3) The Registrar shall not consider any objection made under this section unless the person objecting submits to him in writing a statement of the grounds of the objection and deposits with him the sum of five dollars.

(4) When the Registrar finds that the grounds of an objection are established he shall refund the sum of five dollars to the person objecting but when he finds that the grounds of objection are not established he shall retain that sum and pay it into the Consolidated Fund.

[Section 18 amended by 1999:5 s.5 effective 24 March 1999; and subsections (1) and (2) amended by 1999:15 s.14 effective 11 May 1999]

Hearing of objections

19 (1) Where any objection is made in accordance with section 10C, 17 or 18, this section shall apply to the consideration and determination of every such objection by the Registrar.

(2) The objector and any other person appearing to the Registrar to be interested may appear and be heard personally on the matter.

(3) The Registrar shall permit the objector or other person interested, as the case may be, to give or adduce oral or documentary evidence in support of or in opposition to the objection.

(4) The Registrar may require that the evidence tendered by any person be given upon oath or affirmation as commonly administered in a court and may administer an oath or affirmation for that purpose, and may take affidavits.

(5) The Registrar may require any person appearing before him to furnish to him such additional information as he considers necessary for a proper determination of the application and for the prevention of fraudulent registrations and may of his own motion make further inquiries for those purposes.

(6) Where any question arises as to the possession or otherwise of Bermudian status by any person, the Registrar may have recourse to the Minister responsible for Immigration and a statement under the hand of that Minister as to the status of any such person shall, for the purposes of the proceedings and without prejudice to any other evidence before him, be sufficient evidence to the facts stated therein.

(7) If requested by an objector, the Registrar shall inform him of his decision upon his objection and shall if requested by the objector give his reasons for making the decision.

[Section 19 subsection (1) amended by 2012 : 17 s. 4 effective 4 May 2012]

Corrections to the parliamentary register

20 The Registrar shall make alterations to the parliamentary register—

(a) to carry out a decision with respect to any claim or objection;

(aa) to record changes in the registered particulars of an elector of which notice has been given under section 10A or 10C;

(ab) to transfer to another constituency the registration of an elector to whom notice has been given under section 10C(1) and from whom neither a completed notice of change in registered particulars nor an objection to the transfer has been received within the 14-day period referred to in section 10C(2)(d)(iii);

(ac) in accordance with section 26;

(b) to correct any clerical error or omission;

(c) to correct any misnomer, inaccurate description or erroneous entry; or

(d) to delete the name of any person who the Registrar is satisfied is dead.

[Section 20 amended by 1999:15 s.15 effective 11 May 1999; Section 20 amended, and paragraphs (ab) and (ac) inserted by 2012 : 17 s. 5 effective 4 May 2012]

Other corrections to the draft registers

21 *[Repealed by 1999:15]*

[Section 21 repealed by 1999:15 s.16 effective 11 May 1999]

Publication of parliamentary registers

22 *[Repealed by 1999:15]*

[Section 22 repealed by 1999:15 s.16 effective 11 May 1999]

Corrections to the parliamentary registers

23 *[Repealed by 1999:15]*

[Section 23 repealed by 1999:15 s.16 effective 11 May 1999]

Appeals to the Supreme Court

24 (1) Subject to this section, any person aggrieved by a decision of the Registrar with respect to an objection made by him under section 10C, 17 or 18 may, within thirty days of notification of the decision to him, appeal to the Supreme Court against the decision.

(2) *[Repealed by 1999:15]*

(3) An appeal under this section shall be heard in chambers at a time appointed by the Court for that purpose of which due notice shall be given to the appellant, the Registrar and any other person appearing to be concerned.

(4) Upon the determination of an appeal the Court shall give such directions in the matter as appear to it to be just and necessary for the disposal of the issue arising thereupon and the Registrar shall give effect to any such directions.

(5) The costs of the appeal shall be within the discretion of the Court.

(6) The decision of the Court on any appeal under this section shall be final and conclusive.

(7) No person registered in a parliamentary register shall be precluded from voting at any parliamentary election by reason only that an appeal is pending under this section.

(8) The Chief Justice may make rules governing the practice and procedure in relation to appeals under this section.

(9) Such rules shall not be subject to section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*].

[Section 24(1) substituted and subsection (2) repealed by 1999:15 s.24 effective 11 May 1999; Section 24 subsection (1) amended by 2012 : 17 s. 6 effective 4 May 2012]

Voter's identification card

25 (1) Any person whose name is on a parliamentary register may apply to the Registrar for a voter's identification card and if such a person satisfies the Registrar that he is so registered he shall issue him with such a card which shall be valid for ten years.

(2) The Registrar may issue a voter's identification card to replace a valid card already issued to a person registered in the parliamentary register, if he is satisfied that the card has been lost or stolen and is unlikely to be found or recovered, or that it has been completely destroyed, mutilated or is in such a condition as to require replacement or that the name of the person to whom the card relates has changed.

(3) *[Repealed by 1999:15]*

(4) Every person found in possession of a voter's identification card other than his own without lawful excuse commits an offence:

Punishment on summary conviction: a fine of $500.

(5) A voter's identification card which shall be in such form as the Governor shall prescribe, shall show the date of birth of the elector to whom it is issued and shall have attached to it a photograph of the elector taken without charge under arrangements made by the Registrar.

(6) An elector shall sign any voter's identification card issued to him in the space provided for his signature.

[Section 25(2) amended and subsection (3) repealed by 1999:15 s.18 effective 11 May 1999]

Adaptation of register in consequence of altered constituency boundaries

26 (1) Where consequent upon a review of the constituency boundaries an order is made by the Governor under section 54(6) of the Constitution altering the constituency boundaries, the Registrar shall upon the coming into force of the order adapt the parliamentary register to the alterations to the boundaries.

(2) As soon as practicable after the coming into force of the order referred to in subsection (1), the Registrar shall publish, in the Gazette, notice that the order is in operation and that, in consequence, certain constituency boundaries have changed and

that a revised parliamentary register for the general election is available for inspection at such places as are specified in the notice.

[Section 26 amended by 1999:5 s.6 effective 24 March 1999; Section 26 repealed and substituted by 1999:15 s. 19 effective 11 May 1999; Section 26 amended by 2012 : 17 s. 7 effective 4 May 2012]

Publication of revised parliamentary register at an election

26A (1) Where the Governor issues a writ of election pursuant to section 27—

(a) the Registrar shall by notice published in the Gazette and in such other manner as he thinks fit, declare that for the purposes of this election the registration of electors shall close after a period ending seven days after the issuing of the writ; and

(b) the Registrar shall within seven days after the end of the period referred to in paragraph (a), revise and publish the parliamentary register.

(2) Sections 8(1)(a), 8(1)(b) and 8(3) shall apply to the parliamentary register published under subsection (1)(b) as they apply to the parliamentary register published under section 8(1).

(3) Sections 17 and 18 as modified by subsection (4), and sections 19 and 24 shall apply to the parliamentary register published under subsection (1)(b) as they apply to the parliamentary register published under section 8(1).

(4) For the purposes of subsection (3), sections 17 and 18 are modified as follows—

(a) in section 17,

(i) by substituting the words “seven days after publication of the parliamentary register under section 26A(1)(b)” for "15th July” in subsection (2);

(ii) subsection (4) shall not apply;

(b) in section 18, by substituting the words “seven days after publication of the parliamentary register under section 26A(1)(b)” for "15th July” in subsection (2).

(5) The Registrar shall, not later than twenty-eight days after the issuing of the writ, publish the revised parliamentary register of electors and shall include therein all corrections made under section 20.

(6) The revised parliamentary register published under subsection (5) shall be used for the election in respect of which the writ was issued.

[Section 26A inserted by 1999:15 s.20 effective 11 May 1999]

PART IV

CALLING ELECTIONS

Issue of writs of election

27 (1) Every parliamentary election in a constituency shall commence with the issue by the Governor of a writ of election under the Public Seal of Bermuda.

(2) A writ of election shall be addressed to one or more Justices of the Peace, who subject to section 29 shall be charged with the duty of holding the parliamentary election in accordance with the terms of the writ and Parts V, VI, VII and VIII:

Provided that two or more concurrent writs of election shall not be addressed to the same Justice of the Peace.

(3) Subject to this section, every writ of election shall appoint the nomination day, the polling day and the election room for the parliamentary election.

(4) The nomination day appointed for a parliamentary election shall not be an excepted day and shall , subject to section 27A, be a day at least fourteen days before the polling day.

(5) The polling day appointed for a parliamentary election shall not be an excepted day and shall, subject to section 27A,—

(a) in the case of a general election be the day appointed for the holding of the general election by proclamation pursuant to section 51(1) of the Constitution [*title 2 item 1*];

(b) in the case of a bye-election be a day not earlier than twenty-eight days after the issue of the writ nor later than two months after the occurrence of the vacancy which occasioned the issue of the writ.

(6) The place appointed for a parliamentary election shall be some convenient building or part of a building within, or, in the opinion of the Registrar, conveniently near the boundary of, the constituency concerned, not being a building licensed for the sale of intoxicating liquor.

(7) The several writs of election issued in the case of a general election shall bear the same date, shall be issued on the same day and shall appoint the same nomination day and the same polling day respectively for each constituency.

[Section 27 amended by 1997 : 22 effective 11 July 1997]

Power to postpone elections

27A (1) Where at any time between the issue of a writ of election and the polling day appointed by that writ the Governor is satisfied that it is expedient so to do by reason of—

(a) Bermuda having become, or being likely to become, engaged in any war; or

(b) a state of emergency having been proclaimed under section 14(3) of the Constitution; or

(c) the occurrence of an earthquake, hurricane, flood or fire, or the outbreak of a pestilence or an infectious disease or other calamity whether similar to the foregoing or not; or

(d) the likelihood that the voters´ list will not be available before the polling day; or

(e) the occurrence of rioting, open violence or other civil disturbance which has caused, or is likely to cause, such interruption or abandonment of the electoral process as to prejudice the holding of a fair election,

he may by proclamation published in the Gazette cancel the polling day appointed by the writ and appoint another day, not being more than thirty days after that day (but subject in any event to the limits set forth in section 51(1) and (2) of the Constitution), to be the polling day instead.

(2) A proclamation under this section made by virtue of paragraph (c), (d) or (e) of subsection (1) may be expressed to apply to all the constituencies of Bermuda, or to one or more of those constituencies specified in the proclamation; and, where such a proclamation is expressed to apply to a particular constituency or to particular constituencies, the proclamation shall not affect any appointment of a polling day, or the operation of this Act as respects any such appointment, in relation to any other constituency.

(3) The writ of election relating to a constituency to which a proclamation made under this section applies shall be deemed to have been amended by substituting the polling day appointed by the proclamation for the polling day appointed by that writ.

(4) Where a proclamation under this section is made before the day appointed by the writ of election in question as the nomination day, the nomination day shall be deemed postponed until the fourteenth day next preceding the polling day appointed by the proclamation.

(5) Where a proclamation under this section is made after the day appointed by the writ of election in question as the nomination day, the postponement by the proclamation of the polling day shall not affect any nomination that was made on nomination day, and no further nomination may be made.

(6) Where the polling day or the nomination day appointed by a writ of election ("the original day") is postponed by virtue of this section to another day ("the substitute day"), any reference in this Act or in any Rules made under this Act to the original day shall, if the context so requires, be construed as a reference to the substitute day and not the original day.

(7) Where the polling day appointed by a writ of election is postponed by a proclamation by virtue of this section, the Governor may by that proclamation or by a later proclamation published in the Gazette if, in his opinion, the election room appointed by the writ ("the original election room") will not be available for the purposes of the election, appoint another election room (a "substitute election room") for those purposes instead; and, where a substitute election room has been so appointed, any reference in this Act or in any Rules made under this Act to the original election room shall, if the context so

requires, be construed as a reference to the substitute election room and not the original election room.

[Section 27A inserted by 1997:22 effective 11 July 1997]

Endorsement over of writ in certain circumstances

28 (1) If any Justice of the Peace to whom a writ of election has been addressed intends to be a candidate at the parliamentary election to which the writ or any other concurrent writ relates, or is or becomes prevented by illness or infirmity or by reason of intended absence from Bermuda or other good cause from executing the writ, he shall, unless the writ is addressed also to some other Justice of the Peace who is capable of executing the same, forthwith report the circumstances to the Registrar in writing and return the writ to the Registrar.

(2) Whenever a writ is returned to the Registrar in the circumstances specified in subsection (1), or in the event of the death of a Justice of the Peace to whom a writ of election has been addressed, the Registrar may endorse the writ over to another Justice of the Peace and deliver it to him and thereupon section 27(2) shall apply as if the writ had been initially addressed to that other Justice of the Peace.

Duties of Returning Officers

29 (1) In this and every succeeding part of this Act "Returning Officer" means the Justice or Justices of the Peace charged with the duty of executing a writ of election.

(2) Where two or more Justices of the Peace are charged with the duty of executing a writ of election, then so far as is reasonably practicable and subject to this Act they shall act jointly in the discharge of that duty, but the exercise of the powers conferred upon Returning Officers by this Act by any one or more of the Justices so charged shall be as valid and effectual as the exercise of those powers by all of them and no proceedings relating to a parliamentary election shall be liable to be impugned on the ground that anything required or authorized to be done by, to or before the Returning Officer was done by, to or before one or more but not all of the Justices.

(3) The Returning Officer after consultation with the Registrar may appoint one or more persons approved by the Registrar as presiding officers to assist him in the discharge of his duties and in particular may appoint any one of them to preside at the election room during any temporary absence of the Returning Officer therefrom and any presiding officer so appointed shall on behalf of the Returning Officer exercise such powers and perform such duties as he may be authorized to exercise and perform by the Returning Officer.

(4) The Registrar may, subject to this Act, give Returning Officers generally or any particular Returning Officer such directions as he may think necessary and appropriate for ensuring the efficient and orderly conduct of any parliamentary election and it shall be the duty of each Returning Officer to conform to any directions so given.

Notice of election

30 (1) On the issue of every writ of election, the Deputy Governor shall notify the Registrar and the Registrar shall forthwith give notice of the issue of the writ by publication

in two successive issues of the Gazette and in at least one other newspaper circulating in Bermuda.

(2) Every such notice shall specify the nomination day and the polling day and the location of the election room appointed for the parliamentary election.

Delivery of parliamentary registers etc. to Returning Officer

31 (1) Before eleven o'clock in the forenoon of nomination day in any parliamentary election, the Registrar shall deliver to the Returning Officer the parliamentary register for that constituency certified under the Registrar's hand to be correct .

(2) The Returning Officer shall retain the parliamentary register in his custody until the conclusion of the parliamentary election and shall then deliver it back to the Registrar.

[Section 31(1) substituted by 1999:15 s.21 effective 11 May 1999]

PART V

NOMINATION PROCEDURE

Nomination of candidates

32 (1) The Returning Officer shall attend at eleven o'clock in the forenoon on the nomination day appointed by the writ of election at such place as the Registrar shall, by notice published in the Gazette, appoint and shall there until one o'clock in the afternoon, but no later, accept nominations of candidates in accordance with subsection (2).

(2) The Returning Officer shall accept the nomination of a person as a candidate if, and shall not accept such nomination unless—

(a) the nomination of that person is written on a separate paper (hereinafter referred to as a nomination paper) in the prescribed form or is, in the opinion of the Returning Officer, substantially in that form;

(b) the nomination paper is signed in duplicate by two parliamentary electors whose names are included in the parliamentary register for the constituency concerned, one as proposer and one as seconder, neither of whom has proposed or seconded the nomination of another candidate at that parliamentary election;

(c) the intended candidate is described in the nomination paper by his full name;

(d) the nomination paper is delivered in duplicate to the Returning Officer either by the intended candidate or by his proposer or seconder at the place and between the hours specified in subsection (1);

(e) in the case of concurrent parliamentary elections in more than one constituency, the intended candidate is nominated as a candidate in no other constituency and in the case of a bye-election is not already a member of the House of Assembly or a member of the Senate;

(f) the intended candidate or someone on his behalf has deposited in the Consolidated Fund the sum of two hundred and fifty dollars and in proof thereof delivers or causes to be delivered to the Returning Officer an official receipt therefor signed by the Accountant General or an authorized officer of his Department, showing that such sum has been deposited for the purposes of that person's candidature at that parliamentary election; and

(g) the nomination paper is signed by the intended candidate to denote his acceptance of candidature in that constituency and no other.

(3) Where a candidate is endorsed by a political party and wishes to have the name of that party shown in the election documents relating to him, there shall be delivered to the Returning Officer along with his nomination paper a letter from or on behalf of the chairman of the party stating that the candidate is endorsed by the party, and a candidate in respect of whom the provisions of this subsection are satisfied is in this Act referred to as a "party candidate".

(4) A candidate in respect of whom the provisions of subsection (3) are not satisfied (in this Act referred to as an "independent candidate") shall be described in the election documents relating to him by the word "independent".

(5) It shall not be necessary for a nomination paper to be subscribed in the presence of the Returning Officer.

(6) At the time an intended candidate's nomination paper is lodged with the Returning Officer or at some time before the polling day, the Returning Officer shall be informed in writing of the names of the persons (hereinafter referred to as "election agents" or "agents") who will represent him, or where he is a party candidate, the party endorsing him, in the election room in accordance with paragraph (2) of rule 4 of the Rules contained in the Schedule.

(7) The Registrar shall make arrangements to supply nomination papers in the prescribed form free of charge to parliamentary electors at his office during the period commencing with the first day on which a notice of a parliamentary election is published pursuant to section 30 and ending with the nomination day and shall furnish the Returning Officers with stocks of such forms for use at the place appointed for accepting nominations during the nomination period; but any failure to make such arrangements shall not affect the validity of any parliamentary election and the use of the prescribed forms shall not be obligatory, so however that each nomination paper actually used is substantially in the form prescribed.

[Section 32 subsections (1) and (7) amended by 2012 : 17 s. 8 effective 4 May 2012]

Uncontested election

33 Where at the close of the period for the acceptance of nomination of candidates at a parliamentary election in a constituency only one person is duly nominated as a candidate for the vacancy to be filled at that election, the Returning Officer shall forthwith declare such duly nominated person to be elected and shall return his name to the office of the Deputy Governor with the writ of election duly completed and signed by him.

[Section 33 repealed and replaced by 2003:11 s.2 effective 9 June 2003]

Bye-election to fill unfilled vacancies

34 *[Repealed by 2003:11]*

[Section 34 repealed by 2003:11 s.3 effective 9 June 2003]

PART VI

CONTESTED ELECTIONS

Special interpretation of Parts VI and VII

35 (1) Subject to subsection (2), any reference in this Part or Part VII to a parliamentary elector or to the parliamentary register shall be construed as the case may be as a reference to a parliamentary elector or to the parliamentary register for the constituency in respect of which the parliamentary election is being held.

(2) Where the writ of election is addressed to two or more Justices of the Peace, each of those Justices may if so directed by the Registrar assume particular responsibility for the taking of the poll in relation to a particular part of the parliamentary register including the supervision and control of a separate ballot box in relation to that part and in that event all references in this Part and in the Rules contained in the Schedule to the Returning Officer, a parliamentary elector, a ballot box, the parliamentary register or ballot paper or a polling place within the election room shall be construed as references to the particular Justice of the Peace and to those matters within his responsibility for the taking of the poll in relation to that particular part only of the parliamentary register, unless the context otherwise requires.

Taking a poll in contested election

36 (1) Subject to section 38, where at the close of the period for the acceptance of nominations of candidates at a parliamentary election in a constituency, more than one person has been duly nominated as candidates in respect of the vacancy to be filled at that election, then a poll shall be taken at the election room on the polling day therefor.

(2) In the taking of a poll at a parliamentary election the voting shall be by ballot and—

(a) every parliamentary elector desiring to vote at the election shall have facilities for voting in secrecy, freely and without interference; and

(b) every parliamentary elector who votes at the election shall do so in secrecy, freely and without interference.

(3) Every parliamentary elector whose name appears in the parliamentary register for a constituency in respect of which a contested parliamentary election is held shall, if he is in employment, be entitled to receive from his employer without penalty sufficient time off work on the polling day to enable him to travel to the election room and there record his vote.

[Section 36 subsection (1) substituted by 2003:11 s.4 effective 9 June 2003]

Withdrawal of candidate

37 (1) No person whose nomination as a candidate for a parliamentary election has been duly accepted by the Returning Officer may withdraw from the election except by means of a written notice signed by him and delivered to the Returning Officer not less than two clear days, excluding any excepted days, before the polling day for such election, unless the effect of his withdrawal is to render the taking of a poll in such election unnecessary in which event such person may so withdraw by delivering such notice to the Returning Officer at any time before the polling day.

(2) On receipt of a notice of withdrawal in accordance with subsection (1) the Returning Officer shall forthwith publish the notice of withdrawal in the constituency concerned and shall, subject to subsection (3), make arrangements for the preparation of new ballot papers or, if the circumstances do not so allow, for the amendment of existing ballot papers, so that the poll may take place on the polling day.

(3) Where a withdrawal from election pursuant to subsection (1) renders the taking of a poll in the parliamentary election unnecessary, the Returning Officer shall as soon as may be on the polling day declare the candidate for election in the constituency who has not withdrawn to be elected and shall return his name to the office of the Deputy Governor with the writ of election duly completed and signed by him.

[Section 37 subsection (3) substituted by 2003:11 s.5 effective 9 June 2003]

Death of candidate

38 (1) Where under section 36 a poll is required to be taken in a parliamentary election in a constituency and before the close of the poll in that election a person duly nominated as a candidate in that election dies, then the parliamentary election in that constituency shall be void and shall be so declared by the Returning Officer and a bye-election shall ensue within the next succeeding period of two months to fill the vacancy existing at that time of the issue of the relevant writ of election.

(2) The Returning Officer shall forthwith report to the Deputy Governor and the Registrar the circumstances giving rise to a bye-election under subsection (1).

[Section 38 subsection (1) amended by 2003:11 s.6 effective 9 June 2003]

Duration of poll

39 (1) Subject to sections 40 to 42, the poll in a parliamentary election shall be taken on the polling day between the hours of eight o'clock in the forenoon and eight o'clock in the afternoon.

(2) If at the hour of closing of the poll there are any electors in the election room, or in line at the door, who are qualified to vote and have not been able to do so since their arrival at the election room, the poll shall be kept open a sufficient time to enable them to vote before the outer door of the election room is closed, but no person who is not actually present at the election room at the hour of closing shall be allowed to vote, even if the poll is still open when he arrives.

[Section 39(1) amended by 1999:15 s.22 effective 11 May 1999]

Advanced polls for voters who are sick, infirm, absent or have polling duties

40 (1) Where any parliamentary elector who is duly registered in the parliamentary register for a constituency in which a parliamentary election is pending is or is likely to be on the polling day an inmate of any institution registered under subsection (4) and to be prevented by illness, infirmity or disability from travelling to the election room, it shall be lawful for such parliamentary elector to record his vote at an advanced poll to be held for that purpose at such institution on such date prior to the polling day as shall be appointed by the Registrar.

(2) Where any parliamentary elector who is duly registered in the parliamentary register for a constituency in which a parliamentary election is pending expects to be absent from Bermuda, or to travel to or from Bermuda, on polling day, he may apply to the Registrar for a certificate of intended absence or intended travel, as the case may be, and the Registrar, if satisfied that the application is made in good faith, shall thereupon issue him with a certificate under his hand for the purpose of enabling him to vote at an advanced poll stating the name of such parliamentary elector and the fact that he intends to be absent from Bermuda, or to travel to or from Bermuda, as the case may be, on polling day.

(2A) Where—

(a) the Registrar, a returning officer, presiding officer, candidate or election agent; or

(b) a police officer or other person certified by the Registrar to be employed at the polling on polling day,

is duly registered in the parliamentary register for a constituency in which a parliamentary election is pending, it shall be lawful for such parliamentary elector to record his vote at an advanced poll to be held for that purpose at such place on such date as the Registrar appoints.

(2B) The date appointed under subsection (2A) shall be a date not earlier than the publication, under section 26A(5), of the revised parliamentary register for the parliamentary election.

(3) An advanced poll for parliamentary electors intending to be absent from, or to travel to or from Bermuda shall be held at such place, and on such date or dates not earlier than the publication of the revised parliamentary register for a parliamentary election under section 26A(5), as the Registrar may by notice published in the Gazette appoint for the purpose, and it shall be lawful for every such parliamentary elector on production of a certificate issued under subsection (2) to record his vote at such advanced poll.

(3A) An advanced poll referred to in subsection (3) may be held on one, two or more days.

(4) Any hospital, home for the aged or other institution for the treatment of any chronic illness or disability with permanent accommodation for five or more patients may apply to the Registrar for registration for the purposes of subsection (1) and the Registrar may, if he is satisfied that it is reasonable to hold an advanced poll in such place, so register it.

(5) The Registrar shall invite the attendance at any advanced poll of one representative from each party which has a candidate at the forthcoming election and such representative shall be deemed to be an election agent for the purposes of section 50.

[Section 40 subsection (2) substituted, and (3) and (5) amended, by 2003:11 s.7 effective 9 June 2003; Section 40 amended, and subsections (2A), (2B) and (3A) inserted by 2012 : 17 s. 9 effective 4 May 2012]

Advanced polls for incapacitated voters

41 (1) Without prejudice to section 52 where any parliamentary elector who is duly registered in the parliamentary register for a constituency in which a parliamentary election is pending is unable or likely to be unable by reason either of illness, infirmity or disability to travel to the election room, it shall be lawful for such parliamentary elector to record his vote at an advanced poll to be held for that purpose at such place, and on such date not earlier than seven days prior to the polling day, as the Registrar may by notice in the Gazette appoint for the purpose.

(2) For the purpose of voting at any advanced poll held as above, such parliamentary elector must apply to a registered medical practitioner for a specially issued card certifying incapacity and a registered medical practitioner, if satisfied that the applicant is incapacitated, shall thereupon issue him with such a card under his hand for the purpose of enabling him to vote at an advanced poll, stating the name of such parliamentary elector and the fact that he is incapacitated.

(3) Any parliamentary elector desiring to vote at any advanced poll held as above shall upon the production of a specially issued card certifying incapacity under this section be allowed to vote in like manner as he would have been entitled so to do on the day appointed for the taking of the poll.

[Section 41 subsection (2) amended by 2018 : 66 s. 2 effective 10 January 2019]

Conduct of advanced polls

42 (1) At any advanced poll held in accordance with section 40 or 41 a separate ballot box shall be provided for each constituency and at the close of such advanced poll the ballot papers in each box shall without any examination be placed in separate packets and sealed by the officer conducting the poll, each packet clearly designating the number of ballot papers it contains and the constituency to which it relates.

(2) Each sealed packet of ballot papers taken at an advanced poll shall be immediately given by the officer conducting the poll to the Registrar to be kept intact in his office until delivery by him on the polling day in the parliamentary election concerned to the Returning Officer for the constituency to which the packet relates.

(3) The Returning Officer shall open every packet of ballot papers delivered to him pursuant to subsection (2) immediately before the commencement of the poll in the presence of any persons who are lawfully in the election room at that time and shall place the ballot papers without examining them in the ballot box at his poll before he locks it up and places his seal upon it as provided in the Schedule.

(4) For the avoidance of doubt it is hereby declared that the other provisions of this Act applying to parliamentary electors, to voting procedure and to parliamentary elections

shall apply so far as is convenient to the taking of an advanced poll under this section, section 40 and section 41 as they apply to the taking of a poll at an election room.

General duties of Returning Officer as to taking of poll

43 (1) The Returning Officer or a presiding officer appointed under section 29(3) shall be present at the election room throughout the taking of the poll and the counting of votes and shall conduct and have charge of the proceedings and it shall be his duty to keep good order in and about the election room during the proceedings.

(2) If any person during a parliamentary election misconducts himself in or about the election room or fails to obey the lawful order of the Returning Officer, he may immediately by order of the Returning Officer be removed from the election room or the vicinity thereof by any police officer or other person authorized by the Returning Officer to remove him:

Provided that the powers conferred by this subsection shall not be exercised so as to deprive any parliamentary elector who is entitled to vote at a parliamentary election of his opportunity so to vote.

Adjournment of poll in special circumstances

44 (1) Where the proceedings at an election room on polling day in a parliamentary election are interrupted or obstructed by general disorder or by any other circumstances beyond the control of the Returning Officer which, in his opinion, makes it impracticable to continue the taking of the poll, he may adjourn the proceedings until the hour of eight o'clock in the forenoon of the following day not being an excepted day and in that event he shall inform the Registrar forthwith of his decision, shall seal up the ballot boxes effectively and ensure that they are so stored as to be free from interference and shall take every practicable step to bring the adjournment to the attention of the public in the constituency.

(2) Where the poll is adjourned pursuant to subsection (1) the hours of polling on the day to which it is adjourned shall be the same as for the original day and the other provisions of this Act shall apply *mutatis mutandis* to the taking of such adjourned poll.

[Section 44 subsection (1) amended by 2012 : 17 s. 10 effective 4 May 2012]

Rules for taking a poll

45 The Rules contained in the Schedule shall have effect with respect to the taking of the poll at a parliamentary election:

Provided that no parliamentary election shall be declare void by reason of a failure to comply with any such rule if it appears that the poll was conducted substantially in accordance with section 36(2) and that the failure to comply did not affect the result of the election.

Ballot papers

46 (1) The ballot of each voter at a parliamentary election shall consist of a paper, hereinafter called a ballot paper, in the prescribed form, showing the full names of all the

nominated candidates in alphabetical order impressed with the official mark in accordance with subsection (3).

(2) There shall be shown on the ballot paper—

(a) instructions to voters on how to complete the ballot paper;

(b) the names and photographs of the candidates; and

(c) where a candidate is a party candidate, the name of his political party and in any other case, the word "Independent".

(3) The Returning Officer shall, at the time he issues a ballot paper in accordance with section 48, impress the official mark on the back of the ballot paper.

(4) The official mark shall be of such design and shall be impressed by use of such instruments as may be approved by the Registrar.

(5) All Returning Officers and other persons concerned with parliamentary elections shall comply with such directions as may be given by the Registrar regarding the safe custody of any instrument for impressing the official mark.

[Section 46 subsection (2) substituted by 2007:26 s.2 effective 25 July 2007]

Premises not to be used as committee rooms

47 (1) No premises which are situated above, below, adjacent to or within the same curtilage as the election room shall be used by any person at any time on the polling day in a parliamentary election for any of the purposes of a committee room.

(2) Any person who uses or permits any other person to use any premises in contravention of subsection (1) commits an offence:

Punishment on summary conviction: a fine of $500.

(3) In this section, "the purposes of a committee room" means any of the purposes of a political party or other association of persons interested or concerned in promoting the election of any candidate nominated in any parliamentary election.

PART VII

VOTING PROCEDURE

Issue of ballot papers

48 (1) Subject to sections 49 and 50 every person whose name is registered in the parliamentary register for a constituency in which a poll is taking place shall, upon application therefor be given one ballot paper by the Returning Officer and shall be allowed to vote thereat.

(2) It is hereby declared that nothing in subsection (1) shall—

(a) entitle any person to vote at a parliamentary election who is not so entitled by section 4; or

(b) relieve any person from any punishment to which he may be or become liable under this Act for so voting.

Identification of intending voters

49 (1) A person shall not be given a ballot paper and shall not be allowed to vote at a parliamentary election unless—

(a) he produces to the Returning Officer one of the following documents issued to him—

(i) a valid and signed voter's identification card;

(ii) a current Bermudian driving licence;

(iii) a valid special person's card issued by the Transport Control Board;

(iv) a valid passport issued by a Commonwealth country; or

(v) any other document of identity of a type prescribed; and

(b) the Returning Officer is satisfied that the documents produced relate to that person and that he is registered in the parliamentary register for the constituency and that he has not already voted in the parliamentary election.

(2) Notwithstanding anything contained in subsection (1), in any case where a document produced by a person as a means of identification is defective only because it bears a date or date stamp showing that it expired before the date of production, such document shall still be accepted as valid or current as the case may be if the document—

(a) bears a photograph of the person from which the person can be identified;

(b) bears the date of birth of the person and that date is verified by the Returning Officer; and

(c) bears the signature of the person.

[Section 49 amended by 1999:15 s.23 effective 11 May 1999; subsection (2) substituted by 2003:11 s.8 effective 9 June 2003]

Challenge of intending voters

50 (1) The Returning Officer, at the request of the election agent of any candidate or on his own initiative may require any person claiming to vote at a parliamentary election to read aloud or repeat after him and sign before him a declaration in the prescribed form and if the person so required does not comply with that requirement, the Returning Officer shall not give him a ballot paper or allow him to vote, notwithstanding section 48(1):

Provided that the reading and signing of such a declaration as aforesaid shall not entitle any person to vote at a parliamentary election unless he is entitled to vote by section 4 or relieve him from any punishment to which he may be or become liable for so voting:

Provided further that the requirements of this subsection shall be in addition to and not in derogation of section 49.

(2) Every request made by the election agent of any candidate for the purposes of subsection (1) shall be made in writing, specifying the grounds of the request, and the Returning Officer shall disregard any request which is not so made:

Provided that nothing in this subsection shall be taken to prevent the submission by or on behalf of a candidate to the Returning Officer, before or during the taking of a poll, of a list of the names of intending voters whom it is proposed to challenge so long, however, that an individual request in conformity with this subsection is made to the Returning Officer in respect of each such person so challenged before he is given a ballot paper.

Marking the ballot paper

51 (1) Subject to section 52, every person voting at a parliamentary election shall secretly mark his vote on the ballot paper given to him and, without revealing his vote, shall place the ballot paper in a closed box (hereinafter referred "the ballot box") in the presence of the Returning Officer.

(2) A person voting at a parliamentary election in a constituency shall not be entitled to vote for more than one candidate on a ballot paper in respect of the vacancy to be filled at that parliamentary election.

[Section 51 subsection (2) substituted by 2003:11 s.9 effective 9 June 2003]

Incapacitated voters

52 The Returning Officer, on the application of any parliamentary elector who is blind, unable to read or so physically incapacitated as to be unable to vote in the manner prescribed by section 51 to assist him in voting, shall require the elector making the application to take an oath in the prescribed form of his incapacity to vote without assistance and shall thereafter assist the elector by marking his ballot paper in the manner directed by such elector and if he so requests in the presence of one other presiding officer and a friend, and shall place the ballot paper in the ballot box.

Spoilt ballot papers

53 A person voting at a parliamentary election who has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as a ballot paper may, on delivering it to the Returning Officer and on proving the fact of the inadvertence to the satisfaction of the Returning Officer, obtain another ballot paper in the place of the one so delivered up (hereinafter referred to as a "spoilt ballot paper") and the spoilt ballot paper shall immediately be cancelled but shall be preserved by the Returning Officer.

Void ballot papers

54 (1) Any ballot paper—

(a) which does not have the official mark duly impressed upon its back;

(b) on which votes are given for more than one candidate at the parliamentary election in the constituency concerned;

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

(d) which is unmarked or which does not indicate with sufficient clarity the candidate for whom the elector intended to vote,

shall be void and shall not be counted.

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

(a) elsewhere than in the proper place; or

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

(c) by more than one mark in respect of a candidate voted for,

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

(3) It is hereby declared that nothing contained in the Rules set out in the Schedule or in any directions prescribe by such Rules shall be construed as extending or adding to subsections (1) or (2).

[Section 54 subsections (1) and (2) amended by 2003:11 s.10 effective 9 June 2003]

Arrest of voter for personation

55 (1) If at any time a person applies for a ballot paper for the purpose of voting at a parliamentary election in a constituency, or after he has applied for a ballot paper for that purpose but before he has left the election room, a candidate or his election agent declares to the Returning Officer that he has reasonable cause to believe that that person has committed an offence of personation and undertakes to substantiate the charge in a court of law, the Returning Officer may order a police officer to arrest that person and the order of the Returning Officer shall be sufficient authority for the police officer to do so.

(2) A person arrested in accordance with this section shall not by reason only thereof be prevented from voting.

(3) A person arrested under subsection (1) shall be dealt with as a person taken into custody by a police officer without a warrant charged with an offence triable summarily.

PART VIII

CLOSE OF POLL PROCEDURE

Count of ballots

56 (1) Immediately after the close of the poll at a parliamentary election, the Returning Officer shall seal the ballot box so as to prevent the introduction of additional ballot papers and shall take charge of such box and shall then, in the presence of such of the candidates as may choose to attend, and such other persons whom the Returning Officer shall permit to be present not exceeding three persons for each candidate, open the ballot box and ascertain the result of the poll by counting the votes given to each candidate:

Provided that any candidate who is not present at the count of votes may nominate one person as his agent to be present thereat in his place.

(2) Immediately after the counting of the votes pursuant to subsection (1) has terminated, a candidate or his agent present at the count may demand a recount and thereupon, unless the Returning Officer considers the demand to be unreasonable having regard to the result of the first count, he shall proceed to re-count the votes accordingly to ascertain the result of the poll.

(3) In the event of a re-count of votes—

(a) every other candidate or his agent shall have the right to demand a further re-count, and the Returning Officer may in his own discretion conduct further re-counts;

(b) the result of the poll shall be determined by the final count of the votes.

(4) When the result of the poll has been ascertained the Re-turning Officer shall, subject to section 57 forthwith publicly declare to be elected the candidate to whom the majority of the votes has been given.

(5) References in this section to the ballot box shall, where more than one ballot box is used pursuant to section 35(2) be construed as a reference to all the ballot boxes so used at the parliamentary election in the constituency concerned.

[Section 56 subsection (4) amended by 2003:11 s.11 effective 9 June 2003]

Procedure in the event of a tie

57 (1) Where it appears to the Returning Officer that as a result of an equality of votes cast between any of the candidates for election it is not possible to declare the election of a candidate as respects a vacancy failing to be filled at a parliamentary election in the constituency, then the Returning Officer shall report the circumstances of the casting of the equality of votes to the Deputy Governor forthwith.

(2) In any case where a report under subsection (1) has been duly made, the parliamentary election in the constituency concerned shall be deemed to be void; and a bye-election shall ensue within the next succeeding period of two months to fill the vacancy not duly filled at such parliamentary election.

[Section 57 subsection (1) substituted, and (2) amended, by 2003:11 s.12 effective 9 June 2003]

Return of writ of election

58 At the conclusion of a parliamentary election the Returning Officer shall duly complete the writ of election according to its terms and shall return the same together with the name of the candidate who has been declared elected into the office of the Deputy Governor not later than the second day after the day on which the parliamentary election was concluded:

Provided that if such second day is an excepted day the writ shall be returned not later than the next succeeding day that is not an excepted day.

[Section 58 amended by 2003:11 s.13 effective 9 June 2003]

Disposal of deposits

59 The following provisions shall have effect with respect to each deposit of two hundred and fifty dollars required to be made under section 32, that is to say—

(a) if after such deposit is made the candidate in respect of whom it is made withdraws from the election pursuant to section 37, his deposit shall be returned to the person who made it;

(b) if such candidate dies after his deposit is made and before polling commences, such deposit shall, if made by such deceased candidate, be returned to his estate representative or, if not, it shall be returned to the person who made it;

(c) if such candidate is not elected and the number of votes polled by him does not exceed one eighth of the total number of ballot papers counted, his deposit shall be forfeited to the Crown and shall be paid into the Consolidated Fund;

(d) in any other case the amount deposited shall be repaid to the person who made the deposit as soon as possible after the result of the election has been declared.

PART IX

OFFENCES

Secrecy during and after poll

60 (1) Every candidate, officer, clerk, agent or other person in attendance at an election room or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and no candidate, officer, clerk, agent or other person shall—

(a) at the election room, interfere with, or attempt to interfere with, an elector when marking his ballot paper, or influence or attempt to influence the choice of an elector or otherwise attempt to obtain information as to the candidate for whom any elector is about to vote or has voted;

(b) at any time, communicate any information as to the manner in which any ballot paper has been marked in his presence in the election room;

(c) at any time or place, directly or indirectly, induce or endeavour to induce any voter to show his ballot paper after he has marked it, so as to make known to any person the name of the candidate for or against whom he has cast his vote;

(d) at any time, communicate to any person any information obtained at an election room as to the candidate for whom any elector at the election room is about to vote or has voted; or

(e) at the counting of the votes, attempt to obtain any information or communicate any information obtained at the counting as to the person by whom any vote is given in any particular ballot paper.

(2) Notwithstanding subsection (1)(a) an elector who at the election room wears a shirt or other apparel having thereon a badge, sticker, sign, emblem, symbol, word or other mark indicating connexion with or support for a political party shall not be guilty of an offence.

(3) No elector shall, except when unable to vote in the manner prescribed by this Act on account of inability to read, blindness or other physical incapacity—

(a) upon entering the election room and before receiving a ballot paper, openly declare for whom he intends to vote;

(b) show his ballot paper, when marked, so as to allow the name of the candidate for whom he has voted to be known; or

(c) before leaving the election room, openly declare for whom he has voted.

(4) Any person who contravenes or fails to observe any provision of this section commits an offence.

(5) It shall be the duty of a Returning Officer to draw the attention of any elector who has contravened subsection (3) to the offence that he has committed and to the penalty to which he has rendered himself liable, but such elector shall nevertheless be allowed to vote in the usual way.

Misconduct at parliamentary election

61 (1) Any person—

(a) who at any parliamentary election—

(i) behaves in a violent, offensive or disorderly manner in or about or within fifty metres of the election room or improperly disturbs or impedes the proceedings;

(ii) fails to leave an election room when requested so to do by the Returning Officer;

(iii) interferes with a voter who is engaged in voting;

(iv) obtains or attempts to obtain in the election room information as to the candidate for whom a voter is about to vote or has voted;

(v) directly or indirectly induces or attempts to induce any voter to display his ballot paper so as to show the name of any candidate for whom the voter has voted;

(b) who in the course of any proceedings before the Registrar behaves in a violent, offensive or disorderly manner or improperly disturbs or impedes the transaction of business; or

(c) who, subject to subsection (2), during the hours when the poll is being taken on polling day, assembles or congregates with other persons in an election room or within fifty metres thereof without the permission of the Returning Officer for the constituency,

commits an offence.

(2) Subsection (1)(c) shall not apply to—

(a) any voters who are waiting to vote at such election room and who obey such instructions as may be given by the Returning Officer or any police officer for the purpose of forming a queue with other voters so waiting; or

(b) any person who is only lawfully remaining in, entering or leaving such room with reasonable despatch; or

(c) any person who assembles or congregates in the manner referred to in that subsection, if he so assembles and congregates—

(i) on private property; and

(ii) that private property is not the property on which the election room is situated.

(3) Where a person commits an offence against this section:

Punishment on summary conviction: imprisonment for 1 year or a fine of $500 or both such imprisonment and fine.

[Section 58 subsection (1)(a)(iv) amended by 2003:11 s.14 effective 9 June 2003; Section 61 subsection (2)(b) amended, and subsection (2)(c) inserted by 2012 : 17 s. 11 effective 4 May 2012]

Returning Officer to be conservator of peace

62 Every Returning Officer, during an election, during the hours that the polls are open, may—

(a) require the assistance of police officers or other persons present to aid him in maintaining peace and good order at the election;

(b) arrest or cause by verbal order to be arrested, and place or cause to be placed in the custody of any police officer or other persons, any person disturbing the peace and good order at the election; and

(c) cause such arrested person to be imprisoned under an order signed by him until an hour not later than the close of the poll.

No person to carry offensive weapons or propaganda apparatus on polling day

63 (1) No person shall arm himself, during any part of polling day, with any offensive weapon and thus armed approach within a kilometre of an election room, unless called upon so to do by lawful authority.

(2) No person shall—

(a) furnish or supply any loud speaker to any person with intent that it be carried or used on any automobile truck or other vehicle for the purposes of political propaganda on polling day in a constituency where a parliamentary election is taking place; or

(b) with any such intent, carry on any automobile, truck or other vehicle any such loud speaker on polling day.

(3) Any person who contravenes any of the provisions of this section commits an offence against this Act:

Punishment on summary conviction: imprisonment for 1 year or a fine of $250 or both such imprisonment and fine.

Bribery

64 (1) A person shall be guilty of bribery—

(a) if he directly or indirectly, by himself or through any other person on his behalf, gives or lends, or agrees to give or lend, or offers or promises, or promises to procure or to endeavour to procure, any money or valuable consideration to or for any parliamentary elector, or to or for any other person, in order to induce such elector to vote or refrain from voting at a parliamentary election, or corruptly does any such act or thing as aforesaid on account of any parliamentary elector having voted or refrained from voting at a parliamentary election;

(b) if he directly or indirectly, by himself or through any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises, or promises to procure or to endeavour to procure, any office, place or employment to or for any parliamentary elector, or to or for any other person, in order to induce such elector to vote or refrain from voting at a parliamentary election, or corruptly does any such act or thing as aforesaid on account of any parliamentary elector having voted or refrained from voting at a parliamentary election;

(c) if he directly or indirectly, by himself or through any other person on his behalf, makes any gift, loan, offer, promise, procurement or agreement referred to in paragraph (a) or (b) to or for any person, in order to induce that person to procure or to endeavour to procure, the election of any person at a parliamentary election, or the vote of any parliamentary elector at a parliamentary election;

(d) if, upon, or in consequence of any such gift, loan, offer, promise or agreement, he procures or engages or promises or endeavours to procure, the election of any person at a parliamentary election, or the vote of any parliamentary elector at a parliamentary election;

(e) if he advances or pays or causes to be paid any money to or to the use of any other person, with the intent that that money or any part thereof should be expended in bribery at a parliamentary election; or if he knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at a parliamentary election;

(f) if, being a parliamentary elector before or during a parliamentary election, he directly or indirectly, by himself or through any other person on his

behalf, receives, or agrees or contracts for any money, gift, loan or valuable consideration, or any office, place or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at a parliamentary election;

(g) if after a parliamentary election he directly or indirectly, by himself or through any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting, at the parliamentary election.

(2) No person shall be charged with an offence under subsection (1) committed wholly on or after the commencement date of the Bribery Act 2016.

[Section 64 amended by 2016 : 47 s. 24(1) & Sch 2 effective 1 September 2017]

Undue influence

65 (1) A person shall be guilty of undue influence if he directly or indirectly, by himself or through any other person on his behalf—

(a) makes use of or threatens to make use of any force, violence or restraint; or

(b) inflicts or threatens to inflict any temporal or spiritual injury, damage, harm or loss,

upon or against any person in order to induce or compel that person to vote or refrain from voting or on account of that person having voted or refrained from voting, at a parliamentary election, or to refrain from registering in a parliamentary register.

(2) A person shall also be guilty of undue influence if he directly or indirectly, by himself or through any other person, by abduction, duress, or any fraudulent device or contrivance—

(a) impedes or prevents any person from freely exercising his right to vote at a parliamentary election or register in a parliamentary register; or

(b) compels, induces or prevails upon any person either to vote or refrain from voting at a parliamentary election.

Punishment for bribery and undue influence

66 Where a person is convicted on indictment of bribery or of undue influence:

Punishment on summary conviction: a fine of $50,000 or to imprisonment for 5 years, or both; and on conviction on indictment: an unlimited fine or imprisonment for 15 years, or both.

[Section 66 amended by 2013 : 30 s. 25 effective 8 November 2013]

Standing for election of unqualified persons

67 Any person who, not being qualified under this Act to be elected at a parliamentary election and knowing that he is not so qualified, allows himself to be nominated as a candidate or to be elected at the election commits an offence against this Act:

Punishment on conviction on indictment: imprisonment for 2 years or a fine of $1,000 or both such imprisonment and fine.

Personation and voting if not qualified

68 A person commits an offence against this Act who—

(a) applies under this Act to be included in any parliamentary register in the name of some other person, whether such name is that of a person living or dead or of a fictitious person;

(b) applies to be registered in the parliamentary register of a constituency knowing that he is not ordinarily resident therein;

(c) except as authorized by section 52, applies for a ballot paper in the name of some other person, whether such name is that of a person living or dead or of a fictitious person;

(d) having voted once at an election, applies at the same election for another ballot paper;

(e) votes or attempts to vote at an election knowing that he is not qualified to vote at the election; or

(f) induces or procures any other person to vote at an election knowing that such other person is not qualified to vote at the election.

Offences relating to voting

69 (1) A person commits an offence against this Act who—

(a) forges a ballot paper or utters a forged ballot paper;

(b) fraudulently alters, defaces or destroys a ballot paper or the official mark impressed thereon;

(c) without authority under this Act, supplies a ballot paper to any person;

(d) not being a person entitled under this Act to be in possession of a ballot paper, has, without authority, any ballot paper in his possession;

(e) forges the official mark used for impressing on ballot papers;

(f) has in his possession without lawful authority an instrument for impressing the official mark;

(g) fraudulently puts or causes to be put into a ballot box a ballot paper or other paper;

(h) fraudulently takes a ballot paper out of the election room;

(i) without authority under this Act, destroys, takes, opens or otherwise interferes with a ballot box or book or packet of ballot papers;

(j) without authority under this Act, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;

(k) forges a voter's identification card or at any election room utters a forged voter's identification card knowing the same to be forged;

(l) being a Returning Officer, places upon any ballot paper any writing, number or mark with intent that the elector to whom such ballot paper is to be, or has been, given may be identified thereby; or

(m) manufactures, constructs, imports into Bermuda, has in possession, supplies to any election officer, or uses for the purposes of an election, or causes to be manufactured, constructed, imported into Bermuda, supplied to any election officer, or used for the purposes of any election, any ballot box containing or including any compartment, appliance, device or mechanism in or by which a ballot paper may or could be secretly placed or stored or, having been deposited during polling, may be secretly diverted. misplaced, affected or manipulated.

(2) For the purposes of subsection (1) and any other provision of this Act, knowingly to do or omit to do an act is deemed to be fraudulent if to do or omit to do the act results or would be likely to result in the reception of a vote that should not have been cast or in the non-reception of a vote that should have been cast.

(3) Where a person commits an offence under this section:

Punishment on conviction on indictment: imprisonment for 2 years or a fine of $1,000 or both such imprisonment and fine.

Supplying intoxicating liquor by way of organized treating

70 (1) Any person who on the polling day before the closing of the poll at any parliamentary election, by himself or with others gives or provides by way of organized treating, any intoxicating liquor for consumption by electors in connection with the holding of the parliamentary election, commits an offence:

Punishment on summary conviction: a fine of $500.

(2) In this section "organized treating" means the giving or providing of intoxicating liquor to some person without charge or at a reduced or unduly small charge to the person consuming such liquor under some arrangement which but for the election would not have been made.

Disqualifications

71 Any person who is convicted of any offence under sections 60, 61, 64, 65, 67, 68 and 69, or an offence under the Bribery Act 2016, shall, whether or not any other penalty is imposed, be disqualified, for a period of six years from the date of the conviction, from being registered as a voter or voting at any parliamentary election and shall be further

disqualified from being elected as a member of the House of Assembly or of being appointed as a member of the Senate during the whole of such period.

[Section 71 amended by 2016 : 47 s. 24(1) & Sch 2 effective 1 September 2017]

Publishing of forms

72 Any person who publishes, issues or prints, or makes any copy of a form referred to in this Act without the authority of the Registrar and without placing thereon the words "Copy only" in letters at least half an inch in height, commits an offence.

Breaches of official duty

73 (1) Any person who, being required under this Act to perform any official function thereunder, without reasonable cause, commits, or omits to do, any act in breach of his duty under such provisions commits an offence.

(2) Any employer who on being requested by an employee pursuant to section 36(3) to allow him sufficient time off work to enable him to travel to an election room and there record his vote fails to allow him such time or who penalizes an employee whom he has allowed time to so travel and vote commits an offence.

General penalty

74 Where a person commits an offence under this Act for which no specific penalty is provided:

Punishment on summary conviction: imprisonment for 9 months or a fine of $500 or both such imprisonment and fine.

PART X

MISCELLANEOUS

Registrar to retain documents

75 (1) The Registrar shall retain in safe custody for a period of one year all documents relating to a parliamentary election delivered to him by a Returning Officer pursuant to this Act and shall then, unless otherwise directed by an order of the Supreme Court, cause them to be destroyed.

(2) The Registrar shall not, except by or under the order of the Supreme Court, permit any other person to have access to or to inspect the documents retained by him under subsection (1).

Rules

76 (1) The Governor shall make rules prescribing—

(a) the fees to be paid to Returning Officers, presiding officers and other persons who discharge duties in connection with a parliamentary election;

(aa) the fees to be paid to registration officers and scrutineers in respect of such functions as may be specified in the rules;

(b) the forms to be used in connection with this Act; and

(c) any other matter required to be prescribed by this Act.

(2) Rules made under subsection (1) shall be subject to affirmative resolution procedure.

[Section 76 subsection (1)(a) amended, and subsection (1)(aa) inserted by 2012 : 17 s. 12 effective 4 May 2012]

Duty of Commissioner of Prisons

77 It shall be the duty of the Commissioner of Prisons as soon as may be after the issue of a writ of election under this Act to transmit to the Registrar a certified list of those persons who will be disqualified from voting by virtue of section 4(2)(e).

Printing of forms at public expense

78 Forms prescribed under this Act shall be printed from time to time as circumstances may require under the supervision of the Registrar and the cost of the printing shall be defrayed out of the Consolidated Fund.

Commencement and transitional

79 *[omitted]*

[Part III was brought into operation on 2 January 1980 by BR 53/1979 and the remainder of the Act was brought into operation on 13 June 1980]

Repeal and transitional

80 *[omitted]*

Amends No. 153 of 1968

81 *[omitted]*

SCHEDULE

RULES FOR THE TAKING OF A POLL

1 When a poll is required to be taken at any parliamentary election, a public notice of the poll shall be given by the Returning Officer as soon as the period for acceptance of the nominations is closed. The names of all candidates nominated for the constituency together with the name of the parties to which they belong or the word "independent" if they are so described in the election document and the names of their respective proposers and seconders shall appear in the notice together with the date of polling day and the hours when the poll will be open. The notice shall be displayed conspicuously on or near the main door of the election room.

2 (1) The Registrar or the Returning Officer shall ensure that on polling day the election room is sufficiently furnished and equipped to facilitate the proper and orderly taking of the poll and shall in particular ensure that—

(a) one table (in these Rules referred to as an "electoral table") is provided in the election room in respect of every 450 electors (more or less) for use by officers in, and by election agents in observing, the checking of the credentials of, and the handing out of ballot papers to, electors;

(b) a polling place is set aside in the election room and separated by a barrier from the remaining parts of the room;

(c) the polling place is divided into compartments of sufficient size and so furnished that an elector can record his vote therein screened from observation and that a sufficient number of such compartments are provided having regard to the number of electors registered in the constituency;

(d) one of the compartments in the polling place is of sufficient size to accommodate at least three persons at a time for the convenience of handicapped electors;

(e) each compartment is furnished with an indelible pencil or pen attached thereto;

(f) sufficient ballot papers are available printed on paper capable of being easily folded up but of sufficient thickness to prevent the marking on one side from being read through the paper from the other;

(g) a ballot box is provided of convenient size, furnished with a secure lock and key and so constructed that ballot papers can be introduced into it but cannot be withdrawn from it without the box being unlocked.

(2) In arranging the furniture, equipment and manning of an election room on polling day, the Returning Officer shall seek to ensure a free flow of electors from the entrance, via the officer checking their credentials to the officer handing out the ballot

papers and thence through the barrier, one at a time, to the polling place and shall also position an officer in the vicinity of the ballot box to check that the market ballot papers are introduced into the ballot box thereafter by electors in an orderly manner and in accordance with these Rules.

3 For the guidance of electors in voting, each compartment in the polling place shall be posted with the directions written in conspicuous characters and approved by the Registrar.

4 (1) No candidate, except for the purpose of voting may be present in the election room during the taking of the poll nor shall any candidate approach nearer than seven metres to any of the doors of the election room during the hours that the poll is open.

(2) The representation of candidates by election agents in relation to candidates in the election room shall be governed by the following provisions of this paragraph—

(a) there shall be entitled to such representation—

(i) every political party having a party candidate in the election; and

(ii) every independent candidate;

(b) the representation to which a political party or independent candidate is entitled under this paragraph is representation by one election agent for each electoral table and, in addition, one further election agent to perform any or all of the duties involved in relieving another agent and acting as courier or messenger for the party or independent candidate for which or whom he is acting as agent.

5 The Returning Officer immediately before the commencement of the poll shall show the ballot box empty to such persons as may then be present in the election room so that they may see that it is empty and shall, after placing therein any ballot papers which may be delivered to him in respect of an advanced poll, then lock it up and keep the key himself and shall place the box in his view for the receipt of ballot papers keeping it so locked until the conclusion of the poll.

6 The Returning Officer shall not allow anyone to be present in the polling place at any time during the poll except the electors engaged in voting, friends of handicapped electors, and the officers assisting him in the election room, and no other person (except an election agent) shall be allowed within the election room during the poll without the permission of the Returning Officer.

7 Where the responsibility for the taking of a poll has been divided pursuant to section 35, a Returning Officer shall ensure that—

(a) he (assisted by any presiding officer assigned to him) is furnished with that part only of the parliamentary register which pertains to the part of the poll that falls within his own responsibility;

(b) the relevant electoral table or tables are assigned to him; and

(c) he checks the credentials of, and hands out ballot papers to, those electors for whom he is responsible and no others.

8 A Returning Officer or presiding officer shall check the identity of each intending elector by examining his signed voter's card or other means of identification produced, and verifying from the copy of the parliamentary register in the officer's possession that the elector is not recorded as having already voted. If the Returning Officer or presiding officer is so satisfied, and subject to any challenge under section 50, a line shall be drawn through the elector's name on the copy of the parliamentary register and one ballot paper shall be given to the elector.

9 (1) An elector receiving a ballot paper shall proceed forthwith through the barrier to one of the compartments of the polling place and shall there, with the indelible pencil or pen provided mark his ballot paper and fold it up, so that it cannot be seen for whom he has voted but the official mark thereon is visible upon it.

(2) The elector shall then display the folded ballot paper to the Returning Officer, permit the mark to be verified, and then put it into the ballot box in the presence of the Returning Officer without showing the front of it to any person present.

(3) An elector shall vote without undue delay and, having put his ballot paper into the ballot box, he shall withdraw from the election room forthwith.

10 At the count of votes the Returning Officer shall endorse any ballot paper appearing to him to be void under section 54 with the word "rejected" and if an objection is made by or on behalf of any candidate shall further endorse it with the words "rejection objected to".

11 (1) On the completion of the counting of the votes the Returning Officer in the presence of such of the candidates as may choose to attend, shall seal up in separate packets all—

(a) counted ballot papers;

(b) rejected ballot papers;

(c) spoilt ballot papers; and

(d) unused ballot papers in his possession,

and shall endorse on each packet a description of its contents, the date of the election, and the name of the constituency.

(2) The Returning Officer shall then deliver all the aforesaid packets so endorsed to the Registrar together with a statement showing the total number of ballot papers prepared by him for the election and accounting for them all under one of the heads above mentioned.

[Paragraphs 2, 6, 7 and 8 of the Schedule amended by 1999:15 s.24 effective 11 May 1999; paragraph 4(2)(a)(i) substituted by 2003:11 s.15 effective 9 June 2003]

[Assent Date: 7 June 1978]

[*Amended by:*

1979 : 31
1980 : 42
1984 : 31
1989 : 57
1994 : 19
1997 : 22
1999 : 5
1999 : 15
2003 : 11
2007 : 26
2012 : 17
2013 : 30
2016 : 47
2018 : 66]