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## INTRODUCTION

The Constitution of Malta sets the tone and framework for election organisation in that country. It provides for a proportional representation form of electoral system with a single transferable vote and a preferential method of voting. The Constitution also establishes and defines the powers of the Electoral Commission.

The principal electoral legislation is the General Elections Act of 1991 which is referred to herein as “the Act”. An interesting feature of the legislative scheme is the right of political parties to appoint party delegates with rights of access to the records of the Electoral Commission. Generally, the Act seeks to raise the level of recognition and participation given to political parties in the organisation and conduct of elections.

### — Section 1 —

#### RELEVANT CONSTITUTIONAL PROVISIONS

##### 1.01 Voting at Elections

The members of the House of Representatives shall be elected upon the principle of proportional representation by means of the single transferable vote from such number of electoral divisions, being an odd number and not less than nine and not more than fifteen, as Parliament shall from time to time determine.

The election of members of the House of Representatives shall be free of corrupt practices.

It shall be the duty of the Electoral Commission to suspend the election, either in all electoral divisions or in any one or more of such divisions, if it has reasonable ground to believe that corrupt practices or other offences connected with the election have been of such nature that they may reasonably be expected to affect the result of the election.

In any case in which an election is suspended, the Chief Electoral Commissioner shall forthwith refer the matter to the Constitutional Court for its decision.

Where any of the grounds on which an election may be suspended exists and the election has not been suspended, or where corrupt practices or other offences may reasonably be supposed to have affected the result of an election, in all or in any one or more of the electoral divisions, any person entitled to vote at that election may, not later than three days after the publication of the official result of the election, refer the matter to the Constitutional Court for its decision.

Any reference to the Constitutional Court shall be made and shall be determined by that Court in accordance with any law for the time being in force in Malta. On any such reference the Court shall, without prejudice to any other powers, have power to annul the election, in all or in any one or more of the electoral divisions, on any of the grounds set out in these provisions, and to give such directions and orders and to provide such redress and other remedies as it may deem appropriate in the circumstances and in particular to ensure that a free election, in place of any one that may have been annulled, be held at the earliest possible opportunity.

Where an election has been annulled, the result of the election shall not be completed before the publication of the official result of a valid election in all electoral divisions.

Except by a bill for an Act of Parliament passed in the manner specified in sub-section (2) of section 66 of the Constitution, no alteration in any law shall be made –

- (a) whereby any act or omission shall cease to be a corrupt practice or other offence relating to the election of members of the House of Representatives; or
- (b) which alters or adds to the circumstances or conditions in which or under which an act or omission is such a practice or other offence; or
- (c) which reduces the punishment to which from time to time any such practice or other offence renders the offender liable.

No person shall vote at the election of members of the House of Representatives in any electoral division other than a division in which he is registered as a voter.

At the election of members of the House of Representatives –

- (a) voting shall be by ballot and shall be carried out in such a manner as not to disclose the way in which the vote of any particular voter is given; and
- (b) no person shall be permitted to vote on behalf of another, but if a person is unable by reason of blindness, other physical cause or illiteracy to mark on his ballot paper, his ballot paper may be marked on his behalf and on his directions by some other person officially supervising the poll at the place of voting.

Ballot papers shall be drawn up in such a manner as to enable illiterates to distinguish between the political parties to which candidates belong.

Candidates and their agents shall be given facilities to watch the transportation of ballot boxes and the sealing and unsealing thereof.<sup>1</sup>

## **1.02 Qualification and Disqualification of Voters**

A person is qualified to be registered as a voter for the election of members of the House of Representatives if –

- (a) he is a citizen of Malta;
- (b) he has attained the age of eighteen years; and
- (c) he is resident in Malta and has during the eighteen months immediately preceding

his registration been a resident for a continuous period of six months or for periods amounting in the aggregate to six months.

The foregoing provisions do not apply to a person who is ordinarily resident in Malta but has not been resident in Malta by reason of service abroad in the public service or by reason of service abroad in, or as a member of, the disciplined force.

No person is qualified to be registered as a voter for the election of members of the House of Representatives if –

- (a) he is interdicted or incapacitated for any mental infirmity by a court in Malta to be of unsound mind;
- (b) he is under sentence of death imposed on him by any court in Malta or is serving a sentence of imprisonment exceeding twelve months or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which is suspended; or
- (c) he is disqualified for registration as a voter by or under any law for the time being in force in Malta by reason of his having been convicted of any offence connected with the election of members of the House of Representatives.<sup>2</sup>

### **1.03 Establishment of Electoral Commission**

There shall be an Electoral Commission for Malta.

The Electoral Commission shall consist of a Chairman, who shall be the person for the time being holding the office of the Chief Electoral Commissioner and who shall be appointed to that office from the public service, and such number of members not being less than four as may be prescribed by any law for the time being in force in Malta.

The members of the Electoral Commission shall be appointed by the President, acting in accordance with the advice of the Prime Minister, given after he has consulted the Leader of the Opposition.

A person is not qualified to hold office as a member of the Electoral Commission if he is a Minister, a Parliamentary Secretary, a member of, or a candidate for election to, the House of Representatives or a public officer.

A member of the Electoral Commission shall vacate his office –

- (a) at the expiration of three years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

Subject to the provisions of the Constitution, a member of the Electoral Commission may be removed from the office by the President acting in accordance with the advice of the Prime Minister.

A member of the Electoral Commission shall not be removed from office except for inability to discharge the functions of his office or for misbehaviour.

If the office of a member of the Electoral Commission is vacant or if a member is for any reason unable to perform the functions of his office, the President, acting in accordance with the advice of the Prime Minister, given after he has consulted the Leader of the Opposition, may appoint a person who is qualified to be appointed as a member to be a temporary member of the Commission; and any person so appointed shall cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

In the exercise of its functions under the Constitution the Electoral Commission shall not be subject to the direction or control of any other person or authority.<sup>3</sup>

#### **1.04 Electoral Divisions**

The Electoral Commission shall review the boundaries of the electoral divisions at intervals of not less than two or more than five years and may alter such boundaries in the light of the review: provided that the Commission shall carry out such a review and alter the said boundaries whenever Parliament has made provision altering the number of electoral divisions; and in addition the Commission may at any time carry out such a review and alter the said boundaries to such extent as it considers desirable in consequence of the holding of a census of the population in pursuance of any law.

Any provision by Parliament altering the number of electoral divisions shall come into effect when the alteration of the boundaries of the electoral divisions that is consequential thereon comes into effect.

Whenever an alteration of boundaries is made by the Commission the following provisions shall have effect:

- (a) the Chief Electoral Commissioner shall, as soon as practicable after it is made, communicate the alteration to the Prime Minister and to the Leader of the Opposition;
- (b) not later than two months from the receipt of such communication, the Prime Minister shall cause the alteration to be placed before the House of Representatives for consideration by it;
- (c) not later than five months from the receipt of the said communication by the Prime Minister, the House may, by Resolution, either approve the alteration or refer it back to the Commission for reconsideration;
- (d) upon the expiration of six months from the date on which the alteration was communicated to the Prime Minister, or, if the alteration is approved by the House, upon such approval, or, if the alteration is referred back to the Commission, upon the expiration of two months from such reference, the Chief Electoral Commissioner shall cause the alteration to be published in the Gazette either in its original form or, if it has been modified by the Commission, as so modified; and
- (e) any such alteration shall come into effect upon the next dissolution of Parliament after the alteration is published in the Gazette: provided that nothing in this provision

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shall be construed as preventing the publication of any electoral register or any other requirement connected with the registration of voters from being carried out in accordance with the alteration, under any law for the time being in force in Malta, before that dissolution.

An alteration of the boundaries of any electoral division shall be made in such manner as secures that, at the time when the Commission carries out its review, the number obtained by dividing the total electorate in the division (as ascertained by reference to the electoral register in force at that time) by the number of members to be returned to the House of Representatives from that division is as equal to the electoral quota as is reasonably practicable: provided that any such alteration may be made in such manner that the number of voters in that division is, at the time when the Commission carries out its review, greater or less than the electoral quota multiplied by the number of members to be so returned, but in no case by more than five per centum, in order to take account of geographical vicinity, differences in density of population and other relevant factors.

For the purposes of any review carried out under this provision, “electoral quota” means the number obtained by dividing the total electorate of Malta (as ascertained from the electoral register in force at the time when the Commission carries out that review) by the total number of members to be returned to the House of Representatives at the general election following the next dissolution of Parliament.

The conduct of elections in every electoral division and of any vote taken shall be subject to the direction and supervision of the Electoral Commission.<sup>4</sup>

## — Section 2 —

### ELECTION ADMINISTRATION

#### 2.01 Electoral Commission

The registration, transfer, correction and cancellation of voters, the compilation of the electoral register, the election of members of the House of Representatives and the administration of the Electoral Office shall be the sole responsibility of the Commission. The Chief Electoral Commissioner shall be responsible for the day to day running of the Electoral Office.

The Commission shall be composed of the Chief Electoral Commissioner as chairman and eight Electoral Commissioners.

The Commissioners shall, on their appointment, take before the Attorney-General the oath of allegiance in the prescribed form.<sup>5</sup>

#### 2.02 Powers of Commissioners

In the execution of their duties, the Commissioners shall in the absence of any express

provisions in the Act, do all such things as appear to them to be necessary for the performance of their duties.

In the execution of their duties, the Commissioners have the powers conferred by law on the Courts of Magistrates for the purpose of enforcing order at their sittings and ensuring the respect due to them.<sup>6</sup>

### **2.03 Party Delegates**

Every political party represented in Parliament shall have the right to nominate two delegates (referred to as “party delegates”) to the Commission.

Party delegates represent the political party nominating them with the Commission and have the right in general to be informed of all sittings of the Commission and decisions taken thereat.

The party delegates have full and free right of access to the Electoral Office, to all records kept therein and to check, verify and obtain any information regarding the work of the Electoral Office: provided that the Commission shall have the right to nominate an official of the Commission to accompany such delegates at all times.

The party delegates shall continue in office until removed by the political party nominating them.

Party delegates shall have the right to seek and obtain from the Commissioners as well as from any other officials connected with the running, supervising or security of the elections or of any aspect thereof, information showing whether or not such persons are taking adequate measures to comply with the provisions of the law in the forthcoming elections, and the Commissioners or such other persons shall be bound to furnish such information immediately.

Party delegates have no right of access to medical records or to adoption records of voters and no right to be made aware prior to the day of the poll of security features relating to ballot papers, voting documents and the official mark used by the Commission on ballot papers. The information, documents or lists shall be given to the party delegates orally or in written or printed form that shall not require any device or electronic or magnetic or similar process to be read, and in no other form. Where the information, documents or lists are of a confidential nature the party delegates shall have the same obligations as to secrecy as the person from whom such information, documents or lists are obtained.<sup>7</sup>

### **2.04 Electoral Office**

There shall be an Electoral Office for the purpose of effecting the registration, transfer and cancellation of voters, the organisation required for the running of elections and all such administrative work as may be required by the Electoral Commission.

The Electoral Office shall be staffed by persons in the public service and whilst serving in

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the Electoral Office such persons shall only be responsible to the Commission in matters concerning the preparation for and running of general elections.<sup>8</sup>

### **2.05 Oath to be Taken by Staff of Electoral Office**

The staff of the Electoral Office shall, on their appointment, take an oath before the Chief Electoral Commissioner, that they will faithfully perform the duties of the Office according to law.

Any one of the Commissioners, or any other officer authorised by the Commission on their behalf, may administer an oath to any person whenever the taking of an oath is necessary for the purpose of making enquiries according to the Act.<sup>9</sup>

### **2.06 Revising Officers**

All Magistrates serving in the Court of Magistrates (Malta) and the Court of Magistrates (Gozo) are deemed to be revising officers.

Revising officers may hold sittings in any police station or other place for the purpose of dealing with any application or appeal regarding the registration, transfer, correction or cancellation of any voter.

All such applications or appeals to a revising officer shall be signed by the applicant or by an advocate or legal procurator or by any person on behalf of and authorised by the applicant or appellant, and shall be filed in the Registry of the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be.

The revising officer shall direct that such application or appeal be served on the person or persons whom it concerns and shall appoint a day for the hearing of the application or appeal.

Service of the notice of the day fixed for the hearing of such application or appeal shall be effected upon the applicant or appellant and upon any person whom such application or appeal concerns not less than two days before the day fixed for the hearing of the application or appeal, in the manner laid down in the Code of Organisation and Civil Procedure provided that service may be effected by any police officer.

If the person on whom such application, appeal or other order of the revising officer is to be served is not found by the officer who is to effect service, the revising officer shall, on the report of such officer, direct that the application, appeal or other order be posted on the notice board of the police station of the place in which the person concerned resides and shall, if necessary, appoint another day for the hearing.

If the applicant or appellant shall fail to appear on the day appointed for the hearing and is not represented by an advocate or legal procurator or other person, the application or appeal shall be considered as abandoned.

In the case of an application for the removal of the name of a person from the electoral register, if such person shall fail to appear on the day appointed for the hearing and is not represented by an advocate or legal procurator or other person, the application may be decided in default.

No fee shall be charged in the Registry on any application or appeal, for the service thereof, for any other proceeding in consequence thereof or for any decision.<sup>10</sup>

### **2.07 Appointment of Medical Board**

There shall be a Medical Board to whom must be referred questions as to whether a person who has applied to be registered as a voter or is already registered is disqualified from being so registered under the Constitution (section 58 – mental illness).

The Medical Board shall consist of a doctor appointed by the Commission, who shall act as chairperson, and a doctor appointed by each of the political parties represented in Parliament. The Medical Board shall be deemed to be validly constituted once the chairperson or any one of the members is appointed.<sup>11</sup>

## **— Section 3 —**

### **VOTES, ELECTORAL DIVISIONS AND METHOD OF ELECTION**

#### **3.01 Right to Vote**

Every person registered as a voter in an electoral division shall, while so registered, be entitled to vote at the election of Members of the House for that division.

No person shall vote at the election of Members of the House in any division other than a division in which he is registered as a voter.<sup>12</sup>

#### **3.02 Electoral Divisions**

For the purpose of the election of Members of the House, the Island of Malta and its Dependencies shall be divided into thirteen electoral divisions.

Subject to the provisions of the Constitution, the House shall consist of sixty-five members, each electoral division returning five members.<sup>13</sup>

#### **3.03 Method of Election**

The election of members of the House shall be according to the principle of proportional representation, each voter having one transferable vote.<sup>14</sup>

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— *Section 4* —

**REGISTRATION OF VOTERS**

**4.01 Enquiries by Commission**

The Commission shall make all such enquiries, and require from any person such information, as it may deem necessary for the purpose of determining whether and where a person is entitled to be registered as a voter or to remain so registered.<sup>15</sup>

**4.02 Duty of Government Officers to Give Information**

All public officers in the service of the Government of Malta are authorised under the Act and required to furnish to the Commission all information that it may require in order to be able to determine whether a person is entitled to be registered as a voter or to remain so registered.

The Commissioner of Police shall assist the Commission by causing enquiries to be made, information to be collected, and claims to be checked and in such other manner as may be necessary.

The public officer or officers responsible for the Public Registries of Malta and Gozo shall, within the first five days of each month, forward to the Commission a list containing the name, surname, identity card number, if any, and other particulars of each person over eighteen years of age whose death has been registered during the preceding month.

The Registrar of the Superior Courts in Malta and the Registrar of the Courts in Gozo shall, each with regard to the Courts to which he is attached, within the first five days of each month, forward to the Commission a list containing the name, surname, identity card number, if any, and other particulars of each person who has been interdicted for reasons of mental incapacity by a competent court.<sup>16</sup>

**4.03 Application for Registration**

Any person who has the requisite qualifications to vote at elections of members of the House may apply for registration to the Commission in the prescribed form: provided that the Commission shall register as a voter any person who is entitled to be so registered whether or not such an application has been made.

The Commission shall refuse an application by a person to be registered as a voter and the Commission shall not on its own initiative register a person as a voter only if such person:

- (a) has lost any of the qualifications necessary to be registered as a voter;
- (b) has become disqualified for being so registered for any of the reasons in section 58 of the Constitution.<sup>17</sup>

#### **4.04 Method of Registration**

A person who is qualified to be registered as a voter shall only be registered in the division and under the address at which he ordinarily resides: provided that if it is proved to the satisfaction of the Commission that any person is not registered in the division and under the address at which he ordinarily resides, the Commission shall not have the right to cancel the registration of such person but shall transfer the registration to another address or electoral division.<sup>18</sup>

#### **4.05 Transfers and Corrections**

Any person registered as a voter and who requires any correction in his designation or other particulars or to have his name transferred to another address or electoral division may apply to the Electoral Commission in the prescribed form: provided that such correction or transfer shall be made by the Commission whether or not any such application has been made, either on its own initiative or following the application by any other registered voter, hereinafter referred to as the applicant, if it is satisfied that such correction or transfer is justified and provided that it shall first communicate its decision in writing to the person to whom it relates and to the applicant, if any, either of whom shall have the right to appeal to a revising officer.<sup>19</sup>

#### **4.06 Cancellation of Registration**

Where the Commission is satisfied following the application by any other registered voter, or on its own initiative, that any person who is registered as a voter and whose name appears on the electoral register is not qualified to be registered as a voter, the Commission shall cancel the registration of such person and expunge his name from the electoral register.<sup>20</sup>

#### **4.07 Decision by Commission on Application for Registration, etc**

The Commission shall inform the applicant and the voter concerned of its decision on any application for registration as a voter or to correct, to transfer or cancel the registration of a voter and of any registration, correction, transfer or cancellation made on its own initiative.

The Commission shall effect the necessary changes in the electoral register in accordance with its decision and shall inform the voter concerned and the applicant of his right to appeal to a revising officer.<sup>21</sup>

#### **4.08 Cancellation of the Registration of Voters**

Prior to proceeding to the cancellation of the registration of any voter, the Commission shall by notice in writing require such person to provide such information or such proof or evidence as it may deem necessary to establish such person's right to remain registered as a voter and if such person fails, within ten days of the posting of such notice by the Commission, to provide in writing such information, proof or evidence to the satisfaction of

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the Commission, the Commission may cancel his registration or expunge his name from the electoral register: provided that in the case of a person's total failure to answer the aforesaid notice within the aforesaid period of time, the Commission shall not proceed to cancel his registration or expunge such person's name from the electoral register before it shall have served upon such person a further notice in writing to provide such information, proof or evidence to the satisfaction of the Commission within a period of seven days from the service of such further notice.

Any written communication which the Commission requires to be made to it may either be delivered at the Electoral Office or forwarded to the Commission free of any charge for posting.

The further notice referred to in the proviso clause above must be served by a police officer or by any other person appointed for the purpose by the Commission and such notice is deemed to have been served by delivery of the notice to the person to whom it is addressed, or to a person who is or reasonably appears to be not under fourteen years of age and who is either a member of the family or household or in its service, at the address of the voter as shown in the electoral register.<sup>22</sup>

#### **4.09 Mental Incapacity**

The Commission may not refuse an application by a person to be registered as a voter, or cancel the registration of a voter, or expunge his name from the electoral register on the grounds of mental incapacity before it obtains the decision of the Medical Board established under the Act or unless such person has been interdicted for mental incapacity by a competent court.

The decision of the Medical Board shall be final and binding on the Commission and the voter and no appeal lies therefrom.

Decisions of the Medical Board that a voter is of unsound mind shall be taken by unanimous vote and shall be communicated in writing to the Commission who shall thereupon inform the voter.

Every public officer shall be duty bound to provide the Board with any information it may require regarding the health of the person whose entitlement to be registered or to continue to be registered as a voter is being considered.<sup>23</sup>

#### **4.10 New Registrations**

The Commission shall, at least, every calendar month give to each party delegate a list showing new registrations, corrections, transfers and cancellations carried out by it indicating the name and all particulars of the person concerned and the reason for effecting any change.

The party delegates shall have the same powers granted to the Commission to seek, through the Commission, information from public officers regarding the entitlement of a person to

be registered as a voter and the duty of such public officers to give such information shall also apply in relation to the party delegates. The Commission shall give a copy of all requests for information and of all replies also to the other party delegates.<sup>24</sup>

#### **4.11 Publication of Electoral Register**

The lists of all persons who are entitled to be registered as voters for the election of members of the House shall constitute the electoral register.

The electoral register shall be compiled in such manner that the public may be aware of the persons who are registered as voters, and in such manner to enable the identification of every voter and giving every voter the opportunity to object to the inclusion of any other voter.

The electoral register shall consist of as many parts as there are divisions, one for each division, and each division shall be subdivided into as many parts as the Commission shall consider necessary or convenient.

The electoral register shall, in each section be drawn in alphabetical order according to the name of each street and voters shall be shown in alphabetical order of surnames under the name of the street where they are registered and against the name of each voter his place of residence and identity card number shall be shown.

The electoral register may also include against the name of each voter any other particulars which may be considered necessary for the proper identification of each voter.

Any printing error in any particular so shown shall not of itself affect a person's entitlement to vote.

The electoral register shall include all persons who are entitled to be registered as voters on the day mentioned, that is to say, as on the thirty-first day of March and the thirtieth day of September, as the case may be.

The Commission shall cause a revised electoral register to be published in the Gazette twice a year, that is to say, in the month of April and in the month of October. Such register shall contain all corrections, additions, transfers and cancellations as on the thirty-first day of March and the thirtieth day of September immediately preceding the publication thereof.

No such publication shall take place from the date of any dissolution of the House until the conclusion of the following general election: provided that where, prior to any dissolution of the House of Representatives –

- (a) any alteration to the boundaries of the electoral divisions has been approved by the House pursuant to the Constitution; and
  - (b) such alteration has not been shown in a revised electoral register,
- the Commission shall cause to be published in the Gazette, as soon as possible after the dissolution and in any case not later than three working days after the publication of the

election writ in the Gazette, a revised electoral register, the revision of which consisting in the names included in the electoral register last published being shown in accordance with such alteration.

Any additions, cancellations or corrections to the electoral register ordered by a revising officer in accordance with the Act shall be published by the Commission in the Gazette and shall form part of the electoral register.

Whenever an election is to be held, the voters shall be those whose names appear in the revised electoral register last published, subject to such additions, cancellations or corrections ordered by the revising officer, and the Commission shall not have the right to withhold any voting document to any voter who is so registered unless such voter has died: provided that nothing in the foregoing provision shall entitle any person to vote who has ceased to have the necessary qualifications to vote or relieve such person from any penalties to which he may be liable for so voting. Nor shall anything in this provision entitle any person to vote unless he satisfies the requirements of the Act.<sup>25</sup>

#### **4.12 Appeals to Revising Officer**

Any person who has his designation or other particulars in the electoral register corrected or his name transferred to another address or division by the Commission may appeal to a revising officer not later than fourteen days from the day when he is officially informed of the decision of the Commission.

Any person whose application to be registered as a voter or for the correction of his designation or other particulars appearing in the register or for the transfer of his name to another address or division is rejected by the Commission shall have the right to appeal to a revising officer not later than fourteen days from the day when he is officially informed of the decision of the Commission.

Any person whose registration as a voter is cancelled from the electoral register has the right to appeal to a revising officer not later than fourteen days from the day when he is officially informed of the decision of the Commission.

Any person whose name has not been included in the electoral register and who claims that he has the necessary qualifications to vote, and, every voter who claims that his designation, address or other particulars have not been correctly shown in the electoral register may appeal to a revising officer to have his name included in the electoral register or to have his designation, address or other particulars corrected, as the case may be, not later than twenty-one days after the publication of the electoral register.

A revising officer may order the inclusion of a person's name in the electoral register or the correction of the designation, address or other particulars, notwithstanding that no prior application may have been made to the Commission for such purpose.

Any registered voter who claims that any other person whose name appears in the electoral register either is not entitled to be registered as a voter or, that the relative designation,

address or other particulars are not correctly shown in the electoral register in accordance with the Act, shall have the right to appeal to a revising officer not later than fourteen days after the publication of the electoral register either to have the name of such voter expunged from the electoral register or to have the designation, address or other particulars correctly shown.

A revising officer may order the cancellation of the registration of such voter or the correction of the designation, address or other particulars, notwithstanding that no prior application may have been made to the Commission for such purpose.

A revising officer shall before determining any appeal hear the appellant, the Commission and the person, if any, against whom the appeal is made, and shall admit such other evidence and hear such other persons as he may consider necessary.

Where the application is for the cancellation of the registration of a voter on the grounds of mental infirmity, the revising officer shall forthwith refer such application to the Medical Board.

The decision of the Medical Board must be referred to the revising officer who shall determine the appeal in accordance with such decision.

Revising officers shall adjourn sine die the consideration of all applications filed and still pending fourteen days before the date fixed for the election.

The Registrar of each of the Courts of Magistrates shall without delay forward to the Commission a certificate signed by the Registrar personally giving the names, addresses and particulars of all persons who, by order of the revising officer, are to be added to or expunged from the electoral register or whose designation, address or other particulars are to be corrected and the Commission shall revise the electoral register accordingly.<sup>26</sup>

## — Section 5 —

### PREPARATION FOR POLLING

#### 5.01 Election Writ

Whenever an election is to be held, the President is required to give notice thereof to the Commission by a writ under his hand in the prescribed form.

The Commissioners shall cause the writ to be published in the Gazette.<sup>27</sup>

#### 5.02 Election Notice

Within eight days of the publication of the writ, the Commissioners shall cause a notice or notices to be published in the Gazette stating:

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- (a) the place where, and the date and time when, the Commissioners will be in attendance to receive nominations of candidates for election as members of the House, and any objections to such nominations, such place being the Electoral Office. The time during which nominations of candidates for election may be made shall not be less than three days and shall not commence to run before six days from the date of the publication of the notice, and the time during which objections to such nominations may be made shall not extend beyond two working days from the expiration of the time fixed for the receipt of nominations;
  - (b) the places where, and the days and hours when, voting shall be held. Voting shall not take place before the expiration of three days from the date of the publication of the notice of the names of the candidates and the division for which they have been nominated;
  - (c) the place to which the ballot boxes shall be taken by the Assistant Commissioners after the close of voting, which shall also be the place where such boxes shall be kept until the counting of the votes;
  - (d) the place where, and the date and time when, the ballot boxes shall be opened and the counting of votes shall take place.<sup>28</sup>

### **5.03 Voting Document**

Within fifteen days of the publication of the writ, the Commission shall forward to each voter, whose name appears in the last revised electoral register, a document (the voting document) in the prescribed form and made of such material and in such manner as in the opinion of the Commission provides adequate security against forgery. Voting documents shall be numbered consecutively, each document having such distinctive number stamped on the face of it: provided that wherever the Commission is satisfied that a person whose name appears on the electoral register is dead, the relative voting document shall not be forwarded, and where such voting document has been forwarded the Commission shall withdraw it.

Provided further that the Commission shall not forward a voting document to any voter in respect of whom the Commission does not possess a photograph, and in respect of such voters the Commission shall follow the undermentioned procedure:

- (i) within seven days of the publication of the writ, the Commission shall publish in the Gazette a list of the said voters stating their name, surname, place of residence and identity card number;
- (ii) the names of such voters shall not be published in the list mentioned in sub-section 5 of section 46 of the Act;
- (iii) the voting document of such voters shall only be issued if the voter satisfies the requirements stipulated in the Act (section 47), set out in sub-section 5.04 below.

The political parties shall be granted all reasonable facilities to watch the printing of all voting documents, to check the exactness thereof and generally to ensure that only voting documents of voters entitled to receive them are printed.

The voting documents printed shall, until such time as they are forwarded to the voters,

be kept in boxes sealed with the seal of the Commission. The party delegates shall have the right to affix their own seals to such boxes and to be present whenever such seals are broken.

The voting document shall be served on each voter by a police officer or by any other person appointed for the purpose by the Commission, and such document shall be deemed to have been served by delivery to the person to whom it is addressed, or to an adult person, who either resides at the same address or is in his employment, at the address of the voter as shown in the electoral register. The political parties shall have the right to each nominate one representative to accompany each police officer or other person effecting service as aforesaid.

When the Commissioners are unable to effect service of the document aforesaid they shall as soon as possible, and in no case later than fifteen days from the time stipulated, publish in the Gazette a list containing the names, identity card numbers and addresses of the persons on whom the voting document has not been served, and shall state the reason why service has not been effected.

Any person on whom the voting document has not been served and whose name appears in the list published, may up to the Thursday immediately preceding the day of voting, appear personally before one of the Commissioners and claim delivery of the document.

The Commissioners may examine on oath any person so appearing for the purpose of ascertaining his identity and of establishing his claim to receive the document: provided that the document aforesaid shall not be delivered to him unless he produces his identity card to the Commissioners.<sup>29</sup>

#### **5.04 Special Voting Document**

Where a person whose name appears in the last revised electoral register, but does not appear in the list published, has not received the voting document or, after the receipt of such document, has lost or destroyed such document such person may, not later than 6.00 p.m. of the Wednesday immediately preceding the commencement of voting, appear before one of the Commissioners, and if:

- (a) he proves his identity by the production of his identity card; and
- (b) makes a declaration on oath before any such Commissioner that he has not received the voting document or that, after the receipt of such document, he has lost or destroyed it, and such further declaration on oath as the Commissioner may require, he shall be given a voting document issued specially for the purpose specifying as the polling booth where such person is to cast his vote, a polling booth designated for the purpose by the Commissioners; and in any such case:
  - (i) such person shall vote only at the polling booth specified in the voting document; and
  - (ii) if the name of such person appears on any list other than that of the polling booth aforesaid, the Commissioner shall cause the name of such person to be struck off such list; and
  - (iii) a list of all the persons to whom a special voting document is issued shall be kept at the

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Electoral Office and shall be open to inspection by any election agent, party agent or party delegate at all reasonable times until the poll closes.<sup>30</sup>

### **5.05 Number of Voting Documents**

Not later than the Friday before the start of the poll, the Commissioners shall cause to be published in the Gazette a list indicating the number of voting documents printed, the number distributed, the names and addresses of the persons who up to that time have claimed delivery thereof, the number of special voting documents issued and the names, addresses and identity card numbers of the persons to whom such documents have been delivered, the polling booth where such persons were originally supposed to vote, and the polling booth where they are now to cast their vote, the number of and reasons for voting documents withheld and the names, addresses and identity card numbers of the voters concerned and the number of voting documents remaining uncollected and the names, addresses and identity card numbers of the voters concerned.

Any political party shall have the right to nominate representatives to be present during the issuing of the voting documents and for this purpose the said parties shall be provided by the Commission with all such information as is required by them and as they may deem necessary for the better performance of their duties.<sup>31</sup>

### **5.06 Ballot Paper**

Not later than three days prior to the commencement of voting, the Commission shall cause to be published in the Gazette the number of ballot papers printed for each electoral division and the number to be distributed to each individual polling booth.

The Commission shall ensure as far as is practicable that ballot papers are made of such security paper and carry such markings as to ensure that they may not be duplicated.

The ballot paper of each voter shall consist of a paper in the prescribed form, containing a list of candidates described by the name (including any nickname), address and profession or occupation as given in their respective nomination paper and as approved by the Electoral Commissioners.

Candidates shall be arranged by political party and, within each party group alphabetically in the order of their surname. If there are two or more candidates of one party with the same surname, they will be arranged in order of their other names.

Every political party contesting the election shall provide the Commission with the names of the candidates contesting the election in its own interest. Such list shall be conclusive evidence as to whether a particular candidate belongs to that political party.

If supplied by the party to which he belongs, there may be printed on the ballot paper opposite the name of each candidate belonging to that party any badge or device, approved by the Electoral Commission, indicating the political party, if any, to which the candidate belongs, or otherwise calculated to assist the identification of the candidate by the voter.

Ballot papers shall show different colours for parties contesting all electoral divisions and having not less than four candidates in each division. Such colours shall be assigned by the Electoral Commission: provided that any party may decline the colour so assigned to it, and in any such case the ballot paper shall not show any special colour for that party.<sup>32</sup>

### **5.07 Distribution of Ballot Papers**

On the day or days as near as practicable to the day of voting, the Commission shall prepare in different packets the ballot papers and all other documents and materials to be consigned to the Assistant Commissioners on the day of voting.

The Electoral Commission shall retain possession of all packets until the day of the poll when it shall deliver the same to the Assistant Commissioners prior to the start of voting.

Representatives of the political parties shall be granted all reasonable facilities to oversee the printing and checking of all ballot papers, the packing thereof and their distribution to the Assistant Commissioners, and to affix their seals to all packets prepared by the Electoral Commission for delivery to the Assistant Commissioners.<sup>33</sup>

## **— Section 6 —**

### **NOMINATION OF CANDIDATES**

#### **6.01 Procedure for Nomination**

A candidate for election shall be nominated in writing. The nomination paper, which shall be in the form prescribed, shall be signed by the candidate himself, (or, in the event of his absence from the country, by a duly appointed representative), and by, at least, four voters registered in the electoral division for which the candidate is nominated. The nomination paper shall be delivered to one of the Commissioners at the Electoral Office by the candidate himself or if he is prevented by illness or absence from Malta by his lawful representative within the period specified. Immediately after a nomination paper has been delivered to the Commission the name of the candidate shall be posted at the entrance of the Electoral Office with an indication of the division for which the candidate was nominated.

Objections may be made to a nomination on the ground that the description of the candidate is insufficient to identify the candidate, that the nomination paper does not comply with, or was not delivered in accordance with, the Act, that the deposit has not been paid or that the candidate already stands nominated for two electoral divisions: provided that no such objection may be made after expiration of the time fixed for the making of such objection.

Every objection shall be in writing and signed by the objector and shall specify the ground of the objection. The Commission itself may lodge an objection.

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The Commissioners shall, with the least possible delay and in any case not later than twelve working days before the day fixed for voting, decide on the validity of every objection and inform the candidate to whose nomination the objection relates or his lawful representative of their decision and, if the objection is allowed, of the ground of their decision. The decision of the Commissioners, if disallowing an objection, shall be final, but if allowing an objection, shall be subject to appeal to the Court of Appeal by writ of summons filed in contestation with the Commissioners not later than ten working days before the day fixed for voting.

Any voter may ask the Commissioners to be allowed to see and examine any nomination paper accepted by them.<sup>34</sup>

### **6.02 Deposit by Candidates**

A candidate at any election shall deposit, or cause to be deposited on his behalf, with the Commission, before his nomination can be accepted, the sum of forty liri in respect of each nomination, and if he fails to do so, the nomination in respect of which no deposit is made shall not be accepted by the Commissioners.

If after the deposit is made the candidature is withdrawn, the deposit shall be returned to the person by whom it was made, and if the candidate dies after the deposit is made and before the voting has commenced, the deposit, if made by him, shall be returned to his heir and if not made by him, shall be returned to the person by whom it was made.

If a candidate who has made the required deposit is not elected, and the number of votes polled by him does not exceed one-tenth of the number of votes polled divided by the number of members to be elected for that division, the amount deposited shall be forfeited and paid by the Commissioners into the Consolidated Fund but in any other case the amount shall be returned to the candidate, where the candidate is elected, as soon as he has taken the oath 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 an election in two divisions he shall not recover his deposit more than once unless he is elected in both divisions, and if such candidate fails to obtain, in either division, the minimum number of votes required, he shall forfeit both deposits.

The number of votes polled by a candidate shall be the highest number of votes credited to him at any time during the counting of the votes.<sup>35</sup>

### **6.03 Where No Candidate is Nominated**

If at the expiration of the time fixed for the nomination of candidates, no candidate shall have been nominated for an electoral division, the Commissioners shall cause a report to that effect to be published in the Gazette on the following working day, and in such case the President may issue a new writ for an election for that division.<sup>36</sup>

#### **6.04 Uncontested and Contested Elections**

If at the expiration of the time fixed for the receipt of nominations, the number of candidates nominated for an electoral division is equal to or less than the number of candidates that the voters in such division are entitled to return, the Commissioners shall return to the President the names of the candidates nominated as members elected to the House to represent that division and such return shall be published in the Gazette.

If the number of candidates nominated for an electoral division be less than that which the voters in that division are entitled to return, the President on the return made to him shall issue a new writ for the election of members to fill the remaining vacant seats in that electoral division, and if thereupon no candidates are nominated, or if the number of candidates nominated is less than the number of vacant seats, the seats thereafter remaining vacant may be filled by co-option of a member or members by the House and the President shall not issue a new writ in respect thereof.

If more than such number of candidates as aforesaid be nominated for an electoral division, the Commissioner shall cause a notice to be published in the Gazette over their signature stating the names of the candidates and the division for which they have been nominated. No person whose name has not been published in the said notice may be elected to be a member of the House.<sup>37</sup>

#### **6.05 Withdrawal of Candidature**

A candidate may, during the time prescribed for nomination, but not later than six hours before the expiration of the said time, withdraw his candidature by giving notice to the Commission to that effect. Such notice shall be signed by the candidate or, if he is absent from Malta, by his duly appointed representative.<sup>38</sup>

### **— Section 7 —**

#### **ELECTION OFFICERS**

##### **7.01 Assistant Commissioners**

The Commission is required to appoint as many Assistant Electoral Commissioners (referred to as “Assistant Commissioners”) as may be necessary, to superintend the election in the manner prescribed. No Assistant Commissioner shall be appointed to superintend the poll in the electoral division in which he resides or where he habitually exercises his profession or calling.

The Assistant Commissioners shall take the oath of office before one of the Commissioners and shall follow the instructions which they may receive from the Electoral Commission for the discharge of their duties.<sup>39</sup>

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## **7.02 Political Parties' Role in Selection of Assistant Commissioners**

Every political party shall, within ten days of publication of the writ, be entitled to nominate a number of persons, equal to one and a half times the number of polling booths, to act as Assistant Commissioners, and to the extent that such persons have the necessary ability to perform the functions of Assistant Commissioner and are not disqualified from so acting, the Commission shall appoint Assistant Commissioners from amongst such persons.

The Commission shall itself nominate as Assistant Commissioners such number of persons as is necessary in order that in each of the polling booths there be in attendance at all times at least one person nominated by the Commission to act as Assistant Commissioner.

In no case shall there be less than three Assistant Commissioners nominated to superintend the poll in each polling booth and should all or any of the political parties fail to nominate all or any Assistant Commissioners, the Commission shall itself nominate other Assistant Commissioners in order to ensure that, at least, three Assistant Commissioners are in attendance in each polling booth.

The Commission shall, not later than two days after the publication of the writ, inform the parties of the number of Assistant Commissioners that each party will be required to nominate.<sup>40</sup>

## **7.03 Publication of Names of Assistant Commissioners**

A person shall not hold the office of Assistant Commissioner if he is a candidate for election to the House, or is a relative by consanguinity or affinity up to the second degree to any candidate for election, or is manifestly in the opinion of the Commission, after consulting the party delegates, unsuitable to perform the functions of Assistant Commissioner.

The Commission is required to deliver to the political parties within a stipulated period a list of all persons nominated to act as Assistant Commissioners indicating their names, identity card numbers, addresses and occupations as well as the polling booth at which each will be in attendance.<sup>41</sup>

## **7.04 Objections to Assistant Commissioners**

The political parties, not later than two days after the day on which the Commission delivers the list of persons nominated to act as Assistant Commissioners to the political parties, shall have the right to object in writing to the Commission with respect of the appointment of any person as Assistant Commissioner on any of the grounds stipulated.

Where an objection is received by the Commission, it shall, not later than the next following day, call a meeting of party delegates to discuss such objections.

Any objection made shall be determined by the Commission. The determination by the Commission shall be final and binding on all concerned. Where after hearing such objections the Commission determines that a person nominated by a political party to be

appointed as an Assistant Commissioner shall not be so appointed, the political party which had nominated that person shall have the right to nominate another person in his stead.

The fresh nominations shall be made immediately after the determination of all the objections. If any further objection is received and upheld by the Commission, the Commission itself shall appoint another person to be Assistant Commissioner and such appointment shall be final and no objection may be made in respect thereof.

Upon final determination of all objections the Commission shall assign the Assistant Commissioners to the various polling booths; such distribution shall be made in such manner as to ensure that in each polling booth there is, at least, one Assistant Commissioner nominated by the Commission and one Assistant Commissioner nominated by each party contesting the election in that division: provided that where a political party has not nominated a sufficient number of persons to be appointed Assistant Commissioners, the Commission shall only be required to assign, in respect of that political party, such Assistant Commissioners as have been nominated by it and appointed Assistant Commissioners.

The Commission shall, within two days of the final determination, cause a list to be published in the Gazette showing the name, address, identity card number and occupation of each Assistant Commissioner appointed, the polling booth to which each has been assigned and indicating the Assistant Commissioners who are assigned but held in reserve.

After the final distribution of all Assistant Commissioners and up to the end of voting, the Commission alone shall have the right to substitute Assistant Commissioners and then only for grave and sufficient reasons and in such manner as to ensure that where the Assistant Commissioner substituted is one nominated by a political party, his substitute must be one nominated by the same party, provided a sufficient number of Assistant Commissioners have been nominated by that party.<sup>42</sup>

## — Section 8 —

### VOTING

#### **8.01 Election Agents**

On or before the day of nomination at an election a person shall be named in writing by or on behalf of each candidate as his agent for such election and such person is referred to as the election agent.

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

One election agent only shall be appointed for each candidate, but the appointment, whether

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the election agent appointed be the candidate or not, may be revoked, and in the event of such revocation or of the death of the election agent, whether such event is before, during, or after the election, then forthwith another election agent shall be appointed, and his name and address declared in writing to the Commissioners, who shall forthwith give public notice of the same.<sup>43</sup>

### **8.02 Party Agents**

Every political party has the right to nominate as its agents such number of persons as is equal to the number of ballot boxes and such persons are referred to as party agents.

The party agents so nominated have the right to be present in the polling booths prior to the start and at the close of the poll.

Political parties exercising the right granted to them shall forward lists to the Commission containing the names of the persons nominated by them as their agents not later than the day appointed for the nomination of Assistant Commissioners.

No person shall be appointed election agent or party agent who has within seven years previous to such appointment been found guilty of any corrupt practice under the Act or is determined by the Commission to be manifestly unsuitable to act as such.<sup>44</sup>

### **8.03 Identification of Election and Party Agents**

Together with the name, address and identity card number of the election or party agent, the candidate or political party, as the case may be, shall forward to the Commission a passport size photograph of the agent, and the Commission shall not later than seven days before the start of the voting forward to such agent a tamper-proof identity document bearing the photograph of the agent franked with the seal of the Commission and indicating the name, address and identity card number of the agent and by whom he has been nominated. The identity documents as issued shall be progressively numbered, shall be of a different colour so as to easily distinguish election and party agents and shall be worn in a conspicuous manner by the agent concerned in the exercise of his functions.

Within the time established in the preceding provision, the Commission shall cause to be published in the Gazette a list of the names, addresses and identity card numbers of all election and party agents nominated indicating with respect to each one of them by whom he has been nominated, and whether he is an election or party agent and the progressive number of the identity document issued to him.<sup>45</sup>

### **8.04 Polling Places and Polling Day**

In each polling booth a list of voters entitled to vote in that polling booth together with copies of the photograph of each voter shall be kept by the Assistant Commissioners. Every page of such list and every correction or cancellation thereon shall be signed by a Commissioner and a party delegate of each political party.

Copies of such lists without photographs shall be forwarded by the Commission to all political parties contesting the election at least fifteen days prior to the day fixed for voting and the Commission shall keep the political parties informed of all changes effected to such lists. The lists shall identify the polling booth where each voter entitled to vote shall exercise his right to vote, shall list the voters who are to vote in each polling booth in alphabetical order according to the surnames of the voters, assigning to each voter a distinct and consecutive number and indicating the name, surname, address and identity card number of each voter as well as the registered number of the respective voting document of each voter.

The name of every voter who delivers a valid voting document and to whom a ballot paper is delivered by the Assistant Commissioners shall be marked on such list kept for the purpose by the Assistant Commissioners and in such manner as is directed by the Commission.

Voting shall be held on a Saturday. Voting shall start at 7.00 a.m. and shall close at 10.00 p.m.: provided that every voter, who at the close of time of voting is present in a polling place for the purpose of voting, shall be entitled to receive a ballot paper and to vote; provided further that, where the Commissioners are satisfied that the time allowed for voting has been, or will be, for any reason beyond their control, reduced at all or in any one or more of the places, they may, whether before or after the poll has commenced, extend time fixed for the poll at such polling place or places so as to make good for the time lost, as aforesaid.

The Commission shall, as far as possible, provide facilities so that handicapped persons, including persons in wheelchairs, may vote in comfort.<sup>46</sup>

### **8.05 Prohibition of Public Meetings**

No public meeting or public demonstration shall be held on the day immediately preceding the commencement of voting and on the day fixed for voting.<sup>47</sup>

### **8.06 Maintenance of Order**

During the time fixed for voting at any polling place, no person, other than a person waiting to vote, shall loiter within a distance of fifty metres from that polling place nor shall any person within the said distance of fifty metres make political propaganda in any manner. Any club, shop or other public establishment within such distance must be kept closed on polling day.

No person shall congregate during voting, in any street, square or other place, leading from the place of residence of any voter to any polling place, in such numbers or otherwise in such manner as to be likely to intimidate any voter, or to obstruct his approach to or from a polling place, or to lead to a breach of the peace.<sup>48</sup>

### **8.07 Ballot Boxes**

The Commission shall deliver to the Assistant Commissioners for each polling booth one or

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more sealed ballot boxes, a sufficient number of ballot papers, lists of the voters entitled to vote at that polling booth and other relevant documents and materials.<sup>49</sup>

### **8.08 Sealing of Ballot Boxes**

Not later than four days prior to the transportation of the ballot boxes to the polling place, the Commission shall proceed to seal all the openings of the ballot boxes after ascertaining that the ballot boxes are empty. The Commission shall at least three days before such sealing publish a notice in the Gazette stating the time and place where such sealing is to take place, the total number of ballot boxes available, the number to be used for polling and the place where the extra ballot boxes will be held. Candidates, election agents, party delegates and a number, previously determined by the Electoral Commission, of persons from each political party, shall have the right to attend at such sealing and place their personal seals on all the openings of the ballot boxes.

After the ballot boxes have been sealed in the manner aforesaid they must be placed in a room which must be sealed until the day immediately preceding the day fixed for voting, on which day the room shall be opened and the ballot boxes transported to the various polling places. The room wherein the ballot boxes are kept until transportation shall be adequately lit at all times and shall have a small opening in the door to allow visual checking; so however for the purpose of transporting the ballot boxes to Gozo, such transportation may take place two days preceding the day of the poll, and transportation of the ballot boxes to the individual polling places in Gozo shall take place on the day immediately preceding the day of the poll.

Political parties, as well as candidates, election agents and the party delegates, shall be granted adequate facilities to seal all openings into the room, to physically check the ballot boxes through the opening in the outside door and to accompany the boxes in the transportation to the polling places: provided that for the purposes of overseeing the transportation of the ballot boxes from the room designated for holding them to the polling places the political parties shall have the right to nominate an adequate number of persons in proportion to the number of ballot boxes, provided that such persons are not considered manifestly unsuitable by the Commissioners.

After transportation to the polling place, all ballot boxes consigned to each polling place shall be sealed in one room which shall be adequately lit at all times and which shall allow visual checking through a small opening in the door. On the day fixed for voting and 30 minutes prior to the start thereof the room shall be opened and the ballot boxes transported to the various polling booths.

Political parties as well as candidates, election agents and the party delegates shall be given adequate facilities to seal all openings into the room, to physically check the ballot boxes at all times through the opening in the outside door, to be present when the seals to the room are broken and to watch the transportation of the ballot boxes to the polling booths.

Immediately prior to the start of voting the Assistant Commissioners in the presence of any candidate, election agent or party agent or party delegate as may be present shall, without

breaking the seals, check that the ballot boxes consigned to them are empty by shaking the ballot boxes and shall thereupon break the seal or seals to the opening through which ballot papers shall be inserted. If the Assistant Commissioners or any one of them or any candidate or election agent or party agent or party delegate as may be present suspects that the ballot box is not empty, the Assistant Commissioners shall not break the seal or seals as aforesaid but shall immediately notify the Commission which shall break open all seals in the presence of the party delegates and Assistant Commissioners concerned. The Commission shall ascertain that the ballot box is empty and reseal the ballot box before allowing the start of the voting and the party delegates shall have the right to place their personal seals thereon. Except as set out herein, the seals placed on the lid of the ballot boxes shall not be broken except when the ballot boxes are opened for the counting of votes.

Where the Commission determines that because of lack of space, not all the seals may be conveniently placed, the Commission may direct that not all seals shall be so affixed ensuring however that each political party will be given the opportunity to affix at least one seal on each ballot box.<sup>50</sup>

### **8.09 Voting**

Any voter wishing to vote shall attend at the polling booth, specified in the voting document received by him and shall deliver such document to an Assistant Commissioner at such polling booth during the hours appointed for voting.

No person shall be allowed to vote unless he produces and delivers the voting document to the Assistant Commissioners.

No inquiry shall be permitted at the time of voting as to the right of any person to vote, so long as the name of such person is included in the list, but the Assistant Commissioners may, before the delivery of the ballot paper to a voter, put to him such questions as they may deem proper to satisfy themselves of the identity of such voter.

The Assistant Commissioners, upon the production and delivery to them of the voting document and having satisfied themselves of the identity of the voter, shall strike out the name of the voter from the list and shall deliver to him, after marking it with official marks, a ballot paper. "Official mark" means the stamp which the Commission directs the Assistant Commissioners to use; so however that each political party may direct the Assistant Commissioner nominated by it to use a stamp of its own to mark the ballot papers, provided that an imprint of the stamp so used is deposited with the Commission prior to the start of the poll; such stamp shall not be necessary for the validity of the ballot paper.

The Assistant Commissioners may at their discretion administer an oath to any voter in the form prescribed.

Any person refusing to answer any questions put to him or to take the oath shall not be permitted to vote.

The Assistant Commissioners shall not refuse a ballot paper to any person whose name

is included in the list and otherwise satisfies the requirements of the Act, unless the person claiming to vote, upon being questioned appears to the Assistant Commissioners not to be the person whose name is on the aforesaid list or to have previously voted at the same election.

The Assistant Commissioners must keep a written record of the taking of any oath administered to any person and of the refusal to allow any person to vote.

Subject to any exception provided in the Act, no voter shall be allowed to vote except at the polling booth specified in the voting document produced by him for the purposes of voting.

A voter who has inadvertently spoilt his ballot paper may, on delivering the spoilt ballot paper to the Assistant Commissioner, and proving the fact of inadvertence to the satisfaction of the Assistant Commissioner, obtain another ballot paper in its place and the spoilt paper shall be immediately cancelled.<sup>51</sup>

### **8.10 Method of Voting**

Each voter shall have one transferable vote.

A voter in recording his vote:

- (a) must place on his ballot paper the figure 1 opposite the name of the candidate for whom he votes; and
- (b) may in addition indicate the order of his choice or preference for as many other candidates as he pleases by placing against their respective names the figures 2, 3, 4, 5 and 6 and so on in consecutive numerical order.

A ballot paper is invalid in which:

- (a) the figure 1 standing alone indicating a first preference for one candidate is not placed; or
- (b) the figure 1 standing alone indicating a first preference is set opposite the name of more than one candidate; or
- (c) the figure 1 standing alone indicating a first preference and some other number is set opposite the name of the same candidate; or
- (d) it cannot be determined with certainty for which candidate the first preference of the voter is expressed; or
- (e) any writing or mark is made by which the voter can be identified; or
- (f) the official mark is not made.

A voter shall record his vote secretly inside a cubicle in the booth provided for this purpose and constructed in such a manner as not to allow the voter to be seen when marking his ballot paper.

After marking his ballot paper the voter shall fold the ballot paper so as to conceal his vote and shall then put the ballot paper in the ballot box in the presence of the Assistant Commissioners.<sup>52</sup>

### **8.11 Illiterate or Incapacitated Voters**

Any voter who declares to, and shows to the satisfaction of, the Assistant Commissioners that he is unable by reason of blindness, or other physical cause or illiteracy to mark his ballot paper, may request an Assistant Commissioner to mark the paper on his behalf indicating for which candidate or candidates he wishes to vote and the order in which he wishes to record his vote: provided that the voter may not ask for any particular Assistant Commissioner to mark the ballot paper on his behalf.

The Assistant Commissioners are bound to secrecy with regard to the voting of persons whom they have assisted to vote.

There shall be not less than two Assistant Commissioners present when the vote is being recorded, but no other person shall be allowed in the room.

When an Assistant Commissioner is authorised to assist a voter record his vote, the Assistant Commissioner shall require such voter to confirm his declaration on oath, and on satisfying himself of the correctness of such declaration he shall record the vote of such voter on the ballot paper, in accordance with the indication made by such voter and following the procedure set down hereunder:

- (a) the Assistant Commissioner shall ask the voter: "Which of the candidates do you most desire see elected?" and shall place the figure 1 on the ballot paper opposite the name of the candidate indicated by the voter;
- (b) the Assistant Commissioner shall then ask the voter: "For which of the candidates do you desire to express a second choice?" and shall place the figure 2 on the ballot paper opposite the name of the candidate indicated by the voter;
- (c) the Assistant Commissioner shall repeat the operation in reference to a third or any subsequent preference until the voter shall declare that he does not desire to express any further choice;
- (d) in order to assist such voters in indicating their preferences, the Electoral Commissioners shall permit the display in the polling places of photographs of the candidates, if the same are supplied by the candidates themselves or by a political party on their behalf. Each photograph may bear, in addition to the name of the candidate represented, the badge and the name of the party, if any, to which he belongs. Such photographs shall be of such size and description as the Electoral Commission may require and shall be displayed in such manner as it shall direct and in the order in which the candidates' names appear on the ballot paper;
- (e) at the commencement of these operations and at any subsequent stage the Assistant Commissioner shall, if desired by the voter, read out in the order in which they appear on the ballot paper, the names of all candidates for whom a choice has not already been expressed by the voter;
- (f) if any such voter, however, requests the Assistant Commissioner to read out the names of the candidates of one particular political party only, the Assistant Commissioner shall do so by reading in alphabetical order the names of the candidates who have supplied an indication of their adhesion to that political party and omitting the names of the other candidates.<sup>53</sup>

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### **8.12 Secrecy of the Ballot**

While a voter is recording his vote, the Assistant Commissioners shall keep at sufficient distance so as not to be able to see the vote recorded.<sup>54</sup>

### **8.13 Ballot Paper Not to be Removed from Polling Place**

The Assistant Commissioners must not permit any person to take his ballot paper out of the room or out of their sight until it is inserted into the ballot box.<sup>55</sup>

### **8.14 Assistant Commissioners Not to Make Suggestions as to Manner of Voting**

No Assistant Commissioner or any other person shall record the voter for any vote, except as provided for under the Act, or shall, at any polling place make any suggestion to him directly or indirectly regarding the candidate or candidates for whom he should vote or regarding his choice of preference.<sup>56</sup>

### **8.15 Voting in Polling Place Other than Specified in Voting Document**

The Commissioners, the Assistant Commissioners, police officers and other persons entrusted with some duty at a specific polling place may, with the approval of the Commission and provided that they so inform the Commission at least forty-eight hours prior to the start of voting, record their votes in the polling place in which they are performing such duty and which has been designated for this purpose by the Commission. Such persons shall cast their votes as early as practicable at the start of voting.

A list of persons so entitled to vote shall be kept at the Electoral Office and in such polling place and shall be open to inspection by the party delegates at least twenty-four hours prior to the start of voting.

Candidates for election may record their votes in one of the polling places designated for the purpose by the Commission and situated in the division in which they stand for election.<sup>57</sup>

### **8.16 Closure of Voting**

After the expiration of the time fixed for voting, the Assistant Commissioners shall seal the opening of the ballot box, shall place in a packet all unused and spoiled ballot papers and all printed or written records kept by them, affixing their seal thereto, after stating and signing on the said packet the number thereof, and shall place in a separate packet all voting documents delivered to them. The official marks used by the Assistant Commissioners including those used by the Assistant Commissioners nominated by the political parties shall be put in a separate packet which shall be sealed with the seal of the Commission after all Assistant Commissioners have affixed their signatures thereto.

The Assistant Commissioners must physically count and reconcile the number of unused and spoiled ballot papers, the number of persons marked as having voted on the list and the number of voting documents delivered to them.

After the close of the poll and before ballot boxes are removed from the polling booths, the Assistant Commissioners shall affix a notice on the door of each polling booth and signed by all the Assistant Commissioners stating the number of voters entitled to vote at that polling booth, the number of ballot papers received by them from the Commission, the number of voting documents delivered to them distinguishing as to whether they are ordinary or special, the number of spoilt ballot papers and the number of unused ballot papers being returned by them to the Commission and the number of persons who have voted in that polling booth. The said notice is referred to as "ballot paper account".

A copy of the ballot paper account shall be delivered by the Assistant Commissioners to each political party by handing it to any candidate, election agent or party agent representing such party as may be present, and shall also be delivered to the Commission at the place specified in the Act and the Commission shall immediately thereon provide a copy to the party delegates.

On completion of all the duties mentioned in the foregoing provisions, the Assistant Commissioners shall deliver the ballot box or boxes and all documents and packets entrusted to them to the Commission at the place specified.

Party delegates, candidates, election agents and party agents shall have the right to attend at the reconciliation and sealing of papers and sealing of ballot boxes, to affix their own personal seals to the packages containing the papers and to the ballot boxes and shall be granted facilities to watch and accompany the transportation of the ballot boxes from the polling place up to their delivery to the Commission.

No more than one party agent from each political party may be present in each polling booth at any one time during the procedure for the sealing of ballot boxes.

The Assistant Commissioners shall ensure that candidates, election agents, party agents or party delegates as may be present shall be called in prior to their starting the procedures outlined in the previous provisions for the sealing of ballot boxes and packets and reconciliation.

The candidates, election agents, party agents and party delegates that may be present shall be granted all reasonable facilities to oversee, record and request recounts of all the operations undertaken by the Assistant Commissioners and without prejudice to the generality of the above:

- (i) to reconcile the number of persons who have voted as stated in the ballot paper account with the number of persons which the Assistant Commissioners have struck off the list, and the number of voting documents received by the Assistant Commissioners;
- (ii) to reconcile the names of the voters which the Assistant Commissioners have struck off the list with the names or the voting documents received by them;
- (iii) to record the names of the persons who have not voted.

After all the procedures indicated have been completed, the Assistant Commissioners shall

keep the ballot boxes and all documents and packets in the polling booth until such time as the vehicle designated by the Commission for the transfer of the ballot boxes arrives at the polling place. Any candidate, election agent or party agent or party delegate as may be present shall also have the right to remain at such polling booth.

During the transportation from the polling place to the place designated by the Commission for the delivery of ballot boxes no more than one representative from each of the political parties may board the vehicle designated by the Commission for transportation. The representatives shall be designated by the political parties and shall be duly authorised by the Commission and shall bear the identification stipulated and shall have the said names publicised.

The refusal by any Assistant Commissioner to sign any declaration or document shall not to itself invalidate the contents thereof.

The Assistant Commissioners shall keep order in the polling place under their charge and shall be responsible for any irregularity in the voting in that place in so far as such irregularity could have been prevented by them.<sup>58</sup>

### **8.17 Voting Arrangements for Retirement Homes**

A retirement home means a place or places principally used for the care of elderly persons in which at least fifty voters reside.

Within twenty-four hours of the publication of the writ for the election of members to the House, the Commission shall form a subcommittee consisting of a Commissioner, who shall act as chairperson, and a representative of each of the political parties and shall delegate to the subcommittee the running of the election in all retirement homes.

The subcommittee shall have the duty to ensure that no undue pressure is brought to bear on voters in old age homes, that proper and adequate facilities are given to all political parties to canvass such voters, that adequate arrangements for voting are made in view of special needs of such voters and that no political party enjoys any unfair advantage.

Without prejudice to the generality of the above provisions, the subcommittee shall ensure that:

- (a) immediate steps are taken to temporarily remove and substitute members of staff gravely suspected to have attempted to influence voters;
- (b) arrangements are made for the receipt and proper delivery of propaganda material and for canvassing during visiting hours by candidates and political parties contesting that electoral division;
- (c) complaints by political parties and or candidates are speedily investigated and rectified when found to be justified.<sup>59</sup>

### **8.18 Duties of Persons Responsible for the Administration of Retirement Homes**

Within three days of the publication of the writ the person responsible for the administration of a retirement home shall send to the subcommittee:

- (a) a list of all persons resident at such retirement home, indicating the name, identity card number, last known address, age, ward number, name and address of next of kin and whether registered as a voter in the home address or otherwise;
- (b) a list of all staff at the retirement home, indicating the name, identity card number, address, grade and working hours up to the day following the day fixed for voting.

On receipt thereof the subcommittee shall immediately provide the political parties with copies of such lists.

The administrator of every retirement home shall keep such lists updated and shall immediately send to the subcommittee any amendments thereto and the subcommittee shall immediately inform the political parties of such amendments.

Members of the staff in retirement homes are expressly prohibited from engaging in propaganda for any political party or candidate and any employee contravening these provisions is guilty of an offence and shall on conviction be liable to the penalty of general interdiction for a period of ten years.<sup>60</sup>

### **8.19 Voting at Retirement Homes**

The voting documents of voters registered in retirement homes shall be delivered to the voters personally. The voter may opt to deliver the voting document to the administrator of the home for safe keeping and such administrator shall return the same to the voter on the day fixed for voting or on such earlier day as may be requested by the voter.

Voters in retirement homes shall have the option to proceed to the polling place:

- (a) without the assistance of any person;
  - (b) with the assistance of members of the staff;
  - (c) with the assistance of members of their families,
- and it shall be the responsibility of the subcommittee to ascertain the option chosen by each voter.

Voters opting to be assisted by members of the staff shall be accompanied by members of the staff chosen from a pool thereof nominated in equal numbers by all the political parties. Political parties shall have the right to demand, and the Commission shall have the duty to ensure, that if the ordinary staff at such home is not sufficient other persons are transferred to such home for such purpose.

Voters opting to be assisted by members of the staff or by members of their families shall be so accompanied up to the door of the relative polling booth.

During the day fixed for voting no person other than members of the subcommittee, members of the staff and relatives of patients who have been previously authorised to accompany voters to vote, shall without the express authority of the Commission be allowed to enter retirement homes.

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Except with the special authorisation of the subcommittee, no voter in a retirement home who has chosen the option to vote on his own or to be accompanied by members of his family may be taken to vote by members of the staff.

The subcommittee appointed shall function under the general direction of the Commission and shall be bound to implement the decisions of the Commission.<sup>61</sup>

## — Section 9 —

### COUNTING OF VOTES

#### 9.01 Start of Counting of Votes

The counting of votes shall take place at the place and time specified in the notice of election and shall be conducted as prescribed. Counting shall not commence until all ballot boxes have been deposited in the room designated for the purpose by the Commission, all packets containing the papers and other material used by the Assistant Commissioners have been delivered to the Commission and neither ballot boxes nor packets have been declared to be in a state that gives rise to the suspicion that they have been tampered with.<sup>62</sup>

#### 9.02 Tampering with Ballot Boxes

Political parties contesting the election shall have the right to nominate a sufficient number of agents, to be determined by the Commission, to oversee at all times the receipt of the ballot boxes, documents and packets, by the Commission from the Assistant Commissioners and the storage of the said ballot boxes, documents and packets after the receipt thereof.

These agents are referred to as “delivery agents”.

Party delegates, candidates and their agents as well as delivery agents shall have the right to monitor the receipt of the ballot boxes by the Electoral Commission from the Assistant Commissioners and to make representations thereon.

If any of the Commissioners or any party delegate, candidate or delivery agent claims that any ballot box or package is received in a state that gives rise to suspicion that it may have been tampered with, the Commission shall order such box or packet to be dealt with separately from the other boxes or packets, and shall immediately call a meeting of the Commission and at such meeting the Commission shall have the power to hear such evidence under oath as it deems necessary.

Where the Commission decides that there is no evidence that justifies the suspicion that the box or packet has been tampered with, its decision is final and no appeal shall lie therefrom.

Any claim shall be made as soon as the ballot box or packet is delivered by the Assistant Commissioners to the Commission and for this purpose the Commission shall ensure that

the party delegates, candidates or delivery agents are given adequate facilities to attentively inspect the ballot boxes, documents or packets.

It shall be the duty of the Commission to ensure the mathematical accuracy of the ballot paper account and that this tallies with the declared number of voting documents returned by the Assistant Commissioners. Political parties have the right to demand that the Commission shall for this purpose, open all packets containing voting documents relative to no more than ten per cent of all ballot boxes in order to physically check the accuracy of such returns.

Political parties shall select the ballot boxes in relation to which the packets containing voting documents are to be opened during delivery of the ballot boxes to the Commission and prior to the storage of the ballot boxes.

As each ballot box is received and cleared by the Commission it shall be transferred to the room designated by the Commissioners for the storage of all ballot boxes.

As soon as practicable after all ballot boxes have been received and cleared and prior to the start of the counting process the Electoral Commission shall publicly declare the total number of votes declared to be cast in accordance with the ballot paper accounts delivered by the Assistant Commissioners as well as the number of votes in each ballot box as resulting from the same account.

The Commission shall preserve until the publication of the official results of the next following election all papers delivered to it by the Assistant Commissioners, as well as the unused ballot papers and the voting documents, in separate sealed packets indicating on each packet the nature of the documents contained therein, and the electoral division to which they appertain.

On every packet there shall be affixed the seal of the Electoral Commission and the signature of at least two Commissioners, and of any party delegate, candidate or delivery agent who may wish to sign it.<sup>63</sup>

### **9.03 Counters, Supervisors and Calculators**

The Commission shall appoint a number of persons to act as counters, supervisors and calculators to assist it in the counting and transfer of votes which shall be effected under the direct supervision of the Commission.

A list of the persons appointed as counters, supervisors and calculators shall be published by the Commission in the Gazette, together with the list of persons appointed as Assistant Commissioners and the procedures established for the nomination by political parties of and for objections to Assistant Commissioners apply *mutatis mutandis* to supervisors and counters.

All counters, supervisors and calculators shall be issued with identity documents specifying the details provided for election and party agents. The identity documents must be worn at

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all times by the counters, supervisors and agents whilst in the precincts of the building where the counting of votes is held.

The calculators shall perform all mathematical calculations connected with the counting of votes and the Commission shall ensure that the persons so chosen are proficient in mathematical calculations.

Supervisors are responsible for a number of counters and shall oversee the opening of ballot boxes, and the sorting and counting of ballot papers for every electoral division. The Electoral Commission shall ensure that at all times during the counting of votes there are no less than two supervisors for each electoral division and that the political parties are adequately represented in the choice of persons to act as supervisors for each electoral division.

Counters are required to work under the direction of the supervisors; they shall physically sort and count the ballot papers. The Electoral Commission shall ensure that there are sufficient number of counters in every electoral division to ensure a quick and efficient counting process and that the political parties are adequately represented at all times during the counting of votes in the choice of persons to act as counters in each electoral division.<sup>64</sup>

#### **9.04 Appointment of Persons to Assist Commissioners in Counting the Votes**

The Commission may authorise any one or more of its members or any other persons appointed by it to do anything on its behalf in connection with the receipt and storage of ballot boxes and the counting and transfer of votes and anything done by virtue of such authority shall be deemed to have been done by the Commission.

The Commissioners or any one or more of them shall administer to every person authorised to act for the Commission an oath for the faithful discharge of the duties assigned to him.<sup>65</sup>

#### **9.05 Candidates and Agents**

Unless otherwise provided under the Act, candidates and election agents shall have free access to the building where the counting of votes will take place, and to the counting hall at all times.

Every political party has the right to nominate a number of agents equal to the number of candidates presented by it to contest the election and such agents shall at all times have access to the said building and to the counting hall at all times. These agents are referred to as "counting agents".

The list of counting agents shall be presented to the Commission at least twenty-one days prior to the start of the poll; the Commission shall inform the political parties of all the agents so nominated so that the said political parties may have an opportunity to make representation to the Commission before the same accepts or rejects them; the agents so nominated are to be of good character and acceptable to the Commission and once nominated and accepted by the Commission, may not, for any reason, be changed by the political party nominating them.

The party delegates, candidates, election agents and counting agents shall be issued with an identity document indicating the details required for election agents and such identity document is to be worn at all times on entry into and inside the building or complex where the votes are counted.<sup>66</sup>

### **9.06 Counting Place**

With respect to the building designated by the Commission for the counting of votes the Commission shall ensure that:

- (a) all roads of access at least within 500 metres of the said building are enclosed and patrolled by the police who shall permit entry only to authorised persons and only after scrupulously having ascertained their identity;
- (b) entry into the actual building or perimeter shall be checked by both the police, the Commission and representatives of the political parties;
- (c) a number of rooms as may be necessary either in or as near as possible to the building wherein the counting hall is situated shall be provided to ensure full press and broadcasting coverage of the counting and transfer of votes provided that the entrance to such rooms shall at all times be guarded by the police who shall only allow entry to bona fide broadcasting personnel and newspaper reporters who shall have been previously accredited by the Commission;
- (d) an area adjacent and communicating with the counting hall shall be provided for the storage of the ballot boxes and that during the time the boxes are stored in such area they shall at all times be visible from all parts of the counting hall;
- (e) a number of rooms as near as possible to the counting hall shall be provided for every political party contesting the election and shall be equipped with such facilities as the Commission, after consulting the political parties, thinks fit;
- (f) in the counting hall itself counters shall be separated from the candidates and agents by a wall of unbreakable transparent material or similar sturdy transparent material except for some means including any appropriate electronic device, of clear communication for the purpose of speaking through and except in the cases expressly provided for in the Act, access to the area designated by the Commission for the counting of votes shall only be allowed to candidates and agents with the express consent of the Commission; provided that the party delegates and six substitutes thereof, previously nominated by such delegates, shall have free access to the counting area at all times;
- (g) the disposition of the counting area shall be such that as far as possible all the counting process can be closely viewed by candidates, agents and representatives of political parties;
- (h) the room wherein the ballot boxes are stored until the start of the counting of votes is in full view of the representatives of the parties, candidates and their agents and party delegates and their substitutes have a right of access thereto at all times;
- (i) all rooms and corridors which are not being used for a purpose designated by the Commission must be barred and all areas leading thereto closed;
- (j) adequate back-up facilities for services failure are provided especially with respect to lighting;
- (k) there is strict security at all times in and around the building, that the entry is

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restricted to authorised persons only and that no lethal instruments or instruments which may be rendered lethal are introduced in the building;

- (l) at least thirty days before the start of voting the Commission shall show the party delegates how it proposes to allocate and separate the different areas of the said building and shall consider suggestions made by the said delegates in this regard;
- (m) the party delegates and their substitutes, shall at all times have access to any part of the building for the purpose of ensuring that the provisions of the Act are enforced.<sup>67</sup>

### **9.07 Broadcasting Coverage**

The Commission shall ensure that as far as practicable full and constant broadcasting coverage is given of the counting and transfer of votes and for such purpose shall allow entry into the building to bona fide broadcasting personnel and apparatus.<sup>68</sup>

### **9.08 Representations to Commissioners**

Candidates, election agents and the counting agents shall at all times have access to the Commissioners for the purpose of making representations on their own behalf or on behalf of the candidate or party represented by them.<sup>69</sup>

### **9.09 Direction of Building**

The Commission has the sole direction of the building designated for the counting and transfer of votes and shall have the right to give such orders as are necessary for the maintenance of order and security within the building.<sup>70</sup>

### **9.10 Procedure for Counting the Votes**

The Commission shall proceed to ensure that the votes of all the electoral divisions are counted simultaneously in order to establish the total number of votes cast in the election.

Prior to the removal of each ballot box from the room designated by the Commission to hold all the ballot boxes, the party delegates or their substitutes shall have the right to examine the seals affixed to each ballot box.

Any objection raised by the party delegates or their substitutes as to the integrity of such seals must be examined by the Commission whose decision thereon shall be final and not subject to appeal.

One ballot box at a time shall be opened in each division and prior to the opening of each ballot box the Commission shall cause the ballot paper account for that ballot box to be affixed in such a manner that it may be clearly seen by the candidates and agents and shall show the candidates and agents the seals on the ballot box in order that they may ascertain that such seals are intact.

Any party delegate, candidate or agent may, prior to the opening of the ballot box, make

representations claiming that the seals of the box have been tampered with. Where such an objection is made the box shall not be opened until the Commission, after consulting the party delegates or their substitutes, shall have given such directions and taken such measures as it may consider necessary.

Where no objections are made and where the Electoral Commission so directs, the ballot box shall be opened and the number of ballot papers contained therein shall be counted, face downwards, to ascertain that the number of votes in that ballot box corresponds to the ballot paper account.

Where the ballot papers in the ballot box do not tally with the ballot paper account the attention of the Commission shall be drawn to the fact and the Commission after consultation with the party delegates, or their substitutes, shall give such directions as it may deem fit and such decision shall be final.

Where the ballot papers in the ballot box and the ballot paper account tally, the votes shall be put together and placed in a pigeon hole indicating the number of the ballot box. The pigeon hole and ballot papers must at all times be clearly visible by parties, candidates and agents. The ballot papers in each pigeon hole shall be put in parcels of fifty ballot papers each with any remainder being at the bottom of the pile and the supervisor shall ensure that each parcel is counted for accuracy by more than one counter. The process shall be repeated until all ballot boxes have been opened to ascertain that the ballot papers in each box tally with the ballot paper account relative to it.

Ballot papers belonging to a division other than that to which the ballot box pertains shall be treated in the manner established and shall be retained at the counting table of the division where the relative ballot box from which they originated was placed and shall not, at this stage, be transferred to the appropriate division.

After all ballot boxes in all electoral divisions have been opened and reconciled with the relative ballot paper account the Electoral Commission shall prior to proceeding to the sorting of votes declare the number of votes cast and their distribution by ballot box and electoral division.

The Electoral Commission shall cause the papers held in each electoral division and belonging to other divisions to be transferred to the division to which they properly belong.

The physical transportation of the papers from one division to another shall be performed either by the Commissioners or by the supervisors and in such a manner as not to create confusion.<sup>71</sup>

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— *Section 10* —

**SORTING OF VOTES AND PUBLICATION OF RESULTS**

**10.01 Sorting of Ballot Papers**

Ballot papers must be sorted in accordance with the relevant regulations that are in force for the time being.<sup>72</sup>

**10.02 Publication of Results**

The Commission shall, not later than on the working day following that on which the result of the counting of the votes has been ascertained, publish a declaration containing the names of the candidates elected and such other particulars as the Commission may consider necessary.

The Commission shall deposit the declaration aforesaid with the Clerk of the House and shall cause a copy of such declaration to be published without delay in the Gazette.

Every candidate whose name is published in the Gazette or who is declared elected shall be considered to be a Member of the House of Representatives.

The Commission shall publish in the Gazette not later than seven days after the end of counting a declaration of the result of the election which declaration shall include a record of the total votes cast, both on a national level and subdivided by polling booth, the total valid votes, the total votes credited to each political party, the quota for each electoral division, the record and result in all stages of any transfer of votes between political parties, the first preference credited to each candidate, any transfer of votes made, and of the total number of votes credited to each candidate after any such transfer, and any such other information as the Electoral Commission may consider necessary. Such declaration shall be in such form as the Electoral Commission may determine as likely to impart easily all the information likely to be required by the public.

Within three months of the publication of the official results of the election the Electoral Commission shall publish a report explaining in detail what steps were taken by it to perform the various duties imposed on it by the Act, to give all relevant statistics connected with the election including the publication of all statistics regarding eligible voters, printing and distribution of voting documents and ballot papers, voters per polling place, returns submitted by Assistant Commissioners and the like, and to make such suggestions as they consider necessary.

The Commission shall preserve until the publication of the official results of the next following election all used ballot papers for each electoral division in separate sealed packets, as follows:

- (a) the spoilt ballot papers;
- (b) the invalid ballot papers;

- (c) the papers at the completion of the counting in the parcel of each elected candidate and of each non-elected candidate whose papers have not been transferred;
- (d) all the non-transferable papers not retained in the parcel of an elected candidate.

The Commissioners shall endorse on each packet a description of its contents, the date of the election and the number of the election and the number of the electoral division to which it relates.

The Commission shall further preserve for the same period for each electoral division a copy of the declaration of the result of the count and of any document showing the operations of the transfer of each surplus.

Party delegates, candidates, election agents and counting agents shall have the right to affix their seals and signatures to such packets.<sup>73</sup>

### **10.03 Power of Court to Order Unsealing of Packets**

It shall be lawful for the Constitutional Court before which any question is brought as to the right of any person to be or to remain an elected Member of the House and for any Court before which any proceedings are commenced in accordance with the Act to order the opening of the packets and the production of one or more of the documents therein contained under such condition and precautions as may be necessary to maintain the secrecy of the voting consistently with the due administration of justice.<sup>74</sup>

### **10.04 Candidates Returned in Both Divisions**

If at an election any person is returned as a member for two divisions, such person shall, by a writing under his hand delivered to the Clerk of the House on or before appearing to take the oath or to make the affirmation in the prescribed form declare which of the two divisions he elects to represent.

As soon as a person who is returned for two divisions declares which of the two divisions he elects to represent, he shall be deemed to have vacated his seat in the other division.<sup>75</sup>

## **— Section 11 —**

### **PENAL PROVISIONS**

#### **11.01 Giving False Information**

Any person who knowingly makes or subscribes to a false declaration or otherwise gives false information in connection with the registration, transfer or cancellation of any voter is guilty of an offence and on conviction is liable to imprisonment for a term not exceeding one month or to a fine not exceeding fifty liri or to both such imprisonment and fine.<sup>76</sup>

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### **11.02 Misconduct in Polling Places**

Every person who misconducts himself in any polling place or contravenes any of the provisions which prohibits certain stipulated activities in the vicinity of polling places, or takes part in any public meeting or public demonstration held in contravention of the Act, or fails to obey the lawful order of the Assistant Commissioners or other lawful authority in relation to an election is liable on conviction to a fine not exceeding fifty liri.<sup>77</sup>

### **11.03 Offences in Respect of Nominations, etc**

Every person who:

- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper or delivers to the Commission any nomination paper knowing the same to be forged; or
- (b) forges or counterfeits or fraudulently destroys any voting document or ballot paper or official mark on any ballot paper; or
- (c) without due authority supplies any voting document or ballot paper to any person; or
- (d) forges or counterfeits or is in unlawful possession of any stamp or seal used by the Chief Electoral Commissioner or the Electoral Commissioners or the Assistant Commissioners; or
- (e) is in unlawful possession of any voting document or ballot paper; or
- (f) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or
- (g) fraudulently takes out of the polling place any ballot paper; or
- (h) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the election,

shall be guilty of an offence and is liable, on conviction, to a fine not exceeding five hundred liri or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Every person who aids or abets the commission of an offence or attempts to commit any such offence is liable, on conviction, to the punishment provided for the offence.<sup>78</sup>

### **11.04 Infringement of Secrecy**

Every Assistant Commissioner who shall reveal the manner of voting of any voter when such manner of voting shall have come to his knowledge in the course of the exercise of his functions shall be guilty of an offence, and shall, on conviction, be liable to a fine not exceeding one hundred liri or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.<sup>79</sup>

### **11.05 Prohibition of Activities Capable of Influencing Voters**

During the day on which an election of Members of the House is held and during the day immediately preceding such an election, no person shall address any public meeting or any

other gathering whatsoever in any place or building accessible to the public, or on the broadcasting media, on any matter intended or likely to influence voters in the exercise of the franchise, or publish or cause to be published any newspaper, printed matter or other means of communication to the public containing any matter aforesaid, or issue or cause to be issued any statement or declaration on any matter aforesaid or knowingly distribute any newspaper, printed matter, or other means of communication, or any statement or declaration as aforesaid, and any person acting in contravention of any of these provisions is liable on conviction to a fine not exceeding five hundred liri or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

Every person who aids or abets the commission of an offence or attempts to commit any such offence, shall be liable on conviction to the punishment provided for the offence.<sup>80</sup>

### **11.06 Competent Courts**

All questions regarding the right of any person to be or to remain a Member of the House shall be referred to and decided by the Constitutional Court.

Any criminal proceedings for offences under the Act shall be brought before the Courts of Magistrates.

Notwithstanding anything contained in the Probation of Offenders Act, a person who commits any offence under the General Elections Act shall be convicted and sentenced in respect of that offence and may not be placed on probation under the Probation of Offenders Act.<sup>81</sup>

### **11.07 Prohibition of Display of Posters**

Except as provided in the Act, it is not lawful for any person, at any time in contemplation or in anticipation of an election, to display or cause to be displayed in a public place, or in a place accessible to the public or visible from any public place, any bill, poster or other advertisement intended or likely to influence voters in the exercise of the franchise, or to write or make or cause to be written or made on any wall or other place visible from a public place any word or sign intended or likely to influence voters in the exercise of the franchise.

The foregoing provisions do not apply to any bill, poster or other advertisement which –

- (a) is worn or carried by a person; or
- (b) which is displayed on the inside of a private building even though it may be visible from a public place.

Any person acting in contravention of any of the foregoing provisions is liable on conviction in respect of each offence to a fine not exceeding five hundred liri or to imprisonment for a period of not more than six months, and in respect of any second or subsequent offence to both such fine and imprisonment.

The police shall remove or otherwise cancel or delete anything displayed unlawfully in contravention of these provisions.<sup>82</sup>

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### **11.08 Right of Action before Constitutional Court**

Notwithstanding any other provisions contained in the Act, whereby the decision of the Commission is declared as final and/or not subject to appeal such provision shall not exclude recourse to the Constitutional Court by any person on an action to invalidate the election, whether in any or in all divisions.<sup>83</sup>

### **11.09 Non-exercise of Certain Rights**

The non-exercise by any political party, delegate, candidate, agent or any person nominated for appointment by a political party, of any right, power or privilege granted by the Act shall not of itself invalidate any action or procedure in respect of which the right, power or privilege has been granted by the Act.<sup>84</sup>

## **— Section 12 —**

### **COUNTING PROCEDURES**

#### **12.01 Counting the Votes**

A candidate or agent is permitted at the end of any count to request that the Commission re-examine and recount all or any of the papers, and the Commission is required to do so promptly. The court is allowed also, upon an election petition being brought, to order a recount of the whole or a part of the ballot papers. The decision of the Commission on any question relating to the transfer of votes is final unless reversed upon an election petition.

The following example of the application of the method of counting the votes at an election conducted on the proportional representation system of the single transferable vote has been taken from the General Elections Act 1991 and set out here to assist the reader.

Let it be assumed that there are six members to be elected and that there are eleven candidates: A, B, C, D, E, F, G, H, I, K and L.

#### **First Count**

The ballot papers having been mixed and examined, the invalid papers excluded, and the valid papers sorted into separate parcels under the names of the candidates marked with the figure 1, each separate parcel is counted, and each candidate is credited with a number of votes equal to the number of papers on which a first preference has been recorded for him.

The results of the count may be supposed as follows:

	<b>Votes</b>
B .....	140
F .....	62
H .....	50
C .....	25
L .....	24
G .....	14
I .....	12
D .....	10
A .....	7
E .....	4
K .....	-
<b>Total</b> .....	<b>348</b>

### *The Quota*

It is found that the total of all the valid votes is 348. This total is divided by seven (i.e., the number which exceeds by one the number of vacancies to be filled), and 50 (i.e., the quotient 49 increased by 1, neglecting the fraction) is the quota, or the number of votes sufficient to elect a member.

The votes obtained by B, F and H exceed or equal the quota, and they are thereupon elected.

### **Second Count**

B has 90 surplus votes (i.e., B's total 140, less the quota 50), and it is necessary to transfer this surplus first as being the largest.

All B's 140 papers are examined and arranged in separate sub-parcels according to the next available preferences indicated thereon.

In general the next available preference will be the second preference. But any paper on which the second preference is given to either F or H, both already elected, passes to the next available preference after such candidates. A paper marked with 1 for B, 2 for H, 3 for F, 4 for I, is placed in sub-parcel for I.

A separate sub-parcel is also formed of those papers on which no further available preference (i.e., no further preference for any continuing candidate) is shown, and which are therefore not transferable.

The result is found to be as follows:

The next available preference is shown for D on .....	80 papers
The next available preference is shown for E on .....	2 papers
The next available preference is shown for I on .....	25 papers
The next available preference is shown for K on .....	29 papers
Total of transferable papers .....	136 papers
Total non-transferable papers .....	4 papers
Total of B's papers .....	140 papers

Since the total number of transferable papers (136) exceeds the surplus (90), only a portion of each sub-parcel can be transferred, and the number of papers to be transferred from each sub-parcel must bear the same proportion to the total number of papers in the sub-parcels as that which the surplus bears to the total number of transferable papers.

In other words, the number of papers to be transferred from each sub-parcel is ascertained by multiplying the number of papers in the sub-parcel by 90 (the surplus), and dividing the results by 136 (the total number of transferable papers).

In practice the calculation may be simplified by reducing the fraction  $\frac{90}{136}$  to the equivalent fraction  $\frac{45}{68}$ .

The process is as follows:

D's sub-parcel contains 80 papers and his share of the surplus is therefore

$$80 \times \frac{45}{68} \text{ or } 52\frac{64}{68};$$

E's sub-parcel contains 2 papers and his share of the surplus is therefore

$$2 \times \frac{45}{68} \text{ or } 1\frac{22}{68};$$

I's sub-parcel contains 25 papers and his share of the surplus is therefore

$$25 \times \frac{45}{68} \text{ or } 16\frac{37}{68};$$

K's sub-parcel contains 29 papers and his share of the surplus is therefore

$$29 \times \frac{45}{68} \text{ or } 19\frac{13}{68};$$

**Total** ..... **90**

The numbers of papers to be transferred as determined by the preceding process contain fractions, and since only whole papers can be transferred, so many of the largest of these fractions, taken in order of their magnitude as will make the total number of papers to be transferred equal to the surplus are reckoned as of the value of unity.

Thus as the whole numbers determined above amount to only 88, viz. (52+1+16+19), or two short of the surplus, and the two largest fractions  $\frac{64}{68}$  and  $\frac{37}{68}$  are reckoned as unity, the numbers of papers actually transferred are as follows:

To D .....	53 papers
To E .....	1 paper
To I .....	17 papers
To K .....	19 papers
<b>Total, being B's surplus</b> .....	<b>90 papers</b>

The particular papers to be transferred to D, E, I and K are those last filed in their respective sub-parcels, and, therefore at the top of the sub-parcels. The papers transferred are marked with the number of the count at which the transfer is made.

These papers are added in separate sub-parcels to the parcels of D, E, I and K. (Note: K had no parcel of original votes.)

The totals of the votes credited to these candidates then become:

D .....	$10 + 53 = 63$
E .....	$4 + 1 = 5$
I .....	$12 + 17 = 29$
K .....	$0 + 19 = 19$

The remainders of the papers in the sub-parcels (i.e., those papers not transferred), together with the papers on which no further available preferences were marked, are collected together and formed into one parcel, representing B's quota of votes (50).

The parcel is made up as follows:

The remainder of D's sub-parcel,	$80 \text{ less } 53 = 27$
The remainder of E's sub-parcel,	$2 \text{ less } 1 = 1$
The remainder of I's sub-parcel,	$25 \text{ less } 17 = 8$
The remainder of K's sub-parcel,	$29 \text{ less } 19 = 10$
Non-transferable papers .....	4
<b>Total, being B's quota</b> .....	<b>50</b>

The operations involved in this transfer are summarised in Table 1.

**TABLE 1: COUNT NO. 2  
TRANSFER OF B'S SURPLUS**

Surplus .....	90
Number of transferable papers .....	136
Proportion to be transferred -	
Surplus	90
Number of transferable papers	136
	-
	-
	45
	68

Names of candidates marked as the next available preference	Numbers of papers examined	Number of papers transferred			Number of papers retained for B's quota
		As calculated		Actual nos. transferred (largest fractions treated as whole nos.)	
		Whole numbers	Fractional parts		
A					
C					
D .....	80	52	$\frac{64}{68}$	53	27
E .....	2	1	$\frac{22}{68}$	1	1
G					
I .....	25	16	$\frac{37}{68}$	17	8
K .....	29	19	$\frac{13}{68}$	19	10
L					
<b>Total number of transferable papers</b>	<b>136</b>	<b>88</b>	$\frac{136}{68}$	<b>90</b>	<b>46</b>
<b>Number of non-transferable papers</b>	<b>4</b>	-	-	#	<b>4</b>
<b>TOTAL</b>	<b>140*</b> (Total)	-	-	<b>90*</b> (Surplus)	<b>50*</b> (For quota)

**Notes for Electoral Commissioners**

- \* It will be found convenient to begin filling in the transfer sheet by inserting the totals in the spaces marked with an asterisk. These totals are known before the count is commenced.
- # When transferring a surplus all the non-transferable papers are usually retained as part of the quota, but when the number of transferable papers is less than the surplus, the difference should be inserted in the space marked with a hash, and a corresponding number of non-transferable papers should be transferred to the non-transferable box. These papers should be taken from the top of the parcel of non-transferable papers and the number taken should be shown on the Result Sheet on the line provided for non-transferable papers.

The state of the poll on the conclusion of the count is as follows:

	<b>Votes</b>
B .....	50 (elected)
F .....	62 (elected)
H .....	50 (elected)
D .....	63 (elected)
I .....	29
C .....	25
L .....	24
K .....	19
G .....	14
A .....	7
E .....	5
<b>Total</b> .....	<b>348</b>

D now has 63 votes, a number which is more than the quota. He is accordingly elected.

### Third Count

There are now two surpluses that of F (12) and that of D (13). F's surplus, though the smaller, is the first dealt with as it arose on a prior count. F's surplus is distributed proportionately among the next available preferences on F's original 62 papers in exactly the same manner as in the case of B, with the result that 9 papers are transferred to L, 2 to C and 1 to A.

The papers forming F's quota are placed together in one parcel, which is marked with F's name. The papers forming the quota of H (who obtained an exact quota at the first count) are likewise placed together in one parcel, which is marked with H's name.

### Fourth Count

D's surplus (13) must now be distributed. For this purpose only the sub-parcel last transferred, containing 53 papers, is considered. These are examined and sorted into sub-parcels, according to available preferences, with the following result:

A next available preference is shown for I on .....	42 papers
A next available preference is shown for K on .....	10 papers
Total of Transferable papers .....	52 papers
No further preference is shown on .....	1 paper
<b>Total</b> .....	<b>53</b>

The number of papers to be transferred from each sub-parcel is ascertained by multiplying the number of papers in the sub-parcel by 13 (the surplus) and dividing the result by 52 (the total number of transferable papers); therefore:

$$\text{I's share of the surplus is } \dots\dots\dots 42 \times \frac{13}{52} = 10\frac{1}{2}$$

$$\text{K's share of the surplus is } \dots\dots\dots 10 \times \frac{13}{52} = 2\frac{1}{2}$$

As the fractional parts above are equal, that which arises from the larger sub-parcel is deemed to be larger. I's share of D's surplus is, accordingly, 11 votes, and K's share is 2 votes.

The number of votes transferred and retained are in accordance with the simplified transfer sheet illustrated in Table 2.

**TABLE 2: COUNT NO. 4  
TRANSFER OF D'S SURPLUS**

Surplus .....		13
Number of transferable papers .....		52
Proportion to be transferred =		
$\frac{\text{Surplus}}{\text{Number of transferable papers}}$	=	$\frac{13}{52}$
	=	$\frac{1}{4}$

Names of candidates marked as the next available preference	Nos. of papers examined	No. of papers transferred	No. of papers retained for D's quota
I	42	(10½) 11	31
K	10	(2½) 2	8
Total number of transferable papers	52	(13) 13	39
Number of non-transferable papers	1		1
Total	53 (Total)	13 (Surplus)	40 (For quota)

Sub-parcels of 11 papers and 2 papers marked with the number of the count at which the transfer took place are added to parcels of I and K respectively, and the remainders (31 and 8) together with the 1 non-transferable paper and the 10 papers received by D on the first count, making 50 papers altogether, are formed into one parcel, making D's quota of votes.

The state of the poll on the conclusion of the count is as follows:

	<b>Votes</b>
B .....	50(elected)
F .....	50(elected)
H .....	50(elected)
D .....	50(elected)
I .....	40
L .....	33
C .....	27
K .....	21
G .....	14
A .....	8
E .....	5
<b>Total</b> .....	<b>348</b>

### Fifth Count

There being now no surplus required to be dealt with, the Electoral Commissioner proceeds to transfer the votes of the candidate with the smallest total number of votes. The candidate lowest on the poll is E with 5 votes, but since the combined totals of E and A ( $5+8=13$ ) are less than 14, the total of G, the next highest candidate, the Electoral Commissioner transfers the papers of both E and A at the same count.

The papers in the parcels of E and A (total of 13) are examined, and it is found that:

C is marked next available preference on .....	1 paper
G is marked next available preference on .....	7 papers
I is marked next available preference on .....	4 papers
Non-transferable papers .....	1 paper
<b>Total</b> .....	<b>13 papers</b>

The operation is completed by the transfer of 1 paper to C, 7 papers to G, 4 papers to I, and the 1 non-transferable paper is set aside as a separate parcel.

The state of the poll is as follows:

	<b>Votes</b>
B .....	50 (elected)
F .....	50 (elected)
H .....	50 (elected)
D .....	50 (elected)
I .....	44
L .....	33
C .....	28
G .....	21
K .....	21
Non-transferable papers .....	1
<b>Total</b> .....	<b>348</b>

#### Sixth Count

No candidate is elected as the result of the fifth count and the next operation has to be determined upon. Candidates G and K have each the same number of votes (21) and are lowest on the poll. K's papers are distributed, as he obtained fewer votes than G in the first count. From the distribution of K's papers (21), 3 papers are transferred to C, 15 to I, 1 to L, and 2 are non-transferable. I thereby reaches a total of 59 votes, and is elected.

The state of the poll is now as follows:

	<b>Votes</b>
B .....	50 (elected)
F .....	50 (elected)
H .....	50 (elected)
D .....	50 (elected)
I .....	59 (elected)
L .....	34
C .....	31
G .....	21
Non-transferable papers .....	3
<b>Total</b> .....	<b>348</b>

### Seventh Count

I's surplus (9) must now be distributed.

For this purpose only the sub-parcel of papers last transferred to I (15 papers) is taken in account. These are examined and arranged in sub-parcels for the continuing candidates, with the following result:

C is next available preference on .....	4 papers
L is next available preference on .....	3 papers
Total transferable papers .....	7
Non-transferable papers .....	8
<b>Total</b> .....	<b>15</b>

In this case the total number of transferable papers (7) is less than the surplus (9), therefore the Electoral Commissioner transfers the whole sub-parcels of transferable papers to the continuing candidates indicated thereon as the next available preference. This accounts for 7 votes out of the surplus 9. There is a difference of 2 papers. The sub-parcel of non-transferable papers is therefore divided into two portions, once containing 2 papers (which form part of the surplus) the other containing 6 papers (which are required for I's quota). The portion of 2 papers is set aside as a separate parcel with the other parcels of non-transferable papers, and the portion of 6 papers is retained to make up I's quota (6+44=50).

The number of votes transferred and retained are in accordance with the transfer sheet shown in Table 2.

The state of the poll after the seventh count is as follows:

	<b>Votes</b>
B .....	50 (elected)
F .....	50( elected)
H .....	50 (elected)
D .....	50 (elected)
I .....	50 (elected)
L .....	37
C .....	35
G .....	21
Non-transferable paper .....	5
<b>Total</b> .....	<b>348</b>

The operations involved in this transfer are summarised in Table 3.

**TABLE 3: COUNT NO. 7  
TRANSFER OF I'S SURPLUS**

Surplus .....	9
Number of transferable papers .....	7
Proportion to be transferred =	
$\frac{\text{Surplus}}{\text{Number of transferable papers}} \quad = \quad \frac{9}{7} \quad (\text{taken as } 1)$	

Names of candidates marked as the next available preference	Numbers of papers examined	Number of papers transferred			Number of papers retained for I's quota
		As calculated		Actual nos. transferred (largest fractions treated as whole nos.)	
		Whole numbers	Fractional parts		
C	4	4	—	4	—
L	3	3	—	3	—
<b>Total number of transferable papers</b>	7	7	—	7	—
<b>Number of non-transferable papers</b>	8	—	—	# 2	6
<b>TOTAL</b>	<b>15*</b> (Total)	—	—	<b>9*</b> (Surplus)	<b>6*</b> (For quota)

**Notes for Electoral Commissioners**

- \* It will be found convenient to begin filling in the transfer sheet by inserting the totals in the spaces marked with an asterisk. These totals are known before the count is commenced.
- # When transferring a surplus all the non-transferable papers are usually retained as part of the quota, but when the number of transferable papers is less than the surplus, the difference should be inserted in the space marked with a hash, and a corresponding number of non-transferable papers should be transferred to the non-transferable box. These papers should be taken from the top of the parcel of non-transferable papers and the number taken should be shown on the Result Sheet on the line provided for non-transferable papers.

### Eighth Count

There being now no surplus, the votes of G, the candidate lowest on the poll, are distributed.

G's parcel of 21 papers is found to contain 7 papers on which C is next in preference, and 12 on which L is next in preference, and 2 papers which are non-transferable.

Therefore 7 papers are transferred to C, and 12 to L, and 2 are filed as a separate parcel with the other parcels of non-transferable papers.

The state of the poll is now as follows:

	<b>Votes</b>
B .....	50 (elected)
F .....	50 (elected)
H .....	50 (elected)
D .....	50 (elected)
I .....	50 (elected)
L .....	49
C .....	42
Non-transferable papers .....	7
<b>Total</b> .....	<b>348</b>

There being now no surplus, C, the candidate lowest on the poll, is excluded from the poll. However, as there remains only one vacancy to be filled and only one continuing candidate, namely L, L is elected without any further transfer of votes. The final result is that B, F, H, D, I and L are elected.

### NOTES

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|--|---|
| <p>1. } Constitution of Malta, see sections 54,<br/>2. } 57 and 58</p> <p>3. Ibid., see section 60</p> <p>4. Ibid., see section 61</p> <p>5. General Elections Act 1991, see sections 7 and 8</p> <p>6. Ibid., see section 9</p> <p>7. Ibid., see section 10</p> <p>8. Ibid., see section 11</p> <p>9. Ibid., see section 12</p> <p>10. Ibid., see section 13</p> <p>11. Ibid., see section 14</p> <p>12. Ibid., see section 16</p> <p>13. Ibid., see section 17</p> | <p>14. Ibid., see section 18</p> <p>15. Ibid., see section 19</p> <p>16. Ibid., see section 20</p> <p>17. Ibid., see section 21</p> <p>18. Ibid., see section 22</p> <p>19. Ibid., see section 23</p> <p>20. Ibid., see section 24</p> <p>21. Ibid., see section 25</p> <p>22. Ibid., see section 26</p> <p>23. Ibid., see section 27</p> <p>24. Ibid., see sections 28 and 29</p> <p>25. Ibid., see sections 30-35</p> <p>26. Ibid., see sections 36-43</p> <p>27. Ibid., see section 44</p> |
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28. Ibid., see section 45
  29. Ibid., see section 46
  30. Ibid., see section 47
  31. Ibid., see section 48
  32. Ibid., see section 49
  33. Ibid., see section 50
  34. Ibid., see section 51
  35. Ibid., see section 52
  36. Ibid., see section 53
  37. Ibid., see section 54
  38. Ibid., see section 55
  39. Ibid., see section 56
  40. Ibid., see section 57
  41. Ibid., see section 58
  42. Ibid., see section 59
  43. Ibid., see section 60
  44. Ibid., see sections 61 and 62
  45. Ibid., see section 63
  46. Ibid., see section 64
  47. Ibid., see section 65
  48. Ibid., see sections 66 and 67
  49. Ibid., see section 68
  50. Ibid., see section 69
  51. Ibid., see section 70
  52. Ibid., see section 71
  53. Ibid., see section 72
  54. Ibid., see section 73
  55. Ibid., see section 74
  56. Ibid., see section 75
  57. Ibid., see section 77
  58. Ibid., see sections 78 and 79
  59. Ibid., see section 81
  60. Ibid., see section 82
  61. Ibid., see sections 83 and 84
  62. Ibid., see section 85
  63. Ibid., see section 86
  64. Ibid., see section 87
  65. Ibid., see section 88
  66. Ibid., see section 89
  67. Ibid., see section 90
  68. Ibid., see section 91
  69. Ibid., see section 93
  70. Ibid., see section 94
  71. Ibid., see sections 95-104
  72. Ibid., see section 105
  73. Ibid., see sections 106 and 107
  74. Ibid., see section 108
  75. Ibid., see section 109
  76. Ibid., see section 110
  77. Ibid., see section 111
  78. Ibid., see section 112
  79. Ibid., see section 113
  80. Ibid., see section 114
  81. Ibid., see section 115
  82. Ibid., see section 116
  83. Ibid., see section 117
  84. Ibid., see section 120