ANGUILLA

A BILL FOR

ELECTIONS ACT, 2019

Published by Authority

A BILL FOR

ELECTIONS ACT, 2019

PART 1

PRELIMINARY

SECTION

1. Interpretation
2. Central Electoral Office

PART 2

CENTRAL ELECTORAL OFFICE

3. Supervisor of Elections
4. Duties of the Supervisor of Elections
5. Appointment of Registration Officers, etc.
6. Registration Officers' duties
7. Returning Officers
8. Oaths or affirmations
9. Funds of the Central Electoral Office
10. Accounts and audit
11. Appointment of staff
12. Premises and supplies
13. Shared staff, services, *etc.*
14. Protection of Central Electoral Office from legal proceedings
15. Public education during election campaign

PART 3

ELECTORAL DISTRICTS

16. Polling divisions

PART 4

REGISTRATION OF VOTERS

17. Continuous registration
18. Registration of voters
19. Quarterly lists
20. Preparation of registers
21. Compiling list of voters
22. Householders and others to give information to Supervisor of Elections
23. Supervisor of Elections may require attendance of persons
24. Transfer of registration
25. Preliminary list
26. Omission from the register and objections to registration
27. Hearing of claims and objections
28. Appeals

29. Rules of High Court
30. Corrections to preliminary list
31. Other corrections to the preliminary list
32. Revised preliminary list to be certified and deemed Register of Voters
33. Voters' Database and voter registration cards

PART 5

ARRANGEMENTS FOR ELECTIONS

34. Fixed date for general elections
35. Early general elections
36. Issue of writs for holding elections
37. Nomination
38. Deposit
39. When deposit forfeited or returned
40. Contested elections and power to adjourn poll
41. Polling Stations
42. Presiding officers
43. Poll clerks
44. Ballot boxes
45. Supplies of election material
46. Polling and counting agent
47. Taking of poll and the ballot
48. Inspection of polling station
49. Where voter shall vote
50. Restriction on voting
51. Proceeding at poll
52. Procedures for poll to be followed for each election
53. Admission to polling stations
54. General mode of taking ballot
55. Questions which may be put to a voter
56. Mode of taking ballot in special cases
57. Voting where discrepancy of minor nature exists or where an oath is required
58. Advance polls
59. Conduct of advance polls
60. Who may be present at the polling station
61. Proceedings at the close of poll
62. Counting of votes, etc.
63. Maintenance of order at polling station
64. Influencing voters
65. Election return
66. Custody of election documents
67. Custody of election materials

PART 6

ELECTION PETITIONS

68. Petitions against elections

69. Presentation of election petition and security for costs
70. Avoidance of election of candidate certified guilty of corrupt or illegal practice
71. Avoidance of election for general corruption, etc.
72. Trial of election petitions
73. Powers of judge

PART 7

ELECTION OFFENCES

74. Intoxicating liquor not to be sold or given on polling day
75. Employers to allow employees time to vote
76. Offences by election officers
77. Acts prohibited on polling day
78. Definition of bribery
79. Definition of treating
80. Definition of undue influence
81. Definition of personation
82. Penalty for bribery etc.
83. Penalty for personation
84. Disqualification for bribery, etc.
85. Penalty for certain illegal practices at elections
86. Offences in respect of ballot papers
87. Infringement of secrecy

PART 8

MISCELLANEOUS PROVISIONS

88. No obligation on voter to disclose vote
89. Conclusiveness of Register of Voters
90. Expenses of elections
91. Computation of time
92. Removal of difficulties
93. Power to make regulations
94. Repeal
95. Savings
96. Citation and commencement

SCHEDULE 1: Electoral Districts
SCHEDULE 2: Forms

I Assent

_____
Timothy J. Foy, OBE
Governor

_____
Date

ANGUILLA

No. /2019

A BILL FOR

ELECTIONS ACT, 2019

An Act to regulate and control the holding of elections within Anguilla, to declare the boundaries of electoral districts and for purposes connected therewith and incidental thereto.

[Gazette Dated: , 2019] [Commencement: Section 96]

ENACTED by the Legislature of Anguilla

PART 1

PRELIMINARY

Interpretation

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

"affirmation" means an affirmation in the case of a person allowed to affirm instead of swear an oath and "affirm" has a corresponding meaning;

"Assembly" means the House of Assembly of Anguilla established under Chapter IV of the Constitution;

"ballot paper" means the paper handed by the presiding officer to a voter to cast his vote on polling day;

"Central Electoral Office" means the office referred to in section 2;

"Constitution" means the Anguilla Constitution Order, 1982;

"elderly person" means a person who is 70 years or older;

"election" means an election for—

(a) a member to represent a local electoral district; and

(b) four members to represent the island-wide electoral district;

in an Assembly;

"election documents" mean the documents referred to in section 66;

"election officer" means a returning officer, every presiding officer, poll clerk or other person—

(a) having any duty to perform under this Act; or

(b) to whom the Supervisor of Elections delegates any function, to the faithful performance of which duty he is sworn;

"electoral district" includes both a local electoral district and the island-wide electoral district;

"electoral registration officer" means the Registration Officer who carries out his functions under this Act out of the premises of the Central Electoral Office;

"form" means the forms specified in Schedule 3;

"illegal practice" means any act committed resulting in, or intended to result in or has the potential to result in the undue election of a candidate;

"island-wide electoral district" means the single electoral district of the island of Anguilla which returns four members to the Assembly;

"local electoral district" means one of the seven electoral districts defined in the Schedule 1 each of which returns one member to the Assembly;

"political party" means a group of persons belonging to the same party which contest an election;

"poll book" means the book referred to in Form 15, in which the name and other particulars of every person applying to vote are consecutively entered by the poll clerk as soon as the applicant's right to vote at the polling station has been ascertained and before any such applicant is allowed to vote;

"polling day" means the day fixed for holding the poll at an election referred to in sections 34 and 58;

"polling division" means any polling division constituted in accordance with section 16;

"polling station" means any room or rooms secured by the returning officer for voting on polling day;

"preliminary list" means the list of voters referred to in section 25;

"qualifying date", in relation to determining the qualification of any person to be registered as a voter, means the last day of March, June, September and December in any year;

"rejected ballot paper" means a ballot paper which at the close of the poll has been found in the ballot box unmarked or so improperly marked that, in the opinion of the returning officer, it cannot be counted;

"returning officer" means, in relation to an electoral district, the officer appointed by the Governor under section 7;

"spoiled ballot paper" means a ballot paper which, on polling day has—

(a) not been deposited in the ballot box but has been found by the presiding officer to be spoiled or improperly printed; or

(b) been spoiled in marking by the voter and handed back to the presiding officer in exchange for another;

"Supervisor of Elections" means the officer appointed under section 3;

"voter" means any person who votes or is entitled to vote at an election;

"writ" means an order issued by the Governor directing that an election be held and such order shall be published in the *Gazette*, and on the website of the Electoral Office.

(2) Where in this Act—

(a) any notice, list or any other instrument is required to be "published", then, unless the contrary intention appears in any section, the publication thereof shall be made by placing the same on the website of the Electoral Office or any publicly accessed website of the Government of Anguilla, and by posting the same on the door of any Court House, Church, Chapel, Schoolhouse or other building in Anguilla which in the opinion of the Supervisor of Elections will give publicity to such instrument. In places where there is no such building as aforesaid, such instrument may be attached to a board and fastened up in a conspicuous place; and

(b) any paper, list or report is required to be printed, such paper, list or report may, instead of being so printed, be represented or reproduced by means of—

(i) a computer,

(ii) a digital screen,

(iii) a typewriter,

(iv) roneo,

(v) photocopier,

(vi) other similar apparatus referred to in subparagraphs (i) to (v), or

(vii) by any other method by which words, figures or signs may be represented or reproduced in visible form whether analogue or digital.

(3) Where in this Act reference is made to any officer by the term designating his office, such reference shall be construed as a reference to the officer for the time being lawfully discharging the function of that office.

PART 2

CENTRAL ELECTORAL OFFICE

Central Electoral Office

2. The Governor in Council shall set up an electoral office in The Valley, which shall be known as the Central Electoral Office and which shall be under the direction of the Supervisor of Elections.

Supervisor of Elections

3. (1) The Supervisor of Elections shall be a belonger of Anguilla, as defined in section 80(2) of the Constitution, who shall—

(a) be ordinarily resident in Anguilla;

(b) be a registered voter; and

(c) be in possession of—

(i) the necessary qualifications to practise in Anguilla as a barrister or a solicitor with at least one year administrative or supervisory experience respecting elections, or

(ii) an undergraduate degree with at least 2 years administrative or supervisory experience respecting elections, or

(iii) at least 5 years administrative or supervisory experience respecting elections.

(2) The Governor shall, by instrument under his hand, appoint the Supervisor of Elections, the Deputy Supervisor of Elections and such other officers as are required to enable the Supervisor of Elections to carry out his functions under this Act.

Duties of the Supervisor of Elections

4. (1) The Supervisor of Elections shall act impartially and independently of any political or governmental influence.

(2) In addition to any other duties set out in this or any other Act, the duties of the Supervisor of Elections shall be—

(a) to exercise general direction and supervision over the registration of voters and the administrative conduct of elections;

(b) to ensure that all election officers act fairly, impartially and comply with the provisions of this Act;

(c) to develop and design training programmes for persons appointed to be election officers, including programmes designed to ensure that the functions of officers are carried out in an independent and impartial manner;

(d) to design a continuous non-partisan voter education programme for voters;

(e) to regulate the conduct of election officers, issuing to them such instructions as from time to time he may deem necessary to ensure effective execution of the provisions of this Act ;

(f) to publish at least once every 3 months, in such other manner as he may deem fit, a notice—

(i) in the *Gazette*, and on the Electoral Office website, or

(ii) on any publicly accessible government of Anguilla website;

requiring any person who is qualified as a voter under section 43 of the Constitution to make an application for such registration in the appropriate form;

(g) to prepare and furnish to the Governor—

(i) as soon as is practicable after 30 March in each year, a report on the operations of the Central Electoral Office during the year that ended on 31 December, and

(ii) a copy of the statement of accounts required under section 10 and the Auditor's Report on that statement of accounts;

(h) to execute and perform all other powers and duties which by this Act are conferred and imposed upon him.

(3) The Governor shall cause the reports to be laid before the House of Assembly within a period of 3 months after their receipt; and thereafter to be made available to the public on one or more government websites.

(4) The Supervisor of Elections may, from time to time, delegate in writing any of the functions, duties or powers conferred upon him by this Act to an election officer, subject to such conditions as he thinks fit.

Appointment of Registration Officers, etc.

5. (1) The Governor may on the recommendation of the Supervisor of Elections appoint an Electoral Registration Officer.

(2) The Supervisor of Elections may appoint Registration Officers to assist the Electoral Registration Officer.

(3) A person may be appointed as a Registration Officer or as an assistant Registration Officer for more than one electoral district.

(4) An Electoral Registration Officer and Registration Officers shall have such powers and be charged with such duties as specified under the Act.

(5) Subject to the authority, direction and control of the Electoral Registration Officer, a Registration Officer and an assistant Registration Officer shall have all the powers and may perform any of the duties of the Electoral Registration Officer under this Act, other than the consideration of claims and objections.

(6) Every Registration Officer shall, before performing his duties, take and subscribe the oath or affirmation prescribed in Form 1 and shall transmit the oath or affirmation to the Supervisor of Elections.

Registration Officers' duties

6. The Electoral Registration Officer shall compile the register of voters for each electoral district in accordance with this Act.

Returning officers

7. (1) The Governor may on the recommendation of the Supervisor of Elections appoint a fit and proper person who is registered to vote in Anguilla to assist the Supervisor of Elections as the returning officer for each electoral district.

(2) The Governor may at any time revoke any appointment made by him under this section and make another appointment in place thereof.

(3) Upon his appointment, each returning officer shall take and subscribe the oath or affirmation in Form 2 and shall transmit such oath or affirmation to the Supervisor of Elections.

(4) Notwithstanding anything contained in this Act, the Supervisor of Elections may perform the duties of a returning officer if the need arises.

Oaths or affirmations

8. (1) The following persons are authorised and empowered to administer any oath required to be taken by any person under Parts 2 to 5—

(a) a Magistrate;

(b) a Justice of the Peace;

(c) the Supervisor of Elections; or

(d) any returning officer or presiding officer or poll clerk appointed in accordance with the provisions of this Act.

(2) Every person who is required to take an oath in pursuance of any of the provisions of Parts 2 to 5 may elect to make a solemn affirmation instead of taking such oath.

Funds of the Central Electoral Office

9. The funds of the Central Electoral Office shall consist of monies that are appropriated to it by the House of Assembly for the purposes of this Act.

Accounts and audit

10. (1) The Supervisor of Elections shall cause proper accounts of all financial transactions of the Central Electoral Office to be kept in a form as the Accountant General may direct.

(2) The Supervisor of Elections shall, within 3 months after the end of each financial year, prepare a statement of the accounts of the Central Electoral Office.

(3) The accounts required to be kept under subsection (1) and the statement of accounts required under subsection (2) shall be audited by the Chief Auditor, as soon as is practicable and in any case within 4 months after the end of each financial year.

Appointment of staff

11. (1) The Central Electoral Office shall be provided with such staff as the Governor, after consultation with the Supervisor of Elections, considers necessary for the efficient administration of this Act.

(2) The administrative expenses of the Central Electoral Office, including salaries and allowances payable to persons serving with the Central Electoral Office, shall be charged to the Consolidated Fund.

(3) The Supervisor of Elections shall prepare the estimate proposals for the Central Electoral Office and shall submit them to the Governor who shall seek the approval of the House of Assembly of the budget as proposed by the Supervisor of Elections.

Premises and supplies

12. Within the funds allocated under section 9, the Central Electoral Office may lease premises and acquire equipment and supplies as are necessary for its efficient operation.

Shared staff, services *etc*.

13. Notwithstanding any provision of this Act, the Central Electoral Office may share staff, services, equipment and supplies with any other Government entity.

Protection of Central Electoral Office from legal proceedings

14. (1) No officer shall be personally liable for any act of the Central Electoral Office done or omitted to be done in good faith in the course of its operation.

(2) Where any officer is exempt from liability by reason only of subsection (1) the Central Electoral Office shall be liable to the extent that it would be if the said member were its servant or agent.

Public education during election campaign

15. The Central Electoral Office shall ensure continuous public education on the electoral process.

PART 3

ELECTORAL DISTRICTS

Polling divisions

16. (1) Anguilla shall be divided into—

(a) the 7 local electoral districts described in Schedule 1; and

(b) one island-wide electoral district.

(2) Each local electoral district shall have at least one polling division.

(3) The Supervisor of Elections may divide any local electoral district into so many polling divisions as he may deem necessary and such polling divisions shall be appointed by notice in the *Gazette*.

(4) The supervisor of elections shall establish the boundaries and descriptions of the polling divisions referred to in subsection (3) and such boundaries and descriptions shall be appointed by notice in the *Gazette*.

(5) The Supervisor of Elections may, by notice in the *Gazette*, vary the number, descriptions and boundaries of any polling division appointed under subsections (3) and (4).

(6) In determining the boundaries of any polling division, the Supervisor of Elections shall have regard to geographical considerations and such other factors as may affect communication between various places within the polling division.

(7) The polling divisions of the island-wide electoral district shall be the same as those prescribed and appointed for local electoral districts.

(8) For the avoidance of doubt, the Supervisor of Elections does not have the power to vary the electoral boundaries of any local electoral districts described in Schedule 1.

PART 4

REGISTRATION OF VOTERS

Continuous registration

17. (1) There shall be continuous registration of all person qualified to be registered as voters under this Act.

(2) When a person is qualified or will be qualified on the next qualifying date to be registered as a voter in an electoral district, that person may apply to the Supervisor of Elections to be registered as a voter in that electoral district in accordance with this Act.

Registration of voters

18. A person who is qualified to be registered as a voter under section 43(1) of the Constitution and who wishes to be registered shall appear in person at the Central Electoral

Office to have his name entered in the preliminary list of the local electoral district in which such person resides in accordance with the Regulations.

Quarterly lists

19. The Supervisor of Elections shall, not later than the 40th day of every quarter in every succeeding year, prepare a quarterly list of voters for every electoral district in accordance with the Regulations.

Preparation of registers

20. The register of voters for every electoral district shall be prepared in accordance with this Part and the Regulations.

Compiling list of voters

21. The Supervisor of Elections shall prepare a list in accordance with section 25.

Householders and others to give information to Supervisor of Elections

22. (1) The Supervisor of Elections may require any householder or person owning or occupying any premises to give the information required for the purpose of preparing the preliminary list.

(2) Without prejudice to the generality of subsection (1), the Supervisor of Elections may require any householder or person owning or occupying any premises to complete and return to him within 14 days of its receipt by him an application for registration in accordance with the Regulations.

Supervisor of Elections may require attendance of persons

23. (1) The Supervisor of Elections, before entering the name of any person in a preliminary list, may, if he thinks it necessary, require such a person to appear before him and produce his birth certificate, passport or other documents and make and sign a declaration stating the qualifications for his name to be included in a preliminary list.

(2) The Supervisor of Elections may omit from a preliminary list the name of any person who fails to comply with subsection (1) within one month of being required to do so by the Supervisor of Elections.

Transfer of registration

24. A registered voter who moves his place of residence from within one local electoral district to another, may have his name transferred to the list of voters for the local electoral district to which he has moved, if he applies in Form 3 and establishes, to the satisfaction of the Supervisor of Elections, proof of residence within the local electoral district to which he has moved.

Preliminary list

25. The Supervisor of Elections shall write down in the preliminary list, the names of all persons residing in the local electoral district or polling division, as the case may be, who are entitled to be registered as voters and shall sign, date and publish it in accordance with the Regulations.

Omission from the register and objections to registration

26. All claims for registration or for correction of any error or of objection shall be made in accordance with the Regulations.

Hearing of claims and objections

27. The Supervisor of Elections shall hear any claim or objection made under section 26, and such claim or objection shall be considered and determined by the Supervisor of Elections in accordance with the Regulations.

Appeals

28. (1) An appeal lies to a Judge of the High Court from any decision of the Supervisor of Elections on any claim or objection that has been considered by him under these Regulations but no appeal lies where a claimant or objector has not availed himself of the opportunity provided under the Regulations of being heard by the Supervisor of Elections on the claim or objection.

(2) Any claimant or objector desiring to appeal against the decision of the Supervisor of Elections shall give written notice of appeal to Supervisor of Elections and to the opposite party, if any, not later than 7 days after the decision, specifying the grounds of appeal.

(3) The Supervisor of Elections shall—

(a) immediately forward—

(i) the notice of appeal to the Registrar of the High Court,

(ii) a statement of the material facts that, in his opinion, have been established in the case, and

(iii) his decision on the whole case and on any point that may be specified as a ground of appeal; and

(b) furnish to the Judge of the High Court any further information that the Judge may require and that the Supervisor of Elections is able to furnish.

(4) Where it appears to the Supervisor of Elections that any notices of appeal given to him are based on similar grounds, he shall inform the Registrar of the High Court of that fact for the purpose of enabling the Judge, if he thinks fit, to consolidate the appeals or to select a case as a test case.

(5) On any appeal under this section, the Supervisor of Elections shall be a party to the proceedings.

(6) Every appeal under this section shall be heard and determined by the High Court in the manner prescribed by rules of the High Court, and the costs of the appeal are at the discretion of the Judge.

(7) The right of a person whose name is for the time being on the list of voters to vote at an election shall not be prejudiced by an appeal that is pending under this section and any vote given at an election in pursuance of that right shall be as good as if no appeal were pending.

(8) Notice shall be sent to the Supervisor of Elections by the Registrar of the Supreme Court of the decision of the Judge on any appeal under this section, and the Supervisor of Elections shall make any alteration in the list of voters that may be required to give effect to the decision.

(9) A decision of the High Court given under this section is final.

Rules of High Court

29. The Chief Justice may by regulation amend or replace the Election Petition Rules.

Corrections to the preliminary list

30. The Supervisor of Elections shall make alterations to the preliminary list—

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

(b) to correct any clerical error;

(c) to correct any misnomer or inaccurate description;

(d) to delete the name of any person who the Supervisor of Elections is satisfied—

(i) is not qualified to be registered as a voter under section 43(1) of the Constitution, or

(ii) is subject to a disqualification as specified in section 43(2) of the Constitution, or

(iii) is dead;

(e) to carry out any other corrections he considers necessary.

Other corrections to the preliminary list

31. Where at any time before the issue of a writ under section 36, it appears to the Supervisor of Elections, that it is necessary to make any alteration to the preliminary list, other than an alteration made as a result of a claim or objection to the preliminary list, he shall forthwith send to the person affected by the alteration a notice stating the nature of the proposed alteration and shall give him an opportunity of objecting to the alteration and, if necessary, of appearing and being heard in accordance with section 27, and the Supervisor of Elections may thereafter make such alteration, as seems to him to be necessary.

Revised preliminary list to be certified and deemed Register of Voters

32. (1) On completion of the revision of the preliminary list for each local electoral district or polling division, as the case may be, the Supervisor of Elections shall prepare and publish a preliminary list of voters for every electoral district in accordance with this section—

(a) in a general election, not later than the 72nd day of every quarter of every succeeding year; or

(b) in the case of an election other than a general election not later than 3 days after the issue of a writ for election.

(2) The preliminary list referred to in subsection (1) shall be published by notification in the *Gazette* and in such other manner as he may deem fit and the Supervisor of Elections shall make such copies available at such places as he may select for public inspection until the coming into force of the next Register of Voters.

(3) The copies published under subsection (2) shall be deemed to be the Registers of Voters for the local electoral district to which they refer and shall be used for a general election of members of the Assembly and for any other election to fill a vacancy in the seat of the member of the Assembly representing the relevant district.

(4) The Register of Voters for all local electoral districts shall constitute the Register of Voters for the island-wide electoral district and shall be used for all elections for members of the Assembly to represent that district.

(5) For the avoidance of doubt, for the purpose of any election to seats in the local electoral district and island-wide electoral district the revised preliminary list of voters referred to in subsection (1) shall be deemed to be the Register of Voters. Any person validly registered on such list shall be entitled to vote within the local electoral district in which he is registered. Such person shall be entitled to vote for one of the candidates in relation to the local electoral district and for up to four candidates in relation island-wide electoral district.

(6) If the insertion of any name in the Register of Voters or the deletion of any name therefrom shall be necessary—

(a) as the result of an appeal from a decision of the Supervisor of Elections;

(b) due to the death of a person; or

(c) for any other sufficient cause;

such insertion or deletion shall be made by the Supervisor of Elections.

(7) Where an insertion is made under subsection (6) the Supervisor of Elections shall number any name inserted with the same number as the preceding name followed by a letter or letters.

(8) On the issuing of the writ under sections 36 and 62 (21), the Register of voters referred to in subsection (5) shall not thereafter be subject to any objections to registration under section 26.

Voters' Database and voter registration cards

33. (1) The Supervisor of Elections shall establish, maintain and update an electronic database (hereinafter referred to as "the Voters' Database").

(2) The following information shall be entered in separate sections of the Voters' Database—

(a) the name of each person listed in any current Register of Voters for a local electoral district;

(b) the name of each person who was denied entry from a preliminary list on the grounds that—

(i) he is not qualified to be registered as a voter under section 43 of the Constitution, or

(ii) he is subject to a disqualification as specified in section 44 of the Constitution;

(c) the name of each person whose name has, in accordance with this Act, been deleted from any preliminary list or Register of Voters;

(d) an image or photograph of the person on the Register of Voters; and

(e) such other information as the Supervisor of Elections may determine for the purpose of ascertaining the identity of each such person.

(3) Each person whose name is entered on the Voters' Database may be assigned an identification number.

(4) For the purpose of any election or any referendum under any Referendum Act, (in this Act referred to as "a referendum"), the Supervisor of Elections shall issue to each person whose name is listed in any current Register of Voters, a voter registration card prescribed in Form 4 or containing such other information as the Supervisor of Elections may determine for the purpose of—

(a) ascertaining the identity of each such person;

(b) registering the fact that such person is entitled to vote at an election or referendum; or

(c) registering the fact that such person has voted at an election or referendum.

(5) Information on a voter registration card shall include a photograph of the person to whom it is issued and may include information stored on a magnetic strip, bar code or other device.

(6) The Governor shall, by Order published in the *Gazette*, authorise the Supervisor of Elections to vary the contents of voter registration cards issued under subsection (3), subject to such terms and conditions as may be specified in the Order.

(7) The Supervisor of Elections shall take all reasonable steps to ensure that the Voters' Database is designed so as to prevent a person from determining—

(a) the candidate for whom a person voted;

(b) the party affiliation of a person; and

(c) in the case of a referendum, the manner in which a person voted.

(8) Where, upon an application in Form 5, the Supervisor of Elections is satisfied that a voter registration card is—

(a) lost;

(b) mutilated;

(d) destroyed; or

(e) defaced;

he shall upon payment of any reasonable administrative fee issue the applicant with a duplicate voter registration card.

(9) For the purpose of security, an electronic backup copy of the Voters' Database shall be kept at a secure location designated by the Governor and such location shall be outside the premises of the Elections Office.

(10) No person shall be prevented from voting in any election or referendum by reason only that he is not in possession of a voter registration card issued or authorised for the purposes of that election or referendum, provided that the person produces other identification considered by the Supervisor of Elections as sufficient proof of his entitlement to vote.

(11) In any case where information in a Register of Voters conflicts with information in the Voters' Database, the Register of Voters shall prevail.

(12) An election officer who makes an entry in the Voters' Database which he knows or has reasonable cause to believe to be false, or which he does not believe to be true, commits an offence and is liable on conviction on indictment, to a fine of $19,200 or imprisonment for 2 years.

(13) An election officer who issues a voter registration card, or causes a voter registration card to be issued, to a person whom he knows, or has reasonable cause to believe, is not entitled to be the holder of that voter registration card, commits an offence and is liable on conviction on indictment, to a fine of $19,200 or imprisonment for 2 years.

(14) A person who, with intent to deceive, forges a voter registration card, commits an offence and is liable on conviction on indictment, to a fine of $19,200 or imprisonment for 2 years.

(15) A person who knowingly, with intent to deceive, uses any forged voter registration card for the purposes of enabling him to vote in an election or referendum, commits an offence and is liable on conviction on indictment, to a fine of $19,200 or imprisonment for 2 years.

PART 5

ARRANGEMENTS FOR ELECTIONS

Fixed date for general elections

34. (1) Polling day for the next general election after the passing of this Act will be the first Monday after the 5th anniversary of the last general election.

(2) The polling day for each subsequent general election is to be the first Monday after the 5th anniversary of the previous general election.

(3) The Governor acting on the advice of the Chief Minister may by Order made by statutory instrument provide that the polling day for a general election in a specified calendar year is to be earlier or later than the day determined under subsections (1) or (2), but not more than 2 months earlier or 2 months later.

Early general elections

35. (1) If a motion that the Assembly should declare a lack of confidence in the Government of Anguilla receives in the Assembly the affirmative votes of two-thirds of all the elected members, the Governor shall dissolve the Assembly and shall act in his discretion in appointing the date for the ensuing general election under section 64 of the Constitution.

Issue of writs for holding elections

36. (1) For the purpose of every general election of members of the Assembly, and for the purpose of the election of members to vacancies in such membership, the Governor shall issue a writ under the Public Seal of Anguilla addressed to the returning officers of the respective electoral districts for which members are to be returned.

(2) The writ issued under subsection (1) shall be forwarded to the Supervisor of Elections for transmission to the returning officers.

(3) Every writ shall be in Form 6 and shall specify—

(a) the day and place of nomination of candidates;

(b) the day on which, if it is necessary, the poll shall be taken (being not less than 14 days after the day of such nomination; and

(c) the day on which such writ shall be returnable to the Governor.

(4) A writ for an election in the island-wide electoral district shall specify the number of members to be elected in that district.

(5) Upon receipt of such writ, every returning officer shall proceed to hold the election in the manner hereinafter provided.

Nomination and uncontested elections

37. (1) On receiving such writ, every returning officer shall publish a notice in Form 7 of the day and place fixed for the nomination of candidates.

(2) Such notice shall be published at least 7 clear days before the day fixed for such nomination.

(3) Nomination papers shall be provided by the returning officer and shall be in Form 8.

(4) On the day and at the place so fixed for the nomination of candidates every returning officer shall attend between the hours of 10:00 a.m. and 1:00 p.m. and between the hours of 2:00 p.m. and 4:00 p.m. and receive the nomination papers; and each candidate so nominated shall present to the returning officer a receipt issued pursuant to section 38.

(5) Every candidate for election shall be nominated on one nomination paper by at least two registered voters of the electoral district for which such candidate seeks election.

(6) The nominated candidate shall consent to his nomination on such nomination paper and witnessed by one person who can attest to his consent of his nomination.

(7) The nominated candidate shall swear the affidavit at the foot of Form 8 that he is, to the best of his knowledge, not disqualified under the provisions of the Constitution from contesting and being elected as a member of the Assembly.

(8) No candidate shall be deemed not to have been validly nominated by reason only of the fact that, subsequent to nomination day, a person by whom his nomination paper was signed is struck off the Register of Voters for the relevant electoral district.

(9) If at 4:00p.m. on the day fixed for nomination in—

(a) a local electoral district, only one candidate has been nominated for the seat to be filled, the returning officer shall declare the candidate elected; or

(b) the island-wide electoral district, the number of candidates nominated equals or is less than the number of seats to be filled;

the returning officer shall declare those candidates elected.

(10) Where the returning officer declares a candidate to be elected pursuant to subsection (9) the officer shall—

(a) immediately certify by endorsement on the writ in accordance with the Regulations the return of such candidate or candidates; and

(b) shall return the writ so endorsed to the Supervisor of Elections for transmission to the Governor within the time specified for that purpose in the writ.

(11) Where the number of candidates elected in the island-wide electoral district pursuant to (9)(b), is less than the number of seats to be filled, the returning officer shall, after communication with the Supervisor of Elections, adjourn the election of the remaining seats.

(12) Subject to subsections (13) and (14) any nominated candidate may, not less than 3 clear days before the day fixed for taking the poll, withdraw from his candidature.

(13) A withdrawal under subsection (12) shall be by notice, signed by him, and presented to the returning officer.

(14) A nominated candidate is permitted to withdraw, provided that on such withdrawal there remains—

(a) in an election in a local electoral district, no fewer than one duly nominated candidate;

(b) in an election in the island-wide electoral district, no fewer candidates than the number of seats to be filled in that election.

(15) Subject to subsection (19), where a candidate has withdrawn after the ballots are printed—

(a) the returning officer shall advise each presiding officer of his electoral district of the withdrawal and, when time permits, shall distribute to each presiding officer a printed notice of the withdrawal; and

(b) he shall be subject to a penalty of $5,000.

(16) On polling day each presiding officer shall post up a copy of the printed notice of withdrawal in a conspicuous place in his polling station.

(17) If time does not permit for the printing and distribution of the notice referred to in subsection (16), the presiding officer, upon being advised by the returning officer of the withdrawal of any candidate, shall himself prepare by hand a notice to that effect and post it up in a conspicuous place in his polling station.

(18) In either case referred to in subsections (16) and (17), the presiding officer shall, when delivering a ballot to a voter, inform the voter of the withdrawal of the candidate.

(19) If, after a withdrawal—

(a) in a local electoral district, there remains only one candidate;

(b) in the island-wide electoral district, there remain no more candidates than the number of seats to be filled at the election;

the returning officer shall return as duly elected the candidate or candidates so remaining without waiting for the day fixed for the taking of the poll.

(20) Where before the closing of the poll, the returning officer becomes aware that any candidate has died since the close of nomination, he shall, after consulting the Supervisor of Elections, adjourn the election in that electoral district.

(21) Where—

(a) the election in an electoral district is adjourned on account of the death of a candidate; or

(b) the election in the island-wide electoral district is adjourned in the circumstances set out in subsection (11);

the period of adjournment shall not exceed one month and the Governor shall by Proclamation amend the writ already issued to alter—

(i) the day for the nomination of candidates,

(ii) the day for the holding of the poll, if a polling day is necessary, and

(iii) the day on which the name of the elected member or members shall be certified to him.

(22) In the case referred in subsection (21)(b), such Proclamation shall also state the number of seats remaining to be filled.

Deposit

38. (1) A candidate for election, or someone on his behalf, shall deposit at the Inland Revenue Department, on or before the day of his nomination, the sum of $1,000, and, if he fails to do so, the nomination of such candidate shall be deemed to be withdrawn.

(2) The deposit shall be made in legal tender and a receipt shall be given by the Inland Revenue Department.

When deposit forfeited or returned

39. (1) If a candidate who has made a deposit under section 38 is not elected, and the number of votes polled by him—

(a) in an election in a local electoral district does not exceed $^1/_8$ of the total number of votes polled in the election in that district; or

(b) in an election in the island-wide electoral district does not exceed such proportion of the number of votes polled in that election as is determined by the application of the formula—

$$\frac{1}{8 \text{ x the number of seats to be filled at that election}}$$

the amount deposited shall be forfeited to the Crown.

(2) Where the candidate's votes exceed the minimum referred to in subsection (1), the deposit shall be returned by the Accountant General as soon as is practicable after the result of the election is declared—

(a) to the candidate;

(b) to his legal personal representative; or

(c) to the person by whom the deposit was made, as the case may be.

(3) For the purposes of this section, the number of votes polled shall be deemed to be the number of ballot papers counted.

(4) In determining the number of votes polled the rejected ballot papers shall not be counted.

Contested elections and power to adjourn poll

40. (1) If—

(a) in a local electoral district more than one candidate is duly nominated;

(b) in the island-wide electoral district there shall be more candidates nominated than there are seats to be filled,

a poll shall be taken.

(2) Where a poll is required to be taken pursuant to subsection (1) the returning officer shall adjourn the election to the polling day specified in the writ and the poll shall be taken on such day in the manner hereinafter provided.

(3) The returning officer shall, as soon as is practicable after adjourning the election, publish a notice in accordance with the Regulations specifying—

(a) the day and time on which the poll will be taken;

(b) the locations of the polling stations in the electoral district at which the poll will be taken;

(c) the names of the candidates nominated for election;

(d) the name of the place where the votes will be counted for each candidate in each electoral district; and

(e) the day and time where the counting of votes referred to in paragraph (d) will take place.

(4) Where the proceedings at any polling station are interrupted or obstructed by—

(a) a riot, or open violence;

(b) by the occurrence of any earthquake, hurricane, flood, or fire;

(c) an outbreak of pestilence or infectious disease; or

(d) any other calamity whether similar to those specified in paragraphs (a) to (c)or not;

the presiding officer may adjourn the proceedings until the following day and thereafter from day to day as may be necessary and shall immediately give notice to the returning officer.

(5) Where the poll is adjourned at any polling station—

(a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and

(b) references in this Act to the close of the poll shall be construed accordingly.

(6) Where any election is uncontested the returning officer shall execute and deliver a return in Form 9 to the Supervisor of Elections.

Polling stations

41. (1) Subject to subsection (4), on the day named in the notice published under section 40(3) for the taking of the poll, the returning officer shall cause to be opened in the electoral district to which he is appointed such number of polling stations as the Supervisor of Elections shall determine.

(2) The returning officer shall provide each polling station with such number of compartments as he may consider necessary to enable voters to record their votes screened from observation.

(3) Unless the writ otherwise directs, polling stations shall be opened at 7:00 a.m. and shall be closed at 6:00 p.m.

(4) In a general election, the same polling stations shall be used for the island-wide electoral district as are used for local electoral districts in which there is a contested election.

(5) The same presiding officer may be appointed to a polling station for the election in the island-wide electoral district and for the election in the relevant local electoral district.

Presiding officers

42. (1) The Supervisor of Elections shall, subject to the approval of the Governor, appoint a presiding officer who is registered to vote in Anguilla, to attend at each polling station to receive the votes, but he shall not so appoint any person who has been employed by or on behalf of a candidate in the contested election.

(2) The Supervisor of elections may himself, if he thinks fit, preside at any polling station.

(3) Notwithstanding section 41(5) the Supervisor of Elections may appoint different presiding officers for the local electoral districts and the island-wide electoral district for the purpose of receiving the votes at a polling station.

(4) Upon his appointment, every presiding officer shall take and subscribe an oath in Form 10 and shall transmit such oath to the Supervisor of Elections.

Poll clerks

43. (1) The Supervisor of Elections shall, subject to the approval of the Governor, appoint one or more poll clerks, who are registered voters in Anguilla, for every polling station in an electoral district.

(2) Upon his appointment, every poll clerk shall take and subscribe an oath in accordance with Form 11 and shall transmit such oath to the Supervisor of Elections.

(3) Where a presiding officer who is appointed to attend a polling station dies or becomes incapable of performing his duties during the taking of the poll, the poll clerk appointed to the aforementioned polling station shall immediately assume the office of presiding officer.

(4) Where more than one poll clerk is appointed to a polling station the returning officer shall nominate one of the poll clerks to assume the office of presiding officer pursuant to subsection (3).

(5) Where a poll clerk assumes the office of presiding officer pursuant to subsections (3) and (4) the returning officer shall appoint some other person to act as a poll clerk in his place.

(6) Where a poll clerk dies or becomes incapable of performing his duties during the taking of the poll, the presiding officer shall immediately appoint some other person to act as poll clerk.

(7) Every appointment made under this section shall be immediately reported to the Supervisor of Elections by the person making the appointment.

Ballot boxes

44. (1) The Supervisor of Elections shall supply to each returning officer an appropriate number of ballot boxes for the polling stations in his electoral district.

(2) Every ballot box shall be made of some durable material with one lock and key and a slit or narrow opening in the top and shall be so constructed that the ballot papers may be inserted into the box but cannot be withdrawn from the box unless it is unlocked.

(3) In a general election, and on any other occasion when the same polling station is used for an election both for the island-wide electoral district and for a local electoral district, different ballot boxes shall be used.

Supplies of election material

45. (1) The returning officer shall provide each presiding officer with a ballot box and such number of ballot papers as in the opinion of the returning officer may be necessary.

(2) In a general election, and on any other occasion when the same polling station is used for an election both for the island-wide electoral district and for a local electoral district, the part of the ballot papers provided for the island-wide electoral district shall be separated by a perforated line from the part of the ballot papers provided for the local electoral district.

(3) In an election to fill a vacancy in the island-wide electoral district, the ballot papers provided shall list only the candidates for election to fill the vacancy.

(4) The returning officer shall provide each polling station with—

(a) a statement showing the number of ballot papers so provided, with the serial numbers on the ballots;

(b) the necessary materials to enable voters to mark the ballot papers;

(c) the necessary materials for putting the official mark on the ballot papers;

(d) at least 2 copies of the Register of Voters certified by him relating to the local electoral district in which the polling station is located or situated;

(e) at least 3 copies of the directions for the guidance of voters in accordance with Form 12;

(f) a blank poll book;

(g) the forms of oaths to be administered to voters or other persons;

(h) such other things as may be necessary for conducting the election in the manner provided by this Act.

(5) The Register of Voters referred to in subsection (4)(d) is hereinafter called the "official list of voters".

Polling and counting agent

46. (1) Each candidate may, before the commencement of the poll, appoint not more than—

(a) two polling agents to attend at a polling station, but only one of those polling agents shall remain in the polling station at any given time, provided that this shall not be construed as preventing a polling agent from handing over his duties to another polling agent in the polling station within such period and in such manner as may be directed by the Supervisor of Elections; and

(b) two counting agents to attend at the counting of the votes.

(2) An agent may be appointed on behalf of more than one candidate.

(3) Every appointment of an agent shall be—

(a) in writing and shall state the name and address of the person appointed; and

(b) duly signed by the candidate.

(4) The appointment referred to in subsection (3) shall be given to the presiding officer or the returning officer as the case may be.

Taking of poll and the ballot

47. (1) The poll shall be taken in each electoral district by secret ballot in accordance with the provisions of sections 51, 52 and 53.

(2) The ballot of each voter shall be a printed paper as specified in Form 13 (hereinafter called a "ballot paper") in which the names, addresses, occupations and symbols of the candidates, alphabetically arranged in the order of their surnames and numbered accordingly shall be printed exactly as they are set out in the nomination paper.

(3) The poll for the island-wide electoral district shall take place simultaneously with the poll for each electoral district.

(4) Each ballot paper shall have a separate section with the same information specified in subsection (2) for each of the candidates in the island-wide electoral district and there shall be a line of perforations between the part of the ballot paper for the local electoral district and the part of the ballot for the island-wide electoral district to permit them to be separated and counted as described at section 62.

(5) Each ballot paper shall have attached to it a counterfoil with a number printed on the face of the ballot paper and there shall be a line of perforations between the ballot paper and the counterfoil.

Inspection of polling station

48. Each presiding officer shall, on or before the day fixed for taking the poll, visit his polling station and see that it is supplied with the proper conveniences as specified in the aforementioned sections for taking the poll.

Where voter shall vote

49. (1) Every person whose name appears upon the official list of voters for any polling division shall be entitled to vote in that polling division—

(a) in an election in the local electoral district in which that polling division is located; and

(b) in an election for the island-wide electoral district.

(2) Subject to section 57 no person shall be entitled to vote in any polling division unless his name appears on the official list of voters in respect of that polling division.

(3) No person shall vote—

(a) at more than one polling station on the same day;

(b) in more than one local electoral district on the same day;

(c) more than once in the same local electoral district on the same day;

(d) more than once in the same election in the island-wide electoral district.

(4) Any person who contravenes subsections (2) and (3) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding $2,000 or to imprisonment for a term not exceeding 6 months.

Restriction on voting

50. (1) In an election in a local electoral district no person shall vote for more than one candidate.

(2) In a general election in the island-wide electoral district no person shall vote—

(a) for more than 4 candidates; and

(b) more than once for any one candidate.

(3) In an election other than a general election in the island-wide electoral district no person shall vote—

(a) for more candidates than there are seats to be filled; and

(b) more than once for any one candidate.

Proceeding at poll

51. (1) At the hour fixed for opening the poll the presiding officer and the poll clerk shall, in the view of the candidates, their agents and voters that are present, open the ballot box to confirm that there are no ballot papers or other papers inside the ballot box.

(2) The empty ballot box shall be locked, and the presiding officer shall keep the key that opens the ballot box and the box shall be placed on a table in full view of all present and shall be remain locked and on the table until the close of the poll.

(3) Immediately after the ballot box is locked, the presiding officer shall call on the voters to vote.

(4) The presiding officer shall secure the admittance of every voter in the polling station and shall see that they are not impeded from voting.

(5) Every voter, upon entering the polling station, shall declare his name, address, date of birth and occupation, or present his voter registration card if any has been issued to him. The poll clerk shall then ascertain if the name of the voter appears on the official list of voters used at the polling station. When it has been confirmed that the person is qualified to vote at the polling station, his name, address and occupation shall be entered in the poll book to be kept by the poll clerk in accordance with the Regulations, a number corresponding to the number allotted to the voter on the official list of voters shall be prefixed to the voter's name in the appropriate column of the poll book, and the voter shall be immediately allowed to vote, unless an election officer or any agent of a candidate present at the polling station desires that he be first sworn.

(6) The poll clerk shall—

(a) make such entries in the poll book opposite the name of each voter as the presiding officer directs in accordance with this Act;

(b) enter in the poll book opposite the name of each voter the word "voted" immediately after the voter's ballot paper has been deposited in the ballot box;

(c) enter in the poll book the word "Sworn" or "Affirmed" opposite the name of each voter, to whom any oath or affirmation has been administered indicating the nature of the oath or affirmation; and

(d) enter in the poll book the words "Refused to be sworn" or "Refused to affirm" or "Refused to answer" opposite the name of each voter who has refused to take an oath or affirmation, when he has been legally required to do so, or has refused to answer questions which he has been legally required to answer.

Procedures for poll to be followed for each election

52. The procedures for conducting the poll prescribed in this Act shall apply to each election whether it is—

(a) a general election for the island-wide electoral district; or

(b) a general election for a local electoral district; or

(c) a general election for the both the island-wide electoral district and for a local electoral district.

Admission to polling stations

53. (1) The presiding officer shall keep order at his polling station and shall regulate the number of voters to be admitted at a time.

(2) The presiding officer shall exclude all persons except—

(a) the Supervisor of Elections;

(b) the returning officer of the electoral district;

(c) the poll clerk;

(d) the candidates;

(e) one agent for each candidate appointed by such candidate in accordance with section 46;

(f) any approved international observers; and

(g) the police officers on duty.

(3) The agents referred to in subsection (2) shall be posted where they can—

(a) see each person who presents himself as a voter; and

(b) hear the voter's name as given by him.

(4) The agent's position shall not allow him to see the marked ballot paper of any voter.

(5) The agents shall not unduly interfere in the proceedings at the polling station whilst carrying out their duties under this Act.

(6) If any person persists, after being warned, in disobeying the directions of the presiding officer or in acting in contravention of this section, it shall be lawful for the presiding officer to cause him to be removed from the polling station.

General mode of taking ballot

54. (1) Each voter, after identifying himself, shall receive from the presiding officer a ballot paper on which such officer has previously placed his initials as directed in accordance with the Regulations so that when the ballot paper is folded the said initials can be seen without opening it, and on the counterfoil of which he has placed a number corresponding to the consecutive number on the official list of voters and entered in the poll book opposite the name of the voter.

(2) The presiding officer shall instruct the voter how to make his mark, which shall be a cross ("X"), by referring him to a specimen ballot paper posted in a conspicuous place at the polling station.

(3) Immediately after complying with the subsections (1) and (2), the presiding officer shall properly fold the voter's ballot paper, directing the voter to—

(a) mark the ballot paper;

(b) fold the marked ballot paper as demonstrated by the presiding officer; and

(c) return the folded marked ballot paper to the presiding officer.

(4) Where the voter is unable to vote in the manner prescribed by this Act due to age, illiteracy, or physical incapacity the presiding officer may assist the voter in marking the ballot paper.

(5) Notwithstanding subsection (4) the presiding officer shall not discuss with the voter who the latter intends to vote for.

(6) The voter, on receiving the ballot paper shall immediately enter one of the polling compartments in the polling station and mark a cross ("X"), on his ballot paper using a black lead pencil.

(7) The cross ("X") referred to in subsection (6) shall be marked within the space opposite the name of the candidate for whom the voter intends to vote in the local electoral district and, in the case of the island-wide electoral district where there is more than one seat to be filled, the voter shall mark the cross ("X") within the space opposite the names of the candidates for whom he intends to vote.

(8) The voter shall then fold the marked ballot paper as directed so that the initials and the numbers on the counterfoil can be seen without opening it, and hand the marked ballot paper to the presiding officer who shall, without unfolding it, ascertain by examination of the initials and the numbers appearing on the counterfoil that it is the same paper as that given to the voter and, if the same, the presiding officer shall—

(a) in full view of the voter and of all others present remove the counterfoil;

(b) separate along the perforated line the part of the ballot for the local electoral district from the part of the ballot for the island-wide electoral district;

(c) deposit or direct the voter to deposit each separated part of the ballot paper into the relevant ballot box; and

(d) place the counterfoil in a receptacle reserved by him for that purpose and in his custody.

(9) A voter who has made an error on the ballot paper given to him under subsection (8) shall return that ballot paper to the presiding officer and the presiding officer shall cancel it by writing the word "spoiled" across the back of the same and shall give another ballot paper to that voter.

(10) Every voter shall vote without undue delay and shall leave the polling station as soon as his ballot paper has been deposited in a ballot box by the presiding officer.

(11) If at the hour of the closing of polls in accordance with section 41(3), there are any voters who—

(a) are qualified to vote, but have not been able to do so since their arrival at the polling station; and

(b) are in the line of waiting voters;

the poll shall be kept open to enable such persons to vote in accordance with the directions of the presiding officer.

(12) Where there are any matters or issues to be determined with respect to the circumstances referred to in subsection (11), the presiding officer shall make a decision and the decision of the presiding officer shall be final.

(13) For the purpose of this section "relevant ballot box" means the ballot box used for the local electoral district or that used for the island-wide electoral district.

Questions which may be put to a voter

55. (1) The presiding officer may, and shall if requested by a candidate or his agent, put to the voter the following questions—

(a) Are you the same person whose name appears as "A.B." on the official list of voters now in force for this polling division?

(b) Have you already voted at this election either here or elsewhere?

(2) The presiding officer shall refuse to give a person a ballot paper where that person—

(a) refuses to answer the questions referred to in subsection (1); or

(b) answers "no" to the question referred to in subsection (1)(a); or

(c) answers "yes" to the question referred to in subsection (1)(b).

(3) Where a person makes a false answer to the questions referred to in subsection (1) he shall be guilty of an offence and liable, on summary conviction, to a fine of $9,600 and to imprisonment for 6 months.

Mode of taking ballot in special cases

56. (1) Where a person who presents himself to be a voter applies for a ballot paper after another person has voted as such person, he shall be entitled to receive a ballot paper and to vote after he takes the oath of identity in Form 14 and otherwise proves his identity to the satisfaction of the presiding officer by producing—

(a) at least one Government issued identification, such as his voter registration card, driver's licence, or passport; or

(b) any other identification acceptable to the presiding officer.

(2) In any case under subsection (1), the presiding officer shall put his initials on the ballot paper and print a number on the counterfoil attached to the ballot paper. The number printed by the presiding officer on the counterfoil shall correspond to the number allotted to the voter on the official list of voters entered in the poll book opposite the name of such voter, and the poll clerk shall enter in the poll book—

(a) the name of such voter;

(b) a note stating that a person, using the same identity of the aforementioned voter, has voted;

(c) the fact of the oath of identity having been required and taken, and the fact of any other proof of identity so required and accepted; and

(d) any objections made by the candidates or on behalf of any of the candidates.

(3) The presiding officer, on the application of any voter who is incapable by reason of—

(a) any physical cause;

(b) being an elderly person; or

(c) of illiteracy;

of voting in the manner prescribed by this Act, shall require the voter making such application to take the oath of the incapacity to vote without assistance—

(i) in the case of a voter under paragraph (a), in accordance with Form 16,

(ii) in the case of a voter under paragraph (b) or (c) in accordance with Form 17;

the presiding officer shall, subject to subsection (4), assist such voter by marking his ballot paper in the manner directed by such voter in the presence of the poll clerk and of the sworn agents of the candidates and of no other person, and shall place such ballot in the ballot box.

(4) The presiding officer shall, at the request of any voter under subsection (3), who is accompanied by a friend who is a voter in the local electoral district, permit the friend to accompany the voter into the polling compartment and mark the voter's ballot paper for him; but a person shall not at any election be allowed to act as such friend to more than one voter.

(5) Any friend who, in accordance with subsection (4), is permitted to mark the ballot paper of a voter who is unable to mark his ballot paper by reason of being an elderly person, illiteracy or any physical incapacity shall first be required to take an oath in accordance with Form 18.

(6) Where a voter's ballot paper has been marked by the presiding officer or a friend under this section, the poll clerk shall enter in the poll book opposite the voter's name, in addition to any other requisite entry, the reason why such ballot paper was so marked.

(7) For the purposes of this section "friend" includes family and relatives.

Voting where discrepancy of minor nature exists or where an oath is required

57. (1) Where there is contained in the official list of voters a name, address and occupation which corresponds so closely with the name, address and occupation of a person by whom a ballot paper is demanded so as to suggest that the entry in such list of voters was intended to refer to him, such person shall, upon taking the oath or affirmation in Form 19 and complying in all other respects with the provisions of this Act, be entitled to receive a ballot paper and to vote. In any such case the name, address and occupation shall be correctly entered in the poll book and the fact that the oath has been taken shall be entered in the relevant column of the poll book.

(2) A voter, if required by the presiding officer, the poll clerk, one of the candidates, an agent of a candidate or any other voter present, shall before receiving his ballot paper take an oath in Form 20 and, if he refuses to take such oath, the words "Refused to be sworn" shall then be written next to his name on the official list of voters and in the poll book, if such name has been entered in said book.

(3) For the avoidance of doubt, a voter who refuses to take an oath under subsection (2) shall be entitled to receive a ballot paper and to vote.

Advance polls

58. (1) Where any voter who is duly registered in the Register of Voters for an electoral district in which an election is pending is unable to attend the polling station on the day appointed for the taking of poll because—

(a) of that voter's employment on the date of the poll, as—

(i) a police officer, nurse, doctor, emergency medical technician,

(ii) a person employed in the Central Electoral Office,

(iii) an election officer;

(b) of that voter's physical incapacity;

(c) that voter is 70 years or older;

it shall be lawful for such a voter to record his vote at an advance poll to be held for the purpose at such place, and on such date not earlier than 3 days prior to polling day, as the Supervisor of Elections may, by notice in the *Gazette*, appoint for that purpose.

(2) For the purpose of voting at any advance poll, a voter referred to in subsection (1) shall, not later than 10 days after the issue of the writ for election, apply to the Supervisor of Elections in Form 21 for a specially issued card enabling him to vote at an advance poll and the signature of the applicant shall be witnessed in writing by the Supervisor of Elections.

(3) A voter to whom subsection (1) applies, who desires to vote at an advance poll shall be allowed to vote in like manner as he would have been entitled to do on the day appointed for the taking of the poll, except that he shall not be allowed to vote at an advance poll unless he produces the card specially issued under subsection (2).

(4) Unless the writ otherwise directs, polling stations established for the purpose of recording advance polls shall be opened between 9:00 a.m. and 2:00 p.m.

(5) The Supervisor of Elections may extend the time specified in subsection (4) by Notice published in the *Gazette*.

(6) The Supervisor of Elections may direct that all polling stations established for the purpose of recording advance polls are to be placed at the same location.

Conduct of advance polls

59. (1) At an advance poll separate ballot boxes, one for the local electoral district and one for the island-wide district, shall be provided for each polling division of each electoral district. At the close of such advance poll the officer conducting the poll shall count and record the number of counterfoils for the local electoral district and the island wide electoral district.

(2) The officer conducting the poll shall, after complying with subsection (1), complete the prescribed form in accordance with the provisions of section 61(1)(j) and the Regulations.

(3) The ballot boxes with the ballot papers taken at an advance poll along with all the relevant forms shall be immediately given by the officer conducting the poll to the Supervisor of Elections to be kept intact, in a vault in his office, until delivery by him on polling day in the election to the presiding officer at the polling station identified for the casting of votes within the electoral district to which the packet relates.

(4) The presiding officer shall open every ballot box delivered to him pursuant to subsection (3) immediately before the commencement of the poll at an election in the presence of any persons who are authorised under this Act to be present at that time and shall place the ballot papers without examining them in the relevant ballot box at his poll before he locks it up and places his seal upon it.

(5) For the avoidance of doubt, it is hereby declared that the provisions of this Act applying to voters, the voting procedure and to elections shall apply so far as is convenient to the taking of an advance poll as they apply to the taking of a poll at an election.

Who may be present at the polling station

60. (1) The following persons are permitted to remain in the polling station during the time the poll remains open —

(a) presiding officer;

(b) any poll clerk;

(c) the Supervisor of Elections;

(d) the returning officer of the electoral district;

(e) the candidates;

(f) one agent for each candidate;

(g) the police officers on duty; and

(h) international observers.

(2) Notwithstanding subsection (1) no candidate and his agent shall be in the same polling station at the same time for more than five consecutive minutes.

(3) Before being admitted to any polling station the agent of each candidate, shall take an oath in Form 22 to keep secret the name of the candidate for whom any of the voters has marked his ballot paper in his presence.

(4) Subject to subsection (3) agents of candidates may, with the permission of the presiding officer, leave and return to the polling station at any time during polling day.

(5) An agent of a candidate who has left the polling station on polling day must return to the polling station one hour prior to the close of the poll.

Proceedings at the close of poll

61. (1) Immediately upon the close of the poll for an election the presiding officer shall, in the order given, perform the following acts—

(a) announce the close of poll;

(b) record in the poll book, in the manner specified in paragraph (e), the hour at which the poll was closed;

(c) seal the ballot boxes with the seal provided by the Supervisor of Elections;

(d) count the number of voters whose names appear in the poll book as having voted;

(e) make an entry in the poll book on the line immediately below the name of the voter who voted last and the entry shall include the following information—

(i) the name of the polling station,

(ii) the number (written in words) of voters who voted at this election in the named polling station,

(iii) the hour at which the polling station was closed, and

(iv) the signature of the presiding officer;

(f) count the counterfoils of all used ballot papers and place them in the special envelopes supplied for that purpose for both the local electoral district and the island wide district and indicate on the envelopes in words the number of counterfoils counted and seal the envelopes and initial them;

(g) where there are spoiled ballot papers, count and place them in the special envelopes supplied for that purpose for both the local electoral district and the island wide district and indicate on the envelopes in words the number of spoiled ballot papers counted and seal the envelopes and initial them;

(h) count the unused ballot papers, place them in the special envelopes supplied for that purpose for both the local electoral district and the island wide district and indicate on the envelopes in words the number of such unused ballot papers, and seal the envelopes and initial them;

(i) check the number of ballot papers supplied by the returning officer against the number of spoiled ballot papers, if any, the number of unused ballot papers and the number of voters whose names appear in the poll book as having voted in order to ascertain that all ballot papers are accounted for; and

(j) record the number of ballot boxes in his possession, the number of ballot papers issued to voters, the number of unused ballot papers, the number of spoiled ballot papers and all other information required in accordance with Form 23 and attach his signature to the document containing the aforementioned information.

(2) The ballot boxes, poll book, envelopes containing the counterfoils of the used ballot papers, spoiled and unused ballot papers, official list of voters, and other documents used at a polling station for the election shall be transmitted to the returning officer who shall transmit the aforementioned materials to the place identified for the counting of votes.

(3) The presiding officer shall, with the ballot boxes and aforementioned papers, transmit to the returning officer for the appropriate district, in the envelope provided for that purpose, the keys of such ballot boxes.

(4) The returning officer for each local electoral district may specially appoint one or more persons for the purpose of collecting the ballot boxes and papers aforementioned from specified polling stations, and such persons shall, on delivering the ballot boxes and papers to the returning officer, take the oath in Form 24.

(5) A polling station in a local electoral district may be designated as the place to conduct the counting of votes for that electoral district.

(6) No ballot boxes shall be moved from the place identified for the counting of votes until all ballots for that district have been counted and the provisions of section 62 have been fulfilled.

(7) When the ballots in an electoral district have been counted for both the local electoral district and the island wide district, the ballot boxes and papers shall be transported to such other place identified by the Supervisor of Elections.

(8) Subject to subsection (9), the candidates or their agents are entitled to accompany the ballot boxes and documents referred to in subsection (2), to the place identified for the counting of votes and subsequently to such other place identified by the Supervisor of Elections.

(9) Where the conveyance carrying the ballot boxes cannot comfortably accommodate more than one polling agent or candidate, a polling clerk and a police officer shall accompany the ballot boxes. The polling agent or agents and candidates shall, if they so desire, be allowed to follow the conveyance carrying the ballot boxes in a separate conveyance in convoy.

Counting of votes, *etc.*

62. (1) Subject to subsection (2), after the ballot boxes from every polling station within a local electoral district have been received, the returning officer shall perform the duties outlined in subsection (3).

(2) The returning officer shall perform the duties outlined in subsection (3)—

(a) in the presence of the candidates or their agents; or

(b) where a candidate is absent or unrepresented, in the presence of the other candidates or agents and in the presence of persons authorised to be present at the counting of the votes where the candidates or his agents are absent; or

(c) where none of the candidates is represented, in the presence of at least two voters.

(3) The duties referred to in subsection (1) are as follows—

(a) examine the ballot boxes and envelopes received from each polling station one at a time, ensuring that the seals on the ballot boxes and the envelopes are securely affixed;

(b) count and record the number of ballot boxes and envelopes received from each polling station, ensuring that all ballot boxes and envelopes are accounted for in accordance with this Act;

(c) distribute tally sheets to not less than two poll clerks and two witnesses upon which they shall keep their own score as each vote is called out by the returning officer;

(d) open each ballot box, one at a time, in order to count the votes;

(e) count and record the number of votes given to each candidate,

(f) reject all ballot papers—

(i) which have not been supplied by him,

(ii) which have not been marked for any candidate,

(iii) on which votes have been given for more than one candidate in the electoral district,

(iv) on which votes have been given for more than four candidates in the election for the island wide electoral district,

(v) upon which there is any writing or mark by which the voter could be identified.

(4) Notwithstanding subsection (1) (f), no ballot paper shall be rejected by reason only that—

(a) the cross is marked outside the space provided;

(b) more than one cross is marked on the ballot paper;

(c) the presiding officer failed to remove the counterfoil; or

(d) there is any writing, number or mark placed on the ballot paper by the presiding officer;

if there is a clear indication for which candidate the voter intended to vote.

(5) The Supervisor of Elections may, for the purposes of an election in the island-wide electoral district, appoint additional returning officers and counting agents, as he thinks fit, to deal with the counting of votes in accordance with the provisions of this section.

(6) If in the course of counting the votes any ballot paper is found with the counterfoil still attached to it, the returning officer shall, after carefully concealing the numbers on the counterfoil on the ballot paper from all persons present and without examining them himself, remove the counterfoil.

(7) If in the course of counting the votes the returning officer discovers that the presiding officer has omitted to affix his initials to any ballot paper as provided by section 54(1), he shall—

(a) in the presence of a poll clerk and such of the candidates or their agents as are present, affix his initials to the ballot paper; and

(b) count such ballot paper as if it had been initialled by the presiding officer in the first place; provided that he is satisfied that the ballot paper is one that has been returned by the voter to the presiding officer and also that every ballot paper returned to the presiding officer has been accounted for in accordance with section 61(1)(i).

(8) The returning officer shall record in the poll book every objection made by any candidate or his counting agent or any voter present to any ballot paper found in a ballot box and shall decide every question arising out of the objection.

(9) The decision of the returning officer pursuant to subsection (8) shall be final, subject to reversal on petition questioning the election or return; and every such objection shall be numbered, and a corresponding number placed on the back of the ballot paper and initialled by the returning officer.

(10) Immediately after the counting of the votes pursuant to this section has been completed, a candidate or his counting agent present at the count may, by completing Form 26, demand a recount.

(11) Unless the returning officer considers the demand under subsection (10) to be unreasonable having regard to the result of the first count, he shall proceed to recount the votes to ascertain the result of the poll.

(12) The returning officer shall, after the count or recount of the votes as the case may be—

(a) subject to the final declaration made by the Supervisor of Elections under subsection (20)—

(i) in the case of a local electoral district, declare the candidate who is found to have the largest number of votes to be elected as the member for the electoral district,

(ii) in the case of the island-wide electoral district, declare the number of votes received by each candidate;

(b) place in to separate envelopes the ballot papers cast for each candidate and the rejected ballot papers and place these along with all other papers, lists, documents and records of the result of the count conducted for that district into packets and indicate on the packet in words the district from which those ballot papers, other papers, lists documents and records came and shall seal and initial the packet.

Where the agents or the witnesses present desire, the returning officer may allow them to seal the packets or initial the packets in addition to or instead of the returning officer and the returning officer shall place the packets in a ballot box or boxes and seal the said box or boxes;

(c) complete Form 25; and

(d) cause to be delivered to the Supervisor of Elections at the place identified pursuant to section 61(5) the following items—

(i) all ballot boxes containing the initialled and sealed packets,

(ii) envelope containing the keys of each ballot box, and

(iii) a statement showing the total number of votes polled for each candidate within that district in accordance with Form 25.

(13) Subject to subsection (14), as soon as is practicable after he receives all ballot boxes, envelopes, statements and packets, the Supervisor of Elections shall ascertain the total votes cast in favour of each candidate by checking the votes polled for each candidate recorded on the statement submitted by the returning officers of each district and thereafter make a declaration in accordance with subsection (20).

(14) Where a ballot box has been destroyed or is missing, the Supervisor of Elections shall ascertain the cause of the destruction or loss and shall complete the validation of the results from the statement of the votes recorded by the returning officer for that district.

(15) If at any time before the counting of votes is completed in accordance with this section, any ballot box used at any polling station is destroyed, lost, damaged or tampered with, to such an extent that the result of the poll at that polling station cannot be ascertained, the returning officer for the particular district from which that box came, shall immediately report the matter to the Supervisor of Elections.

(16) After taking all the material circumstances into account, the Governor shall, in consultation with the Supervisor of Elections—

(a) declare by proclamation the poll at the polling station referred to under subsection (15) to be void and issue such directions as he thinks fit for the resumption and completion of the counting of votes and of the election; and

(b) issue a writ under the Public Seal of Anguilla addressed to the relevant returning officer, appointing a day, and fixing the hours for the taking of a new poll at that polling station.

(17) The poll under subsection (16)(b) shall be held at the appropriate polling station or stations in accordance with the provisions of this Act as if it is the original poll.

(18) The Supervisor of Elections shall adjourn the declaration of results pursuant to subsection (20) until the taking of the new poll in accordance with subsection (16)(b) has been completed.

(19) For the avoidance of doubt, it is declared that all provisions relating to proceedings at the close of poll, transporting of ballot boxes, statements etc., to counting and recounting of votes and to elections shall be complied with as regards all other polling stations to which subsection (15) does not apply.

(20) On the completion of the count or recount, as the case may be, in an election—

(a) in a local electoral district to return one member to the House, the candidate with the largest number of votes shall be declared by the Supervisor of Elections to be elected as a member for the local electoral district;

(b) in the island-wide electoral district to return more than one member to the House, the number of candidates equal to the members to be returned with the largest number of votes shall be declared by the Supervisor of Elections to be elected as members for the island-wide electoral district.

(21) Whenever after the count of votes (including any recount) is completed, an equality of votes is found to exist between any candidates and the addition of one vote would entitle any of those candidates to be elected—

(a) in the case of a local electoral district, a new writ shall be issued in respect of that electoral district and all proceedings for an election of a member for that electoral district shall commence afresh;

(b) in the case of the island-wide electoral district, the island-wide returning officer shall declare elected any candidate or candidates who received a larger number of votes than the number so found equal and a new writ shall be issued and all proceedings shall be commenced afresh for the election of a member or members to fill the remaining vacancy or vacancies.

(22) The proceedings for an election commenced by the new writ issued in subsections 21(a) and (b) shall be between those candidates where an equality of votes is found to exist.

Maintenance of order at polling station

63. (1) Subject to subsection (2), during the hours when the poll is open on polling day, no person shall assemble or congregate within 100 yards of any building in which any polling station is located.

(2) This section shall not apply—

(a) to any voters who are waiting to poll their votes at such polling station and who obey any instructions which may be given by the presiding officer or poll clerk or any police officer for the purpose of forming a queue with other voters also waiting; or

(b) to any person who is authorised under the provisions of this Act to enter or remain in such polling station.

(3) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine of $9,600 or imprisonment for 3 months.

Influencing voters

64. (1) No person shall—

(a) on any public road; or

(b) in any public place;

within 100 yards of any building in which a polling station is located, seek to influence any voter to vote for any candidate or to ascertain for what candidate any voter intends to vote or has voted whilst the poll is open on polling day.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of $9,600 and to imprisonment for 3 months.

Election return

65. (1) The returning officer within the time specified for the return of any writ shall forward to the Supervisor of Elections—

(a) the writ with his return in Form 27 and endorsed on the writ that the candidate or candidates with the largest numbers of votes have been elected;

(b) a report of the proceedings showing the number of votes cast for each candidate at each polling station, and making such observations as the returning officer may think proper as to the state of the election papers as received from the presiding officer;

(c) a statement of the number of persons to whom ballot papers have been supplied in the electoral district, based on the counterfoils;

(d) the reserve supply of undistributed blank ballot papers;

(e) the poll book used at each polling station, a packet containing the counterfoils and unused ballot papers, a packet containing the spoiled ballot papers, a packet containing the official lists of voters used at the polling stations, and the written appointments of candidates' agents; and

(f) all other documents used for the election.

(2) The Supervisor of Elections shall, on receiving the return of any member or members elected to serve in the Assembly, cause it to be entered, in the order in which such return is received by him, in a book to be kept by him, for such purpose and immediately cause a notice to be published in the *Gazette* of the name of the candidate or candidates so elected and in the order in which it was received.

(3) The Supervisor of Elections shall, on receiving the return of any member or members elected to serve in the Assembly, transmit the writ with the return endorsed on it to the Governor

within the time specified in such writ. The Governor shall within 7 days of receiving the writ return it to the Supervisor of Elections for safe custody in accordance with section 66.

(4) The Supervisor of Elections shall immediately after each general election or after a by-election, print a report, giving by polling divisions—

(a) the number of votes polled for each candidate;

(b) the number of rejected ballot papers;

(c) the number of names on the official lists of voters; and

(d) any other information that he may deem fit to include.

(5) If any returning officer wilfully delays, neglects or refuses duly to return any person who ought to be returned to serve in the Assembly for any electoral district, and if it has been determined on the hearing of an election petition respecting the election for such electoral district that such person was entitled to have been returned, the returning officer who has so wilfully delayed, neglected or refused duly to make such return of his election shall be required to pay the person aggrieved the sum of $20,000 in addition to his legal costs and all damages sustained.

(6) For the purpose of subsection (1)(b), "the state of election papers" means the condition and contents of any documents handed over by the presiding officer to the Supervisor of Elections.

Custody of election documents

66. (1) Subject to subsections (2) and (3), the Supervisor of Elections shall keep the election documents in safe custody and shall allow no person to have access to them.

(2) Where an election petition has been presented questioning the validity of any election or return, the Supervisor of Elections shall, on the order of a Judge of the High Court, deliver to the proper officer of that Court the documents relating to the election that is in dispute.

(3) It shall be lawful for the Supervisor of Elections to cause the election documents referred to in subsection (1) to be burnt after the expiration of 12 months from the day of any election.

(4) No election documents in the custody of the Supervisor of Elections shall be inspected or produced except on the order of a Judge of the High Court.

(5) An order under subsection (4) may be made where the Judge of the High Court is satisfied by evidence on oath that the inspection or production of such election documents is required for the purpose of—

(a) instituting or maintaining a prosecution for an offence in relation to an election; or

(b) a petition which has been filed questioning an election or return.

(6) Any order for the inspection or production of election documents may be made subject to such conditions the Judge deems expedient.

(7) The conditions referred to in subsection (6) include—

(a) persons named in the order for inspection or production;

(b) time within which documents shall be produced or made available for inspection;

(c) place where documents shall be inspected or produced; and

(d) mode of inspection or production.

Custody of election materials

67. After the return of the writ referred to in section 65 all election materials including the ballot boxes used at the election, with their locks and keys and the screens and other appliances used in the polling station, shall be in the custody of the Supervisor of Elections.

PART 6

ELECTION PETITIONS

Petitions against elections

68. (1) A petition complaining of an undue return or undue election of a member of the Assembly (hereinafter called an election petition) may be presented to the High Court by any one or more of the persons specified in section 49(2)(a) of the Constitution.

(2) The persons referred to in subsection (1) are—

(a) any person entitled to vote in the electoral district and at the election to which the application relates;

(b) any person who was a candidate in that electoral district at that election; and

(c) the Attorney-General.

Presentation of election petition and security for costs

69. (1) The following provisions shall apply with respect to the presentation of an election petition—

(a) the petition shall be presented within 21 days after the return made by the returning officer of the member to whose election the petition relates;

(b) where the election petition questions the return or election upon an allegation of corrupt practices and specifically alleges a payment of money or other reward by any member, or another person on his behalf, with his knowledge or involvement, after the time of such return, in pursuance or in furtherance of such corrupt practices, the petition may be presented at any time within 28 days after the date of such payment;

(c) at the time of the presentation of the petition, or within 3 days after the petition is made, security for the payment of all costs, charges and expenses that may become payable by the petitioner—

(i) to any person summoned as a witness on his behalf, or

(ii) to the member whose election or return is complained of, or to any other person named as a respondent in the petition;

shall be given on behalf of every petitioner except the Attorney-General;

(d) the security shall be to an amount of $2,000 and shall be given by—

(i) recognisance to be entered into by any number of sureties, who are persons entitled to vote in the electoral district and at the election to which the petition relates,

(ii) or by deposit of money in the High Court;

or partly by recognisance and partly by deposit of money referred to in sub paragraphs (i) and (ii) respectively;

(e) The sureties referred to in paragraph (d)(i) shall not exceed 4 and must be approved by the Registrar of the High Court.

(2) The Election Petition Rules shall apply to—

(a) the deposit of money as security;

(b) the practice and procedure for the service and hearing of election petitions; and

(c) matters incidental thereto;

until amended or replaced by the Chief Justice.

Avoidance of election of candidate certified guilty of corrupt or illegal practice

70. (1) If a candidate who has been elected, is certified by the Judge to be guilty of any corrupt or illegal practice —

(a) by the candidates own acts; or

(b) by the acts of the agents of the candidate;

his election shall be void and he shall be prohibited from contesting the resulting election.

(2) For the avoidance of doubt the Judge referred to in subsection (1) is the Judge who tried the election petition questioning the return or election of the candidate referred to in subsection (1).

Avoidance of election for general corruption, *etc.*

71. Where on an election petition it is shown that corrupt or illegal practices committed in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supposed to have affected the result—

(a) his election, if he has been elected, shall be void and he shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election was held; and

(b) he shall be prohibited from contesting the resulting election.

Trial of election petitions

72. (1) Every election petition shall be tried in the same manner as an action in the High Court by a Judge sitting alone.

(2) At the conclusion of the trial the Judge shall determine issues set out in the petition.

(3) The Judge shall certify such determination referred to in subsection (2) to the Governor.

(4) Where a certification is given by the Judge, his determination shall be final, subject to the right of appeal to the Court of Appeal provided in section 49(4) of the constitution.

(5) The return shall be confirmed or altered, or a writ for a new election issued, in accordance with—

(a) a determination made by the Judge in subsection (3); or

(b) the determination on appeal where an appeal is made to the Court of Appeal.

Powers of judge

73. At the trial of an election petition the Judge shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority of a High Court Judge sitting in the court's civil jurisdiction.

PART 7

ELECTION OFFENCES

Intoxicating liquor not to be sold or given on polling day

74. (1) No intoxicating liquor shall be sold, offered for sale, or given away at any premises located in any electoral district in which an election is being held, at any time between the opening and the closing of the poll on polling day.

(2) Subsection (1) shall not apply to a licensed restaurant or hotel.

(3) Any person who contravenes this section shall be guilty of an offence and liable on summary conviction to a fine of $4,000 and to imprisonment for 6 months.

Employers to allow employees time to vote

75. (1) On polling day, every employer shall allow to every voter employed by him, a reasonable period for voting.

(2) No employer shall make any deduction from the pay or other remuneration of any such voter or impose on him any penalty by reason of his absence during such period.

(3) Any employer who, directly or indirectly—

(a) by refusal; or

(b) by intimidation; or

(c) by undue influence; or

(d) in any other way;

interferes with the granting to any voter employed by him, of such period for voting referred to in subsection (1), shall be guilty of an offence and liable on summary conviction to a fine of $20,000 and to imprisonment for 6 months.

Offences by election officers

76. Every election officer who—

(a) makes any entry which he knows or has reasonable cause to believe to be false, or does not believe to be true, in any record, return or other document which he is required to keep or make under this Act;

(b) permits any person whom he knows or has reasonable cause to believe not to be blind, illiterate or incapacitated to vote in the manner provided for the blind, illiterate or incapacitated, as the case may be;

(c) refuses to permit any person whom he knows or has reasonable cause to believe to be blind, illiterate or incapacitated to vote in the manner provided for the blind , illiterate or incapacitated, as the case may be;

(d) wilfully prevents any person from voting at the polling station at which the officer knows or has reasonable cause to believe that person is entitled to vote;

(e) wilfully rejects or refuses to count any ballot paper which he knows or has reasonable cause to believe is validly cast for any candidate in accordance with the provisions of this Act; or

(f) wilfully counts any ballot paper as being cast for any candidate, which he knows or has reasonable cause to believe was not validly cast for such candidate;

shall be guilty of an offence and liable on conviction on indictment to imprisonment for 2 years.

Acts prohibited on polling day

77. (1) No person shall furnish or supply any loudspeaker, bunting, ensign, banner, standard or set of colours, or any other flag, to any person with intent that it shall be carried, worn or used on motor cars, trucks or other vehicles, as political propaganda, on polling day, and no person shall, with any such intent, carry, wear or use, on motor cars, trucks or other vehicles, any such loudspeaker, bunting, ensign, banner, standard or set of colours, or any other flag, on polling day.

(2) No person shall furnish or supply any flag, ribbon, label or like favour to any person with intent that it be worn or used by any person within any electoral district on polling day as a party badge to distinguish the wearer as the supporter of any candidate, or of the opinions,

political or otherwise, of the candidate, and no person shall use or wear any flag, ribbon, label or other favour, as such badge, within any electoral district on polling day.

(3) No person shall broadcast any item on polling day on any media including television or wireless transmitting station, which may promote or attempt to procure the election of any candidate or of any political party.

(4) Each candidate shall, before midnight on the day before polling day, ensure the removal of all billboards, signs, posters and banners which are visible from any public road.

(5) No person shall consume or offer any food or drink, save for water, for consumption within 100 yards of a polling station.

(6) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine of $40,000 and to imprisonment for one year.

Definition of bribery

78. (1) Any person who—

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

(b) directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or to procure, or offers, promises to procure or to endeavour to procure, any office, position or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or corruptly does any such act referred to above as a result of any voter having voted or refrained from voting at any election;

(c) directly or indirectly by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement referred to in paragraphs (a) and (b) to or for any person, in order to induce such person, or endeavour to procure, the return of any person as an elected member of the Assembly, or the vote of any voter at any election;

(d) as a result of a promise, procurement or an agreement or in receipt of any such gift, loan, offer, procures or engages, promises or endeavours to procure the return of any person as an elected member of the Assembly or the vote of any voter at any election;

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

(f) before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees to accept, or enters into a contract to receive money, a gift, a loan, an office, place, employment for himself or for any other person, in exchange for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election; or

(g) before or during any election, directly or indirectly, by himself or by any other person on his behalf, votes or agrees to vote, or refrains or agrees to refrain from voting at any election in exchange for any other valuable consideration;

(h) after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration as a result of any person having voted or refrained from voting at any such election;

shall be guilty of the offence of bribery.

(2) The provisions of subsection (1) shall not apply or be construed to apply to any money paid or agreed to be paid for or as result of any legal expenses incurred in good faith in relation to an election.

(3) For the purposes of this section "legal expenses" include payments made—

(a) to the agents, clerks, canvassers and messengers of candidates;

(b) for the purpose of hiring vehicles used to transport voters to or from a polling station;

(c) for the use of any premises for a public meeting held by a candidate or for the use of an office or any other place for the purpose of promoting or procuring the election of a candidate; and

(d) for postage, stationery, printing, advertising, the distribution of advertising material and the use of any public address system.

Definition of treating

79. The following persons shall be guilty of the offence of treating—

(a) any person who corruptly, by himself or by any other person, either before, during an election, directly or indirectly, pays for, gives or provides, wholly or in part, any food, drink, entertainment to or for any person for the purpose of corruptly influencing that person, or any other person, to vote or to refrain from voting at such election, or as a result of such person or any other person having voted or refrained from voting at such election; or

(b) any voter who accepts or takes any such food, drink, entertainment or provisions in exchange for voting or refraining from voting at such election.

Definition of undue influence

80. The following persons shall be guilty of the offence of undue influence—

(a) Any person who, directly or indirectly, by himself or by any other person on his behalf, uses or threatens to use any force, violence, or restraints in order to induce or compel such person to vote or refrain from voting or as a result of such person having voted or refrained from voting at any election;

(b) any person who, inflicts or threatens to inflict, by himself or by any other person, any emotional or mental injury, damage, harm, or cause loss to any person, in order to induce or compel such person to vote or refrain from voting or as a result of such person having voted or refrained from voting at any election;

(c) any person who by abduction, duress or any fraudulent contrivance—

(i) impedes or prevents the free exercise of a person's right to vote, or

(ii) compels, induces or prevails upon any voter either to vote or refrain from voting at any election.

Definition of personation

81. (1) Any person who at an election—

(a) applies for a ballot paper in the name of another person, living or dead, or of a fictitious person; or

(b) who, having voted once at any election, applies at the same election for a ballot paper in his own name;

shall be guilty of the offence of personation.

Penalty for bribery, *etc.*

82. Any person guilty of bribery, treating, or undue influence shall be liable on summary conviction—

(a) if he is an election officer, to a fine of $40,000 and to imprisonment for 6 months; and

(b) and if he is any other person, to a fine of $30,000 and to imprisonment for 6 months.

Penalty for personation

83. Any person guilty of—

(a) personation; or

(b) aiding, abetting, counselling or procuring the commission of the offence of personation;

shall, on conviction on indictment, be liable to a fine of $40,000 or to imprisonment for 2 years.

Disqualification for bribery, etc.

84. Any person who is convicted of bribery, treating, undue influence, or personation, or of aiding, counselling or procuring the commission of the offence of personation shall (in addition to any other punishment) be incapable during a period of 7 years from the date of conviction—

(a) of being registered as a voter, or of voting at any election;

(b) of being elected as a member of the Assembly or, if elected before his conviction, of retaining his seat as such member.

Penalty for illegal practices at elections

85. (1) Any person who—

(a) votes, or induces or procures any person to vote, at any election, knowing that he or such other person is prohibited from voting in an election under this Act, or by any law in force in Anguilla;

(b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate; or

(c) between the date of the publication in the *Gazette* by the returning officer of a notice in accordance with section 37(1) and the day of polling at the election, whether in a general election or in a by-election, acts in a disorderly manner, with intent to prevent the transaction of the business of a public meeting called for the purpose of promoting the election of a candidate as a member to serve in the Assembly;

(d) commits any other act deemed to be an illegal practice;

shall be guilty of an offence.

(2) Where the offence referred to in subsection (1) is committed by—

(a) an election officer, he shall be liable on summary conviction to a fine of $40,000;

(b) any other person, other than an election officer, he shall be liable on summary conviction to a fine of $30,000.

(3) Any person who, between the date of the publication by the returning officer of a notice in accordance with section 37(1), and the day of polling at the election, whether in a general election or in a by-election, , conspires with or incites others to act in a disorderly manner with intent to prevent a candidate from holding a public meeting for the purpose of promoting his election as a member to serve in the Assembly, shall be guilty of an offence and, liable on conviction on indictment, to a fine of $30,000 and to imprisonment for 2 years,

(4) Any person who commits an offence under this section shall be incapable of—

(a) being registered as a voter or of voting at any election; and

(b) contesting an election;

for a period of 5 years from the date of conviction.

Offences in respect of ballot papers

86. (1) Any person who—

(a) forges or counterfeits, or fraudulently defaces or destroys a ballot paper;

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

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

(d) fraudulently takes out of the polling station any ballot paper;

(e) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers being used at an election; or

(f) not being duly registered as a voter, votes at an election;

shall be guilty of an offence.

(2) Where the person who is found guilty of the offence under subsection (1) is an election officer he shall liable on summary conviction, to a fine of $40,000 and to imprisonment for 6 months.

(3) Where the person who is found guilty of the offence under subsection (1) is any other person other than an election officer he is liable on summary conviction to a fine of $30,000 and to imprisonment for 3 months.

(4) In any information or prosecution for an offence in relation to the ballot boxes, ballot papers, and other things in use at an election, the property in such ballot boxes, ballot papers, or things may be deemed to be the property of the returning officer at such election.

Infringement of secrecy

87. (1) Any election officer and agent appointed under section 46 in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting at such station.

(2) The election officer and agent referred to in subsection (1) shall not, before the poll is closed, communicate any information to any person as to—

(a) the name of any voter who has or has not applied for a ballot paper;

(b) the number of persons who have applied for a ballot paper;

(c) the names and number of votes who have voted at that polling station;

unless such communication is for some purpose authorised by law.

(3) No person shall interfere with or attempt to interfere with a voter when marking his vote or otherwise attempt to obtain in the polling station any information as to any candidate for whom any voter in such station is about to vote or has voted.

(4) Every election officer and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting and shall not attempt to communicate any information obtained at such counting as to a candidate for whom any vote is given in any particular ballot paper.

(5) No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked it so as to make known to any person the name of a candidate for whom or against whose name he has so marked his vote.

(6) Any person who commits an offence under this section shall be liable, on summary conviction, to a fine of $9,600 and to imprisonment for 3 months.

PART 8

MISCELLANEOUS PROVISIONS

No obligation on voter to disclose vote

88. No voter who has voted at any election shall be required to state for whom he voted, in any legal proceedings to question the election or return.

Conclusiveness of Register of Voters

89. (1) At any election a person shall not be entitled to vote unless his name is on the Register of Voters for the time being in force by virtue of this Act, and every person whose name is on such Register shall, subject to the provisions of this Act, be entitled to demand and receive a ballot paper and to vote.

(2) Nothing in this section shall entitle any person to vote who is prohibited from voting by any law in force in Anguilla, or relieve such person from any penalties for which he may be liable for voting.

Expenses of elections

90. All expenses properly incurred by, and all remuneration and travelling allowances payable to, officers under this Act shall be defrayed out of the Consolidated Fund.

Computation of time

91. (1) In computing time for the purposes of this Act, Saturday, Sunday, Christmas Day, Good Friday and any public holiday, under the Public Holidays Act, shall be excluded.

(2) Where anything required to be done under this Act falls to be done on Saturday or Sunday or on any day excluded under subsection (1), that thing may be done on the next day, not being a Sunday or one of such excluded days.

Removal of difficulties

92. Where any difficulty arises in first giving effect to any of the provisions of this Act, the Supervisor of Elections may, by Order published in the *Gazette*, issue all such directions as he may deem necessary with a view to—

(a) providing for any special or unforeseen circumstances; or

(b) determining or addressing any question or matter;

in relation to which no provision or effective provision is made by this Act.

Power to make regulations

93. (1) The Governor may make regulations generally for giving effect to the provisions of this Act and without prejudice to such general power may make regulations in addition to or in substitution for the Regulations and the forms prescribed under the Act—

(a) with respect to the financing of election campaigns, including expenses and the making of payments by or on behalf of a candidate, whether before, during or after an election, on account or in respect of the conduct of such election;

(b) requiring the appointment of an election agent—

(i) by whom all payments are made, or

(ii) through whom all expenses are incurred;

(c) fixing the maximum amount of expenses and payments that may be incurred or paid, whether before, during or after an election, in respect of the conduct of such election;

(d) fixing the time within which all election expenses shall be paid;

(e) requiring a record of election expenses and payments and prescribing the form in which the same shall be made and verified;

(f) prescribing the remuneration and travelling allowances and any other expenses which may be paid to election officers appointed under this Act;

(g) prescribing the duties of returning officers and the procedure to be followed in the performance of their duties;

(h) amending or replacing Schedule 2;

(i) amending or repealing any prescribed form or inserting new prescribed forms;

(j) prescribing penalties for the breach of any regulations made under this Act; and

(k) prescribing any other matter that is to be prescribed by this Act.

(2) Regulations made under subsection (1) shall be laid before the House of Assembly as soon as may be after they are made, and shall not continue in force after the expiration of 7 days from the time when they are laid unless a resolution is passed by the House of Assembly providing for the continuance of the regulations.

Repeal

94. The Elections Act R.S.A. c E030 is repealed.

Savings

95. (1) In so far as anything done under the repealed Act could have been done under a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if done under that provision.

(2) The Central Electoral Office which before the coming into force of this Act was the Central Electoral Office under the repealed Act shall remain in operation and continue as if this Act had been in force when the Central Electoral Office was established.

(3) The person who immediately before the coming into operation of this Act was the Supervisor of Elections under the repealed Act shall continue to be the Supervisor of Elections as if that person had been appointed under section 3 on the same terms and conditions for a term expiring on the day on which the appointment under the repealed Act would expire.

(4) The person who immediately before the coming into operation of this Act was the Electoral Registration officer under the repealed Act shall continue to be the Electoral Registration officer as if that person had been appointed under section 5 on the same terms and conditions for a term expiring on the day on which the appointment under the repealed Act would expire.

(5) The Register of Voters in effect immediately before the coming into force of this Act shall be deemed to be the Register of Voters in effect at the date of the coming into operation of this Act.

Citation and commencement

96. This Act may be cited as the Elections Act, 2019 and shall come into operation on such date as the Governor, by Notice published in the *Gazette*, shall appoint.

SCHEDULE 1

(Section 16(1) (a))

ELECTORAL DISTRICTS

Anguilla shall be divided into the following Electoral Districts—

(1) Island Harbour District, comprising the area of Island Harbour, The Copse, Pond Ground, Mount Fortune, White Hill, Welches, Scrub Island, Little Scrub and Scilly Cay;

(2) Sandy Hill District, comprising the area of Sandy Hill, Long Path, Chalvilles, Bad Cox, Deep Waters, Cannifist, Water Ground, Upper House, Betty Hill, The Copse;

Provided that the dividing line between Island Harbour District and Sandy Hill District shall be the road to Sile Bay through The Copse.

(3) Valley North District, comprising the area of Crocus Bay, Roaches Hill, The Valley, North Valley, Upper Valley, The Quarter, North Side, Stoney Ground, Caul's Bottom, The Farrington, Wattices, Little Dix, and Shoal Bay.

(4) Valley South District, comprising the area of Vieux Fort, Crocus Hill, The Valley, South Valley, Upper Valley, The Quarter, The Farrington, Rey Hill, The Forest, Corito, Long Ground, Little Harbour, Statia Valley and George Hill;

Provided that the dividing line between Valley North District and Valley South District shall be the main Valley Road leading from the Cottage Hospital eastwards through the Long Road towards the East End.

(5) Road North District, comprising the area of Water Swamp, North Hill, Sandy Ground, that part of South Hill lying north of the main road leading from The Valley towards the West End; and the islands of Sombrero, Sandy Island, Dog Island, Upper and Lower Prickly Pear Islands and Seal Island.

(6) Road South District, comprising the area of Blowing Point, Sandy Point, Rendezvous and that part of South Hill lying south of the main road leading from The Valley towards the West End.

(7) West End District, comprising the area known as the West End, and including Long Bay, Meads Bay (otherwise known as Mayds Bay), Maundays Bay, West End Village and Anguillita Island.

———————

SCHEDULE 2

FORMS

FORM 1

(Section 5(6))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF REGISTRATION OFFICER

I, …… do swear/solemnly and sincerely affirm that I will faithfully perform all the duties of Registration Officer of the Polling Division of …… in the Electoral District of …… in accordance with the provisions of the Elections Act to the best of my ability. So help me God.*

……
Registration Officer

Sworn/Affirmed before me this …… day of ……., 20……. .

……

** Delete if affirmed*

_____

FORM 2

(Section 7(3))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF RETURNING OFFICER

I, …… having been appointed Returning Officer for the Electoral District of ……. …….do swear/solemnly and sincerely affirm that I will faithfully perform all the duties of Returning Officer in accordance with the provisions of the Elections Act to the best of my ability. So help me God.*

……
Returning Officer

Sworn/Affirmed before me this …… day of ……., 20…… .

…….

* *Delete if affirmed*

FORM 3
(Section 24)
ANGUILLA
ELECTIONS ACT

……

Applicant

APPLICATION FOR TRANSFER OF REGISTRATION

To be filled out by persons who are registered as voters who wish to transfer their registration to another Electoral District.

Electoral District……..

I am presently registered on the existing register of voters for this electoral district as follows:

Name(Surname first):	
Date of Birth:	
Sex:	
Ethnicity :	
Occupation:	
Residential address:	
Country of Birth:	

I have moved my place of residence from (former residential address) _____

to (present address) _____which to the best

of my knowledge and belief is within Electoral District_____.

I hereby apply to transfer my registration from Electoral District _____to Electoral District _____:

I believe I am qualified to be registered as a voter in Electoral District _____and I submit proof of my qualifications with this application.

Place a tick (✓) in the box beside the documents you are submitting with your application:

❑ Birth Certificate of applicant

- ❑ Birth Certificate(s) of parent(s)
- ❑ Marriage Certificate
- ❑ Birth Certificate(s) of grandparent(s)
- ❑ Belonger Status Certificate/ stamp
- ❑ Certificate of Naturalisation/ Registration
- ❑ British Overseas Territories Citizen Passport (Anguilla)
- ❑ Letter of Residence (from community leader) indicating applicant's period of residence in the Electoral District
- ❑ Letter(s) from applicant's employer(s) over the past 5 years, indicting applicant's period(s) of employment
- ❑ Deed Poll
- ❑ Driver's Licence
- ❑ Other

Date……. Signed ……
Applicant

FORM 4

(Section 33(3))

ANGUILLA

ELECTIONS ACT

VOTER REGISTRATION CARD

FORM 5

(Section 33(7))

ANGUILLA

ELECTIONS ACT

APPLICATION FOR A DUPLICATE VOTER REGISTRATION CARD

To the Supervisor of Elections
Elections Office

I, _____ whose address is _____
(give full names in block capitals)

_____

solemnly and sincerely declare that

(a) I am qualified as a voter under section 43 (1) of the Anguilla Constitution Order 1982;

(b) I am not disqualified from voting under section 44 (1) of the said Constitution;

(c) I was the holder of a voter registration card which was issued to me on or about the _____ day of _____20 _____

(provide appropriate information if known) and that the said card has been *lost/mutilated/destroyed/defaced
(*delete as applicable) in the following circumstances-

(here set out in detail the circumstances)

_____

_____

_____

_____

Accordingly, I hereby apply for a duplicate voter registration card, and

(a) *I undertake that if the original card which was issued to me is found that I will return it forthwith to the Supervisor of Elections.

OR

(b) *I enclose with this application my present mutilated or defaced card.

(*delete as applicable)

Date this _____ day of _____, 20_____

Signature of applicant: _____

Signature of witness: _____

Name of Witness: _____

(in BLOCK CAPITALS)

FORM 6

(Section 36(1)(3))

ANGUILLA

ELECTIONS ACT

WRIT OF ELECTION

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To …… , the Returning Officer of the Electoral District of……

WHEREAS by section 36 of the Elections Act it is provided that for the purpose of every general election of members of the Assembly, and for the purpose of the election of members to supply vacancies caused by death, resignation or otherwise, the Governor shall issue writs of election authenticated by his own signature, addressed to the Returning Officers of the respective Electoral Districts for which members are to be returned;

AND WHEREAS I think it expedient that writs should be issued for the election of members to serve in the Assembly;

NOW, THEREFORE, I, ……the Governor do hereby require that you proceed to the nomination of candidates on the ……..…….. day of ……, 20…….., at ……..……..… and thereafter, if necessary, you do on the ……. day of ……, 20 ….. between …….. a.m. and ……..…… p.m., cause election to be made according to law of a member to serve in the House of Assembly for the Electoral District and that you do cause the name of the member when so elected to be certified to me not later than the ……. day of ……..., 20…… .

Given under my hand and authenticated this …… day of ……....., 20…… and in the …….. year of Her Majesty's reign.

……..……
Governor of Anguilla

_____

FORM 7

(Section 37(1))

ANGUILLA

ELECTIONS ACT

NOTICE OF NOMINATION

The Governor having issued his Writ of Election for the election of a member of the House of Assembly for the Electoral District of ……..the Returning Officer for that District will on the ……. day of …… between the hours of 10 a.m. and 1 p.m. and between the hours of 2 p.m. and 4 p.m. at ……..…….. proceed to the nomination of a member for the Electoral District of ……..…….. .

Dated this ……. day of ……..., 20…… .

……...

Returning Officer for
the Electoral District of

……...

_____

Form 8
(Section 37(3))
ANGUILLA
ELECTIONS ACT
NOMINATION PAPER

We the undersigned voters for Electoral District No. …….; ……., do hereby nominate the following person as a proper person to serve as a member of the House of Assembly for the Electoral District No …..……; …… and we certify that to the best of our belief he is qualified for election as a member of the House of Assembly.

	Surname	**Other Name**	**Address**	**Occupation**	**Date of Birth**	**Sex**	**Ethnicity**
1.							
2.							
3.							
4.							
5.							

Signatures

……

……

……

……

……

DETAILS OF NOMINEE

Surname	**Other Name**	**Address**	**Occupation**	**Date of Birth**	**Sex**	**Ethnicity**	**Party**

I …… nominated in the foregoing nomination paper hereby consent to such nomination as a candidate for election as a member of the House of Assembly for the Electoral District of No….. I hereby declare that I meet the requirements set out in section 36 of the Constitution of Anguilla and I am therefore qualified to be elected as a member of the House of Assembly. I further declare that I am not disqualified from being elected as a member of the Assembly by the provisions set out in section 37 of the Constitution of Anguilla.

Witness my hand this ……. day of ……., 20……

……

Signed by the nominee in the presence of
……

———

FORM 9

(Section 40(6))

ANGUILLA

ELECTIONS ACT

RETURN OF UNCONTESTED ELECTION

I hereby certify that the member elected for the Electoral District of ……..

……...

in pursuance of the within Writ is

……..……..,

(*insert name, address and occupation of member elected as stated on the nomination paper*)

no other candidate(s) having been nominated.

Dated this …… day of ……, 20…….. .

……..……

Returning Officer

_____

FORM 10

(Section 42(4))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF PRESIDING OFFICER

I, …… having been appointed Presiding Officer for the Polling Station at ……in the Electoral District of ……...……..…….. swear/solemnly and sincerely affirm that I will act faithfully in my capacity of Presiding Officer, according to law, without partiality, fear, favour or affection and that I will keep secret the names of the candidates for whom any of the voters in the above-mentioned Polling Station marks his ballot paper in my presence at this election. So help me God.*

……..……
Presiding Officer

Sworn/Affirmed before me this …… day of ……..., 20…… .

……..……

** Delete if affirmed*

FORM 11

(Section 43(2))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF POLL CLERK

I, …… having been appointed as Poll Clerk for the Polling Station at …… in the Electoral District of ……..swear/solemnly and sincerely affirm that I will act faithfully in my capacity of Poll Clerk and also in that of Presiding Officer if required to act as such, according to law, without partiality, fear, favour or affection, and that I will keep secret the names of the candidates for whom any of the voters in the above-named Polling Station marks his ballot paper in my presence at this election. So help me God.*

……..……
Poll Clerk

Sworn/Affirmed before me this …… day of ……., 20…… .

……..……

** Delete if affirmed*

_____

FORM 12

(Section 45(4)(e))

ANGUILLA

ELECTIONS ACT

DIRECTIONS FOR THE GUIDANCE OF VOTERS

1. Each voter may vote only at one polling station.

2. The voter will go into one of the compartments and, with the pencil provided in the compartment, place a cross X on the right hand side, opposite the name of the candidate for whom he votes in the local electoral district.

   For example:- Supposing John Jones and George Smith are the candidates for election in the local electoral district and the voter wishes to vote for Jones in the local electoral district, he must place a cross opposite Jones' name as follows—

	John Jones Long Bay Shopkeeper	X
	George Smith Island Harbour Carpenter	

3. On the other side of the ballot paper for the island-wide electoral district the voter will place a cross opposite the four names of the candidates for whom he votes in the island-wide electoral district.

   For example:- Supposing Sarah Jones, Helen Gumbs, Roy Hodge, Glen Carty, John Smith, Tom Davis, Jim Hughes and Erica Brown are the candidates for the election in the island-wide electoral and the voter wishes to vote for Jones, Gumbs, Davis and Brown in the island-wide electoral district, he must place a cross opposite those four names as follows—

	Sarah Jones East End Retired	X
	Helen Gumbs Rey Hill Lawyer	X
	Roy Hodge South Hill Electrician	

	Glen Carty West End Restaurant owner	
	John Smith George Hill Teacher	
	Tom Davis Long Bay Chef	X
	Jim Hughes The Valley Accountant	
	Erica Brown The Quarter Chief Financial Officer	X

4. The voter shall then fold the marked ballot paper so that the initials of the presiding officer and the numbers on the counterfoil can be seen and the counterfoil detached without opening the ballot paper; he shall then return the ballot paper so folded to the presiding officer. The presiding officer in full view of those present including the voter, shall remove the counterfoil, separate along the perforated line the part of the ballot paper for the Local Electoral District from the island-wide Electoral District and place or direct the voter to place each separated part of the ballot paper in the relevant ballot box. The voter shall then immediately leave the polling station.

5. If a ballot paper is spoiled, he can return it to the presiding officers, who will, if satisfied that it is spoiled, give him another paper.

6. If the voter votes for more than one candidate in the local electoral district or more than four candidates in the island-wide Electoral District or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void and will not be counted.

7. A voter who takes a ballot paper out of the polling station or deposits in the ballot box any other paper than the one given him by the presiding officer is liable on summary conviction to imprisonment for 3 months or to a fine of $19,200.

_____

FORM 13
(Section 47(2)
ANGUILLA
ELECTIONS ACT
BALLOT PAPER

Anguilla General Elections No: 0001

ISLAND WIDE BALLOT. Voter Number on Register: .....

POLLING DAY: April 27th, 2020

1	Alexander, Maxwell Rey Hill CEO		
2	Brooks, James The Forest Businessman		
3	Connor, Everette Cedar Village Retired		
4	James, Hyatt The Valley Teacher		
5	John, Paulette West End Entreprenuer		
6	Richardson, Gerald Long Ground Lawyer		
7	Smith, Fred The Valley Retired		

Anguilla General Elections No: 0001

DISTRICT BALLOT. Voter Number on Register: .....

POLLING DAY: April 27th, 2020

1	Etienne, Haydn West End Businessman		
2	Forbes, Curtis East End Accountant		
3	Mitchell, Clifton The Valley Retired		
4	Mussington, Deja The Valley Entreprenuer		

Anguilla General Elections No: 0001

BALLOT PAPER

Electoral District: ..... Voter Number on Register: .....

POLLING DAY: April 27th, 2020

No. 00001

Fold Lines

No. 00001

FORM 14

(4(1))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF IDENTITY OF A VOTER
RECEIVING A BALLOT PAPER AFTER ANOTHER HAS VOTED IN HIS NAME

I swear/solemnly and sincerely affirm that I am *(name on list of voters)* …….of *(address as on list of voters)*…… whose name is entered on the list of voters now shown to me. So help me God.*

……..…….

Sworn/Affirmed before me this …….. day of ……..…….……, 20…… .

……..…….

** Delete if affirmed*

_____

FORM 15

(Section 1)

ANGUILLA

ELECTIONS ACT

POLL BOOK

Consecutive No. given each voter as he applies for ballot	Particulars of Voters							Particulars of Persons applying for Ballot Papers after another person has voted as such person			Objections if any made on behalf of any candidate	Remarks
	Name of Voter	Occupation	Residential Address	Consecutive No. of Voter on list of voters	Form numbers of oaths or affirmation if any voter is require to swear or affirm	(a) Record that oath sworn or affirmation affirmed or refused	(b) Record that voter has voted	Name	Consecutive No. of Voter on list of voters	Record that oath sworn or affirmation		

(a) If sworn or affirmed insert "sworn or affirmed" and number of the oath or affirmation; if refused, insert "Refused to be sworn" or "Refused to affirm" or "Refused to answer"

(b) When ballot put into ballot box, insert "voted"

FORM 16

(Section 56(3)(1))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF VOTER INCAPABLE OF VOTING WITHOUT ASSISTANCE BY REASON OF PHYSICAL INCAPACITY

I swear/solemnly and sincerely affirm that I am incapable of voting without assistance by reason of physical incapacity. So help me God.*

……..…….

Sworn/Affirmed before me this …….. day of ……..…..…….……, 20…… .

……..…….

** Delete if affirmed*

FORM 17

(Section 56(3)(ii))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF BLIND OR ILLITERATE VOTER INCAPABLE OF VOTING WITHOUT ASSISTANCE

I, ……

of ……...

swear/solemnly and sincerely affirm that I am incapable of voting without assistance by reason of my (blindness) (illiteracy)*. So help me God.†

……...…….

Sworn/Affirmed before me this …….. day of ……..…….……, 20…… .

……...…….

* *Delete as appropriate*
† *Delete if affirmed*

_____

FORM 18

(Section 56(5))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF FRIEND OF BLIND OR ILLITERATE VOTER

1. I swear/solemnly and sincerely affirm that I will keep secret the name of the candidate for whom I mark the ballot paper of the blind/illiterate* voter on whose behalf I act.

2. That I have not already acted as a friend of a blind or illiterate voter for the purpose of marking his ballot paper at this election. So help me God.†

……..…….

Sworn/Affirmed before me this …….. day of ……..…….…….……, 20…… .

……..…….

* *Delete as appropriate*
† *Delete if affirmed*

FORM 19

(Section 57(1))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION THAT THE VOTER IS THE PERSON INTENDED TO BE REFERRED TO IN THE LIST OF VOTERS

I swear/solemnly and sincerely affirm that I am qualified to vote at this election of a member to serve in the House of Assembly and am not disqualified from voting at this election and that I verily believe that I am the person intended to be referred to by the entry in the list of voters used at this Polling Station of the name ……..……..……. whose occupation is given as ……..…….. and whose address is given as ……..……..…… So help me God.*

……..…….

Sworn/Affirmed before me this …….. day of ……..…….…….……, 20…… .

……..…….

** Delete if affirmed*

FORM 20

(Section 57(2))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF QUALIFICATION OF VOTER

I swear/solemnly and sincerely affirm that on the qualifying date for registration as a voter—

1. I was of the age of 18 years or upwards;

2. I was one of the following—

(a) an Anguillian born in Anguilla and was domiciled in Anguilla;

(b) a person who—

(i) is Anguillian and resided in Anguilla for a period of not less than 12 months immediately before the qualifying date,

(ii) was domiciled in Anguilla, and

(iii) was the lawful spouse, widow or widower or the son or daughter or the spouse of the son or daughter of a person who was born in Anguilla;

(c) a person who—

(i) is Anguillian,

(ii) was domiciled in Anguilla, and

(iii) resided in Anguilla for a period of at least 5 years immediately before the qualifying date;

3. I was a resident of the Electoral District of ……..……..; and

4. I was not disqualified from being registered as a voter under the Constitution of Anguilla or any other law in force in Anguilla connected with elections.

……...……

Sworn/Affirmed before me this ……..… day of ……..., 20…..… .

……
Presiding Officer/Poll Clerk

_____

FORM 21

(Section 58(2))

ANGUILLA

ELECTIONS ACT

APPLICATION TO BE TREATED AS A VOTER OF AN ADVANCE POLL

1. I, (Surname) ....……..

   (other names) ..... of

   ……..

   ……..

   am a registered voter for the ..... Electoral District.

2. I apply to be treated as a voter at an advance poll because I am unlikely to be able to go to the polling station on the day appointed for the taking of the poll by reason of *

   ……

   ……

3. Address ……

   ……

   ……

   I declare that the above statements are correct.

   Applicant's signature .....…....

   Address .....….....

   …….…….

   Date .....

*Set out appropriate reason

FORM 22

(Section 60(3))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF AGENT OF A CANDIDATE

I, ……..…….……. the undersigned agent for …… one of the candidates at the election of a member of the House of Assembly held on this day in the Electoral District of …… do swear/solemnly and sincerely affirm that I will keep secret the name of the candidate for whom any voter voting at this Polling Station marks his ballot paper in my presence at this election. So help me God.*

……..…….

Sworn/Affirmed before me this …….. day of ……, 20…… .

……

* *Delete if affirmed*

_____

FORM 23

(Section 61(j))

ANGUILLA

ELECTIONS ACT

BALLOT PAPER AND BALLOT BOX ACCOUNT

General Election or Other

Election:……..

Polling Division:…….……..

Polling Station:…...……..

	Total Number
1. Ballot papers received	……
2. Ballot boxes received	……
3. Ballot boxes in possession	……
4. Ballot papers unused	……
5. Ballot papers issued to voters	……
6. Ballot papers spoilt	……
7. Ballot papers which should be in Ballot Box	……

……
Signature of Presiding Officer

……
Date

_____

FORM 24

(Section 61(4))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF MESSENGER SENT TO COLLECT BALLOT BOXES

I, …… Returning Messenger appointed by ……...……...…… Returning Officer for the Electoral District of ……..do swear/solemnly and sincerely affirm that the several boxes to the number of ……..which were used at the Polling Station at ……...……..… of this Electoral District on polling day now delivered by me to …… were handed to me by ……, that they have not been opened by me or any other person and that they are in the same state as they were in when they came into my possession. So help me God.*

……...…….

Signature

Sworn/Affirmed before me this …….. day of ……...……, 20…… .

……...…….

* *Delete if affirmed*

_____

FORM 25
(Section 62(3) (f), 62(12)(c)) & 62 (12)(d)(iii))
ANGUILLA
ELECTIONS ACT

STATEMENT OF POLL

DISTRICT…….

General Election or Other Election:……..……

Polling Station:……..……

1. No. of valid votes cast for each candidate

	Candidates	**Total Votes**
	……	……
	……	……
	……	……
	……	……

2. Total number of valid votes ……

* In the case of the local electoral district, the total number of blanks contained in ballot papers that reflect unmarked ballots ……..

3. Total number of rejected votes ……

4. Total number of rejected ballot papers ……

5. Total number of unmarked ballots ……

6. Grand total of ballot boxes received ……

7. Grand total of ballot boxes in possession ……

……
Signature of Returning Officer

……
Date

*Strike out if inapplicable.".

FORM 26

(SECTION 62(10))

ANGUILLA

ELECTIONS ACT

REQUEST FOR RECOUNT

I,[name]……..one of the candidates at the election of a member/members* to serve in the House of Assembly for the…….electoral district held on the _____ day of _____ , _____ , being dissatisfied with the accuracy of the count HEREBY DEMAND a recount and set forth below the reasons for my demand.

REASONS

Date: .....……

(Signature of candidate] .....

* Delete as appropriate

_____

FORM 27

(SECTION 65(1))

ANGUILLA

ELECTIONS ACT

RETURN AFTER POLL HAS BEEN TAKEN

I hereby certify that the member elected for the Electoral District of ……..……

……...… in pursuance of the within Writ as having received the majority of votes lawfully given is ……..……... .

(name, address and occupation as stated in Nomination Paper)

…….

Returning Officer

_____

Terry T.C. Harrigan
Speaker

Passed by the House of Assembly this day of , 2019.

Lenox J. Proctor
Clerk of the House of Assembly

OBJECT AND REASONS
(The objects and reasons do not form part of the Bill)

The Bill for the Elections Act seeks to implement several of the recommendations of the Constitutional and Electoral Reform Committee in relation to electoral reform. The Bill addresses issues related to the administration of the Central Electoral Office, continuous registration, appeals to the High Court, voter registration cards, fixed date elections, advance polls, election offences and increasing the number of elected representatives. Overall, the Bill improves on the clarity of the existing legislation which should make administration easier.

PART 1
PRELIMINARY

This part contains the definition section which outlines the meaning of key terms used in the Bill.

PART 2
CENTRAL ELECTORAL OFFICE

This part provides for the setting up of the Central Electoral Office. It also outlines the key qualifications for the Supervisor of Elections and outlines the duties of the Supervisor. The appointment of registration officers, returning officers and other staff to support the Supervisor in the execution of the duties of the office. Accountability mechanisms for the funds allocated to the Central Electoral Office are built in. An obligation is imposed for the Central Electoral Office to be involved in educating the public on the electoral process.

PART 3
ELECTORAL DISTRICTS

Provision is made for Anguilla to be divided into seven electoral districts (as currently exist) and one island-wide electoral district which will return four members to the House of Assembly. Persons who are qualified to be registered as voters but who are not registered can apply to be registered to vote.

PART 4
REGISTRATION OF VOTERS

This Part outlines the process for the continuous registration of voters, which currently exists. It provides for the production of quarterly lists, the preparation of registers etc. The Supervisor of Elections is empowered to request information from householders and to require the attendance of persons to produce documentary evidence of their entitlement to vote. The procedure for transfer of registration, corrections, making objections, hearing of claims and objections, appeals etc are found in this part. It is noteworthy that provision is

also made for the establishment of a voter registration database and the issuing of voter identification cards which should assist in making the voting process more efficient. Note that the lack of a voter identification card does not prevent a person from voting.

PART 5
ARRANGEMENTS FOR ELECTIONS

Unless the Governor, acting on the advice of the Chief Minister, orders otherwise, elections will be held on the first Monday after the fifth anniversary of the last general elections. In any event, general elections cannot be held more than two months earlier or later than the last general elections. However, this does not apply where a vote of no confidence succeeds and there is a need to call a general election early.

This Part of the Bill sets out in detail the provisions for the proper conduct of elections. The process begins with the issuing of the writ for election. This is followed by the nomination process for candidates. Provision is made for candidates to withdraw after nomination. However, if they do so after the ballots are printed, they are subject to a fine. There are also circumstances in which a candidate's deposit is forfeited or returned.

When elections are contested, there are extensive procedures which have to be followed. These include the setting up of polling stations, the appointment of poll clerks, the provision of ballot boxes and other election materials. There are also mechanisms to ensure the integrity of the process including the appointment of agents by the candidates who are present at the polling stations. Procedures for the taking of the poll are also outlined. Voters will be given a ballot paper which will have a perforated line separating the the part of the ballot paper for the Local Electoral District from the island-wide Electoral District. On one half of the ballot will be the list of candidates contesting the election in a particular district; and on the other half will be the list of candidates contesting the island-wide election. Voters will vote for one person in the local electoral district and four persons in the island-wide electoral district. The ballot will then be separated and each half will be placed into a separate ballot box.

Where circumstances arise where the identity of a voter may be in question, there are provisions addressing how these are to be handled. Special provision is also made for voting for persons who are elderly, physically challenged or illiterate. The method of handling discrepancies is also outlined with emphasis placed on ensuring that no qualified person is unjustly deprived of their right to vote.

It is noteworthy that provisions are included for the taking of advance polls (not more than 3 days prior to the election) particularly for the following persons:

- a police officer, nurse, doctor, emergency medical technician;
- a person employed in the Central Electoral Office;
- an election officer;
- a person who is physically incapacitated

However, they must have a voter identification card to take advantage of this provision.

The offence of influencing voters on election day within 100 yards of the polling station has been maintained.

The steps to be taken when a poll is closed, for the counting of votes and completion of the election return (the official result) are also outlined in detail. At the end of the process all election material and equipment must be in the custody of the Supervisor of Elections.

PART 6
ELECTION PETITIONS

After an election result, a candidate, voter or the Attorney General can apply to the High Court in its civil jurisdiction by way of petition to contest the election result. Where it is found that a candidate or agent engaged in corrupt or illegal practices or the corrupt or illegal practices of another person influenced the election to such an extent that a candidate was unduly elected, the election of that candidate will be void and the candidate will be prohibited from contesting the new election that may be ordered by the Court.

PART 7
ELECTION OFFENCES

The Bill provides for an increase in penalties for election offences. It continues to prohibit the sale or distribution of liquor when on polling day while the poll is open (with the exception of licensed hotels or restaurants). There is also an obligation on employers to allow employees time off to vote, or otherwise face criminal penalties. Given the importance of the role of election officers and their duty to ensure the integrity of the process, penalties are imposed for deliberate acts designed to influence voters, suppress votes, interfere with ballots, infringe the voter's secrecy etc. Additionally, penalties remain for certain acts on polling day related to publication of promotional material and messages in relation to any candidate or party.

The offences of bribery, treating, undue influence and personation are maintained. It should be noted that if found guilty of these offences not only is a person liable to a fine and imprisonment, but for a period of seven (7) years they will be prohibited if a voter, from voting, and if a candidate, from contesting elections. This prohibition is similar for persons found guilty of engaging in illegal practices at elections, except that the period of prohibition in the latter case is five (5) years.

PART 8
MISCELLANEOUS

To close out the Bill there are several miscellaneous provisions. A voter is under no obligation to disclose their vote. The Register of Voters is conclusive in determining on polling day who has a right to vote. Where difficulties arise in the application of this Act,

the Supervisor of Elections can issue orders to address particular situations. Regulation-making power remains with the Governor.

The Elections Act RSA c E030 will be repealed. However, the Supervisor of Elections and the Register of Voters continue as if appointed or made under this Act.