LAWS OF SEYCHELLES

ELECTIONS ACT

CHAPTER 262

(Revised up to 31st August 2020)

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CHAPTER 262

ELECTIONS ACT

(20th November, 1995)

Act. 17 of 1995
Act. 19 of 1996
S.I. 86 of 2010
Act. 4 of 2011
Act. 9 of 2011
*Act. 27 of 2014
Act. 8 of 2015
Act. 14 of 2015
S.I. 18 of 2015
S.I. 60 of 2015
Act 13 of 2016
S.I. 46 of 2016
S.I. 56 of 2016
S.I. 57 of 2016
S.I. 59 of 2016
Act 23 of 2018
Act 24 of 2020

ARRANGEMENT OF SECTIONS

PART I - PRELIMINARY

Section

1. Short title
2. Interpretation
3. Appointment of officers
4. Electoral area

PART II – REGISTRATION ON VOTERS

5. Qualification for registration
6. Qualification to vote
7. Register of voters
8. Inspection of register
9. Certification of register
10. Display and Inspection of Registers
10.A Rights of Residents of New Electoral Areas
10.B Right to Register as New Voters
10.C Citizen Residing Overseas May Vote

PART III – PRESIDENTIAL ELECTION AND NATIONAL ASSEMBLY ELECTION

11. Presidential election
12. National Assembly election
13. Date of election

14. Nomination day

15. Requirements for nomination

15A. Power to postpone or adjourn nomination

Section

16. Withdrawal of candidate

17. Notice of names of candidates and polling stations

18. Polling for the elections

19. Powers to postpone or adjourn voting

20. Polling agents and counting agents

21. Arrangements at polling station

22. Admission to polling station

23. Form of ballot paper

24. Procedure before commencement of election

24A. Commencement of Voting

25. Procedure for voting

25A. Time off to vote

26. Allegation of irregularities

27. Declaration of voter

28. No communication with a voter at the polling station

29. Procedure on the close of poll

30. Electoral area consisting of islands other than Mahe and Praslin

31. Enumerators

32. Persons who may be present at counting of votes

33. Procedure before counting of votes

34. Counting

35. Recount

36. Conclusion of counting

37. Second ballot

38. Notice of result of election
39. Disposal of ballot papers
40. Delegation

Section

41. Non attendance of candidate, polling agent or election agent
42. Right to refuse disclosure of vote
43. Avoidance of elections
44. Election petition
45. Trial of election petition
46. Certificate of Courts as to validity of election
47. Report of Court as to illegal practice
48. Secrecy
49. Inaccurate description
50. Electoral campaign
51. Offences
52. Penalties
53. Arrest without warrant

PART IV – REFERENDUM

54. Reference of issue to Electoral Commission
55. Date of referendum
56. Question for approval at referendum
57. Polling station and time of voting
58. Polling for a referendum
59. Power to adjourn voting
60. Polling agents and counting agents
61. Arrangement at polling station

62. Admission to polling station
63. Form of ballot paper
64. Procedure before commencement of voting

Section

65. Procedure for voting
66. Allegation if irregularities
67. Declaration of voter
68. No communication with voter at polling station
69. Procedure on close of poll
70. Electoral areas consisting of islands other than Mahe and Praslin
71. Enumerator
72. Person who may be present at the counting
73. Procedure before voting
74. Counting
75. Recount
76. Conclusion of counting
77. Notice of result
78. Disposal of ballot papers
79. Delegation
80. Non attendance of person
81. Right to refuse disclosure of vote
82. Avoidance of referendum
83. Referendum petition
84. Trial of referendum petition
85. Certificate of Court as to validity of referendum
86. Report of Supreme Court as to illegal practice

87. Secrecy

88. Inaccurate description

89. Referendum campaign

90. Offences

Section

91. Penalties

92. Arrest without a warrant

92A. Appointment, Term of Office, Duties and functions of the Chief Electoral Officer

PART V - MISCELLANEOUS

93. Election expenses

94. Statement of receipts and expenses

95. Right to campaign and right to broadcast in respect of an election

96. Public meetings

97. Political broadcast

98. Rules of Court

99. Regulations

100. Savings and Transitional Provisions

Schedules 1 and 2

PART I – PRELIMINARY

Short title and application

1.(1) This Act may be cited as the Elections Act.

(2) This Act shall apply for the purposes of –

(a) an election of the President;

(b) an election of a directly elected member of the National Assembly; and

Cap 42

(c) a referendum, under the Constitution.

Interpretation

2. In this Act –

Cap 42

"directly elected member" means a member of the National Assembly referred to in article 78(a) of the Constitution;

"election" means a Presidential Election or a National Assembly Election;

"electoral area" means an electoral area referred to in articles 112 of the Constitution;

"Electoral Commission" means the Electoral Commission established under articles 115 of the Constitution of the Republic of Seychelles;

"lobby" mean a lobby constituted under section 60(2);

"National Assembly Election" means an election to elect a directly elected member;

"Outer Islands" means the islands specified as Outer Islands in Part II of Schedule 1 of the Constitution;

"Presidential Election" means an election to elect the President of Seychelles;

"rejected ballot paper" means a ballot paper rejected under section 34(2)

2/4/2011

"Reside" means being resident in an electoral area for a minimum period of three months;

"spoiled ballot paper" means a ballot paper which on polling day has not been deposited into the ballot box but has been found by the Electoral

31/08/2020

Officer to be spoiled, improperly printed or has been spoiled by the voter and handed back to the Electoral Officer in exchange for another ballot paper;

"total votes cast" or "total votes polled" means the total number of ballot papers found in the ballot box at the time of an election or referendum;

"valid votes cast" means the total number of ballot papers found in the ballot box, minus those ballot papers that are unmarked that in the opinion of the Electoral Officer they cannot be counted and which are classified as rejected ballot papers;

"votes cast in favour of a candidate" means all valid votes case in favour of a candidate, found in the ballot box at the time of an election"

Appointment of officers

3.(1) The Electoral Commission shall, for the purposes of this Act, appoint-

(a) a Chief Registration Officer who shall, subject to the directions of the Electoral Commission be responsible for the registration of voters under this Act;

(b) a Chief Electoral Officer who shall, subject to the directions of the Electoral Commission, be responsible for the supervision of elections or a referendum under this Act;

(c) a Registration Officer for each electoral area and such number of Assistant Registration Officers as the Electoral Commission thinks fit for each such areas; and

(d) an Electoral Officer for each electoral area and such number of Deputy Electoral Officers and Assistant Electoral Officers as the Electoral

31/08/2020

Commission thinks fit for each such area.

(1A) The Chief Electoral Officer shall be the Chief Executive Officer of the Electoral Commission under the supervision of the Electoral Commission. 02/23/2018

(1B) Subject to other provision of this Act the term of office, the duties and functions of the Chief Electoral Officer other than those provided elsewhere in the Act shall be as provided in section 92A.

(2) The Chief Registration Officer and the Chief Electoral Officer may give directions not inconsistent with this Act to any person exercising a function in connection with the registration of voter or the conduct of an election or a referendum, as the case may be, and such person shall comply with the directions.

(3) The Registration Officers and Assistant Registration Officers, may, subject to the directions of the Chief Registration Officer, exercise and perform in the electoral areas for which they are appointed, all the functions conferred on the Chief Registration Officer under this Act.

(4) The Electoral Officers and Assistant Electoral Officers, may, subject to the directions of the Chief Electoral Officers, exercise and perform in the electoral areas for which they are appointed all the functions conferred on the Chief Electoral Officer under this Act.

(5) A person appointed under this section may at any time demand from any person any information necessary to ascertain whether the person is qualified to be registered as a voter in an electoral area or to vote in an electoral area.

(6) The Chief Registration Officer or the Chief Electoral Officer or a Registration Officer or an Electoral Officer may, for the purpose of this Act, administer oaths and may require any declaration, information or explanation

given by a person for the purpose of this Act to be verified on oath.

(7) An appointment made under subsection (1) shall be published in the Gazette.

(8) A person appointed under subsection (1) shall, before taking office, take and subscribe before the Electoral Commission an oath of secrecy provided by the Commission.

31/08/2020

(9) Every person appointed to the Electoral Commission shall be of proven integrity and shall not demonstrate partisanship to any person or political party

Electoral areas

Cap.42

4. For the purposes of this Act, Seychelles shall consist of such number of electoral area into which Seychelles is divided under articles 112 and 116 of the Constitution:

Provided that the electoral areas into which Seychelles is divided at the commencement of this Act shall, until any determination is made under those articles, be deemed to be the electoral areas for the purposes of this Act.

PART II – REGISTRATION OF VOTER

Qualification for registration Cap 42

2/27/2014

5.(1) Every citizen of Seychelles entitled to be registered as a voter under article 114 of the Constitution and who has attained the age of eighteen years shall, if the citizen resides in an electoral area and possesses a National Identity Card issued in his favour under that National Identity Cards Act (Cap 294), be registered as a voter in that electoral area unless the citizen –

(a) is disqualified from registering as a voter under this Act or any other written law;

(b) is under any written law, adjudged or otherwise declared to be of unsound mind or

detained as a criminal lunatic at the pleasure of the President;

(c) is serving a sentence of imprisonment exceeding six months imposed by a court in Seychelles.

(2) No person shall be registered as a voter in more than one electoral area.

2/27/2014

(3) Any citizen of Seychelles living overseas may be registered as a voter if –

31/08/2020

(a) he is issued with a National Identity Card under the National Identity Cards Act; and

(b) he resides in an electoral area for a minimum period of three months immediately prior to registration.

Qualification to vote

2/27/2014

6. Every person registered as a voter in an electoral area is entitled to vote, in accordance with this Act, at an election or at a referendum in the electoral area unless –

(a) any circumstances, other than the fact that the person no longer resides in the electoral area, have arisen which if the person were not registered as a voter would cause the person to be disqualified under section 5(1)(a), (b) or (c);

2/27/2014

(b) the person is serving a sentence of imprisonment.

Register of voters
2/19/1996

7.(1) The Chief Registration Officer shall for every year prepare a register of voters, for each electoral area.

(2) In the preparation of a register of voters under subsection (1), the Chief Registration Officer may use –

Cap. 138A

(a) any information furnished to the Chief Officer of the Civil Status for the issue of the National Identity Cards under the National Identity Cards Act and for that purpose may require the Chief Officer of the Civil Status to communicate to the Chief Registration Officer such information;

Cap. 34

(b) any information furnished to the Chief Officer of the Civil Status for the registration of births and

deaths under the Civil Status Act and for that purpose, may require the Chief Officer of the Civil Status to communicate to the Chief Registration Officer such information;

(c) any information recorded in the National Population Data Base compiled by the Chief Officer of the Civil Status and for that purposes, may require any such information to be communicated to the Chief Registration Officer;

Cap.30

(d) any information recorded in the register maintained under section 9 of the Citizenship Act and, for that purpose, may require the Citizenship Officer to communicate to the Chief Registration Officer such information;

Cap 25

Cap.25

(e) notwithstanding anything to the contrary in the Census Act, any information compiled by a census officer under that Act, and, for the purpose, may require the Census Commissioner to communicate to the Chief Registration Officer such information;

(f) any information furnished to the Chief Registration Officer by any person who is or claims to be entitled to have the name of that person entered in a Register of voters in an electoral area;

(g) such other information as the Chief Registration Officer may obtain from a house to house or other sufficient inquiry; and;

(h) information contained in any previous register of voters.

(3) The information acquired under subsection (2) (a) to (g) shall only be used for the preparation of a register of voters and shall not be divulged or communicated to any person otherwise than in the performance of the functions under this Act.

(4) The Chief Registration Officer may, on information referred to in subsection (2), revise not less than once in each year, the registers prepared under subsection (1) for the purposes of –

(a) removing any obsolete entries;

(b) correcting any mistake in respect of the name and other particulars of a registered voter;

(c) where a registered voter has changed the residence to another electoral area, registered the voter in the register of that area;

(d) deleting the name and other particulars of a person not qualified to be entered as a voter;

(e) inserting the name and other particulars of a person entitled to have the name of that person entered in the register under subsection (5).

(4A) For the purpose of subsection (4)(a),—

(a) the Chief Registration Officer shall, on every 31st December in every year, prepare, from the register of voters, a list of all voters attaining the age of 100, on or before that date, from each electoral area;

31/08/2020

(b) the list prepared under paragraph (a) shall be checked and a verification of residence and presence of all such voters shall be carried out in accordance with paragraphs 7 and 8 of Chapter I of Schedule 3;

(c) if, during the verification under paragraph (b), the voter is found, no action is to be taken and the name of the voter shall remain on the register of

voters;

(d) if, during the verification under paragraph (b), any such voter is not found, a list of all such voters, containing their identity numbers, names and surnames, date of birth and the page and serial number as they appear in the register of voters, to be prepared for each electoral area and kept at every administrative district and at such other places as may be considered necessary for public reference;

(e) a list of voters prepared under paragraph (d) shall be published in a local newspaper, and a copy thereof shall be provided to every political party, indicating that the name of persons referred to in this subsection shall be deleted from the register unless it is ascertained that they are not yet deceased;

(f) any person who is aware that any of the persons listed on the list of voters prepared under paragraph (d) is still alive may make an objection against the deletion within 14 working days from the date of the first publication;

(g) if any voter in the list prepared under paragraph (d) is not found to be verified by 31st March, the entry of such voter shall be removed from the register of voters and the register shall be certified in accordance with section 9(1);

(h) any person whose name is deleted under this section and who, later transpires, is still alive, is to be reinstated upon a written application made to the Commission and upon the Commission being satisfied that the person is qualified to be registered.

(5) The register of voters prepared or revised under subsection (1) or subsection (4) shall contain –

(a) names of persons who on 1st January of the year for which the register is prepared or revised are entitled to be registered as voters; and

2/27/2014 (b) Repealed.

2/27/2014 (6) Repealed.

Voters' census

7A. (1) The Electoral Commission shall cause to be conducted a voters' census at five year intervals.

31/08/2020

(2) A notice for voters' census under subsection (1) shall be published in the *Gazette,* containing the date and the period during which the voters' census shall be held.

Inspection of registers

2/19/1996

2/27/2014

8.(1) The Chief Registration officer shall not later than 15th January of each year publish a notice in the Gazette and a local newspaper inviting any person who is or claims to be entitled to have the name of that person entered in the register of voters in an electoral area to inspect the registers prepared or revised under section 7 during the preceeding year.

(1A) The register of voters shall, throughout the year, remain open for inspection.

Provided that the register of voters shall be closed for inspection for the period –

(a) from the date of the issue of the notice under section 13(1) by the Electoral Commission; and

(b) in case of a by-election, from the date on which the Speaker declares the seat vacant,

to the date of the declaration of result of election under section 38;

(1B) The Electoral Commission shall, make year round arrangements for registration of new voters, claim or objections, transfer of voters from one electoral area to another and to make changes in the demographic information on the register of voters.

(1C) The establishment of registration centres, procedures for submitting applications, claims or objections and verifications thereof, appeals if any, and publication of register of voters and other related matters shall, subject to this section, be as provided in Schedule 3;

(2) Any person who is or claims to be entitled to have the name of that person entered in a register of voters in any electoral area may, at any time during office hours on application made to the Registration Officer of that area in the form to be provided by Electoral Commission, inspect the register of voters for that area. 2/27/2014

(2A) A registered voter who has changed his residence from one electoral area to another, may request for his registration as a voter to be transferred to the electoral area or his new residence.

(3) Any person who –

(a) claims to be entitled to have the name of that person entered in a register of voters in an electoral area but whose name does not appear on the register of voters in that area;

(b) claims to be incorrectly entered on the register of that area;

(bb) Makes a claim for transfer of his registration as a voter from one electoral area to another.

(c) objects to the name of the person or, being a person whose name appears on the register, objects to the name of any other person, appearing on the register of that area,

2/27/2014

may submit a claim or objection, to the Registration Officer of that area in such form as may be provided by the Electoral Commission.

2/27/2014

(4) The Registration Officer shall take a decision on the claims or objections, as the case may be, made under subsection (3) in accordance with the provisions contained in Schedule 3.

2/27/2014

(5) Where the registration of a voter has been transferred from one electoral area to another, the details of the voter shall be entered in the register of voters in the electoral area where he resides and his registration as a voter in old electoral area shall be deleted.

2/27/2014

(6) Repealed.

(7) Any person affected by a decision on a claim or objection made under subsection (3), may within 7 days of being notified of the decision appeal against the decision to the Chief Registration Officer.

(8) The Chief Registration Officer shall, after giving 4 days' notice in writing to the person who made the appeal under subsection (7), which notice shall be given within 3 days after receiving the appeal, hear the person if the person appears in response to the notice, and after considering such other evidence as the Chief Registration Officer thinks relevant and necessary allow or reject the appeal.

(9) Repealed. 2/27/2014

.) The Chief Registration Officer shall, after all ections and appeals have been concluded under

Certificate of Register 2/9/1996 2/27/2014

section 8, amend the register or voters for each electoral area accordingly and certify the registers.

Provided that the amended registers of voters under this subsection shall be certified and published on the 31st March:

Provided further that the Chief Registration Officer shall in a year in which an election is held, amend the register of voters –

(a) for each electoral area by including therein or deleting therefrom the names of persons registered as voters or otherwise between the period from the date on which the registers were previously certified and the date on which the notice under section 13(1) was issued; and

(b) in case of a by-election, for that electoral area including therein or deleting therefrom the names of persons registered as voters or otherwise between the period from the date on which the register was previously certified and the date on which the Speaker declares the seat vacant,

and certify and publish such amended registers of voters, as early as practicable.

(2) The registers of voters certified under subsection (1) shall be the registers for the purposes of an election or referendum held in any period prior to the next following certification of the registers under that subsection.

(2A) For the purposes of facilitating the voting process in an election or referendum in alphabetical groupings, the copy of the register of voters as certified under subsection (1) may be divided into such parts as the Electoral Commission deems fit and each section shall be certified.

(2B) In case of any discrepancy in the register of voters divided into different parts under subsection

(2A), the register of voters as certified under subsection (1) shall prevail.

2/27/201
2/8/2015

(3) The Electoral Commission shall provide the registered political parties with an electronic copy in a secured format as determined by the Electoral Commission and a hard copy of the registered of voters and amended registers of voters, if any, as certified under subsection (1) which shall contain only the name, date of birth, address, National Identity Number and electoral area, of the voters.

Display and inspection of registers
2/027/2014

10. The Registration Officer shall display the registers of voters certified under section 9 for inspection by a new voter or a voter who applied for any change, to verify that his name has been entered or change has been effected in the register.

PART II – A

2/13/2016

Right of residents of new electoral areas

10A. Notwithstanding section 5, where an electoral Area published under Article 116(5) of the Constitution has not come into operation and an election or referendum is held before the dissolution of the National Assembly a citizen who is a resident of the Electoral Area so published and who has registered as a voter in any electoral area may vote in the electoral area where he or she has registered.

Right to register as new voters

10B. Notwithstanding section 5, a citizen residing in a electoral area published under article 116(5) and who has attained the age of eighteen years, may register as a voter in the electoral area of his or her last known residence and vote in a election or referendum specified in section 10A unless he or she is disqualified from registration under section 5(1).

Citizen residing overseas may vote

10C. Notwithstanding section 5(3), any citizen of Seychelles living overseas who is residing in an electoral area published under article 116(5), may register as a voter in an electoral area where he or she last resided before leaving to reside overseas unless he or she is disqualified from registration under section 5(1).

PART III – PRESIDENTIAL ELECTION AND NATIONAL ASSEMBLY ELECTION

Presidential Election

11. A Presidential Election for the election of the President shall be held during the period specified in paragraph 4 of Schedule 3 of the Constitution.

National Assembly Election

2/13/2016

12.(1) A National Assembly Election may be –

(a) a general election;

(b) a by-election;

(c) An election for a new Electoral Area published under Article 116;

for the election of the directly elected members of the National Assembly.

(2) A general election shall be held –

Cap 42

(a) during the period specified in article 79(1) of the Constitution, where the Assembly would stand dissolved by effluxion of the period specified in article 106(1) of the Constitution; or

(b) during the period of three (3) months beginning with the date the Assembly would stand dissolved under article 106(3) of the Constitution; or

(c) during the period of three (3) months beginning with the date the Assembly would stand dissolved under article 110 or article 111 of the Constitution.

(3) A by-election shall be held during the period specified in article 79(2) of the Constitution.

2/13/2016

(4) An election to an area specified under subsection (1)(c) shall be held within a period of one year from the date of the next dissolution of the National Assembly after the electoral area is so published.

(5) The Electoral Commission may, for holding an election under subsection (4), require the residents to register as voters or apply for transfer of their registration, or by itself transfer the voters residing in that electoral area who are registered as voters in other electoral areas having regard to the census of residents held immediately before or after the coming into operation of the electoral area under article 116;

13.(1) The Electoral Commission shall, by notice in the Gazette, appoint the date or dates on which a Presidential Election or a National Assembly Election shall be held under this Act.

(2) The Electoral Commission may appoint different dates for the holding of a Presidential Election or a National Assembly Election or for the holding of those elections in different electoral areas.

(3) Where a Presidential Election and a National Assembly Election are to be held simultaneously the two elections shall begin on the same day.

14.(1) The Electoral Commission shall, at least 21 days before the earliest date fixed under section 13 for a Presidential Election or a National Assembly Election, hereafter referred to as the "election day," by notice in the Gazette, appoint the date, place and time for the nomination of candidates for the Presidential Election or the National Assembly Election and shall in the notice specify –

(a) the sum required to be deposited or secured with the Electoral Commission by each candidate for each such election, and the form and manner in which such sum shall be deposited or secured.

(b) the number of persons required to endorse the nomination paper of each such candidate.

(2) The Electoral Commission may, in the case of a National Assembly Election, appoint the same place or different places for nomination of candidates for the election.

(3) The date appointed under subsection (1) shall hereafter be referred to as the "Nomination day".

(4) The filing of nomination of candidates on the Nomination day shall be from 9am to 1pm. 2/27/2014

(5) The sum specified by the Electoral Commission under subsection (1) (a) shall not be less than –

(a) R15000 in the case of the Presidential Election; and

(b) R1500 in the case of a National Assembly Election.

(6) The number of persons specified by the Electoral Commission under subsection (1) (b) shall not be less than –

(a) 500 persons in the case of the Presidential Election; and

(b) 50 persons in the case of a National Assembly Election.

Requirements for nomination

15.(1) Every candidate for a Presidential Election or a National Assembly Election shall be nominated by means of a nomination paper provided for the purposes by the Electoral Commission.

(2) The nomination paper shall be submitted by each candidate on the nomination day at the time and place appointed in the notice published under section 14 –

(a) in the case of the Presidential Election to the Chief Electoral Officer; and

(b) in the case of the National Assembly Election, to the Electoral Officer appointed for the electoral area for which the candidate proposes to stand for election.

(3) The nomination paper submitted by each candidate for a Presidential Election or a National Assembly Election shall be signed by the candidate and –

(a) in the case of the Presidential Election, shall be endorsed to the satisfaction of the Chief Electoral Officer by such number of persons entitled to vote at that election as is specified in the notice published under section 14(1).

(b) in the case of a National Assembly Election, shall be endorsed to the satisfaction of the Electoral Officer by such number of persons entitled to vote at that election in the electoral area for which the candidate stands for election as is specified in the notice published under section 14(1).

Provided that where the name of a voter has been entered in the nomination paper as an endorsement for a candidate to stand for election without the consent or knowledge of the voter, the onus of which shall lie on the voter to prove to the criminal standard, the nomination paper of the candidate shall be rejected.

31/08/2020

For the purposes of this subsection, there shall be a presumption that the name of a voter in the nomination paper of a candidate was made by the voter with the voter's consent.

(4) Each nomination paper shall be accompanied by –

(a) a certificate issued by the Electoral Commission certifying the deposit of or securing the sum specified in the notice published under section 14(1);

(b) such number of photographs of the candidate in such form and of such size as the Electoral Commission may specify in the nomination paper provided by the Commission;

2/27/2014

(c) a symbol or a colour to identify the political party of the candidate, or if the candidate is an independent candidate, the candidate, along with a copy of the symbol or the colour in digital format; and

31/08/2020

(d) a copy of the National Identity Card of each person endorsing the candidate to stand for election

(5) Any nomination paper submitted after the expiration of the time specified in the notice published under section 14(1) shall be invalid and shall be rejected.

(6) After the expiration of the time specified in the notice published under section 14(1) for submission of nominations –

(a) in the case of the Presidential Election, the Chief Electoral Officer;

(a) in the case of a National Assembly Election, the Electoral Officer to whom the nomination is submitted,

shall, as soon as practicable thereafter, determine whether to accept or reject the nomination paper submitted within the time specified in the notice.

(7) For the purposes of subsection (6), the Chief Election Officer or the Electoral Officer, as the case may be, shall permit each candidate to examine the nomination papers of other candidates.

(8) A candidate may object the acceptance of a nomination paper of any other candidate on the grounds that – 2/27/2014

(a) the other candidate is not qualified to stand for the election for which the candidate seeks to stand;

(b) the nomination paper does not comply with subsections (1) to (4);

(c) the description of the candidate on the nomination paper is insufficient to identify the candidate;

(d) the candidate is not registered as a voter in the last published register of voters; or

(e) the candidate already stands nominated for Presidential election or, as the case may be, for another electoral area in case of a National Assembly election.

(9) The Chief Electoral Officer or, as the case may be, the Electoral Officer shall consider the objections and determine whether to accept or reject the nomination paper.

2/27/2014

(9A) The Chief Electoral Officer shall, before taking a decision on the objection, give the candidate against whom the objection is made an opportunity of being heard.

(9B) Where the Chief Electoral Officer or, as the case may be, the Electoral Officer rejects the nomination paper of a candidate, the sum deposited or secured pursuant to the notice under section 14(1) shall be refunded or returned.

(10) The determination made under this section by the Chief Electoral Officer or, as the case may be, the Electoral Officer shall be final.

(11) The determination made under subsection (9) shall not prevent the validity of the nomination of a candidate from being questioned in an election petition under section 44.

(12) Articles 51(1) and (2), 113, 114 of the Constitution shall apply for the purposes of the Presidential Election.

Cap 42

(13) Articles 79(3) to (7), 80, 113 and 114 of the Constitution shall apply for the purposes of a National Assembly Election.

(14) Save a provided in the Third Schedule of the Constitution, the Chief Electoral Officer or, as the case may be, the Electoral Officer shall, on the Nomination day, follow the procedure as specified in Schedule 3.

Power to Postpone or Adjourn Nomination

2/17/2014

15A. (1) Where proceedings at a nomination day are interrupted or obstructed by force majeure the Chief Electoral Officer or, as the case may be, the Electoral Officer may be –

(a) may adjourn the proceedings until the following day;

(b) Shall affix a notice to that effect in a conspicuous place at the nomination centre; and

(c) Shall forthwith notify the Electoral Commission and the Chief Electoral Officer, as the case may be, of the adjournment.

(2) Where proceedings are adjourned on nomination day under this subsection (1), the hours of submission of nomination papers on the following day shall be the same as those originally specified

31/08/2020

Withdrawal of candidate

16. A candidate for the President Election or a National Assembly Election may withdraw the nomination at any time by notice in writing to the Electoral Commission and shall, where the candidate withdraws the nomination at least 7 days before the election day, be refunded the deposit or returned the security for the deposit specified in the notice under section 14.

Notices of names of candidates and polling stations

17.(1) The Chief Electoral Officer shall at least 15 days before the election day by notice published in the Gazette and a local newspaper specify –

(a) the address of the polling station for each electoral area;

(b) the time when voting may commence and the time

of closing of the poll;

(c) the names of each candidates for the election, the name of the registered political party of which the candidate is a member or the fact that the candidate is an independent candidate and the symbol or the colour of each candidate;

(d) where a Presidential Election and a National Assembly Election are held simultaneously –

(i) the Chief Electoral Officer may specify under paragraph (a) the same polling station for the conduct of each such election; and

(ii) the particulars in paragraph (c) shall be specified separately for each such election.

(2) Notwithstanding subsection (1)(b), the Electoral Officer of an electoral area shall allow a voter of the electoral area who at the time specified for the closing of the poll in the notice published under that subsection –

(a) is inside the polling station; or

(b) in the opinion of the Electoral Officers was, in the immediate precincts of the polling station at that time but was prevented from entering the polling station because of congestion therein, to vote at the election before closing the poll.

Polling for the Elections Act. 4 of 2011

18.(1) Subject to subsections (2), (3) and (4) polling for–

(a) a Presidential election shall be conducted at each of the polling stations specified for each electoral area under section 17;

(b) a National Assembly Election shall, in respect of each electoral area for which an election is held, be conducted at the polling station specified for that area under section 17.

(2) The Chief Electoral Officer shall provide voting facilities for voters —

(a) temporarily on Mahé, who are registered in electoral areas other than those situated on Mahé, on the date of the election in those electoral areas;

(b) temporarily residing on the Island of Praslin, and Inner Islands for employment reasons, who are registered in electoral areas on Mahé;

(c) incapacitated and elderly residing in the institutions set out in the schedule; and

(d) who are registered in any electoral areas and employed in the essential services, as set out in the schedule 2, and on the date of election are on duty away from their electoral area.

(e) Who for the time being detained but not serving a sentence of imprisonment. 2/27/2014

(f) In any other special circumstances the Chief Electoral Officer considers it appropriate. 2/4/2015

(2A) Voters under subsection (2) when so voting shall be deemed to have voted in the electoral area in which they have registered.

(3) Polling for an election in the Outer Islands shall be conducted in such manner as the Chief Electoral Officer determines and any voter so voting shall be deemed to have voted in the electoral area in which the voter is registered.

(4) The Chief Electoral Officer shall provide voting facilities for Electoral Officers, Assistant Electoral Officers and police officers on duty at a polling station of an electoral area other than that in which they are registered as voters to vote on the day on which they are

on duty or on the immediately preceding day and when they have so voted they shall be deemed to have voted in the electoral area in which they are registered.

(5) The Chief Electoral Officer shall provide sufficient ballot boxes for an election at each polling station.

(6) Where polling for a Presidential Election and a National Assembly Election are held simultaneously –

(a) polling for each such election shall be conducted simultaneously at each polling station;

(b) sufficient ballot boxes shall be provided separately for each such election;

(c) the Electoral Officer at each polling station shall organize and conduct the polling station so as to avoid any confusion which may arise by reason of each such election being held simultaneously at each such polling station;

(d) it shall not be necessary to call out the number and particulars of the voter twice by reason of the voter voting in both elections but where such requirements are compiled with immediately before the voter is issued with the ballot paper for one election, this may be dispensed with for the other election before the issue of the ballot paper for the other election.

Power to postpone or adjourn voting

19.(1) Where proceeding at a polling station are interrupted or obstructed by riot or violence, the Electoral Officer of the station may adjourn the proceedings until the following day, shall affix a notice to that effect in a conspicuous place at the polling station

and shall forthwith notify the Electoral Commission and the Chief Electoral Officer of the adjournment.

(2) Where the proceedings are adjourned at a polling station under subsection (1), the hours of polling on the following day shall be the same as those specified for the day on which the election was originally scheduled to take place.

Polling agents And counting agents

20.(1) Each candidate may appoint a person to be known as a polling agent to attend at the polling station during voting and a person to be known as a counting agent to attend the counting of votes at the place of counting votes.

(2) Each candidate shall not later than 7 days before the election day notify in writing the Chief Electoral Officer, the name, National Identity Number and address of the polling agent and counting agent of the candidate.

(3) The Chief Electoral Officer shall as soon as is practicable before the election day issue a polling agent and a counting agent a certificate and –

(a) an Electoral Officer shall not allow a person to attend at a polling station as a polling agent;

(b) the Chief Electoral Officer or the Electoral Officer, as the case may be, shall not allow a person to attend at the counting of votes as a counting agent,

unless the person holds the certificate issued by the Chief Electoral Officer.

(4) When the polling agent or the counting agent of a candidate dies or becomes incapable of performing functions as polling agent or counting agent before the election day, the candidate shall forthwith appoint another person as polling agent or counting agent, as the case may be, and shall notify the Chief Electoral

Officer in writing of the change and the reasons therefore and the Chief Electoral Officer shall issue a certificate to the person so appointed.

(5) A polling agent shall, as far as is practicable, be so posted at a polling station so as to be able to see each person being called, see the ballot paper being handed and see the entrance of the compartment used by the voter for the purpose of recording the vote but so that the polling agent cannot see how the voter votes.

(6) A candidate may appoint more than one person as a polling agent but not more than one such person shall at any one time be posted at a separate voting facility within a polling station as the polling agent of the candidate.

31/08/2020

(7) A candidate may appoint the same person as the polling agent and counting agent and, where a Presidential Election and a National Assembly Election are held simultaneously, a person appointed as polling agent for a candidate nominated candidate nominated by a political party for the Presidential Election may be appointed as the polling agent for a candidate of the same political party for a National Assembly Election at the same polling station.

Arrangements at Polling Station

21.(1) A polling station shall be furnished with –

(a) such number of compartments as the Electoral Officer of that station thinks necessary for the purpose of allowing voters to record their votes screened from observation;

(b) sufficient number of ballot boxes for the election;

(c) notices both inside and outside the station, containing instructions relating to the voting to be followed at the election;

(d) notices showing the name of each candidates at the election together with the photograph of the candidate, the registered political party or the independent status of the candidate and the symbol or colour of the candidate as the case may be;

(e) sufficient copies of the register of voters for the electoral area certified under section 9; and

(f) such other things which the Chief Electoral Officer may, direct to be kept at the polling agent.

(1A) A polling agent of a candidates shall not carry into or use in the polling station any electronic or telecommunication instrument or device unless authorized by the Electoral commission. 2/27/2014

(2) Where the Presidential Election and a National Assembly Election are held simultaneously at the same polling station –

(a) the polling station shall be furnished with sufficient number of ballot boxes for each such election;

(b) the notices specified in subsection (1)(c) and (d) shall contain the particulars separately for each such election.

(3) A ballot box shall be so constructed that a voter can put the ballot paper inside but cannot withdraw it from the box without breaching the seal of the box referred to in section 24.

(4) The Electoral Officer shall make special arrangements in the polling station for the aged, pregnant women and voters requiring assistance to vote 31/08/2020

22.(1) The Electoral Officer of a polling station shall – Admission to Polling station

(a) regulate the admission of persons wishing to vote at the polling station;

(b) exclude all other persons, other than a person selected by a voter under section 25(3), the candidates, polling agents of the candidates, the leader of registered political parties of the candidates, Assistant Electoral Officers, police officer on duty, Electoral Commission, Chief Electoral Officer or any person authorised by the Electoral Commission or the Chief Electoral Officer.

(2) The Electoral Officer of a polling station may order a police officer or any person authorised in writing by the Electoral Officer to remove a person who misbehaves or fails to obey lawful orders of the Electoral Officer at the polling station and the person so removed shall not, unless authorised by the Election Officer, again be allowed to enter the polling station and may be charged with the commission of an offence.

Form of ballot paper

23. (1) The ballot paper shall be in such form and such colour as the Electoral Commission may approve and where a Presidential Election and a National Assembly Election are held simultaneously the ballot paper for the Presidential Election shall have at its outer edges on both sides of the ballot paper a border in such colour as the Electoral Commission may approve so as to differentiate if from the ballot paper for the National Assembly election.

(2) The ballot paper shall be perforated to facilitate removal from the stub and each stub shall have a serial number.

31/08/2020

Procedure before Commencement of election

24. The Electoral Officer at the polling station shall, immediately before the beginning of voting at a polling station, show to persons lawfully present at the station that the ballot

boxes are empty and then shall close and seal the boxes in such a manner as to prevent the boxes from being opened without the seals being broken.

Commencement of voting
2/27/2014

24.A(1) The voting for an election shall begin at 7am and end at 7pm.

(2) Where the voting at a polling station does not begin at the time specified under subsection (1) or the voting has been discontinued by the Electoral Officer or the Assistant Electoral Officer for any reason which in the opinion of the Electoral Officer or, as the case may be, the Assistant Electoral Officer sufficient to discontinue the voting the Chief Electoral Officer or the Electoral Officer, may extend the time of voting at the polling station by such time the voting was delayed or discontinued.

Commencement of Voting

2/27/2014

25.(1) Voting for an election at the polling station shall be conducted in substance and as nearly as possible in the following manner -

(a) a person wishing to vote at the polling station shall –

31/08/2020

(i) attend personally the polling Station and follow the instructions of the Electoral Officer;

(ii) produce the National Identity Card of the person or satisfy the Election Officer of the identity and that the person has not voted at the station or elsewhere at the election;

(iii) follow the queue according to the designated alphabetical grouping in which the voter's surname appears or as instructed by the Electoral Officer

(b) the Electoral Officer, on being satisfied as provided in paragraph (a), shall –

31/08/2020

(i) call out the full name of the voter and page number and line number where the voter's particulars appear in the copy of the register at the polling station;

(ii) stamp a ballot paper with an official mark and deliver it to the person;

(iii) place a mark against the name of the person on the copy of the register of voters to denote that a ballot paper in respect of the election has been delivered to the person; and

(iv) explain to the person how to record the vote; and

(c) subject to subsection (3), the person shall go immediately into one of the compartments at the polling station and, without delay, record the vote in the manner explained in the notices referred to in section 21 (1) (c) and by the Electoral Officer, fold the ballot paper in such manner as not to reveal the identity of the candidate for whom the vote has been recorded and place the ballot paper in the ballot box provided for this purpose.

(2) Where the Presidential Election and a National Assembly election are held simultaneously, subsection (1) shall apply subject to the following provisions-

(a) subsection (1)(b)(i) shall be subject to section 18(6)(d);

(b) in complying with subsection (1)(b)(ii), the Electoral Officer shall stamp and deliver a ballot paper separately for each such election

(c) in complying with subsection (1)(c), fold and place each such ballot paper in the manner specified in that subsection.

(3) An incapacitated voter shall, after receiving the ballot paper or the ballot paper, as the case may be, enter the compartment or the place designated for the purpose by the Electoral Officer accompanied by the Electoral Officer and a person selected by the voter and in the presence of the person selected direct the Electoral Officer how the vote is to be cast and the Electoral Officer shall in the presence of the person selected mark the ballot paper or the ballot papers, of the voter accordingly, fold the ballot paper or the ballot papers in such manner as not to reveal the identity of the candidate for whom the vote has been recorded and after leaving the compartment or the place designated for the purpose by the Electoral Officer with the voter and the other person place the ballot paper or ballot paper in the ballot box provided for this purpose and the voter shall, for the purposes of this Act, be deemed to have voted.

(3A) No person shall be selected under subsection (3) to assist an incapacitated voter—

31/08/2020

(a) unless the person has attained the age of 18 years and makes a declaration in the form prescribed by the Electoral Commission;

(b) if the person is a candidate or a polling or counting agent in the electoral area where the incapacitated voter is a voter;

(c) for more than 2 incapacitated voters at an election.

(3B) Where an incapacitated voter is not assisted by a person, an Assistant Electoral Officer shall, at the request of the voter and with the authorisation of the Electoral Officer or the designated Assistant Electoral Officer, as the case may be, and in the presence of another Assistant Electoral Officer, cast the vote as directed by the incapacitated voter in accordance with subsection (3).

(3C) For the purposes of subsections (3), (3A) and (3B), the expression "incapacitated voter" means a registered voter, who is unable by reason of any physical or mental condition or blindness or being illiterate to receive and evaluate information or make or communicate decisions to such extent that the voter lacks capacity to vote without assistance

31/08/2020

(4) An Electoral Officer or an Assistant Electoral Officer –

(a) shall not refuse admission to the polling station of the person selected by a voter referred to in subsection (3); and

(b) shall allow the person selected by a voter to be present at the time when the voter is instructing the Electoral Officer how the vote is to be case and the Electoral Officer is marking the ballot paper or each of the ballot papers.

(5) A voter or the Electoral Officer, as the case may be, shall not place on the ballot paper or ballot papers any writing or mark by which the voter may be identified.

Time off to vote
2/27/2014

25A. (1) Every employer shall, on the day notified by the Electoral Commission for voting, provide every employee under him who is a registered voter, sufficient time off to enable such employee to exercise his right to vote.

(2) The Employer shall not make any deductions from the pay or other remunerations of the employee so permitted to cast his vote.

Allegation of irregulaties

26.(1) Where an Electoral Officer at a polling station has reason to believe or a polling agent at that station alleges that a person wishing to vote at the station is not a person entitled to vote at the station, the Electoral Officer shall –

(a) advise the person accordingly, giving reasons for the belief or, where the polling agent has made an allegation referred to in this subsection, require the

polling agent to state in the presence of the person wishing to vote the reason for the allegation;

(b) warn the person that the person may commit an offence under this Act by voting.

(2) Where the polling agent refuses to state the reason for the allegation referred to in subsection (1), the Electoral Officer shall disregard the allegation.

(3) Where an Electoral Officer has warned under subsection (1) a person wishing to vote and notwithstanding the warning the person –

(a) persists in voting;

(b) produces evidence that the person is the person entitled to vote;

(c) makes and subscribes to the declaration referred to in section 27,

the Electoral Officer shall record in writing the full name and address which the person gives as the name and address and comply with section 25(1) (b)(ii), (iii) and (iv) and, where the person votes, state that fact in the record.

Declaration Of voter

27.(1) An Electoral Officer at a polling station shall, in the circumstances specified in section 26(1), require a person who persists in voting, before the person is given the ballot paper to make and subscribe to a declaration in the form provided by the Electoral Officer.

(2) Where a person referred to in subsection (1) fails to make and subscribe to the declaration referred to in that subsection, the Electoral Officer shall refuse to give to the person the ballot paper or the ballot papers.

No communication with a voter at the polling station

28. No person, other than the Chief Electoral Officer or the Electoral Officer or Assistant Electoral Officer of the polling station, shall communicate with a voter while the voter is in the polling station for the purpose of voting and the Electoral Officer may require any person who contravenes this section to leave the polling station.

Procedure on the close of Poll

29.(1) The Electoral Officer shall, as soon as is practicable, after each ballot box is full and in respect of other ballot boxes after the close of the poll, in the presence of the respective polling agents who wish to attend –

(a) close and seal the aperture of each ballot box and place the seal of the Electoral Officer thereto and allow the respective polling agents who are present to place their seals thereto;

(b) make up in a separate packet the unused ballot papers;

(c) mark the copy of the register of voters;

(d) complete a statement, to be known as the ballot paper account, in the form provided by the Electoral Commission;

(e) place the packet of unused ballot papers and register of voters referred to in paragraphs (b) and (c) together with any record made under section 26(3) in a bag and seal the bag with the seal of the Electoral Officer.

(f) require each Assistant Electoral Officer to count the number of marks made in the section of the register of voters under his or her control and the number of marks counted for each section of the register of voters used shall be recorded on the last page of that section and also entered in the occurrence book

31/08/2020

(g) reconcile the total tally of all marks against the tally-sheet and the number of ballot papers issued for voting, excluding spoiled ballots, and make an entry in the occurrence book

31/08/2020

(2) Where a Presidential Election and a National Assembly Election are held simultaneously the Electoral Office shall in complying with subsection (1) (b), (d) and (e) do so separately in respect of each such election.

31/08/2020

(2A) In the case of a National Assembly election, the Electoral Officer shall in complying with subsection (1)(b)—

(a) count the unused ballot papers received from the Electoral Commission and record the serial numbers;
(b) count the unused ballot papers received from any other polling station;
(c) count the ballot papers (in envelops) received from any other polling station;
(d) count the spoiled unstamped ballot papers received from any other polling station;
(e) count the spoilt stamped ballot papers received from any other polling station;
(f) tally the total number of ballot papers received against the number of printed ballot papers received from the Electoral Commission; and
(g) send a certified statement to that effect for each electoral area to the Chief Electoral Officer.

(2B) In the case of a Presidential election or a referendum, the Electoral Officer shall in complying with subsection (1)(b)—

(a) count the unused ballot papers received from the Electoral Commission and record the serial numbers;
(b) count the unused ballot papers received from other any polling station;
(c) count the ballot papers (in envelops) received from any other polling station;
(d) count the spoiled unstamped ballot papers received from any other polling station;
(e) count the spoilt stamped ballot papers received from any other polling station; and
(f) send a certified statement to that effect for each electoral area to the Chief Electoral Officer who shall tally and reconcile the ballot papers distributed to all electoral area against the number of printed ballot papers received from the Electoral Commission.

(3) After complying with subsection (1) and subject to section 30, the Electoral Officer shall, as soon as is practicable, make arrangements, for the counting of votes at the polling station and give notice of the time of counting to the candidates, if they are present, and the counting agents of each of the candidates and commerce the counting of votes at the time specified in the notice and in the manner specified in sections 33 and 34.

Electoral area consisting of islands other than Mahe and Praslin

30.(1) In the case of a Presidential Election or a National Assembly Election at the electoral area consisting of the islands other than Mahe and Praslin, the Electoral Officer shall, after complying with section 29(1)(a) to (e), forward the sealed ballot boxes, the bags and the ballot paper accounts in respect of the election to an Electoral Officer designated for the purpose by the Chief Electoral Officer who shall hereafter be referred to as the "Designated Electoral Officer."

(2) The Designated Electoral Officer shall, after the receipt under subsection (1) of the ballot boxes for the electoral area consisting of the islands other than Mahe and Praslin –

(a) make arrangement for counting of votes;

(b) give notice of the place and time, which shall not be earlier than the close of poll of other electoral areas, of the counting of votes to the candidates, if they are present, and to the counting agents of each of the candidates; and

(c) commence the counting of votes at the time and place specified in the notice and in the manner specified in section 33 and 34.

Enumerators

31. The Chief Electoral Officer may appoint such assistants, to be known as enumerators, as the Chief Electoral Officer thinks necessary for the purpose of assisting the Chief Electoral Officer, the Electoral Officers or the Designated Electoral Officer, as the case may be, in the counting of votes.

Person who may be present at counting of votes

32. Except with the consent of the Electoral Commission, Chief Electoral Officer, the Electoral Officer or the Designated Electoral Officer no person, other than the enumerators, candidates, the counting agents of candidates and the leaders of the registered political parties of the candidates shall be present at the counting of votes at the respective places of counting.

Procedure before counting of votes

33. The Electoral Officer or the Designated Electoral Officer, as the case may be, shall, at the time and place notified for the counting of votes and, in the presence of the candidates, if they are present, and the counting agents of each candidates who may be present, examine and offer the candidates and the counting agents the opportunity to also examine the seals of all ballot boxes and sealed bags referred to in section 29 or section 30, as the case may be.

Counting

34.(1) The Electoral Officer or the Designated Electoral Officer, as the case may be, shall in respect of an election or, where the Presidential Election and a National Assembly Election are held simultaneously in respect of each such election separately, in the presence of the candidates, if they are present, and the counting agents of candidates who may be present with the help of enumerators examine, count and record the number of ballot papers contained in each ballot box.

31/08/2020

(1A) The Chief Electoral Officer shall, at the time of delivery of the ballot papers, explain and give in a sealed envelope, the security features of the ballot papers to all Electoral Officers.

(1B) The Electoral Officer or the Designated Electoral Officer shall, before opening of the first ballot box for sorting and counting, disclose to candidates, if they are present, and the counting agents of candidates and enumerators who may be present, the security features of the ballot papers in the sealed envelope.

(1C) No person shall be allowed to copy or photograph the security features of the ballot papers in the envelope.

(1D) A candidate or a counting agent of the candidate may request the Electoral Officer or the Designated Electoral Officer to verify the security features of a ballot

paper and the Electoral Officer or the Designated Electoral Officer upon such request verify such ballot paper from the security features in the envelope and record the finding of the verification which shall also be signed by the counting agent in the occurrence book.

(2) Where a ballot paper

(i) does not bear the official mark referred to in section 25;

(c) has anything written or marked by which a voter can be identified;

(d) is mutilated or torn; or

(e) does not contain a clear indication of the candidate for whom the voter has voted,

the ballot paper shall be rejected and shall be endorsed with the word "rejected" by the Election Officer or the Designated Electoral Officer, as the case may be, and if a candidate or a counting agent of a candidate who may be present objects to the decision of the Electoral Officer or the Designated Electoral Officer, as the case may be, also with the words "rejection objected to."

(3) The ballot papers, other than those rejected under subsection (2), shall, in respect of an election or, where the Presidential Election and the National Assembly Election are held simultaneously, in respect of each such election separately, be thereafter sorted into different groups according to the indication of the candidate for whom the voter has voted, the ballot paper in each group shall be counted and the Electoral Officer or the Designated Electoral Officer, as the case may be, shall record the number or ballot papers in each group.

(4) The ballot papers shall be kept with their faces upwards while being counted and recorded.

(5) Subject to the decision of the court on an election petition, the decision of the Electoral Officer or Designated Electoral Officer, as the case may be, as to the question arising in respect of a ballot paper is final.

(6) The Electoral Officer or the Designated Electoral Officer, as the case may be, shall prepare a statement showing the number of ballot papers rejected under the following heads –

(a) want of official stamp;

(b) writing or mark by which a voter could be identified;

(c) mutilated or torn;

(d) absence of a clear indication of the candidate for whom the voter has voted,

and shall, on request, allow the candidate, if present, or the counting agent of each candidate, may be present, to copy the statement.

Recount

35.(1) A candidate or the counting agent of a candidate may, if present at the counting of ballot papers, require the Electoral Officer or the Designated Electoral Officer, as the case may be, to have the vote recounted once.

(2) The Electoral Officer or the Designated Electoral Officer, as the case may be, may, on his own motion, recount the ballot paper.

Conclusion of counting

36.(1) Upon the conclusion of the counting of votes, the Electoral Officer or the Designated Electoral Officer, as the case may be, shall in respect of an election or, where the Presidential Election and a National Assembly Election are held simultaneously, in respect of each such election separately, with the assistance of the enumerators –

(a) in the presence of the candidates, if present, or the counting agents of candidates, as may be present, proceed to verify the ballot paper account referred to in section 29(1)(d) by comparing the number of ballot papers recorded in the account with the number of ballot papers counted, rejected and unused;

(b) shall seal in separate packets the counted, rejected and unused ballot papers;

(c) prepare a statement as to the result of the verification carried out under this subsection and, on request, allow a candidate or the counting agent of a candidate to copy the statement.

(2) The Electoral Officer or the Designated Electoral Officer, as the case may be, shall, as soon as is practicable after the result of the election has been ascertained, transmit –

(a) a statement of the result to the Electoral Commission;

(b) the ballot boxes, bags and other documents used in connection with the election to the Chief Election Officer.

Second ballot

37.(1) Where on the statement of the result transmitted to the Electoral Commission in respect of a Presidential Election, no candidate receives more than fifty percent of the votes cast, the Electoral Commission shall not declare the result of the election and the provision of paragraphs 5 and 8 of Schedule 3 of the Constitution and section 17 to 36 of this Act as applicable to the election shall apply to the second ballot.

(2) Where on the statement of the result transmitted to the Electoral Commission, in respect of a National Assembly Election an equality of votes is found to exist among the candidate receiving the highest number of votes in any electoral area, the Electoral Commission shall, without declaring the result of the election make arrangements for the holding of a second ballot in that electoral are among those candidates receiving equality of votes and the provisions of section 17 to 36 as applicable to the election shall apply to the second ballot.

Notice of result of election

38.(1) Subject to section 37, the Electoral Commission shall, as soon as practicable after receiving the statement of the result under section 36(2)(a) –

(a) of a Presidential Election;

(b) of a National Assembly Election,

declare the result of the election.

(2) As soon as is practicable after announcing the result under subsection (1), the Electoral Commission shall, by notice in the Gazette, publish the result of the Presidential Election and the National Assembly Election.

(3) Where a National Assembly Election is a general election held for the election of members of the National Assembly, the Electoral Commission shall as soon as be possible after declaring the results of the election under subsection (1)(b) –

(a) in accordance with Schedule 4 of the Constitution, declare the number of proportionately elected members of the National Assembly which each political party is entitled to nominate; and

(b) call upon each registered political party which is entitled to nominate a proportionately elected member of the National Assembly to submit to the Electoral Commission within seven days after the publication of the result of the general election, the names and other particulars of the proportionately elected members.

Disposal of ballot papers

39. The Chief Electoral Officer shall retain and ensure the safe custody of the counted, rejected and unused ballot papers, and other documents prepared under this Act in connection with a Presidential Election and a National Assembly Election for a period of 3 months from the date of the elections and on the expiration of that period shall destroy the ballot papers and other documents unless otherwise directed by the Constitutional Court or otherwise required for investigation or trial of an election petition or offence.

Delegation

40.(1) A Registration Officer may, unless otherwise directed by the Chief Registration Officer, authorise an Assistant Registration Officer of the electoral area in respect of which the Registration Officer has been appointed to do any act or thing which a Registration Officer may do under this Act and a reference in this Act other than in this section, to a Registration Officer shall be deemed to include a reference to an Assistant Registration Officer.

(2) An Electoral Officer or a Designated Electoral Officer may, unless otherwise directed by the Chief Electoral Officer, authorise an Assistant Electoral Officer at the polling station in respect of which the Electoral Officer or the Designated Electoral Officer has been appointed or designated to do any act or thing which an Electoral Officer shall be deemed to include a reference to an Assistant Electoral Officer.

(3) Where a person who has been appointed Registration Officer is unable to exercise the functions under this Act, the Chief Registration Officer may authorise an Assistant Registration officer of the electoral area in respect of which the Registration Officer was appointed to do any act or thing which a Registration Officer may do under this Act and a reference in this Act including subsection (1), to a Registration Officer shall be deemed to include a reference to an Assistant Registration Officer authorised under this subsection.

(4) Where a person who has been appointed Electoral Officer or designated as a Designated Electoral Officer is unable to exercise the functions under this Act on the day of the election, the Chief Electoral Officer may authorise an Assistant Electoral Officer at the polling station in respect of which the Electoral Officer was appointed or a Designated Electoral Officer was designated to do any act or thing which an Electoral Officer or Designated Electoral Officer may do under this Act and a reference in this Act including subsection (2), to an Electoral Officer or a Designated Electoral Officer shall be deemed to include a reference to an Assistant Electoral Officer authorised under this subsection.

Non attendance of candidate, polling agent or election agent

41. Where under this Act, an act of thing is required or authorised to be done in the presence of a candidate, polling agent or counting agent of a candidate, the non-attendance of the candidate, polling agent or counting agent at the time and place appointed for the purposes shall not invalidate the act or thing.

Right to refuse Disclosure of vote

42. A person who has voted at an election shall not, in any legal proceedings or otherwise, be required to state for whom the person voted.

Avoidance of elections

43. The result of a Presidential Election or a National Assembly Election shall not be questioned or subject to review in any court except on an election petition presented to the Constitutional Court under this Act.

Election petition Cap 42

44.(1) Article 51(3) to (5) of the Const shall apply for the determination of the questic whether a person has been validly elected office of President.

(2) Article 82(1) to (4) o Constitution shall apply for the determination question as to whether a person has been elected as a directly elected member of the N Assembly or nominated as a proportionately member of the National Assembly. 2/27/2014

2/27/2014

(3) An election petition to determ question referred to in subsection (1) m presented within 14 days of the publication results under section 38(2).

2/27/2014

(4) An election petition to determi question referred to in subsection (2) ı presented within 14 days of the publication results under section 38(2) or the publication names in the Gazette under paragraph 4 of Sc 4 of the Constitution as the case may be.

(5) A petitioner in an election petition may claim–

(a) a declaration that the election is void; or

(b) a declaration that the nomination of a proportionately elected member of the National Assembly is void;

(c) a recount of the ballot papers.

(6) The Constitutional Court, before hearing an election petition, shall require the petitioner to furnish security of such nature and in such amount as the Court may direct for the payment of costs, charges and expenses that may become payable by the petitioner.

(7) The Constitutional Court may declare that an election or as the case may be, a nomination is void if the Court is satisfied –

(a) that there was non-compliance with this Act relating to the election or relating to the nomination of a proportionately elected member of the National Assembly and the non-compliance affected the result of the election or the nomination;

(b) that an illegal practice was committed in connection with the election by or with the knowledge and consent or approval of the candidate or by or with the knowledge and consent or approval of any of the agents of the candidate;

(c) that the candidate or the person nominated at the time of the election or nomination was not a person qualified to be elected as President or a directly elected member of the National Assembly or to be nominated as a proportionately elected member of the National Assembly, as the case may be.

(8) The Constitutional Court may order a recount of the ballot papers where it is satisfied that there was an irregularity in the counting of ballot papers that affected the results of the election or the nomination.

Trial of election

45.(1) The trial of an election petition, shall, subject to this Act, be held in the same manner as a trial before the Supreme Court in its original civil jurisdiction.

(2) The Constitution Court may –

(a) by an order, compel any person who appears to the Court to be concerned in the election to attend as a witness at the trial; and

(b) examine a witness referred to in paragraph (a) or any person in Court, although the person has not been called as a witness.

(3) A witness or a person referred to in subsection (2) may be examined or cross-examined, as the case may be, by the petitioner, respondent and Attorney-General or his representative, if present at the trial.

(4) Where it appears to the Constitutional Court on an election petition –

(a) that an act or omission of a candidate or the agent of a candidate or any other person, which, but for this section, would be an illegal practice under this Act, has been done or made in good faith through inadvertence or accidental miscalculation or some other reasonable cause of a like nature; or

(b) that upon taking into account all the relevant circumstances it would be just that the candidate, agent of the candidate or the other person should not be subject

to any of the consequences under this Act for such act or omission,

the Court may make an order allowing the act or omission, which would otherwise be an illegal practice under this Act, to be an exception to this Act and the candidate, agent or other person shall not be subject to the consequences under this Act in respect of the act or omission and the result obtained by the candidate shall not, by reason only of that act or omission, be declared to be void.

Certificate of Courts as to validity of election

46.(1) At the conclusion of the trial of an election petition the Constitutional Court shall determine –

(a) whether the election was valid;

(b) whether the election was void; or

(c) whether a recount of the ballot papers is required or not;

(d) whether the nomination of a proportionately elected member of the National Assembly was valid;

(e) whether the nomination of a proportionately elected member of the National Assembly was void, and shall certify the determination to the Electoral Commission.

(2) The determination referred to in subsection (1) shall, subject to an appeal to the Court of Appeal, be final.

(3) Where the Constitutional Court determines that an election or nomination is void, all the proceeding with regard to the election or nomination shall be recommenced.

(4) Where the Constitutional Court determines that a recount of ballot papers is requires, the Electoral Commission shall –

(a) cause the ballot papers to be recounted in accordance with this Act and subject to any directions of the Court; and

(b) declare the result of the recount.

Report of Court as to illegal practice

47.(1) At the conclusion of the trial of an election petition, the Constitutional Court shall report in writing to the Electoral Commission –

(a) whether an illegal practice has been proved to have been committed by a candidate or an agent of the candidate and the nature of the practice;

(b) the names and descriptions of all persons who have been proved at the trial to have been guilty of an illegal practice.

(2) Before making any report under subsection (1)(b) in respect of a person who is not a party to an election petition the Constitutional Court shall give the person an opportunity to be heard and to call evidence to show why the person should not be reported.

(3) When the Constitutional Court reports than an illegal practice has been committed by a person, the person is disqualified for a period of five years from the date of the report from being registered as a voter and from voting at an election or a referendum under this Act.

(4) The Electoral Commission shall cause the name of the person reported under subsection (1) to be removed from the register of voters of the electoral area where the person is registered as a voter.

Secrecy

48.(1) A polling agent, counting agent or such other person authorised under this Act by the Electoral Commission or the Chief Electoral Officer to attend at a polling station or at the counting of votes shall, unless the agent or person has taken an oath of secrecy under section 3(8), take an oath of secrecy in the form provided

by the Chief Electoral Officer before attending at the polling station or counting of votes.

(2) The Electoral Commission or Chief Electoral Officer, an Electoral Officer, Designated Electoral Officer, Assistant Electoral Officer, enumerator or any other person referred to in subsection (1) shall not, except for a purpose authorised under this Act or any other written law –

(a) seek to obtain any information as to the candidate for whom a person is about to vote or has voted at a polling station;

(b) communicate to any person any information concerning for whom a person has voted;

(c) communicate to any person as to the name or number of a voter who has or not applied for a ballot paper or voted at a polling station or as to the official mark used for stamping ballot paper;

(d) communicate or seek to communicate with any person after that person has received a ballot paper and before that person has placed the paper in the ballot box;

(e) communicate to any person any information regarding the number of votes a candidate has received in respect of a particular election before the declaration of the results of that election under section 38(1).

Inaccurate Description

49. A misname or inaccurate description of a person or place named or described in a notice or other document prepared or issued under this Act shall not affect the operation of the Act as respect the person or place if the person or place is so designated in the notice or document as to be identified.

Electoral Campaign 2/27/2014

50.(1) Electioneering for the purposes of an election shall end 24 hours prior to the time the voting begins.

(2) A candidate at the election shall, immediately after electioneering ends under subsection (1), remove or cause to be removed any bill, placard, poster, pamphlet referred to in section 51(2) in relation to the candidate's election which have been affixed within a radius of 100 metres of a polling station.

(3) A candidate at the election or an agent of the candidate or any political party or any person on their behalf shall, within 24 hours prior to the time the voting begins, not engage in the following activities –

(a) motorcade, rally or public meeting;

(b) stage show, party or picnic;

(c) political broadcast or political advertisement on radio, television or newspaper;

(d) publication of political bill, placard, poster or pamphlet, whether printed or in electronic form;

(e) opinion poll; or

(f) any other activity as may be prescribed by regulations.

Offences

51.(1) A person who –

(a) for the purposes of procuring the registration of the person or any other person as a voter, knowingly makes to any person having the duty of preparing, revising or amending the register of voters under section 7 or section 8 a false or misleading statement or representation;

(b) applies to be registered as a voter in respect of an electoral area when the person resides in

another electoral area and is already registered as a voter in respect of that other electoral area;

(c) forges or fraudulently defaces or fraudulently destroys a register of voters or any part thereof;

(ca) uses the name of voter without the consent or knowledge of the voter to support the person's nomination on the nomination paper

31/08/2020

(d) forges, counterfeits or fraudulently destroys any official mark relating to a Presidential Election or a National Assembly Election;

(e) forges or counterfeits or fraudulently destroy a ballot paper;

(f) without due authority, supplies a ballot paper to any person;

(g) fraudulently puts into any ballot box any paper other than a ballot paper which the person is authorised by law to put in;

(h) without due authority, takes out of any polling station a ballot paper or has in the possession of the person a ballot paper outside a polling station;

(i) without due authority, destroys, takes, opens or otherwise interferes with a ballot box or packet of ballot papers then in use for the purpose of a Presidential Election or a National Assembly Election;

(j) willfully furnishes false evidence or makes a false declaration under section 25, section 26 or section 27;

(k) contravenes section 48(2);

(l) commits an illegal practice in connection with a Presidential Election or National Assembly Election;

(m) without lawful authority, destroys, mutilates, defaces or removes a notice which is made available for inspection, under this Act in connection with a Presidential Election or a National Assembly Election;

(n) after a lawful demand to the person has been made under section 3(5) fails to give such information as the person possesses or unreasonably delays in giving the information;

(o) causes any disturbances or fails to comply with a lawful order of the Chief Registration Officer or a Registration Officer at any place where a register of voters is kept for inspection under section 8 or of the Chief Electoral Officer, and Electoral Officer or a Designated Electoral Officer at a polling station or place where the counting of votes is being carried out;

(p) obstructs any member of the Electoral Commission or an officer appointed under this Act or fails to obey a lawful order of the Director or the officer;

(q) annoys, molests or in any way interferes with a voter within the precincts of a polling station or a radius of 200 metres of a polling station;

2/27/2014

(qa) fails to grant sufficient time to an employee, as provided under section 25A (1), to cast his vote;

(qb) deducts any amount from the pay or other remunerations of an employee, contrary to the provisions of section 25A (2);

(r) electioneers in connection with an election contrary to section 50(1) or fails to comply with section 50(2), or section 50(3).

is guilty of an offence.

(2) A bill, placard, poster, pamphlet or circular containing any matter intended or calculated or likely to affect the result of an election shall bear upon its face the name and address of the person who issues it and a person who issues, publishes, posts or distributes a bill, placard, poster, pamphlet or circular to which this subsection applies but which does not comply with this subsection is guilty of an offence.

(3) For the purposes of this section and sections 44, 45 and 47, a person commits an illegal practice where the person –

(a) directly or indirectly, by that person or by any other person on that person's behalf, gives, lends or agrees to give or lend, offers or promises to procure or to endeavour to procure, any money or valuable consideration to or for any voter or to or for any other person on behalf of a voter or to for any other person, in order to induce the voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at an election.

(b) directly or indirectly, by that person or by any other person on that person's behalf, gives or procures or agrees to give or procure or to endeavour to procure, any office, place or employment to or for a voter, or to or for any person, in order to induce the voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of the voter having voted or refrained from voting at an election;

(c) directly or indirectly, by that person or by any other person on that person's behalf, makes and gift, loan, offer, promise, procurement, or agreement referred to in paragraph (b) to or for any person in order to induce such person to procure or to endeavour to procure the vote of a voter at an election;

(d) upon or in consequence of any gift, loan, offer, promise, procurement or agreement referred to in paragraph (a), (b) or (c), procures or engages or

promises or endeavours to procure the vote of a voter at an election;

(e) directly or indirectly, by that person or by any other person on that person's behalf, advances or pays, or causes to be paid, any money to or for the use of any other person, with the intention that the money, or any part thereof, shall be expended in bribery at an election or who knowingly pay, 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 an election;

(f) before or during an election directly or indirectly by that person or by any other person on that person's behalf, receives, agrees to receive or contracts for any money, gift, loan or valuable consideration, office, place or employment, for that person or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at the election;

(g) after an election, directly or indirectly, by that person or by any other person on that person's behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting at the election;

(h) corruptly, directly or indirectly, by that person or by any other person on that person's behalf, either before, during or after an election, gives, or provides, or pays, wholly or in part, the expense of giving or providing food, drink entertainment or provision to or for any person for the purpose of influencing that person or any other person to vote or refrain from voting at the election;

(i) corruptly accepts or takes any food, drink, entertainment or provision referred to in paragraph (h);

(j) directly or indirectly, by that person or by any other person on that person's behalf, makes use of or threatens to make use of, any force, violence or restraint, or inflicts or threatens to inflict by that person

or by any other person, any temporal or spiritual injury, damage, harm or loss, upon or against a voter, in order to induce or compel the voter to vote or refrain from voting, at an election or who by abduction, duress or any fraudulent contrivance, impedes or prevents the free use of the vote by a voter either to give or refrain from giving the vote at an election;

(k) impersonates any other person in connection with an election;

(l) votes or attempts to vote, or induces or procures some other person to vote, at an election if that person, or if to that person's knowledge the other person, has already voted at the election;

(m) at a lawful public meeting held in connection with an election, acts or incites other to act in a disorderly manner for the purpose of preventing the holding of the meeting or the transaction of the business for which the meeting was called.

(n) accept a contribution or donation contrary to section 93(6) or section 93(7);

(o) accept a contribution or donation higher than the amount specified in section 93(7);

(p) use a contribution or donation contrary to section 93(8) or section 93(10);

(q) accepts a contribution or donation by contract contrary to section 93(9);

Penalties

52.(1) A person who is guilty of an offence under section 51(a) to (r) or section 51(2) is liable to imprisonment for 3 years and a fine of R20,000.

Provided that if the person is guilty of an offence under section 51(1)(1) which relate to an illegal practice as provided for in section 51(3) (n) to (q), he shall be liable to a fine not exceeding R1,000,000;

(2) Where a person is convicted of committing an illegal practice, the person shall, in addition to any penalty under subsection (1), be disqualified for a period of 5 years from the date of the conviction from being registered as a voter and from voting at an election or referendum under this Act and the Electoral Commission shall forthwith cause the name of the person to be deleted from the register of voters of the electoral area where the person is registered as a voter.

Arrest without warrant

53. A police officer may, without a warrant, arrest a person whom the police office suspect upon reasonable ground of having committed an offence under this Act.

PART IV – REFERENDUM

Reference of issue to Electoral Commission

54. Where any issue is required to be determined at a referendum, the President shall refer the issue to the Electoral Commission for the holding of a referendum.

Date of referendum

55.(1) The Electoral Commission shall, within seven days of a reference under section 54, appoint by notice in the Gazette the date or dates on which a referendum shall be held for the determination of the issue referred to the Commission under that section.

(2) The Electoral Commission may subject to subsection (3) appoint different dates for the holding of the referendum in different electoral areas.

(3) Where the Electoral Commission appoints different date for the holding of the referendum in different electoral areas, the dates shall be consecutives dates and the period, starting with the earliest date and ending with the last date for the holding of the referendum, shall not exceed 4 days.

Question for approval at referendum

56. The question to be put to the voters at the referendum shall be determined by the Electoral

Commission but shall be clear, precise and so framed that the voters are required to vote in the affirmative, if they approve the issue raised in the question or in the negative, if they do not.

Polling Station and time of voting

57. Section 17 other than subsection (1) (c) and (d) of that section shall apply to a referendum as it applies to an election.

Polling for a referendum

58.(1) Subject to subsection (2), polling for a referendum shall be conducted in each polling station specified under section 57.

(2) Section 18(2), (3), (4) and (5) shall apply to a referendum as they apply to an election.

Power to adjourn voting

59. Section 19 shall apply to a referendum as it applies to an election.

Polling agents and counting agents

60.(1) There may be present at any one time at each polling station –

(a) at the time of voting, not more than 2 polling agents; and

(b) at the time of counting of votes, not more than 2 counting agents,

appointed by each lobby in accordance with subsection (2).

(2) For the purpose of subsection (1) and this Part, the political parties campaigning for or against the approval of the issue to be determined at a referendum shall constitute themselves into 2 lobbies, a YES lobby and a NO lobby and each lobby shall –

(a) nominate a person for the purposes of all communications in relation to the referendum with the Electoral Commission or Chief Electoral Officer; and

(b) notify the Electoral Commission and the Chief Electoral Officer of the persons nominated, and may appoint four polling agents and four counting agents.

(3) A lobby may appoint the same person as polling agent and counting agent.

(4) Section 20(2), (3), (4) and (5) shall apply to a referendum as they apply to an election, subject to the substitution of the word "lobby" for the word "candidate" wherever it occurs in those subsections.

(5) Each lobby may, in addition to an appointment made under subsection (2), appoint five representatives for the purposes of this Part and subsection (4) shall apply to a representative as it applies to a polling agent or counting agent.

Arrangement at polling station

61.(1) Section 21, other than subsection (1)(d) and (2) of that section, shall apply to a referendum as it applies to an election.

(2) There shall be displayed at each polling station a notice showing the colour adopted by each of the two lobbies in terms of section 63(2).

Admission to polling station

62.(1) Section 22, other than subsection (1)(b), shall apply to a referendum as it applies to an election.

(2) The Electoral Officer at a polling station shall exclude from the polling station all persons, other than a person wishing to vote at the polling station, a person selected by a voter under section 65, the polling, agents of the lobbies, the leaders of political parties campaigning at the referendum, Assistant Electoral Officers, police officer on duty, the Electoral Commission, the Chief Electoral Officer or any person authorised by the Commission or the Chief Electoral Officer.

Form of ballot paper

63.(1) Subject to subsection (2), the ballot paper shall be white in colour, and the lettering, including the letters of the question to be put to the voters, on the paper shall, subject to subsection (3), be in clearly legible black ink.

(2) In order to facilitate voting, each lobby shall adopt a colour.

(3) The ballot paper shall contain, below the question put to the voter, two rectangular boxes, as described in this subsection, where the voter may indicate the preference of the voter.

WI	**YES**	**OUI**		

NON	**NO**	**NON**		

Notes - (a) The outer lines of the YES box shall be bold and coloured in the colour adopted by the YES lobby and each letter in that box shall be printed on a white background in bold print in the colour adopted by that lobby;

(b) The outer line of the NO box shall be bold and coloured in the colour adopted by the NO lobby and each letter in that box shall be printed on a white background in bold print in the colour adopted by that lobby.

(c) The shaded part of the YES box shall be coloured in the colour adopted by the YES lobby and of the NO box in the colour adopted by the NO lobby;

(d) the blank space on the right hand corner of the box shall be for the use of the voter to mark the voter's preference;

(e) in these notes the YES box means the box for the use of a voter voting in the affirmative on the question

put to the voter and the NO box means the box for the use of a voter voting in the negative on that question.

Procedure before commencement of voting

64. Section 24 shall apply to a referendum as it applies to an election.

Procedure for voting

65. Section 25, other than subsection (2) o section, shall apply to a referendum as it applies election subject to the substitution of the word "lo for the word "candidate" wherever it occurs in section.

Allegation of irregularities

66. Section 26 shall apply to a referendum applies to an election.

Declaration of voters

67. Section 27 shall apply to a referendum applies to an election.

No communication with voter at polling station

68. Section 28 shall apply to a referendum applies to an election.

Procedure on close poll

69. Section 29(1) and (3) shall apply referendum as they apply to an election subject t subsection (3) of that section, the repeal of the word

"candidate if they are present, and "and substitution for the words "counting agents of candidates" of the words "counting agents of lobby".

Electoral areas consisting of islands other than Mahe and Praslin

70. Section 30 shall apply to a referendum applies to an election subject to, in subsection 2(that section, the repeal of the words "to the candida they are present, and "and the substitution for the v "counting agent of each of the candidates" of the v "counting agents of each lobby".

Enumerator

71. Section 31 shall apply to a referendum as it applies to an election.

Person who may be present at the counting

72. Section 32 shall apply to a referendum as it applies to an election subject to the substitution of the word "counting agents of each lobby and the leaders of the registered political parties campaigning at the

referendum" for the words "candidates, the counting agents of candidates and leaders of registered political party of the candidates."

Procedure before counting

73. Section 33 shall apply to a referendum as it applies to an election subject to the substitution of the words "in the presence of the counting agents of each lobby who may be present, examine and offer the counting agents" for the words commencing with the words "in the presence of the candidates" and ending with the words "offer the candidates and the counting agents".

Counting

74.(1) The Electoral Officer or the Designated Electoral Officer, as the case may be, shall in the presence of the counting agents of each lobby who may be present with the help of the enumerators examine, count and record the number of ballot papers contained in each ballot box.

(2) Section 34(2), (3), (4), (5), and (6) shall apply to a referendum as they apply to an election subject to the substitution of the words, "indication of the preference of

the voter" for the words "indication of the candidate whom the voter has voted" wherever they occur, in the subsections (2), (3) and (6) of that section.

Recount

75. Section 35 shall apply to a referendum as it applies to an election subject to the substitution of the words "The counting agent of each lobby" for the words "A candidate or a counting agent of a candidate" in subsection (1) of that section.

Conclusion of counting

76. Section 36 shall apply to a referendum as it applies to an election subject to the substitution of the words "the counting agent of each lobby if present" for the words "the candidates, if present or the counting agent of

candidates" in subsection (1) (a) of that section and the substitution of the words "counting agent of each lobby" for the words "candidate or the counting agent of a candidate" in subsection (1)(c) of that section.

Notice of result

77.(1) As soon as is practicable after receiving statement of the results of the referendum under section 76, Electoral Commission shall declare the result of the referendum.

(2) As soon as is practicable after announcing the result of the referendum, the Electoral Commission shall, by notice in the Gazette, publish the result.

Disposal of ballot papers

78. Section 39 shall apply to a referendum as it applies to an election.

Delegation

79. Section 40 shall apply to a referendum as it applies to an election.

Non attendance of persons

80. Section 41 shall apply to a referendum as it applies to an election subject to the substitution of the words "a representative of each lobby" for the words "of a candidate" where they occur for the first time and of the words "of each lobby" for the words "of a candidate" where they occur for the second time and of the words "of the representative of each lobby" for the words "of the candidate".

Right to refuse disclosure of vote

81. Election 42 shall apply to a referendum as it applies to an election.

Avoidance of referendum

82. The result of a referendum shall not be questioned or subject to review in any court whatsoever except on a referendum petition presented to the Supreme Court.

Referendum petition

83.(1) A referendum petition may be presented by –

(a) representative of a lobby; or

(b) the Attorney General

(2) A referendum petition may claim –

(a) a declaration that the referendum is void;

(b) a recount of the ballot papers.

(3) A referendum petition shall be presented to the Supreme Court within 10 days after the date of the publication of the result of the referendum in the Gazette under section 77(2) and the petitioner presenting the petition shall notify the Electoral Commission of the presentation of the petition with seven days of the presentation.

(4) The Supreme Court shall, before hearing a referendum petition, require the petitioner to furnish security of such nature and in such amount as the Court may direct for the payment of costs, charges and expenses that may become payable by the petitioner.

(5) The Supreme Court may declare a referendum void if the Court is satisfied –

(a) that there was a non-compliance with this Act relating to the referendum and the non-compliance affected the result of the referendum; or

(b) that an illegal practice was committed in connection with the referendum by or with the knowledge and consent or approval of a lobby or a registered political party campaigning at a referendum or an agent of such party.

(6) The Supreme Court may order a recount of the ballot papers where the Court is satisfied that there was a irregularity in the counting of the ballot papers that affected the result of the referendum.

Trial of a referendum petition

84.(1) A trial of a referendum petition shall, subject to this Act, be held in the same manner as a trial before the Supreme Court in its original jurisdiction.

(2) The Supreme Court may –

(a) by an order, compel any person who appears to be connected in the referendum to attend as a witness at the trial; and

(b) examine a witness referred to in paragraph (a) or any person in Court, although the person has not been called as a witness.

(3) A witness or a person referred to in subsection (2), may be examined or cross-examined, as the case may be, by the petitioner and respondent to the referendum petition and the Attorney-General or the representative of the Attorney-General, if present at the trial.

(4) Where it appears to the Supreme Court on a referendum petition –

(a) that an act or omission of a representative of a lobby or the agent of a lobby or any other person, which but for this section would be an illegal practice under this Act, has been done or made in good faith through inadvertence or accidental miscalculation or some other reasonable cause of a like nature; or

(b) that upon taking into account all the relevant circumstances it would be just that the representative, agent or other person should not be subject to any of the consequences under this Act for such act or omission,

the Court may make an order allowing the act or omission which would otherwise be an illegal practice under this Act, to be an exception to this Act and the representative, agent or other persons shall not be subject to the consequences under this Act in respect of the act or omission and the referendum shall not, by reason only of that act or omission, be declared to be void.

Certificate of Court as to validity of referendum

85.(1) At the conclusion of the trial of a referendum petition, the Supreme Court shall determine whether –

(a) the referendum was valid;

(b) the referendum was void; or

(c) or recount of the ballot papers in required or not,

and shall certify the determination of the Electoral Commissioner.

(2) The determination referred to in subsection (1) shall, subject to an appeal to the Court of Appeal, be final.

(3) Where the Supreme Court determines that the referendum is void, all proceedings with regard to the referendum shall be recommenced.

(4) Where the Supreme Court determines that a recount of ballot papers is required, the Electoral Commission shall –

(a) cause the ballot papers to be recounted in accordance with this Part and subject to any directions of the Court; and

(b) declare the result of the recount.

Report of Supreme Court as to illegal practice

86. Section 47 shall apply to a referendum petition as it applies to an election petition subject to the substitution of the words "Supreme Court" for the

words "Constitutional Court" and the words "a representative of a lobby or an agent of the lobby" for the words "a candidate or agent of the candidate".

Secrecy

87. Section 48 shall apply to a referendum as it applies to an election subject to the substitution, in subsection (2) –

(a) of the word "how" for the words "the candidate for whom" in paragraph (a);

(b) of the word "how" for the words "for whom" in paragraph (b); and

(c) of the words "cast in the affirmative or in the negative for a lobby before the declaration of the result of the referendum under section 77(1)" for all the words commencing with the words "a candidate has received" in paragraph (e).

Inaccurate description

88. Section 49 shall apply to a referendum as it applies to an election.

Referendum Campaign

89.(1) Campaigning for a lobby at a referendum shall end at midnight on the third day before the earliest date appointed for the holding of the referendum under section 55.

(2) The representatives of a lobby shall, immediately after the campaigning ends under subsection (1), remove or cause to be removed any bill, placard, poster referred to in section 90(b) in relation to that lobby which have been affixed within a radius of 200 metres of a polling station.

Offences

90. Section 51 shall apply in connection with a referendum as it applies in connection with an election subject to the substitution –

(a) in subsection (1) –

(i) of the words "a referendum" for the words "a Presidential Election or a National Assembly Election" in paragraphs (d), (i), (l) and (m);

(ii) of the words "section 65 or section 66 or section 67" for the words "section 25, section 26 or section 27" in paragraph (j);

(iii) of the words "section 87" for the words "section 48(2)" in paragraph (k);

(iv) of the following paragraph for paragraph (r) – "(r) campaigns in connection with a referendum contrary

to section 89(1) or fails to comply with section 89(2)";

(b) in subsection (2) of the words "a referendum" for the words "an election";

(c) in subsection (3), -

(i) of the words "section 83, 84, and 86 for the words "sections 44, 45, and 47";

(ii) of the words "a referendum" for the words "an election" in paragraphs (a), (b), (c); (d), (e), (f), (g), (h), (j), (k), (l) and (m).

Penalties

91. Section 52 shall apply in connection with a referendum as it applies in connection with an election subject to the substitution of the words "section 90" for the words "section 51(1) (a) to (r) or section 51(2)" in subsection (1).

Arrest without a warrant

92. Section 53 shall apply to a referendum as it applies to an election.

PART IV A – CHIEF ELECTORAL OFFICER

Appointment, term of office, duties and functions of the Chief Electoral Officer

2/23/2018

92A. (1) A person shall not be appointed as the Chief Electoral Officer if that person is an office bearer of any registered political party.

(2) The term of office, salary and allowances of the Chief Electoral Officer shall be such as may be determined by the Electoral Commission.

(3) The Chief Electoral Officer shall attend the meetings of the Electoral Commission.

(4) The Chief Electoral Officer shall, subject to the control and supervision of the Electoral Commission, be responsible for the

implementation of the decisions of the Electoral Commission.

(5) The Chief Electoral Officer may, with the permission of the Electoral Commission, sign documents other than those relating to the conduct of an election or a referendum, as the case may be, and perform such other functions or duties as the Electoral Commission may assign.

(6) The Chief Electoral Officer shall submit to the Electoral Commission reports on matters relating to the activities of the Electoral Commission.

(7) The Chief Electoral Officer, may, subject to the approval of the Electoral Commission, employ such staff, as may be required, for the day to day affairs of the Electoral Commission and shall have general supervision and control over the staff of the Electoral Commission.

(8) The Chief Electoral Officer may, with the approval of the Electoral Commission, determine the terms and condition of service of other staff of the Electoral Commission.

(9) The Chief Electoral Officer shall be responsible for keeping up-to-date the records of the Electoral Commission relating to the electoral officers, registration of voters, conduct of an election or a referendum and the funds and grants, if any, received.

(10) The Chief Electoral Officer shall be responsible for preparing quarterly and annual reports, quarterly and annual statement of accounts and the Electoral Commission Budget.

(11) The Chief Electoral Officer may, subject to the approval of the Electoral Commission, delegate any of his or her duties or function under this section to any of the staff of the Electoral Commission.

(12) The Electoral Commission shall terminate the appointment of a Chief Electoral Officer, who –

(a) has been found guilty of any misconduct, default or breach of trust in the discharge of any duties;

(b) is an undischarged insolvent or bankrupt;

(c) is convicted of an offence and sentenced to a term of imprisonment of three months or more;

(d) is absent from three consecutive meetings of the Electoral Commission without leave from the Chairperson; or

(e) is mentally or physically incapable of carrying out the functions under this Act;

PART V - MISCELLANEOUS

Election expenses

93.(1) All expenses on account or

(f) holding public meetings or organising any public display;

(g) issuing bills, placards, poster, pamphlet, circulars or advertisements; or

(h) otherwise presenting to the voters the candidate, the views of the candidate or of the political party which nominated the candidate, with a view to promoting or procuring the election of the candidate shall be incurred by either the candidate, or an agent of the candidate appointed for the purpose by the candidate in writing or a registered political party which has nominated the candidate and by no other person or body of persons.

(2) Where a candidate appoints an agent for the purpose of subsection (1), the candidate shall as soon as is practicable notify the Electoral Commission of the appointment.

(3) The candidate or an agent of the candidate or the registered political party, as the case may be, shall keep proper accounts of –

(a) all funds received by the candidate, the agent of the candidate or the registered political party in connection with the election;

2/27/2014

(b) all expenses incurred by the candidate or the agent of the candidate or the registered party under subsection (1).

(4) A candidate or an agent of the candidate or a registered political party, as the case may be, shall

open and maintain a bank account to be called "electioneering fund account" for the purposes of keeping proper accounts of funds received and expenditure incurred during the electioneering period.

(5). A candidate may, during electioneering period, receive for the purposes of electioneering, contributions or donations from any legal entity or citizen of Seychelles wishing to support the democratic process in Seychelles under a receipt issued in a form prescribed by regulations by the Electoral Commission.

(6) Without prejudice to subsection (5), a candidate shall not accept, directly or indirectly, any contributions or donations from –

(a) any foreign government or its agents;

(b) any foreign political party or faith based organization;

(c) a public institution, statutory body or any other organization controlled or owned by the government or from any company in which the government holds any capital share;

(d) any private company performing a public function pursuant to a written law;

(e) any person who is not tax compliant;

(f) any foreign individual or any foreign entity, whether or not body corporate; or

(g) any trade union, whether registered or not.

(7) Each contribution or donation made to a single candidate by a person for the purposes of electioneering shall –

(s) in case of the Presidential election, not exceed R1,000,000; and

(t) in case of the National Assembly election, not exceed R250,000.

(8) A contribution or donation received for electioneering and accepted by a candidate or agent of a candidate or a registered political party shall be used only for electioneering purposes and shall not be used for the regular operations of the party.

(9) Where in an electioneering period, in relation to a political party or a candidate any money is lent otherwise than on commercial terms, the money shall be taken to be the amount of contribution or donation, as the case may be.

(10) Where any contribution or donation received is not identifiable by the candidate, agent of the candidate or the political party, the candidate, agent of the candidate or the political party, as the case may be, shall –

(a) not use the money for electioneering;

(b) Make efforts to identify the source of that contribution or donation;

(u) If the donor has used a facility provided by a financial institution, return it to that financial institution; and

(v) If is not possible to identify the donor, the money so received shall be caused to be paid into the Consolidated Fund.

(11) Where a contribution or donation which is not identifiable by a candidate, agent of a candidate or the political party, has been knowingly accepted by the candidate or an agent of the candidate or a political party, as the case may be, and not paid to the

Consolidated Fund in accordance with subsection (10) (d), the Electoral Commission may order the forfeiture of such contribution or donation, in addition to any other penalty that may be imposed under the Act.

(12) In this section and section 94 –

"contribution" means any sum or gift of money whether wholly or in part or any loan received by or made or provided to a candidate, his or her agent or any other person on his or her behalf, or to a political party and includes any assistance or service provided by any person the value of which exceeds R5,000;

"donation" means any money given to or spent by, or on behalf of, a candidate or a political party in paying any expenses incurred directly or indirectly by the candidate or the political party and includes any assistance or service provided by any person the value of which exceeds R5,000;

"electioneering period" means –

(a) in relation to the Presidential Election and the National Assembly Election a period of 90 days prior to the election day and includes the day of voting; and

(b) in relation to a by-election the period beginning from the day on which the Speaker of the National Assembly informs the Electoral Commission of a vacancy of the seat of an elected member and includes the day of voting;

"expenditure" includes any amount paid to or by a political party towards salaries, administrative expenses, purchase of assets, electoral expenses, loan repayments, bank charges, gifts received but returned or forfeited to the state;

"funds" include contributions and donation received during the electioneering period by a candidate or an agent of the candidate or a registered political

party, as the case may be, for the purposes of electioneering.

"income" includes any amount of money received by a political party, subscriptions received from members of a political party during the electioneering period, loans received, returns on investments, proceed from the sale of assets public fund, if any, provided from the Consolidated fund by the State;

31/08/2020

94.(1) Repealed.

Statement of Receipt and Expenses

2/27/2014

(2) Without prejudice to subsection (1), a candidate, an agent of the candidate or a registered political party, as the case may be, shall, within 45 days after the day on which the result of the election is declared under section 38, prepare a consolidated statement of the number of persons and the amount of funds received and the expenses incurred, during the electioneering period, by the candidate or the political party, as the case may be.

(3) Within 60 days after the day on which the result of an election is declared under section 38, the candidate, the agent of the candidate or the registered political party, as the case may be shall deliver to the Electoral Commission a statement prepared under subsection (2) certified as a true statement by the candidate, agent of the candidate or the registered political party, as the case may be.

(3A) The candidate, the agent of the candidate or the registered political party, as the case may be, shall disclose in the statement prepared under subsection (2) –

(a) the identity of the person or source who or which provided the funds; and

(b) the identity of the person in respect of whom the expenditure was incurred.

(3B) The Electoral Commission shall, on receipt the consolidated statement under subsection (2), maintain the records of such statements and may,

31/08/2020

from time to time, issue public reports disclosing the total funds received by each candidate or political party and the number of persons from whom such funds have been received.

(3C) Where the total funds received from a person exceeds R50,000, the details of the disclosure made in the statement under subsection (2) shall be made public and posted on the website of the Electoral Commission

31/08/2020

(3D) Upon the receipt of a statement under subsection (1) or (2), the Electoral Commission shall, not later than 21 days, issue the candidate, agent of the candidate or the political party, as the case may be, a certificate for receipt of statement.

(3E) Submission of monthly statements under subsection (1) does not absolve the candidate, agent of the candidate or the political party from the responsibilities of preparing and delivering the statement under subsection (2) and (3).

(3F) The Electoral Commission shall publish its finding on the consolidated statements on funds received and expenditure incurred during the electioneering period by the candidate, agent of the candidates and political parties within 60 days after receiving the statement under subsection (3).

(4) Where a candidate, agent of the candidate or the registered political party – 2/27/2014

(a) fails to comply with subsections (1), (2) and (3); or

(b) in a statement delivered under subsections (1) and (3), knowingly includes any incorrect or false particulars,

the candidate, agent of the candidate or the registered political party is guilty of an offence and is liable to imprisonment for 3 years and a fine of R20,000.

(5) Where a registered political party commits an offence under subsection (4), every office bearer of that party shall be deemed to commit the offence unless it is proved –

(a) that the office bearer did not know of the act or omission constituting the offence; or

(b) that the offence is not attributable to the negligence of the office bearer.

94A. (1) Where a registered political party contests the Presidential Election or the National Assembly election in one or more electoral areas, or referendum or a by-election, no registered political party shall incur expenses exceeding R250,000 multiplied by the number of electoral areas contested by the party during the electioneering period.

31/08/2020

(2) Where an independent candidate contests the Presidential Election, the candidate shall not incur expenses exceeding R250,000 multiplied by the number of electoral areas contested by the candidate during the electioneering period.

(3) Where at an election a candidate stands in National Assembly election or by-election in an electoral area, being a candidate on behalf of a registered political party or as an independent candidate, the candidate shall not incur expenses exceeding R250,000, during the electioneering period.

95. Every registered political parties nominating candidates for an election and every candidate at an election shall, during the period commencing on nomination day and ending on the third day before the election day, have the right –

Right to campaign and right to broadcast in respect of an election
2/19/1996

(i) to campaign in the election;

(ii) to broadcast matter relating to the election,

with a view to promote or procure the election of any candidate nominated by that party or of the candidate, as the case may be.

Public meeting
2/19/1996
Cap. 194

96.(1) In the exercise of the right to campaign under section 95(i) every registered political party and every candidate may, subject to the Public Order Act, hold public meetings with a view to promote or procure the election of any candidate nominated by the political party or of the candidate, as the case may be.

(2) In granting permits for the holding of public meetings under subsection (1), the Commissioner of Police shall, subject to subsection (3), afford equal opportunities to each registered political party or candidate.

(3) Where an application for a permit to hold a public meeting at the same venue at the same time is made by two or more registered political parties or two or more candidates, the Commissioner of Police shall, subject to the Public Order Act, permit the political party or the candidate whose application was received first to hold the meeting.

97.(1) For the exercise of the right to broadcast under section 96(ii), the Electoral Commission shall, in consultation with the Seychelles Broadcasting Corporation established by the Seychelles Broadcasting Corporation Act (hereafter referred to as the "Corporation"), allocate free broadcasting time to each registered political party and each candidate.

(2) In allocating free broadcasting time under subsection (1), the Electoral Commission shall –

(a) in the case of Presidential Election to each candidate nominated to contest a Presidential Election, equal broadcast time;

(b) in the case of the National Assembly Election –

(i) to each registered political party contesting the election, equal broadcasting time; and

(iii) to each candidate, equal broadcast time;

(c) in the case of the referendum to each lobby, equal broadcast time; and

(d) in the case of a by election –

(i) to each registered political party contesting the election, equal broadcast time; and

(ii) to each candidate, equal broadcast time.

(2A) The maximum time that may be allocated by the Electoral Commission under subsection (2) for free political broadcast shall –

(a) in the case of the Presidential Election for each candidate, not exceed 134 minutes on television and 149 minutes on radio;

(b) in the case of the National Assembly Election for each candidate, not exceed 5 minutes on television and 5 minutes on radio;

(c) in the case of the referendum for each lobby, not exceed 134 minutes on television and 149 minutes on radio;

(d) in the case of a by-election –

(i) for each registered political party contesting the election, not exceed 26 minutes on television and 26 minutes on radio;

(ii) for each candidate, not exceed 15 minutes on television and 15 minutes on radio;

(3) The Electoral Commission shall decide by draw of lots the order in which –

(i) each registered political party shall utilize the broadcasting time; and

(ii) each candidate shall utilize the broadcasting time.

(4) The Electoral Commission shall inform each registered political party and each candidate the broadcasting time allocated to each such political party and candidate and the order in which such time is to be utilized.

(5) Any registered political party or candidate which or who fails to utilize the broadcasting time allocated under subsection (1) shall forfeit the right to broadcast.

(6) Each registered political party and each candidate shall not less than 24 hours before each broadcasting time allocated to that party or candidate submit to the Corporation a text of the broadcast.

(7) The Corporation may, where it has reasonable grounds to believe that the text of any broadcast submitted to it under subsection (6) is likely to give rise to a claim for damages against the Corporation or is not in good taste or is contrary to the public interest, security, peace or morality –

(i) not less than 12 hours before broadcasting time, request the political party or the candidate to revive the text on the matters referred to in the request and submit the revised text to it within such

time as may be specified in the request.

(ii) where the political party or the candidate fails to revise the text or the revised text submitted is not acceptable to the Corporation, reject the text and the revised test and accordingly the political party or the candidate shall forfeit the right to broadcast.

(8) For the purposes of this section, "text" in relation to a broadcast by a candidate or a political party during electioneering period, means the copy of the typed or printed or recorded statement or speech to be read over or made or telecast by a candidate or an authorized representative of a political party, through radio or television, during the time allocated to the candidate or political party, as the case may be. 2/27/2014

(9) The Electoral Commission may make regulations in respect of regulation of broadcasts on the television and radio during electioneering period;

97A. (1) The Electoral Commission shall, at any time after the expiry of 6 months but not later than 24 months after an election, publish in such manner as it considers appropriate, a report on voting records analysis. 31/08/2020

(2) For the purposes of an analysis under subsection (1), the Electoral Commission shall examine the registers of voters and the voting data captured.

(3) The analysis report shall be shared with all registered political parties and candidates and shall be posted on the website of the Electoral Commission.

(4) Any data published in the analysis shall be restricted to issues such as gender and age analysis, and nationally and according to electoral areas.

(5) No individual information is to be

published in the report of analysis.

Rules of Court
S.I. 10 of 1998

98.(1) The Chief Justice may, by rules of Court, provide for the practice and procedure of the Supreme Court in relation to an election petition or a referendum petition under the Act.

(2) The President of the Court of Appeal may, by rules of the Court provide for the practice and procedures in relation to an appeal under this Act.

Regulations
2/27/2014

99.(1) The Electoral Commission may make regulations for carrying into effect of the purposes and provisions of this Act.

2/8/2015

(2) In making regulations under subsection (1), the Electoral Commission may amend any provisions of Schedule 1, Schedule 2 or Schedule 3.

Savings any transitional provisions
Act 9 of 2011

100.(1) All Acts done, decisions taken, authorizations or permission granted by the Electoral Commission which were validly done, taken for granted under any written law shall continue to have effect and shall be continued by the Electoral Commission.

(2) All suits and other legal proceedings pending or which could have been instituted by or on behalf or against the Electoral Commission shall be continued or instituted as if the Electoral Commission was a party thereto.

SCHEDULE 1

Schedules
2/4/2011

North East Point Home for the Elderly
North East Point Hospital

SCHEDULE 2

Essential Services

Purse Seiners

Air Seychelles and any other Airlines

Security for President and Ex-Presidents

Health Services

Security personnel at the Electoral Commissioner's office

The prison service

Meteorological Services

Voting stations

Airport Services or Air Traffic Control

Seychelles Fire and Rescue Services Agency (SFRSA)

Public Utilities Corporation

SCHEDULE 3

[Section 8(1C), 15(1) and (14) and 99(2)]

CHAPTER 1

PROCEDURE IN RESPECT OF REGISTRATION OF VOTERS

1. The Electoral Commission shall open such Registration Centres for receiving application for registration of voters and transfer of voter from one electoral area to another area.

2. The Electoral Commission shall notify the Registration Centres by notice published in the Gazette and at least in one daily newspaper and invite applications for registration as voters from qualified citizens.

3. The Electoral Commission shall ensure that there is present at the Registration Centres, a Registration Officer or an Assistant Registration Officer for the purpose of receiving an application for registration as a voter or transfer from one electoral area to another electoral area or objection.

4. Every application for registration as voter or transfer from one electoral are to another electoral are or objection under section 8(3) of the Act shall be submitted in triplicate, in the Form appended to this Schedule, at the Registration Centre of the electoral area to which the application relates.

5. An acknowledgement of receipt of the forms shall be issued on every application received.

6. A verification in respect of claim for registration as a voter or transfer from one electoral area to another electoral area or objection shall be done to ensure the veracity of the details in the application.

7. If the application is not found in the residence during the first visit of the officer concerned, the officer shall leave or paste a notice at conspicuous place of the residence informing the applicant that the residence shall be visited on a subsequent date mentioned in the notice for the purposes of verification.

8. If the applicant is not available at his residence during the second visit, a notice shall be pasted at a conspicuous place at the residence of the applicant requiring him to appear before the officer at the Registration Centre for verification.

9. If the applicant does not appear before the officer as required in the notice under paragraph 8, his application shall be rejected.

10. Notwithstanding paragraph 8, if the applicant satisfies the Registration Officer concerned that there were sufficient reasons which prevented him or her from appearing before the officer, his or her application shall be considered for registration as voter or, as the case may be, transfer from one electoral area to another electoral area.

11. A list of applications for registration as voter or transfer from one electoral area to another electoral area or objection received during a month and verified in accordance with the Chapter shall be published by the Electoral Commission in the first week of the subsequent month inviting objections.

11.A Notwithstanding paragraph 11, where an Election under this Act is notified under section 13(1), the Electoral Commission, may publish the list of applications for registration as a voter or transfer from one electoral area to another electoral area received till the date of such notification, as soon as practicable, for the purpose of objections and shall cause the names of the eligible applicants included in the register of voters for the electoral areas concerned. S.I. 46 of 2016

12. Any person may file, within 7 days from the publication of the list of applications under paragraph 10, any objection in respect of an application for registration as a voter or transfer from one electoral area to another electoral area or objection, as the case may be.

13. If any objection on the application is received within the period specified under paragraph 11, the Registration Officer concerned shall consider the same after giving both the parties an opportunity of being heard.

14. After considering the claim of applicant and objections, if any, the Registration Officer shall take an appropriate decision either to –

(a) proceed with the registration of voter in respect of registration; or

(b) transfer the name from one electoral area to another electoral area, in respect of transfer; or

(c) delete the name of the person in respect of whom an objection was made from the register or voters; or

(d) reject the application,

for reasons to be recorded in writing.

15. A written intimation in respect of the decision on the application shall be issued to every applicant within a period as the Electoral Commission may fix.

16. The name of the applicants whose application for registration or transfer has been allowed under this Chapter shall be included in the register of voters for the electoral area concerned.

17. The applicant whose application has been rejected may make an appeal in accordance with section 8(7) of the Act and the appeal shall be decided in accordance with section 8(8) of the Act.

18. The Registration Officer of each electoral area shall forward to the Chief Registration Officer all claims and objections made under section 8(3) of the Act together with the decision made thereon by each such officer.

19. The Chief Registration Officer shall make the register of voters, without demographic data of persons, available to the public for inspection.

20. A copy of the register of voters, excluding biographic data, shall be –

(a) provided to the National Library;

(b) provided to every registered political party; and

(c) kept at every administrative district and other locations as may be considered necessary for public reference.

21. A copy of registers of voters as certified under section 9(1) of the Act shall be made available to the Electoral Officers at the polling stations for the purposes of use on the election day.

CHAPTER II

PROCEDURE FOR NOMINATION

22. The Electoral Commission shall publish the notice as required under section 14(1) of the Act and open the nomination centres at the places, date and time notified in the notice for facilitating candidates to file their nomination paper.

23. The nomination of a candidate under section 15(1) of the Act shall be made in the nomination paper provided by the Electoral Commission for the purpose.

24. The Electoral Commission shall make available sufficient number of nomination papers at the nomination centre.

25. The Chief Electoral Officer or, as the case may be, the Electoral Officer shall facilitate the candidates in making the deposit in accordance with section 15(4) of the Act.

26. After closure of the nomination time specified in the notice under section 15(1) of the Act, the Chief Electoral Officer or, as the case may be, the Electoral Officer shall make a preliminary verification of nomination papers received within the time specified in the notice, to determine whether to accept or reject the nomination paper.

27. The Chief Electoral Office or, as the case may be, the Electoral Officer shall make available the nomination papers of the candidates to other candidates for examination to file objections, if any.

28. On receipt of any objection under section 15(8) of the Act, the Chief Electoral Officer or, as the case may be, the Electoral Officer shall after giving an opportunity of hearing to the candidate and the other candidate who submitted the objection, take a decision in accordance with section 15(9) of the Act.

29. The Chief Electoral Officer or, as the case may be, the Electoral Officer shall communicate in writing his decision under section 15(9) of the Act to the candidate and the other candidate

who submitted objection and publish a final list of all candidates in accordance with section 17(1) of the Act.

30. The Chief Electoral Officer or, as the case may be, the Electoral Officer shall complete the nomination process on the nomination day itself.

31. The Chief Electoral Officer or, as the case may be, the Electoral Officer shall inform the candidate in writing the decision taken under section 15(6) of the Act.

32. On acceptance of the nomination paper under section 15(6) of the Act, the Chief Electoral Officer or, as the case may be, the Electoral Officer shall publish the list of candidates by displaying the list of accepted nominations at a conspicuous place at the nomination centre.

CHAPTER II

PROCEDURE FOR POLLING

33. The Chief Electoral Officer shall publish notices of names of candidates and polling stations in the Gazette and a local newspaper as provided in section 17(1) of the Act.

34. The Chief Electoral Officer shall provide adequate voting facilities for voters at all polling stations under section 18(2) of the Act.

35. The Chief Electoral Officer shall, if considered necessary make adequate arrangements for polling in the Outer Islands so any voter may vote pursuant to section 18(3) of the Act.

36. The Chief Electoral Officer shall make available the ballot papers for voting by officials and police officers on duty at a polling station to vote pursuant to section 18(4) of the Act.

37. The Chief Electoral Officer shall ensure that the ballot papers voted under section 18(3) and (4) of the Act are kept in sealed ballot bags and are opened at respective polling stations for counting of votes.

38. In case of any dispute as to the identity of a voter, the polling agents may verify the details of the voter with the copy of register of voters available with the Electoral Officer.

CHAPTER IV

PROCEDURE FOR COUNTING

39. On the close of the poll, as soon as practicable –

(a) the Electoral Officer shall make adequate arrangements for counting of votes at the polling station and give notice of the time of counting under section 29(3) of the Act, in case of Mahe and Praslin; and

(b) the Designated Electoral Officer shall give notice of place and time under section 30(2) of the Act in case of the islands other than Mahe and Praslin and make adequate arrangements for counting of votes at such place.

40. The counting of votes shall commence at the place and time specified in the notice referred to in paragraph 39.

41. The Electoral Officer or, as the case may be, the Designated Electoral Officer shall not permit any person other than those referred to in section 32 of the Act, to be present at the respective places of counting.

42. The Electoral Officer or, as the case may be, the Designated Electoral Officer shall examine and allow the persons referred to in section 33 of the Act to examine the seals of all ballot boxes and sealed bags.

43. The Electoral Officer or, as the case may be, the Designated Electoral Officer shall ensure –

(a) examination, counting and recording of the number of ballot papers in each ballot box in accordance with section 34(1) of the Act;

(b) sorting of ballot papers as provided in section 34(2) of the Act and endorsing as "rejected" or "rejection objected to", as the case may be;

(c) sorting of ballot papers, other than those rejected, counting and recording the number of ballot papers as provided in section 34(3) and (4) of the Act;

(d) preparing statement showing the number of ballot papers rejected and allowing copying of the statement as provided in section 34(6) of the Act;

(e) recounting of the vote if required as provided under section 35 of the Act; and

(f) verifying the ballot paper account referred to in section 29(1)(d) of the Act and sealing in separate packets the counted, rejected and unused ballot papers, preparing a statement and allowing copying the statement as provided in section 36(1) of the Act.

44. The Electoral Officer or, as the case may be, the Designated Electoral Officer shall transmit the statement of the result to the Electoral Commission, as provided in section 36(2) of the Act.

FORM
[Paragraph 4]
THE ELECTIONS ACT
APPLICATION FOR REGISTRATION OR TRANSFER OF VOTER OR OBJECTION

(Under section 8(3) (a), (bb and (c) of the Elections Act)
[TO BE SUBMITTED IN TRIPLICATE]

I ..... of

..... Electoral Area

NIN ..... Date of Birth .....

Address ..... Tel .....

Mother's maiden name .....

1. TRANSFER

Claim to be registered as a voter in the ..... Electoral Area

I am at present registered in the ..... Electoral Area

2. NEW APPLICATION

Claim to be registered as a voter in the .....

Electoral Area but my name does not appear on the list of voters of this area.

3. CORRECTION

Claim to be incorrectly entered on the list.

(i) Correction of NIN/Name/Date of birth

From ..... To .....

(ii) Change of name:

From ..... To .....

4. OBJECTION

Being a person whose name appears on the list of voters, object to the name of

.....

Appearing on the list of voters for this area.

Reason for claim or objection

.....

.....

Date ..... **Signature** .....

(1) to (4) – Delete whichever is not applicable

Elections (Procedures) Regulations, 2016 S.I. 56 of 2016

Arrangement of Regulations

1. Citation
2. Definition
3. Procedures prior to opening of polling station
4. Opening of polling station
5. Procedures during polling
6. Procedures at closing polling station
7. Procedures for counting
8. Procedures after final counting
9. Assistant Electoral Officer
10. Procedure for Candidates
11. Procedures for polling agents
12. Procedures for counting agents
13. Special voting facilities
14. Sorting out of ballot papers from special voting facilities
15. Offences and penalties
16. Regulations to supplement provisions of the Act

Elections (Procedures) Regulations, 2016

S.I. 56 of 2016

In exercise of the powers conferred by section 99(1) of the Elections Act, the Electoral Commission hereby makes the following Regulations —

Citation

1. These Regulations may be cited as the Elections (Procedures) Regulations, 2016.

Definition

2. In these Regulations, "occurrence book" means a book to record any entry of events or incident during polling or counting.

Procedures prior to opening of polling station

3.(1) The Chief Electoral Officer shall issue a written notice prior to 2 days of the polling to the candidate of the date and time for polling agents to be present at the polling station, and the candidate shall provide the Chief Electoral Officer with a written acknowledgement.

(2) The Electoral Officer in charge of the polling station shall ensure that —

(a) the polling station is equipped with the necessary materials and equipment required for polling;

(b) there are sufficient Assistant Electoral Officers present in the polling station to facilitate the voting process and all persons working in the polling stations are wearing their accreditation badges;

(c) that the polling agents and other permitted persons under the Act and present have inspected the polling station.

(3) The Electoral Officer in charge of a polling station shall prior to opening of the polling station comply with the following procedures —

(a) the Electoral Officer shall inform the Chief Electoral Officer by electronic means upon arrival at the polling station and the time of arrival shall be recorded in the occurrence book;

(b) the Electoral Officer shall verify that all communication equipment is in good working condition and an entry of the verification shall be made in the occurrence book;

(c) the names of the Electoral Officer, Assistant Electoral Officers, polling agents and police officer are entered in the occurrence book, and the time they enter the polling station shall also be recorded, and this entry is signed by the Electoral Officer, Assistant Electoral Officers and Polling Agents;

(d) that each time there is a change of the polling agent in a polling station, the time of departure of the polling agent and the name, and time of entry of the replacing polling agent is entered into the occurrence book and the Electoral Officer or person designated by the Electoral Officer shall sign the entry together with the polling agent departing and the polling agent replacing;

(e) the number of ballot booklets and each ballot paper in each booklet are counted in the presence of the polling agents, and there shall be no recount even if any person who should have been present but is absent during the counting;

(f) on completion of counting, the ballot booklets shall be numbered and the number of booklets and the total number of ballot papers shall be recorded in the occurrence book and the entry in the occurrence book is signed by the Electoral Officer and the polling agent;

(g) all ballot booklets shall be kept secured, under the control of the Electoral Officer, until issued;

(h) that the ballot booklet shall be issued one at a time, in numerical sequence, to an Assistant Electoral Officer and on issuance, the name of the Assistant Electoral Officer shall be recorded on the cover sheet of the ballot booklet and an entry shall be made in the occurrence book specifying the booklet number, the name of the Assistant Electoral Officer and the time of issue;

(i) that the ballot boxes are counted and examined to be empty by the polling agents and an entry in the occurrence book is made to record the number of ballot boxes and their examination and shall be signed by the Electoral Officer and the polling agent;

(j) the register of voters to be used are numbered, and when marked with the name of the Assistant Electoral Officer and polling agent, and an entry is made in the occurrence book to make a record of it, and signed by the Electoral Officer, the polling agents and the Assistant Electoral Officer.

Opening of polling station

4.(1) The polling station shall be opened and set up before 7am and the polling shall begin at 7am and end at 7pm, and if there are persons present inside of the polling station at 7pm, or in the opinion of the Electoral Officer were in the immediate precinct of the polling station at the time but were prevented from entering the polling station because of congestion, they may be allowed to vote, and persons arriving after 7pm shall not be allowed to join the queue and vote.

(2) In case a polling station is opened for polling after 7 am due to circumstances beyond the control of the Electoral Officer, the Electoral Officer shall extend the polling hours to the extent of delay occurred and an entry shall be made in the occurrence book and signed by the Electoral Officer, polling agents and the Chief Electoral Officer shall be informed of the delay in opening the polling station.

(3) The time of the opening of the polling and closing of the station shall be recorded and signed by the Electoral Officer and polling agents.

(4) The number and particulars of persons who voted at special voting facilities shall be read out and marked on the registers of voters, before the commencement of polling.

(5) The procedures stipulated in section 24 of the Elections Act shall be complied with before the polling begins and an entry shall be made in the occurrence book.

Procedure during polling

S.I. 59 of 2016

5. The Electoral Officer shall, in charge of a polling station shall comply with the following procedures during polling

(a) the Chief Electoral Officer is informed of the opening of the polling station;

(b) the polling booth is placed in such a way as to ensure secrecy of the ballot;

(c) the ballot box used for polling is placed in the full view of all persons present;

(d) ballot boxes are not removed from the polling station during the poll;

(e) a police officer or any other person authorised in writing by the Electoral Officer is posted and kept outside polling station for removing any person from the polling station if circumstances so warrant:

Provided that such police officer or authourised officer shall not enter the polling station without authorisation of the Electoral Officer and the entry of such police officer or authorised person shall be entered in the occurrence book;

(3) that the provisions of section 25 of the Elections Act are complied with;

(4) register of voters is used specifically for the marking of all the number and particulars of persons wishing to vote before a ballot paper is given;

(5) an incapacitated voter as referred to in section 25 (3) of the Elections Act is assisted prior to voting in the following manner —

(6) he or she is informed that he or she is entitled to be assisted by a person selected by him or her;

(ii) he or she is asked whether he or she wishes to be accompanied by a person specified in subparagraph (i)

(iii) he or she is being accompanied with the person of his or her choice;

(iv) as per the instructions of the incapacitated voter the Electoral Officer shall in the presence of the person selected mark the ballot paper or ballot papers of the voter accordingly, fold the same in such manner as not to reveal the identity of the candidate for whom the vote has been recorded and along with the voter and selected person the Electoral Officer shall place the ballot paper or ballot papers in the ballot box provided for the purpose;

(j) where a voter has requested assistance, the Electoral Officer accompany the voter and the person selected shall accompany the voter but shall not talk to that voter nor influence the voter as to who he or she may vote.

S.I. 59 of 2016

(k) A person accompanying the incapacitated voter shall not accompany more than two incapacitated voters.

Procedure at closing polling station

6. The Electoral Officer shall comply the following procedure at the closing of the polling station -

(a) an entry recording the time of closing of polling is made in the occurrence book when the last voter has voted and the Chief Electoral Officer has been advised accordingly;

(b) the last ballot box is sealed in the presence of polling agents as provided in section 29 and the polling agents are invited to put on their seal and an entry shall be made in the occurrence book;

(c) all equipments are put away and the place is organised for counting of the votes;

(d) only those persons authorised to be present during counting are inside the polling station;

(e) the enumerators are ready with the ballot account paper;

(f) the provisions of section 29 of the Elections Act are complied with;

(g) an entry is made in the occurrence book that the closing procedures have been followed, and the entry is signed by the Electoral Officer and the polling agents.

Procedures for counting

7. The Electoral Officer in charge of a polling station shall comply with the following procedures during the counting process —

(a) the time at which counting starts is recorded in the occurrence book;

(b) the polling agents and other persons present have handed over their telephone or other means of communications into the custody of the Electoral Officer or person designated by the Electoral Officer;

(c) the persons present inside the polling station shall not go outside the station until the counting process has been completed and the persons who are outside the polling station shall not enter the polling station until the counting process has been completed;

(d) the counting procedure as per section 34 of the Elections Act are followed;

(e) the recount procedure as per section 35 of the Elections Act is followed if necessary.

Procedures after final counting

8. The Electoral Officer in charge of a polling station shall comply with the following procedures after counting of the ballots —

(a) the procedures provided in section 36 of the Elections Act is complied with;

(b) on completion of the statement of results, the same is signed by the Electoral Officer and polling agents and the results are transmitted to the Chief Electoral Officer or to the person designated by the Chief Electoral Officer and an entry of the statement of results is made in the occurrence book.

Assistant Electoral Officer

9. An Assistant Electoral Officer shall -

(a) provide assistance to the Electoral Officer and perform such functions as directed by the Electoral Officer;

(b) ensure that the following procedures prior to voting are followed —

(i) verify the left hand and the cuticle around the thumb nail or any other finger as directed by the Chief Electoral Officer, to ascertain that a person seeking to vote has not already voted;

(ii) where it has been ascertained that the person has not voted, the Assistant Electoral Officer shall verify the identity card or other document presented by the person in order to prove his or her identification;

(iii) call out the number and particulars of the person as stated in the register of voters;

(iv) a mark is made against the number and particulars of person on the register of voters;

(v) apply the ink and spray on the person's left hand thumb or as directed by the Chief Electoral Officer;

(vi) issue the person with a ballot paper bearing the official stamp of the Electoral Commission;

10. A candidate shall comply with the following procedures —

(a) through his or her polling agent, acknowledge receipt of the notice of the date and time at which his polling agent has to be present at the polling station and follow the procedures for the opening of the polling station, and the failure of the attendance of a polling agent for the opening of the polling station shall not prevent the Electoral Officer from proceeding with the opening procedures;

(b) ensure the good conduct of his or her polling agent and counting agent inside of the polling station;

(c) ensure that the polling agent who is being replaced leaves the polling station and does not engage with voters inside the polling station or in the vicinity of the polling station;

(d) ensure that he or she does not communicate with the polling or counting agent when they are inside of the polling station;

(e) ensure that the polling and counting agent makes the entry required under these regulations in the occurrence book and sign the occurrence book when required to do so.

Procedures for polling agents

11. A polling agent shall comply with the following procedures —

(a) ensure that he or she is present on time for the opening procedures of polling station;

(b) ensure that he or she records his or her name in the occurrence book when entering and leaving the polling station;

(c) ensure that he or she verifies the procedures prior to opening of the polling station, after opening of the polling station, during voting, at the closing of polling and make the appropriate entry as required by the Regulations and signs the entry;

(d) ensure that he or she notifies the Electoral Officer in charge of the polling station of anything that may affect the election process and make an entry of the same in the occurrence book;

(e) ensure that he or she does not touch any equipment of any kind for any purpose during and after the voter has cast his or her vote;

(f) ensure that he or she does not interact with any voter inside or within the vicinity of the polling station when he or she is being replaced;

(g) ensure that he or she leaves the polling station when replaced by another polling agent;

(h) ensure that he or she does not interfere with any voter inside of the polling station during the process when the voter cast his or her vote;

(i) lodge a signed objection to the Electoral Officer in the even he or she is of the opinion that the person who has turned up to vote at the polling station is not eligible or unqualified to vote and make an entry of the same in the occurrence book;

(j) ensure that he or she shall not bring any electronic device into the polling station, does not make any recordings inside of the polling station and does not take out any documents during polling other than their own notes;

(k) ensure that he or she does not make any false declaration;

(l) ensure that he or she does not interfere with a ballot paper or booklet of ballot papers;

(m) does not destroy any materials present inside or outside of the polling station;

(n) comply with any direction given by the Electoral Officer in charge of the polling station;

Procedures for counting agents

12. A Counting Agent shall comply with the following procedures -

(a) ensure that he or she is present during the counting process;

(b) ensure that he or she witnesses the sorting and counting of ballot papers, and his or her

failure to be present during counting shall not prevent the Electoral Officer from proceeding with the counting process;

(c) ensure that he or she does not communicate with the candidate or any person inside the polling station during the voting and counting process unless authorised by the Electoral Officer in charge of the polling station;

(d) comply with any direction given by the Electoral Officer in charge of the polling station;

(e) ensure that he or she notifies the Electoral Officer in charge of the polling station of anything in his or her opinion that may affect the counting process and make an entry of the same in the occurrence book;

(f) sign the statement of result to be correct if he or she finds that the counting result was correct and record his or her objection in the occurrence book and if he or she finds it is not correct shall record reasons for his or her objection;

(g) make a copy of the statement of result for his or her candidate.

Special voting facilities

13. The following procedures shall be complied with for special voting facilities for voter specified in section 18 of the Act -

(a) a notice shall be sent to employers of persons present on inner and outer island to provide the names, number and particulars of voters working for that employer who are registered in

other electoral areas but meet the criteria to vote at special voting facilities;

(b) a notice of the above shall be made on radio, television and at least in two newspapers having wide circulation;

(c) a list of names of persons entitled to vote at special voting facility shall be generated from the register of voters and be certified as a true copy by the Chief Registration Officer and the Chief Electoral Officer shall notify the candidates to collect the list on polling day at the special voting facility;

(d) an Electoral Officer shall be placed in charge of the special voting facility and he or she may be assisted by such number of Assistant Electoral Officers as may be necessary;

(e) the voting procedures followed at a polling station on the day of polling shall be followed at the special voting facilities in order to ensure that the person voting has not already voted or entitled to vote as the case may be;

(f) all special voting facilities shall record the particulars of the persons who have voted at the special voting facility and generate a list of names of persons who have voted according to their electoral areas;

(g) the procedures under regulations 2 to 11 of these regulations and in section 30 of the Elections Act shall be complied with in relation to opening of the polling station, polling and closing of the polling station;

(h) after voting the ballot paper shall be placed in an envelope and the envelope shall be placed in the ballot box.

Sorting out of ballot papers from special voting facilities

14.(1) Ballot boxes from special polling stations shall be first inspected by the Chief Electoral Officer or the Designated Officer and counting agents before opening and the name of the special voting facility stated on the ballot box shall be recorded in the occurrence book before opening of that ballot box, with confirmation that all seals are in order, and the Ballot boxes shall be opened individually.

(2) The number of envelopes found in each of the special polling voting facility box shall tally with the number received from the said special voting facility and such tally for each special voting facility ballot box shall be entered in the occurrence book.

(3) Envelopes shall be classified according to their respective electoral areas.

(4) The number of envelopes and the electoral area written upon the envelopes, be entered in the occurrence book.

(5) The time at which sorting starts and ends, the names of persons present during the sorting procedure shall also be entered in the occurrence book.

(6) Failure of a candidate or polling agent to be present at the sorting out of the envelopes shall not prevent the Electoral Officer from proceeding with the counting procedure.

(7) The Electoral Officer or polling agents of the candidates shall sign on the ballot boxes at the end of the sorting out procedure prior to sealing of the ballot boxes.

(8) The occurrence book shall be signed by all persons present at the end of the sorting out and counting procedures.

(9) A list of names of persons who have cast their votes

shall be recorded and provided to candidates or polling agents on polling day at the respective polling station.

(10) The Election Commission shall classify the envelopes according to the electoral areas and distributes it to the respective electoral areas for counting along with the counting of other votes of that electoral areas.

Offences and penalties

15. Any candidates, polling agent or counting agent who contravenes any of these regulations commits an offence and is liable on conviction to a fine not exceeding SR20, 000 or a term of imprisonment not exceeding 2 years.

Regulations to supplement provision of the Act

16. The provisions of these Regulations shall be in addition to and not in derogation of the procedure provided in Schedule 3 of the Elections Act (Cap 262).