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INTRODUCTION

The legislative scheme for election organisation in Singapore has certain features which are of interest to election specialists. Its compulsory system of registration and voting is well known. It also has the feature of multi-representative constituencies designed to cater for minorities in such constituencies. The existence of committees, for example, the Malay Community Committee and the Indian and Other Minority Communities Committee, helps to give greater genuine minority representation in the electoral process.

There are two principal enactments, namely, the Presidential Elections Act 1991 and the Parliamentary Elections Act 1954, revised edition 1989. The latter (referred to herein as “the Act”) is the one presented within.

— *Section 1* —

ADMINISTRATION

The Minister may appoint a registration officer and a returning officer and such assistant registration officers as he may think fit from time to time.

An assistant registration officer has all the powers and may perform all the duties of the registration officer.

An appointment made by the Minister under the Parliamentary Elections Act (“the Act”) may be revoked by him at any time.

The registration officer and the returning officer may, from time to time, appoint such numbers of clerks and interpreters as may be necessary for the purposes of the Act and those appointments may be revoked at any time.¹

— *Section 2* —

ELECTORAL DIVISIONS

2.01 Boundaries of Electoral Divisions

The Minister may, from time to time, by notification in the Gazette, specify the names and boundaries of the electoral divisions of Singapore for the purposes of parliamentary elections.^{1A}

2.02 Group Representation Constituencies

For the purposes of electing members of Parliament on a group basis to ensure the representation in Parliament of members from the Malay, Indian and other minority communities under the Act, the President must, by order published in the Gazette –

- (a) declare any electoral division, having regard to the number of electors in that division, to be a group representation constituency; and designate that constituency as a constituency in which any election is to be held on the basis of a group of three candidates, or on the basis of a group of four candidates; and
- (b) designate every group representation constituency as –
 - (i) a constituency where at least one of the candidates in every group must be a person belonging to the Malay community; or
 - (ii) a constituency where at least one of the candidates in every group must be a person belonging to the Indian or other minority communities.

The number of members to be returned by all group representation constituencies must not be less than one-quarter or more than three-quarters of the total number of members to be returned at a general election.

The number of members to be returned by all group representation constituencies to be designated under paragraph (b) (i) above must be three-fifths of the total number of group representation constituencies; and where that number is not a whole number, it must be rounded to the next higher whole number.^{1B}

2.03 Polling Districts and Polling Stations

Whenever any electoral division of Singapore is altered or a new division is created the registration officer must –

- (a) subdivide that division into polling districts;
- (b) assign to each such polling district a distinguishing letter or letters; and
- (c) publish in the Gazette a notice in the prescribed form specifying –
 - (i) the polling districts into which the electoral division has been subdivided; and
 - (ii) the distinguishing letter or letters assigned to each such polling district.

The subdivision of an electoral division into polling districts may be altered by the registration officer as occasion may require; and upon any such alteration being made he must publish in the Gazette a notice specifying in relation to that electoral division the particulars mentioned in the foregoing provisions at (c). Any such alteration must come into effect on the date of the publication of the stipulated notice relating to the next certification of the register of electors for that electoral division, but the revision of the register before such certification must be made on the basis of that alteration.

The returning officer must provide as many polling stations for a polling district as are in his opinion sufficient for that polling district and may in his discretion provide as many polling places within each polling station as he considers necessary.²

— *Section 3* —

REGISTRATION OF ELECTORS

3.01 Qualification of Electors

Any person who on 1 July in any year –

- (a) is a citizen of Singapore;
- (b) is ordinarily resident in Singapore; and
- (c) is not less than 21 years of age,

is entitled to have his name entered or retained in a register of electors in that year.

For the purposes of the preparation or revision of any register of electors after 12 November 1954, a person who is a citizen of Singapore and to whom an identity card has been issued or deemed to have been issued on or before 1 July in any year under the provisions of the National Registration Act and has not been withdrawn must, until the contrary is shown, be presumed –

- (a) to be ordinarily resident in Singapore on 1 July in that year;
- (b) to be not less than 21 years of age on 1 July in that year, if from the particulars recorded in the register maintained by the Commissioner of National Registration he appears to be not less than that age on that date; and
- (c) to reside in the electoral division in which is situated the latest address shown in the register maintained by the Commissioner of National Registration.

The registration officer may, in preparing or revising any register of electors, omit therefrom the name of any person where he has reason to believe that the latest address of the person shown in the register maintained by the Commissioner of National Registration has ceased to exist or to be used as a place of residence.³

3.02 Disqualification of Electors

No person is entitled to have his name entered or retained in any register of electors if he –

- (a) has taken any oath or made any declaration or acknowledgement of allegiance, obedience or adherence to any foreign power or state or does, engages in or adopts any act done with the intention that he shall become a subject or citizen of any foreign power or state or is the holder of a passport issued by any foreign power or state;
- (b) is serving a sentence of imprisonment (by whatever name called) imposed by any court in Singapore or in Malaysia or any other part of the Commonwealth, for an offence punishable with imprisonment for a term exceeding 12 months, or is under sentence of death imposed by any such court or is serving a sentence of imprisonment awarded in lieu of execution of any such sentence: provided that where the conviction is by a court of law in Malaysia or any other part of the Commonwealth, the person must not be so disqualified unless the offence is also one which, had it been committed in Singapore, would have been punishable by a court of law in Singapore;

-
- (c) is under any written law found or declared to be of unsound mind;
 - (d) is incapable of being registered by reason of his conviction of a corrupt or illegal practice under the Act or by reason of the report of an Election Judge in accordance with the provisions of the Act;
 - (e) is a serving member on full pay of any naval, military or air force not maintained out of monies provided by Parliament unless he possesses a domicile in Singapore;
 - (f) is a person whose name is entered on a register of electors in any other country or territory; or
 - (g) is a person whose name has been expunged from the register and whose name has not been restored to the register.⁴

3.03 Registration Process

The registration officer, with such assistance as he may require from the Commissioner of National Registration, must prepare for that year a separate register of electors for each electoral division and must enter in the register the names of all persons who are qualified as electors and are not disqualified by any of the provisions of the Act: provided that the Minister may, before a general election require the registration officer to bring up to date any register prepared in such a manner and by reference to such year as the Minister may direct.

For the purpose of satisfying himself as to the qualification of any elector, the registration officer may make such enquiry as he may consider necessary.

On completion of the register for any electoral division, the registration officer must give notice in the Gazette that the register is completed and that the register or a copy thereof is open for inspection at all reasonable hours in the office of the registration officer and at such other place or places in the division as may be specified in the notice.⁵

3.04 Claims and Objections

Any person who considers that he is entitled to have his name entered in a register of electors and whose name has been omitted from the register (referred to as the claimant) may apply to the registration officer to have his name entered therein.

Every claim must be in writing and must be in the prescribed form and must reach the registration officer within two weeks from the date of publication in the Gazette of the notice of completion of the register.

Within 21 days from the expiry of the period of two weeks the registration officer must exhibit notices containing the names and addresses of the claimants (if any) at the place or places within the electoral division in which those claimants reside specified in the stipulated notice.

Any person whose name appears in the register for any electoral division may object to the inclusion in the register of his own name or the name of any other person appearing therein or may object to the insertion in the register of the name of any claimant.

Every objection to the inclusion of any name in the register must be made in writing in duplicate and must be in the prescribed form and must reach the registration officer within two weeks from the date of publication in the Gazette of the notice of completion of the register.

Every objection to the insertion of the name of any claimant in the register must be made in writing in duplicate in the prescribed form and must reach the registration officer within six days from the date on which the notice containing the names of claimants is exhibited.

One copy of each objection must bear a stamp of one dollar.

The registration officer must, as soon as practicable after receiving an objection to the inclusion or insertion of any name in any register, send a notice of the objection to the person in regard to whom objection has been made.

The registration officer must as soon as practicable hold a public enquiry into all claims and objections which have been duly made, giving, not less than six clear days' written notice of the date on which and the time and place at which the inquiry will commence to each claimant, objector and person in regard to whom objection has been made. At any such public enquiry, any person appearing to the registration officer to be interested in or affected by the subject matter of the inquiry may appear and be heard either by himself or by any other person duly authorised by him in writing in that behalf: provided that the registration officer may without any public inquiry, allow any claim in respect of which no objection has been made if he is otherwise satisfied that the claim should be allowed and must insert the claimant's name in the register.

Where an objection is made to the inclusion or insertion of any name in the register, the registration officer must call upon the objector, or some other person authorised in writing in that behalf by the objector, to give prima facie proof of the ground of the objection.

If such prima facie proof is given the registration officer must require proof of the entitlement of the person in regard to whom objection has been made and:

- (i) if the person's entitlement is not proved to the registration officer's satisfaction, he must refuse to insert the claimant's name in the register;
- (ii) if the claimant's entitlement is so proved, he must insert the claimant's name in the register.

If an objection is made and is overruled by the registration officer and, in his opinion, the objection was made without reasonable cause, the registration officer may if he thinks fit order in writing the objector to pay to the person in regard to whom objection has been made such sum not exceeding \$50 as the registration officer considers reasonable compensation for any loss of time incurred by the person in consequence of the objection.

If upon an objection being overruled, the objector appeals to the revising officer and the appeal is dismissed, and in the opinion of the revising officer the appeal was made without reasonable cause, the revising officer may, if he thinks fit, order in writing the objector to

pay to the person in regard to whom objection has been made such sum not exceeding \$50 as the revising officer considers reasonable compensation for any loss of time incurred by the person in consequence of the appeal. If any such appeal is allowed by the revising officer, he must have power to revise or cancel any order made by the registration officer for the payment of compensation by the objector.

Any sum awarded as compensation is recoverable as though the order of the registration officer or revising officer were an order of a District Court for the recovery of money by that officer.

If an objection is made and is upheld by the registration officer and no appeal is made, or in the event of an appeal, if the appeal is dismissed by the revising officer, the sum of one dollar paid must be refunded to the objector.⁶

3.05 Appeals to Revising Officer

For the purpose of having appeals against any decision of the registration officer, the Minister may appoint such revising officers as he may from time to time think fit.

If any claimant, objector or person in regard to whom objection has been made is dissatisfied with the decision of the registration officer, he may, within ten days from the date of the decision, appeal to the revising officer.

Every appeal must be in writing, and state shortly the ground of appeal and bear a stamp of \$5.

The revising officer must hear such appeals in public giving notice of the dates of the hearing of the appeal to the parties concerned. He may hear any evidence. His determination of the appeal is final and conclusive and cannot be called in question in any court.

When the revising officer has determined the appeals which have been lodged with respect to any register, he must forward to the registration officer a statement under his hand containing the names which he has decided are to be included or inserted in the register and those which he has decided must be expunged from the register, and the registration officer must amend the register accordingly.

If an appeal is allowed, the sum of \$5 paid must be refunded to the appellant.⁷

3.06 Certification of Registers

The registration officer must, as soon as convenient may be after the claims and objections have been adjudicated upon, certify the register of electors for each electoral division: provided that the registration officer may certify any register during the pendency of appeal and must thereafter insert in or expunge from the certified register the name of any person in accordance with the decision of the revising officer on the determination of the appeal.

Nothing in the Act is to be construed as prohibiting the registration officer, within seven days after certifying any register, from correcting any clerical or other error therein: provided

that the correction does not affect the entitlement of any person to have his name included or retained therein.

The registration officer must, from time to time, on being informed by the Registrar of Citizens that any person has ceased to be a citizen of Singapore under the provisions of the Constitution, expunge the name of the person from any register of electors.

The registration officer may –

- (a) before certifying any register of electors, transfer the name of any person who is no longer resident at the address shown in the register to the appropriate register, where that person has notified the Commissioner of National Registration in writing of his change of address on or before the last day for inspection of the register of electors specified in the notice given by the registration officer; and
- (b) at any time after certifying any register of electors for any electoral division, except between the issue of a writ of election and polling day appointed for election in that division, remove from the register the name of any person where the registration officer has reason to believe that the address of that person as shown in the register has ceased to exist or to be used as a place of residence: provided that where the person whose name has been removed has notified the Commissioner of National Registration in writing of his change of address at the time of the removal of his name the registration officer must transfer the name of that person to the appropriate register.

The registration officer must not remove or transfer any name under (b) above unless at least two weeks before making the removal or transfer a notice has been given in the Gazette that he proposes to make the removal or transfer and that a list of the names of persons affected is available for inspection at such time and place or places as may be specified in the notice; and a notice for the purpose of this provision may contain such particulars as the registration officer thinks sufficient and appropriate without specifying the names of persons who will be affected by the proposed removal or transfer.

The registration officer must have power where any name from any register has been removed by him at any time after certifying any register –

- (a) to restore the name to the register if the removal has been made by mistake or through inadvertence; or
- (b) to enter the name in the appropriate register on the application of the person whose name has been removed and has not been transferred to the appropriate register at the time of the removal,

provided that where a writ of election has been issued for an election in any electoral division the registration officer must not enter any name in the register of that division until after nomination day or, if a poll is to be taken, until after polling day.⁸

3.07 Revision of Registers

The Minister may from time to time, but in any case not later than three years after the last general election, require the registration officer to revise the registers of electors

and complete the revision before such date as the Minister may, by notification in the Gazette, appoint.

For the purpose of revising a register and of satisfying himself as to the entitlement of any person to registration or determining whether the name of any person should be inserted or retained in the register or expunged therefrom, the registration officer may make such inquiry as he may consider necessary either by himself or through a person appointed by him. Any notice requiring information under this provision may be sent by ordinary letter post to the person from whom the information is required or may be delivered to him or to an adult member of his household.

All officers in the service of the Government (other than officers of any government department who are prohibited by law from furnishing information) and all local authorities are hereby authorised and required to furnish to the registration officer or any person appointed by the registration officer for the purpose all such information as he may require to enable him to revise the register.

Every person who, being in possession of any information required, fails to give such information to the registration officer or any person appointed by the registration officer for the purpose, or wilfully gives any false information, is guilty of an offence and is liable on conviction to a fine not exceeding \$100.

If any person being a registered elector fails to give such information with regard to his entitlement to registration to the registration officer or to any person appointed by the registration officer for the purpose within 14 days after the service upon him by the registration officer of a notice, his name must forthwith be expunged from the register by the registration officer and he is not entitled to have his name retained or inserted in the register for the ensuing year.

Every person who is appointed by the registration officer and who wilfully suppresses any information relating to the entitlement of any person for registration or relevant for determining whether the name of any person should or should not be retained or inserted in a register, after such information has been furnished to or collected by him, is guilty of an offence and is liable on conviction to a fine not exceeding \$200.

In revising a register of electors, the registration officer must enter the names of all persons who are qualified as electors and are not disqualified by any provisions of the Act.

Upon the completion of the revised register of electors, the registration officer must give notice in the Gazette that the register of electors has been completed and that the register, or copy thereof, is open for inspection at all reasonable hours of the day at the office of the registration officer and at such place or places as may be specified in the notice.

Claims and objections are allowed in a similar manner as with respect to the preparation of the register.

The certification of a revised register of electors applies in a similar manner as it does to the certification of a register of electors.

In preparing or revising a register of electors, the registration officer may in his discretion enter the name of any person in the register of electors for such division as he considers appropriate if that person is residing in a building which is located on a common boundary between two or more electoral divisions.

This decision of the registration officer is final and conclusive and must not be called in question in any court.

On the certification of a register under the Act, the registration officer must give notice in the Gazette that the register has been certified and that the register, or a copy thereof, is open for inspection at all reasonable hours of the day at the office of the registration officer and at such place or places in the division to which the register relates as may be specified in the notice.

The certified register must –

- (a) in the case of a register, come into operation at the next general election and not earlier; and
 - (b) in the case of a revised register, come into operation on the date of publication of the notice of the certification of the register in the Gazette,
- and subject to such alterations as may subsequently be made therein, the register must continue in operation until superseded by the coming into operation of the next certified register.⁹

— Section 4 —

WRIT OF ELECTION

4.01 Issue of the Writ

For the purposes of every general election of Members of Parliament and for the purposes of the election of Members to supply vacancies caused by death, resignation or otherwise, the President is required to issue writs under the public seal, addressed to the returning officer.

Every such writ must be in the prescribed form and must specify the date or dates (referred to as the day of nomination) not being less than five days nor more than one month after the date of the writ and the place or places of nomination.

In respect of any group representation constituency, no writ must be issued for an election to fill any vacancy unless all the members for that constituency have vacated their seats in Parliament.

Upon receipt of the writ, the returning officer must proceed to hold the election.¹⁰

4.02 Notice of Time and Place of Election

On the President issuing a writ, the returning officer must give notice of the issue of the writ and of the day, time and place of the nomination of candidates by causing a notice in the prescribed form to be published in the Gazette at least four clear days before the day fixed for nomination.¹¹

4.03 Power to Issue Second Writ

If at any time after the President has issued a writ for the holding of a general election or an election to fill a vacancy in the seat of a member, it is shown to his satisfaction that in any electoral division owing to any cause whatsoever no election has been held in pursuance of the writ he may at any time issue another writ for the holding of an election in that division.¹²

— Section 5 —

NOMINATION OF CANDIDATES

5.01 Nomination Papers

Any person eligible for election as a Member of Parliament in accordance with the provisions of the Constitution may be nominated as a candidate for election.

Each candidate is nominated by means of a nomination paper. The nomination paper must be signed by two persons as proposer and seconder respectively and by not less than four other persons all of whose names must appear in the register of electors for the electoral division for which the candidate seeks election. The written consent of the candidate must be endorsed on the nomination paper which must be in the prescribed form.

Every candidate must at the time of his nomination deliver to the returning officer a statutory declaration of his qualifications made and subscribed by the candidate in the prescribed form. If the statutory declaration is not so delivered, the nomination of the candidate is deemed to be void.

The returning officer may, at any time between the date of the notice of the writ and 12 noon of the day of nomination, supply a form of nomination paper and statutory declaration to any registered elector requiring them.¹³

5.02 Election of Members on a Group Basis

In every general election of Members of Parliament and the election of Members to supply vacancies caused by death, resignation or otherwise, the Members for any group representation constituency must be elected in accordance with the Act.

All elections in any group representation constituency must be held on a basis of a group of three or four candidates as designated for that constituency by the President.

Any group that desires to contest in any election in any group representation constituency must consist of three or four candidates as designated for that constituency by the President, all of whom must either be members of the same political party standing for such election for that political party or be independent candidates standing as a group.

Where any group representation constituency is –

- (a) a constituency designated to ensure the representation in Parliament of Members from the Malay, Indian and other minority communities –
 - (i) at least one of the three candidates in every group must be a person belonging to the Malay community; or
 - (ii) at least one of the three candidates in every group shall be a person belonging to the Indian or other minority communities;
- (b) a constituency designated where at least one of the candidates in every group must be a person belonging to the Indian or to the other minority communities, at least one of the candidates in every group must be a person belonging to the Indian or other minority communities.

At any time after the date of the notice of the writ and at least two clear days before the day of nomination, any person –

- (a) belonging to the Malay community who desires to contest as such a person in any election in any constituency designated a constituency where at least one of the candidates in every group must be a person belonging to the Malay community; or
- (b) belonging to the Indian or other minority communities who desires to contest as such a person in any election in any constituency designated a constituency where at least one of the candidates in every group must be a person belonging to the Indian or other minority communities,

must apply in the prescribed manner to the appropriate Committee for a certificate in the prescribed form which must certify whether the applicant is a person belonging to the Malay community or a person belonging to the Indian or other minority communities and must, if the appropriate Committee considers that he is a person belonging to the Malay community or a person belonging to the Indian or other minority communities, issue to him not later than the day before the day of nomination a certificate certifying that to be the fact, and any such certificate must, for the purposes of that Act, be conclusive as to the fact which it certifies.

The term “Committee” means the Malay Community Committee or Indian and Other Minority Communities Committee established under the Act.¹⁴

5.03 Nomination Papers for Elections in Group Representation Constituencies

Any person eligible for election as a Member of Parliament in accordance with the Constitution may be nominated as a candidate with two other candidates in a group for any election in any group representation constituency.

Each group must be nominated by means of a nomination paper. The nomination paper must be signed by two persons as proposer and seconder respectively and by not less than four

other persons all of whose names must appear in the register of electors for the group representation constituency in which the group seeks election. The written consent of every candidate in a group must be endorsed on the nomination paper which must be in the prescribed form.

Every candidate in a group must at the time of the nomination of the group deliver to the returning officer –

- (a) a statutory declaration of his qualifications and political party for which he stands (if any) made and subscribed by the candidate in the prescribed form; and
- (b) if he is a person belonging to –
 - (i) the Malay community and is nominated as such a person for election in any constituency; or
 - (ii) the Indian or other minority communities and is nominated as such a person for election in any constituency,a certificate issued to him, certifying that he is a person belonging to the Malay community or to the Indian or other minority communities, as the case may be.

If any statutory declaration or certificate which is required to be delivered by any candidate in a group is not so delivered, the nomination of that group is deemed to be void.

The returning officer may, at any time between the date of the notice of the writ and 12 noon of the day of nomination, supply a form of nomination paper and statutory declaration to any registered elector requiring the same.

Where the nomination paper of any group does not comply with the requirements, or where any candidate in a group withdraws his candidature, the nomination of that group is deemed to be void.¹⁵

5.04 Committee to Determine whether Respective Candidate is Malay or Other Racial Minority

The Act established –

- (a) a Malay Community Committee whose function is to determine whether a person desiring to be a candidate for any election in any designated constituency belongs to the Malay community; and
- (b) an Indian and Other Minority Communities Committee whose function is to determine whether a person desiring to be a candidate for any designated constituency belongs to the Indian or other minority communities.

The Malay Community Committee consists of a chairman and four other members, all of whom must be persons belonging to the Malay community and be appointed by the President on the nomination of the Presidential Council for Minority Rights established under the Constitution after consulting such organisations of the Malay community as the Council thinks fit.

The Indian and Other Minority Communities Committee consists of a chairman and four other members, who must be persons belonging to the Indian or other minority communities and must be appointed by the President on the nomination of the Presidential Council for Minority Rights established under the Constitution after consulting such organisations of the Indian and other minority communities as the Council thinks fit.

A decision of any such Committee requires a simple majority of the members present and voting, and the Committee may act notwithstanding the absence of any member, except that in the case of an equality of votes the chairman or member presiding has a casting vote in addition to his original vote.

Subject to these provisions, any such Committee may regulate its own procedure.

Any Committee established under these provisions must be guided by the merits of each case without regard to legal forms and technicalities, or to whether the evidence before it is in accordance with the law of evidence or not.

Any decision of any such Committee is final and conclusive and cannot be appealed against or called in question in any court.¹⁶

5.05 Deposits by Candidates

A candidate, or some person on his behalf, must deposit or cause to be deposited with the returning officer, or with some person authorised by the returning officer in that behalf, between the date of the issue of the writ and 12 noon of the day of nomination, a sum equal to eight per cent of the total allowances payable to a Member of Parliament in the preceding calendar year, rounded to the nearest \$500 and, in default of that deposit being so made, the candidate must be deemed to have withdrawn his candidature. The returning officer must forthwith give a receipt for that sum and must pay that sum into the Treasury and that sum must be dealt with in accordance with the provisions of the Act.

Any sum required to be deposited must be paid in legal tender or by a bank draft or a certified cheque.

If a candidate is not nominated as a candidate for election or if, after the deposit is made, the candidate withdraws his candidature, the deposit must be returned to the person by whom the deposit was made; and if the candidate dies after the deposit is made and before the poll is commenced, the deposit, if made by him, must be returned to his legal representative or, if not made by him, must be returned to the person by whom the deposit was made.

If a candidate who has made the required deposit is not elected and –

- (a) the number of votes polled by him does not exceed one-eighth of the total number of votes polled in the electoral division for which he contested; or
- (b) where he is a candidate for a group representation constituency, the number of votes polled in that constituency by the group to which he belongs does not exceed one-eighth of the total number of votes polled in that constituency,

the amount deposited must be forfeited and paid into the Consolidated Fund; but in any other case that amount must be returned to the candidate, where the candidate is elected, as soon as he has taken the oath or made affirmation as a Member, and where the candidate is not elected, as soon as practicable after the result of the election is declared.

Where a candidate is nominated at a general election in more than one electoral division, he must in no case recover his deposit more than once, and in that case the deposits must be forfeited and paid into the Consolidated Fund except, if the candidate or the group to which he belongs has for any electoral division obtained the required number of votes, such one deposit as the returning officer thinks fit, and the deposit must be returned to the candidate.

For the purposes of this section –

- (a) the number of votes polled is deemed to be the number of votes counted other than rejected votes;
- (b) “certified cheque” means a cheque which is certified by the drawee bank as good for payment of the sum stated in the cheque.

The returning officer must, on giving notice of the issue of the writ, specify in the notice the amount to be deposited.¹⁷

5.06 Proceedings on Nomination Day

The returning officer must, on the day of nomination, attend at the place of nomination from 11 a.m. until 12 noon to receive nomination papers, statutory declarations and certificates (if any).

Every nomination paper, certificate and statutory declaration must be delivered to the returning officer together with a true copy of each on the day and the place and between the hours aforesaid by the candidate, and if not so delivered, must be rejected.

The returning officer must forthwith cause a copy of the nomination paper to be posted in a conspicuous position outside the place of nomination.

The returning officer must permit the candidates and their proposers and seconders and one other person (if any) appointed by each candidate in writing to be present on the day and at the place of nomination between 11 a.m. and 12.30 p.m. and there and then to examine the nomination papers of candidates which have been received for that electoral division.¹⁸

5.07 Objections to Nomination Papers

Objection may be made to a nomination paper on all or any of the following grounds but on no other ground:

- (a) that the description of the candidate is insufficient to identify the candidate;
- (b) that the nomination paper does not comply with or was not delivered in accordance with the provisions of the Act;

- (c) that it is apparent from the contents of the nomination paper that the candidate is not capable of being elected a Member of Parliament;
- (d) that the relevant provisions (section 27A or 28) have not been observed.

No objection to a nomination paper can be allowed –

- (a) unless it is made to the returning officer between 11 a.m. and 12.30 p.m. on the day of nomination; or
- (b) on the ground that a group seeking election in any designated constituency does not consist of at least a person belonging to the Malay community or a person belonging to the Indian or other minority communities, if any candidate in that group has delivered to the returning officer a certificate issued to the candidate.

Every objection must be in writing signed by the objector and specify the ground of objection. The returning officer may himself lodge an objection on any of the grounds set out above.

The returning officer must with the least possible delay decide on the validity of every objection and inform the candidate concerned of his decision, and, if the objection is allowed, of the grounds of his decision. His decision, if disallowing the objection, is final and conclusive and must not be called in question in any court, but if allowing the objection, is subject to reversal on an election petition.¹⁹

5.08 Person Entitled to be Present at Nomination

No person other than the returning officer, the candidates and their respective proposers and seconders and one other person (if any) appointed in writing by each candidate is, except with the consent of and for the purpose of assisting the returning officer, entitled to be present at the proceedings.²⁰

5.09 Withdrawal of Candidature

A candidate may before 12 noon on the day of nomination, but not afterwards, withdraw his candidature by giving a notice to that effect signed by him to the returning officer.

The returning officer must forthwith cause notice of the withdrawal to be posted in a conspicuous position outside the place of nomination.²¹

5.10 Uncontested Elections

If, on the day of nomination, in any electoral division, after the decision by the returning officer on any objection which may have been lodged, only one candidate or a group of candidates stands nominated for that division, the returning officer must forthwith declare the nominated candidate or the group of candidates to be elected and must forthwith cause the name or names of the member or members so elected to be published in the Gazette.²²

— *Section 6* —

CONTESTED ELECTIONS

6.01 Candidate's Symbol

If, on the day of nomination in any electoral division, after the decision by the returning officer of any objections which may have been lodged, more candidates stand nominated for that division than one, the returning officer must forthwith adjourn the election to enable a poll to be taken in accordance with the provisions of the Act, and must allot to each candidate an approved symbol which must be printed on the ballot paper opposite that candidate's name: provided that the returning officer may in his discretion allot to any candidate some other symbol selected by the candidate or by the political association to which he belongs.

Subject to the foregoing provisions, the determination of the approved symbol to be allotted to each candidate must be made by lot by the returning officer: provided that no candidate must be allotted any symbol which is of any racial or religious significance.

In the event of any dispute arising regarding the allocation of any symbol under these provisions, the decision of the returning officer is final and must not be questioned.

The returning officer must cause to be published in the Gazette a notice in the prescribed form specifying –

- (a) the electoral division in which the election is contested;
- (b) the date on which the poll will be taken, the date being not less than nine days or more than eight weeks after the date of publication of the notice in the Gazette;
- (c) the names of the candidates in the order in which they will be printed on the ballot paper, the symbol allotted to each candidate, and the names of their proposers and seconders; and
- (d) the situation of the polling stations for that electoral division and the particular polling stations (if any) reserved for female voters.

In computing time for the purposes of (b) above, the last day of the period must not be excluded only by reason of the fact that it is a Sunday or that it is a public holiday under the provisions of the Act or any other written law.

If, after an election has been reported as contested, one of the candidates nominated dies before the poll has commenced, the returning officer must, upon being satisfied of the fact of the death, countermand the notice of the poll, and must appoint by notice published in the Gazette a fresh date for the election. In such case all proceedings with reference to the election must be commenced afresh: provided that no fresh nomination is necessary in the case of a candidate who stood nominated at the time of the countermand of the poll.²³

6.02 Contested Elections in Group Representation Constituencies

If, on the day of nomination, in any group representation constituency, after the decision by the returning officer on any objection which may have been lodged, more groups than one

stand nominated for that constituency, the returning officer must forthwith adjourn the election to enable a poll to be taken in accordance with the provisions of the Act, and must allot to each group of candidates an approved symbol which must be printed on the ballot paper opposite the names of each group: provided that the returning officer may in his discretion allot to any group of candidates some other symbol selected by the group or the political party to which it belongs.

Subject to these provisions, the determination of the approved symbol to be allotted to each group of candidates must be made by lot by the returning officer: provided that no group of candidates must be allotted any symbol which is of any racial or religious significance.

In the event of any dispute arising regarding the allocation of any symbol, the decision of the returning officer is final and cannot be questioned.

The returning officer must cause to be published in the Gazette a notice in the prescribed form specifying –

- (a) the group representation constituency in which the election is contested;
- (b) the date on which the poll will be taken, the date being not less than nine days or more than eight weeks after the date of publication of the notice in the Gazette;
- (c) the names of the candidates in each group in the order in which they will be printed on the ballot paper, the symbol allotted to each group of candidates, and the names of their proposers and seconders; and
- (d) the situation of the polling stations for that group representation constituency and the particular polling stations, if any, reserved for female voters.

In computing time for the purposes of (b) above, the last day of the period must not be excluded only by reason of the fact that it is a Sunday or that it is a public holiday under the provisions of the Act or of any other written law.

If, after the election in a group representation constituency has been reported as contested, one of the candidates nominated for that constituency dies before the poll has commenced, the returning officer must, upon being satisfied of the fact of the death, countermand the notice for the poll, and must appoint, by notice published in the Gazette, a fresh date for the election in that constituency. In such case all proceedings with reference to the election must be commenced afresh: provided that no fresh nomination must be necessary in the case of any group which stood nominated at the time of the countermand of the poll.²⁴

6.03 Polling Day at General Election to be Public Holiday

Polling day at any general election must be a public holiday as though it had been so expressly appointed in addition to the days mentioned in any written law for the time being in force relating to holidays.²⁵

6.04 Presiding Officers

The returning officer must appoint, and may revoke the appointment of, one or more persons

(referred to as presiding officers) to preside at each polling station. If more than one presiding officer is appointed for any polling station, the returning officer may appoint one of the presiding officers to be the senior presiding officer who must exercise general supervision over the other presiding officers, and over all arrangements for the conduct of the poll in that station. Each presiding officer must be supplied with a copy of that part of the register of electors containing the names of electors in the register assigned to his polling place.

If any presiding officer is, by sickness or other cause, prevented from acting at any election and there is not time for another person to be appointed by the returning officer, the presiding officer may appoint a deputy to act for him. Every such appointment must as soon as possible be reported to the returning officer and may be revoked by the returning officer, but without prejudice to the validity of anything already done by the deputy.

The returning officer may, if he thinks fit, preside at any polling station, and the provisions of the Act relating to a presiding officer apply to the returning officer.²⁶

6.05 Facilities to be Provided at Polling Stations

Outside each polling station there must be affixed in a conspicuous place by the presiding officer before the commencement of the poll a notice showing the name of each candidate in English, Malay, Chinese and Tamil, and the symbol allotted to him. The names must be arranged alphabetically in English in the order of their surnames, and if there are two or more candidates with the same surname, of their other names.

Outside each polling station in any group representation constituency, there must be affixed in a conspicuous place by the presiding officer before the commencement of the poll a notice showing the names of the candidates in each group in English, Malay, Chinese and Tamil, and the symbol allotted to each group. The names of the candidates in each group must be arranged alphabetically in English in the order of their surnames, and if there are two or more candidates with the same surname, of their other names. The groups of candidates must be arranged alphabetically in English in the order of surnames of the first candidates in each group and if there are two or more such candidates with the same surname, of their other names.

The returning officer must provide at each polling station reasonable facilities for the electors allotted to that station to enable them to mark their votes screened from observation and to vote in accordance with the provisions of the Act, and he must determine, or may authorise the presiding officer or senior presiding officer to determine, in what manner those facilities must be distributed among all electors entitled to vote at that station.²⁷

6.06 Registers of Electors to be Conclusive Evidence of Right to Vote

The register of electors in operation in accordance with the Act at the time of any election of a Member to represent the electoral division to which the register relates must be conclusive evidence for the purposes of determining whether a person is or is not entitled to vote at the election, and the right and duty of voting of any person whose name is for the time being

contained in the register must not be prejudiced by any appeal pending before a revising officer in respect of the inclusion of that person's name in the register, and any vote given by that person during the pendency of that appeal must be as good as though no such appeal were pending and must not be affected by the subsequent decision of the appeal.

No person who, by reason of circumstances existing on the day of the election, is not entitled to have his name entered or retained in any register of electors shall be entitled to vote at the election and if that person votes at the election he is guilty of an offence and shall be liable on conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding six months.²⁸

6.07 Admittance to Polling Station

No person must be admitted to vote at any polling station except the one allotted to him: provided that where an elector for any electoral division is employed as a presiding officer, police officer, or in any other official capacity at a polling station within that division, and it is inconvenient for him to vote at the polling station in the division which has been allotted to him, the returning officer may authorise the elector, by a certificate under his hand, to vote at any other polling station in the division, and that polling station must, for the purposes of these provisions, be deemed to be the polling station allotted to that elector.

Such certificate must be given under the hand of the returning officer and must state the name of the elector, his number, and description in the register of electors, and the fact that he is so employed as aforesaid.

Unless the returning officer, by notification in the Gazette, appoints any other hour, the poll in any electoral division opens at 8 a.m. on the day appointed and closes at 8 p.m. on that day.

The presiding officer must keep order in his station, and must regulate the number of voters to be admitted at a time, and must exclude all other persons except the candidates, the polling agent or agents of each candidate, the returning officer and persons authorised in writing by the returning officer, the police officers on duty and other persons officially employed at the polling station.

Not more than one polling agent of each candidate must be admitted to any polling station: provided that where, at any polling station, more polling places than one have been established, not more than one polling agent of each candidate must be admitted to each such polling place.

No polling agent whose name has not been notified to the presiding officer can be admitted to a polling station.

If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any police officer in or near that station or by any other person

authorised in writing by the presiding officer or by the returning officer to remove him; and the person so removed must not, unless with the permission of the presiding officer, again be allowed to enter the polling station. Any person so removed, if charged with the commission in that station of any offence, may be kept in custody until he can be brought before a magistrate.

The powers conferred by these provisions must not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at that station.²⁹

6.08 Poll by Ballot and Ballot Papers

In the case of a poll at an election, the votes must be given by ballot, and the ballot of each voter must consist of a paper (referred to as a ballot paper).

Every ballot paper must contain a list of the candidates in English, described as in their respective nomination papers, and arranged alphabetically in English in order of their surnames, and, if there are two or more candidates with the same surname, of their other names and the symbol allotted to each candidate.

Every ballot paper is required to be in the prescribed form and must be capable of being folded.

In respect of any group representation constituency, every ballot paper must contain a list of the candidates in each group in English, described as in their respective nomination papers and the symbol allotted to each group, and arranged alphabetically in English in the order specified. Every ballot paper must be in the prescribed form and must be capable of being folded.

Each ballot paper must have a number printed on the back and must have attached a counterfoil with the same number printed on the face.³⁰

6.09 Ballot Boxes

Every ballot box must be so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom unless the box is unlocked.

The presiding officer at a polling station immediately before the commencement of the poll must show each ballot box to be used at the commencement of the poll empty to such persons (if any) as may be present in the station so that they may see that it is empty, and must lock it up and place his seal upon it in such manner as to prevent it being opened without breaking the seal, and must place it in his view for the receipt of ballot papers and keep it so locked and sealed.

This provision applies to every ballot box used during a poll and it is a sufficient compliance with the provision if a ballot box, other than a ballot box used at the commencement of a poll, is shown, locked and sealed as aforesaid, before it is used.³¹

6.10 Manner of Voting

Each voter entitled to vote must be given one ballot paper and has one vote.

Each voter entitled to vote in any group representation constituency must have one vote and may vote for any one group of candidates in the manner prescribed by the Act.

The ballot paper must be delivered to the voter by the presiding officer or a person acting under his authority. Immediately before the ballot paper is delivered to the voter, the paper must be stamped on the back or perforated with the official mark or initialled by the presiding officer; and the number, name and description of the voter, as stated in the copy of the register of electors, must be called out, and the number of the elector must be marked on the counterfoil, and a mark must be placed in the register against the number of the elector to denote that he has received a ballot paper but without showing the particular ballot paper which he has received.

The voter, on receiving the ballot paper must forthwith proceed to such place in the station as may be indicated by the presiding officer or by any person acting under that officer's authority, and must there secretly mark the paper as near as may be in accordance with the directions given for the guidance of voters under the Act. The voter must then fold the paper so as to conceal his vote, and must put the paper so folded up into the ballot box. He must vote without undue delay and must leave the polling station as soon as he has put his ballot paper into the ballot box.

The presiding officer or any person authorised by him may ask any voter if the voter understands the method of voting in accordance with the Act and may, if he thinks fit, on the application of any voter, explain to the voter, in the presence of the polling agents of the candidates if present, the method of voting in accordance with the Act; but in so doing he must carefully abstain from any action which might be construed by the voter as advice or a direction to vote for any particular candidate or group of candidates.

The presiding officer, on the application of a voter who is incapacitated by blindness or other physical cause from voting in the manner prescribed by the Act, must mark the ballot paper of the voter in the manner directed by the voter, and must cause the ballot paper to be placed in the ballot box.

The presiding officer may at any time while a poll is proceeding take such steps as may be necessary to ensure that no voter delays unduly in any place reserved for marking of ballot papers.

During the taking of the poll, the presiding officer is required to exhibit outside his polling station a notice in English, Malay, Chinese and Tamil, substantially in the form prescribed, giving directions for the guidance of voters in voting.³²

6.11 Compulsory Voting

Every elector must record his vote at each election in the division for which he is registered.

The returning officer must, at the close of each election, prepare a list of the numbers, names and description as stated in the register of electors of such electors as have failed to vote at the election and certify the list under his hand.

Notwithstanding any other provisions of the Act, it is lawful for the returning officer to break the seals of packets containing the marked copies of the registers of electors and to inspect and retain those copies for the purpose of preparing the list referred to above and of any inquiries connected therewith.

The list prepared by the returning officer must be forwarded by the returning officer to the registration officer.

Notwithstanding any other provisions of the Act, the registration officer must on receipt of such list cause the names of all persons appearing in the list to be expunged from the register.

The registration officer must give notice in the Gazette that such list has been received by him from the returning officer and that that list or copies thereof are open for inspection at all reasonable hours of the day at the office of the registration officer and at such other place or places on each electoral division as may be specified in the notice.

Every person whose name appears on the list of which notice has been given by the registration officer may make a written application for the restoration of his name to the register of electors.

If any applicant satisfies the registration officer that he has a good and sufficient reason for not having recorded his vote, his name must be restored to the register without penalty. Where the application does not so satisfy the registration officer his name must be restored to the register on payment to the registration officer of the sum of \$5.

Any name to be restored to the register must, except where a writ of election has been issued, be restored the day after the registration officer has satisfied himself that the applicant has a good and sufficient reason for not recording his vote or the day after the payment of the sum of \$5 to the registration officer, as the case may be.

Where any person whose name is to be restored to the register has notified the Commissioner of National Registration of any change in his address and it appears from such change of address that he is no longer residing in the same electoral division, his name must be restored to the appropriate register of the electoral division in which he is residing.

Where a writ of election has been issued for an election in any electoral division, no name must be restored to the register of that division until after nomination day or, if a poll is to be taken, until after polling day.³³

6.12 Declarations by Voters

The presiding officer at any polling station may in his discretion require any voter, before he is given a ballot paper, to furnish such evidence of his identity as the presiding officer

may consider necessary and to make and subscribe all or any of the declarations prescribed for the purpose in the First Schedule. Every such declaration must be exempt from stamp duty.

If any person fails to furnish such evidence of his identity or refuses to make any such declaration, the presiding officer may refuse to give him a ballot paper.

If any person wilfully makes a false statement in any such declaration, he is guilty of an offence and is liable on conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding six months.³⁴

6.13 Spoilt Ballot Papers

A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in place of the ballot paper so delivered up (referred to as a spoilt ballot paper) and the spoilt ballot paper must be immediately cancelled by the presiding officer.³⁵

6.14 Tendered Votes

If a person representing himself to be a particular elector named in the register applies for a ballot paper after another person has voted as such elector, the applicant must on taking an oath of identity, which may be administered by the presiding officer and which must be in the prescribed form, be entitled to receive a ballot paper and to vote in the same manner as any other voter, but the ballot paper (referred to as a tendered ballot paper) must be of a colour different from the other ballot papers and, before placed in a ballot box, must be endorsed by the presiding officer with the name of the voter and his number in the register, and that number must be entered on a list (referred to as the tendered votes list).³⁶

6.15 Procedure on Closing of Poll

No ballot paper is to be delivered to a voter after the hour fixed for the closing of the poll. But if at that hour there is in the polling station any voter to whom a ballot paper has been delivered, the voter must be allowed to record his vote.

The presiding officer of each polling station, as soon as practicable after the close of the poll, must, in the presence of such of the candidates and their polling agents as attend, make up into separate packets, sealed with his own seal and the seals of the candidates or their agents if they desire to affix their seals –

- (a) the unused and spoilt ballot papers placed together;
- (b) the marked copies of the register of electors;
- (c) the counterfoils of the ballot papers; and
- (d) the tendered votes list.

The ballot box or boxes unopened must be secured by the presiding officer and sealed with his seal and with the seals of such of the candidates or their agents as attend and desire to affix their seals, in such a manner that the box or boxes cannot be opened and nothing can be inserted therein without breaking the seals.

The presiding officer must despatch each such packet and the ballot box or boxes in safe custody to the returning officer.³⁷

6.16 Counting Votes

Each candidate may appoint an agent (referred to as the counting agent) to attend the counting of the votes. Written notice of the name and address of the counting agent so appointed must be given by the candidate to the returning officer.

The returning officer must make arrangements for counting the votes, in the presence of such of the candidates and their counting agents as attend, as soon as practicable after he has received all the ballot boxes relating to the electoral division, and for that purpose must give notice in writing to each candidate, or, if the candidate has appointed a counting agent, to the counting agent, of the time and place at which he will begin to count the votes.

The returning officer, his assistants and clerks, and the candidates and their counting agents, but no other persons except with the sanction of the returning officer, may be present at the counting of the votes.

Before the returning officer proceeds to count the votes, he or a person authorised by him must, in the presence of such of the candidates and their counting agents as attend, open each ballot box and, taking out the papers contained therein, mix together the whole of the ballot papers contained in the ballot boxes. The returning officer, while counting the votes, must keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers.

The returning officer must so far as practicable proceed continuously with counting the votes and must endorse "rejected" on any ballot paper which he may reject as invalid.

The returning officer must not count the tendered ballot papers but must place them in separate packets according to the candidate or group of candidates whom they support and mark each packet with the name of the candidate or group of candidates and must seal the packet and retain it unless it is required for the purposes of an election petition.

When the counting of the votes has been completed, the returning officer must forthwith declare the candidate or group of candidates to whom the greatest number of votes is given to be elected: provided that upon the application of any candidate or his counting agent, a recount must be made before the returning officer makes the declaration.

When an equality of votes is found to exist between any candidates or groups of candidates, and the addition of a vote would entitle any of the candidates or groups of candidates to be declared elected, the determination of the candidate or group of candidates to whom one

additional vote is deemed to have been given must be made by lot in the presence of the returning officer in such manner as he may determine.

Upon the completion of the counting, and after the results have been declared by him, the returning officer must seal up the ballot papers and all other documents relating to the election and must retain the ballot papers and documents for a period of six months and thereafter must cause them to be destroyed unless otherwise directed by order of the President.

A Judge of the Supreme Court may make an order that any ballot paper or other document relating to an election which has been sealed as required by the Act be inspected, copied or produced at such time and place and subject to such conditions as the Judge may consider expedient, but must not make such an order unless he is satisfied that the inspection, copy or production is required for the purpose of instituting or maintaining a prosecution or an election petition in connection with the election. Except as aforesaid, no person shall be allowed to inspect any such ballot paper or document after it has been sealed up.³⁸

6.17 Votes to be Rejected

The returning officer must reject as invalid the following ballot papers only, namely, any ballot paper:

- (a) which is not stamped or perforated with the official mark or initialled;
- (b) on which votes are given for more than one candidate or group of candidates;
- (c) on which anything is written or marked by which the voter can be identified except the printed number on the back;
- (d) which is unmarked;
- (e) which is void for uncertainty.

Where the returning officer is satisfied that any mark made on a ballot paper clearly indicates the intention of the voter and the candidate or group of candidates for whom he gives his vote, the returning officer must not reject the ballot paper on the ground solely that it has not been marked in all respects in accordance with the directions given for the guidance of voters under the Act: provided that before rejecting a ballot paper, the returning officer must show it to each candidate or his counting agent if present and hear his views thereon, taking all proper precautions to prevent any person from seeing the number printed on the back of the paper.

The decision of the returning officer whether or not any ballot paper must be rejected must be final and cannot be questioned on an election petition.³⁹

6.18 Publication of Result

The returning officer must forthwith after the result has been declared by him compile a statement of the poll in the prescribed form and must cause the name or names of the members so elected and also the statement to be published in the Gazette.⁴⁰

6.19 Election of Non-Constituency Members

At any general election the number of non-constituency Members to be declared elected shall be three (or such greater number not exceeding six as the President may by order specify for the purpose of that general election) less the total number of opposition Members elected to Parliament.

Where any order is to be made under the foregoing provisions, such order must be made any time after Parliament is dissolved but not later than the day of nomination for a general election following the dissolution; and the order must cease to have effect at the next dissolution of Parliament.

The non-constituency Member or Members to be declared elected must be determined from among the candidates of those political parties (other than the party or parties that will form the Government) contesting the general election on the basis of the percentage of the votes polled at the same general election by such candidates in the following order of priority – the candidate receiving the highest percentage of votes being placed first and the other candidates being placed in descending order in accordance with the percentage of votes polled by them.

Where any non-constituency Member is to be declared elected under the provisions, the returning officer must as soon as he determines the candidate who stands first in accordance with the order of priority declare that candidate to be elected as a non-constituency Member; and if more than one non-constituency member is to be declared elected, the returning officer must declare also elected the next succeeding candidate or candidates, as the case may be, in order of priority: provided that no such candidate must be declared as so elected unless he has polled not less than 15 per cent of the total number of votes (other than rejected votes) polled at the election in the electoral division contested by him.

Where there is an equality of the percentage of the votes between any candidates and the number of such candidates who are eligible to be declared elected under these provisions exceeds the number of non-constituency Members to be declared elected, the determination of the candidate or candidates to be declared elected must be as follows:

- (a) if all such candidates are from the same group, the returning officer must inform that group of the number of candidate or candidates in that group to be declared elected and the group must within seven days determine among themselves who must be declared elected and must forthwith notify the returning officer of such determination;
- (b) in any other case, or where the group referred to in paragraph (a) fails to notify the returning officer, the determination must be made by lot in the presence of the returning officer in such manner and at such time as he may determine.

Upon receipt of a notification under (a) above, the returning officer must as soon as possible declare the candidate or candidates determined to be elected as non-constituency Member or Members, as the case may be.⁴¹

6.20 Failure to Comply with Provision of the Act

No election must be invalid by reason of any failure to comply with any provision of the Act relating to elections if it appears that the election was conducted in accordance with the principles laid down in that provision, and that the failure did not affect the result of the election.

Where in the Act any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any candidate or agent at the time and place appointed for the purpose must not, if that act or thing is otherwise duly done, invalidate that act or thing.⁴²

— Section 7 —

OFFENCES

7.01 Miscellaneous Offences

A person who –

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper knowing it to be forged;
- (b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper;
- (c) without due authority supplies any ballot paper to any person;
- (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 the Act to be in possession of any ballot paper which has been marked with the official mark in accordance with the Act, has any such ballot paper 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 of ballot papers in use or intended to be used for the purposes of an election;
- (i) without due authority prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election; or
- (j) manufactures, constructs, imports into Singapore, has in his possession, supplies or uses for the purposes of an election, or causes to be manufactured, constructed, imported into Singapore, supplied or used for the purposes of an election, any appliance, device or mechanism by which a ballot paper may be extracted, affected or manipulated after having been deposited in a ballot box during the polling at an election,

is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding two years and must, on conviction, become incapable for a period of seven years from the date of his conviction of being registered as an elector or of voting at any election under the

Act or of being elected as the President or a Member of Parliament, and if at that date he has been elected as the President or a Member of Parliament, his election or appointment must be vacated from the date of conviction.

Every person who attempts to commit an offence specified in these provisions is liable to the punishment prescribed for that offence.

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

A prosecution for an offence under these provisions must not be instituted without the sanction of the Public Prosecutor.⁴³

7.02 Maintenance of Secrecy at Elections

Every officer, clerk, interpreter, candidate and agent in attendance at a polling station must maintain, and aid in maintaining, the secrecy of the voting in the station, and must not communicate, except for some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the register of electors of any elector who has or has not voted or applied for a ballot paper at that station, or as to the official mark, but the total number of voters who have voted at any station at any time before the poll is closed may in the discretion of the presiding officer be divulged to the candidate or his agent authorised to attend at the polling station.

No such officer, clerk, interpreter, candidate or agent, and no person whomsoever shall attempt to obtain the polling station information as to the candidate or group of candidates, for whom any voter in the 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 or group of candidates, for whom any voter in the station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at the station.

Every officer, clerk, interpreter, candidate and agent in attendance at the counting of the votes must maintain, and aid in maintaining, the secrecy of the voting, and must not attempt to ascertain at the counting the number on the back of any ballot paper or communicate any information obtained at the counting as to the candidate or group of candidates, for whom any vote is given by any particular ballot paper.

No person, except a presiding officer acting for a purpose authorised by the Act or a person authorised by the presiding officer and acting for that purpose, must communicate or attempt to communicate with any voter after the voter has received a ballot paper and before he has placed it in a ballot box.

Every person who acts in contravention of these provisions is guilty of an offence and is liable on conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding six months.⁴⁴

7.03 Corrupt Practices

(a) *Personation*

Every person who at an election applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or a fictitious person or who, having voted once at any such election, applies at the same election for a ballot paper in his own name, is guilty of the offence of personation, which is a seizable offence within the meaning of the Criminal Procedure Code.

(b) *Treating*

A person is guilty of treating if he corruptly, by himself or any other person, either before, during or after an election directly or indirectly gives or provides, or pays wholly or in part the expense of giving, any meat, drink, refreshment, cigarette, entertainment or other provision or thing or any money or ticket or other means or device to enable the procuring of any such meat, drink, refreshment, cigarette, entertainment or other provision or thing to or for any person –

- (i) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting;
- (ii) for the purpose of inducing that person to attend or remain at any election meeting;
- (iii) on account of any such person or any other person having voted or refrained from voting or being about to vote or refrain from voting at the election; or
- (iv) on account of any such person having attended an election meeting.

A person is also guilty of treating if he corruptly accepts or takes any such meat, drink, refreshment, cigarette, entertainment or other provision or thing or any such money or ticket or who adopts any other means or device to enable the procuring of such meat, drink, refreshment, cigarette, entertainment or other provision or thing.

(c) *Undue Influence*

Every person who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting at any election, or who, by abduction, duress or any fraudulent device or contrivance, impedes or prevents the free exercise of the franchise of any elector or voter, or thereby compels, induces or prevails upon any elector or voter either to give or refrain from giving his vote at any election, is guilty of the offence of undue influence.

(d) *Bribery*

The following persons are deemed to be guilty of the offence of bribery –

- (i) every person who directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to

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- procure or to endeavour to procure, any money or valuable consideration to or for any elector or voter, or to or for any person on behalf of any elector or voter, or to or for any person on behalf of any elector or voter or to or for any other person, in order to induce any elector or voter to vote or refrain from voting or corruptly does any such act on account of that elector or voter having voted or refrained from voting at any election under the Act;
- (ii) every person who directly or indirectly, by himself or by any other person on his behalf, gives or procures or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure, any office, place or employment to or for any elector or voter or to or for any person on behalf of any elector or voter, or to or for any other person, in order to induce that elector or voter to vote or refrain from voting, or corruptly does any such act on account of that elector or voter having voted or refrained from voting at any election under the Act;
 - (iii) every person who directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person in order to induce that person to procure or endeavour to procure the return of any person as a Member of Parliament, or the vote of any elector or voter at any election under the Act;
 - (iv) every person who directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement to or for any person who is assisting or has promised to assist a candidate at an election to induce that person to refrain from assisting that candidate;
 - (v) every person who upon or in consequence of any such gift, loan, offer, promise, procurement or agreement procures or engages, promises or endeavours to procure, the return of any person as a Member of Parliament, or the vote of any elector or voter at an election under the Act;
 - (vi) every person who advances or pays or causes to be paid any money to or for the use of any other person with the intent that the money or any part thereof is to be expended in bribery at any election under the Act, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in the part expended in bribery at such election;
 - (vii) every elector or voter who, before or during any election under the Act, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election;
 - (viii) every person who, after any election under the Act, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or to refrain from voting at any such election;
 - (ix) every person who directly or indirectly, by himself or by any other person on his behalf, on account of and as payment for voting or for having voted or for agreeing or having agreed to vote for any candidate or group of candidates, at an election, or on account of and as payment for his having assisted or agreed to assist any candidate or group of candidates at an election, applies to that candidate or to any candidate in that group, or to his agent or agents, for the gift or loan of any money or valuable consideration, or for the promise of any office, place or employment;
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- (x) every person who directly or indirectly, by himself or by any person on his behalf, in order to induce any other person to agree to be nominated as a candidate or to refrain from becoming a candidate or to withdraw if he has become a candidate, gives or procures any office, place or employment or agrees to give or procure or offers or promises to procure or to endeavour to procure any office, place or employment to or for that other person, or gives or lends, or agrees to give or lend, or offers, or promises to procure or to endeavour to procure any money or valuable consideration to or for any person or to or for that other person, or to or for any person on behalf of that other person.⁴⁵

7.04 Punishment and Incapacities for Corrupt Practices

Every person who –

- (a) commits the offence of personation, or aids, abets, counsels or procures the commission of the offence of personation;
- (b) commits the offence of treating, undue influence or bribery;
- (c) prints, publishes, distributes or posts up or causes to be printed, published, distributed or posted up any advertisement, handbill, placard or poster which refers to any election and which does not bear upon its face the names and addresses of its printer and publisher;
- (d) makes or publishes, before or during any election, for the purpose of affecting the return of any candidate, any false statement of fact in relation to the personal character or conduct of the candidate;
- (e) makes or publishes, before or during any election, for the purpose of promoting or procuring the election of any candidate, any false statement of the withdrawal of any other candidate at the election; or
- (f) being a candidate or election agent, knowingly makes the declaration as to election expenses, falsely,

is guilty of a corrupt practice and on conviction by a District Court is liable to a fine of not less than \$250 and not exceeding \$1,000 or to imprisonment for a term not exceeding twelve months or to both, and, in any other case, to a fine exceeding \$500 or to imprisonment for a term not exceeding six months or to both.

Every person who is convicted of a corrupt practice becomes incapable for a period of seven years from the date of his conviction of being registered as an elector or of voting at any election under the Act or of being elected a Member of Parliament, and if at that date he has been elected a Member of Parliament, his election must be vacated from the date of the conviction.

A prosecution for a corrupt practice except any corrupt practice under (d) and (e) of these provisions must not be instituted without the sanction of the Public Prosecutor.⁴⁶

7.05 Election Agent, Election Expenses and Illegal Practices

(a) *Nomination of Election Agent*

On or before the day of nomination at an election, a person must be named in writing by or

on behalf of each candidate as his agent for that election and the person is referred to in the Act as the election agent.

A candidate may name himself as election agent, and thereupon must, so far as circumstances admit, be subject to the Act both as a candidate and as an election agent, and any reference to an election agent must be construed to refer to the candidate acting in his capacity of election agent.

On or before the day of nomination, the name and address of the election agent of each candidate must be declared in writing by the candidate or some other person on his behalf to the returning officer and the returning officer must forthwith by affixing a notice in a conspicuous place outside his office, give public notification of the name and address of every election agent so declared.

One election agent only must be appointed for each candidate, but the appointment, whether the election agent appointed be the candidate himself or not, may be revoked and in the event of such revocation or of his death, whether the event is before, during or after the election, then forthwith another election agent must be appointed, and his name and address declared in writing to the returning officer, who must forthwith give public notice of the same in the manner aforesaid. No person must be appointed election agent who has within seven years prior to such appointment been convicted of any corrupt practice under the Act.

(b) *Making of Contracts through Election Agent*

The election agent of a candidate must appoint every polling agent, clerk and messenger employed for payment on behalf of the candidate at an election, and hire every committee-room hired on behalf of the candidate, and must inform the presiding officer at each polling station in writing of the name of the polling agent or agents appointed to act at that station before the person is admitted to the station.

A contract whereby any expenses are incurred on account of or in respect of the conduct or management of an election must not be enforceable against a candidate at the election, unless made by the candidate himself or by his election agent: provided that inability under these provisions to enforce the contract against the candidate must not relieve the candidate from the consequences of any corrupt or illegal practice committed by his agent.

(c) *Payment of Expenses through Election Agent*

Except as permitted by or in pursuance of the Act, no payment and no advance or deposit is to be made by a candidate at an election, or by any agent on behalf of the candidate, or by any other person at any time, whether before, during, or after the election, in respect of any expenses incurred on account of or in respect of the conduct or management of the election otherwise than by or through the election agent of the candidate; and all money provided by any person other than the candidate for any expenses incurred on account of or in respect of the conduct or management of the election, whether as gift, loan, advance or deposit, must be paid to the candidate or his election agent and not otherwise: provided that these provisions are not deemed to apply to any payment by the returning officer or to any sum

disbursed by any person out of his own money for any small expense legally incurred by himself, if the sum is not repaid to him.

A person who makes any payment, advance or deposit in contravention of these provisions or pays in contravention of these provisions any money so provided as aforesaid is guilty of an illegal practice.

(d) *Period for Handing in Claims*

Every payment made by an election agent in respect of any expenses incurred on account of or in respect of the conduct and management of an election must, except where less than \$10 or where, from the nature of the case, such as travel by rail or postage, a receipt is not obtainable, be vouched for by a bill stating the particulars and by a receipt.

Every claim against a candidate at an election or his agent in respect of any expenses incurred on account of or in respect of the conduct or management of the election, which is not sent in to the election agent within the time limited by the Act, must be barred and must not be paid; and subject to such exception as may be allowed in pursuance of the Act, an election agent who pays a claim in contravention of these provisions is guilty of an illegal practice.

Except as by the Act permitted, the time limited by the Act for sending in claims is 14 days after the date of publication of the result of the election in the Gazette.

All expenses incurred by or on behalf of a candidate at an election, which are incurred on account of or in respect of the conduct or management of the election, must be paid within the time limited by the Act and not otherwise; and, subject to such exception as may be allowed in pursuance of the Act, an election agent who makes a payment in contravention of this provision is guilty of an illegal practice.

Except as by the Act permitted, the time limited by the Act for the payment of those expenses is to be 28 days after the date of publication of the result of the election in the Gazette.

Where it has been proved to the satisfaction of the Election Judge by a candidate that any payment made by an election agent in contravention of these provisions was made without the sanction or connivance of the candidate, the election of the candidate shall not be void, nor shall be subject to any incapacity under the Act by reason only of the payment having been made in contravention of the Act.

If the election agent in the case of any claim sent in to him within the time limited by the Act disputes it, or refuses or fails to pay it within the period of 28 days, the claim is deemed to be a disputed claim.

The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court; and any sum paid by the candidate or his agent in pursuance of the judgment or order of that court is deemed to be paid within the time limited by the Act, and to be an exception from the Act, requiring claims to be paid by the election agent.

On cause shown to the satisfaction of a Judge of the Supreme Court, the Judge, on application by the claimant or by the candidate or his election agent, may by order give leave for the payment by a candidate or his election agent of a disputed claim, or of a claim for those expenses, although sent in after the time in these provisions mentioned for sending in claims, or although the claim was sent in to the candidate and not to the election agent.

Any sum specified in the order of leave may be paid by the candidate or his election agent; and when paid in pursuance of that leave is deemed to be paid within the time limited by the Act.

(e) *Remuneration of Election Agent*

So far as circumstances admit, the Act applies to a claim for his remuneration by an election agent and to the payment thereof in like manner as if he were any other creditor, and if any difference arises respecting the amount of the claim, the claim must be a disputed claim within the meaning of the Act, and be dealt with accordingly.

(f) *Personal Expenses of Candidate*

The candidate at an election may pay any personal expenses incurred by him on account of or in connection with or incidental to the election to an amount not exceeding \$1,000, but any further personal expenses so incurred by him must be paid by his election agent.

The candidate must send to the election agent within the time limited by the Act for sending in claims a written statement of the amount of personal expenses paid by the candidate.

The personal expenses of a candidate include his reasonable travelling expenses and the reasonable expenses of his living at hotels or elsewhere for the purposes of the election.

Any person may, if so authorised in writing by the election agent of the candidate, pay any necessary expense for stationery, postage, telegrams, and other petty expenses to a total amount not exceeding that named in the authority, but any excess above the total amount so named must be paid by the election agent.

A statement of the particulars of payments made by any person so authorised must be sent to the election agent within the time limited by the Act for the sending in of claims, and must be vouched for by a bill containing the receipt of that person.

(g) *Expenses in Excess of Maximum to be Illegal Practice*

Subject to such exception as may be allowed in pursuance of the Act, no sum must be paid and no expense must be incurred by a candidate at an election or his election agent, whether before, during or after an election, on account of or in respect of the conduct or management of the election in excess of the amount determined in accordance with the Third Schedule: provided that there are not included in the amount any expenditure incurred by the candidate for his personal expenses, nor the fee, if any, paid to the election agent not exceeding \$500.

Any candidate or election agent who knowingly acts in contravention of these provisions is guilty of an illegal practice.

The Minister may by order amend the Third Schedule; and every such order must be presented to Parliament as soon as possible after publication in the Gazette. Where a writ of election has been issued for an election in any electoral division, no order is to be made until after the day of nomination or, if a poll is to be taken, until after polling day of that election.

(h) *Certain Expenditure to be Illegal Practice*

No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made –

- (i) on account of the conveyance of electors or voters to or from the poll, whether for the hiring of vehicles or animals or transport of any kind whatsoever, or for railway or other fares, or otherwise; or
- (ii) to or with an elector or voter on account of the use of any house, land, building or premises for the exhibition of any address, bill or notice, or on account of the exhibition of any address, bill or notice.

Notwithstanding anything in the foregoing provisions –

- (i) where it is the ordinary business of an elector or voter as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with the elector or voter, if made in the ordinary course of business, must not be deemed to be illegal practice within the meaning of these provisions;
- (ii) where electors or voters are unable at an election to reach their polling stations from their place of residence without crossing the sea or a branch or arm thereof or a river, means may be provided for conveying those electors or voters by sea to their polling stations, or to enable them to cross the river in order to reach their polling stations, and the amount of payment for such means of conveyance may be in addition to the maximum amount of expenses allowed by the Act.⁴⁷

7.06 Use of Motor Vehicles at Elections

A person must not either let, lend, employ, hire, borrow or use any motor vehicle for the purpose of conveyance of electors or voters to or from the poll and a person knowingly acting in contravention of these provisions is guilty of an illegal practice: provided that –

- (a) the court before whom a person is convicted may, if it thinks it just in the circumstances of the case, mitigate or entirely remit any incapacity imposed;
- (b) a candidate must not be liable nor must his election be avoided for an illegal practice committed without his consent or connivance by any person other than his election agent.

Nothing in these provisions must prevent any person from employing a motor vehicle for the purpose of conveying to or from the poll himself or any member of his family.

Between 8 a.m. and 8 p.m. on polling day, no person is allowed to park a motor vehicle within 100 metres of any polling station other than a motor vehicle used for the conveyance of any sick, infirm or disabled person for such time as is reasonably necessary to enable the person to cast his vote.

Any person who contravenes the foregoing provisions is guilty of an offence and is liable on conviction to a fine not exceeding \$100.

A police officer in uniform may arrest without warrant any person in charge of or driving a motor vehicle, who has committed or is suspected of having committed an offence.

This power of arrest must not be exercised if either –

- (a) such person on the demand of the police officer produces his driving licence so as to enable the officer to ascertain the name and address of the holder of the licence, the date of issue and the authority by which it was issued; or
- (b) such person, not being a paid driver or the driver of a motor vehicle used for the carriage of passengers for hire or reward or for the carriage of goods, gives the officer his name and a place of address within Singapore,

provided that if the officer has reason to suspect that a name or address so ascertained or given is false he may, notwithstanding anything to the contrary in these provisions provided, exercise the power of arrest.⁴⁸

7.07 Certain Employment to be Illegal

No person shall, for the purpose of promoting or procuring the election of a candidate at any election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for the purpose or in the capacities following:

- (a) one election agent and no more;
- (b) not more than one polling agent for each polling place;
- (c) a reasonable number of clerks and messengers having regard to the area of the electoral division and the number of electors on the register of electors for the division.

Subject to such exception as may be allowed in pursuance of the Act, if any person is engaged or employed in contravention of this provision, either before, during or after an election, the person engaging or employing him is guilty of an illegal practice.

The provisions of the Act prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of expenses in excess of a certain maximum, must not affect the right of any creditor who, when the contract was made or the expense was incurred, was ignorant that they were in contravention of the Act.⁴⁹

7.08 Return and Declaration Respecting Election Expenses

Within 31 days after the date of publication of the result of an election in the Gazette, the

election agent of every candidate at that election must transmit to the returning officer a true return (referred to as the return respecting election expenses), in the prescribed form, containing detailed statements as respects that candidate of –

- (a) all payments made by the election agent together with all the bills and receipts which bills and receipts are in the Act included in the expression “return respecting election expenses” and the dates of payment of all sums for which no receipt is attached;
- (b) the amount of personal expenses, if any, paid by the candidate;
- (c) the disputed claims so far as the election agent is aware;
- (d) all unpaid claims, if any, of which the election agent is aware in respect of which application has been made or is about to be made to an Election Judge or Judge of the Supreme Court;
- (e) all money, securities and other valuable considerations, received by or promised to the election agent from or by any candidate or any other person for the purpose of expenses incurred or to be incurred on account or in respect of management of the election, naming every person from whom the sum may have been received or by whom the sum may have been promised, showing as to each sum whether it was received as contribution, loan, deposit or otherwise.

The return respecting election expenses must be signed by the election agent and must be accompanied by a statement made by the candidate and his election agent which must be respectively in the prescribed forms in the First Schedule and must be on oath before a Justice of the Peace or a commissioner for oaths.

If the return and statements are not transmitted before the expiration of the time limited for the purpose, the candidate must not after the expiration of the time sit or vote in Parliament as a Member until either the return and statements have been transmitted or until the date of the allowance of such authorised excuse for failure to transmit them as in the Act mentioned; and if he sits or votes in contravention of the Act he is guilty of an offence and is liable on conviction to a penalty of \$500 for every day on which he so sits or votes.

If any candidate or election agent fails to comply with the requirements of these provisions, he is guilty of an illegal practice.⁵⁰

7.09 Publication of Receipt of Return

When any return respecting election expenses and the statements made in respect thereof have been received by the returning officer, he must, as soon as possible, cause a notice of the date on which the return and statements in question were received by him and of the time and place at which they can be inspected, to be fixed in some conspicuous place in his office and published in the Gazette.

The returning officer must preserve all such returns and statements with the bills and vouchers relating thereto and at all reasonable times during six months next after the publication in the Gazette of the notice mentioned in these provisions must permit any person to inspect them and to make extracts therefrom on payment of a fee of \$2 and must, on payment of 30 cents for each page, supply a copy or copies of any part thereof; and after

the expiration of that period of six months these documents may be destroyed or returned to the candidate if application for their return is made by the candidate before they are destroyed.⁵¹

7.10 Punishment for Conviction for Illegal Practice

Every person who commits an illegal practice is guilty of an offence and is liable on conviction by a District Court to a fine not exceeding \$300 and become incapable for a period of three years from the date of his conviction of being registered as an elector or of voting at any election under the Act or of being elected as the President or a Member of Parliament, and if at that date he has been elected a Member of Parliament, his election must be vacated from the date of the conviction.

A prosecution for an illegal practice must not be instituted without the sanction of the Public Prosecutor.⁵²

7.11 Prohibition of Canvassing on Polling Day

No person must on polling day –

- (a) by word, message, writing or in any other manner endeavour to persuade any person to give or dissuade any person from giving his vote at any election; or
- (b) visit an elector at his home or place of work for any purpose in connection with an election.

Any person who contravenes any of these provisions is guilty of an offence and is liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding one year.

Any police officer may arrest without warrant any person offending in his view against any of these provisions and take him as soon as practicable before a Magistrate's Court to be dealt with according to law.

Any person who, on polling day, enters or is seen at more than two houses or places of work of electors in the same polling district other than his own home or place of work, must, unless he proves the contrary, be presumed to have committed an offence.⁵³

7.12 Prohibition of Dissuasion from Voting

No person shall between the day of nomination and polling day (both days being inclusive) at any election, by word, message, writing or in any other manner dissuade or attempt to dissuade any person from giving his vote at the election.

Any person who contravenes the foregoing provision is guilty of an offence.

Any police officer may arrest without warrant any person offending in his view against any of these provisions and take him as soon as practicable before a Magistrate's Court to be dealt with according to law.⁵⁴

7.13 Undue Influence Near Polling Station

No person shall –

- (a) endeavour to establish the identity of any person entering a polling station;
- (b) check the name of any person entering a polling station;
- (c) anywhere place any desk or table or establish any office or booth for the purpose of recording particulars of voters;
- (d) wait outside any polling station on polling day, except for the purpose of gaining entry to the polling station to cast his vote;
- (e) loiter in any street or public place within a radius of 200 metres of any polling station on polling day; or
- (f) open or maintain, for the purpose of any activity directed towards promoting or procuring the election of a candidate at any election, any office in any room, building or any place whatsoever, whether open or enclosed, on polling day.

Provided that every candidate or his election agent may open or maintain in his electoral division one office for each polling district, which shall not be within a radius of 200 metres of any polling station and the address of every such office must be registered by the candidate or his election agent with the returning officer before polling day.

Any person who contravenes any of these provisions is guilty of an offence and is liable on conviction to a fine not exceeding \$100 or to imprisonment for a term not exceeding one year.

Any police officer may arrest without warrant any person offending in his view against any of these provisions and take him before a Magistrate's Court to be dealt with according to law.⁵⁵

7.14 Excuse for Corrupt and Illegal Practice

Where, upon the trial of an election petition respecting an election under the Act, the Election Judge reports that a candidate at the election has been guilty by his agents of the offence of treating or undue influence or of any illegal practice in reference to the election and the Election Judge further reports, after giving the Public Prosecutor an opportunity of being heard, that the candidate has proved to the court –

- (a) that no corrupt or illegal practice was committed at the election by the candidate or his election agent and the offences mentioned in the report were committed contrary to the orders and without the sanction or connivance of the candidate or his election agent;
- (b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at the election;
- (c) that the offences mentioned in the said report were of a trivial, unimportant and limited character; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents,

then the election of the candidate must not, by reason of the offences mentioned in the report, be void, nor must the candidate be subject to any incapacity under the Act.

Where, on application made, it is shown to an Election Judge or to a Judge of the Supreme Court by such evidence as seems to the Judge sufficient –

- (a) that any act or omission of a candidate at any election, or of his election agent or of any other agent or person, would, by reason of being the payment of a sum or the incurring of expense in excess of any maximum amount allowed by the Act, or of being a payment, engagement, employment, or contract in contravention of any of the provisions of the Act, be but for these provisions an illegal practice; and
- (b) that the act or omission arose from inadvertence or from accidental miscalculations or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith,

and in the circumstances it seems to the Judge, after giving the candidates, the returning officer, and any elector within the electoral division an opportunity of being heard, to be just that the candidate in question and the election and other agent and person, or any of them, should not be subject to any of the consequences under the Act of that act or omission, the Judge may make an order allowing that act or omission to be an exception from the provisions of the Act which would otherwise make the act or omission an illegal practice or other unlawful act.

Where the return and statements respecting election expenses of a candidate at an election have not been transmitted as required by the Act, or being transmitted contain some error or false statement, then –

- (a) if the candidate applies to an Election Judge or a Judge of the Supreme Court and shows that the failure to transmit the return and declarations, or any of them, or any part thereof, or any error or false statement therein, has arisen by reason of illness, or of the absence, death, illness or misconduct of his election agent or of any clerk or officer of the agent, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant; or
- (b) if the election agent of the candidate applies to an Election Judge or a Judge of the Supreme Court and shows that the failure to transmit the return and statements which he was required to transmit, or any part thereof, or any error or false statement therein, arose by reason of his illness, or of the death, illness or misconduct of any prior election agent of the candidate, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant,

the Judge may, after such notice of the application, and on production of such evidence of the grounds stated in the application, and of the good faith of the application, and otherwise, as to the Judge seems fit, and after giving the other candidates, the returning officer and any elector within the electoral division an opportunity of being heard, make such order for allowing an authorised excuse for the failure to transmit such return and statements, or for an error or false statement in such return and statements as to the Judge seems just.

Where it appears to the Judge that any person being or having been an election agent has refused or failed to make such return or supply such particulars as will enable the candidate and his election agent, respectively, to comply with the provisions of the Act as to the return and statements respecting election expenses, the Judge before making an order allowing the excuse as in these provisions mentioned must order the person to attend before the Judge,

and must, unless he attends and shows cause to the contrary, order him to make the return and statements, or to deliver a statement of the particulars required to be contained in the return, as to the Judge appears just, and to make or deliver them within such time and to such person and in such manner as the Judge may direct, or may order him to be examined with respect to those particulars, and, in default of compliance with that order, the person is guilty of an illegal practice.

The order may make the allowance conditional upon the making of the return and statements in a modified form or within an extended time, and upon the compliance with such other terms as to the Judge seems best calculated for carrying into effect the objects of the Act; and an order allowing an authorised excuse must relieve the applicant for the order from any liability or consequences under the Act in respect of the matter excused by the order; and where it is proved by the candidate to the Judge that any act or omission of the election agent in relation to the return and statements respecting election expenses was without the sanction or connivance of the candidate, and that the candidate took all reasonable means for preventing the act or omission, the Judge must relieve the candidate from consequences of the act or omission on the part of his election agent.⁵⁶

—Section 8—

ELECTION PETITIONS

8.01 Grounds for Avoiding Elections

The election of a candidate as a Member is avoided by his conviction for any corrupt or illegal practice.

The election of a candidate as a Member must be declared to be void on an election petition on any of the following grounds which may be proved to the satisfaction of the Election Judge:

- (a) that by reason of general bribery, general treating, or general intimidation, or other misconduct, or other circumstances, whether similar to those before enumerated or not, the majority of electors were or may have been prevented from electing the candidate or group of candidates whom they preferred;
- (b) non-compliance with the provisions of the Act relating to elections, if it appears that the election was not conducted in accordance with the principles laid down in those provisions and that the non-compliance affected the result of the election;
- (c) that a corrupt practice or illegal practice was committed in connection with the election by the candidate or with his knowledge or consent or by any agent of the candidate;
- (d) that the candidate personally engaged a person as his election agent, or as a canvasser or agent, knowing that the person had within seven years prior to the engagement been convicted or found guilty of a corrupt practice by a District Court or by the report of an Election Judge;
- (e) that the candidate was at the time of his election a person disqualified for election as a Member.

Proceedings may be instituted in the High Court against any person acting or claiming to be entitled to act as an elected Member of Parliament on the ground of his being disqualified within the meaning of these provisions for so acting: provided that proceedings under these provisions on the ground of a person acting as aforesaid must not be instituted after the expiration of six months from the date of the last occasion on which he so acted.

Where in proceedings instituted under these provisions it is proved that the defendant has acted as an elected Member of Parliament while disqualified from so acting, then the Court has power –

- (a) to make a declaration to that effect and to declare that the office in which the defendant has acted is vacant;
- (b) to grant an injunction restraining the defendant from so acting;
- (c) to make any order which may seem fit as to the costs of the proceedings.

Where in proceedings instituted under these provisions it is proved that the defendant claims to act as an elected Member of Parliament and is disqualified from so acting, the Court has the power to make a declaration to that effect and to declare that the office in which the defendant claims to be entitled to act is vacant, and to grant an injunction restraining him from so acting.

No proceedings must be instituted under these provisions by any person other than a person who pursuant to the Act is an elector for the electoral division for which the person against whom proceedings are to be instituted was elected.

A person is deemed to be disqualified for acting as an elected Member of Parliament –

- (a) if he is not qualified to be, or is disqualified from being, an elected Member of Parliament or for holding that office; or
- (b) if by reason of resignation or failure to attend meetings of Parliament or for any other reason his seat has become vacant and he has ceased to be an elected Member of Parliament or to hold that office.⁵⁷

8.02 Powers of Election Judge

Every election petition must be tried by the Chief Justice or a Judge of the Supreme Court nominated by the Chief Justice for the purpose.

The Chief Justice or the Judge so nominated is referred to as the Election Judge.

Witnesses must be subpoenaed and sworn in the same manner as nearly as circumstances admit as in a trial by the High Court in the exercise of its original civil jurisdiction and are subject to the same penalties for the giving of false evidence.

On the trial of an election petition under the Act, the Election Judge may, by order under his hand, compel the attendance of any person as a witness who appears to him to have been concerned in the election to which the petition refers, and any person refusing to obey the

order is guilty of contempt of court. The Election Judge may examine any witness so compelled to attend or any person in court, although the witness is not called and examined by any party to the petition. After the examination of a witness by the Election Judge, the witness may be cross-examined by or on behalf of the petitioner and the respondent, or either of them.

The Election Judge must be attended on the trial of an election petition in the same manner as if he were a Judge of the Supreme Court sitting at assizes.

Unless otherwise ordered by the Chief Justice, all interlocutory matters in connection with an election petition may be dealt with and decided by any Judge of the Supreme Court.⁵⁸

8.03 Who May Present Petition

An election petition may be presented to the Supreme Court by any one or more of the following persons –

- (a) some person who voted or had a right to vote at the election to which the petition relates;
- (b) some person claiming to have had a right to be returned or elected at the election;
- (c) some person alleging himself to have been a candidate at the election.⁵⁹

8.04 Relief Which May be Claimed

All or any of the following relief to which the petitioner may be entitled may be claimed in an election petition:

- (a) a declaration that the election is void;
- (b) a declaration that the return of the person elected was undue;
- (c) a declaration that any candidate was duly elected and ought to have been returned;
- (d) where the seat is claimed for an unsuccessful candidate on the ground that he or the group of candidates to which he belongs had a majority of lawful votes, a scrutiny.⁶⁰

8.05 Certificate of Judge as to Validity of Election

At the conclusion of the trial of an election petition, the Election Judge must determine whether the Member whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void, and must certify such determination to the President. Upon the certificate being given, the determination must be final, and the return must be confirmed or altered, or the President must within one month of the determination by notice in the Gazette, order the holding of an election in the electoral division concerned, as the case may require, in accordance with the certificate.

Where the election of any Member for a group representation constituency is determined by the Election Judge to be void, the election of the other Members for that constituency is deemed to be void.⁶¹

8.06 Report of Judge as to Corrupt or Illegal Practice

At the conclusion of the trial of an election petition, the Election Judge must also report in writing to the President –

- (a) whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, or by his agent, and the nature of the corrupt or illegal practice (if any); and
- (b) the names and descriptions of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice.

Before any person, not being a party to an election petition nor a candidate on behalf of whom the seat is claimed by an election petition, is reported by an Election Judge under these provisions, the Election Judge must give the person an opportunity of being heard and of giving and calling evidence to show why he should not be so reported.

When an Election Judge reports that a corrupt or illegal practice has been committed by any person, that person must be subject to the same incapacities as if at the date of the report he had been convicted of that practice, and a person must be subject to the same incapacities if he was a candidate at the election and the Election Judge reports that the corrupt or illegal practice was committed with his knowledge and consent or by his agent.

The President must cause a copy of such report to be published in the Gazette and it shall be the duty of the registration officer forthwith to peruse the report and forthwith to delete from the registers of electors the name of every person appearing from the report to be incapable of voting at any election.⁶²

8.07 Time for Presentation

Every election petition must be presented within 21 days of publication of the result of the election in the Gazette: provided that –

- (a) an election petition questioning the return or the election upon the ground of a corrupt practice and specifically alleging a payment of money or other act to have been made or done since the date aforesaid by the Member whose election is questioned or by an agent of the Member or with the privity of the Member or his election agent in pursuance or in furtherance of the corrupt practice may, so far as respects that corrupt practice, be presented at any time within 28 days after the date of the payment or act;
- (b) an election petition questioning the return or the election upon an allegation of an illegal practice may, so far as respects that illegal practice, be presented within the following time:
 - (i) at any time before the expiration of 14 days after the date of the publication in the Gazette of the notice as to the election expenses of the Member whose election is questioned;
 - (ii) if the election petition specifically alleges a payment of money or other act to have been made or done since that date by the Member whose election is

questioned or by an agent of the Member or with the privity of the Member or of his election agent in pursuance or in furtherance of the illegal practice alleged in the petition, the petition may be presented at any time within 28 days after the date of the payment or other act.

An election petition presented in due time may, for the purpose of questioning the return or the election upon an allegation of a corrupt or illegal practice, be amended with the leave of a Judge of the Supreme Court within the time within which an election petition questioning the return or the election upon that ground may be presented.

No elector who has voted at any election shall, in any proceeding to question the election, be required to state for whom he has voted.⁶³

8.08 Scrutiny

On a scrutiny at the trial of an election petition, the following votes only must be struck off:

- (a) the vote of any person whose name was not on the register of electors assigned to the polling station at which the vote was recorded or who has not been authorised to vote at the station;
- (b) the vote of any person whose vote was procured by bribery, treating or undue influence;
- (c) the vote of any person who committed or procured the commission of personation at the election;
- (d) where the election was a general election, the vote of any person proved to have voted at the general election in more than one electoral division;
- (e) the vote of any person, who, by reason of a conviction of a corrupt or illegal practice or by reason of the report of an Election Judge, or by reason of his conviction of an offence, was incapable of voting at the election;
- (f) votes given for a disqualified candidate or group of candidates by a voter knowing that the candidate, or any candidate in that group, as the case may be, was disqualified or the facts causing the disqualification, or after sufficient public notice of the disqualification, or when the disqualification or the facts causing it were notorious.

The vote of a registered elector must not, except in the case of (e) above, be struck off at a scrutiny by reason only of the voter not having been or not being qualified to have his name entered on the register of electors.

On a scrutiny, any tendered vote proved to be a valid vote must, on the application of any party to the petition, be added to the poll.⁶⁴

8.09 Procedure and Practice on Election Petitions

The procedure and practice on election petitions is regulated by rules which may be made by the Rules Committee constituted and appointed under the Supreme Court of Judicature Act.⁶⁵

8.10 Rejection of Ballot Paper by Returning Officer

On an election petition the decision of a returning officer whether or not a ballot paper must be rejected must not be questioned.⁶⁶

NOTES

1. Parliamentary Elections Act 1954, see sections 3 and 4
- 1A. Ibid., see section 8
- 1B. Ibid., see section 8A
2. Ibid., see section 9
3. Ibid., see section 5
4. Ibid., see section 6
5. Ibid., see section 10
6. Ibid., see section 11
7. Ibid., see section 12
8. Ibid., see section 13
9. Ibid., see sections 14-20
10. Ibid., see section 24
11. Ibid., see section 25
12. Ibid., see section 26
13. Ibid., see section 27
14. Ibid., see section 27A
15. Ibid., see section 27B
16. Ibid., see section 27C
17. Ibid., see section 28
18. Ibid., see section 29
19. Ibid., see section 30
20. Ibid., see section 31
21. Ibid., see section 32
22. Ibid., see section 33
23. Ibid., see section 34
24. Ibid., see section 34A
25. Ibid., see section 35
26. Ibid., see section 36
27. Ibid., see section 37
28. Ibid., see section 38
29. Ibid., see section 39
30. Ibid., see section 40
31. Ibid., see section 41
32. Ibid., see section 42
33. Ibid., see section 43
34. Ibid., see section 44
35. Ibid., see section 45
36. Ibid., see section 46
37. Ibid., see sections 47 and 48
38. Ibid., see section 49
39. Ibid., see section 50
40. Ibid., see section 51
41. Ibid., see section 52
42. Ibid., see section 54
43. Ibid., see section 55
44. Ibid., see section 56
45. Ibid., see sections 57-60
46. Ibid., see section 61
47. Ibid., see sections 62-70
48. Ibid., see section 71
49. Ibid., see sections 72 and 73
50. Ibid., see section 74
51. Ibid., see section 75
52. Ibid., see section 79
53. Ibid., see section 80
54. Ibid., see section 81
55. Ibid., see section 82
56. Ibid., see sections 86-88
57. Ibid., see sections 89-91
58. Ibid., see section 92
59. Ibid., see section 93
60. Ibid., see section 94
61. Ibid., see section 95
62. Ibid., see section 96
63. Ibid., see sections 97 and 98
64. Ibid., see section 99
65. Ibid., see section 100
66. Ibid., see section 101