

REPUBLIC OF ZAMBIA

THE LOCAL GOVERNMENT ELECTIONS ACT

CHAPTER 282 THE LOCAL GOVERNMENT ELECTIONS ACT

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CHAPTER 282

LOCAL GOVERNMENT ELECTIONS

An Act to provide for the conduct of local government elections; to establish the Local Government Electoral Commission and to specify the functions thereof; and to provide for matters incidental to or connected with the foregoing.

Act No.
21 of 1991
26 of 1992
18 of 1992
31 of 1993
13 of 1994
14 of 1994

[6th September, 1991

PART I PRELIMINARYPART I

PRELIMINARY

The Laws of Zambia

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

Short title

(2) Subject to subsection (3), the provisions of this Act shall not apply in relation to any election held before the expiry of the interim period and the law in force immediately prior to the commencement of this Act relating to elections to a council shall continue to apply in relation to such elections until the expiry of the interim period.

Application

(3) Nothing in this section shall be construed as to prohibit the making of any statutory instrument under this Act during the interim period for the purpose of regulating the conduct of any election following the expiry of the interim period or providing for the division of the areas of councils into wards and prescribing the boundaries of such wards for the purpose of any election following the expiry of the interim period.

<p>2. (1) In this Act, unless the context otherwise requires-</p> <p>"area", in relation to a council, has the meaning assigned to it by section <i>two</i> of the Local Government Act;</p> <p>"by-election" means an election held in accordance with section <i>twelve</i>;</p> <p>"candidate" means any person nominated as a candidate for election as a councillor;</p> <p>"casual vacancy" means a vacancy in the office of councillor occurring by virtue of section <i>nineteen</i> of the Local Government Act;</p> <p>"Commission" means the Local Government Electoral Commission established under section three;</p> <p>"corrupt practice" means any act punishable under section <i>forty-one</i>;</p> <p>"costs" include charges and expenses;</p> <p>"council" means a city council, municipal council, township council or district council established or deemed to be established under the Local Government Act;</p> <p>"councillor" means a person elected under this Act to the office of councillor of a council;</p> <p>"Director of Elections" means the person for the time being holding or acting in the public office of Director of Elections;</p> <p>"District Executive Secretary" in relation to a council, has the meaning assigned to it by section <i>two</i> of the Local Government Act;</p> <p>"election" means an election to the office of councillor of a council;</p> <p>"election officer" has the meaning assigned to it in section <i>six</i>;</p> <p>"election petition" means an election petition referred to in section <i>eighteen</i>;</p> <p>"employee", in relation to a council, has the meaning assigned to it by section <i>two</i> of the Local Government Act;</p> <p>"illegal practice" means any act which is an illegal practice under Part VI;</p> <p>"interim period" means the period commencing at the commencement of this Act and expiring on such date as the President may, by statutory order, prescribe;</p> <p>"officer", in relation to a council, has the meaning assigned to it by section <i>two</i> of the Local Government Act;</p> <p>"ordinary election" means an election held in accordance with section <i>ten</i>;</p> <p>"petitioner", in relation to an election petition means any person referred to in section <i>nineteen</i> who signs and presents such election petition under section <i>twenty-one</i>, and includes any person substituted for the petitioner under section <i>twenty-five</i> or <i>twenty-six</i>;</p> <p>"polling district" means a polling district declared to be such under section <i>seventeen</i> of the Electoral Act;</p> <p>"register of voters" means a register of voters prepared and in force under the Electoral Act;</p> <p>"registered" means registered in a register of voters and "registration" shall be construed accordingly;</p> <p>"Registrar" means the Registrar of the High Court;</p> <p>"respondent" has the meaning assigned to it under section <i>twenty-one</i>;</p> <p>"returning officer" means a person appointed as such under this Act;</p> <p>"voter" means a person entitled to vote at an election under section <i>fourteen</i>;</p>	<p>Interpretation Cap. 281 Cap. 281 Cap. 281 Cap. 281 Cap. 281 Cap. 281 Cap. 13</p>
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(2) For the purpose of this Act, "election expenses" means expenses incurred, whether before, during or after an election, on account of, or in respect of, the conduct or management of such election by or on behalf of a candidate:

Provided that the following expenses shall not be deemed to be election expenses:

- (i) any moneys expended or expenses incurred by any association or group of persons or by any person in the general interests of a political party or organisation or its candidates generally, not being moneys expended or expenses incurred directly in the particular interest of any particular candidate or expenditure incurred by a political party with the consent of a candidate and apportioned to such candidate under this Act;
- (ii) any moneys expended or expenses incurred by any political party or organisation in the printing, publication or distribution of the official organ of that political party or organisation; or
- (iii) any moneys deposited by or on behalf of a candidate with an election officer under any provision of this Act relating to the nomination of candidates for election.

PART II LOCAL GOVERNMENT ELECTORAL COMMISSIONPART II

LOCAL GOVERNMENT ELECTORAL COMMISSION

3. (1) There is hereby established a Local Government Electoral Commission for the purpose of supervising the conduct of elections held under this Act.

Local Government
Electoral Commission

(2) The Commission shall consist of a Chairman and two other members who shall be appointed by the President.

(3) A person shall not be qualified for appointment as Chairman of the Commission unless he holds or has held high judicial office.

(4) A person shall not be qualified for appointment as a member of the Commission if he is a member of the National Assembly, or a councillor, or an officer or any employee of a council.

(5) If the office of Chairman or if any other member of the Commission falls vacant or the holder of the office becomes unable for any reason to discharge his functions as a member of the Commission, the President may appoint another person qualified for appointment to be the Chairman or, a member of the Commission, as the case may be.

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(6) In the exercise of its functions under this Act, the Commission shall not be subject to the direction or control of any other person or authority.

4. The President shall appoint a Secretary to the Commission who shall discharge such functions as the Commission may direct. Secretary to Commission

5. (1) The Commission may, by regulation regulate its own procedure and confer powers or impose duties on any officer or authority of the Government or of a council for the purpose of discharging its functions. Procedure of Commission

(2) Any decision of the Commission shall require the support of the majority of its members.

(3) Subject to subsection (2), the Commission may act notwithstanding the absence of any member or any vacancy in the office of any member.

6. (1) The Commission may appoint such election officers as it may consider necessary for the purpose of any election and, subject to the other provisions of this section, any election officer may exercise such functions relating to an election as may be prescribed by the Commission. Appointment of election officers

(2) In respect of any election, an election officer may, if so empowered by the Commission under regulations made under section *eight*, appoint any fit person to be an election officer and may in any case, subject to the general or special directions of the Commission, appoint any fit person to assist him in the exercise of his functions under this Act;

Provided that an election officer may at any time, in such manner as may be prescribed, revoke an appointment made by him under this subsection.

(3) Every election officer shall, before exercising any of the functions of his office, take and subscribe such oath or make such affirmation in lieu of the Oath, as the Commission may prescribe.

(4) The Commission may at any time revoke the appointment of an election officer.

(5) Every election officer shall be paid such remuneration and allowances in respect of his duties as the Commission may determine.

(6) In this section, "election officer" means a person appointed under this Act to be-

- (a) a returning officer;
- (b) a presiding officer;
- (c) a polling assistant; or
- (d) a counting assistant;

and includes any person appointed by an election officer under subsection (2); and where functions are conferred on the Director of Elections under this Act in respect of an election, includes the Director of Elections.

7. (1) The conduct of every election shall be subject to the direction and supervision of the Commission.

Conduct and expenses of Local Government elections

(2) The costs of, and incidental to, the conduct of any election in any ward of a council shall be paid out of moneys appropriated by Parliament for the purpose:

Provided that, notwithstanding any such appropriation, such council shall pay into the general revenues of the Republic the amount of such costs, or such lesser amount as the Minister may prescribe, by statutory order, in respect of such council.

(3) Where any question arises as to the amount of the costs referred to in subsection (2), a certificate under the hand of the Minister stating the amount of the costs shall be conclusive and shall not be questioned in any proceedings whatsoever.

8. (1) Subject to the other provisions of this Act, the Commission may, by statutory instrument, make regulations providing for the procedure and manner of conducting every election, and may, at any time, issue instructions to any election officer in connection with his functions under this Act and may require any election officer to furnish to the Commission such information and returns as it may consider necessary.

Powers of Commission

(2) Without prejudice to the generality of subsection (1), the Commission may, be statutory instrument, make regulations providing for all or any of the following matters:

- (i) the division of the area of councils into wards;
- (ii) the establishment of polling stations in a ward;
- (iii) the nomination of candidates for any election; and the withdrawal of nominations duly made;
- (iv) the making and determination of appeals against the rejection of nominations by a returning officer;
- (v) the publication of names of candidates whose nominations are accepted;
- (vi) the payment of election fees by candidates;
- (vii) the use, and the allocation of, symbols at an election;
- (viii) the appointment, and the duties of, election agents and polling agents;
- (ix) the fixing of dates and times for the taking of polls;
- (x) the equipment and facilities to be provided at polling stations;
- (xi) the persons who may be admitted to polling stations;
- (xii) the manner and procedure of voting at an election;
- (xiii) the manner of ascertaining the identity of persons wishing to vote at elections and whether such persons are qualified to vote;
- (xiv) the manner in which persons who are blind, or otherwise incapacitated, may vote;
- (xv) voting by persons employed on election duties on the day of an election;
- (xvi) the maintenance of secrecy at elections;
- (xvii) the postponement of, the adjournment of, or an extension of, time for a poll in case of riot or open violence at an election;
- (xviii) the administering of oaths or affirmations by election officers in respect of such matters as may be prescribed;
- (xix) the procedure to be followed at the conclusion of a poll in an election;
- (xx) the procedure for counting votes in an election, and the circumstances in which votes in an election may be rejected by a returning officer as invalid;
- (xxi) for the purpose of declaring any candidate duly elected, the procedure to be followed where there is an equality of votes between candidates in an election;
- (xxii) the procedure to be followed where only one person or where no person is duly nominated for election in a ward;
- (xxiii) the declaration, notification and publication of the result of an election;
- (xxiv) the custody and disposal of nomination papers, ballot papers, records, documents and other things relating to the conduct of elections;
- (xxv) election expenses and returns relating to such expenses;
- (xxvi) the notification and publication of any casual vacancy in the elected membership of a council;
- (xxvii) the forms and records to be used for any of the purposes of this Act; and
- (xxviii) any matter to be prescribed under this Act.

(3) Regulations made under this section may provide in respect of any contravention of them that any such contravention shall be a corrupt practice or an illegal practice and that any offender shall be liable, on conviction, to a fine not exceeding eight hundred penalty units or to a term of imprisonment not exceeding two years, or to both.

(4) No prosecution for an offence against this Act shall be commenced after the lapse of one year from the date on which the offence is alleged to have been committed.

(5) Subject to the provisions of subsection (4), a police officer may arrest without warrant any person reasonably suspected by the police officer of having committed or attempted to commit an offence against this Act.

(As amended by Act No. 13 of 1994)

PART III DELIMITATION OF WARDSPART III

DELIMITATION OF WARDS

9. (1) Not later than six months after the appointment of the members of the Commission under section *three*, and whenever thereafter it is necessary to do so to give effect to the provisions of this section, the Commission shall, after consultation with every council, by statutory order, divide the area of each council into wards, defining the boundaries of the wards by reference to polling districts, and assigning names to the wards.

Division of area of councils into wards

(2) The number of wards into which the area of a council is divided shall be equal to the number of elected councillors prescribed in respect of that council by the Minister under the Local Government Act.

(3) The Commission shall exercise its powers under this section that each ward comprises one or more complete polling districts.

(4) Whenever the Minister alters the area of a council or the number of councillors of a council, the Commission shall after consultation with such council, by statutory order, make such alterations to the boundaries of the wards of such council or to the division of the area of such council into wards as may be necessary to give effect to the provisions of this section.

(5) Whenever the Commission is satisfied that there has been a material alteration in the number of registered voters in the area of a council or of any of the wards into which such area is divided, the Commission may, after consultation with the council concerned, exercise in respect of the area of that council or any part of the council the powers conferred by this section.

PART IV HOLDING OF ELECTIONS

HOLDING OF ELECTIONS

10. (1) An ordinary election of councillors in every ward of every council throughout Zambia shall be held in 1992 and in every third year thereafter, on such date as the President shall, by statutory order, prescribe:

Ordinary elections
1992

Provided that-

- (a) a poll shall not be taken in any ward in respect of which only one candidate is validly nominated for election; or
- (b) where for any reason no candidate is elected at an election in any ward further elections shall be held in the ward until a candidate is duly elected.

(2) Whenever-

- (a) a new council is established; or
- (b) an alteration is made in the division of the area of an existing council into wards or in the definition of the boundaries of any ward;

the President may, by statutory order, direct that any ordinary election of councillors in every ward or in any particular ward of that council shall be held on such date as may be appointed by the order.

(3) A statutory order under this section shall specify the day or days on which, and the hours within which returning officers may receive nominations of candidates for election in any ward to which such order relates.

(As amended by Act No. 26 of 1991 and No. 31 of 1993)

11. (1) Subject to subsection (2), every candidate for election in a ward of a council shall be nominated by means of a nomination paper in such form as may be prescribed, and such nomination paper shall be subscribed, in the presence of the returning officer for that council, by a proposer and a seconder and not less than seven other persons, each of whom shall be a voter registered in a polling district in such ward.

Nomination of
candidates

(2) Any person presenting himself to a returning officer for the purpose of subscribing a nomination paper under subsection (1) shall identify himself by producing his voter's registration card and his national registration card to the returning officer for inspection.

(3) In this section-

Cap. 126
Cap. 13

"national registration card" means a valid national registration card issued under the National Registration Act;

"Voter's registration card" means a valid voter's registration card issued under the Electoral Act.

12. (1) Subject to the other provisions of this section, a byelection to fill a casual vacancy in the office of a councillor shall be held on such date as the Commission may, by statutory order, prescribe, being a date not later than ninety days after the date when notification of the vacancy was received by the Commission.

By-elections

Provided that a poll shall not be taken in any by-election in respect of which only one candidate is validly nominated for election.

(2) Unless the Commission otherwise, by statutory order, directs, a by-election to fill a casual vacancy in the office of a councillor shall not be held in any ward in which an ordinary election of councillors is or may be required to be held under section *ten*.

(3) A statutory order this section shall specify the day or days on which, and the hours within which, returning officers may receive nominations of candidates for election in any ward to which such order relates.

13. There shall be one councillor elected for each ward into which the area of a council is divided and, without prejudice to the Local Government Act, every councillor of a council shall hold office for the duration of the period expiring immediately before the result of the next ordinary election held in respect of that council or in respect of the ward for which he is elected councillor, as the case may be, is duly declared.

Representation of
wards and tenure of
office
Cap. 285

14. (1) Subject to the other provisions of this Act-

Qualification for voting

(a) every person who, at the time when any election is held in any ward under this Act, is registered in a register of voters relating to any polling district in that ward; or

(b) is any established resident of Zambia, who is a rate payer and has resided in the area of that council for a minimum period of three years; and who has attained the age of eighteen years.

shall be entitled to vote at elections under this Act in the prescribed manner.

(2) Every person shall, whenever he wishes to vote at an election under this Act, identify himself to an election officer in such manner as may be prescribed and no person shall be entitled to vote more than once at any such election.

(As amended by Act No. 18 of 1992)

- 15.** No person shall be entitled to vote at an election under this Act who-
- (a) has been convicted of any corrupt practice of illegal practice within a period of five years preceding that election;
 - (b) has been reported guilty of any corrupt practice or illegal practice by a court upon the trial of an election petition under this Act within a period of five years preceding that election; or
 - (c) is in lawful custody at the date of that election.
- Disqualification from voting

- 16.** Subject to the provisions of section *seventeen*, a person shall be qualified for election as a councillor of any council if, and shall not be qualified to be so elected unless-
- (a) he is a citizen of Zambia;
 - (b) he has attained the age of twenty-one years; and
 - (c) he is ordinarily resident in the area of that council
- Qualification of councillors

- 17.** (1) A person shall not be qualified for election as a councillor if he-
- (a) is, under any law in force in Zambia, adjudged or declared to be of unsound mind;
 - (b) is under sentence of death imposed on him by any court in Zambia or a sentence of imprisonment has been imposed on him by that court or is substituted by a competent authority for some other sentence imposed on him by that court;
 - (c) is an undischarged bankrupt, adjudged or declared bankrupt under any law in force in Zambia, or has made a composition or arrangement with his creditors and has not paid his debts in full;
 - (d) is an officer or an employee of a council;
 - (e) has on the day, for nomination or of election to the council, not paid the rate, charge or tax due to the council or to any other Local Authority and has been notified; or
 - (f) is an election officer.
- Disqualification of councillors

(2) No person convicted of corrupt practices or illegal practices by a court of law after an election petition under this Act, shall be qualified to be nominated for election as a councillor for a period of five years from the date of that conviction.

(3) In this section, the reference to a sentence or imprisonment includes a sentence or imprisonment which is suspended or a sentence of imprisonment imposed in default of payment of a fine.

(As amended by Act No. 18 of 1992)

PART V ELECTION PETITIONS PART V

ELECTION PETITIONS

18. (1) No election of a candidate as a councillor shall be questioned except by an election petition presented under this Part. Avoidance of elections

(2) The election of a candidate as a councillor shall be void on any of the following grounds if it is proved to the satisfaction of the court upon the trial of an election petition:

- (a) that by reason of any corrupt practice committed in connection with the election or by reason of other misconduct, the majority of voters in a ward were or may have been prevented from electing the candidate in that ward whom they preferred;
- (b) subject to subsection (4), that there has been a non-compliance with the provisions of this Act relating to the conduct of elections, and it appears to the court that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance affected the result of the election;
- (c) that any corrupt practice or illegal practice was committed in connection with the election by, or with the knowledge and consent or approval of, the candidate or his election agent or his polling agents; or
- (d) that the candidate was at the time of his election a person not qualified or a person disqualified for election as a councillor.

(3) Notwithstanding subsection, (2) where upon the trial of an election petition, the court finds that any corrupt practice or illegal practice has been committed by, or with the knowledge and consent or approval of, any agent of the candidate whose election is the subject of the election petition, and the court further finds that such candidate has proved that-

- (a) no corrupt practice or illegal practice was committed by the candidate himself or by his election agent, or with the knowledge and consent or approval of the candidate or his election agent;

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(b) the candidate and his election agent took all reasonable means for preventing the commission of corrupt practice or illegal practice at such election; and

(c) in all other respects the election was free from any corrupt practice or illegal practice on the part of the candidate or his election agent;

then, the court shall not, by reason only of such corrupt practice or illegal practice, declare that the election of such candidate was void.

(4) No election shall be declared void by reason only of any act or omission by an election officer in breach of his official duty in connection with an election if it appears to the court that the election was so conducted as to be substantially in accordance with the Act, and that such act or omission did not affect the result of that election.

19. An election petition may be presented to the court by one or more of the following persons: Who may present election petition

(a) a person who lawfully voted or had a right to vote at the election to which the election petition relates;

(b) a person claiming to have had a right to be nominated as a candidate or elected as councillor at the election to which the election petition relates; or

(c) a person alleging himself to have been a candidate at the election to which the election petition relates; or

(d) the Attorney-General.

20. (1) Any of the following reliefs may be claimed in any petition: Relief which may be claimed in election

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

(b) a declaration that any candidate was duly elected.

(2) In addition to the reliefs, specified in subsection (1), a petitioner may apply to the court, upon the trial of an election petition, for a scrutiny to be carried out by the court in such manner as the court may determine.

(3) On a scrutiny at the trial of an election petition, the following votes only shall be held invalid:

(a) the vote of any person whose name was not on the register of voters assigned to the polling station at which the vote was cast or who was not authorised to vote at such polling station under this Act;

(b) the vote of any person whose vote was procured by any corrupt practice or illegal practice;

- (c) the vote of any person who committed or procured the commission of personation at the election to which the election petition relates, contrary to this Act;
- (d) the vote of any person proved to have voted more than once at the election to which the election petition relates; or
- (e) the vote of any person who was disqualified from voting at the election to which the election petition relates.

(4) In this section-

"scrutiny" means an inquiry as to the validity of the votes cast, including the determination of the number of valid votes cast, for each candidate in the election in respect of which the application for a scrutiny is made,

21. (1) Every election petition shall be in such form and shall contain such matters as may be prescribed by rules made by the Chief Justice.

Form and procedure
for presentation of
election petitions

(2) Presentation of an election petition to the court shall be made by lodging it with the Registrar in accordance with this Act.

(3) Every election petition shall be signed by the petitioner, or by all the petitioners if more than one, and shall be presented not later than thirty days after the date on which the result of the election to which it relates is duly declared.

(4) Notwithstanding subsection (3), when the election of a councillor (hereinafter referred to as "the respondent") is questioned upon an allegation of a corrupt practice or an illegal practice, the election petition may be presented-

- (a) at any time before the expiry of twenty-one days after the day on which the returning officer receives the return of the election expenses of the respondent; or
- (b) if the election petition specifically alleges a payment of money or some other act to have been made or done since the day referred to in paragraph (a) by the respondent or his election agent, or with the privity of the respondent or of his election agent in pursuance or in furtherance of the corrupt practice or illegal practice alleged in the election petition, at any time within thirty days after the date of such Payment or other act.

(5) Where an election petition is presented under this section, the Registrar shall in writing so inform the Commission and the principal officer of the council to which the petition relates.

22. (1) Subject to subsection (2), the Registrar shall make out a list of all election petitions presented under this Act, placing them on such list in the order in which they are presented and he shall keep at his office a copy of such list which shall be open for inspection by any person making application for inspection of it.

Duty of Registrar to make out list of election petitions

(2) Every election petition shall, unless the court orders otherwise, be tried in the order in which it stands on the list made out by the Registrar under subsection (1), but where more election petitions than one are presented in respect of the same election, such election petitions shall be bracketed together and shall be dealt with as one petition, standing, unless the court orders otherwise, in such list in the place where the last of such election petitions would have stood if it had been the only election petition presented in respect of that election.

23. (1) Subject to this Act, the Chief Justice may make rules regulating generally the practice and procedure of the court with respect to the presentation and trial of election petitions, including rules as to the time within which any requirement of such rules is to be complied with, and as to the costs of and incidental to the presentation and trial of election petitions and as to the fees to be charged in respect of proceedings therein, and generally in regard to any other matter relating thereto as the Chief Justice may consider necessary or desirable.

Rules of practice and procedure; security for costs

(2) After the presentation of an election petition, every petitioner to the petition shall deposit in the court, as security for costs, such sum being not less than one thousand kwacha as the court may order, and such security shall be given within such time and in such manner and form as the Chief Justice may prescribe by rules under this section, or, in the absence of such rules, as the court may order.

(3) Where, after the presentation of an election petition, no security for costs is given as required by or under this section, such petition shall be dismissed by the court and shall be struck off the list made out under section *twenty-two*:

Provided that the court may, in respect of any election petition dismissed under this subsection, as aforesaid, make such order as to costs as it may consider just.

24. (1) A petitioner shall not withdraw an election petition without the leave of the court.

Withdrawal of election petitions

(2) No application for leave to withdraw an election petition shall be made until notice of intention to withdraw such election petition has been given in such manner as the Chief Justice may prescribe by rules under section *twenty-three*.

(3) Where an election petition is presented by two or more petitioners, an application to withdraw such election petition shall not be made except with the consent of all the petitioners to the petition.

(4) The court may, upon an application for leave to withdraw an election petition, make such order as to costs as it may think just.

25. (1) Upon the hearing of an application under subsection *twenty-four* for leave to withdraw an election petition, any person who might have been a petitioner in respect of the election to which that election petition relates may, notwithstanding section *twenty-one*, apply to the court to be substituted for the petitioner so applying to withdraw, and the court may, if it gives leave to such petitioner to withdraw, order that such person (hereinafter referred to as "the substituted petitioner") be substituted for such petitioner.

Substitution of new petitioners

(2) Subject to the other provisions of this section, the substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities under this Act as the petitioner for who he is substituted (hereafter referred to as "the original petitioner").

(3) Where the court makes an order under subsection (1) it may direct that the security for costs given by the original petitioner shall remain as security for any costs caused thereafter by the substituted petitioner upon the trial of the election petition, and may direct that, to the extent of the amount of such security, the original petitioner shall be liable to pay the costs of the substituted petitioner.

(4) Unless the court gives directions as provided in sub-section (3), subsections (2) and (3) of section *twenty-three* shall apply to the substituted petitioner as they apply in relation to a petitioner presenting an election petition.

26. (1) If a sole petitioner or the survivor of several petitioners dies, then, subject to the other provisions of this section, no further proceedings shall be had on the election petition.

Abatement of election petitions

(2) The death of a petitioner shall not affect his liability for the payment of costs previously incurred.

(3) On the abatement of an election petition under sub-section (1), any person who might have been a petitioner in respect of the election to which that election petition relates may, notwithstanding section *twenty-one* apply to the court to be substituted as a petitioner in place of the deceased petitioner and the court may, if it thinks fit, order that such person be substituted accordingly.

(4) Where the court makes an order under this section for the substitution of a person in place of a deceased petitioner such person shall, as nearly as may be, stand in the same position and be subject to the same liabilities under this Act as the deceased petitioner would have been but for his death, and subsections (2) and (3) of section *twenty-three* shall apply to such person as they apply in relation to a petitioner presenting an election petition.

27. (1) Subject to the other provisions of this Act, every election petition presented under this Act shall be tried and determined by the court. Trial of election petitions

(2) An election petition shall be tried in open court.

(3) The court may adjourn the trial of an election petition from time to time and from place to place.

(4) Subject to the other provisions of this Act, the court may, in respect of the trial of an election petition, exercise such powers within its civil jurisdiction as it may deem appropriate.

(5) On the trial of an election petition, a record of all evidence given orally in such trial shall be taken, and this record shall, at the conclusion of the proceedings, be delivered to the Secretary of the Commission by the Registrar.

28. (1) On the trial of an election petition, the court may- Provisions as to witnesses

- (a) order any person who appears to the court to have been concerned in the election to attend as a witness at such trial;
- (b) examine any witness or any person who is present at such trial although such witness or person is not called as a witness by any party to the proceedings:

Provided that after such examination by the court of such witness or person, such witness or person may be cross-examined by or on behalf of the petitioner or the respondent.

(2) A person who is called as a witness at the trial of an election petition shall not be excused from answering any question relating to any offence connected with an election on the ground that the answer thereto may tend to incriminate him, or on the ground of privilege:

Provided that-

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- (i) a witness who answers to the satisfaction of the court every question which he is required to answer under this section, and which answers may tend to incriminate him, shall not be liable to prosecution for any offence committed by him in connection with that election and in respect of which he is so examined, and such witness shall be entitled to receive a certificate of indemnity under the hand of the Registrar stating that he is freed and discharged from liability to prosecution for that offence;
- (ii) an answer by a witness to a question before the court under this section shall not, except in the case of any criminal proceedings for giving false evidence in respect of such evidence, be admissible in any proceedings, civil or criminal, in evidence against him.

(3) Where a person has received a certificate of indemnity under subsection (2), and any legal proceedings are at any time brought against him for any offence to which such certificate relates, the court having cognisance of the case shall, on proof of the certificate of indemnity, stay such proceedings and may award to that person such costs as he may have been put to in such proceedings.

(4) All reasonable expenses incurred by any person in attending at or appearing before the court to give evidence as a witness at the trial of an election petition shall be allowed to such a person according to the scale of allowances and expenses appropriate in civil proceedings before the court.

29. (1) At the conclusion of the trial of an election petition, the court shall determine whether the respondent, any other and which person, was duly elected, or whether the election to which the election petition relates was void, and the Registrar shall, as soon as may be, submit a copy of such determination to the Commission and to the principal officer of the council to which the petition relates.

Conclusion of trial of
election petition

(2) Where the court determines under subsection (1) that the respondent was duly elected, such election shall be and remain valid.

(3) Where the court determines under subsection (1) that the respondent was not duly elected but that some other person was duly elected, such other person shall be deemed to have been elected accordingly.

(4) Where the court determines under subsection (1) that the respondent was not duly elected, and that no other person was duly elected at the election concerned, the vacancy in the membership of the council in respect of which that election was held shall be deemed to continue until duly filled.

(5) Where a determination under subsection (1) alters the result of an election as previously declared, it shall be the duty of the Commission to publish the result as so altered in the *Gazette*.

(6) Where it appears to the court upon the trial of an election petition that any corrupt practice or illegal practice has been committed by any person in connection with the election to which such election petition relates, the court shall, at the conclusion of the proceedings, prepare a report stating-

- (a) the evidence given in the proceedings in respect of such corrupt practice or illegal practice;
- (b) the names and particulars of any person by whom such corrupt practice or illegal practice was, in the opinion of the court, committed:

Provided that the court shall not state the name of any person under this paragraph unless such person has been given an opportunity of appearing before the court and of showing cause why his name should not be stated.

(7) The Registrar shall deliver a copy of every report prepared by the court under subsection (6) to-

- (a) the Commission; and
- (b) the Director of Public Prosecutions.

30. (1) Subject to the other provisions of this section, all costs, charges and expenses of and incidental to the presentation and trial of an election petition shall be borne in such manner and in such proportions as the court may order, and in particular, any costs which in the opinion of the court have been caused by any vexatious conduct or by any frivolous or vexatious allegations or objections on the part of the petitioner or of the respondent, may be ordered to be paid by the party by whom such costs have been caused.

Provisions as to costs

(2) Where, on the trial of an election petition, the court determines that the respondent was not duly elected and is of the opinion, having regard to the circumstances, that it would be just and reasonable to relieve any party to the election petition from all or a portion of the costs thereof, then-

- (a) if the court finds that the election of the respondent was due to a mistake or improper performance or failure of performance of any function *bona fide* made by any election officer, it may, after sufficient notice to the Attorney-General to show cause to the contrary, make such order as to the payment by the State of the costs of the proceedings or a portion thereof, as it may consider proper;

- (b) if the court finds that the election of the respondent was due to a mistake or improper performance or failure of performance of any function *mala fide* made by an election officer, it may, after sufficient notice, to such officer to show cause to the contrary, make such order as to the payment by such election officer of the costs of the proceedings or a portion thereof, as it may consider proper.

(3) The court may, on application made by any person to whom any costs, charges or expenses are payable under this Act, order the costs, charges or expenses to be paid out of any deposit made to secure the costs, charges or expenses or by any surety who gave a recognisance to secure the costs, charges or expenses:

Provided that notice of such application shall be given, in such manner as may be prescribed by rules under section *twenty-three*, to the party by or on whose behalf such deposit was made or for whom such surety gave a recognisance, requiring such party, or such surety and such party, as the case may be, to state, within such time and in such manner as may be so prescribed, whether he resists the application.

(4) Where, on the trial of an election petition, any person appears to the court to have been guilty of any corrupt practice or illegal practice relating to the election which is the subject of such election petition, the court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or a portion of the costs of or incidental to the trial of such election petition to be paid by the said person to such person or persons as the court may determine.

(5) Execution may be levied under any order for payment made by the court under this section in the same manner and to the same extent as execution may be levied under a judgement for the payment of money.

(6) Money deposited as security shall, when no longer needed as security for costs, be returned to the person in whose name it is deposited or to any person entitled to receive the money by order of the court, which may be made upon motion after notice and proof that all just claims have been satisfied or otherwise sufficiently provided for as the court may require.

PART VI CORRUPT AND ILLEGAL PRACTICE AND ELECTION OFFENCESPART VI

CORRUPT AND ILLEGAL PRACTICE AND ELECTION OFFENCES

31. Any person who, directly or indirectly, by himself or any other person-

Bribery

- (a) gives, lends, or procures, or agrees to give, lend or procure, or offers, promises, or promises to procure, any money to or for any person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting, or who corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election;
- (b) gives, lends or agrees to give or lend, or offers, or promises to procure or to endeavour to procure, any money to or for any voter or to or for any other person on behalf of any voter or to or for any other person for acting or joining in any procession or demonstration before, during or after any election;
- (c) makes any gift, loan, offer, promise, procurement or agreement to or for any person in order to induce such person to procure or to endeavour to procure the return of any candidate at any election or the vote of any voter at any election;
- (d) upon or in consequence of any gift, loan, offer, promise, procurement or agreement, procures or engages, promises, or endeavours to procure, the return of any candidate at any election or the vote of any voter at any election;
- (e) advances or pays, or causes to be advanced or paid, any money to or for the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election or who knowingly pays, or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any elections;
- (f) before or during any election receives or contracts for any money or loan for himself or for any other person for voting or agreeing to vote or for refraining agreeing to refrain from voting at any election; or
- (g) after any election receives any money on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at such election; or
- (h) conveys or transfers, or is concerned with the conveyance or transfer of, any property, or pays or is concerned with the payment of any money, to any person for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election, or pays or is concerned with the payment of any money on behalf of any other voter for the purpose of inducing to vote or refrain from voting;

shall be guilty of the offence of bribery.

32. Any person who-

Personation

- (a) at any election applies for a ballot paper in the name of some person, living or dead, or of a fictitious person;
- (b) having voted once at any election, applies again at the same election for a ballot paper; or
- (c) votes or induces or procures any person to vote at any election knowing that he or that person is not entitled to vote at that election;

shall be guilty of the offence of personation.

33. Any person who corruptly by himself or by any other person either before, during or after an election, directly or indirectly gives or provides or pays wholly or in part the expenses of or gives or provides any food, drink, entertainment, lodging or provisions to, or for, any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at an election shall be guilty of the offence of treating.

Treating

34 (1) Any person who directly or indirectly, by himself or by any other person-

Undue influence

- (a) makes use of or threatens to make use of any force, violence or restraint upon any other person;
- (b) inflicts or threatens to inflict by himself or by any other person, or by any supernatural or non-natural means, any temporal or spiritual injury, damage, harm or loss upon or against any person; or
- (c) does or threatens to do anything to the disadvantage of any person;

in order to induce or compel that person-

- (i) to sign or refrain from signing a nomination paper;
- (ii) to vote or refrain from voting; or
- (iii) to refrain from offering himself as a candidate for an election;

on account of that person having-

- A. signed or refrained from signing a nomination paper;
- B. voted or refrained from voting at any election; or
- C. refrained from offering himself as a candidate; shall be guilty of the offence of undue influence.

(2) Any person who, by abducting, duress or any fraudulent device or contrivance impedes or prevents the free exercise of his vote by any voter or thereby compels, induces or prevails upon any vote at any election shall be guilty of the offence of undue influence.

35. Any person who is guilty of the offence of bribery, personation, treating or undue influence shall be liable on conviction to a fine not exceeding eight hundred penalty units or to imprisonment for a period not exceeding two years, or to both.

Penalty

(As amended by Act No. 13 of 1994)

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36. (1) Any person who, before or during an election, illegally publishes a false statement of the illness, death or withdrawal of a candidate at that election for the purpose of promoting or procuring the election of another candidate, knowing that statement to be false or not believing it to be true, shall be guilty of an illegal practice.

Illegal practice of publishing false statements in respect of candidates

(2) Any person who, before or during an election, publishes any false statement of fact in relation to the personal character or conduct of a candidate in the election, shall be guilty of an illegal practice, unless he can show that he had reasonable grounds for believing and did believe, the statement to be true.

37. Any person who forges or fraudulently destroys any nomination paper, or delivers to a returning officer any nomination paper knowing the same to be forged, shall be guilty of an illegal practice.

Illegal practice in respect of nomination of candidates

38. Any person who at an election obstructs a voter either at the polling station or on his way thereto or therefrom shall be guilty of an illegal practice.

Illegal practice in respect of voters

39. Any person who, at a lawful public meeting held in connection with the election of any person between the day of the publication of a notice appointing nomination day and the day on which the result of the election is published, acts or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business which the meeting is called, shall be guilty of an illegal practice.

Illegal practice in respect of public meetings

40. Any person who, with intent to influence persons to give or refrain from giving their votes at an election, uses or procures the use of any wireless transmitting station outside the Republic shall be guilty of an illegal practice.

Illegal practice in broadcasts

41. Any person who is guilty of an illegal practice shall be liable on conviction to a fine not exceeding eight hundred penalty units or to imprisonment for a period not exceeding two years, or to both.

Penalty for illegal practices

(As amended by Act No. 13 of 1994)

42. (1) Any person who-

Election offences

- (a) forges or counterfeits or fraudulently destroys any ballot paper of any person;
- (b) without due authority, supplies or causes to be supplied any ballot paper to any person;
- (c) without due authority, puts into any ballot box any ballot paper which is not authorised by law to put in;

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- (d) sells or offers to sell any ballot paper to any person or purchases or offers to purchase any ballot paper from any person;
- (e) not being a person entitled under this Act or the regulations made thereunder to be in possession of a ballot paper, official seal or official mark, has any such ballot paper or official seal or official mark in his possession;
- (f) puts into any ballot box anything other than the ballot paper which he is authorised by law to put in;
- (g) without due authority, takes out of the polling station any ballot paper or is found in possession of any ballot paper outside a polling station;
- (h) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet or ballot paper in use or intended to be used for the purpose of an election;
- (i) without due authority, prints or makes any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;
- (j) manufactures, constructs, has in his possession, supplies or uses for the purpose of any election, or causes to be manufactured, constructed, supplied or used for the purpose of any election, any appliance, device or mechanism by which a ballot paper may be extracted or manipulated after having been deposited in a ballot box in the course of polling at any polling station;
- (k) on any polling day, at the entrance of or within a polling station, or in any public or private place within four hundred metres from the entrance to such polling station-
 - (i) canvasses for votes;
 - (ii) solicits the vote of any person;
 - (iii) induces any person not to vote; or
 - (iv) induces any person not to vote for a particular candidate;
- (l) on a polling day loiters in any public place within four hundred metres from the entrance to any polling station;
- (m) on any polling day exhibits in any public or private place within one hundred metres from the entrance to any polling station any notice or sign, other than an official notice or sign authorised by an election officer, relating to the election;
- (n) not being a presiding officer, a polling assistant, a candidate or a polling agent in the course of his functions within a polling station, makes any record showing that any particular person has voted in an election;

- (o) without lawful authority, destroys, mutilates, defaces or removes any notice which is exhibited under the regulations made under this Act or any such regulations;
- (p) wilfully obstructs or interferes with an election officer in the execution of his duties;
- (q) makes a false answer to any question lawfully put to him by a presiding officer or polling assistant in connection with the conduct of an election;
- (r) having been lawfully required or directed by an election officer to leave a polling station or its precincts fails to comply with such requirement or direction;
- (s) associates himself or any candidate with or uses any symbol in the course of an election unless such symbol is authorised for such purpose or use by regulations made under this Act;
- (t) within the period appointed for the receipt of nominations under Part IV, loiters in any public place within four hundred metres from the entrance to a nomination office;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding eight hundred penalty units or to imprisonment for a period not exceeding two years, or to both.

(As amended by Act No. 13 of 1994)

(2) In a prosecution for an offence in relation to nomination paper, ballot box or ballot paper, the property in such nomination paper, ballot box or ballot paper, as well as the property in the counterfoil of any ballot paper may be stated to be in the returning officer at that election.

(As amended by Act No. 13 of 1994)

43. (1) Every person in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting at such station and shall not communicate, except for some purpose authorised by law, to any person any information as to the name or number on the register of voters of any voter who has or who has not applied for a ballot paper or voted at such polling station, or as to the official mark or official seal at such polling station.

Secrecy

(2) No person, except a presiding officer acting under the provisions of this Act, shall obtain or attempt to obtain in a polling station information as to the candidate for whom any person in such polling station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any person in such polling station is about to vote or has voted, or as to the number on the ballot Paper issued to any person at such polling station.

(3) Every person in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting and shall not ascertain or attempt to ascertain at such counting the number on any ballot paper or communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding eight hundred penalty units or to imprisonment for a term not exceeding two years, or to both.

(As amended by Act No. 13 of 1994)

44. Any election officer who wilfully fails to perform the functions of his office under this Act or the regulations made thereunder shall be guilty of an offence and liable on conviction to a fine not exceeding eight hundred penalty units or to imprisonment for a term not exceeding two years, or to both.

Offences by election officer

(As amended by Act No. 13 of 1994)

45. (1) Every bill, placard, poster, pamphlet, circular or other printed matter having references to an election shall bear upon the face thereof the name and address of the printer and the publisher thereof, and any person who prints, publishes, or posts, or causes to be printed, published or posted, any such matter which fails to bear upon the face thereof such names and addresses shall be guilty of an offence.

Offences by printers and publishers

46. Any person who attempts to commit an offence which is a corrupt practice or illegal practice or an offence against section *forty-eight* shall be guilty of an offence and shall, on the conviction, be liable to the punishment prescribed for the offence commission of which is attempted.

Penalty for attempt to commit certain offences

PART VII MISCELLANEOUSPART VII

MISCELLANEOUS

47. *Repealed by Act No. 17 of 1994.*

48. Whenever a person has become subject to any incapacity under this Act by reason of a conviction or by reason of any declaration or report of any court, and any witness who gave evidence against such person upon the proceeding for such conviction, declaration or report is convicted of perjury in respect of that evidence, such person may apply to the High Court which, if satisfied that the conviction, declaration or report, so far as it concerns that person, was based upon perjured evidence, may order that his incapacity shall from that time cease, and the same shall cease accordingly.

When incapacity may be removed

- 49.** No person who has voted at an election shall in any proceedings, whether brought under this Act or otherwise, be required to state for whom he has voted. No person required to state how he voted
- 50.** Upon any charge of a corrupt practice or an illegal practice, or any other offence against this Act, alleged to have been committed at or in connection with an election, the certificate of a returning officer that the election mentioned therein was being or had been held shall be sufficient evidence of the fact that such election was being or had been held. Evidence as to holding of election
- 51.** No misnomer or any inaccurate description of any person or place in any register, list, nomination paper, notice or other document required for the purpose of this Act shall affect the full operation of the document in respect to that person or place in any case where the description of the person or place is such as to be commonly understood. Validation of certain documents
- 52.** Notwithstanding anything to the contrary in this Act, the following provisions shall have effect in relation of election to be held in 1991, under subsection (1) of section two: Transitional provisions in respect of elections in 1991
Cap. 281
- (a) where the Minister makes an order under the Local Government Act altering the area of a council or declaring that any area shall cease to be a municipality or a township or a rural area, as the case may be or altering the number of elected councillors of any council, and order made prior thereto under subsection (1) of section *ten* shall cease to have effect in relation to any such area or council;
 - (b) where the Minister makes an order referred to in paragraph (a) in respect of any area or council, any order made prior thereto under subsection (1) of section *nine* shall cease to have effect in relation to such area or council;
 - (c) where the Minister makes an order referred to in paragraph (a) in respect of any area or council, the Commission shall, after such consultation with such other authority as it may consider necessary or desirable, exercise its powers under section *ten* in relation to such area or council in conformity with, and in such manner as may be necessary to give effect to the provisions of, the said order of the Minister;
 - (d) where the Minister makes an order referred to in paragraph (a) in respect of any area or council, no order shall be made by the President under subsection (1) of section *ten* in respect of such area or council until the Commission has exercised its powers in relation to such area or council as provided in paragraph (c);

- (e) where the Minister makes an order referred to in paragraph (a) in respect of any area or council, the foregoing provisions shall have effect in relation to such area or council as from the date of publication of the order in the *Gazette* and, notwithstanding that such order is expressed to come into operation at a later date, any order made by the Commission under section *nine* as provided in paragraph (c) and any order made by the President under section *ten* as provided in paragraph (d) in relation to such area or council prior to such later date shall be considered to have effect as from the date of publication thereof in the *Gazette*;
- (f) where the Minister makes an order referred to in paragraph (a) altering the area of a council, any reference in this Act a council to all, for the purposes of this section and as from the date of publication of the order in the *Gazette*, be deemed to include a reference to a council as so altered;
- (g) where the Minister makes an order referred to in paragraph (a) declaring that any area shall cease to be a municipality or a township or a rural area, any reference in this Act to a council shall, for the purposes of this section and as from the date of publication of the order in the *Gazette*, be deemed not to be a reference to the council for such municipality or township or rural area, as the case may be.

SUBSIDIARY LEGISLATION

THE LOCAL GOVERNMENT ELECTIONS ACT

THE LOCAL GOVERNMENT ELECTIONS REGULATIONS

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Regulations by the Local Government Electoral Commission

Statutory instrument
111 of 1992, 185 of
1993
Act No.
13 of 1994

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PART I PRELIMINARY

PRELIMINARY

1. These Regulations may be cited as the Local Government Elections Regulations. Title

2. (1) In these Regulations, unless the context otherwise requires-
- "assistant returning officer" means a person appointed to assist a returning officer under paragraph (b) of sub-regulation (1) of regulation 4;
- "ballot box" means a ballot box provided to a presiding officer under regulation 32 for the taking of a poll;
- "ballot paper" means a document in Form LGE 4 set out in the Schedule;
- "ballot paper account" means a document in Form LGE 6 set out in the Schedule;
- "candidate" means-
- (a) in relation to any period before the close of the period appointed under Part IV of the Act for receiving nominations in a ward, any person intending to stand for election in that ward; and
 - (b) in relation to any period after the close of the period appointed under IV of the Act for receiving nominations in a ward, any person validly nominated as a candidate for election in that ward;
- "counting assistant" means a person appointed as a counting assistant under regulation 4;
- "election agent" has the meaning assigned thereto in regulation 25;
- "election officer" means a person appointed as an election officer under section six of the Act. Local Government Elections Regulations
- "national registration card" means a national registration card, issued under the National Registration Act, which is not cancelled or required to be cancelled under that Act, and in relation to any person, means a national registration card in the lawful possession of such person under that Act;
- "national registration number" means, in relation to a national registration card, the serial number inserted on the national registration card issued under the National Registration Act;
- "nomination paper" means a document in Form LGE 2 set out in the Schedule;
- "official mark" means a mark provided to a presiding officer under regulation 32 for the taking of a poll;
- "official seal" means a seal provided to a presiding officer under regulation 32 for the taking of a poll;
- "polling agent" has the meaning assigned thereto in regulation 28;
- "polling assistant" means a person appointed as a polling assistant under regulation 4;
- "polling day" means a day appointed under Part IV of the Act for the taking of a poll, and includes any day appointed under regulation 45;
- "polling district" means a polling district prescribed under the Electoral (Registration of Voters) Regulations.
- "polling station" means a place established as a polling station under regulation 27;
- "presiding officer" means a person appointed as a presiding officer under regulation 4;
- "registered" means-
- (a) in relation to a person, a person registered in a register of voters under the Electoral (Registration of voters) Regulations, and
 - (b) in relation to a symbol, means a symbol registered by the Director of Elections under regulation 23; Local Government Electors Regulations
- "register of voter" means a register of voter prepared and certified, and in force,

Interpretation
Cap. 281
Cap. 126
Cap. 126
Cap. 13
Cap. 13
Cap. 13
Cap. 13

(2) Where any act or thing is required or authorised to be done under these Regulations in the presence of a candidate or an election or agent or a polling agent, the non-attendance of any such person at the time and place appointed for the purpose shall not, if such act or thing is otherwise properly done, invalidate the act or thing done.

3. The Director of Elections shall-

Functions of Director
of Elections

- (a) ensure that every election officer performs his functions under these Regulations with impartiality and in accordance with the provisions thereof;
- (b) issue to any election officer such instructions as he may deem necessary to ensure compliance with the provisions of these regulations;
- (c) perform all the functions as are conferred or imposed on him by these Regulations.

4. (1) In respect of each council there shall be-

Election officers

- (a) a returning officer who shall be such person as the Commission shall appoint as the returning officer for that council; and
- (b) such approved number of fit persons as the returning officer for that council may, by notice in writing, appoint for the purpose of assisting him in the exercise of his functions in respect of that council; and
- (c) such approved number of counting assistants as the returning officer for that council may, by notice in writing, appoint.

(2) In respect of each ward there shall be such approved number of presiding officers and polling assistants as the returning officer for that ward may, by notice in writing, appoint.

(3) Whenever-

- (a) a returning officer appoints any person to assist him in the exercise of his functions under paragraph (b) of sub-regulation (1);
- (b) a returning officer appoints any person to be a counting assistant under paragraph (c) of sub-regulation (1); or
- (c) a returning officer appoints any person to be a presiding officer or a polling assistant under sub-regulation (2);

he shall deliver a copy of the notice therein referred to, to the Director of Elections.

(4) In this regulation-

"approved" means approved by the Director of Elections.

5. Every returning officer, assistant returning officer, counting assistant, presiding officer and polling assistant shall, before exercising any of the functions conferred upon him under these Regulations or under any other written law, take and subscribe an oath, or make an affirmation in lieu thereof, before a magistrate or returning officer in the appropriate form set out in form LGE 1 in the Schedule to these Regulations.

Form of oath or affirmation for election officers

6. (1) Where the Commission revokes the appointment of a returning officer it shall publish a notice of such revocation in the *Gazette*.

Revocation of appointments of election officers to be notified

(2) Where a returning officer revokes the appointment of an election officer appointed by him the returning officer shall give notice in writing of the revocation to the person concerned and shall deliver a copy of the notice to the Director of Elections.

PART II HOLDING OF ELECTIONS AND NOMINATION OF CANDIDATES PART II

HOLDING OF ELECTIONS AND NOMINATION OF CANDIDATES

7. The principal officer shall upon a causal vacancy occurring in the elected membership of a council, inform the Commission in writing with a copy to the Director of Elections of the vacancy, and of the ward concerned, as soon as practicable after it occurs.

Vacancies in council membership to be notified

8. Regulation 7 shall apply to any vacancy in the elected membership of a council deemed to continue by virtue of subsection (4) of section *twenty-nine* of the Act, as it applies to any causal vacancy.

Application of regulation 7

9. The election officer for a council in respect of which an order for the holding of an election has been made under Part IV of the Act shall publish by notice at the offices of such council and at such other places as he may deem fit, the places and times for receiving nominations of candidates in that election and it shall be the duty of that election officer to attend at such places and at such times for that purpose.

Place for nomination of candidates

10. (1) Every candidate for election in a ward shall be nominated by means of a nomination paper in Form LGE 3 in the Schedule.

Nomination paper

The Laws of Zambia

(2) Every nomination paper shall be countersigned with the acceptance of the candidate and shall be subject to section *eleven* of the Act, be lodged with the returning officer appointed for the ward in respect of which the nomination is made within the period appointed for that ward.

(3) Every candidate shall state in the nomination paper to be lodged by him under sub-regulation (2)-

- (a) the name of the political party which supports his nomination; or
- (b) if no political party supports his nomination, that he is an independent candidate; and
- (c) the name and address of the person, if any, appointed by him to be his election agent for the purpose of these Regulations.

the candidate shall have attained education qualification of not less than Grade 7 or its equivalent and shall produce it to the election officer at the time of lodging his nomination paper.

11. Every nomination paper lodged by a candidate under regulation 10 shall be accompanied by a statutory declaration in form LGE 3 in the Schedule to these Regulations made and subscribed by the candidate before a magistrate, declaring that the candidate is qualified for elections.

Nomination paper to be accompanied by statutory declaration

12. At the time a nomination paper is lodged under regulation 10, there shall be paid a fee to the returning officer by or on behalf of the candidate concerned in the sum of forty fee units in cash.

Election fee

(As amended by Act No. 13 of 1994)

13. (1) The returning officer shall provide nomination papers to any person reasonably requesting the same.

Returning officer to provide nomination papers and advice on request

(2) If a candidate for election in a ward so requests, the returning officer for that ward shall examine his nomination paper before it is lodged with the returning officer and shall advise the candidate whether in his opinion the nomination paper is in order.

(3) The question whether any, and if so what, advice was given under sub-regulation (2) shall not be inquired in any court.

14. No candidate shall be entitled to be nominated for election in more than one ward and, if any candidate is nominated for election in more than one ward, each and every nomination in respect of that candidate shall be invalidated.

Prohibition of nomination of candidate in more than one ward

15. A candidate for election in a ward may withdraw his nomination paper by notice in writing signed and delivered by him to the returning officer for that ward before the close of the period appointed in respect of that ward for receiving nominations.

Withdrawal of nomination

16. (1) The returning officer for any ward shall, at the close of the period appointed in respect of that ward for receiving nominations, determine the validity of each nomination paper lodged with him under regulation 10, and shall declare any nomination paper invalid if he is satisfied-

Determination of validity, and rejection, of nomination

- (a) that the nomination paper is not subscribed or countersigned or completed or lodged in compliance with the provisions of regulation 10; or
- (b) that the nomination paper is not accompanied by statutory declaration made and subscribed in compliance with the provisions of regulation 11; or
- (c) that the sum of forty fee units is not paid by the candidate concerned in compliance with the provisions of regulation 12.

(2) where a returning officer determines that a nomination paper is invalid he shall reject the nomination of the candidate concerned and shall endorse on the nomination paper the reasons for his determination and shall sign the endorsement.

(3) The determination of the returning officer that a nomination paper is invalid shall not be questioned except by way of an election petition presented in accordance with the provisions of the Act.

(4) A returning officer shall, subject to the directions of the Commission, retain in safe custody any nomination paper lodged with him under regulation 10.

(As amended by Act No. 13 of 1994)

17. (1) A returning officer shall, after he has determined the validity of the nomination papers lodged with him, inform the Commission of the names of the candidates validly nominated and of the particulars stated in respect of each candidate under paragraph (a) of sub-regulation (3) of regulation 10.

Procedure after determination of validity of nominations

(2) Where a returning officer for any ward determines that only one candidate has been validly nominated for election in that ward the returning officer shall, on the date appointed for the holding of the election, declare the candidate to be elected in that ward and shall so inform the Commission and the principal officer of the council in the area of which the ward is situated.

(3) Where a returning officer for any ward determines that no candidate has been validly nominated for election in that ward the returning officer shall so inform the Commission and the principal officer of the council in the area within which the ward is situated.

18. At any reasonable time after a returning officer for a ward has made a determination in respect of any nomination paper under regulation 16, and before the day appointed for the taking of a poll in that ward, any person registered or nominated as a candidate in such ward may inspect any nomination paper at the the office of the returning officer.

Inspection of nomination papers

19. (1) Where two or more candidates have been validly nominated for election in a ward of a council the returning officer shall give public notice locally, at the offices of the council and at such other places as he may deem fit, that a poll shall be taken in the ward on the date appointed therefore and the notice shall set out the names of such candidates in alphabetical order of surnames, the symbol allocated to each candidate and the political party, if any, to which each candidate belongs.

Returning officer to publish information locally

(2) Where only one candidate has been validly nominated for election in any ward the returning officer shall give public notice locally that a poll shall not be taken in that ward.

20. Where the Commission has been advised under regulation 17 that no candidate has been validly nominated for election in a ward, the Commission shall-

Procedure if no candidate validly nominated in a ward

- (a) in the case of an ordinary election inform the President, by notice in writing, who may exercise his powers under the Act to appoint another day for receiving the nominations of candidates for election in that ward and for the taking of a poll therein; or
- (b) in the case of an election arising from a casual vacancy exercise its powers under the Act to appoint another day for receiving the nominations of candidates for election in that ward and for the taking of a poll therein.

21. (1) Where, after the day appointed for receiving nominations and before the close of the poll in any ward, the Commission is satisfied that a candidate validly nominated for election in such ward has died, the Commission shall-

Procedure if a candidate dies before close of poll

- (a) in the case of an ordinary election inform the President, by notice in writing, of that fact and the President shall thereupon declare all proceedings relating to the election in such ward to be void and shall exercise his powers under the Act to appoint another day for receiving nominations in such ward and for the taking of a poll therein; or

- (b) in the case of an election arising from a casual vacancy, declare all proceedings relating to the election in that ward to be void and shall exercise its powers under the Act to appoint another day for receiving nominations in that ward and for the taking of a poll therein:

Provided that no fresh nominations shall be necessary in the case of a candidate who was validly nominated for election in that ward at the time when the proceedings relating to the election were declared void.

(2) In the case of an election in which only one candidate is validly nominated the provisions of subregulation (1) shall apply as if for the words "before the close of the poll" there were substituted for the words "before the expiry of the day appointed for the holding of an election".

22. (1) For the purpose of assisting persons to identify candidates during an election each candidate shall associate himself with a symbol registered under regulation 23.

Use of symbols by candidates

(2) A candidate whose nomination is supported by a political party shall use the symbol registered in respect of that party under regulation 23.

(3) A candidate under sub-regulation (3) of regulation 10 to be an independent candidate shall use a symbol allocated to him and registered by the Director of Elections under regulation 23.

(4) Notwithstanding regulation 23 the same symbol shall not be used by two or more candidates in the same ward.

23. (1) The Director of Elections shall keep a register of symbols for use by candidates at elections and the register shall be in such form as the Director of Elections may determine.

Allocation and registration of symbols

(2) A political party contesting an election shall apply through its secretary to the Director of Elections for registration of a symbol chosen by that party for use by candidates supported by that party at elections and, subject to sub-regulation (4) and (5), the Director of Elections shall register such symbol:

Provided that a political party may apply to the Director of Elections to cancel the registration of a symbol registered in respect of such party under this regulation and for the registration of a symbol in place thereof.

(3) The Director of Elections shall allocate and register, in respect of any candidate stated under subregulation (3) of regulation 10 to be an independent candidate for election in any ward, a symbol for use by each candidate in that election:

Provided that the candidate may apply to the Director of Elections to cancel the registration of a symbol allocated by the Director of Elections as aforesaid and for the registration of a symbol chosen by such candidate.

(4) The following shall not be registered as symbols:

- (a) the Armorial Ensigns or the National Flag of Zambia;
- (b) any device or emblem which in the opinion of the Director of Elections, is normally associated with any tribe or religion or the regalia of a chief;
- (c) any symbol or part of a symbol which, under the provisions of this regulation, is currently registered in respect of any political party or candidate;
- (d) any symbol which is not distinctive from any other registered symbol;
- (e) any symbol the use of which may, in the opinion of the Director of Elections, be offensive or objectionable.

(5) The Director of Elections shall not register a symbol under this regulation in respect of any political party or candidate until any other symbol registered in respect of that party or that candidate is cancelled under this Regulation.

24. If any question arises, in respect of the allocation and registration of a symbol under regulation 23, as to whether the nomination of a candidate is supported by a political party, the question shall be referred and determined by the Commission whose decision thereon shall be final:

Determination of question whether candidate supported by political party

Provided that the Commission shall consult the leader or secretary of the political party before determining the question.

25. (1) Subject to sub-regulation (2) the election agent of a candidate shall be the person named as such in the nomination paper lodged by such candidate under regulation 10.

Election agents

(2) A candidate may revoke the appointment of his election agent at any time after lodging his nomination paper under regulation 10.

(3) Where a candidate revokes the appointment of his election agent, or if his election agent dies, the candidate shall inform the returning officer in writing thereof and, if the candidate appoints some other person to be his election agent, he shall forthwith notify the returning officer in writing of the name and address of the person so appointed.

(4) No person shall be deemed to be the election agent of a candidate unless he is appointed in accordance with this regulation.

(5) Where no election agent is appointed by a candidate the candidate himself shall be deemed to be his own election agent, but may, at any time before the commencement of the poll, appoint any person to be his election agent and shall forthwith notify the returning officer in writing of the name and address of the person so appointed.

PART III PROCEDURE FOR THE POLL

PROCEDURE FOR THE POLL

26. Where a returning officer gives notice under subregulation (1) of regulation 19 that a poll shall be taken, the poll shall be conducted by means of a secret ballot and the result shall be ascertained in accordance with Part IV. Poll to be conducted by secret ballot

27. (1) The returning officer for a council shall appoint a place at which the polling station for each polling district in such council area shall be established and shall cause notice of every place so appointed to be published in such manner as the Director of Elections may direct. Establishment of polling stations

(2) With the approval of the Director of Elections the same polling station may be appointed under this regulation for two or more polling districts.

28. (1) A candidate or his election agent may appoint, in respect of each polling station within the ward in which he is nominated, a person to be known as a polling agent. Polling agents

(2) Not later than seven days before the polling day appointed for the ward in which he is nominated a candidate or his election agent shall inform the returning officer for that ward, by notice in writing, of the names of the polling agents appointed under subregulation (1) and shall specify in the notice the polling stations for which the polling agents have been appointed.

(3) A polling agent appointed under sub-regulation (1) may attend at the polling station for which he is appointed throughout the taking of the poll:

Provided that no such polling agent may attend at a polling station unless the candidate or the election agent by whom he is appointed has complied with the provisions of sub-regulation (2).

29. The poll shall commence and, subject to regulation 45, shall close at such time as the Commission shall, by notice in the *Gazette*, direct:

Commencement and close of poll

Provided that the presiding officer shall permit every voter who at the time of closing the poll-

- (a) is inside the polling station;
- (b) in his opinion is in the immediate precincts of the polling station and was prevented from entering the polling station owing to congestion therein;

to cast his vote before closing the poll.

30. (1) Subject to the provisions of sections *fourteen* and *fifteen* of the Act a voter shall be entitled to vote in an election at the polling station appointed for the polling district in which he is registered and shall not be entitled to vote at any other polling station unless authorised to do so under regulation 43.

Right to vote

(2) At the taking of a poll a voter shall be entitled to cast one, and only one vote and if a voter's name appears in error or for any other reason in more than one register of voters or more than once in the same register of voters he shall not be entitled to cast more than one vote.

31. (1) Where a voter's registration card has been lost, destroyed, or defaced as to be illegible in any material particular, the voter in question shall, apply in person to the election officer in accordance with sub-regulation (2) by producing his National Registration Card for the issue of a certificate in Form LGE 10 as set out in the Schedule:

Lost, etc., voter's registration card

Provided that no certificate shall be issued unless the election officer is satisfied that the applicant is a voter registered in a polling district for which he is responsible under section *thirteen* and *fourteen* of the Act.

(2) An application for a certificate shall be made not later than four days before the date specified under regulation 19 for the taking of the poll in the elections.

(3) Any voter to whom a certificate is issued under sub-regulation (1) shall deliver that certificate to the presiding officer at the time he applies for a ballot paper.

32. For the taking of a poll a returning officer shall, in respect of each polling district within a ward-

Duty of returning officer and publication of notices at polling stations

- (a) ensure that in each polling station there are sufficient compartments within which voters may mark their ballot papers in secrecy and screened from observation;
- (b) provide each presiding officer with such number of ballot boxes, ballot papers, official marks, official seals, copies of the register of voters relating to the polling district and such other things as may be necessary;
- (c) do such other acts and make arrangements to facilitate the taking of the poll as may be necessary for ensuring that it is taken in the manner provided in these Regulations and in accordance with any instructions issued by the Commission or the Director of Elections;
- (d) publish, both inside and outside each polling station, notices instructing voters as to the procedure for casting their votes and notices showing-
 - (i) the names of the candidates for election in that ward in alphabetical order of surnames; and
 - (ii) the symbol allocated under regulation 23 in respect of each candidate for election in that ward.

33. (1) Every ballot box shall be so constructed that after it is sealed under regulation 35 the ballot papers can be placed by voters but not taken out without breaking the seals.

Ballot boxes, official seals and official marks

(2) In respect of every election the official seals and official marks shall be in such form as the Director of Elections may determine.

34. (1) Every ballot paper shall be in Form LGE 4 set out in the Schedule and, in respect of any ward shall show-

Ballot papers

- (a) the names of the candidates for election in the alphabetical order of surnames;
- (b) the symbol allocated under regulation 23 in respect of each candidate for election in that ward.

(2) Every ballot paper shall be attached to a counterfoil bearing the same serial number as that printed on the ballot paper.

35. (1) Immediately before the commencement of the poll the presiding officer at each polling station shall show every box, open and empty, to any person whose presence for that purpose is permitted under regulation 36 so that such person may see that it is empty, and shall then lock and seal with the official seal every such ballot box, and shall permit any candidate, election agent or polling agent who may be present to affix their seals thereto, and such seal or seals shall not be broken until the ballot box is opened in accordance with the provisions of these Regulations.

Procedure before
commencement of poll

(2) The presiding officer at each polling station shall place the key to every ballot box in a packet marked "A" as soon as the ballot box has been locked in accordance with sub-regulation (1), and shall then seal the packet with the official seal, and shall permit any candidate, election agent or polling agent who may be present to affix their seals thereto, and the seal or seals shall not be broken except for the purpose of opening the ballot box under the provisions of these Regulations.

(3) The presiding officer at each polling station shall place every ballot box locked and sealed under subregulation (1) in such a position in the polling station that it can be seen throughout the taking of the poll by the presiding officer and by the candidate, election agent or polling agent who may be present at the polling station.

(4) The presiding officer at each polling station shall ensure that there is available throughout the taking of the poll in each compartment provided under paragraph (a) of regulation 32 a suitable pencil or pen for the use of every voter when marking his ballot paper.

36. (1) The presiding officer at each polling station shall keep order in the polling station and in its precincts and shall regulate the number of voters to be admitted at a time to the polling station.

Control of persons
entering polling
stations

(2) The presiding officer at each polling station may require any person, other than-

- (a) a member or the Secretary of the Commission and members of its staff authorised in that behalf;
- (b) the Director of Elections;
- (c) the returning officer or assistant returning officer for the council area in which the polling station is situated;
- (d) the returning officer or assistant returning officer for the council area in which the polling station is situated;
- (e) the candidates for election in the ward in which the polling station is situated;

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- (f) the election agents of the candidate;
- (g) the polling agent appointed under regulation 28 by each such candidate in respect of the polling station;
- (h) a police officer on duty;
- (i) any person authorised in writing by the Director of Elections to enter and remain in the polling station;

to leave the polling station and its precincts:

Provided that any of the persons described in paragraphs (a) to (i) may be required by the presiding officer to leave the polling station and its precincts if, in the opinion of the presiding officer, that person is causing a disturbance which is likely to interfere with the taking of the poll.

(3) Every candidate, election agent, polling agent or person authorised in writing by the Director of Elections to enter and remain in a polling station shall, before attending at the taking of a poll in any polling station in a ward, take and subscribe an oath or make affirmation in lieu thereof, in the form prescribed in regulation 5 and, for that purpose, the returning officer for the ward shall have the power to administer the oath.

(4) The powers conferred by this regulation shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at the polling station.

37. (1) Every person applying for a ballot paper shall-

Application for ballot
paper

- (a) present himself at the polling station appointed under regulation 27 for the polling district in which he is registered; and
- (b) produce his voter's registration card to the presiding officer or polling assistant at the polling station; and
- (c) identify himself by producing the national registration card bearing the national registration number recorded on his voter's registration card; and
- (d) if so required by the presiding officer or polling assistant, present both his hands for inspection by the officer;

and no person shall be issued with a ballot paper unless he complies with the requirements set out in paragraphs (a) to (d).

(2) A presiding officer or polling assistant at a polling station may put to any applicant for a ballot paper such questions as he may consider necessary to enable him to identify the applicant with a name on the copy of the register of voters at the polling station.

(3) No applicant for a ballot paper shall be issued with a ballot paper or permitted to vote at a polling station unless the presiding officer or polling assistant for the polling station is satisfied-

- (a) that the applicant is registered in the polling district for which the polling station is appointed; and
- (b) that the applicant has produced the voter's registration card issued to him in respect of such registration; and
- (c) that the applicant has properly identified himself under paragraph (c) of sub-regulation (1); and
- (d) that the applicant has not previously voted in the election in respect of which he is applying for a ballot paper.

38. If a presiding officer or polling assistant at a polling station is satisfied under regulation 37 that an applicant is entitled to be issued with a ballot paper, and to vote, the following procedure shall subject to the provisions of regulation 42, be followed:

Procedure for casting vote

- (a) the voter shall, prior to receiving a ballot paper, immerse a thumb up to at least the whole exposed nail in ink provided by the presiding officer or polling assistant.

Provided that-

- (i) in the case of a voter without any thumb such voter shall immerse a finger up to at least the whole of the exposed nail;
- (ii) in the case of a voter without any thumb of fingers, this paragraph shall not apply; and
- (h) before issuing a ballot paper to the voter the presiding officer or polling assistant shall-
 - (i) call out the number and name of the voter as recorded in the copy of the register of voters at the polling station;
 - (ii) draw a line through the number and name of the voter in the copy of the register of voters as evidence that the voter has received a ballot paper;
 - (iii) stamp the ballot paper with the official mark;

- (iv) enter on the counterfoil of the ballot paper the number of the voter as recorded in the copy of the register of voters; and
- (v) stamp the voter's registration card produced by the voter under regulation 37 with the official mark; and
- (c) the presiding officer or polling assistant shall then detach the ballot paper from its counterfoil and deliver it to the voter; and
- (d) the voter, on receiving the ballot paper, shall enter one of the compartments provided under regulation 32 in the polling station and signify the candidate for whom he wishes to vote by secretly marking the ballot paper with a cross opposite the name of such candidate, and shall then fold the ballot paper in such a way that the official mark stamped thereon is visible and the mark signifying his vote is not visible; and
- (e) the voter shall then leave the compartment and shall, in the presence of the presiding officer or polling assistant, place the folded ballot paper in the ballot box provided in the polling station for that purpose.

39. (1) A voter shall vote without undue delay and shall leave the polling station as soon as he has placed his ballot paper in the ballot box.

Votes to be cast without undue delay

(2) Where the presiding officer is of the opinion that any person present in the compartment has delayed unduly therein and that the delay may hinder the adequate or orderly conduct of the poll he may require that person to complete the procedure set out in paragraph (a) of regulation 38 within a period of two minutes immediately thereafter.

(3) On or after the expiry of the period of two minutes referred to in sub-regulation (2) the presiding officer may direct the person concerned to place the ballot paper issued to that person in the ballot box and to leave the polling station and its precincts and not to return thereto during the period of the poll.

40. At any polling station the presiding officer may, during a temporary absence from the polling station, delegate his powers, subject to the directions of the Director of Elections, to a polling assistant and, during the period of the delegation, the polling assistant shall have and may exercise the powers of the presiding officer.

Polling assistant may act during temporary absence of presiding officer

41. Where a voter inadvertently deals with a ballot paper in such manner that it cannot be used as a valid ballot paper, he shall deliver the ballot paper (hereinafter referred to as a "spoilt ballot paper") to the presiding officer and if the presiding officer is satisfied that the ballot paper has been spoilt inadvertently he shall issue another ballot paper to the voter and shall cancel the spoilt ballot paper and the counterfoil to which it relates

Spoilt ballot paper

42. (1) A presiding officer, a relative or a friend may, upon application by and with the consent of-

Presiding officer may assist incapacitated voter

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- (a) a voter who is incapacitated by blindness or other physical cause from voting in accordance with the procedure prescribed by regulation 37; or
- (b) a voter who declares orally that he is unable to read or otherwise asks for the assistance of the presiding officer;

enter a compartment with the voter in order to assist him to cast his vote pursuant to paragraph (a) of regulation 38 and, subject to the said provisions, shall mark the ballot paper issued to the voter opposite the name of the candidate as the voter may signify and shall, with the assent of the voter, place the ballot paper in the ballot box on behalf of the voter.

(2) The relative or friend referred to in paragraph (1) shall be a registered voter in that polling district and shall not be a person who has already assisted another voter in that election.

(3) A presiding officer acting under this regulation shall record in the copy of the register of voters, by means of a mark placed between the number and the name of the voter concerned that he or relative or friend of a voter has marked the ballot paper as aforesaid on the application of the voter and the reasons for doing so.

43. (1) Notwithstanding regulation 37, where a voter registered in any ward is employed as a returning officer, presiding officer, polling assistant, police officer or in any other official capacity at a polling station within the ward other than the polling station appointed for the polling district in which he is registered as a voter, the returning officer shall authorise the voter by a certificate under his hand in Form LGE 5 set out in the Schedule, to vote at the polling station at which he is so employed.

Voting by persons employed on election duties

(2) Any voter to whom a certificate is issued under sub-regulation (1) shall deliver the certificate to the presiding officer when he applies for a ballot paper.

44. No person, other than a presiding officer, polling assistant, police officer or person on duty in an official capacity at a polling station, shall have any communication whatsoever with a voter while the voter is in the precincts of a polling station for the purpose of voting.

Restriction on communication in precincts of polling station

45. (1) Notwithstanding the terms of any Order made under Part IV of the Act a presiding officer may in his discretion postpone until later in the day and, if necessary, adjourn to some other day, the proceedings at his polling station where they are interrupted by riot, open violence, flood, natural catastrophe or other similar cause but where he does so he shall start or restart the proceedings at the earliest practicable moment.

Adjournment of poll in case of emergency

(2) A presiding officer may in his discretion extend the hours or adjourn the day of polling at his polling station where polling has been interrupted by any of the causes described in sub-regulation (1) and references in these Regulations to the close of the poll shall be construed accordingly.

(3) If a poll is adjourned under this regulation at any polling station the hours of polling on the day to which it is adjourned shall be the same as for the original and references in these Regulations to the closing of the poll shall be construed accordingly.

(4) Where a presiding officer postpones or adjourns the poll under this regulation he shall take such precautions as are necessary to safeguard the ballot boxes, ballot papers and other election requisites and shall forthwith notify the returning officer of such postponement or such adjournment, as the case may be.

(5) Where a returning officer is notified under subregulation (4) of the postponement or adjournment of a poll he shall forthwith notify the Director of Elections of such postponement or such adjournment, as the case may be.

46. (1) As soon as practicable after the closing of the poll the presiding officer at a polling station, in the presence of the candidates or election agents or polling agents present at the polling station, shall-

Procedure after close of poll

- (a) close and seal with the official seal the aperture of every ballot box used for the poll and permit any candidate or election agent or polling agent to affix his seal thereto; and
- (b) place in separate packets, which shall be sealed with the official seal and with the seals of the candidates or election agents or polling agents, if any, who wish to affix their seals thereto, the following items in the following manner:
 - (i) in a packet marked "B" the unused ballot papers which shall remain attached to their counterfoils and the spoilt ballot papers;
 - (ii) in a packet marked "C" the copy of the register of voters marked in accordance with regulations 38 and 42 together with the certificates delivered to the presiding officer under regulation 43;
 - (iii) in a packet marked "D" the counterfoils of the used ballot papers including the counterfoils of any spoilt ballot papers;
 - (iv) in a packet marked "E" the ballot paper account completed under paragraph (b);
 - (v) in a packet marked "F" the official mark and the official seal:

Provided that such packet shall not be sealed but shall be securely fastened.

- (c) complete the ballot paper account in respect of the poll which shall be in Form LGE 6 set out in the Schedule hereto; and

(2) The presiding officer shall, in accordance with the directions which may be issued by the Director of Elections, despatch each packet sealed in accordance with sub-regulation (2) of regulation 35 and of this regulation, together with the ballot boxes sealed in accordance with this regulation, in safe custody to the returning officer for the ward in respect of which the poll was conducted.

PART IV PROCEDURE FOR THE COUNT

PROCEDURE FOR THE COUNT

47. (1) The returning officer for each ward in which a poll is taken shall arrange for the counting of the votes to take place as soon as practicable after the close of the poll and shall, so far as circumstances permit, proceed continuously with the counting, allowing only a reasonable time for refreshment, until the count is completed.

Duty of returning officer to arrange for counting of votes and notification of candidates

(2) The returning officer for each ward in which a poll is taken shall give notice in writing to each candidate for election in the ward, prior to the day appointed for the taking of the poll, of the time and place at which he will count the votes cast in the election.

48. (1) At the counting of the votes cast in an election in any ward no person other than-

Person who may attend counting of votes

- (a) a member or the Secretary of the Commission and members of its staff authorised in that behalf;
- (b) the Director of Elections;
- (c) the returning officer and any assistant returning officer for the ward;
- (d) the counting assistants appointed by the returning officer;
- (e) the candidates for election in the ward;
- (f) the election agents appointed by the candidates;
- (g) one polling agent in respect of each candidate;
- (h) a police officer on duty;

(i) any person authorised in writing by the Director of Elections;
may attend.

(2) Every person authorised to attend the counting of the votes in any ward other than a member or the Secretary of the Commission or a police officer on duty shall, unless he has taken the oath or made an affirmation under regulation 5 or regulation 36 before so attending take and subscribe an oath, or make an affirmation in lieu thereof, in the form prescribed in regulation 5, and for that purpose the returning officer for the ward shall have power to administer the oath.

49. (1) The returning officer for a ward in which a poll has been taken shall take into his custody and issue a receipt for, all packets and ballot boxes delivered to him in accordance with sub-regulation (2) of regulation 46

Examination of seals
of packets and ballot
boxes received by
returning officer

(2) When the returning officer for a ward in which a poll has been taken is satisfied that he has received all the packets and ballot boxes in respect of all the polling stations in the ward he shall at the time and place notified under sub-regulation (2) of regulation 47 for the counting of the votes, examine the seals of all the packets and ballot boxes and shall permit the candidates, election agents and polling agents present to examine the seals.

(3) The returning officer shall submit to the Director of Elections a written report of the result of the examination carried out under sub-regulation (2) if the examination reveals that the seals of any packet or ballot box are broken

50. The returning officer for a ward in which a poll has been taken shall, with the aid of the counting assistants for the ward, count all the votes cast in the election in the ward according to the following procedure:

The count

- (a) the returning officer shall open each ballot box and after removing all the ballot papers therefrom, shall count and record the total number of ballot papers contained in each ballot box without reference to the manner in which the ballot papers are marked;
- (b) subject to the provisions of regulation 51, the returning officer shall then count and record the total number of valid ballot papers in respect of each candidate;
- (c) the returning officer shall ensure, while counting the ballot papers, the counting assistants keep the side of each ballot paper on which the vote is recorded upward and shall take all precautions for preventing any person present at the count from seeing the number printed on each ballot paper.

51. (1) The returning officer shall, subject to sub-regulation (2), reject as invalid, and shall not count, any ballot paper-

Rejection of ballot
papers

- (a) which does not bear the official mark, unless the returning officer is satisfied that such omission was a *bona fide* error; or

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- (b) on which votes are cast for more than one candidate: or
- (c) on which anything is written or marked by which the voter can be identified; other than the number printed on the ballot paper; or
- (d) which is unmarked or invalid for uncertainty.

(2) A ballot paper on which the vote is marked-

- (a) elsewhere than in the proper place; or
- (b) otherwise than by means of a cross; or
- (c) by more than one mark;

shall not by reason thereof be invalid if an intention that the vote shall be for one or other of the candidates clearly appears, and the way the paper is marked does not of itself identify the voter and it is not shown that he can be identified thereby.

(3) The returning officer shall stamp the word "rejected" on any ballot paper which under this regulation is not to be counted, and shall add "rejection objected to" if any objection to the returning officer's decision is made by a candidate, his election agent or his polling agent present at the count.

(4) The returning officer shall draw up a statement in the Form LGE 7 set out in the Schedule showing the number of ballot papers rejected under the several heads of-

- (a) want of official mark;
- (b) voting for more than one candidate;
- (c) writing or mark by which the voter could be identified;
- (d) unmarked or invalid for uncertainty:

and any candidate, his election agent or polling agent present may copy the statement.

52. (1) A candidate, his election agent or polling agent may, if present when the counting or any recounting of the votes is completed, require the returning officer to have the votes recounted or again recounted, or the returning officer may, on his own initiative, have the votes recounted or again recounted.

Recounting of votes

Provided that the returning officer may refuse the request if, in his opinion, it is unreasonable.

(2) No step shall be taken by the returning officer on the completion of the counting or of any recounting of the votes until the candidates, election agents and polling agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by this regulation.

53. (1) Where an equality of votes is found to exist between any candidate and the addition of one vote would entitle any one of the candidates to be declared elected, the returning officer shall make a recount of the votes. Equality of votes

(2) If there is again an equality of votes as a result of the recount, the returning officer shall forthwith decide between those candidates by lot in such manner as the Commissioner may determine and shall proceed as if the candidate on whom the lot falls had received an additional vote.

54. When the counting of the votes has been completed and the result of the poll ascertained the returning officer shall- Declaration of result of poll

- (a) complete in triplicate a declaration of the result of the poll as in Form LGE 8 set out in the Schedule;
- (b) declare to be elected the candidate to whom the majority of votes has been given by reading aloud, at the place where the counting was conducted, the completed form;
- (c) cause to be delivered to the Commission without delay the original of the completed form; and
- (d) cause to be delivered to the principal officer of of the council to which the candidate has been elected a copy of the completed form.

55. The returning officer for a council shall cause to be conspicuously displayed, at or near the offices of such council, for a period of not less than fourteen days after the date of the declaration of the result of an election, a notice stating- Publication of result of poll

- (a) the full names of the person declared elected;
- (b) the ward in which the person was elected; and
- (c) the date on which the person was declared elected.

56. The decision of a returning officer on any question arising in respect of any ballot paper or as to the declaration of the result of the poll shall not be questioned except by an election petition presented under the provisions of the Act. Questions arising on decision of returning officer

57. On the completion of the counting of the votes cast in an election in any ward in which a poll is taken, the returning officer for the ward shall seal up in separate marked packets the ballot papers counted in respect of each candidate in the election and shall place the rejected ballot papers in a single marked packet. Ballot papers to be sealed in packets after completion of counting

58. (1) In respect of an election in a ward in which a poll is taken, the returning officer for the ward shall give notice in writing to the candidates in the elections of the time and place at which the verification of the ballot paper accounts completed under regulation 46 in that ward will take place and at the time and place and in the presence of such candidates and their election agents as may be present, he shall produce for their inspection the packets marked "B" and "E" respectively and delivered to him under regulation 46 and, in respect of each polling district in such ward shall open the packet marked "B" containing the unused ballot papers together with their counterfoils and the spoilt ballot papers and the packet marked "E" with their respective contents.

Verification of ballot
paper accounts

(2) The returning officer shall then prepare and deliver to the Director of Elections a report on the verification of the ballot paper accounts in Form LGE 9 set out in the Schedule and shall permit the candidates to make a copy thereof.

59. (1) Upon the completion of the verification of the ballot paper accounts under regulation 58 the returning officer shall retain in safe custody-

Custody and
destruction of election
matter

- (a) in respect of each polling district, the packet marked "B" containing the unused ballot papers together with their counterfoils and the spoilt ballot papers;
- (b) in respect of each polling district, the packet marked "C" containing the copy of the register of voters and the certificate placed therein under regulation 46;
- (c) the packets containing the ballot papers counted in respect of each of the candidates and sealed under regulation 57; and
- (d) the packet containing the rejected ballot papers and sealed under regulation 57;
- (e) the packet marked "D" containing the counterfoils of the used and the spoilt ballot papers, delivered to the returning officer under regulation 46; and
- (f) the packet marked "E", containing the ballot paper account;

and shall forthwith deliver to the Director of Elections, in respect of each polling district, the packet marked "F", containing the official seal and the official mark, delivered to the returning officer under regulation 46.

(2) The returning officer shall retain the packets set out in sub regulation (1) in respect of any election for a period of thirty days after the day on which the result of the election was declared and, with the consent of the Commission, shall then cause them to be destroyed by burning in the presence of a magistrate:

Provided that where the Commission has been informed under sub-section (5) of section *twenty-one* of the Act that an election petition has been presented in respect of the election the packets shall not be destroyed until such time as the trial of the election petition has been finally determined.

PART V CORRUPT AND ILLEGAL PRACTICES AND ELECTION OFFENCESPART V

CORRUPT AND ILLEGAL PRACTICES AND ELECTION OFFENCES

60. (1) Any person who, directly or indirectly, by himself or by any other person- Bribery

- (a) gives, lends or procures, or agrees to give, lend or procure, or offers, promises, or promises to procure, any money to or for any person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting or who corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election;
- (b) gives, lends, or agrees to give or lend, or offers, or promises to procure or to endeavour to procure, any money to or for any voter or to or for any other person on behalf of any voter or to or for any other person for acting or joining in any procession or demonstration before, during or after any election;
- (c) makes any gift, loan, offer, promises, procurement or agreement to or for any person in order to induce that person to produce or to endeavour to procure the return of any candidate at any election or the vote of any voter at any election;
- (d) upon or in consequence of any gift, loan, offer, promise, procurement or agreement, procures or engages, promises, endeavours to procure, the return of any candidate at any election or the vote of any voter at any election;
- (e) advances or pays or causes to be advanced or paid any money to or for the use of any other person with the intent that the money or any part thereof shall be expended in bribery at any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election;
- (f) before or during any election receives or contracts for any money or loan for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election;
- (g) after any election receives any money on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any election; or

- (h) conveys or transfers or is concerned with the conveyance or transfer of any property, or pays or is concerned with the payment of any money, to any person for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election, or pays or is concerned with the payment of any money on behalf of any voter for the purpose of inducing him to vote or refrain from voting;

shall be guilty of the offence of bribery.

(2) Nothing in this regulation shall be construed as applying to any money paid or agreed to be paid for or on account of any expenditure *bona fide* and lawfully incurred in respect of the conduct or management of an election.

61. Any person who-

Personation

- (a) at any election applies for a ballot paper in the name of some other person, living or dead, or of a fictitious person; or
- (b) having voted once at any election, applies again at the same election for a ballot paper; or
- (c) votes or induces or procures any person to vote at any election knowing that he or that person is not entitled to vote at that election;

shall be guilty of the offence of personation.

62. Any person who corruptly by himself or by any other person either before, during or after an election, directly or indirectly, gives or provides or pays wholly or in part the expenses of giving or providing any food, drink, entertainment, lodging or provisions to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at an election shall be guilty of the offence of treating.

Treating

63. (1) Any person who directly or indirectly, himself or by any other person-

Undue influence

- (a) makes use of or threatens to make use of any force, violence or restraint upon any other person; or
- (b) inflicts or threatens to inflict by himself or any other person, or by any supernatural or non-natural means or pretended supernatural or non-natural means, any temporal or spiritual injury, damage, harm or loss upon or against any person; or

(c) does or threatens to do anything to the disadvantage of any person;
in order to induce or compel that person-

- (i) to sign a nomination paper or refrain from signing a nomination paper; or
- (ii) to vote or refrain from voting; or
- (iii) to refrain from offering himself as a candidate for election;

or on account of that person having-

- (A) signed or refrained from signing a nomination paper; or
- (B) voted or refrained from voting at any election; or
- (C) refrained from offering himself as a candidate;

shall be guilty of the offence of undue influence.

(2) Any person who, by abduction, duress or any fraudulent device or contrivance, impedes or prevents the free exercise of the vote of any voter or thereby compels, induces or prevails upon any voter either to give or to refrain from giving his vote at any election, shall be guilty of the offence of undue influence.

64. Any person who is guilty of the offence of bribery personation, treating or undue influence shall be guilty of a corrupt practice and shall be liable on conviction to a fine not exceeding eight hundred penalty units or to imprisonment for a period not exceeding two years or to both.

Corrupt practices and penalties

(As amended by Act No. 13 of 1994)

65. (1) Any person who, before or during an election, publishes a false statement of the illness, death or withdrawal of a candidate at that election for the purpose of promoting or procuring the election of another candidate, knowing that statement to be false or not believing it to be true, shall be guilty of an illegal practice.

Illegal practice of publishing false statements in respect of candidates

(2) Any person who, before or during an election, publishes a false statement of fact in relation to the personal character or conduct of a candidate in that election, shall be guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe, the statement to be true.

66. (1) Any person who forges or fraudulently destroys any nomination paper, or delivers to a returning officer any nomination paper knowing the same to be forged, shall be guilty of an illegal practice.

Illegal practice in respect of nomination of candidates.

(2) Any person who knowingly makes a false statement in a statutory declaration made and subscribed under regulation 11 shall be guilty of an illegal practice.

(3) Any person who wilfully prevents or attempts to prevent any other person from complying with any of the provisions of regulation 10, 11, 12, 13 or 15 shall be guilty of an illegal practice.

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- 67.** Any person who at an election obstructs a voter either at the polling station or on his way thereto or therefrom shall be guilty of an illegal practice. Illegal practice in respect of voters
- 68.** Any person who, at a lawful public meeting held in connection with the election of any person between the day of the publication of a notice appointing nomination day and the day on which the result of the election is published, acts or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is called shall be guilty of an illegal practice. Illegal practice in respect of public meetings
- 69.** Any person who, with intent to influence persons to give or refrain from giving their votes at an election, uses or procures the use of any wireless transmitting station outside the Republic shall be guilty of an illegal practice. Illegal practice in respect of broadcasts
- 70.** Any person who is guilty of an illegal practice shall be liable on conviction to a fine not exceeding eight hundred penalty units or to imprisonment for a period not exceeding two years or both. Penalty for illegal practice

(As amended by Act No. 13 of 1994)

- 71.** (1) Any person who- Election offences
- (a) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper;
 - (b) without due authority, supplies or causes to be supplied any ballot paper to any person;
 - (c) without due authority, puts into any ballot box any ballot paper which he is not authorised by law to put in;
 - (d) sells or offers to sell any ballot paper to any person or purchases or offers to purchase any ballot paper from any person;
 - (e) not being a person entitled under these Regulations to be in possession of a ballot paper, official seal or official mark has any such ballot paper or official mark in his possession;
 - (f) puts into any ballot box anything other than the ballot paper which he is authorised by law to put in;
 - (g) without due authority, takes out of the polling station any ballot paper or is found in possession of any ballot paper outside a polling station;

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- (h) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers in use or intended to be used for the purpose of an election;
- (i) without due authority, prints or makes any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;
- (j) manufactures, constructs, has in his possession, supplies or uses for the purpose of an election, or causes to be manufactured, constructed, supplied or used for the purposes of any election any appliance, device or mechanism by which a ballot paper may be extracted or manipulated after having been deposited in a ballot box in the course of polling at any polling station;
- (k) on any polling day, at the entrance to or within a polling station, or in any public place or in any private place within the entrance to the polling station-
 - (i) canvasses for votes;
 - (ii) solicits the vote of any person;
 - (iii) induces any person not to vote; or
 - (iv) induces any person not to vote for a particular candidate;
- (l) on any polling day loiters in any public place within the entrance to any polling station;
- (m) on any polling day exhibits in any public or private place within the entrance to any polling station any notice or sign, other than an official notice or sign authorised by any officer under the provisions of these Regulations, relating to the election;
- (n) not being a presiding officer, a polling assistant, a candidate, an election agent or a polling agent in the course of his functions within a polling station makes any record showing that any particular person has voted in an election;
- (o) without lawful authority, destroys, mutilates, defaces or removes any notice which is exhibited under these Regulations, or any document made available for inspection under these Regulations;
- (p) wilfully obstructs or interferes with an election officer in the execution of his duties.
- (q) makes a false answer to any question put to him by a presiding officer or a polling assistant under sub-regulation (2) of regulation 37.
- (r) in contravention of regulation 44 has any communication with a voter while the voter is in the precincts of a polling station for the purpose of voting;

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- (s) having been required under sub-regulation (2) of regulation 36 or directed under sub-regulation (3) of regulation 39 to leave a polling station, fails to leave the polling station or the precincts thereof;
- (t) associates himself or any candidate with, or uses, any symbol in the course of an election unless the use of such symbol is authorised under regulation 23;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding eight hundred penalty units or to imprisonment for a period not exceeding two years or to both.

(2) Any person who attempts to commit an offence against this regulation shall be liable to the punishment prescribed for that offence.

(3) In a prosecution for an offence in relation to a nomination paper, ballot box or ballot paper, the property in the nomination paper, ballot box or ballot paper as well as the property in the counterfoil or any ballot paper, may be stated to be in the returning officer at that election.

(As amended by Act No. 13 of 1994)

72. (1) Every person in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting at the station and shall not communicate except for some purpose authorised by law, to any person any information as to the name or number on the register of voters of any voter who has or has not applied for a ballot paper or voted at the polling station, or as to the official mark or official seal at the polling station.

Penalty for breach of
secrecy

(2) No person, except a presiding officer acting under regulation 42, shall obtain or attempt to obtain in a polling station information as to the candidate for whom any person in the polling station is about to vote or has voted or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any person in the polling station is about to vote or has voted, or as to the number on the ballot paper issued to any person at the polling station.

(3) Every person in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting and shall not ascertain or attempt to ascertain at the counting the number on any ballot paper or communicate any information obtained at the counting relating to the candidate for whom any vote is given by any particular ballot paper.

(4) Any person who contravenes any of the provisions of this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding eight hundred penalty units or to imprisonment for a term not exceeding two years or to both.

(As amended by Act No. 13 of 1994)

73. Any election officer who wilfully fails to perform the functions of his office under these Regulations shall be guilty of an offence and liable on conviction to a fine not exceeding eight hundred penalty units or to imprisonment for a term not exceeding two years or to both.

Offences by election officers

(As amended by Act No. 13 of 1994)

74. (1) Every bill, placard, poster, pamphlet, circular or other printed matter having reference to an election shall bear upon the face thereof the name and address of the printer and the publisher thereof, and any person who prints, publishes or posts, or causes to print, publish or post any such matter which fails to bear upon the face thereof such names and addresses shall be guilty of an offence.

Offences by printers and publishers

(2) The proprietor and publisher of every newspaper shall cause the word "advertisement" to be printed as a headline to each article or paragraph appearing in his newspaper containing electoral matter, the insertion of which is or is to be paid for and any proprietor or publisher who fails to comply with this provisions shall be guilty of an offence.

(3) For the purposes of this regulation-

- (a) any process for producing copies of a document other than by copying it by hand shall be deemed to be printing and the expression "printer" shall be construed accordingly; and
- (b) "electoral matter" shall be deemed to include all matters which, on the face of them are intended or calculated to affect the result of an election.

(4) Any person who is guilty of an offence against this regulation shall be liable on conviction to a fine not exceeding four hundred penalty units.

(As amended by Act No. 13 of 1994)

PART VI CANVASSINGPART VI

CANVASSING

75. In this part-

Interpretation

- (a) "public media" means any newspaper, publication or broadcasting service which is owned or controlled by or on behalf of the State;
- (b) "written statement" shall include a bill, a placard, poster, pamphlet or any other printed matter relating to elections under the Act.

76. Public canvassing for, or of, votes in favour of any candidate nominated for the local government elections under section *ten* of the Act shall take place only in accordance with the provisions of this part. Canvassing

77. Any written statement intended for publication to the public relating to the elections under the Act for the purpose of canvassing for votes in favour of any candidate nominated for such elections and being a statement not issued by or on behalf of the Commission shall- Contents of written statements

- (a) bear names and addresses of the authors, printers and publishers and shall otherwise conform with the requirements of regulation 74;
- (b) be in the form of a statement for encouraging the voters to elect the candidate, whose party's policies are of benefit to the development of the Council;
- (c) be confined to discussing or arguing the case for, or against, one policy or the other as a means for development of the Council and shall not contain defamatory imputations against any individual person or against the personal character of any individual;
- (d) not be seditious or inflammatory or against any written law and shall not in any way be calculated to incite hatred, public disorder, breaches of the peace and violence.

78. (1) Written statement may be published by or on behalf of any candidate canvassing for votes in the elections under the Act by- Publication of written statements

- (a) distributing copies to the public;
- (b) being read out for broadcasting over the Zambia National Broadcasting Corporation radio and television networks;
- (c) being advertised in the local press in conformity with regulation 74;
- (d) being read out at a public meeting; and
- (e) any other lawful method.

(2) Any person who publishes any written statement to the elections under the Act in contravention of regulation 77 shall be guilty of an offence.

79. (1) An oral statement made to the public relating to elections under the Act for the purpose of canvassing for votes in the election and not being made by or on behalf of the Commission shall- Contents of oral statements

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- (a) be in the form of a statement for encouraging the voters to elect the candidate, whose party's policies are of benefit to the development of the Council;
- (b) be confined to discussion or arguing the case for, or against, one policy or the other as a means for development of the Council and shall not contain defamatory imputations, against any individual person or against the personal character of any individual; and
- (c) not be seditious or inflammatory or against any written law and shall not in any way be calculated to incite hatred, public disorder, breaches of the peace and violence.

(2) An oral statement, as specified in sub-regulation (1), may be made only at a public meeting arranged and supervised by or on behalf of the Commission at which the speakers shall be persons who have previously indicated in writing to the Commission their wish to address a public meeting and have indicated the party they support.

Provided that-

- (a) separate meetings shall be arranged for persons speaking on behalf of the party they support; and
- (b) the Commission shall ensure that an equal number of meetings for contesting parties unless no person has come forward to indicate a wish to speak on behalf of any party.

(3) The Commission or an officer authorised in that behalf shall publicise the time and venue of each public meeting indicating the party the speakers will support.

(4) The Commission or an officer authorised in that behalf shall notify, in advance, the officer commanding or the officer-in-charge of police in the locality of any meeting and the officer commanding or the officer-in-charge of police shall cause the attendance of an adequate number of police officers to ensure the maintenance of law and order and compliance with the provisions of this Part.

(5) A public meeting held or proposed to be held under this Part may be discontinued or disallowed only by the Commission or any officer authorised in that behalf if satisfied, and on the advice of the officer commanding or officer-in-charge of police in attendance, that the meeting cannot continue or take place by reason of riot, open violence or other similar cause but, where a meeting has been discontinued or disallowed, another meeting shall be convened in its stead at the earliest practicable opportunity.

80. The Commission may request any person in charge of the public media, in the case of a newspaper, to allot space, and in the case of broadcasting services, to allot time for the purpose of enabling any party, at its own cost, to canvass in accordance with this Part:

Request to public media

Provided that the Commission may arrange for some broadcasts at its own cost to be allotted equally to all contesting parties.

81. (1) Any person authorised under this part to perform any of the functions of the Commission who wilfully fails to perform the functions of his office under this part shall be guilty of an offence.

Offences

(2) Any police officer who wilfully fails to perform the functions of his office under this Part shall be guilty of an offence.

(3) Any person in charge of the public media who, having received a request from the Commission under regulation 80, wilfully obstructs or prevents the publication of an oral or written statement by any party lawfully canvassing for re-elections under the Act in accordance with this Part shall be guilty of an offence.

(4) Any person who, at a lawful public meeting held in connection with elections under the Act, prior to the holding of such elections, acts or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is called, shall be guilty of an offence.

(5) Any person who directly or indirectly, by himself or by any other person does or threatens to do anything to the disadvantage of any person-

(a) in order to induce or compel that person to canvass or refrain from canvassing or on account of that person having canvassed or refrained from canvassing in connection with the elections under the Act; or

(b) in order to induce or compel that person to attend or refrain from attending a public meeting or on account of that person having attended or refrained from attending a public meeting held in connection with the election under the Act;

shall be guilty of an offence.

(6) Any person who, by abduction, duress or any fraudulent device or contrivance, impedes or prevents the free exercise of the right of any person to canvass under this Part, or thereby compels, induces or prevails upon any person either to canvas or to refrain from canvassing for elections under the Act shall be guilty of an offence.

The Laws of Zambia

82. (1) Any person guilty of an offence under this Part shall be liable on conviction to a fine not exceeding eight hundred penalty units or imprisonment for a period not exceeding two years or to both. Penalties

(2) Any person who attempts to commit an offence against this Part shall be liable to the punishment prescribed for that offence.

(As amended by Act No. 13 of 1994)

SCHEDULE

The Laws of Zambia

FORM LGE 1

REPUBLIC OF ZAMBIA

THE LOCAL GOVERNMENT ELECTIONS REGULATIONS

OATH OR AFFIRMATION

The Laws of Zambia

(Regulation 5, 36 and 48)

I,having been

appointed as.....for the

.....ward(s) of the.....

Council, swear/solemnly and sincerely affirm that-

**(a)* I will carry out the duties required of me as a result of my appointment impartially and to the best of my ability without fear or favour to any person or persons; and

(b) I will not directly or indirectly reveal to any person any matter that may come to my knowledge or notice as a result of my appointment unless so authorised by law.

Signed

Name/Affirmed before me this.....day of.....

....., 19.....

Signed

Sworn/Affirmed before me this.....day of.....

....., 19.....

Signed

Name IN BLOCK LETTERS.....

Magistrate/Returning Officer

*in case of candidate, election agent or polling agent delete paragraph (a).

REPUBLIC OF ZAMBIA
The Local Government Elections Regulations
(Regulations 2 and 10)

NOMINATION PAPER

To: The Returning Officer,Ward.....Council,

We, the undersigned voters in the above-named ward do hereby nominate-

First Names (in Block Capitals).....

Surname (in Block Capitals).....

Residential Address.....

.....

Postal address.....

.....

to stand as a candidate for election in the.....Ward
of the.....Council

Full name in block capitals	Polling district in which registered as a voter	Number of voter' registration card	Signature or thumb- print*
Proposed by			
Seconded by			
Supported by			
Supported by			
Supported by			
Supported by			
Supported by			
Supported by			
Supported by			
Supported by			

The Laws of Zambia

*To be placed on this form in the presence of the Returning Officer.

And I, the said (full name in Block Capitals).....

hereby declare-

- (a) that I accept the nomination;
- (b) that my nomination is supported by the (name of political party)/that I am an independent candidate;*
- (c) that my political symbol is.....
- (d) that I have appointed (full name)..... of address..... to be my Election Agent.

In accordance with regulation 11 I have completed below a statutory declaration in respect of my nomination as a candidate.

Date.....

.....
Signature of Candidate

Signed by all parties in my presence and received by me at (time)

.....on the.....day

of.....19.....

.....
Signature of Returning Officer

*Delete whichever is not applicable

NOTES

1. Candidates are advised to acquaint themselves with the provisions of regulations 10 to 25 before completing this Nomination Paper.
2. When this Nomination Paper is lodged it must be accompanied by the sum of five hundred kwacha in cash as a deposit.
3. The statutory declaration, on Form LGE 3 below, must be completed by the candidate himself before a Magistrate.
(As amended by S.I. No 185 of 1993)

STATUTORY DECLARATION OF A PERSON NOMINATED AS A CANDIDATE

(Regulation 11)

I.....do
solemnly and sincerely declare that-

- (1) I am a citizen of Zambia;
- (2) I have attained the age of twenty-one (21) years;
- (3) I am resident in the area of the council to which I seek election.
- (4) I am not disqualified for election as a councillor under section 17 of the Local Government Elections Act.

I make this solemn declared conscientiously believing the same to be true.

Signed.....

Subscribed and solemnly declared before me this.....

day of....., 19.....

Signed.....

Name in block letters.....

Magistrate.....

PENALTY FOR GIVING FALSE INFORMATION

By virtue of the Local Government Elections Regulations, the penalty for making a false statement is imprisonment for a period not exceeding two years or a fine not exceeding four hundred penalty units or both.

(As amended by S.I. No 185 of 1993 and Act No. 13 of 1994)

REPUBLIC OF ZAMBIA
THE LOCAL GOVERNMENT ELECTIONS REGULATIONS

FORM OF BALLOT PAPER
 (Regulations 2 and 34)

FRONT
 Series
 No.

Series
 No.

Official Mark: _____

Republic of Zambia
 Local Government
 Elections, 19.....
 Ward
 Council
 Number of voter in
 Register of Voters.....
 BACK

..... Ward
 Council

INSTRUCTIONS

Name of Candidate	Party	Symbol	Mark X in this column

REPUBLIC OF ZAMBIA
THE LOCAL GOVERNMENT ELECTIONS REGULATIONS

CERTIFICATE OF AUTHORITY TO VOTE AT A POLLING STATION FOR PERSONS EMPLOYED
ON ELECTION DUTIES

(Regulation 43)

To: Presiding Officer.....Polling
Station.....Ward.....
.....Council

In accordance with regulation 43 authority is hereby given for the person specified below to cast his vote at the above polling station:

- (i) Full name of voter as shown in Register of Voters.....
- (ii) Election duties.....
- (iii) Name of polling district in which registered.....
- (iv) Number of voter in Register of Voters.....
- (v) National Registration Number of Voter.....

Date....., 19.....
.....
Returning Officer

INSTRUCTIONS

1. This certificate may only be issued to a person who is unable to vote at the polling station appointed for the polling district within the ward in which he is registered due to the fact that he is employed in an official capacity on election duties at some other polling station within the same ward.
2. In addition to this certificate the Voter's Registration Card (Form RV2) and National Registration Card must be produced to the presiding Officer when application is made for a ballot paper.
3. On the issue of a ballot paper to the voter this certificate must be surrendered to the presiding officer who must attach it to his marked copy of the Register of Voters.

I hereby certify that this is a correct statement of all ballot papers supplied to me.

Date....., 19.....
.....
Signature of Presiding Officer

In every case the total in Column 5 must equal the total in column 1. If these totals do not agree it is the responsibility of the Presiding Officer to trace and correct the error before signing this form.

REPUBLIC OF ZAMBIA

THE LOCAL GOVERNMENT ELECTIONS REGULATIONS

BALLOT PAPER ACCOUNT

(Regulations 2 and 4)

Polling Station.....Ward.....
 Council.....Date of Poll....., 19.....

To be completed by Returning Officer on issue of ballot papers		To be completed by Presiding Officer at close of the Poll			
Ballot papers supplied	Total number supplied	Number used excluding spoilt ballot papers	Number of spoilt ballot papers	Number of unused ballot papers	Total of Columns 2-4 (This must equal Column 1)
	(1)	(2)	(3)	(4)	(5)
Ballot paper numbered-					
(a)to.....inc.
(b)to.....inc.
(c)to.....inc.
(d)to.....inc.
(e)to.....inc.
(f)to.....inc.
(g)to.....inc.
(h)to.....inc.
(i)to.....inc.
(j)to.....inc.
(k)to.....inc.
(l)to.....inc.
(m)to.....inc.
(n)to.....inc.
(o)to.....inc.
(p)to.....inc.
(q)to.....inc.
(r)to.....inc.
(s)to.....inc.
(t)to.....inc.
TOTALS

The Laws of Zambia

INSTRUCTIONS

1. This certificate may only be issued to a voter whose name and National Registration Number as shown on his National Registration Card agree with the details shown in the register of voters for the polling district in which he claims he was registered.
2. This certificate may not be issued later than four days before the date appointed for the taking of the Poll in a Local Government Elections.
3. In addition to this certificate the National Registration Card must be produced to the presiding officer when application is made for a ballot paper.
4. On the issue of a ballot paper to the voter this certificate must be surrendered to the presiding officer.

REPUBLIC OF ZAMBIA

THE LOCAL GOVERNMENT ELECTIONS REGULATIONS

STATEMENT OF REJECTED BALLOT PAPERS

(Regulation 51)

..... Ward Council

Date of Poll....., 19.....

- 1. No official mark
- 2. Votes shown for more than one candidate
- 3. Voter identified by mark
- 4. Unmarked or invalid due to uncertainty

Reason for rejection by Returning Officer	
1. No official mark
2. Votes shown for more than one candidate.....
3. Voter identified by mark.....
4. Unmarked or invalid due to uncertainty.....

I hereby certify that this is a correct statement of the ballot papers rejected as invalid by me.

Date....., 19.....
Signature of Returning Officer

INSTRUCTIONS

- 1. To be completed by the Returning Officer at the conclusion of the count and before announcing the result.
- 2. The rejected ballot papers must be placed together in a marked envelope which must be sealed by the Returning Officer.

REPUBLIC OF ZAMBIA
THE LOCAL GOVERNMENT ELECTIONS REGULATIONS
(Regulation 54)

DECLARATION OF THE RESULT OF THE POLL

I, (full name of Returning Officer).....
being the Returning officer for the..... Ward, do hereby
declare that I have, in accordance with the law, ascertained the result of the Poll in the said Ward and that there have been
given to:

- (1) Votes
- (2) Votes
- (3) Votes
- (4) Votes
- (5) Votes

and I therefore declare the saidto be this
day duly elected as a member of the.....Council
for the.....Ward.

I further declare that a total of.....ballot papers have been
rejected by me as invalid.

Date Signed.....

Full name in BLOCK CAPITALS.....

INSTRUCTIONS

1. This form must be completed in triplicate by the Returning Officer and to declare the result of the Poll the text of the original must be read out aloud in public at the place where the counting of the votes takes place.
2. The full names of the candidates should be inserted in the spaces marked (1), (2), (3) and (4), the successful candidate's name being inserted at (1).
3. The original of this form must be delivered to the Local Government Electoral Commission, with a copy to the principal officer of the council to which the candidate has been elected, by the quickest possible means. A further copy must be retained by the Returning Officer.

(As amended by S.I. no 185 of 1993)

REPUBLIC OF ZAMBIA
 THE LOCAL GOVERNMENT ELECTIONS REGULATIONS
 (Regulation 58)
 REPORT ON VERIFICATION OF BALLOT PAPER ACCOUNTS

To: Director of Elections
 P.O. Box 50274
 Lusaka

I, the undersigned, being the Returning Officer for the.....
 Ward.....Council, hereby report that I have in
 accordance with Regulation 58 of the above Regulations, verified the ballot paper accounts received from the Presiding
 Officer of every Polling Station in the Ward by comparing them with the number of ballot papers contained in each ballot
 box and the total number of unused and spoilt ballot papers delivered to me by such Presiding Officer.

The result of such verification is as follows:

1. Total number of ballot papers issued by me to Presiding
 Officers.....

Details obtained from Ballot Paper Accounts	Details obtained from physical check by Returning Officer
2. Number used excluding spoilt ballot..... 3. Number of spoilt 4. Number of unused ballot papers	5. Total number of ballot papers contained in all boxes 6. Total number of spoilt ballot papers papers on hand 7. Total number of unused ballot papers returned by Presiding Officers
TOTAL	TOTAL

Date.....

.....
Signature of Returning Officer

INSTRUCTIONS

1. This verification of the ballot paper account shall take place at a time and place notified by the Returning Officer to the candidates and in the presence of such candidates and elections agents as may wish to attend.
2. The totals to be entered at 1, 2, 3, and 4 above are obtained by adding the totals of all columns 1, 2, 3, and 4 respectively shown on the ballot paper accounts submitted by the Presiding Officer.
3. The totals to be entered at 6 and 7 above are those obtained by the Returning Officer at the verification of ballot paper accounts.
4. Explanation of any discrepancies must be made by the Returning Officer on the back of this form.

(As amended by S.I. no 185 of 1993)

REPUBLIC OF ZAMBIA

THE LOCAL GOVERNMENT ELECTIONS REGULATIONS

(Regulation 31)

CERTIFICATE OF AUTHORITY TO VOTE AT POLLING STATION

To: Presiding Officer.....Polling Station.....
.....Ward

The person specified below has applied under regulation 30 (1) for a certificate of registration as a voter and I am satisfied that such person is registered as a voter in accordance with the details shown.

VOTER'S ROLL NO.

POLLING DISTRICT

SURNAME

--	--	--	--	--	--	--	--	--	--	--	--	--

OTHER NAME(s) (First name in full other names initials only)

--	--	--	--	--	--	--	--	--	--	--	--	--

RESIDENTIAL ADDRESS (Not. P.O. Box No.)

--	--	--	--	--	--	--	--	--	--	--	--	--

NATIONAL REGISTRATION NUMBER

--	--	--	--	--	--	--	--	--	--	--	--	--

Date....., 19.....

.....
Electoral Officer

Made by the Local Government Electoral Commission at Lusaka this 31st day of July, 1992.

HON. E. J. SHAMWAMA, SC,
Chairman

P. M. NYAMBE (MS),
Member

M. SIKATANA,
Member

SECTION 21 AND 23-THE LOCAL GOVERNMENT ELECTORAL
PETITION RULES

Statutory Instrument
184 of 1993
Act No.
13 of 1994

Rules by the Acting Chief Justice

1. These Rules may be cited as the Local Government Electoral Petition Rules. Title
2. An election petition shall be in the form set in the First Schedule. Form of petition
3. (1) The petition shall be in paragraphs confined to a particular subject matter. Petition to be in paragraphs
- (2) Each paragraph shall be numbered consecutively.
4. The petition shall- Contents of petition
 - (a) state the person presenting the petition as prescribed in section *nineteen* of the Act;
 - (b) state the result of the election;
 - (c) state the facts and ground relied on to sustain the prayer; and
 - (d) conclude with a prayer that-
 - (i) the election should be declared void; or
 - (ii) the specified person should be declared duly elected.
5. (1) No evidence shall be stated in the petition. Evidence
- (2) The court may order-
 - (a) such particulars as may be necessary to prevent surprise and unnecessary expense and to ensure a fair trial in the same manner as in ordinary proceedings before a Court; and
 - (b) costs.

6. (1) The petitioner shall serve or cause to be served a copy of the petition on the respondent. Service of petition

(2) The service under sub-rule (1) shall be by personal service.

(3) The Registrar may with or without application make an order to substitute the service under sub-rule (1) with service by registered letter, addressed to the respondent at the postal address declared in his nomination paper, or by publication in a newspaper circulating in Zambia.

7. (1) The petitioner shall, when presenting, the petition give to the Registrar an address within the city of Lusaka at which notices and other proceedings addressed to him may be lodged. Addresses

(2) If the address in sub-rule (1) is not given, the notice may be given by posting the notice on the notice board in the High Court Registry.

(3) The notice referred to in-rule (1) shall be given not later than seven days after service of the petition.

8. (1) The Registrar shall, as soon as practicable, after receiving a petition place, the petition before a Judge. Security for costs

(2) The Judge shall determine the amount of security for costs to be paid by the petitioner.

(3) The costs referred to in sub-rule (2) shall not be less than one thousand kwacha, as specified in sub-section (2) of section *twenty-three* of the Act.

(4) The Judge shall direct whether such security for costs shall be made in cash or by recognizance with or without sureties or shared by the parties.

(5) To make his directive under sub-rule (4) the Judge may hear the petition in chambers.

(6) The Registrar shall notify the petitioner-

(a) on the amount of the costs determined by the Judge; and

(b) on the manner in which the costs shall be paid.

(7) The petitioner shall pay the costs not later than seven days of such notification.

(8) A person who acts as a recognizance, shall prepare an affidavit stating that he owns real or personal property to satisfy the debt amounting to the value of the sum for which he is bound by his recognizance.

(9) The affidavit shall be lodged with the Registrar.

9. (1) The time and place of hearing of an election petition shall be determined by a Judge. Time and place of hearing

(2) The Registrar shall give seven days notice to the petitioner and the respondent before the day appointed for the trial.

10. (1) A notice of intention to withdraw an election petition shall be lodged with the Registrar. Notice of intention to withdraw petition

(2) The notice shall-

(a) be in writing, signed by the petitioner, or by all the petitioners if they are more than one;

(b) state the name and address of the petitioner and respondent; and

(c) state the intention of the petitioner to apply to Court to withdraw the election petition.

(3) A copy of the notice to withdraw the petition shall be served on the respondent and another copy shall be published in a newspaper in circulation in Zambia.

11. (1) The notice of application to withdraw a petition shall be in writing and signed by the petitioner, or by all the petitioners if there are more than one. Notice of application to withdraw petition

(2) The notice shall state the grounds on which the application is intended to be supported.

The Laws of Zambia

12. A copy of the notice of application to withdraw the petition shall be served on the respondent and another copy published in a newspaper circulating in Zambia. Procedure on withdrawal of petition

13. (1) The notice of the date of hearing of an application to withdraw a petition shall be given to the petitioner and the respondent by the Registrar. Date of hearing

(2) The notice of the date of hearing of an application to withdraw a petition shall be published in at least one newspaper circulating in Zambia.

(3) The notice of the date of hearing of an application to withdraw a petition shall state that any person who has an interest in the hearing may apply to the Court to be substituted as the petitioner.

(4) An application by any person who has an interest referred to in sub-rule (3) shall be supported by an affidavit stating that the applicant is qualified to be a petitioner under section *nineteen* of the Act.

14. The court may make an order for costs as it may deem necessary. Costs

15. (1) A person served with a notice under rule (4) may pay the costs out of the deposit lodged with the Court not later than seven days from the date of such service whether or not he resists such application. Payment of costs

(2) Such notice shall be in writing, signed by the applicant, and addressed to the party by or on whose behalf such deposit was made, or for whom such surety gave a recognizance.

(3) The service of the notice in sub-rule (1) shall be in the same manner as the service in rule 6.

16. (1) The court may postpone the beginning of the trial of an election petition or an application to withdraw a petition. Postponement of trial

(2) In postponement date shall be published in a newspaper circulating in Zambia at least seven days before the new date of trial.

(3) A trial of an election petition may be adjourned from time to time.

The Laws of Zambia

17. The fees set out in the Second Schedule shall be paid in respect of the matters Prescribed fees set out therein.

FIRST SCHEDULE

(Rule 2)

ELECTION PETITION

ELECTION FOR (here state Ward) HELD ON THE DAY OF
The Petition of
whose names are subscribed.

1. Your petitioner is-

(insert which of the following is appropriate)

- (a) a person who lawfully voted;
- (b) a person who lawfully had a right to vote;
- (c) a person who had a right to be nominated as a candidate at the aforesaid election;
- (d) a person who has a right to be elected as a Councillor at the aforesaid election;
- (e) a person who was a candidate at the aforesaid election;
- (f) the Attorney-General.

2. And your petitioner/s state/s that the election was held on the day of
when and were
candidates and the returning officer has returned as being duly
elected.

3. And your petitioner/s say/s that (here state the facts and grounds on which the petitioner/s relies/rely/
WHEREOF your petitioner/s pray/s that it may be determined that the said
was not duly elected or returned and that the election was void (or that the said
was duly elected or ought to have been returned).

Signed.....
.....

SECOND SCHEDULE

(Rule 16)

PRESCRIBED FEES

The Laws of Zambia

	Fee units
On presenting a petition	50
On presenting an application to withdraw a petition	4
On application to be substituted as a petitioner	25
On entering a recognizance for security for costs	5

(As amended by Act No. 13 of 1994)