

Unvalidated References:

Organic Law on Provincial Governments and Local-level Governments

Provincial Government (Constituencies) Regulation

Liquor (Licensing) Act

This reprint of this Statutory Instrument incorporates all amendments, if any, made before 25 November 2006 and in force at 1 July 2001.

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Legislative Counsel
Dated 25 November 2006

INDEPENDENT STATE OF PAPUA NEW GUINEA.

Chapter 56B.

Provincial Government (Electoral Provisions) Regulation 1975

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SCHEDULE 1

Provincial Government (Electoral Provisions) Regulation 1975

MADE under the *Provincial Government (Preparatory Arrangements) Act 1974*.

Dated 200 .

PART I. – PRELIMINARY.

1. INTERPRETATION.

(1) In this Regulation, unless the contrary intention appears–

“**approved form**” means a form approved by the Electoral Commission and published in the National Gazette;

“**candidate**” includes a person who within three months before the first day of the polling period announces himself as a candidate for election as a member of the provincial legislature;

“**constituency**” means the area within the area for which a provincial government body has been declared in relation to which a person or persons is or are elected or to be elected to the provincial legislature and includes–

(a) an open constituency; and

(b) where applicable–a provincial constituency,

but, notwithstanding that the area of a provincial government body is divided into constituencies, this definition does not prevent the whole of the area from being a constituency;

“**elector**” means a person whose name appears on a Roll as an elector;

“**the Electoral Commission**” means the Electoral Commission established by Section 4 of the *Organic Law on National Elections*;

“**the Electoral Commissioner**” means the Electoral Commissioner appointed under Section 4 of the *Organic Law on National Elections*;

“**electoral officer**” includes the Electoral Commissioner, a Returning Officer, and Assistant Returning Officer, presiding officer, substitute presiding officer, assistant presiding officer, poll clerk, interpreter and doorkeeper;

“**member**” means a member of the provincial legislature;

“officer” means—

- (a) an officer or employee of the National Public Service; and
- (b) a member of the Police Force; and
- (c) a member of the Defence Force; and
- (d) a member of the Correctional Service; and
- (e) an officer or employee of a provincial service; and
- (f) an officer or employee of the Local Government Service or of a Local Government Authority or Council or other local level government; and
- (g) an officer or employee of a governmental body;

“province” means a province in respect of the whole or part of which a provincial government body has been declared under the Act;

“the provincial constitution”, in relation to a provincial government body or an area for which a provincial government body has been declared, means the regulations made under the Act relating to the constitution of the provincial government body;

“provincial legislature” means—

- (a) in the case where a provincial government body has a legislative arm—the legislative arm; and
- (b) in any other case—the provincial government body;

“the Returning Officer”, in relation to a constituency means the Returning Officer for that constituency;

“Roll” means an Electoral Roll under this Regulation.

(2) Notwithstanding any other law, where a time limit is imposed under this Regulation for the taking of an action, then unless the contrary intention appears, that time limit is mandatory.

PART II. – ADMINISTRATION.**2. FUNCTION OF THE ELECTORAL COMMISSION.**

It is the function of the Electoral Commission to organize and conduct all elections for provincial legislatures.

3. PUBLIC SERVICES COMMISSION TO MAKE AVAILABLE STAFF.

The Public Services Commission shall, when so requested by the Electoral Commission, make available to the Electoral Commission and to each Returning Officer such staff as may be necessary for the discharge of the functions conferred on the Electoral Commission by this Regulation.

4. DELEGATION.

The Electoral Commission may, by instrument, delegate to an officer all or any of its powers and functions under this Regulation (except this power of delegation and any prescribed power and function).

5. RETURNING OFFICERS.

The Electoral Commission shall, by notice in the National Gazette, appoint a Returning Officer for each constituency, who shall be charged with the duty of giving effect to this Regulation within or for his constituency, subject to any directions of the Electoral Commission, but this Regulation does not prevent a person being appointed as the Returning Officer for more than one constituency.

6. ASSISTANT RETURNING OFFICER.

(1) Subject to this section, the Electoral Commission may, by notice in the National Gazette, appoint a person to be an Assistant Returning Officer for a constituency or a portion of a constituency.

(2) A person appointed to be an Assistant Returning Officer for the whole or a portion of a constituency may, subject to this Regulation and to the control of the Returning Officer perform the functions and exercise the powers of the Returning Officer, in, or in relation to, that constituency or that portion of the constituency, as the case may be.

(3) An Assistant Returning Officer shall not be appointed for a portion of a constituency for which less than 100 electors are enrolled.

(4) Where the services of an Assistant Returning Officer are required for the purposes of one election only, the appointment may be made by the Returning Officer by instrument and in that case the appointment terminates on the completion of the election.

7. APPOINTMENT IN CASES OF EMERGENCY.

(1) Subject to Subsections (2) and (4), in the event of a vacancy occurring in an office of Returning Officer or Assistant Returning Officer, or in the absence from duty of any such Officer, the Electoral Commission may, by written notice, appoint a person to perform the duties of the office during the period of the vacancy or absence.

(2) The Electoral Commission shall publish each notice under Subsection (1) in the National Gazette.

(3) In the event of a vacancy occurring in an office of Assistant Returning Officer appointed under Section 6(4), or in the absence from duty of any such Officer, the Returning Officer may, by instrument, appoint a person to perform the duties of the office during the period of the vacancy or absence.

(4) An appointment under Subsection (1) is temporary only, and does not confer on the appointee any right or claim to be permanently appointed to the position.

8. DATE FROM WHICH APPOINTMENTS ARE TO TAKE EFFECT.

A person appointed to be a Returning Officer or an Assistant Returning Officer under Section 7 shall be deemed to have been appointed as from the date specified in his appointment, or, if no such date is specified, as from the date of his appointment.

9. CANDIDATES NOT TO BE ELECTORAL OFFICERS.

No candidate shall be appointed an electoral officer, and if an electoral officer becomes a candidate he vacates his office.

10. KEEPING OF FORMS.

All Returning Officers shall—

- (a) keep forms of claim for enrolment and transfer and such other forms as are approved forms; and
- (b) supply them without fee to the public and assist the public in their proper use.

PART III. – COMPOSITION OF A PROVINCIAL LEGISLATURE.**11. MEMBERSHIP.**

(1) A provincial legislature is a single-chamber legislature.

(2) Subject to the provincial constitution, the number of open constituencies and their boundaries are as determined under the *Provincial Government (Constituencies) Regulation*.

12. QUALIFICATIONS FOR, AND DISQUALIFICATIONS FROM, MEMBERSHIP.

(1) In this section–

“**appeal**” includes any form of judicial appeal or judicial review;

“**statutory period allowed for appeals**” means a definite period allowed by law for appeals, whether or not it is capable of extension, but does not include an extension of such a definite period granted or that may be granted unless it is granted within that definite period.

(2) This section is subject to the provisions of the provincial constitution.

(3) A member of the provincial legislature shall be not less than 25 years of age.

(4) A candidate for election to the provincial legislature shall–

(a) have been born in the constituency for which he intends to nominate; or

(b) have resided in the constituency–

(i) for a continuous period of two years immediately preceding his nomination; or

(ii) for a period of five years at any time.

(5) A member of the National Parliament shall not be a candidate for election to a provincial legislature.

(6) A person is not qualified to be, or to remain, a member of the provincial legislature if–

(a) he is not entitled to vote in elections to the provincial legislature; or

(b) he is of unsound mind within the meaning of any law relating to the protection of the persons and property of persons of unsound mind; or

(c) subject to Subsections (7) to (9), he is under sentence of death or imprisonment for a period of more than nine months; or

(d) he is otherwise disqualified under the provincial constitution or this Regulation.

(7) Where a person is under sentence of death or imprisonment for a period exceeding nine months, the operation of Subsection (6)(c) is suspended until–

- (a) the end of any statutory period allowed for appeals against the conviction or sentence; or
- (b) if an appeal is lodged within the period referred to in Paragraph (a), the appeal is determined.

(8) The references in Subsection (7) to appeals and to the statutory period allowed for appeals shall, where there is provision for a series of appeals, be read as references to each appeal and to the statutory period allowed for each appeal.

(9) If a free pardon is granted, a conviction is quashed or a sentence is changed to a sentence of imprisonment for nine months or less, or some other form of penalty (other than death) is substituted, the disqualification ceases, and if at the time of the pardon, quashing, change of sentence or substitution of penalty the writ for the by-election has not been issued the member is restored to his seat.

13. NORMAL TERM OF OFFICE.

(1) This section is subject to the provisions of the provincial constitution.

(2) An elected member of the provincial legislature takes office on the day immediately following the day fixed for the return of the writ for the election in his constituency.

(3) The seat of a member of the provincial legislature becomes vacant—

- (a) if he is appointed as Governor-General; or
- (b) on the expiry of the day fixed for the return of the writs for the general election after he last became a member of the provincial legislature; or
- (c) if he resigns his seat by written notice to the Premier, or in the case of the Premier to the Provincial Executive; or
- (d) if he is absent without leave of the provincial legislature, during the whole of three consecutive meetings of the provincial legislature unless the provincial legislature decides to waive this rule on satisfactory reasons being given; or
- (e) if, except as authorized by or under an Organic Law or an Act of the National Parliament or a provincial law, he directly or indirectly takes or agrees to take any payment in respect of his services in the provincial legislature; or
- (f) if he becomes disqualified under Section 12; or
- (g) on his death; or
- (h) if he is dismissed from office under Division III.2 (*leadership code*) of the National Constitution; or
- (i) if he becomes a member of the National Parliament.

(4) For the purposes of Subsection (3)(d), a meeting of the provincial legislature commences when the legislature first sits following a general election or an adjournment of the legislature otherwise than for a period of less than 12 days

and ends when next the legislature is adjourned otherwise than for a period of less than 12 days.

14. GENERAL ELECTIONS.

(1) Subject to the provincial constitution, a general election to the provincial legislature shall be held—

- (a) within the period of three months before the fourth anniversary of the day fixed for the return of the writs for the previous general election; or
- (b) if the provincial legislature by an absolute majority vote, so decides.

(2) The Electoral Commission shall fix the first and last days of the period during which polling shall take place and the date by which the writs for a general election shall be returned.

(3) In fixing the dates under Subsection (2), the Electoral Commission shall do its best to ensure that—

- (a) in a case to which Subsection (1)(a) applies—the date for the return of the writs is fixed as nearly as may reasonably be to the fourth anniversary of the date fixed for the return of the writs for the previous general election; and
- (b) in a case to which Subsection (1)(b) applies—the date for the return of the writs is fixed as soon as may reasonably be after the date of the decision of the provincial legislature.

15. BY-ELECTIONS.

(1) Subject to Subsection (2) if the office of an elected member of the provincial legislature becomes vacant otherwise than by virtue of Section 13(3)(b), an election shall be held to fill the vacancy.

(2) An election in accordance with Subsection (1) shall not be held—

- (a) if the vacancy occurs within the period of six months before the fourth anniversary of the date fixed for the return of the writs for the last general election; or
- (b) if after the writ for the election has been issued and before the date fixed for the return of the writ, writs for a general election are issued under Section 14(1).

(3) In a case referred to in Subsection (2)(b), the writ for the election in accordance with Subsection (1) shall be deemed to have been revoked on the issue of the writs for the general election.

16. ELECTIONS.

(1) Elections to the provincial legislature shall be conducted, in accordance with this Regulation, by the Electoral Commission.

(2) Subject to the provincial constitution, the members of the provincial legislature shall be elected under a system of universal, adult, citizen suffrage, and the voting age is 18 years.

(3) A non-citizen may not vote in an election for the provincial legislature.

(4) The Electoral Commission is not subject to direction or control by any person or authority.

PART IV. – POLLING PLACES.

17. POLLING PLACES.

(1) The Electoral Commission may, by notice in the National Gazette–

- (a) appoint a chief polling place for each constituency; and
- (b) appoint such other polling places for each constituency as it thinks necessary and practicable; and
- (c) abolish a polling place.

(2) A polling place shall not be abolished after the issue of the writ and before the time appointed for its return.

PART V. – ELECTORAL ROLLS.

18. ROLLS.

There shall be a Roll for each constituency.

19. FORM OF ROLLS.

(1) A Roll shall be in such form as is determined by the Electoral Commission, and shall set out the name, address and occupation (or other prescribed particulars) and sex of each elector, and shall contain such further particulars as the Electoral Commission directs.

(2) A direction under Subsection (1) may relate to the whole or a part of the area of the provincial government body.

20. NEW ROLLS.

(1) All persons who are entitled to be enrolled on a Roll shall, subject to this Regulation, be so enrolled.

(2) New Rolls for any constituency shall be prepared whenever the Electoral Commission, by notice in the National Gazette, directs.

(3) Subject to Subsection (4), a notice under Subsection (2) may specify the manner in which the Rolls shall be prepared, and may require any person, or member of a class of persons, entitled to enrolment on a new Roll and whose name does not appear on it to sign and send to the proper officer a form of claim for enrolment and otherwise to comply with the provisions of this Regulation relating to compulsory enrolment.

(4) Notwithstanding Subsection (3), where an elector is enrolled in respect of an address in a constituency for which he is entitled to be enrolled, he shall not be required to sign and send in any further claim for enrolment in connection with the preparation of a new Roll under this section.

(5) The Electoral Commission shall, as soon as it is practicable to do so after the preparation of new Rolls, by notice in the National Gazette, notify that the new Rolls have been prepared.

21. ADDITIONS, ETC., TO NEW ROLLS.

On the receipt by the Returning Officer of a new Roll for a constituency the Returning Officer shall—

- (a) make additions, alterations and corrections in it; and
- (b) remove names from it,

in accordance with information received by him between the date of the notice directing the preparation of new Rolls and the date of the notification that the Rolls

have been prepared, where the additions, alterations or corrections have not already been made in, or the removals have not been made from, the Roll.

22. OBJECTIONS AND NOTICES TO HAVE EFFECT IN RELATION TO NEW ROLLS.

Where objections have been lodged or notices of objection have been issued and action in respect of those objections or notices has not been completed before the notification of the preparation of new Rolls, the objections or notices have effect in relation to the new Rolls as if those Rolls had been in existence at the time of the lodging of the objections or the issuing of the notice.

23. PRINTING OF ROLLS.

(1) Rolls shall be printed whenever the Electoral Commission so directs.

(2) Supplemental Rolls, setting out additions since the latest print of the Rolls, may, as necessary, be prepared and printed immediately after the issue of the writs for an election, and at such other times as the Electoral Commission directs.

24. CHANGE OF ELECTORS FROM ONE ROLL TO ANOTHER.

(1) When boundaries of a constituency are altered, such changes as are rendered necessary for the transfer of the names of the electors from one Roll to another shall be made—

- (a) by removing the names of those electors from the Roll from which they are changed; and
- (b) by inserting the names so removed in the Roll to which they are changed.

(2) The transfer of names of electors from one Roll to another Roll under this section shall be notified by the Electoral Commission in the National Gazette and in a newspaper circulating in the province concerned.

(3) Where the Electoral Commission considers that a notification in accordance with Subsection (2) is not effective as notice to a particular elector whose enrolment has been transferred, it may—

- (a) cause notice of the transfer to be sent by post or otherwise to the elector; or
- (b) take such other action as it considers desirable to ensure adequate publicity.

25. INSPECTION.

(1) Copies of the latest print of the constituency Roll and of all supplemental prints shall be open for public inspection at the office of the Returning Officer at all convenient times during his ordinary office hours without fee, and at such other places as the Returning Officer appoints for the purpose.

(2) Copies of the latest print of the constituency Roll and of all supplemental prints shall be obtainable at the office of the Returning Officer on payment of the fee as determined by the Electoral Commission.

26. OFFICERS AND OTHERS TO FURNISH INFORMATION.

All officers and all occupiers of habitations and all persons who are, or appear to be, entitled to enrolment shall on application furnish to the Electoral Commission or to a Returning Officer, or to an electoral officer acting under the directions of the Electoral Commission or the Returning Officer, all information that it or he requires in connection with the preparation, maintenance or revision of the Rolls.

**PART VI. – QUALIFICATIONS FOR, AND DISQUALIFICATIONS FROM,
ENROLMENT AND VOTING.**

27. PERSONS ENTITLED TO ENROLMENT.

(1) All persons who have a right to vote under Section 50 (*right to vote and stand for public office*) of the National Constitution–

- (a) who comply with the requirements of Part VII. for enrolment for a constituency; or
- (b) whose application for a postal vote certificate and postal ballot-paper under Section 75 is accepted,

are entitled to enrolment.

(2) All persons whose names are on the Roll for a constituency are, subject to this Regulation and to any other law, entitled to vote at elections of a member for the constituency, but a person is not entitled to vote more than once at an election, or at more than one election held at the same time.

(3) Subsection (2) does not prevent a person voting for a provincial constituency and an open constituency where the elections are being held at the same time.

PART VII. – ENROLMENT.

28. OFFICERS.

(1) The Electoral Commission may appoint persons to assist in the compilation and revision of the Rolls.

(2) A person appointed under Subsection (1) has such functions and duties as the Electoral Commission directs.

29. ADDITION OF NAMES TO ROLLS.

In addition to any other method provided for by law, names may be added to Rolls in accordance with claims for enrolment or transfer of enrolment.

30. CLAIMS FOR ENROLMENT.

(1) Subject to this section and Section 27 a person who—

- (a) has resided in the area of a constituency for a period of not less than six months immediately preceding the date of his claim for enrolment; or
- (b) is nominated for a constituency for which he is not enrolled and—
 - (i) was born in the constituency; or
 - (ii) lived in the constituency for five years at any time,

is entitled to have his name placed on the Roll for that constituency.

(2) Where the name of a person is placed on a Roll in accordance with Subsection (1)(a), he shall be enrolled in respect of the address of his last residence in the constituency.

(3) Where the name of a person is placed on a Roll in accordance with Subsection (1)(b), he shall be enrolled in respect of his last-known place of residence in the constituency.

(4) The Electoral Commission may, in relation to a person or class of persons, direct that a claim for enrolment—

- (a) be in the approved form; and
- (b) if in the approved form—shall be signed by the claimant and witnessed by a person who shall—
 - (i) sign his name as witness in his own handwriting; and
 - (ii) be an elector or a person who is qualified to be an elector.

31. WITNESS TO APPLICATION MUST SATISFY HIMSELF OF TRUTH OF STATEMENT.

A person witnessing a claim for enrolment or transfer of enrolment must, before he affixes his signature to it, satisfy himself, by inquiry from the claimant or

otherwise, that the statements contained in the claim are true, unless he knows that the statements contained in the claim are true.

Penalty: A fine not exceeding K200.00.

32. COMPULSORY ENROLMENT AND TRANSFER.

(1) A person who is entitled to have his name placed on the Roll for a constituency, whether by way of enrolment or transfer of enrolment, and whose name is not on that Roll must, at the first reasonably practicable opportunity, make a claim in the approved form to the Returning Officer for that constituency.

(2) A person who is entitled to have his name placed on the Roll for a constituency whether by way of enrolment or transfer of enrolment, and whose name is not on that Roll on the expiration of 21 days from the date on which he became so entitled, is guilty of an offence unless he proves that his non-enrolment is not in consequence of his failure to comply with Subsection (1).

(3) It is a defence to a charge of an offence against Subsection (2) if the defendant shows that he did not know, and had no reasonable opportunity of knowing, that his name was not on a Roll for which he was entitled to be enrolled.

(4) A person who is enrolled for the constituency in which he is residing and who changes his place of residence from one address in the constituency to another address in that constituency and who has failed to notify, in the approved form, the new address to the Returning Officer for that constituency at the first reasonably practicable opportunity, is guilty of an offence.

(5) A claim under Subsection (1) and a notification under Subsection (4) shall—

- (a) be signed by the claimant or a person notifying the change of address, as the case may be; and
- (b) be witnessed by a person who shall—
 - (i) sign his name as witness in his own handwriting; and
 - (ii) be an elector or a person who is qualified to be an elector.

(6) A person who fails to comply with any of the provisions of this section is guilty of an offence.

Penalty: For a first offence—a fine not exceeding K10.00.

For any subsequent offence—a fine not exceeding K25.00.

(7) A prosecution for an offence against this section shall not be instituted without the consent of the Electoral Commission.

33. REGISTRATION OF CLAIM.

(1) On receipt of—

- (a) a claim for enrolment or transfer of enrolment; or
- (b) notification of change of address within a constituency; or

- (c) an application for the alteration or correction of particulars of an existing enrolment,

the Returning Officer shall note the date of its receipt by him, and if the claim, notification or application is in order and he is satisfied that the claimant is entitled to be enrolled or to have his name transferred or the particulars of his enrolment altered or corrected, as the case may be, the Returning Officer shall, subject to Section 35—

- (d) enter on the Roll kept by him the name of the claimant and the particulars relating to him; and
- (e) notify the claimant in writing that he has been enrolled; and
- (f) in the case of a transfer of enrolment—give notice of the transfer to the Returning Officer keeping the Roll from which the elector's name has been transferred.

(2) An interim acknowledgement of the receipt, after the issue of the writ for an election and before the close of the polling at the election, of a claim for enrolment or transfer of enrolment may be issued to the claimant by the Returning Officer in an approved form.

(3) The Returning Officer keeping the Roll from which an elector's name has been transferred shall, on receipt of notice of the transfer in the approved form, remove the elector's name from the Roll kept by him.

34. NOTIFICATION OF REJECTION OF CLAIM.

The Returning Officer, on receipt of a claim, shall, subject to Section 35, after making such inquiry as he considers necessary, if he is satisfied that the claimant is not entitled to enrolment or transfer of enrolment in accordance with the claim—

- (a) notify the claimant as soon as practicable by post to the claimant's postal address or delivery to the claimant's place of residence as shown on his claim that his claim has been rejected, specifying the reason for the rejection; and
- (b) advise the claimant that he is entitled, at any time within three months after the receipt of the notification, to appeal against the rejection in accordance with this Regulation.

35. TIME FOR ALTERING ROLLS.

Notwithstanding anything in this Regulation—

- (a) claims for enrolment or transfer of enrolment which are received after 4 p.m. on the day of the issue of the writ for an election shall not be registered until after the end of the polling period for the election; and
- (b) except by direction of the Returning Officer, a name shall not be removed from a Roll under a notification of transfer of enrolment

received after 4 p.m. on the day of the issue of the writ for an election and before the end of the polling period for the election.

36. OFFICER NEGLECTING TO ENROL CLAIMANTS.

An officer who receives a claim for enrolment or transfer of enrolment and who, without just excuse (proof of which is on him) fails to do everything necessary on his part to be done to secure the enrolment of the claimant in pursuance of the claim is guilty of an offence.

Penalty: A fine not exceeding K100.00.

37. ALTERATION OF ROLLS.

(1) In addition to other powers of alteration conferred by this Regulation, a Returning Officer may alter a Roll kept by him by—

- (a) correcting a mistake or omission in the Roll; and
- (b) correcting a mistake or omission in the particulars of the enrolment of an elector; and
- (c) altering, on the written application in the approved form of an elector, the original name, address or occupation of the elector on the same Roll; and
- (d) removing the name of a deceased elector; and
- (e) striking out the superfluous entry where the name of the same elector appears more than once on the same Roll; and
- (f) reinstating a name removed by mistake; and
- (g) reinstating a name removed as the result of an objection where he is satisfied—
 - (i) that the objection was based on a mistake as to fact; and
 - (ii) that the person objected to still retains and has continuously retained his right to the enrolment in respect of which the objection was made; and
- (h) removing a name from the Roll where he is satisfied that the elector has ceased to be qualified for enrolment on the Roll and has secured enrolment on another Roll.

(2) Where—

- (a) the name of an elector has, in error, been incorrectly placed on the Roll for a constituency for which he is not entitled to be enrolled; and
- (b) the elector is entitled to have his name placed on the Roll for another constituency,

the Returning Officer for the constituency for which the elector is wrongly enrolled shall—

- (c) remove the name of the elector from that Roll; and
- (d) notify the Returning Officer for the constituency for which the elector is entitled to be enrolled accordingly,

and that last-mentioned Returning Officer shall—

- (e) place the name of the elector on his Roll; and
- (f) notify the elector of the change of enrolment.

(3) An alteration under this section shall not, without the authority of the Returning Officer, be made at any time after 4 p.m. on the day of the issue of the writ for an election and before the end of the polling period for the election.

38. SPECIAL PROVISIONS FOR CERTAIN NOMINATIONS.

Notwithstanding anything in this Regulation, where a person who is entitled to do so has nominated for a constituency other than the constituency for which he is enrolled—

- (a) the Returning Officer for the constituency for which he nominates shall—
 - (i) place his name on the Roll for that constituency; and
 - (ii) notify the Returning Officer for the constituency for which he is enrolled who shall remove his name from the Roll for that constituency; and
- (b) if the nomination is withdrawn, the Returning Officer for the constituency for which he was nominated shall—
 - (i) remove his name from the Roll for that constituency; and
 - (ii) notify the Returning Officer for the other constituency who shall (unless he has in the meantime nominated for some other constituency) restore his name to the Roll for that other constituency; and
- (c) if he fails to be elected, the Returning Officer for the constituency for which he was nominated shall—
 - (i) remove his name from the Roll for that constituency; and
 - (ii) notify the Returning Officer for the other constituency who shall restore his name to the Roll for that other constituency; and
- (d) if he is elected and later ceases to be the member for the constituency, the Returning Officer for the constituency for which he was the member shall—
 - (i) remove his name from the Roll for that constituency; and
 - (ii) notify the Returning Officer for the other constituency who shall restore his name to the Roll for that other constituency, unless he has ceased to be eligible for enrolment in that constituency and has been enrolled in another constituency.

39. INCORRECT ENROLMENT.

Where a person whose name has been placed on the Roll for a constituency—

- (a) is not entitled to enrol for that constituency; and
- (b) secured enrolment under a claim in which he made a false statement,

the Returning Officer may, at any time between the date of the issue of the writ for an election for that constituency and before the end of the polling period for that election, remove the name of that person from that Roll.

40. ALTERATIONS TO BE INITIALLED.

Every alteration of a Roll shall be made in such manner that the original entry is not obliterated, and the reason for each alteration and the date of the alteration shall be set against the alteration, together with the initials of the Returning Officer or of the person who makes the alteration on behalf of the Returning Officer.

41. INQUIRY BY RETURNING OFFICER.

(1) The Returning Officer may, subject to the direction of the Electoral Commission, make inquiries as to the names of persons entitled to be enrolled, but who are not enrolled, or who have changed their place of residence from one address in the constituency to another address in that constituency without notifying the Returning Officer.

(2) Where the Returning Officer is satisfied that a person has failed to comply with the provisions of Section 32, he may notify him of the non-compliance in the approved form.

(3) A person may reply to a notice under Subsection (2) in the approved form.

(4) Where a person—

- (a) fails to reply to a notice under Subsection (2); or
- (b) does not reply to a notice under that subsection in a satisfactory manner,

the Returning Officer, may, with the consent of the Electoral Commission, institute proceedings against that person.

PART VIII. – OBJECTIONS.

42. NAMES ON ROLL MAY BE OBJECTED TO.

(1) A name on a Roll may be objected to by objection in writing lodged with or made by the Returning Officer.

(2) A sum of K4.00 shall be deposited in respect of each objection lodged by a person other than an electoral officer, to be forfeited to the State if the objection is held by the Returning Officer to be frivolous.

43. OBJECTION.

An objection under Section 42 shall be in the approved form, and shall be signed by an elector enrolled on the same Roll as the person objected to, or by the Returning Officer or an Assistant Returning Officer.

44. DUTY TO OBJECT.

It is the duty of the Returning Officer and of any Assistant Returning Officer to lodge or make a written objection, setting out the grounds of the objection, in respect of any name which he has reason to believe ought not to be retained on the Roll.

45. NOTICE OF OBJECTION.

(1) When an objection is made by or lodged with a Returning Officer, the Returning Officer shall, subject to Subsection (3), give notice as soon as practicable of the objection to the person objected to.

(2) A notice under Subsection (1) may be in the approved form, and may be served by being posted or delivered to the last-known place of residence of the person objected to.

(3) Where the Returning Officer is satisfied that the ground of objection stated in an objection is not a good ground of objection or is frivolous, he may dismiss the objection, in which case no notice of the objection need be given to the person objected to.

(4) An objection on the ground that a person does not reside in the constituency for which he is enrolled shall be deemed not to be good unless it alleges that the person objected to has not resided in the constituency for the period necessary to qualify him for enrolment for that constituency.

46. ANSWER TO OBJECTION.

(1) A person objected to under this Part may, orally or in writing in the approved form, answer the objection.

(2) The answer to a notice of objection shall, where it is in writing, be signed by the person to whom the notice is directed, in the presence of a witness who shall be an elector or a person qualified to be an elector.

(3) An answer to an objection shall be given or delivered, as the case may be, to the Returning Officer for the constituency to which the Roll relates.

47. DETERMINATION OF OBJECTION.

(1) Subject to Subsection (2), the Returning Officer shall determine an objection under this Part as soon as practicable after receipt by him of the answer of the person objected to, or, if no answer is received within a period of one month after the posting or delivery of the notice referred to in Section 45(1) and if it appears that the person objected to is not entitled to be enrolled on the Roll in respect of which the objection has been made, the Returning Officer shall—

- (a) remove the name of the person from that Roll; and
- (b) cause a copy of the notice of determination to be posted to or served on the objector and the person objected to.

(2) A name shall not be removed from a Roll under this section after 4 p.m. on the day of issue of the writ for an election and before the end of the polling period for the election.

PART IX. – APPEALS.

48. APPEAL TO DISTRICT COURT.

(1) A person—

- (a) who has made a claim for enrolment or transfer of enrolment in accordance with this Regulation, and has not been enrolled; or
- (b) whose name has been removed from a Roll by the Returning Officer after an objection,

may at any time within two months after the receipt of notice of the rejection of the claim or of notice of the determination of the objection, as the case may be, make application to a District Court for an order directing that his name be enrolled or reinstated on the Roll, as the case requires.

(2) Where an objection has been determined by the Returning Officer adversely to the person objecting, that person may apply to a District Court for an order sustaining the objection.

(3) Where an application under this section has reference to the decision of the Returning Officer on an objection, the applicant shall serve the objector or the person objected to, as the case requires, with notice of the application, and the person so served may appear, or may in writing authorize any person to appear on his behalf, to resist the application.

(4) An application to the District Court for an order—

- (a) directing that the name of an elector be enrolled or reinstated on the Roll, as the case requires, under Subsection (1); or
- (b) sustaining an objection under Subsection (2),

shall be in writing.

(5) An application under Subsection (4)(b) shall be lodged within two months after the determination of the objection.

(6) Service of notice of application under Subsection (3) shall be delivered or posted by registered post to the last known place of residence of the objector or the person objected to, as the case requires.

(7) The District Court may hear and determine an application under this section, and may make such order as it thinks fit as to the costs of the application.

(8) Costs ordered by the District Court to be paid may be recovered in the same manner as the costs of any other proceeding before the Court.

(9) The Clerk of the District Court shall send by post to the Returning Officer a certified copy of the order of the Court, and the Returning Officer shall make such entries (if any) on the Roll as are necessary to give effect to the order.

PART X. – WRITS FOR ELECTIONS.**49. WRITS FOR GENERAL ELECTIONS.**

The Electoral Commission shall issue its writ for a general election of members in accordance with Section 14.

50. WRITS FOR VACANCIES.

In the case of an election under Section 15 the Electoral Commission shall, as soon as practicable after the vacancy occurs, issue its writ for the election of a new member.

51. FORM OF WRITS.

(1) The writs for elections shall be in Form 1 or Form 2, as the case requires and shall fix the date for—

- (a) nominations; and
- (b) the first and last days of the period during which polling shall take place; and
- (c) the return of the writ.

(2) The Electoral Commission shall, as soon as practicable after the issue of a writ—

- (a) advertise its issue and particulars in at least one newspaper circulated in the constituency to which the writ relates; and
- (b) forward a copy to the provincial government body for, and each Local Government Authority, Council and local level government in, the constituency; and
- (c) take such further steps as it considers desirable to ensure adequate publicity.

52. TIME OF ISSUE OF WRITS.

For the purposes of this Regulation, a writ shall be deemed to have been issued at the hour of 4 p.m. on the day on which the writ was issued.

53. ADDRESS OF WRITS.

(1) Writs for election of members shall be addressed to the respective Returning Officers for the constituencies for which the elections are to be held.

(2) The Electoral Commission may advise any Returning Officer by telegram of the issue of the writ for an election and the particulars of the writ, and for the purposes of Section 52 the Returning Officer may act on the advice as if the writ had been received by him.

54. DATE OF NOMINATION.

The date fixed for the nomination of the candidates shall be not less than 14 days nor more than 21 days after the date of the writ.

55. DATE OF POLLING.

(1) The date fixed for the commencement of the polling period shall be a Saturday and shall be not less than five weeks nor more than eight weeks after the date of the writ.

(2) The end of the polling period shall be not more than five weeks after its commencement.

56. DATE OF RETURN OF WRIT.

The date fixed for the return of the writ shall not be more than 14 days after the end of the polling period.

57. GENERAL ELECTION TO BE HELD ON SAME DAY.

In the case of a general election, the same day shall be fixed for the commencement of the polling period in each constituency, and all writs shall be made returnable on the same day.

58. DUTY OF RETURNING OFFICER ON RECEIPT OF WRIT.

On the receipt of a writ, the officer to whom it is directed shall endorse on it the date of its receipt.

PART XI. – THE NOMINATIONS.**59. CANDIDATES MUST BE NOMINATED.**

A person is not qualified to be elected as a member unless he has been duly nominated.

60. QUALIFICATIONS FOR NOMINATION.

A person is not qualified for nomination for a constituency while he is nominated for another constituency and that last-mentioned nomination has not been withdrawn.

61. MODE OF NOMINATION.

A nomination shall be in the approved form and shall–

- (a) name the candidate, his place of residence and occupation; and
- (b) set out the qualifications by virtue of which he is qualified for nomination; and
- (c) be witnessed by a person to whom the candidate is personally known.

62. TO WHOM NOMINATIONS MADE.

(1) Nominations of members may be made to the Returning Officer for the constituency for which the election is to be held, to an Assistant Returning Officer for that constituency, or to a person authorized by the Electoral Commission.

(2) Nominations may be made at any time after the issue of the writ and–

- (a) in the case of a nomination made to the Returning Officer–before the hour of nomination; and
- (b) in the case of a nomination made–
 - (i) to an Assistant Returning Officer or other person referred to in Subsection (1); or
 - (ii) in respect of a person who is not enrolled for the constituency,

before the commencement of the period of seven days immediately preceding the hour of nomination.

(3) Where a nomination is made to an Assistant Returning Officer or other person referred to in Subsection (1), he shall immediately notify the Returning Officer by telegram or other manner approved by the Electoral Commission, in the approved form, of the details of the nomination and deposit and forward the nomination to the Returning Officer.

63. REQUISITES FOR NOMINATION.

A nomination is not valid unless–

- (a) the person nominated consents to act if elected, and declares that he is qualified under the laws of Papua New Guinea to be elected as a member; and
- (b) the nomination paper, or the telegraphic or other notification referred to in Section 62(3), as the case may be, is received by the Returning Officer after the issue of the writ and before the hour of nomination; and
- (c) at the time of the delivery of the nomination paper the person nominated or some person on his behalf deposits with the Returning Officer or other person to whom the nomination is made the sum of K50.00 in money or in a banker's cheque.

64. FORM OF CONSENT TO ACT.

The consent and the declaration of qualifications referred to in Section 63(a) shall be sufficient if the candidate signs the form of consent and declaration in the nomination paper, but the Returning Officer receiving the nomination, or the telegraphic or other advice of the nomination, as the case may be, may accept any other form of consent and declaration, whether accompanying the nomination paper or not, that he considers satisfactory, and that acceptance is final.

65. FORMAL DEFECTS.

A nomination shall not be rejected by reason of a formal defect or error if the Returning Officer receiving the nomination, or the telegraphic or other advice of it, as the case may be, is satisfied that the provisions of this Regulation have been substantially complied with.

66. DEPOSIT TO BE FORFEITED IN CERTAIN CASES.

The deposit made by or on behalf of a candidate at an election shall be retained pending the election, and after the election shall be returned to the candidate, or to some person authorized by him in writing to receive it, if he is elected or if the total number of votes polled in his favour is more than 10% of the total number of votes polled by the successful candidate in the election, and otherwise it is forfeited to the State.

67. PLACE OF NOMINATION.

The office of the Returning Officer for the constituency is the place of nomination in that constituency.

68. HOUR OF NOMINATION.

The hour of nomination is 12.00 noon on the day of nomination.

69. DECLARATION OF NOMINATIONS.

The Returning Officer for the constituency for which an election is being held shall, at the hour of nomination, attend at the place of nomination for the constituency, and shall there publicly produce all nomination papers and telegraphic or other advices of nominations received by him, and declare the names, addresses and occupations of all candidates nominated.

70. WITHDRAWAL OF NOMINATION.

(1) A candidate may withdraw his nomination by lodging with the Returning Officer for the constituency or with an Assistant Returning Officer for the constituency or a person authorized for that purpose by the Electoral Commission, a notice of withdrawal in the approved form, and the nomination shall be cancelled and the deposit lodged shall be returned.

(2) A withdrawal of nomination may be made—

- (a) in the case of a notice of withdrawal lodged with the Returning Officer—
at any time before the hour of nomination; or
- (b) in the case of a notice of withdrawal lodged with an Assistant Returning Officer or other person referred to in Subsection (1)—more than 24 hours before the hour of nomination.

(3) Where a notice of withdrawal of nomination is lodged with an Assistant Returning Officer or other person referred to in Subsection (1), he shall immediately notify the Returning Officer by telegram or other manner approved by the Electoral Commission, in the approved form, of the withdrawal and forward the notice to the Returning Officer.

71. RETURN OF DEPOSIT IN CASE OF CANDIDATE'S DEATH.

In the case of the death of a candidate before the end of the polling period, the deposit lodged by him shall be returned to his legal personal representative.

72. PROCEEDINGS ON NOMINATION DAY.

(1) Where one candidate only is nominated for a constituency, the Returning Officer shall declare that candidate duly elected.

(2) Where in an election more candidates than one are nominated, the proceedings shall, subject to the provisions of this Regulation relating to voting before the commencement of the polling period, stand adjourned to the commencement of the polling period.

73. FAILURE OF ELECTION.

(1) Subject to this Regulation, whenever an election fails a new writ shall be issued for a supplementary election by the Electoral Commission, as soon as practicable after the failure occurs.

(2) An election shall be deemed to have failed if—

- (a) no candidate is nominated or returned as elected; or
- (b) after the declaration of the nominations and before the end of the polling period, a candidate dies.

(3) Where an election has failed, the supplementary election shall be held on the Roll which was prepared for the purpose of the election which failed.

PART XII. – VOTING BY POST.**74. APPLICATION BY ELECTORS FOR A POSTAL VOTE CERTIFICATE AND POSTAL BALLOT-PAPER.**

(1) An elector who—

(a) will not, throughout the polling period—

(i) be within the constituency for which he is enrolled; or

(ii) be within 16 km by the nearest practicable route of a polling booth open in the constituency for which he is enrolled; or

(b) will be travelling or be away from his residence under conditions which will preclude him from voting at a polling booth open in the constituency for which he is enrolled; or

(c) is seriously ill or infirm, and by reason of that illness or infirmity will be precluded from attending at a polling booth to vote, or, in the case of a woman, will by reason of approaching maternity or of the necessity for caring for her infant be precluded from attending at a polling booth to vote; or

(d) is, by reason of his membership of a religious order or of his religious beliefs—

(i) precluded from attending at a polling booth; or

(ii) precluded from voting at a reasonably accessible polling place,

may make application for a postal vote certificate and postal ballot-paper.

(2) An application under this section, setting out the grounds on which the elector claims to vote by post, may be made in writing, in person or by letter or telegram after the tenth day after the issue of the writ for the election to the Returning Officer for the constituency for which the applicant is enrolled.

(3) An application under this section shall not be deemed to have been duly made if it reaches the Returning Officer to whom it is made after the commencement of the polling period for the election in the constituency for which the applicant is enrolled.

(4) An elector who makes, and a person who induces an elector to make, a false statement in an application for a postal vote certificate and postal ballot-paper is guilty of an offence .

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.

75. APPLICATION BY 18 YEAR OLD PERSON FOR POSTAL VOTE CERTIFICATE AND POSTAL BALLOT-PAPER.

(1) A person who—

- (a) attains the age of 18 years after the issue of the writ; or
- (b) will attain the age of 18 years after the issue of the writ and before the end of the polling period,

may make application for a postal vote certificate and postal ballot-paper.

(2) An application under this section shall be made in the approved form, after the tenth day after the issue of the writ for the election, to the Returning Officer for the constituency in which the applicant last resided for six months, signed by the claimant and witnessed by a person who shall—

- (a) sign his name as witness in his own handwriting; and
- (b) be an elector or a person who is qualified to be an elector.

(3) An application under this section shall be deemed not to have been duly made if it reaches the Returning Officer to whom it is made later than one week before the first day of the polling period for the election in the constituency for which the applicant is applying under this section.

(4) Where an application for a postal vote certificate or postal ballot-paper under this section is accepted, the Returning Officer shall place the applicant's name on the constituency Roll.

(5) An applicant for a postal vote certificate and postal ballot-paper who makes a false statement in an application under this section is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.

76. IMPROPERLY INDUCING ELECTOR TO APPLY FOR POSTAL VOTE.

A person who improperly persuades or induces, or associates himself with a person in improperly persuading or inducing, an elector to make application for a postal vote certificate and postal ballot-paper is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.

77. ISSUE OF CERTIFICATE AND BALLOT-PAPERS.

(1) Subject to Subsection (2), the Returning Officer who receives an application under this Part, if he is satisfied that it is properly made, shall deliver or post to the applicant a postal vote certificate printed on an envelope addressed to the Returning Officer for the constituency for which the applicant declares that he is enrolled, a postal ballot-paper and the prescribed directions to the elector and the authorized witness.

(2) Before delivering or posting a postal vote certificate and postal ballot-paper under Subsection (1), the Returning Officer shall insert in the certificate the name, address, occupation and sex of the elector and, if necessary, shall insert the name of the constituency and the names of the candidates and complete the instructions on the ballot-paper.

(3) Where an application under this Part is received after 4 p.m. on the day preceding the first day of the polling period in the constituency for which the elector is enrolled, a Returning Officer shall not post to the elector a postal vote certificate or postal ballot-paper.

(4) The postal vote certificate and postal ballot-paper shall be in the approved form.

78. INSPECTION OF APPLICATIONS.

(1) All applications for postal vote certificates and postal ballot-papers received by a Returning Officer shall be kept by him.

(2) All applications for postal vote certificates and postal ballot-papers shall be open to public inspection at all convenient times during office hours from and including the third day after the last day of the polling period until the election can no longer be questioned.

79. NUMBERING OF APPLICATIONS AND CERTIFICATES.

(1) The Returning Officer shall number all applications for postal vote certificates and postal ballot-papers received by him in consecutive order, and shall number each postal vote certificate with a number corresponding with the number of the application.

(2) The Returning Officer shall initial the back of all postal ballot-papers issued, in such a position as to be easily seen when the ballot-paper is folded so as to conceal the vote.

80. RETURNING OFFICER TO NOTIFY ISSUE OF POSTAL VOTE CERTIFICATE AND POSTAL BALLOT-PAPER.

(1) The Returning Officer for a constituency in respect of which postal vote certificates and postal ballot-papers have been issued shall, if there is time conveniently to do so, note on the certified lists of voters the names of all electors to whom postal vote certificates and postal ballot-papers have been issued.

(2) Where there is not time conveniently to note on a certified list of voters the issue of a postal vote certificate and postal ballot-paper, the Returning Officer shall, where practicable and reasonable, advise the presiding officer to whom the certified list of voters has been furnished of the issue of the postal vote certificate and postal ballot-paper.

(3) An elector to whom a postal vote certificate has been issued is not entitled to vote at a polling booth unless he first delivers to the presiding officer for cancellation his postal vote certificate and postal ballot-paper.

81. AUTHORIZED WITNESSES.

(1) Subject to Subsection (2), the following persons are authorized witnesses within the meaning of this Regulation—

- (a) an elector or person who is qualified to be an elector; and
- (b) where the vote is recorded outside the area of the provincial government—a person to whom the elector is well known.

(2) A person who is a candidate at an election is not an authorized witness at that election or at any other election held at the same time.

82. DIRECTIONS FOR POSTAL VOTING.

The following directions for regulating voting by means of postal ballot-papers shall be substantially observed:—

- (a) the elector shall exhibit his postal ballot-paper (unmarked) and his postal vote certificate to an authorized witness; and
- (b) the elector shall indicate the grounds on which he wishes to vote by post by striking out those grounds in the postal vote certificate which do not apply to his particular case; and
- (c) the form of declaration printed on the envelope bearing the postal vote certificate shall, after being filled in, be signed by the elector in the space provided for the signature of the voter in the presence of the authorized witness; and
- (d) the authorized witness shall then and there sign his name in his own handwriting in the declaration printed on the envelope bearing the postal vote certificate in the place provided for the signature of the authorized witness, and shall add the title under which he acts as an authorized witness and the date; and
- (e) the elector shall then and there, in the presence of the authorized witness but so that the authorized witness cannot see the vote, mark his vote on the ballot-paper, in the prescribed manner, fold the ballot-paper, place it in the envelope addressed to the Returning Officer and fasten the envelope; and
- (f) the elector shall promptly post or deliver the envelope or cause it to be posted or delivered, to the Returning Officer for the constituency in which he is entitled to vote; and
- (g) in the case of an elector suffering from a disability referred to in Section 117 the authorized witness shall mark the elector's vote on the ballot-paper and shall then and there fold the ballot-paper so that the vote cannot be seen, place it in the envelope addressed to the Returning Officer, fasten the envelope, and hand it to the voter, who shall post or deliver it, or cause it to be posted or delivered, to the Returning Officer for the constituency in which he is entitled to vote; and
- (h) the authorized witness shall not permit any person (other than the elector) to see or become acquainted with the elector's vote, or to assist the elector to vote, or to interfere in any way with the elector in relation to his vote.

83. DUTY OF AUTHORIZED WITNESS.

(1) An authorized witness must—

- (a) comply with the provisions of Section 82 insofar as they are to be complied with on his part; and
- (b) see that the directions in that section are complied with by every elector voting by post before him, and by every person present when the elector votes; and
- (c) refrain from disclosing any knowledge of the vote of an elector voting by post before him.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding three months.

(2) An authorized witness who influences, or attempts to influence, in any way the vote of an elector voting by post before him is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

84. PENALTY FOR UNLAWFULLY MARKING POSTAL BALLOT-PAPER.

A person other than—

- (a) the elector to whom the postal ballot-paper has been issued; or
- (b) an authorized witness, acting under Section 82, assisting an elector in accordance with that section,

who marks a vote on a postal ballot-paper is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

85. UNLAWFULLY OPENING POSTAL BALLOT-PAPER.

A person, other than the Returning Officer for the constituency in respect of which a postal ballot-paper has been issued, or an officer acting under his directions, who opens the envelope in which a postal ballot-paper has been placed under Section 82 and which has been fastened by the elector or by an authorized witness in accordance with the provisions of that section is guilty of an offence.

Penalty: A fine not exceeding K200.00.

86. PENALTY FOR FAILURE TO POST OR DELIVER POSTAL BALLOT-PAPER.

A person to whom an application for a postal vote certificate and postal ballot-paper, or an envelope containing or purporting to contain a postal ballot-paper, is entrusted by a voter for the purpose of posting or delivering to a Returning Officer or

Assistant Returning Officer, or delivery to a presiding officer, and who fails as soon as practicable to post or deliver the application or envelope, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.

87. PENALTY FOR INDUCING ELECTOR TO HAND OVER POSTAL BALLOT-PAPER.

A person who persuades or induces an elector to hand over to him a postal ballot-paper on which a vote has been recorded is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.

88. DUTY OF PERSONS PRESENT WHEN AN ELECTOR VOTES BY POST.

A person present when an elector is before an authorized witness for the purpose of voting by post must—

- (a) obey all directions of the authorized witness; and
- (b) refrain from making any communication to the elector in relation to his vote; and
- (c) refrain from assisting the elector or in any manner interfering with him in relation to his vote; and
- (d) refrain from looking at the elector's vote or from doing anything by which he may become acquainted with the elector's vote.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding three months.

89. BALLOT-BOX FOR POSTAL VOTES.

The Returning Officer shall keep a locked ballot-box on which the words "Postal Ballot-Box" are conspicuously marked, and shall place and keep in that ballot-box, until the preliminary scrutiny under Section 134, all envelopes containing or bearing a postal vote certificate and purporting to contain a postal ballot-paper issued in respect of his constituency which—

- (a) are delivered to him before the end of the polling period; or
- (b) are received by him through the post up to the end of the polling period.

PART XIII. – THE POLLING.***Division 1.******Polling Schedule.*****90. POLLING SCHEDULE.**

(1) Subject to any directions given by the Electoral Commission, the Returning Officer shall, as soon as practicable after the close of nominations, prepare a polling schedule showing the anticipated dates and times, within the polling period for the constituency, during which the polling booths will open at the polling places in the constituency, in such manner as he considers will give all electors in the constituency a reasonable and sufficient opportunity to vote at the election.

(2) Nothing in Subsection (1) or in this Regulation shall be construed to mean that polling shall be conducted on each day throughout the polling period or on any particular day in the polling period.

91. PUBLICATION OF POLLING SCHEDULE.

(1) The polling schedule shall be published in the National Gazette and in a newspaper circulating in the constituency, and the Returning Officer shall take such other action as he considers necessary or desirable, or as is directed by the Electoral Commission, to ensure adequate publicity for the polling schedule.

(2) A copy of the polling schedule shall—

- (a) be forwarded to the provincial government body and any Local Government Authority and Council and local level government in the constituency; and
- (b) be exhibited at such other places in the constituency as the Returning Officer appoints.

(3) A copy of the polling schedule for a constituency shall be forwarded to each candidate in the constituency.

92. ADHERENCE TO POLLING SCHEDULE.

(1) As far as possible, polling booths shall be open in accordance with the polling schedule, and the Returning Officer and presiding officers shall take all such action as is necessary or desirable for that purpose, whether expressly authorized by this Regulation or not.

(2) Subject to any directions given by the Electoral Commission, the Returning Officer may, where it becomes impracticable to adhere to a polling schedule, vary the schedule, in which case Section 91 shall, as far as practicable, be observed in relation to the variation.

(3) Subject to any directions given by the Returning Officer, a presiding officer—

- (a) may, where in his opinion it is necessary or desirable in order to meet an unforeseen contingency or emergency and it is impracticable for the Returning Officer to vary the polling schedule under Subsection (2), depart from the polling schedule in relation to a polling place; and
- (b) shall advise the Returning Officer of the departure and of the reasons for it as soon as practicable.

(4) Where the presiding officer departs from the polling schedule in relation to a polling place, he shall take such action as is practicable to ensure adequate publicity for that departure at that polling place and amongst the electors likely to vote at it.

93. APPEAL.

(1) An elector may, not less than 14 days before the commencement of the polling period for a constituency, appeal to the Electoral Commission for an order varying a polling schedule on the ground that it does not give to all electors in the constituency or in a part of the constituency a reasonable opportunity for voting in the election.

(2) Notwithstanding an appeal under Subsection (1), but subject to Section 92, a polling schedule remains valid and in force until varied by order of the Electoral Commission under Subsection (1).

(3) In making an order under Subsection (1) the Electoral Commission shall give such directions as it considers desirable and practicable to ensure adequate publicity for the order.

94. ELECTION NOT OPEN TO CHALLENGE.

An election shall not be challenged on the ground of failure to observe a polling schedule or to comply with the provisions of Section 92, or of a variation or a departure from a polling schedule.

Division 2.

General Provisions.

95. RETURNING OFFICER TO MAKE ARRANGEMENTS.

(1) Where, on the day of nomination, the proceedings stand adjourned to the commencement of the polling, the Returning Officer shall immediately make all necessary arrangements for taking the poll, and in particular shall—

- (a) appoint a presiding officer to preside at each polling place and all necessary assistant presiding officers, poll clerks, and doorkeepers; and
- (b) provide and furnish proper polling booths and ballot-boxes; and
- (c) provide ballot-papers and all necessary certified lists of voters.

(2) The presiding officer shall, on or before the day of polling, determine the whole or the part of the polling place that shall be the polling booth in relation to that polling place.

(3) In an emergency during the polling due—

(a) to the absence of an assistant presiding officer, poll clerk or doorkeeper;
or

(b) to unforeseen and continued pressure at the polling which cannot be met by the duly appointed electoral officers,

the presiding officer may appoint a person to act as assistant presiding officer, poll clerk or doorkeeper, and the person so appointed or acting shall be deemed to have been duly appointed if the Returning Officer afterwards ratifies the appointment.

(4) A person under the age of 18 years shall not be appointed to be or to act as a presiding officer or assistant presiding officer.

(5) An assistant presiding officer may, subject to any directions of the presiding officer, exercise all or any of the powers of the presiding officer, and shall, in respect of the exercise of those powers, be deemed to be the presiding officer.

96. SUBSTITUTE.

A presiding officer may appoint a person not under the age of 18 years to be his substitute to perform his duties during his temporary absence, and the substitute may, while so acting, exercise all the powers of the presiding officer and shall, in the exercise of those powers, be deemed to be the presiding officer.

97. LICENSED PREMISES NOT TO BE USED.

Any part of any premises licensed, or the subject of a permit, under the *Liquor (Licensing) Act* shall not be used for the purpose of a polling booth.

98. SEPARATE VOTING COMPARTMENTS.

Polling booths shall have one or more separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot-papers, and each voting compartment shall be furnished with a pencil for the use of voters.

99. BALLOT-BOXES.

(1) Each polling booth shall be provided with the necessary ballot-box or ballot-boxes.

(2) A ballot-box shall have a cleft in the cover through which the ballot-papers may be deposited in the box, and shall be provided with means for securely closing the cleft so that, when the cleft is so closed, no ballot-papers or other matters or things can be deposited or placed in the box or withdrawn from it.

(3) A ballot-box shall be capable of being securely fastened with a lock.

100. CERTIFIED LIST OF VOTERS.

The certified list of voters to be used by a presiding officer at a polling place shall be the list of the electors on the Roll enrolled for the constituency for which the polling place is prescribed certified by the Returning Officer, and shall before the hour of commencing the poll in the polling area be delivered to the presiding officer for his guidance during the polling.

101. FORM OF BALLOT-PAPERS.

Ballot-papers to be used in an election shall be in the approved form.

102. BALLOT-PAPERS.

In printing the ballot-papers to be used in an election—

- (a) the names of all candidates duly nominated shall be printed in an order determined as follows:—
 - (i) the Returning Officer shall, at the place of nomination, immediately after the close of nominations and before all persons present—
 - (A) prepare, in respect of each candidate, a slip bearing the name of the candidate as shown on his nomination, or the telegraphic or other advice on his nomination; and
 - (B) enclose the respective slips in separate blank envelopes of exact similarity; and
 - (C) deposit the several envelopes in a locked ballot-box; and
 - (ii) the Returning Officer shall then—
 - (A) thoroughly shake and rotate the ballot-box; and
 - (B) permit any other person present, if he so desires, to do the same; and
 - (iii) the ballot-box shall then be opened and an officer shall take out and open the envelopes from the ballot-box one by one; and
 - (iv) the candidate whose name appears on the slip enclosed in the envelope first taken from the ballot-box shall be placed first on the ballot-papers, the candidate whose name appears on the slip enclosed in the envelope next taken from the ballot-box shall be placed next on the ballot-papers, and so on until the placing of all the candidates has been determined; and
- (b) where similarity in the names of two or more candidates is likely to cause confusion, the names of those candidates may be set out with such description or addition as will distinguish them from one another; and

- (c) except as otherwise prescribed, a square shall be printed opposite the name of each candidate.

103. BALLOT-PAPERS TO BE INITIALLED.

(1) A ballot-paper shall not be delivered to a voter without being first initialled by the presiding officer, and an exact account shall be kept of all initialled ballot-papers.

(2) The initials of the presiding officer shall be placed on the back of the ballot-paper in such a position so as to be easily seen when the ballot-paper is folded so as to conceal the names of the candidates.

104. SCRUTINEERS AT THE POLLING.

(1) Scrutineers may be appointed by candidates to represent them at polling places during the polling, but so that not more than one scrutineer, other than relieving scrutineers, shall be allowed to each candidate at each polling booth or subdivision of a polling booth on any one day.

(2) Appointments of scrutineers shall be made by written notice or by telegram addressed to the Returning Officer or presiding officer, and the notice or telegram shall be signed by the candidate and shall give the name and address of the scrutineer.

105. PROVISIONS RELATING TO SCRUTINEER.

(1) A scrutineer who—

- (a) interferes with or attempts to influence an elector within the polling booth; or
- (b) communicates with a person in the polling booth except so far as is necessary in the discharge of his functions; or
- (c) enters a compartment of a polling booth whilst a voter is present in that compartment,

is guilty of an offence.

Penalty: A fine not exceeding K10.00.

(2) A scrutineer shall not be prevented from entering or leaving a polling booth during the polling, and during his absence, a relieving scrutineer may act in his place, but so that only one scrutineer for each candidate shall be present in the polling booth or a subdivision of the polling booth at any one time.

(3) A scrutineer who commits a breach of this section, or who misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling booth by a member of the Police Force or by a person authorized by the presiding officer to remove him.

(4) A scrutineer may not be used to assist any voter to vote under Section 117 or 121.

106. PERSONS PRESENT AT POLLING.

A candidate shall not in any way take part in the conduct of the polling, and no person, other than the presiding officer, assistant presiding officers, officers, poll clerks, interpreters, doorkeepers and scrutineers, and the electors voting and about to vote, shall enter or remain or be permitted to enter or remain in the polling booth during the polling except by permission of, and on such conditions as are determined by, the presiding officer.

107. THE POLLING.

(1) Subject to Subsections (2) and (3), the polling shall be conducted as follows:—

- (a) before the first ballot-paper is placed in an empty ballot-box, the Returning Officer or, if he is not present, the presiding officer, shall exhibit the ballot-box empty, and shall then securely fasten its cover; and
- (b) the poll shall open at each polling place at 8 a.m. on each day (other than a Sunday or a public holiday) during the period for taking the poll at that polling place, and shall not close until all electors present in the polling booth at 6 p.m. and desiring to vote, have voted; and
- (c) the doors of the polling booth shall be closed at 6 p.m. and no person shall be admitted after that hour to the polling booth for the purpose of voting; and
- (d) at the close of the polling on each day of the polling period at a polling place, the presiding officer shall, in the presence of the poll clerk and of any scrutineers who are in attendance, publicly close, fasten, lock and take charge of the ballot-box; and
- (e) when a ballot-box is full or no longer required for the polling, or at the end of the polling period for all polling places for which he is the presiding officer, whichever first occurs, the presiding officer shall, with the least possible delay, forward the ballot-box for the purposes of scrutiny, and it shall on no account be opened except in accordance with this Regulation.

(2) Notwithstanding Subsection (1), where—

- (a) the Returning Officer or the presiding officer considers it necessary, the polling may commence at any particular polling place at a time later than 8 a.m. and, except on the last day of the polling period for the constituency, may close at a time later than 6 p.m.; and
- (b) the presiding officer considers that all electors entitled and likely to vote at any particular polling place have done so, or the Returning Officer so

directs, the poll may close at the polling place at a time earlier than 6 p.m.

(3) Subsection (2) shall not be deemed to authorize the commencement of the scrutiny before the end of the polling period in every constituency.

108. ELECTIONS AT WHICH ELECTORS ARE ENTITLED TO VOTE.

(1) Subject to Division 3, an elector shall only be admitted to vote for the election of a member for the constituency for which he is enrolled.

(2) A person—

(a) whose name is on a Roll for a constituency; and

(b) who has, at some time after his name was entered on the Roll and before the issue of the writ for that constituency, qualified for enrolment in another constituency,

is not qualified to vote in the first-mentioned constituency.

(3) For the purposes of this section, the Rolls in force at the time of the election are, subject to Subsection (2), evidence of the right of each person so enrolled to vote at an election, unless he shows by his answer to a question prescribed by Section 111 that he is not entitled to vote.

109. WHERE ELECTORS MAY VOTE.

(1) An elector is entitled to vote at any prescribed polling place for the constituency for which he is enrolled while that polling place is open.

(2) This section does not authorize an elector to vote more than once at an election.

110. PERSONS CLAIMING TO VOTE TO GIVE NAME AND OTHER PARTICULARS.

A person claiming to vote at a polling booth shall state his full name or names, and, if so desired by the presiding officer for the purpose of identifying the name under which the vote is claimed, any other particulars necessary to be stated in the Roll or to enable him to be identified in the Roll.

111. QUESTIONS TO BE PUT TO VOTER.

(1) Subject to this Regulation, the presiding officer—

(a) may, and at the request of a scrutineer shall, put to a person claiming to vote the following questions:—

(i) “Have you already voted either here or elsewhere in this election (or these elections” *(as the case requires)*?”; and

(ii) “Did you reside within this constituency for a period of more than six months before your claim for enrolment?”; and

- (iii) “Are you at least 18 years of age?”; and
- (iv) “Are you qualified to vote?”; and
- (b) may, and at the request of a scrutineer shall, also put to any person claiming to vote, whose name appears on the certified list of voters the following question:–
 - “Are you the person whose name appears as (*state name*) on the certified list of voters for this constituency?”

(2) Where a person claiming to vote to whom any of the questions specified in Subsection (1) are put–

- (a) refuses to answer fully a question put to him; or
- (b) does not answer the question prescribed in Subsection (1)(a)(i) absolutely in the negative, when put to him; or
- (c) does not answer the question prescribed in Subsection (1)(a)(ii) absolutely in the affirmative when put to him; or
- (d) does not answer a question specified in Subsection (1)(a)(iii), (iv), (v) or (b) absolutely in the affirmative when put to him,

his claim to vote shall be rejected unless he is a candidate for election for that constituency.

(3) The voter’s answer to a question put to him by the presiding officer under this section is conclusive, and the matter shall not, subject to this section, be further inquired into during the polling.

112. ERRORS NOT TO FORFEIT VOTE.

An omission in the Roll for a constituency or in the certified list of voters of part of any name or entry of a wrong name, address or occupation, and a mistake in the spelling of a name does not warrant the rejection at the polling of a claim to vote, and an elector shall not be disqualified from voting under the name appearing on the Roll because of a change of name, where in the opinion of the presiding officer, the voter is sufficiently identified.

113. RIGHT OF ELECTOR TO RECEIVE BALLOT-PAPER.

(1) The presiding officer or a poll clerk shall, at the polling, hand to each person claiming to vote a ballot-paper duly initialled by the presiding officer–

- (a) if the name under which he claims to vote is on the certified list of voters for the polling place and his right to vote is not challenged; or
- (b) if the name under which he claims to vote is on the certified list of voters for the polling place and his right to vote is challenged, and his answers to the prescribed questions show that he is entitled to vote; or
- (c) if he claims to vote under Division 3 and complies with the provisions of that Division.

(2) The presiding officer, at the request of a scrutineer, shall note any objection by the scrutineer to the right of a person to vote, and shall keep a record of that objection.

(3) Where the presiding officer puts to a person all or any of the prescribed questions, his right to vote shall be deemed to have been challenged.

114. LIST OF VOTERS TO BE MARKED ON ISSUE OF BALLOT-PAPER.

Immediately on handing the ballot-paper to a person claiming to vote, the presiding officer or a poll clerk shall place a mark against the person's name on the certified list of voters if his name is on that list.

115. VOTE TO BE MARKED IN PRIVATE.

Except as otherwise prescribed, a voter, on receipt of a ballot-paper, shall without delay—

- (a) retire alone to some unoccupied compartment of the booth, and in there, in private, mark his vote on the ballot-paper in the prescribed manner; and
- (b) fold the ballot-paper so as to conceal his vote and to show clearly the initials of the presiding officer, and exhibit it so folded to the presiding officer, and then openly, and without unfolding it, deposit it in the ballot-box; and
- (c) quit the booth.

116. METHOD OF MARKING BALLOT-PAPER.

Subject to this Regulation, an elector shall record his vote on his ballot-paper by placing an "X" in the square opposite the name of the candidate for whom he wishes to vote in such a way as to clearly indicate his preference for that candidate only.

117. ASSISTANCE TO CERTAIN VOTERS.

(1) Where a voter satisfies the presiding officer that—

- (a) his sight is so impaired; or
- (b) he is so physically incapacitated,

that he is unable to vote without assistance, the presiding officer shall permit a person appointed by the voter—

- (c) to enter with the voter an unoccupied compartment of the booth; and
- (d) to mark, fold and deposit the voter's ballot-paper for him.

(2) Where a voter referred to in Subsection (1)—

- (a) fails to appoint a person under that subsection; or

- (b) satisfies the presiding officer that he is so illiterate that he is unable to vote without assistance,

the presiding officer, in the presence of—

- (c) if the voter so desires—a person appointed by the voter for the purpose; or
- (d) in the absence of any such appointment—the poll clerk,

shall mark, fold and deposit his ballot-paper for him.

(3) A person appointed under Subsection (1) to assist a voter who discloses any knowledge of the vote of the voter is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding three months.

Division 3.

Special Provisions in Certain Cases.

118. VOTE OF PERSON WHOSE NAME IS NOT ON CERTIFIED LIST, ETC.

(1) Notwithstanding this Regulation, where a person who is entitled to be enrolled on the Roll for a constituency, claims to vote at an election at a polling place in that constituency and his name—

- (a) has been incorrectly omitted from or struck from the certified list of voters for that polling place; or
- (b) cannot be found by the presiding officer on the certified list of voters,

he may, subject to this Regulation, be permitted to vote if—

- (c) in the case of a person whose name has been omitted from the certified list—
 - (i) his non-enrolment is due to an error or omission in the compilation of the Roll; and
 - (ii) he is not enrolled for another constituency,
and in addition—
 - (iii) he did not know, and had no reasonable opportunity of knowing, that he was not enrolled, or had no reasonable opportunity of making a claim for enrolment or transfer of enrolment, as the case requires; or
 - (iv) he made a claim for enrolment or transfer of enrolment, as the case requires, in respect of the constituency, and the claim was received by the Returning Officer before 4 p.m. on the day of the issue of the writ for the election and he did not, after making a claim for enrolment or transfer of enrolment and before the issue

of the writ, become qualified for transfer of enrolment to another constituency; or

- (d) in the case of a person whose name has been struck from the certified list—
 - (i) his name was not, to the best of his knowledge, removed from the Roll for the constituency owing to objection, or transfer or duplication of enrolment, or disqualification; and
 - (ii) he had, from the time of his enrolment for the constituency to the date of the issue of the writ for the election, continuously retained his right to enrolment for that constituency; or
- (e) in the case of a person whose name is on the Roll for a constituency for which he claims to vote but cannot be found by the presiding officer—he claims that his name appears or should appear on the Roll,

and he makes a declaration in the approved form before the presiding officer at the polling place.

(2) Where a voter claims to vote under the provisions of this section, his ballot-paper shall be marked and folded in the manner prescribed and returned so folded to the presiding officer who shall deal with it as prescribed in Section 122.

119. VOTER CLAIMING TO VOTE WHOSE NAME ON ROLL HAS BEEN MARKED.

(1) Notwithstanding this Regulation, where a voter against whose name on the certified list of voters used at a polling place in the constituency for which he is enrolled, a mark has been placed in accordance with Section 114, claims to vote in an election at that polling place and makes a declaration in the approved form before the presiding officer he may, subject to Sections 27 and 111, be permitted to vote.

(2) The ballot-paper of a voter voting under this section shall be dealt with as prescribed in Section 122.

120. PERSON CLAIMING TO VOTE WHOSE NAME IS NOTED AS PERSON TO WHOM POSTAL VOTE CERTIFICATE, ETC., ISSUED.

(1) Where a person whose name has been noted on the certified list of voters used at a polling place in the constituency for which he is enrolled as an elector to whom a postal vote certificate and postal ballot-paper have been issued, claims to vote in an election at that polling place and states, when requested to deliver to the presiding officer for cancellation his postal vote certificate and postal ballot-paper, that he has not received a postal vote certificate and postal ballot-paper, he may subject to this Regulation, be permitted to vote, if he makes a declaration in the approved form before the presiding officer at the polling place.

(2) The ballot-paper of a voter voting under this section shall be dealt with as prescribed in Section 122, but the ballot-paper shall not be scrutinized unless the

Returning Officer is satisfied that the voter is entitled to vote in the election, and that a postal vote certificate or postal ballot-paper has not been received by him.

121. BLIND OR PHYSICALLY INCAPACITATED VOTERS.

(1) Where a voter who claims to vote under Section 118, 119 or 120 satisfies the presiding officer that—

- (a) his sight is so impaired; or
- (b) he is so physically incapacitated,

that he is unable to vote without assistance, the presiding officer shall—

- (c) fill in the form of declaration with the required particulars relating to the enrolment of the voter as required by the voter; and
- (d) read over to the voter the form of declaration; and
- (e) require the voter to sign the form of declaration—
 - (i) in his own handwriting if he is able to do so; or
 - (ii) with his mark as his personal signature if he is unable to sign his name in his own handwriting; and
- (f) cause the signature of the voter, if made by means of a mark, to be witnessed by a scrutineer present, or if no scrutineer is present, by the poll clerk; and
- (g) complete and attest the declaration; and
- (h) permit a person appointed by the voter to enter an unoccupied compartment of the booth with the voter and to mark and fold the ballot-paper for the voter; and
- (i) enclose the ballot-paper in the envelope bearing the declaration of the voter, securely fasten the envelope and deposit it in the ballot-box.

(2) Where a voter to whom Subsection (1) applies fails to appoint a person under that subsection, the presiding officer shall take action in accordance with Subsection (1)(c) to (g) and shall, in the presence of a person appointed by the voter for the purpose if the voter so desires, or, in the absence of any such appointment, the poll clerk—

- (a) mark and fold the ballot-paper for the voter; and
- (b) enclose the ballot-paper in the envelope bearing the declaration of the voter, securely fasten the envelope and deposit it in the ballot-box.

122. DEALING WITH VOTERS, ETC., UNDER THIS DIVISION.

(1) The presiding officer, on receiving a ballot-paper from a person voting under this Division, in the presence of the voter and of such scrutineers as are present and without unfolding the ballot-paper, shall—

- (a) enclose it in an envelope bearing the declaration of the voter under Section 118, 119 or 120, as the case may be, and addressed to the Returning Officer; and
- (b) securely fasten the envelope and deposit it in the ballot-box.

(2) An Assistant Returning Officer who is authorized under this Regulation to open the ballot-box shall, without opening the envelope, transmit it to the Returning Officer.

(3) Where the claim of a person to vote under this Division is refused, the presiding officer shall make a written note of the fact of the claim and the reasons for the refusal, and the presiding officer and a poll clerk shall sign a note in the presence of such scrutineers as are present, who may also sign the note.

Division 4.

Miscellaneous.

123. SPOILT BALLOT-PAPERS.

Where a voter, before depositing his ballot-paper in the ballot-box, satisfies the presiding officer that he has spoiled the ballot-paper by mistake or accident, he may, on giving it up, receive a new ballot-paper from the presiding officer, who shall there and then cancel the spoiled ballot-paper, write the word "Spoilt" across the face of it, place it in an endorsed envelope and forward it to the Returning Officer after the polling.

124. ADJOURNMENT OF POLLING ON ACCOUNT OF RIOT.

(1) The presiding officer may adjourn the polling from day to day where the polling is interrupted or obstructed by riot or open violence.

(2) Where from any cause a polling booth at a polling place is not open on any day during the period for taking the poll at that polling place, the presiding officer may adjourn the polling for a period not exceeding seven days but in no event beyond the end of the polling Period, and shall immediately give public notice of the adjournment.

(3) Where for any reason the polling is adjourned at a polling place, those electors only—

- (a) who are enrolled for the constituency for which the polling place is prescribed; or
- (b) who are otherwise entitled to vote as electors for the constituency,

and have not already voted, are entitled to vote at the adjourned polling at that polling place.

- (4) This section shall not be deemed to affect the provisions of Division 1.

PART XIV. – THE SCRUTINY.

Division 1.

Preliminary.

125. SCRUTINY.

The result of the polling shall be ascertained by scrutiny.

126. COUNTING CENTRES.

The scrutiny shall be conducted at such places, to be known as “counting centres”, as are appointed by the Returning Officer for the purpose.

127. OFFICERS TO CONDUCT SCRUTINY.

The scrutiny at a counting centre shall be conducted by the Returning Officer or, in the absence of the Returning Officer from that counting centre, by an Assistant Returning Officer.

128. SCRUTINEERS AT SCRUTINY.

(1) A candidate may appoint scrutineers to represent him at the scrutiny.

(2) Except as provided by Subsection (3), a candidate is not entitled to be represented at the scrutiny at a counting centre by more than one scrutineer.

(3) The officer who is to conduct, or is conducting, the scrutiny at a counting centre may, subject to any directions given to him from time to time by the Electoral Commission or the Returning Officer for the constituency in which the counting centre is situated, permit each candidate to be represented at the scrutiny at that counting centre by scrutineers not exceeding such number as that first-mentioned officer determines.

(4) The appointment of a scrutineer under this section to represent a candidate at a counting centre—

(a) shall be made by written notice signed by the candidate, or by telegram signed by the candidate before it is tendered for transmission, given or sent to the officer who is to conduct, or who is conducting, the scrutiny at the counting centre; and

(b) shall specify the name and address of the scrutineer.

129. CONDUCT OF SCRUTINY.

The scrutiny shall be conducted as follows:—

(a) it shall commence as soon as practicable after the end of the polling period; and

- (b) any scrutineers duly appointed under Section 128 and any persons approved by the officer conducting the scrutiny, may be present; and
- (c) all the proceedings at the scrutiny shall be open to the inspection of the scrutineers; and
- (d) the scrutiny may be adjourned from time to time as necessary until the counting of the votes is complete.

130. ACTION ON OBJECTIONS TO BALLOT-PAPERS.

(1) If a scrutineer objects to a ballot-paper as being informal, the officer conducting the scrutiny shall mark the ballot-paper “Admitted” or “Rejected”, according to his decision to admit or reject the ballot-paper.

(2) This section does not prevent the officer conducting the scrutiny from rejecting a ballot-paper as being informal although it is not objected to.

131. INFORMAL BALLOT-PAPERS.

(1) Subject to this section, and to the provisions of Divisions 3 and 4, a ballot-paper is informal if—

- (a) it is not authenticated by the initials of the presiding officer or by an official mark as prescribed; or
- (b) it has no vote indicated on it or does not clearly show the voter’s intention; or
- (c) it has on it any mark or writing (not authorized by this Regulation to be put on it) by which, in the opinion of the officer conducting the scrutiny, the voter can be identified.

(2) Subsection (1)(c) does not apply to a mark or writing placed on a ballot-paper by an officer, notwithstanding that the placing of the mark or writing on the ballot-paper is a contravention of this Regulation.

(3) Subject to Divisions 3 and 4, a ballot-paper shall not be informal for any reason other than a reason specified in this section.

(4) Notwithstanding the provisions of this section or Section 116, where the Returning Officer is satisfied that any mark made on a ballot-paper clearly indicates the intention of the voter and the candidate for whom he has given his vote, the Returning Officer shall not determine that the vote is informal merely because the mark is not an “X”.

Division 2.

Provisions Relating to the Scrutiny of Ordinary Votes.

132. SCRUTINY OF ORDINARY VOTES IN ELECTIONS.

(1) In an election the scrutiny shall, subject to the provisions of Divisions 3 and 4, be conducted in accordance with this section.

(2) The electoral officer conducting the scrutiny shall, in the presence of a presiding officer, poll clerk or an officer and of such authorized scrutineers as choose to attend and any other person approved by the Returning Officer—

- (a) open all ballot-boxes received from polling places within the constituency; and
- (b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a vote is indicated for the same candidate; and
- (c) count the votes given for each candidate on all unrejected ballot-papers; and
- (d) make out and sign a statement (which may be counter-signed by the presiding officer, poll clerk or officer present and, if they so desire, by such scrutineers as are present) setting out the number of votes given for each candidate, and the number of informal ballot-papers; and
- (e) place in a separate parcel all the ballot-papers which have been rejected as informal; and
- (f) where an Assistant Returning Officer conducts the scrutiny, transmit the following information, by telegram or in some other expeditious manner, to the Returning Officer—
 - (i) the number of votes given for each candidate; and
 - (ii) the total number of ballot-papers rejected as informal; and
- (g) seal up the parcels and endorse on each parcel a description of the contents of it, and permit any scrutineers present, if they so desire, to counter-sign the endorsement; and
- (h) where an Assistant Returning Officer conducts the scrutiny, transmit the parcels to the Returning Officer with the least possible delay, together with the statement referred to in Paragraph (d).

Division 3.

Provisions Relating to the Scrutiny of Postal Votes.

133. SCRUTINY OF POSTAL VOTES.

The scrutiny of postal votes shall be conducted by the Returning Officer with the assistance of an Assistant Returning Officer or an officer, in the presence of such authorized scrutineers as choose to attend and any other persons approved by the Returning Officer.

134. PRELIMINARY SCRUTINY OF POSTAL VOTES.

(1) The Returning Officer conducting the scrutiny shall—

- (a) subject to Subsection (2), as soon as practicable after the end of the polling period for a constituency—
 - (i) produce and open the postal voters' ballot-box in which the envelopes containing the voters' ballot-papers have been placed; and
 - (ii) produce unopened all envelopes containing postal votes received by him before the end of the polling period; and
- (b) examine each certificate and, if satisfied that—
 - (i) the person making the vote is an elector enrolled for the constituency; and
 - (ii) the declaration purports to be witnessed by an authorized witness,

accept the ballot-paper for further scrutiny, and place a mark against the name of the elector on a certified copy of the Roll used by him for the purpose of the scrutiny, but, if not so satisfied, disallow the ballot-paper without opening the envelope in which it is contained; and

- (c) place in one parcel the unopened envelopes bearing the duly signed and attested declarations of those persons whose ballot-papers have been accepted for further scrutiny; and
- (d) place in another parcel the unopened envelopes bearing the declarations of those persons whose ballot-papers he has disallowed, fasten and seal the parcel, endorse on it the words "Postal voters' ballot-papers rejected at the preliminary scrutiny" and add the name of the constituency, his signature and the date; and
- (e) place the envelopes containing the ballot-papers which he has decided to accept for further scrutiny before him on a table in such a manner that the address side of each envelope is visible; and
- (f) number each envelope consecutively from one upwards in the top right-hand corner until all of the envelopes have been dealt with; and
- (g) without further examining the certificate or declaration of any voter or permitting any other person to do so, withdraw from the envelope each ballot-paper contained in it, and, without inspecting or unfolding the ballot-paper or allowing any other person to do so, place on it a number corresponding with that placed on the envelope from which the ballot-paper has been withdrawn and deposit the folded ballot-paper in a locked ballot-box for further scrutiny; and
- (h) place the envelopes in a parcel endorsed with the words "Envelopes bearing postal voters' declarations from which ballot-papers have been withdrawn for further scrutiny", fasten the parcel, and add the name of the constituency, his signature and the date.

(2) The Returning Officer shall, as far as practicable, keep in the Postal Voters' Ballot-box sufficient envelopes containing ballot-papers to ensure that all ballot-papers, when counted, shall be taken from a number sufficient to prevent the identity of voters from being disclosed.

135. FURTHER SCRUTINY OF POSTAL VOTES.

At the further scrutiny, the officer conducting the scrutiny shall, as soon as practicable after the preliminary scrutiny under Section 134, open the ballot-box referred to in Section 134(g), examine the postal voters ballot papers contained in the ballot-box, and take similar action to that set out in Section 133(2)(b), (c), (d), (e) and (g).

136. MISTAKES.

A postal vote shall not be rejected as informal merely because, in the case of a candidate, part only of his name has been written on it if there is no possibility of confusion with some other candidate, or by reason of a mistake in spelling or otherwise where there is no doubt as to the identity of the candidate and the elector's intention is clear.

Division 4.

Provisions Relating to the Scrutiny of Votes under Division XIII.3.

137. CONDUCT OF SCRUTINY.

The scrutiny of votes under Division XIII.3 shall be conducted by the Returning Officer and shall commence as soon as practicable after the end of the polling period for a constituency in the presence of an Assistant Returning Officer or an officer and such scrutineers as choose to attend.

138. ACTION ON RECEIPT OF BALLOT-PAPERS UNDER DIVISION XIII.3.

The Returning Officer shall produce unopened all envelopes containing ballot-papers used for voting under Division XIII.3 and shall—

- (a) before opening an envelope or allowing any other person to do so—examine the declaration of the voter; and
- (b) if it is in order and, in the case of a vote under Section 118 he is satisfied, after making such enquiry as is necessary, that the voter is a person to whom Section 118(1)(c),(d), or (e) applies—deal with the ballot-paper in accordance with this Division and make such correction (if any) to the Roll as is necessary.

139. PRELIMINARY SCRUTINY OF VOTES CAST UNDER DIVISION XIII.3.

(1) The Returning Officer shall, in relation to envelopes containing ballot-papers used for voting under Division XIII.3—

- (a) place in one parcel the envelopes bearing the declarations of persons who he is satisfied are entitled to vote in respect of the constituency, accept for further scrutiny the ballot-papers contained in the envelopes and—
 - (i) in respect of envelopes under Section 118—place the name of each person voting under that section on a certified copy of the Roll used by him for the purposes of the scrutiny; and
 - (ii) in respect of envelopes under Sections 119 and 120—make a notation on a certified copy of the Roll used by him for the purposes of the scrutiny against the names of the persons voting that those persons have been permitted to vote under Section 119 or 120, as the case may be; and
- (b) place in another parcel the envelopes bearing the declarations of persons who he is satisfied are not entitled to vote in respect of the constituency, or whose declarations are not signed and attested, fasten and seal the parcel, endorse on it the words “Division XIII.3 voters’ ballot-papers rejected at the preliminary scrutiny” and add the name of the constituency, his signature and the date; and
- (c) place the envelopes containing the ballot-papers accepted for further scrutiny before him on a table in such a manner that the face only of each envelope bearing the address of the Returning Officer is visible; and
- (d) number each envelope consecutively from one upwards in the top right-hand corner until all of the envelopes have been dealt with; and
- (e) without further examining the declarations of a voter, or permitting any other person to do so, withdraw from the envelope each ballot-paper contained in it, and, without inspecting or unfolding the ballot-paper or allowing any other person to do so, place on it a number corresponding with that placed on the envelope from which the ballot-paper has been withdrawn, and deposit the folded ballot-paper in a locked ballot-box for further scrutiny; and
- (f) place the envelopes in a parcel, endorsed with the words “Envelopes bearing Division XIII.3 voters’ declarations from which ballot-papers have been withdrawn for further scrutiny”, fasten the parcel and add the name of the constituency, his signature and the date.

(2) A Division XIII.3 voter’s ballot-paper shall not be rejected at the preliminary scrutiny by reason only of the fact that the presiding officer has omitted to attest the declaration of the elector.

140. FURTHER SCRUTINY.

At the further scrutiny, the officer conducting the scrutiny shall, as soon as practicable after the preliminary scrutiny under Section 139, open the ballot-box referred to in Section 139(1)(e), examine the Division XIII.3 voters' ballot-papers contained in the ballot-box, and take similar action to that set out in Section 132(2)(b), (c), (d), (e) and (g).

141. INFORMAL BALLOT-PAPERS.

In addition to the matters specified in Section 131, a Division XIII. 3 voter's ballot-paper is informal if it is not contained in an envelope bearing the declaration of the elector.

142. PARCELLING OF BALLOT-PAPERS.

The officer conducting the scrutiny shall place in separate parcels—

- (a) all Division XIII.3 voters' ballot-papers allowed or admitted as formal; and
- (b) all Division XIII.3 voters' ballot-papers disallowed or rejected as informal,

and shall fasten and seal each parcel, and endorse on it particulars of the contents of it and the name of the constituency, and add his signature and the date.

143. OPENING OF SEALED PARCELS OF BALLOT-PAPERS.

The sealed parcels of Division XIII.3 voters' ballot-papers may only be opened—

- (a) for the purposes of an authorized re-count; or
- (b) by direction of the National Court.

144. OPENING OF SEALED PARCELS OF DECLARATIONS.

The sealed parcels of Division XIII.3 voters' declarations may only be opened by direction of the National Court.

145. PRESERVATION OF BALLOT-PAPERS AND DECLARATIONS.

Subject to any action referred to in Section 143 or 144, the Returning Officer shall preserve the sealed parcels of—

- (a) Division XIII.3 voters' ballot-papers allowed or admitted to the scrutiny; and
- (b) Division XIII.3 voters' ballot-papers disallowed or rejected at the scrutiny; and
- (c) envelopes bearing Division XIII.3 voters' declarations from which ballot-papers have been withdrawn for further scrutiny; and

- (d) envelopes bearing Division XIII.3 voters' declarations and containing ballot-papers rejected at the preliminary scrutiny,

until their destruction has been authorized by the Electoral Commission.

Division 5.

Mode of Determining the Result of the Scrutiny.

146. SCRUTINY OF VOTES IN ELECTIONS.

(1) The result of an election shall be determined by scrutiny in the following manner:—

- (a) the Returning Officer shall ascertain the total number of votes given for each candidate; and
- (b) the candidate who has received the largest number of votes is elected; and
- (c) if two or more candidates have an equal number of votes, the Returning Officer shall decide by drawing lots who shall be elected.

(2) The procedure for drawing lots is as follows:—

- (a) the Returning Officer shall immediately after the conclusion of the counting and before all persons present, make out in respect of each of the candidates having an equal number of votes a slip bearing the name of the candidate as shown on the ballot-paper, enclose the respective slips in separate blank envelopes of exact similarity and deposit the envelopes in a locked ballot-box; and
- (b) the Returning Officer shall then thoroughly shake and rotate the ballot-box and shall permit any other person present, if he so desires, to do the same; and
- (c) the ballot-box shall then be opened and an officer shall take out and open one of the envelopes; and
- (d) the candidate whose name appears on the slip enclosed in the envelope taken from the ballot-box is elected.

147. FURTHER PROVISIONS RELATING TO SCRUTINY.

The officer conducting the scrutiny shall, in respect of ballot-papers scrutinized by him—

- (a) place in a separate parcel all the ballot-papers which have been rejected as informal; and
- (b) place in a separate parcel all the unrejected ballot-papers; and
- (c) seal up the parcels and endorse on each parcel a description of its contents, and permit any scrutineers present, if they so desire to countersign the endorsement.

Division 6.

Re-count of Ballot-papers.

148. RE-COUNT.

(1) At any time before the declaration of the result of an election, the Returning Officer may, if he thinks fit, on the request of a candidate setting forth the reasons for the request or of his own motion, and shall if so directed by the Electoral Commission, re-count the ballot-papers contained in a parcel.

(2) The officer conducting a re-count has the same powers as if the re-count were the scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of any ballot-paper.

149. RESERVATION OF DISPUTED BALLOT-PAPERS.

(1) The officer conducting a re-count may, and at the request of a scrutineer shall, reserve any ballot-paper for the decision of the Electoral Commission.

(2) The Electoral Commission shall decide whether a ballot-paper reserved for its decision under this section is to be allowed and admitted or disallowed and rejected.

(3) In the event of the validity of the election being disputed, the National Court may consider any ballot-papers which were reserved for the decision of the Electoral Commission, but shall not order a further re-count of the whole or part of the ballot-papers in connection with the election unless it is satisfied that the re-count is justified.

150. CONDUCT OF RE-COUNT.

(1) Before proceeding to re-count any ballot-papers, the Returning Officer shall send to each candidate notice of the time and place of the re-count.

(2) The Returning Officer shall, at the time and place fixed for the re-count, in the presence of the scrutineer or scrutineers in attendance and of an officer, open every sealed parcel of ballot-papers to be re-counted and count the votes in it.

(3) Each parcel of ballot-papers to be re-counted shall be opened separately without destroying or rendering illegible any endorsement on the parcel, and every care shall be taken to prevent the ballot-papers in the parcel from being mixed with the ballot-papers in any other parcel.

(4) After a parcel has been opened and the votes in it counted, the Returning Officer shall replace the ballot-papers in their original cover, which he shall reseal, refasten and then place in a new cover which he shall also seal and fasten and endorse with the fact and date of the re-count, and the Returning Officer and such persons authorized to be present at the re-count as choose to do so shall sign the endorsement.

(5) When any ballot-papers at a re-count are reserved for the decision of the Electoral Commission, the Returning Officer shall, in the presence of the scrutineer or scrutineers in attendance—

- (a) place the ballot-papers in a properly fastened and sealed parcel bearing his signature and the signature or signatures of the scrutineer or scrutineers, together with an endorsement setting out the number of ballot-papers contained in the parcel, the name of the constituency and the date; and
- (b) place the parcel in a fastened and sealed outer cover fully addressed to the Electoral Commission,

and transport the parcel to the Commission by hand or registered post.

(6) On receipt of a parcel referred to in Sub-section (5), the Electoral Commission shall, in the presence of an officer and, if a candidate so desires, of a person appointed by the candidate, open the parcel and scrutinize the ballot-papers, and shall mark each ballot-paper “Admitted” or “Rejected”, according to its decision to admit or reject the ballot-paper.

(7) When the Electoral Commission has given its decision on the ballot-papers reserved for its decision, it shall restore them to their original cover, refasten and reseal the cover, and endorse on it—

- (a) the number of ballot-papers contained in the cover; and
- (b) a statement that the ballot-papers have been the subject of decision by it; and
- (c) the signature of the Electoral Commissioner and the date,

and shall request the persons in whose presence it scrutinized the ballot-papers to add their signatures, and shall then place the parcel in a new cover, which it shall cause to be fastened, sealed and returned by hand or registered post to the Returning Officer.

(8) The Electoral Commission shall advise the Returning Officer, in writing, as to the number of ballot-papers admitted or rejected by it, and the decision of the Electoral Commission shall be accepted by the Returning Officer in completing his re-count of the ballot-papers.

(9) The receipt of every parcel of ballot-papers shall be acknowledged in writing by the Electoral Commission and the Returning Officer respectively.

PART XV. – INTERPRETERS.

151. INTERPRETERS.

(1) Notwithstanding this Regulation, for the purposes of, and at any stage of, the proceedings at the polling or at the scrutiny, a person may, with the approval of the presiding officer or the officer conducting the scrutiny, as the case requires, make use of the services of a person as an interpreter.

(2) A candidate shall not be an interpreter, and a scrutineer shall not be an interpreter except for another scrutineer.

152. DUTY OF INTERPRETERS.

(1) An interpreter referred to in Section 151 must–

- (a) to the best of his ability, correctly interpret any matter which he is required to interpret; and
- (b) comply with any directions given by the presiding officer or the officer conducting the scrutiny, as the case may be; and
- (c) refrain from disclosing any knowledge of the vote of an elector for or to whom he interprets.

(2) An interpreter who influences, or attempts to influence, in any way, the vote of an elector for or to whom he interprets is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

PART XVI. – THE RETURN OF THE WRITS.**153. RETURN OF WRITS.**

(1) The Returning Officer shall, as soon as conveniently may be after the result of an election has been ascertained—

- (a) at the place of nomination—publicly declare the result of the election and the name of the candidate elected; and
- (b) by endorsement under his hand certify on the writ the name of the candidate elected, and return the writ to the Electoral Commission.

(2) Where the Returning Officer—

- (a) cannot complete his inquiries into the facts set out in the declarations received by him under Section 118, 119 or 120, without unduly delaying the declaration of the poll; and
- (b) is satisfied that the votes recorded on the ballot-papers could not possibly affect the result of the election,

he may, subject to the concurrence of the Electoral Commission, declare the result of the election and return the writ without awaiting the receipt of the ballot-papers or the completion of inquiries, as the case may be.

154. CORRECTION OF ERRORS.

Any delay, error or omission in the printing, preparation, issue, transmission or return of any Roll, writ, ballot-paper or certified list of voters may be remedied, removed, rectified and supplied by the Electoral Commission by notice in the National Gazette, specifying the matter dealt with and providing for the course to be followed, and that course shall be valid and sufficient.

155. EXTENSION OF TIME.

(1) Subject to Subsections (2) and (3), within one month before or at any time during the polling period for an election, the Electoral Commission may, where it is of the opinion that it is necessary to do so, provide for—

- (a) extending the time—
 - (i) for holding the election; or
 - (ii) for returning the writ; or
- (b) meeting any difficulty which might otherwise interfere with the due course of the election,

and provision so made shall be valid and sufficient.

(2) Where an extension of time granted under Subsection (1) does not apply to all constituencies in which elections are being conducted at the same time—

- (a) the last day of the polling period shall not be more than two weeks after the date originally fixed as the last day; and
- (b) the date fixed for the return of the writ shall not be more than two weeks after the date originally fixed for its return.

(3) In the case of an extension of time under Subsection (1), public notice of the extension shall be immediately given in the constituency or the portion of the constituency for which the election is to be held.

PART XVII. – OFFENCES.**156. ILLEGAL PRACTICES.**

(1) Subject to Subsection (2), the following are illegal practices at elections:–

- (a) publishing an electoral advertisement, handbill or pamphlet or issuing an electoral notice (other than the announcement by advertisement in a newspaper of the holding of a meeting) without the name and address of the person authorizing the publication or issue being printed at the foot of it; and
- (b) printing or publishing a printed electoral advertisement, handbill or pamphlet (other than an advertisement in a newspaper) without the name and place of business of the printer being printed at the foot of it; and
- (c) printing, publishing or distributing an electoral advertisement, notice, handbill, pamphlet or card containing a representation of a ballot-paper or a representation apparently intended to represent a ballot-paper, and having on it any directions intended or likely to mislead or improperly interfere with an elector in or in relation to the casting of his vote; and
- (d) printing, publishing or distributing an electoral advertisement, notice, handbill, pamphlet or card containing an untrue or incorrect statement intended or likely to mislead or improperly interfere with an elector in or in relation to the casting of his vote; and
- (e) wilfully informing an elector during the polling period that he is not enrolled or entitled to be enrolled for a particular constituency or is not entitled to vote, when as a fact he is enrolled or entitled to be enrolled, or is enrolled or entitled to be enrolled for that constituency or is entitled to vote, as the case may be.

(2) Subsection (1)(c) or (d) does not prevent the printing, publishing or distributing of a card, not otherwise illegal, which contains instructions on how to vote for a particular candidate, so long as those instructions are not intended or likely to mislead an elector in or in relation to the casting of his vote.

(3) A person guilty of an illegal practice is liable to a penalty of a fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

157. HEADING TO ELECTORAL ADVERTISEMENT.

(1) In this section “electoral matter” includes all matter intended or calculated to affect the result of the election, and a report of the speech of a candidate if the report is or is to be paid for.

(2) The proprietor of a newspaper must cause the word “advertisement” to be printed as a headline, in letters not smaller than 10 point or long primer, to each article or paragraph in his newspaper containing electoral matter, the insertion of

which is or is to be paid for or for which a reward or compensation or promise of reward or compensation is or is to be made.

Penalty: A fine not exceeding K200.00.

158. ARTICLES TO BE SIGNED.

(1) On and after the date of issue and before the return of a writ for the election of a member, every article, report, letter or other matter commenting on a candidate or political party, printed and published in a newspaper, circular, pamphlet or dodger must be signed by the author, giving his true name and address at the end of the article, report, letter or other matter, or where part only of the article, report, letter or matter appears in any issue of a newspaper, circular, pamphlet or dodger at the end of that part.

Penalty: A fine not exceeding K200.00.

(2) A newspaper editor or proprietor who permits, in a newspaper which he edits or owns, the publication of an unsigned article, report, letter or other matter commenting on a candidate or political party, after the issue and before the return of any writ for the election of a member, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(3) This section does not apply to the publication in a newspaper of—

- (a) a leading article; or
- (b) an article in a newspaper which consists solely of a report of a meeting and does not contain any comment (other than comment made by a speaker at the meeting) on a candidate or political party.

159. MATTER BROADCAST.

(1) For the purposes of this section, “broadcasting station” means a station broadcasting messages by means of wireless telegraphy.

(2) On and after the date of issue and before the return of a writ for the election of a member, a person who broadcasts or permits to be broadcast, from a broadcasting station an announcement, statement or other matter commenting on a candidate or political party, unless that announcement, statement or other matter includes the true name and address of the author of it, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(3) Where an announcement, statement or other matter is broadcast in contravention of Subsection (2), the person who supplied the announcement, statement or other matter to the broadcasting station for broadcasting, unless he proves that the true name and address of the author were included in the announcement, statement or other matter so supplied, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(4) This section does not apply to the inclusion in a summary of news of a report of a meeting which contains no comment (other than comment made by a speaker at the meeting) on a candidate or political party.

160. DISPLAY OF CERTAIN ELECTORAL POSTERS PROHIBITED.

(1) In this section—

“**electoral matter**” means any matter intended or calculated to affect the result of an election;

“**electoral poster**” means any material on which electoral matter is written, drawn or depicted.

(2) Subject to this section, a person who posts up or exhibits, or permits or causes to be posted up or exhibited, on, in or at a building, vehicle, vessel, hoarding or place (whether it is or is not a public place or in a public place, and whether on land or water or in the air)—

(a) an electoral poster the area of which is more than 7 800 cm²; and

(b) an electoral poster in combination with any other such poster if the aggregate area of those posters exceed 7 800 cm²,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(3) Subject to this section, a person who writes, draws or depicts electoral matters directly on a roadway, footpath, building, vehicle, vessel, hoarding or place (whether it is or is not a public place or in a public place, and whether on land or water or in the air), is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(4) The application of Subsections (2) and (3) extends in relation to an election although the writ for that election has not been issued.

(5) This section does not prohibit—

(a) the posting up, exhibiting, writing, drawing or depicting of a sign on or at the office or committee room of a candidate or political party indicating only that the office or room is the office or committee room of the candidate or party, and specifying the name of the candidate or the name of the party concerned; or

(b) the projection, by means of a cinematograph or other similar apparatus, of electoral matter onto a screen in a public theatre, hall or premises used for public entertainment.

161. REMOVAL OF PROHIBITED ELECTORAL POSTERS.

(1) For the purpose of ensuring compliance with Section 160 a member of the Police Force may, and shall if so directed by the Electoral Commission or by the Returning Officer—

- (a) remove an electoral poster which appears to have been posted up or to be exhibited in contravention of that section; or
- (b) obliterate electoral matter which appears to have been written, drawn or depicted in contravention of that section.

(2) A person who obstructs or hinders a member of the Police Force in the exercise or attempted exercise of any power or in the discharge or attempted discharge of any duty, conferred or imposed on him under this section is guilty of an offence.

Penalty: A fine not exceeding K200.00.

162. INJUNCTIONS.

For the purpose of ensuring compliance with Section 160, the National Court may, on the application of an officer, grant an injunction—

- (a) restraining an apprehended contravention of that section; or
- (b) directing—
 - (i) the removal of an electoral poster posted up or exhibited; or
 - (ii) the obliteration of electoral matter written, drawn or depicted, in contravention of that section,

and may make an order incidental or supplementary to an order under this section, including an order as to costs.

163. CARDS IN POLLING BOOTHS.

(1) A person who exhibits or leaves in a polling booth a card or paper having on it a direction or instruction as to how an elector should vote or as to the method of voting is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) This section does not apply to official instructions exhibited by electoral officers at the direction of the Electoral Commission at a polling booth.

164. UNTRUE STATEMENTS IN ELECTORAL PAPERS, ETC.

(1) In this section “electoral paper” includes an approved form.

(2) A person who makes an untrue statement—

- (a) in an electoral paper; or
- (b) in answer to a question under this Regulation; or
- (c) in information supplied to an officer for the purposes of the preparation, maintenance or revision of a Roll,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

165. SIGNATURE TO ELECTORAL PAPER.

(1) In this section, “electoral paper” includes an approved form.

(2) Every electoral paper which by this Regulation has to be signed by a person shall be signed by that person with his personal signature and in the case of the Electoral Commission by the personal signature of the Electoral Commissioner.

(3) Where a person who is unable to sign his name in writing makes his mark as his signature to an electoral paper, the mark shall be deemed to be his personal signature, if it is identifiable as such and is made in the presence of a witness who signs the electoral paper as a witness to the signature.

(4) A person who makes the signature of any other person on an electoral paper is guilty of an offence.

Penalty: A fine not exceeding K200.00.

166. WITNESSING ELECTORAL PAPERS.

(1) In this section, “electoral paper” includes an approved form.

(2) A person who—

- (a) signs his name as witness on a blank electoral paper; or
- (b) signs his name as witness on an electoral paper which has been wholly or partly filled in unless it has been signed by the person intended to sign it; or
- (c) signs his name as witness on an electoral paper unless he has seen the person whose signature he purports to witness sign it; or
- (d) writes on an electoral paper as his own name—
 - (i) the name of another person; or
 - (ii) any name not being his own name,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

167. MAKING MARKS ON BALLOT-PAPERS.

Except where expressly authorized by or under this Regulation a person (other than the elector to whom the ballot-paper has been lawfully issued) who makes a mark or writing on the ballot-paper of an elector is guilty of an offence.

Penalty: A fine not exceeding K200.00.

168. ELECTORAL OFFENCES.

The matters specified in Column 1 of the Table in this section are electoral offences punishable in accordance with the provision in Column 2 of that Table opposite the statement of the offence in Column 1.

TABLE OF ELECTORAL OFFENCES AND PUNISHMENTS

	Column 1.-Offences.	Column 2.-Punishments.
1.	Voting more than once at the same election	A fine not exceeding K200.00 or imprisonment for a term not exceeding three months.
2.	Wagering on the result of an election	A fine not exceeding K200.00.
3.	Wilfully defacing, mutilating, destroying or removing a notice, list or other document affixed by the Returning Officer or by his authority	A fine not exceeding K20.00.
4.	Knowingly making a false statement in a claim, application, return or declaration or in answer to a question under this Regulation	Imprisonment for a term not exceeding six months.
5.	Distributing an advertisement, handbill or pamphlet published in contravention of Section 156	A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.
6.	Any contravention of this Regulation for which no other punishment is provided	A fine not exceeding K200.00.
7.	Falsely personating a person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purposes of voting	Imprisonment for a term not exceeding six months.
8.	Fraudulently destroying or defacing a nomination paper or ballot-paper	Imprisonment for a term not exceeding six months.
9.	Fraudulently putting a ballot-paper or other paper into a ballot-box	Imprisonment for a term not exceeding six months.
10.	Fraudulently taking a ballot-paper out of a polling booth	Imprisonment for a term not exceeding six months.

11.	Taking a ballot-paper out of a polling booth	A fine not exceeding K200.00.
12.	Forging or uttering knowing it to be forged, a nomination paper or ballot-paper	Imprisonment for a term not exceeding six months.
	In a polling booth during the polling, misconducting himself, or failing to obey the lawful directions of the presiding officer	A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.
14.	Supplying ballot-papers without authority	Imprisonment for a term not exceeding six months.
15.	Unlawfully destroying, taking, opening or otherwise interfering with ballot-boxes or ballot-papers.	Imprisonment for a term not exceeding six months.

169. PROHIBITION OF CANVASSING NEAR POLLING BOOTH.

(1) The following acts are, during the polling period and on all days to which the polling is adjourned, prohibited at an entrance of or within a polling booth, or within 7 in of an entrance of a polling booth—

- (a) canvassing for votes; or
- (b) soliciting the vote of an elector; or
- (c) inducing an elector not to vote for a particular candidate; or
- (d) inducing an elector not to vote at the election; or
- (e) exhibiting a notice or sign (other than an official notice) relating to the election.

Penalty: A fine not exceeding K200.00.

(2) Where—

- (a) a building used as a polling booth is situated in grounds within an enclosure; and
- (b) the presiding officer at the polling booth causes to be displayed throughout the polling period at each entrance to those grounds a notice signed by him stating that those grounds are part of the polling booth,

those grounds shall, for the purposes of Subsection (1), be deemed to be part of a polling booth.

170. BADGES OR EMBLEMS IN POLLING BOOTHS.

An officer or scrutineer who wears or displays in a polling booth during the polling period a badge or emblem of a candidate or political party is guilty of an offence.

Penalty: A fine not exceeding K200.00.

171. FAILURE TO TRANSMIT CLAIMS.

A person who accepts a claim for enrolment or transfer of enrolment for transmission to a Returning Officer must immediately transmit the claim to the Returning Officer.

Penalty: A fine not exceeding K200.00.

172. FORGING OR UTTERING ELECTORAL PAPERS.

(1) In this section, “electoral paper” includes an approved form.

(2) A person who—

(a) forges an electoral paper; or

(b) utters a forged electoral paper, knowing it to be forged,

is guilty of an offence.

Penalty: Imprisonment for a term not exceeding six months.

173. EMPLOYERS TO ALLOW LEAVE OF ABSENCE TO VOTE.

(1) If an employee who is an elector notifies his employer that he desires leave of absence to enable him to vote at an election, the employer must, if the absence desired is necessary to enable the employee to vote at the election, allow him leave of absence without any penalty or disproportionate deduction of pay for such reasonable period as is necessary to enable the employee to vote at the election.

Penalty: A fine not exceeding K200.00.

(2) An employee who obtains leave of absence under this section under pretence that he intends to vote at the election but without the bona fide intention of doing so, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(3) This section does not apply to an elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

174. PROTECTION OF THE OFFICIAL MARK.

(1) In this section, “official mark” means a prescribed mark to be placed or made on or in an electoral paper, and includes a mark so nearly resembling an official mark as to be likely to deceive.

- (2) A person who, without lawful authority (proof of which is on him)—
- (a) makes an official mark on or in a paper; or
 - (b) has in his possession a paper bearing an official mark; or
 - (c) makes use of or has in his possession an instrument capable of making on or in a paper an official mark,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(3) A person who, without lawful authority (proof of which is on him) makes on or in a ballot-paper, or on or in a paper purporting to be a ballot-paper, an official mark, shall be deemed to have forged a ballot-paper and is punishable accordingly.

(4) All paper bearing an official mark, and all instruments capable of making on or in paper an official mark, made or used by, or in the possession of, a person without lawful authority (proof of which is on him) is forfeited to the State, and may without warrant be seized by any member of the Police Force and destroyed or dealt with as prescribed.

175. DISORDERLY BEHAVIOUR AT MEETING.

(1) This section applies to any lawful public political meeting held in relation to an election between the date of the issue of the writ for the election and the date of the return of the writ.

(2) A person who, at a public meeting to which this section applies, acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is held is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.

(3) The chairman of a public meeting to which this section applies may direct any member of the Police Force to remove from the room, building or place in which the meeting is being held a person who, in the opinion of the chairman, is preventing the transaction of the business for which the meeting is held, and the member of the Police Force may take such steps as are necessary for the removal of the person from the room, building or place.

- (4) A person—
- (a) who has been removed from a room or building in accordance with a direction given under Subsection (3); or
 - (b) whose removal from a room, building or place has been directed under Subsection (3) and who has left that room, building or place,

and who, without the authority of the chairman (proof of which is on that person) returns to the room or building while the meeting is in progress, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one month.

(5) A member of the Police Force may arrest without warrant a person who commits an offence against Subsection (4).

176. NEGLECT TO INITIAL BALLOT-PAPER, ETC.

An officer who, contrary to his duty, fails to—

- (a) initial a ballot-paper; or
- (b) correctly mark a certified list of voters; or
- (c) properly attest a declaration,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

177. OFFENDER MAY BE REMOVED FROM POLLING BOOTH.

(1) A person who, in a polling booth during the polling, misconducts himself, or fails to obey the lawful direction of the presiding officer, may be removed from the polling booth by a member of the Police Force or by a person authorized by the presiding officer.

(2) A person who has been removed from a polling booth by direction of the presiding officer under Subsection (1) and who re-enters the polling booth without the permission of the presiding officer is guilty of a further electoral offence, punishable on conviction by twice the penalty prescribed by Section 168 for the original offence.

178. DEFAMATION OF CANDIDATE.

(1) Subject to Subsection (2), a person who makes or publishes a false and defamatory statement in relation to the personal character or conduct of a candidate is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

(2) It is a defence to a prosecution for an offence against Subsection (1), if the defendant proves that he has had reasonable grounds for believing and did in fact believe the statement made or published by him to be true.

(3) A person who makes a false and defamatory statement in relation to the personal character or conduct of a candidate in contravention of this section may be restrained by injunction, at the suit of the candidate aggrieved, from repeating the statement or any similar false and defamatory statement.

179. PUBLICATION OF MATTER REGARDING CANDIDATES.

(1) Subject to this section, if, in any matter announced or published by a person, or caused by a person to be announced or published, on behalf of an association, league, organization or other body of persons, it is, without the authority of the candidate (proof of which is on that person)–

- (a) claimed or suggested that a candidate in an election is associated with, or supports the policy or activities of, that association, league, organization or other body of persons; or
- (b) expressly or impliedly advocated or suggested that that candidate is the candidate for which a vote should be given,

that person is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding three months.

(2) Where any matter, the announcement or publication of which by a person without the written authority of a candidate would be an offence against Subsection (1) on the part of that person, is announced or published by or on behalf of, or with the support of, an association, league, organization or other body of persons, every person who was an officer of that association, league, organization or body at the time of that announcement or publication shall be deemed to be guilty of an offence against that subsection.

(3) For the purposes of this section, where any matter purports expressly or impliedly to be announced or published by or on behalf of, or in the interests or with the support of, an association, league, organization or other body of persons the matter shall, in the absence of proof to the contrary, be deemed to be announced or published by or on behalf of, or with the support of, as the case may be, that association, league, organization or other body of persons.

(4) This section does not apply to or in relation to an announcement or publication made or authorized by a bona fide political party or by a bona fide branch of a political party respecting a candidate who, by public announcement, has declared his candidature to be a candidate on behalf of, or in the interests of, that party.

180. VOTING IN A CONSTITUENCY WHEN QUALIFIED TO ENROL IN ANOTHER CONSTITUENCY.

A person who is enrolled in respect of a constituency and votes at an election in that constituency knowing that at some time after the date he was enrolled for that constituency and before the date of the issue of the writ for an election in that constituency he became qualified to enrol in, or to transfer his enrolment to, another constituency is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

181. LIABILITY FOR INDIRECT ACTS.

Every person is liable for an illegal practice or an offence against this Part committed directly or indirectly by himself, or by any other person on his behalf and with his knowledge or authority.

PART XVIII. – DISPUTED ELECTIONS, RETURNS, ETC.

Division 1.

Disputed Elections and Returns.

182. INTERPRETATION OF DIVISION 1.

In this Division, “petition” means a petition disputing an election or return.

183. METHOD OF DISPUTING RETURNS.

The validity of an election or return may be disputed by petition addressed to the National Court and not otherwise.

184. JURISDICTION OF NATIONAL COURT EXERCISABLE BY SINGLE JUDGE.

The jurisdiction of the National Court in relation to any matter under this Part may be exercised by a single Judge.

185. REQUISITES OF PETITION.

A petition shall–

- (a) set out the facts relied on to invalidate the election or return; and
- (b) specify the relief to which the petitioner claims to be entitled; and
- (c) be signed by a candidate at the election in dispute or by a person who was qualified to vote at the election or by the Electoral Commissioner; and
- (d) be attested by two witnesses whose occupations and addresses are stated; and
- (e) be filed in the Registry of the National Court at Port Moresby within two months after the declaration of the result of the election in accordance with Section 153(1)(a).

186. DEPOSIT AS SECURITY FOR COSTS.

At the time of filing the petition the petitioner shall deposit with the Registrar of the National Court the sum of K200.00 as security for costs.

187. NO PROCEEDINGS UNLESS REQUISITES COMPLIED WITH.

Proceedings shall not be had on a petition unless the requirements of Sections 185 and 186 are complied with.

188. RIGHT OF ELECTORAL COMMISSION TO BE REPRESENTED.

The Electoral Commission may, by leave of the National Court, enter an appearance in any proceedings in which the validity of an election or return is disputed, and be represented and heard in the proceedings, and in that case shall be deemed to be a party respondent to the petition.

189. POWERS OF COURT.

(1) In relation to any matter under this Part the National Court shall sit as an open court and may, amongst other things—

- (a) adjourn; and
- (b) compel the attendance of witnesses and the production of documents; and
- (c) grant to a party to a petition leave to inspect, in the presence of the Returning Officer, the Rolls and other documents (except ballot-papers) used at or in connection with an election and take, in the presence of the Returning Officer, extracts from those Rolls and documents; and
- (d) order a recount of ballot-papers in a constituency; and
- (e) examine witnesses on oath; and
- (f) declare that a person who was returned as elected was not duly elected; and
- (g) declare a candidate duly elected who was not returned as elected; and
- (h) declare an election absolutely void; and
- (i) dismiss or uphold a petition in whole or in part; and
- (j) award costs; and
- (k) punish contempt of its authority by fine or imprisonment.

(2) The National Court may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks just and sufficient.

(3) Without limiting the powers conferred by this section, the power of the National Court to declare that a person who was returned as elected was not duly elected, or to declare an election absolutely void, may be exercised on the ground that illegal practices were committed in connection with the election.

190. PRODUCTION OF POSTAL VOTE CERTIFICATE, ETC.

(1) Without limiting the powers conferred by Section 189—

- (a) when it is proved that a ballot-paper issued under Section 77, 118, 119 or 120 has, in an election, been marked by a person who was not entitled to vote at the election, the National Court may require the production of—

- (i) the postal vote certificate delivered to or posted to that person; or
- (ii) any other papers or documents relating to the ballot-papers issued under those sections,

as the case may be; and

- (b) the Court may reject a ballot-paper.

(2) The production from proper custody of a ballot-paper purporting to have been used in an election and bearing an official number, and of a postal vote certificate or other papers or documents referred to in Subsection (1)(a)(ii) bearing an official number corresponding to the official number on the ballot-paper, is prima facie evidence that the person who marked the ballot-paper was the person to whom the postal vote certificate was delivered or posted or who made the declaration, as the case may be.

(3) In Subsection (2), “official number” means a number purporting to have been placed on the ballot-paper or postal vote certificate, as the case may be, under this Regulation.

191. INQUIRIES BY COURT.

The National Court shall inquire whether or not the petition is duly signed, and so far as Rolls and voting are concerned may inquire into the identity of persons and whether their votes were improperly admitted or rejected, assuming the Roll to be correct, but the Court shall not inquire into the correctness of a Roll.

192. VOIDING ELECTION FOR ILLEGAL PRACTICES.

(1) If the National Court finds that a candidate has committed or has attempted to commit bribery or undue influence, his election, if he is a successful candidate, shall be declared void.

(2) A finding by the National Court under Subsection (1) does not bar or prejudice a prosecution for an illegal practice.

(3) The National Court shall not declare that a person returned as elected was not duly elected, or declare an election void—

- (a) on the ground of an illegal practice committed by a person other than the candidate and without the candidate’s knowledge or authority; or
- (b) on the ground of an illegal practice other than bribery or under influence or attempted bribery or undue influence,

unless the Court is satisfied that the result of the election was likely to be affected, and that it is just that the candidate should be declared not to be duly elected or that the election should be declared void.

193. COURT TO REPORT CASES OF ILLEGAL PRACTICE.

Where the National Court finds that a person has committed an illegal practice, the Registrar of the Court shall promptly report the finding to the Premier and to the Electoral Commission.

194. REAL JUSTICE TO BE OBSERVED.

The National Court shall be guided by the substantial merits and good conscience of each case without regard to legal forms or technicalities, or whether the evidence before it is in accordance with the law of evidence or not.

195. IMMATERIAL ERRORS NOT TO VITIATE ELECTION.

(1) Subject to Subsection (2), an election shall not be avoided on account of a delay in the declaration of nominations, the polling, the declaration of the poll or the return of the writ, or on account of the absence or an error of, or an omission by, an officer which did not affect the result of the election.

(2) Where an elector was, on account of the absence or an error of, or an omission by, an officer, prevented from voting in an election, the National Court shall not for the purpose of determining whether the absence or error of, or the omission by, the officer did or did not affect the result of the election, admit evidence of the way in which the elector intended to vote in the election.

196. EVIDENCE THAT PERSON NOT PERMITTED TO VOTE.

On the trial of a petition, the National Court shall not admit the evidence of a witness that he was not permitted to vote in an election during the hours of polling in the polling period unless the witness satisfies the Court—

- (a) that he claimed to vote in the election, under that provision of this Regulation under which he was entitled or might be permitted to vote; and
- (b) that he complied with the requirements of this Regulation relating to voting by electors in so far as he was permitted to do so.

197. DECISION TO BE FINAL.

A decision of the National Court is final and conclusive and without appeal, and shall not be questioned in any way.

198. COPIES OF PETITION AND ORDER OF COURT TO BE SENT TO THE PREMIER.

The Registrar of the National Court shall promptly after the filing of a petition forward to the Premier a copy of the petition, and after the trial of the petition shall promptly forward to the Premier a copy of the order of the Court.

199. LEGAL REPRESENTATION.

(1) A party to a petition shall not, except by consent of all parties or by leave of the National Court, be represented by a lawyer.

(2) In no case shall more than one lawyer appear on behalf of a party.

200. COSTS.

The National Court may award costs against an unsuccessful party to a petition.

201. DEPOSITS APPLICABLE FOR COSTS.

If costs are awarded to a party against the petitioner, the deposit lodged under Section 186 is applicable in payment of the sum ordered, but otherwise the deposit shall be paid to the petitioner.

202. OTHER COSTS.

All other costs awarded by the National Court, including any balance above the deposit payable by the petitioner, are recoverable as if the order of the Court were a judgement of the National Court, and the order, certified by the Court, may be entered as a judgement of the National Court and enforced accordingly.

203. EFFECT OF DECISIONS.

Effect shall be given to a decision of the National Court as follows—

- (a) if a person returned is declared not to have been duly elected, he shall cease to be a member; and
- (b) if a person not returned is declared to have been duly elected, he may take his seat accordingly; and
- (c) if an election is declared absolutely void, a new election shall be held.

Division 2.***Qualifications and Vacancies.*****204. REFERENCE OF QUESTION OF QUALIFICATION OR VACANCY.**

A question respecting the qualifications of a member or respecting a vacancy in the provincial legislature may be referred by resolution to the National Court by the provincial legislature and the Court shall have jurisdiction to hear and determine the question.

205. PREMIER TO STATE CASE.

Where a question is referred to the National Court under this Division, the Premier shall transmit to the Court—

- (a) a statement of the question on which the determination of the Court is desired; and
- (b) any proceedings, papers, reports or documents relating to the question in the possession of the provincial legislature.

206. PARTIES TO THE REFERENCE.

The National Court may allow a person who, in the opinion of the Court, is interested in the determination of a question referred to it under this Division to be heard on the hearing of the reference, or may direct notice of the reference to be served on a person, and a person so allowed to be heard or so directed to be served shall be deemed to be a party to the reference.

207. POWERS OF COURT.

On the hearing of a reference under this Division, the National Court shall sit as an open court and has the powers conferred by Section 189 so far as they are applicable, and in addition has power to declare that—

- (a) a person was not qualified to be a member; and
- (b) a person was not capable of being chosen or of sitting as a member; and
- (c) there is a vacancy in the provincial legislature.

208. ORDER TO BE SENT TO THE PROVINCIAL LEGISLATURE.

After the hearing and determination of a reference under this Division, the Registrar of the National Court shall promptly forward to the Premier a copy of the order or declaration of the National Court.

209. APPLICATION OF CERTAIN SECTIONS.

The provisions of Sections 194,195,196,197,198 and 199 apply so far as they are applicable, to proceedings on a reference to the National Court under this Division.

PART XIX. – MISCELLANEOUS.**210. LOCAL GOVERNMENT RULES ON ADVERTISING, ETC.**

Any rule of a Local Government Council dealing with advertising, publishing of matter or any similar matter that–

- (a) discriminates or may discriminate against any candidate or class of candidates at an election; or
- (b) gives preference or may give preference to one candidate over another candidate in an election; or
- (c) gives preference or may give preference to one registered political party over another registered political party; or
- (d) allows a Council to do any of the matters specified in Paragraphs (a), (b) or (c),

is, to the extent that it discriminates, may discriminate, gives preference, may give preference, or allows a Council to discriminate or give preference, void.

211. INSTITUTION OF PROCEEDINGS FOR OFFENCES.

(1) The Electoral Commission shall, where the Public Prosecutor so advises, institute legal proceedings against a person committing an offence against this Regulation.

(2) Subsection (1) does not affect the rights of any person to institute proceedings in respect of an offence against this Regulation.

212. CERTIFICATE EVIDENCE.

On a prosecution under this Regulation, the certificate of the Electoral Commission or the Returning Officer that an election referred to in the certificate was duly held and that the person named in the certificate was a candidate at the election is evidence of the matters stated.

213. ELECTORAL MATTER MAY BE SENT BY TELEGRAPH.

(1) In all cases where it is impracticable to communicate any electoral matter by post without occasioning undue delay, any telegraphic advice communicated in the ordinary course shall suffice for all the purposes of this Regulation as if the matter telegraphed had been communicated in the manner prescribed by this Regulation.

(2) Subject to Subsection (3), where, after the result of an election has been declared, the Returning Officer has certified by telegraph addressed to the Electoral Commission–

- (a) that by reason of distance, or the infrequency of, or any interruption to, the postal services, the writ for the election, endorsed by the Returning

Officer with the name of the candidate elected, cannot reach the Electoral Commission within 21 days; and

(b) the name of the candidate elected,

the Electoral Commission may endorse on a copy of the writ a certified copy of the telegram received by it, and the copy so endorsed shall have the same force and effect as if it were the original writ duly endorsed by the Returning Officer.

(3) If, on the return of an original writ, any inconsistency is found to exist between the original writ and the copy of the writ endorsed under Subsection (2) as to the name of the candidate elected, the copy shall cease to have any force or effect, and action shall be taken in accordance with the endorsement on the original writ.

214. AVERMENTS DEEMED TO BE PROVED.

In a prosecution in a Court of Summary Jurisdiction in respect of a contravention of the provisions of this Regulation relating to compulsory enrolment, instituted by an officer or by a person acting under the direction of an officer, the averments of the prosecutor contained in the information or complaint shall be deemed to be proved in the absence of evidence to the contrary.

215. DEFENDANT MAY BE CALLED ON TO GIVE EVIDENCE.

Where a person has secured enrolment in pursuance of an electoral claim, or has made a claim for enrolment or transfer of enrolment, and proceedings arise in a court of competent jurisdiction in respect of the claim for enrolment or transfer of enrolment, the person may be called on to give evidence on oath to the court as to the truth of the statements contained in the claim for enrolment or transfer of enrolment.

216. PRODUCTION OF CLAIMS FOR ENROLMENT, ETC.

(1) In this section, “officer” includes any person performing duties, or exercising powers or functions, under or in relation to this Regulation.

(2) A person who is, or has been, an officer shall not, except for the purposes of this Regulation, be required—

- (a) to produce in a court, or give evidence of, a claim for enrolment or transfer of enrolment under this Regulation; or
- (b) to divulge or communicate to a court any matter or thing in relation to a claim for enrolment or transfer of enrolment under this Regulation, being a matter or thing that has come under his notice in the performance of his duties or functions under this Regulation.

217. PRESERVATION OF BALLOT-PAPERS.

(1) At the end of the polling period, the presiding officer at each polling place shall—

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- (a) place the certified list of voters for the polling place in a sealed parcel; and
- (b) endorse on the parcel a description of its contents; and
- (c) transmit the parcel to the Returning Officer with the least possible delay.

(2) Subject to Subsection (3), all ballot-papers, certified lists of voters and declarations used at or in connection with an election shall be preserved until the election can no longer be questioned, when they shall be destroyed.

(3) Ballot-papers, certified lists of voters and declarations referred to in Subsection (2) shall be preserved for a period of at least six months after the date of the declaration of the poll.

218. REPEAL.

The *Provincial Government (Interim Electoral Provisions) (No. 2) Regulation 1975* and the *Provincial Government (Interim Electoral Provisions) (Revision) Regulation 1976* are repealed.

SCHEDULE 1

Sch. 1

Provincial Government (Electoral Provisions) Regulation 9999

PAPUA NEW GUINEA.

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***Form 1 – Writ for a General Election of Members of the Provincial
Legislature.***

Reg., Sec. 51.

Form 1.

To: . . . , Returning Officer for the . . . Constituency.

GREETING:

This is to command you to cause election to be made according to law of . . . member(s) of the . . . provincial legislature for the . . . constituency to serve in the provincial legislature, and I appoint the following dates for the purposes of the election:—

1. For nomination . . . 20...
2. For the first day of the polling period in the constituency if the election is contested . . . 20...
3. For the last day of the polling period in the constituency if the election is contested . . . 20...
4. For the return of the writ, on or before . . . 20...

GIVEN under my hand at . . . , . . . , 20...

ELECTORAL COMMISSIONER.

PAPUA NEW GUINEA.

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***Form 2 – Writ for an Election of a Member of the Provincial Legislature
to fill a Casual Vacancy.***

Reg., Sec. 51.

Form 2.

To: . . . , Returning Officer for the . . . Constituency.

GREETING:

This is to command you to cause election to be made according to law of . . . member(s) of the provincial legislature to fill the vacant office of member(s) for the . . . constituency, and to appoint the polling dates for the purposes of the election:—

1. For nomination . . . 20...
2. For the first day of the polling period in the constituency if the election is contested . . . 20...
3. For the last day of the polling period in the constituency if the election is contested . . . 20...
4. For the return of the writ, on or before . . . 20...

GIVEN under my hand at . . . , . . . , 20...

ELECTORAL COMMISSIONER.

Provincial Government (Electoral Provisions) Regulation 1975