

THE PARISH COUNCILS ACT

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THE PARISH COUNCILS ACT*

[7th August, 1901.]

Cap. 271.	3rd Sch.,
Laws	7 of 1970,
7 of 1954,	11 of 1972
62 of 1955,	S. 6,
4 of 1956,	19 of 1973,
12 of 1956,	24 of 1973,
35 of 1956	2 of 1977,
S. 16,	4 of 1977,
40 of 1957,	22 of 1980,
32 of 1958,	2 of 1981,
48 of 1959,	12 of 1982,
50 of 1959,	16 of 1983
24 of 1961.	2nd Sch.,
Acts	4 of 1990,
31 of 1965,	40 of 1995,
6 of 1966,	28 of 1997
7 of 1966,	Sch.,
25 of 1966,	7 of 1998,
6 of 1969,	15 of 2001,
39 of 1969	32 of 2002,
S. 10,	10 of 2003,
42 of 1969	11 of 2005,
	13 of 2007,
	23 of 2011
	Sch.

1. This Act may be cited as the Parish Councils Act.

Short title.
4/1956
S. 3 (2) (a).

Interpretation

2. In this Act—

Interpreta-
tion.
12/1956
S. 3 (2) (a).

"appropriate digit" means in the case of an elector—

- (i) who has a right hand upon which there are any digits that finger on the right hand which is nearest to the right thumb, or if the elector has no right thumb to the right thumb socket, or if the elector has a right thumb but has no fingers on his right hand, the right thumb;
- (ii) who has no right hand or has a right hand but has no digits upon such hand, the finger on the left hand which is nearest to the left thumb, or if the elector has no left thumb to the left thumb socket, or if he has a left thumb but no fingers upon his left hand, the left thumb;

"by-election" means an election other than a general election;

*This Act has been substantially modified. See the Parochial Elections (Modification) Act.

“candidate” or “candidate at an election” means any person who is nominated as a candidate for election to the Parish Council;

“Chairman” means the Chairman of a Parish Council;

“Chief Electoral Officer” means the Chief Electoral Officer appointed under the Representation of the People Act;

6/1966
S. 4(Sch.).

“constituency” has the meaning assigned to it by the Constitution of Jamaica;

12/1956
S. 2 (b).

“councillor” means a councillor of the Parish Council;

“digit” includes both fingers and thumb;

“election” means an election of a councillor to serve on the Parish Council;

“election day” means the day upon which the poll is taken at any election, or if no poll is required to be taken, nomination day;

“election documents” or “election papers” means the papers which the returning officer is required by section 45 to transmit to the Chief Electoral Officer after an election;

6/1966
S. 4(Sch.).

“election officer” includes the Chief Electoral Officer, every returning officer, election clerk, presiding officer, poll clerk, enumerator, or other person having any duty to perform pursuant to this Act, to the faithful performance of which duty he may be sworn;

“election petition” means a petition presented in accordance with the provisions of any enactment for the time being in force in relation to election petitions;

6/1966
S. 4(Sch.).

“elector” means any person whose name is for the time being on any official list of electors for the House of Representatives;

“electoral division” means any electoral division constituted under section 10;

12/1956
S. 2 (c).

“electoral ink” means the ink (whether composite or consisting of two or more separate solutions) supplied by the Chief Electoral Officer for use in accordance with the provi-

“hackney carriage” includes every motor vehicle which plies for hire as a hackney carriage;

“illegal payment” means any payment made in contravention of the provisions of this Act;

“nomination day” means the day appointed in accordance with the provisions of section 14 for the nomination of candidates;

“oath” includes affirmation and statutory declaration;

“official list” means the list of electors for any polling division prepared in accordance with sections 7 and 8 of the Representation of the People Act as modified by the Chief Electoral Officer in accordance with the Rules in the First Schedule to the said Act or the appropriate portion of any such list which has been divided in accordance with the provisions of section 30 of the Act aforesaid; 6/1966
S. 4
(Sch.)

“Parish Council” means the Parish Council of any parish of this Island, except the parishes of Kingston and Saint Andrew; it shall also include the Municipal Board, the Board of Parochial Roads Commissioners and the Parochial Board constituted under Law 16 of 1885 (now repealed) wherever reference to any of the Councils is made in any of the laws of this Island;

“poll book” means the book in the prescribed form in which the name and other particulars of every person applying to vote are entered;

“polling day” means the day fixed for holding the poll at an election;

“polling division” means any polling division constituted in accordance with the provisions of section 4 of the Representation of the People Act;

“polling station” means any room secured by the returning officer for the taking of the vote for a polling division on polling day;

“Principal Returning Officer” means the returning officer designated under section 55 to be the Principal Returning Officer for any parish;

“prospective candidate” means any person who within three months next before nomination day publicly announces or permits others publicly to announce his intention to stand as a candidate at the next ensuing election;

6/1966
S. 4
(Sch.)

“qualified person” means any person who is qualified in accordance with the provisions of section 37 of the Constitution of Jamaica to be registered as an elector;

“rejected ballot paper” means a ballot paper which has been handed by the presiding officer to an elector to cast his vote but which at the close of the poll has been found in the ballot box unmarked or so improperly marked that in the opinion of the presiding officer or returning officer it cannot be counted;

“spoiled ballot paper” means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the presiding officer to be soiled or improperly printed, or which has been handed by the presiding officer to an elector to cast his vote, and—

(a) has been spoiled in marking by the elector;
and

(b) has been handed back to the presiding officer and exchanged for another;

“voter” means any person who votes at an election.

Constitution

3.—(1) The Parish Council shall be composed of one councillor for each electoral division of the parish constituted in accordance with the provisions of section 10.

Constitu-
tion of
Parish
Councils.
2/1977.
S. 2.

[The inclusion of this page is authorized by L.N. 68/1978]

(2) The Parish Councils constituted under this section shall be corporations by their respective names and each of them may make contracts and sue and be sued in such name and may have a common seal and acquire, hold and dispose of real and personal property and shall be deemed to be to all intents and purposes the successors of the Municipal Boards, the Boards of Parochial Roads Commissioners and the Parochial Boards constituted under the Parochial Boards Law, 1885 (now repealed).

4. The Minister may where he considers it appropriate so to do by reason of the economic, geographical or historical importance of the parish town of any parish, by notice in the *Gazette* confer upon the person for the time being holding the office and bearing the title of chairman of the Parish Council of such parish, the additional title of Mayor of the parish town aforesaid.

Power to confer title of Mayor. 4/1956 S. 6.

5. Where, pursuant to the provisions of section 4, the additional title of Mayor of a parish town is or has been conferred on the Chairman of a Parish Council, the Minister shall by notice in the *Gazette* confer upon the person for the time being holding the office and bearing the title of vice-chairman of the Parish Council of such parish, the additional title of Deputy Mayor of the parish town aforesaid.

Power to confer title of Deputy Mayor. 40/1957 S. 2.

Officers

6. The Parish Council may employ a Secretary and such other officers and servants as may be necessary, on such terms as to service and remuneration as the said Parish Council may determine, subject to the approval of the expenditure by the Minister.

Appointment of Secretary and officers.

Qualifications and Disqualifications

Qualifica-
tion and
disqualifi-
cation for
member-
ship.
11/1972
S. 6.
2/1977
S. 3
(a), (b), (c).

7.—(1) No person shall be capable of being elected or having been so elected of sitting or voting as a member of the Parish Council in any parish—

- (a) who is less than the age of eighteen years or is not able to read and write English; or
- (b) who is not entitled to vote at the election of a member of the House of Representatives for some constituency comprised in the parish; or
- (c) who is an undischarged bankrupt; or
- (d) who is the holder of a specified office; or
- (e) who is disqualified under subsection (2); or
- (f) who is a member of the House of Representatives.

(2) Subject to the provisions of subsections (3) and (4), every person who is either directly or indirectly, pecuniarily or otherwise, interested in any contract with the Parish Council of any parish shall, notwithstanding that such contract is by virtue of the provisions of this Act null and void, be disqualified from being elected a councillor of such Parish Council.

(3) The provisions of subsection (2) shall not apply to any person merely by reason of his having any share or interest in—

- (a) any agreement for the loan of money, or any security for the payment of money only; or
- (b) any newspaper in which any advertisement relating to the affairs of the parish or Council is inserted; or
- (c) any incorporated company or society, which contracts with the Council, in which he does not hold more than one-tenth of the shares.

(4) The provisions of subsection (2) shall not apply to any person by reason of his having any share or interest

in any contract with the Parish Council for election to which he is a candidate or of which he is a councillor if—

- (a) in the case of a candidate for election to the Parish Council, such contract has, prior to his nomination as a candidate, been approved by the Minister; or
- (b) in the case of a councillor of the Parish Council, such contract has been entered into with the express sanction of the Minister.

(5) In this section "specified office" means—

- (a) any office for the time being constituted a public office pursuant to section 3 of the Civil Service Establishment Act;
- (b) any office of profit in the gift or disposal of the Council of the Kingston and St. Andrew Corporation;
- (c) any office of profit in the gift or disposal of the Council of any parish;
- (d) any office to which the Judiciary Act applies; and
- (e) any office (whether as officer or soldier) for the time being included in the Jamaica Defence Force.

2/1977
S. 3(d).

Elections

8.—(1) A general election of councillors to serve on the Parish Council shall be held in each parish in every third year on such day or days not earlier than in the month of March and not later than in the month of June, as the Governor-General in Council may by Proclamation appoint.

Elections

4/1977
S. 2.

(2) Notwithstanding the provisions of subsection (1), where any Parish Council has been dissolved by the Minister in accordance with the provisions of section 116 no general election of councillors to serve on such Council shall take place until the period for which the Board was dissolved has expired and the Parish Council elected at the expiration of such period shall only continue until the

next triennial general election unless it shall be dissolved in the meantime.

(3) A by-election to supply any casual vacancy in any division shall be held on such day as the Chairman shall after consultation with the Chief Electoral Officer by order published in the *Gazette* direct. Such day shall be within three months of the vacancy having been entered on the minutes of the Council:

Provided that no such by-election shall be held if a vacancy occurs within six months immediately preceding the first day of June in any year in which a general election is to be held in accordance with the section.

(4) In any case to which the provisions of section 16 or of section 20 apply, the day to which any election is adjourned shall be deemed to be the day appointed by the Governor-General in Council or Chairman as the case may be.

Term of
office of
councillors.
2/1977
S. 4.

9. Subject to the provisions of sections 66, 98, 102, 116 and 119, the term of office of a councillor of a Parish Council shall be from the date of his election until the next general election of members under the provisions of section 8.

Electoral
divisions.

10.—(1) For the purposes of this Act there shall be constituted in each parish except the parishes of Kingston and Saint Andrew so many electoral divisions as the Minister may determine.

(2) Every electoral division shall comprise so many and such polling divisions as the Minister may by order direct.

Qualifica-
tion of
electors.
6/1966
S. 4
(Sch.)

11.—(1) Every person shall be entitled to vote at an election of a councillor to serve on a Parish Council for any electoral division if his or her name appears upon the official list prepared in accordance with the provisions of

the Representation of the People Act, for some polling division comprised in such electoral division unless—

- (a) his or her name was wrongly included in such list; or
- (b) he or she is disqualified from voting by reason of any of the provisions of this section; or
- (c) subsequent to his name appearing on the official list he ceases to be a Commonwealth citizen or to be ordinarily resident in Jamaica; or 6/1966
S. 4
(Sch).
- (d) on election day he or she is an inmate of any Mental Hospital or is undergoing any sentence of imprisonment.

(2) The following persons are disqualified from voting at an election and incapable of being registered as electors and shall not vote nor be so registered, that is to say—

- (a) the Chief Electoral Officer;
- (b) the returning officer for each electoral division during his term of office, except when there is an equality of votes on the final count of votes or on a recount as in this Act provided;
- (c) any person found or declared to be insane under any law in force in Jamaica;
- (d) any person who is under sentence of death imposed on him by a court in any part of the Commonwealth or is serving a sentence of imprisonment (by whatever name called) of or exceeding six months imposed on him by such a court 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; 6/1966
S. 4
(Sch).
- (e) every person who is disqualified from voting by reason of his employment for pay or reward in

connection with the election in the electoral division in which such person would otherwise be entitled to vote; and

- (f) every person who is disqualified from voting under any law relating to the disqualification of electors for corrupt or illegal practices.

(3) Subject to the provisions of subsection (4), every person employed by any person for pay or reward in reference to an election in the electoral division in which such person would otherwise be entitled to vote shall be disqualified from voting and incompetent to vote in such electoral division at such election.

(4) A person shall not be disqualified from voting at an election of a councillor to serve in the Parish Council by reason that he is employed for pay or reward in reference to an election in the electoral division in which such person would otherwise be entitled to vote, so long as the employment is legal.

(5) Persons who may be legally employed are—

- (a) returning officers, election clerks, presiding officers, poll clerks, messengers, constables and persons otherwise necessarily and properly employed by an election officer for the conduct of the election;
- (b) agents of candidates;
- (c) persons engaged in printing election material on behalf of a candidate;
- (d) persons employed, whether casually or for the period of the election or part thereof, in advertising of any kind, or as clerks or stenographers or as messengers on behalf of a candidate or prospective candidate, so, however that the total number of persons so employed does not exceed one for each five hundred electors in the electoral division, and that the name, address and occupation of

every person so employed is communicated, in writing, to the returning officer.

12.—(1) So soon as may be after the official list of electors for any polling division is prepared in accordance with the provisions of the Representation of the People Act, the returning officer for the constituency for the purposes of the Representation of the People Act, in which such polling division is comprised shall forward to the returning officer for the electoral division for the purposes of this Act in which such polling division is comprised so many copies of such electoral list as may be prescribed, so, however, that in any case in which the same person is both the returning officer for the constituency and the returning officer for the electoral division in which any polling division is comprised, this section shall take effect as if for the words “shall forward to the returning officer for the electoral division for the purposes of this Act in which such polling division is comprised” were substituted the words “shall retain for use in connection with any election under this Act”.

List of electors to be kept by returning officers.
6/1966
S. 4(Sch.).

(2) The electoral lists referred to in subsection (1) shall constitute the official lists of electors to be used for taking the vote on polling day in accordance with the provisions of this Act.

6/1996
S. 4(Sch.).

12A. As soon as may be after the notice for an election has been issued under this Act, and not later than eight days after the nomination day, the returning officer shall supply to each candidate for such election, four copies of the official list of electors in force for such elections, disaggregated into four parts, as follows—

Official list to be supplied to candidates.
23/2011
Sch.

- (a) the Military Voters' List;
- (b) the Police Voters' List;
- (c) the Election Officers Voters' List;
- (d) the Civil Voters' List.

Provisions of sections 108 to 110, 112, 113 and 113A of the Representation of the People Act to apply.
48/1959
S. 2.
32/2002
S. 2(a)(b)(c).

13. Subject to the provisions of this Act, the provisions of sections 108, 109, 110, 112, 113, 113A and of the Third, Fourth and Fifth Schedules of the Representation of the People Act (which relate to Military voters, Police and Special Constable voters, and to District and Special District Constable voters and Election Workers voters) shall apply to general elections held under this Act as they apply to general elections held under the Representation of the People Act, subject to the following modifications—

- (a) the sections and Schedules as aforesaid shall take effect as if for the word “constituency” wherever that word appears there were substituted the words “electoral division” in each case;
- (b) subsection (2) of section 108 and subsection (2) of section 109 and subsection (2) of section 113A shall take effect as if for the words “issue of the writ” there were substituted the words “publication in the *Gazette* of a Proclamation under section 8 of this Act” in each case;
- (c) subsection (4) of section 108, subsection (4) of section 109 and subsection (4) of section 113A shall take effect as if for the words “Subject to the provisions of subsection (3) of section 111 of this Act, the” there was substituted the word “The”, in each case.

32/2002
S. 2 (d).

32/2002
S 2 (e).

Nomination day.
2/1977
S.5.

14.—(1) Subject to the provisions of section 20, nomination day shall be such day, other than a Sunday or public holiday, as may be appointed by the Minister, by notice in the *Gazette*, not being more than twenty-three nor less than sixteen days next before election day.

(2) The place for the nomination of candidates shall be such public building situated in the parish in which any electoral division is comprised as the returning officer for that electoral division deems convenient.

2/1981
S. 5(Sch.).

(3) Subject to subsections (4) and (5), where the proceedings in any electoral division for or in connection

with nomination day are on nomination day interrupted or obstructed by riot, open violence or other civil disturbance and the returning officer is of opinion that the nomination proceedings should be abandoned for that day, he may cause the proceedings to be adjourned to the day next following which is not a Sunday or a public holiday and, without prejudice to anything validly done prior to such adjournment, the nomination proceedings in that electoral division shall continue between the hours of ten o'clock in the forenoon and two o'clock in the afternoon on the day next following aforesaid as if it were nomination day and any reference in this Act—

- (a) to the time fixed for nomination, shall include any time allowed for nomination pursuant to such adjournment; and
- (b) to the period after nomination day, shall, except in section 16 (4), be construed as a period commencing after the day of adjournment pursuant to this subsection.

(4) Where, consequent on the interruption or obstruction referred to in subsection (3), the Governor-General in Council by proclamation adjourns the holding of a poll in any electoral division pursuant to section 16, the proclamation, in relation to that poll, shall for the purposes of section 16 (3) be deemed to have been made before nomination day and accordingly—

2/1981
S. 5
(Sch.)

- (a) notwithstanding the completion of any nomination proceedings in that electoral division prior to the proclamation aforesaid, those proceedings shall be null and void; and
- (b) a new nomination day shall be deemed to have been appointed being the twenty-third day next before the day to which the holding of the poll in that electoral division is adjourned by such proclamation :

Provided that, if such twenty-third day is a Sunday or a public holiday, nomination day shall be deemed to be adjourned to the first day not being a Sunday or a public holiday after such twenty-third day.

2/1981
S. 5
(Sch.)

(5) Where the returning officer causes the nomination proceedings to be adjourned pursuant to subsection (3)—

- (a) he shall take all appropriate steps to bring to the attention of the public the fact of such adjournment and the day and place at which the nomination proceedings will continue; and
- (b) if there is any such further riot, open violence or civil disturbance as aforesaid at the subsequent nomination proceedings he shall cause the subsequent nomination proceedings to be abandoned and report the matter to the Chief Electoral Officer for reference to the Governor-General in Council.

Election
notice.

15.—(1) So soon as may be after the publication in the *Gazette* of any proclamation or order under section 8 the returning officer shall issue an election notice in the prescribed form under his hand and shall post one copy at least to the various postmasters of the post offices within his electoral division.

(2) Every election notice shall—

- (a) specify the day and place fixed for the nomination of candidates;
- (b) specify the day on which the poll for taking the votes of the electors is to be held, in case a poll is necessary;
- (c) specify the place where and day and time when the number of votes given to the several candidates will be added up;

- (d) contain an exact description of the place in the parish in which his electoral division is comprised where the returning officer has established his office.

The returning officer shall at the same time notify in writing each postmaster within his electoral division of the provisions of subsection (3).

(3) Every postmaster shall, forthwith after receipt of the notice referred to in subsection (1), post it up in some conspicuous place within his office to which the public has access and maintain it posted there until the time fixed for the nomination of candidates has passed, and for the purposes of this provision such postmaster shall be deemed an election officer and liable as such.

16.—(1) Where at any time between the making of any proclamation under subsection (1) of section 8 or the publication of any order under subsection (3) of section 8 and the day specified by an election notice under section 15 for the holding of the poll at the election to which such proclamation or order relates, the Governor-General in Council is satisfied that it is expedient so to do by reason of—

Power to
adjourn
polling
day in
event of
emergency.

- (a) Her Majesty's Government having become engaged or being likely to become engaged in any war; or
- (b) the proclamation of any state of emergency under the Emergency Powers Act; or
- (c) the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or outbreak of infectious disease or other calamity whether similar to the foregoing or not; or
- (d) the likelihood that the official list for all electoral divisions or for any particular electoral division will not be printed before the day specified for the

6/1966
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(Sch.).

holding of the poll or that any essential electoral supplies or materials will not be available in adequate quantities upon such day; or

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(Sch.).

- (e) riot, open violence or other civil disturbance resulting in such interruption, obstruction or abandonment of the electoral process as to prejudice the holding of a fair election,

he may by proclamation adjourn the holding of the poll to some other day specified in such proclamation not being more than thirty days after the day specified by the election notice under section 15.

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(Sch.).

(2) Any proclamation under subsection (1) made pursuant to the provisions of paragraph (c), (d) or (e) of subsection (1) may be expressed to apply only to such electoral divisions as are specified in such proclamation in which event the poll shall be taken in any electoral divisions not so specified upon the day appointed for the taking of the poll under section 8.

24/1973
S. 4(a).

(3) Where any proclamation under this section is made before the day which would have been nomination day if such proclamation had not been made, nomination day shall be deemed to have been adjourned to the twenty-third day next before the day to which the holding of the poll is adjourned by such proclamation:

24/1973
S. 4(b).

Provided that if such twenty-third day is a Sunday or a public holiday nomination day shall be deemed to be adjourned to the first day not being a Sunday or a public holiday after such twenty-third day.

(4) Where any proclamation is made under this section after nomination day the adjournment by such proclamation of the day upon which the poll is taken shall in no way affect the validity of any nomination validly made upon nomination day and no other nomination shall be made.

17.—(1) At ten in the forenoon on nomination day the returning officer and the election clerk shall both attend at the place specified in the election notice under section 15 as the place for the nomination of candidates and shall there remain until two o'clock in the afternoon of the same day for the purpose of receiving the nominations of such candidates as the electors desire to nominate. After two o'clock on nomination day no further nominations shall be received:

Procedure
on nomi-
nations of
candidates.

Provided that in the holding of any by-election the time allowed for receipt of nominations shall be twelve noon to two o'clock in the afternoon on nomination day.

6/1966
S. 4.
(Sch.).

(2) Any six or more electors qualified to vote in an electoral division for which an election is to be held may nominate any person qualified to be a councillor of the Parish Council as a candidate by signing a nomination paper in the prescribed form and causing such nomination paper to be handed to the returning officer between the hours referred to in subsection (1):

Provided that no candidate shall be deemed not to have been validly nominated by reason only of the fact that subsequent to nomination day any person by whom his nomination paper was signed is struck off the list of electors for the relevant electoral district.

(3) Every nomination paper shall specify—

- (a) such particulars of the name, address and occupation of the candidate as are sufficient to identify him; and
- (b) his address for service of process and papers under this Act; and
- (c) the name, address and occupation of his official agent (if any).

(4) Each candidate shall be nominated by a separate nomination paper.

(5) No nomination paper shall be valid or acted upon by the returning officer unless it is accompanied by—

(a) the consent in writing of the person therein nominated except where such person is absent from the parish in which is comprised the electoral division in respect of which such person is nominated, when such absence shall be stated in the nomination papers; and

(b) a deposit of three thousand dollars in legal tender.

(6) The returning officer shall not accept any deposit until after all the other steps necessary to complete the nomination of the candidate have been taken, and upon his accepting any deposit he shall give to the person by whom it is paid to him a receipt therefor which shall be conclusive evidence that the candidate has been duly and regularly nominated.

(7) At the close of the time for nominating the candidate the returning officer shall deliver to every candidate or the agent of a candidate applying therefor a duly certified list of the names of the several candidates who have been nominated.

Disposal of
deposit.

18.—(1) The full amount of every deposit made under subsection (5) of section 17 shall forthwith after its receipt be transmitted by the returning officer to the Accountant-General.

(2) The full amount of every deposit shall be returned by the Accountant-General to the person who made such deposit or his personal representatives, upon the production by him or his personal representatives, as the case may be, of a certificate from the Chief Electoral Officer that the candidate was elected or polled not less than one-eighth of the total number of votes cast at the election, or died before the close of the poll on polling day.

(3) Where any candidate withdraws from the election in accordance with the provisions of subsection (1) of section 19, and the Chief Electoral Officer is satisfied that such withdrawal was consequent upon circumstances over which the candidate had no control and which he had no cause on or before nomination day to anticipate, the Chief Electoral Officer may certify accordingly to the Accountant-General.

(4) Where the Chief Electoral Officer certifies in accordance with the provisions of subsection (3), the Accountant-General shall refund to the candidate or to his personal representative one moiety of the deposit.

(5) Except as otherwise provided in this section; every deposit under subsection (5) of section 17 shall at the expiration of one month from the conclusion of the election in respect of which it was made, be paid into the Consolidated Fund.

19.—(1) Any candidate may withdraw at any time not less than ninety-six hours before the opening of the poll on polling day by filing with the returning officer a declaration in writing to that effect signed by himself, and attested by the signature of two qualified electors in the electoral division, and any votes cast for the candidate who has so withdrawn shall be null and void.

With-
drawal of
candidates.

(2) When a candidate has withdrawn after the ballots are printed, the returning officer shall advise, by letter or telegraph, each presiding officer of his electoral division of such withdrawal, and, when time permits, shall distribute to each presiding officer a printed notice of the withdrawal. On polling day each presiding officer shall post up a copy of the printed notice of withdrawal in a conspicuous place in his polling station. If time does not permit of the printing and the distribution of such

notice, the presiding officer, upon being advised by letter or telegram by the returning officer of the withdrawal of any candidate, shall himself prepare by hand a notice to that effect and post it up in a conspicuous place in his polling station. In either case the presiding officer shall, when delivering a ballot to each elector, inform such elector of the withdrawal of the candidate.

(3) If, after the withdrawal, there remains only one candidate, the returning officer shall return as duly elected the candidate so remaining without waiting for the day fixed for holding the poll.

Procedure
on death of
nominated
candidate.

20.—(1) Whenever, before the closing of the poll, the returning officer becomes aware that any candidate has died since the close of the nominations, he shall, after communicating with the Chief Electoral Officer, adjourn the election to some day being not more than one month from the day originally fixed for the election.

(2) Whenever any election is adjourned in accordance with the provisions of subsection (1), the provisions of subsection (1) of section 15 shall apply as if the day upon which the election is adjourned were the day of the publication of the proclamation or order referred to in subsection (1) of section 15 and the day to which the election is adjourned were the day specified in such proclamation or order.

(3) Full particulars of any action taken under this section shall be reported by the returning officer to the Chief Electoral Officer.

Return by
acclama-
tion.

21.—(1) Whenever only one candidate has been nominated within the time fixed for that purpose the returning officer shall forthwith make his return to the

Chief Electoral Officer, in the prescribed form that such candidate is duly elected for the said electoral division and shall send within forty-eight hours a duplicate or certified copy of such return to the person elected.

(2) The returning officer shall include in his return to the Chief Electoral Officer a report of his proceedings and of any nomination proposed and rejected for non-compliance with the requirements of this Act.

(3) Nothing in this Act shall be construed to impose any liability upon any person nominated as a candidate by others without his consent, unless he has afterwards given his assent to such nomination or has been elected.

22.—(1) If more than one candidate is nominated for the electoral division in the manner required by this Act, the returning officer shall grant a poll for taking the votes of the electors.

Granting
of a poll.

(2) Within five days after such poll has been granted the returning officer shall post to all postmasters in his electoral division a notice in the prescribed form of his having granted a poll and indicating the names, addresses and occupations of the candidates duly nominated.

6/1966
S. 4
(Sch.).

(3) Forthwith upon receipt of the notice referred to in subsection (2), every postmaster shall display it in some conspicuous place to which the public has access in the post office of which he is postmaster and maintain it there displayed until the hour fixed for the closing of the poll.

(4) The returning officer shall, within seven days after the nomination day, deliver or send by registered post to each candidate the prescribed number of copies of the notice aforesaid together with—

2/1981
S. 5
(Sch.).

- (a) a list of the presiding officers and poll clerks who will officiate at each polling station;
- (b) a copy of each separate list of electors relating to each polling station having regard to the provisions of section 24; and
- (c) a list of the persons assigned to transport ballot boxes from polling stations:

Provided, however, that the returning officer may make such changes as may be necessary in the lists referred to in paragraphs (a) and (c) after the delivery or despatch of such lists to the candidates and, if he does so, shall forthwith notify the candidates.

2/1981
S. 5
(Sch.)

(5) Within five days after receipt of the documents referred to in subsection (4) a candidate or the agent of a candidate may make objections or representations to the returning officer against any of the particulars or arrangements indicated in any such document; and thereupon the returning officer, after consultation with such other candidates or their agents as the returning officer thinks necessary, may make such changes in such particulars or arrangements as he thinks fit.

Establishment of polling stations. 6/1966
S. 4
(Sch.)

23.—(1) The returning officer shall establish for each polling division so many polling stations as the Chief Electoral Officer may direct.

(2) Each polling station shall be established in premises of convenient access, with an outside door for the admission of electors, and where possible with another door through which electors may leave after they have voted.

Allotment of lists to polling stations. 6/1966
S. 4
(Sch.)

24.—(1) The Chief Electoral Officer shall allot to each polling station established under subsection (1) of section 23, the official list of electors referred to in section 12 for so many and such polling divisions as he may think fit.

(2) In allotting lists of electors to polling stations the Chief Electoral Officer shall have regard to the desirability of ensuring so far as practicable that not more than two hundred and fifty names are allotted to any one polling station and to geographical considerations.

6/1966
S. 4
(Sch.).

25. The provisions of section 31 of the Representation of the People Act (which relate to the supply of ballot boxes) shall apply to elections held under this Act as they apply to elections held under the Representation of the People Act.

Provisions of section 31 of Representation of the People Act, to apply to elections held under this Act.

26. The provisions of section 32 of the Representation of the People Act (which relate to the supply of election material and to the custody of such material prior to the commencement of the poll and to the posting up of directions to voters before the commencement of the poll) shall apply to elections held under this Act as they apply to elections held under the Representation of the People Act, subject to the following modifications—

Provisions of section 32 of Representation of the People Act, to apply to elections held under this Act.

- (i) paragraph (d) of subsection (1) of the section shall take effect as if for the reference to the form set out in the Second Schedule of the Representation of the People Act, there were substituted a reference to the prescribed form;

(ii) paragraph (e) of subsection (1) of the section shall take effect as if for the reference to the Representation of the People Act, there were substituted a reference to this Act;

2/1981
S. 5
(Sch.).

(iii) paragraph (f) of subsection (1) and paragraph (b) of subsection (2) shall take effect as if for references in those paragraphs to section 37 (2) of that Act there were substituted respectively references to section 33 (2) of this Act;

(iv) subsection (4) of the section shall take effect as if for the reference to section 43 (1) of that Act there were substituted a reference to section 39 (1) of this Act.

Outdoor
agents.
4/1990
S. 3.

26A.—(1) Every candidate in an election may appoint such persons as he thinks fit to be outdoor agents and shall issue to any such outdoor agent appointed by him a certificate of appointment in the prescribed form specifying the polling station in respect of which the agent is appointed.

(2) The candidate may substitute one outdoor agent for another with respect to any polling station.

(3) No more than one person at any one time shall be entitled to perform the functions of outdoor agent for any candidate at any one polling station and, for the purpose of monitoring the extent of voter turnout on election day, the agent shall be stationed not less than twenty yards from the polling station.

Procedure on Polling Day

27.—(1) The poll shall be taken in each polling station by secret ballot in accordance with the provisions of section 31 or of section 32 between the hours of seven o'clock in the forenoon and five o'clock in the afternoon on election day.

Taking of
poll and
the ballot.

(2) The ballot of each voter shall be a printed paper, in this Act called a ballot paper, on which the names, addresses and occupations of the candidates alphabetically arranged in the order of their surnames and numbered accordingly shall be printed exactly as they are set out in the nomination paper. Opposite to the name of each candidate there shall be a prescribed symbol. The ballot papers shall have a counterfoil and a stub, and there shall be a line of perforations between the ballot and the counterfoil and between the counterfoil and the stub.

(3) The ballot papers shall be numbered on the top of the stub and the counterfoil, the same number being printed or written on the stub as on the counterfoil. The

ballot papers shall be bound or stitched in books containing ten, twenty-five, fifty or one hundred ballots.

2/1981
S. 5
(Sch.)

(4) Subject to subsection (5), on each ballot paper the name of the electoral division and the number of the polling division in which the ballot is to be used shall be printed in such manner as to remain on the ballot after it has been detached from the stub and the counterfoil.

(5) In the event of the loss or destruction of ballot papers conforming to the requirements of subsection (4), or in the case of any other emergency, substitute ballot papers having such distinctive features as may be prescribed may be used.

Who may
vote.
6/1966
S. 4
(Sch.)

28.—(1) Subject to the provisions of this section and of section 11 any person whose name appears on the official list of electors allotted to any polling station shall be permitted to vote at such polling station.

6/1966
S. 4
(Sch.)

(2) Where there is contained in the official list of electors allotted to any polling station a name, address and occupation which correspond so closely with the name, address and occupation of a person by whom a ballot is demanded as to suggest that the entry in such official list of electors was intended to refer to him, such person shall, upon taking the oath in the prescribed form and complying in all other respects with the provisions of this Act, be entitled to receive a ballot and to vote. In any such case the name, address and occupation shall be correctly entered in the poll book and the fact that the oath has been taken shall be entered in the proper column of the poll book.

(3) Subject to subsections (8) and (9), no elector shall receive a ballot paper or be permitted to vote unless his identity as the person whose name appears on the official list of electors for that electoral division has been established, as directed by the presiding officer or any other person authorized by him, in accordance with the provisions of this section. 11/2005 S. 2(a).

(3A) Before receiving his ballot paper, every elector shall, on the direction of the presiding officer, place his finger in or on the specified equipment. 11/2005 S. 2(a).

(3B) Where an elector refuses to place his finger in or on the specified equipment— 11/2005 S. 2(a).

(a) no ballot paper shall be issued to him; and

(b) erasing lines shall be drawn through his name on the official list of electors and in the poll book, if such name has been entered in the poll book, and the words “Refused to be identified by finger print” shall be written thereafter.

(3C) Where the specified equipment fails to function or to function properly or no such equipment is provided, the elector shall— 11/2005 S. 2(a).

(a) produce to the presiding officer his identification card or other prescribed document establishing his identity; and

Second
Schedule.

(b) take the oath in the form set out in the Second Schedule and otherwise establish his identity to the satisfaction of the presiding officer; or

(c) as the case may require, satisfy all the conditions specified in subsection (7).

11/2005
S. 2(a).

(3D) Where a prescribed document establishing identity has been issued in substitution for an identification card, only the prescribed document shall be produced to and accepted by the presiding officer, except in cases in which the elector satisfies the conditions specified in subsection (7).

11/2005
S. 2(a).

(3E) In determining whether or not the specified equipment has failed to function or function properly the presiding officer shall seek and be bound by the advice of the Chief Electoral Officer or the person nominated by him so to determine.

(4) No elector shall vote more than once in the same electoral division at the same election nor in more than one electoral division on the same day.

11/2005
S. 2(b).

(5) Subject to subsection (9), where an elector fails to comply with the provisions of subsection (3D)—

(a) no ballot paper shall be issued to him; and

(b) erasing lines shall be drawn through his name on the official list of electors and in the poll book, if such name has been entered in the poll book, and the words “Refused to be sworn” shall be written thereafter.

(6) The candidates, agents of the candidates or any elector representing a candidate shall be permitted to examine— 11/2005
S. 2(b).

- (a) the specified equipment; and
- (b) any identification card or other prescribed document used to establish the identity of an elector produced pursuant to subsection (3C).

(7) The conditions to which subsections (3C) and (3D) refer are— 6/1966
S. 4(Sch.).
11/2005
S. 2(c).

- (a) that the elector is unable to produce the identification card or other prescribed document establishing his identity referred to in that subsection or use it for the purposes of establishing his identity by reason of the fact that the Chief Electoral Officer has not yet pursuant to section 9 of the Representation of the People Act caused it to be delivered to him or that it has been lost, stolen, destroyed, mutilated or defaced; 25/1966
S. 2.
- (b) that the elector shall take the oath of identity in the prescribed form and otherwise establish his identity to the satisfaction of the presiding officer.

(8) In order to establish the identity of any person by whom a ballot is demanded, the presiding officer may, if he deems it necessary, make the following enquiries of such person— 21/1981
S. 5(Sch.).

- (a) his date of birth;
- (b) his place of birth;
- (c) the maiden name of his mother;
- (d) the place of birth of his mother,

and the presiding officer shall compare the answers given by such person with the information appearing on the record referred to in section 32 (1) (k) of the Representation of the People Act pertaining to the elector in whose name the ballot is demanded.

2/1981
S. 5(Sch.).

(9) No person of whom enquiries are made pursuant to subsection (8) shall be allowed to vote unless his identity is established to the satisfaction of the presiding officer.

11/2005
S. 2(d).

(10) In this section, "specified equipment" means the equipment approved by the Electoral Advisory Committee for the purpose of identifying electors by finger print and issuing ballots.

Transfer of
electors in
special
cases.

23/2011

29.—(1) Where any person whose name appears upon the official list for any polling division is appointed as agent of a candidate, provided notice in writing signed by such candidate of such appointment has been delivered to the returning officer not less than seventy-two hours before the opening of the poll on polling day, or as presiding officer or poll clerk for some other polling division in the same electoral division or for some polling station in that electoral division other than the polling station to which his name is allotted in accordance with the provisions of section 24, the returning officer shall transfer his name to the official list for the polling station of which he is appointed agent of a candidate or the presiding officer or poll clerk, as the case may be.

6/1966
S. 4(Sch.).

(2) The returning officer shall give notice in writing to every candidate in his electoral division of any transfer under subsection (1) and to the presiding officer of the polling station at which the person whose name is so transferred would have been entitled to vote but for the provisions of section 30.

(3) No agent of a candidate shall be transferred between polling stations within the same polling location.

30.—(1) Every person whose name is transferred in accordance with the provisions of section 29 from any official list to any other official list or from any division of any official list to any other division of such list shall vote, if he vote at all, at the polling station in respect of which he is appointed as agent of a candidate or as presiding officer or poll clerk, as the case may be.

Where transferred elector to vote.

(2) Every presiding officer who issues to any person whose name has been transferred from any official list to any other official list, or from any division of any official list to any other division of such list, any ballot paper at any polling station other than that to which such person's name has been transferred shall be guilty of an offence against this section and, on summary conviction thereof before a Resident Magistrate, shall be liable to a fine not exceeding ten thousand dollars and in default of payment thereof, to imprisonment for a term not exceeding six months.

10/2003
S. 3.

31.—(1) Subject to the provisions of section 33, each elector shall receive from the presiding officer a ballot paper on which such officer has previously put his initials so placed that when the ballot is folded they can be seen without opening it, and on the counterfoil of which he has placed a number corresponding to the consecutive number given to the elector and entered in the poll book opposite the name of such elector.

General mode of taking ballot.
12/1956
S. 3 (a).

(2) The presiding officer shall instruct the elector how and where to affix his mark, and shall properly fold the elector's ballot paper, directing him to return it, when marked, folded as shown, but without inquiring or seeing for whom the elector intends to vote, except when the elector is unable to vote in the manner prescribed by this Act on account of blindness or other physical incapacity.

(3) The elector on receiving the ballot paper shall forthwith enter one of the polling compartments and there mark his

ballot paper by making a cross with a black lead pencil within the space containing the name of the candidate for whom he intends to vote, and he shall then fold the ballot paper as directed so that initials and the number on the counterfoil can be seen without opening it, and hand the paper to the presiding officer, who shall, without unfolding it, ascertain by examination of the initials and numbers appearing thereon that it is the same paper as that delivered to the elector and if the same he shall subject to the provisions of section 34 forthwith in full view of the voter and all others present remove and destroy the counterfoil and deposit the ballot in the ballot box.

12/1956
S. 3(b).

(4) An elector who has inadvertently so dealt with the ballot paper delivered to him that it cannot conveniently be used shall restore it to the presiding officer who shall so deface it as to render it a spoiled ballot. The presiding officer shall then deliver another ballot paper to the elector.

(5) Every elector shall vote without undue delay and shall leave the polling station as soon as his ballot paper has been put into the ballot box.

2/1981
S. 5(Sch.).

(6) If at the hour of closing of the poll there are any electors inside the polling station or within the immediate precincts thereof who are qualified to vote and have not been able to do so since their arrival at the polling station, the poll shall be kept open a sufficient time to enable them to vote, but no one not actually present within the polling station or actually identified by the presiding officer as being within the immediate precincts aforesaid at the hour of closing shall be allowed to vote.

23/2011
Sch.

(7) Except as otherwise permitted by this Act, subsections (8) and (9) shall apply in case where an elector—

- (a) intentionally displays his ballot paper so as to make known to any person the candidate for or against whom he intends to vote; or
 - (b) uses a cellular phone, digital camera or other device to record, photograph or otherwise capture the image of a marked ballot paper.
- (8) Where an elector intentionally displays his ballot

paper so as to make known to any person the candidate for or against whom he intends to vote—

- (a) the presiding officer shall—
 - (i) issue a warning to the elector and request that the elector return the ballot paper to him forthwith; and the elector shall forthwith restore the ballot paper to the presiding officer;
 - (ii) deface the ballot paper so as to render it a spoiled ballot; and
 - (iii) deliver a second ballot paper to the elector; and
- (b) if, pursuant to paragraph (a), an elector is given a second ballot paper and acts in the manner described in this subsection in relation to that second ballot paper, the provisions of paragraph (a)(i) shall apply, and no other ballot paper shall be delivered to the elector thereafter.

(9) Where an elector uses a cellular phone, digital camera or other device to record, photograph or otherwise capture the image of a marked ballot paper, the presiding officer shall—

23/2011
Sch.

- (a) request that the elector return the ballot paper to him forthwith; and the elector shall restore the ballot paper to him forthwith; and
- (b) deface the ballot paper so as to render it a spoiled ballot and no other ballot paper shall be delivered to the elector thereafter.

(10) An elector who acts in the manner described subsection (7) commits an offence and shall be liable upon summary conviction before a Resident Magistrate to a fine not exceeding eighty thousand dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

23/2011
Sch.

32.—(1) Subject to all other provisions of this Act as to proof of qualification as an elector and as to the administration of oaths, if a person representing himself to be a particular elector applies for a ballot paper after another person has voted

Mode of
taking ballot
in special
cases.

as such person, he shall be entitled to receive a ballot paper and to vote after taking the oath of identity in the prescribed form, and otherwise establishing his identity to the satisfaction of the presiding officer.

(2) In such case, the presiding officer shall put on the ballot paper his initials, together with a number corresponding to the consecutive number given to the voter and entered in the poll book opposite the name of such voter, and the poll clerk shall enter in the poll book—

- (a) the name of such voter;
- (b) a note of his having voted on a second ballot paper issued under the same name;
- (c) the fact of the oath of identity having been required and taken, and the fact of any other oaths being so required or taken; and
- (d) any objection made on behalf of any and of which of the candidates.

(3) The presiding officer shall act in accordance with subsection (4) upon the request of—

- (a) an elector who—
 - (i) is incapacitated from voting in the manner prescribed by this Act, due to any physical cause other than blindness; and
 - (ii) takes an oath in the prescribed form; or
- (b) a blind elector who takes an oath in the prescribed form.

(4) The presiding officer shall, at the option of the elector—

- (a) assist the elector by marking the elector's ballot paper—
 - (i) in the manner directed by the elector; and
 - (ii) in the presence of the poll clerk and the sworn agents of the candidates or of the sworn electors representing the candidates in the polling station, but no other person, and placing the ballot in the ballot box; or
- (b) permit the person described in subsection (5) to accompany the elector into the voting compartment

13/2007
S.3(1).

and mark the elector's ballot for him.

(5) The person referred to in subsection (4) is a friend of the elector, being a person who— 13/2007
S. 3(1).

(a) has not already acted pursuant to subsection (4)(b) in relation to any other elector in that election; and

(b) takes an oath, in the prescribed form, that he—

(i) will keep secret the name of the candidate for whom he marks the ballot on behalf of the elector; and

(ii) has not already acted pursuant to subsection (4)(b) in relation to any other elector in that election.

(6) Whenever any elector has had his ballot paper marked as provided in subsection (4) the presiding officer shall enter in the poll book opposite the elector's name, in addition to any other requisite entry, the reason why such ballot paper was so marked. 13/2007
S.3(2).

33.—(1) Subject to the provisions of section 36, every presiding officer shall refuse to deliver any ballot paper to any elector unless he is satisfied that there does not appear— Ballot
papers not
to be
delivered
to electors
unless no
marks of
electoral
ink appear
on electors.
12/1956
S. 4.

(a) upon the appropriate digit of such elector; or

(b) in the case of an elector who the presiding officer is satisfied is suffering from an injury to the appropriate digit, upon any of the digits of such elector,

any mark of electoral ink.

(2) For the purpose of satisfying himself in the manner required by subsection (1) the presiding officer shall in the presence of the poll clerk and of the sworn electors representing the candidates in the polling station, as the case may be, inspect the appropriate digit of each elector or all of the digits

2/1921
S. 5
(Sch.).

of each elector, as the case may require and for that purpose shall use, as prescribed by regulations, any prescribed equipment designed for the purpose of detecting any mark of electoral ink:

Provided that if the prescribed equipment fails to function or is illegally removed from, or is for any reason not available for use at, any polling station, the presiding officer, in lieu of using that equipment, shall require the elector—

- (i) to take an oath in the prescribed form to the effect that he has not previously voted in that election;
- (ii) to make one or more impressions in ink on the form of the oath as follows:
 - (a) with his right thumb;
 - (b) with his left thumb, should he not have a right thumb; or
 - (c) with any other finger should he not have any thumb.

2/1981
S. 5
(Sch.).

(2A) Where the appropriate digit or any other digit which an elector may be required to immerse in electoral ink is concealed or covered with any bandage or other material, the presiding officer shall refuse to deliver to the elector any ballot paper unless the elector either—

- (a) removes such bandage or other material and wholly uncovers the appropriate or other digit aforesaid; or
- (b) satisfies the presiding officer that he is suffering from injury to such appropriate or other digit, takes an oath to that effect in the prescribed form and makes one or more impressions in ink on that form, as follows—
 - (i) with his right thumb;
 - (ii) with his left thumb, should he not have a right thumb; or

(iii) with any other finger, should he not have any thumb.

(2B) Where the presiding officer issues a ballot paper to an elector pursuant to subsection (2A) he shall make an entry in the poll book setting out the facts in relation to such an issue.

2/1981
S. 5.
(Sch.).

(3) Every presiding officer who refuses to deliver any ballot paper to any elector under the provisions of this section shall make an entry in the poll book setting out the facts in relation to such refusal.

(4) Every person who applies for any ballot paper at a time when there is upon any of his digits any mark of electoral ink shall be guilty of personation within the meaning of this Act.

34.—(1) Upon receiving any ballot paper from any elector in accordance with the provisions of subsection (3) of section 31 the presiding officer shall before removing the counterfoil from such ballot paper, if the elector has an appropriate digit, satisfy himself that there does not appear upon such digit any substance which in his opinion is likely to prevent the adhesion of electoral ink and cause the elector to immerse such digit in the electoral ink:

Electors to immerse appropriate digit in electoral ink.
12/1956
S. 4.

Provided that where the presiding officer is satisfied that the elector is suffering from some injury to his appropriate digit which is of such nature as to render it undesirable for him to immerse such digit in the electoral ink the presiding officer may require him to immerse in such ink any other digit upon which the presiding officer is satisfied that there is no substance which is likely to prevent the adhesion of electoral ink.

(2) If any elector on being required so to do fails or refuses to immerse his appropriate digit or any other digit in electoral ink the presiding officer shall destroy the ballot paper handed to him by such elector and make an entry in the poll book setting out the particulars in relation to the destruction of such ballot paper.

Penalty for failure of presiding officer to carry out provisions of sections 33 and 34.
12/1956
S. 4.
10/2003
S. 4.

35. Subject to the provisions of section 36, every presiding officer who fails or neglects to perform any duty imposed upon him by section 33 or section 34 shall be guilty of an offence against this section and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars and in default of payment, to imprisonment for a term not exceeding six months; and the Resident Magistrate may, in addition to imposing such fine or imprisonment, order that the presiding officer be disqualified from holding any post as an election officer for a period of seven years from the date of conviction.

Non-application of sections 33, 34 and 35 to electors with no hands.
12/1956
S. 4.
Who may be present.

36. The provisions of sections 33, 34 and 35 shall not apply in relation to any elector who has no hands.

37.—(1) In addition to the presiding officer and the poll clerk, the candidates, and one agent for each candidate in each polling station, and, in the absence of agents, one elector to represent each candidate on the request of such elector, and no others, shall be permitted to remain in the polling station during the time the poll remains open:

Provided that no candidate and his agent shall be in the same polling station at the same time for more than five consecutive minutes.

(2) The agent of each candidate, and, in the absence of an agent, any elector representing any candidate, on being admitted to the polling station, shall take an oath in the prescribed form to keep secret the name of the candidate for whom any of the voters has marked his ballot paper in his presence.

(3) Agents of candidates or electors representing candidates may, with the permission of the presiding officer, absent themselves from and return to the polling

[The inclusion of this page is authorized by L.N. 87/2004]

station at any time before one hour previous to the close of the poll.

38.—(1) If the agents or electors referred to in subsection (1) of section 37 are in attendance at least fifteen minutes before the hour fixed for opening the poll, they shall be entitled to have the ballot papers intended for use thereat carefully counted in their presence before the opening of the poll, and to inspect such ballot papers and all other papers, forms and documents relating to the poll.

Proceedings before opening of poll.

(2) A candidate may himself undertake the duties which any agent of his, if appointed, might have undertaken, or may assist his agent in the performance of such duties, and subject to the provisions of subsection (1) of section 37, may be present at any place at which his agent may in pursuance of this Act, be authorized to attend.

(3) The non-attendance of any agent or agents of candidates at any time or place required by this Act shall not in any wise invalidate any act or thing done during the absence of such agent or agents if such act or thing is otherwise duly done, and wherever in this Act any expressions are used requiring or authorizing any act to be done at the polls or otherwise, in the presence of agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as are authorized to attend, and as have, in fact, attended at the time and place where such act or thing is being done.

(4) The presiding officer shall, on polling day before the opening of the poll—

2/1981
S. 5
(Sch.).

- (a) cause such printed directions to electors as have been supplied to him in the prescribed form to be posted up in conspicuous places outside of and near to the polling station and also in each compartment of the polling station; and

- (b) deliver to the aforesaid agents or electors, as the case may be, who are in attendance, copies of a certificate signed by the returning officer setting out the serial number sequence of the total number of ballot papers issued for use at that polling station, so, however, that nothing in this paragraph shall prevent a presiding officer from delivering such copies as aforesaid to an agent or an elector as aforesaid who arrives at the polling station after the opening of the poll.

Proceed-
ings at
poll.

39.—(1) At the hour fixed for opening the poll the presiding officer and the poll clerk shall, in the presence of the candidates, their agents, and such of the electors as are present, open the ballot box and ascertain that there are no ballot papers or other papers therein, after which the box shall be locked, and the presiding officer shall keep the key thereof; the box shall be placed on a table in full view of all present and shall be maintained there until the close of the poll.

(2) Immediately after the ballot box is so locked, the presiding officer shall call upon the electors to vote.

(3) The presiding officer shall secure the admittance of every elector into the polling station, and shall see that they are not impeded or molested at or about the polling station.

(4) The presiding officer may, if he considers it advisable, direct that not more than one elector for each compartment shall, at any time, enter the room where the poll is held; and each elector, upon so entering, shall declare his name, residence and occupation. The poll clerk shall then ascertain whether the name of that elector appears on the official list of electors allotted to the polling station. If the name of that elector appears on that official list he shall answer any questions asked by the presiding officer concerning his identity and produce to the presiding officer

6/1966
S. 4
(Sch.).

the identification card or other prescribed document establishing his identity issued to him under section 9 of the Representation of the People Act or, if such identification card or such other prescribed document cannot be produced or used for the purposes of establishing his identity, all the conditions specified by subsection (7) of section 28 shall be satisfied. Where an impression is made upon the form of oath of identity mentioned in paragraph (b) of that subsection with a finger other than the right thumb the presiding officer shall make a note of the finger with which it was made. When it has been ascertained that that elector is qualified to vote at the polling station, his name, address and occupation shall be entered in the poll book which shall be kept by the poll clerk in the prescribed form, a consecutive number shall be prefixed to his name in the appropriate column of the poll book, and subject to any requirement under subsection (2) or (3) of section 28 to take an oath, he shall immediately thereafter receive a ballot paper and be permitted to vote.

(5) The poll clerk shall—

- (a) make such entries in the poll book as the presiding officer pursuant to any provision of this Act directs; and
- (b) enter in the poll book opposite the name of each voter, as soon as the voter's ballot paper has been deposited in the ballot box, the word "Voted"; and
- (c) enter in the poll book, the word "Sworn" or "Affirmed" opposite the name of each elector, to whom any oath or affirmation has been administered, indicating the nature of the oath or affirmation; and
- (d) enter in the poll book the words "Refused to be sworn" or "Refused to affirm" or "Refused to answer", opposite the name of each elector who

has refused to take an oath or to affirm when he has been legally required so to do, or has refused to answer questions which he has been legally required to answer;

2/1981
S. 5
(Sch.).

- (e) record in the poll book such objections as may be made by the agent of any candidate in relation to the taking of the poll.

Proceed-
ings after
poll.

40.—(1) Forthwith upon the close of the poll, in the presence and in full view of the poll clerk and the candidates or their agents, and if the candidates or any of them are absent, then in the presence of such as are present, and of at least two electors if none of the candidates are represented, the presiding officer shall—

- (a) count the number of voters whose names appear in the poll book as having voted and make an entry thereof on the line immediately below the name of the voter who voted last, thus—
“The number of voters who voted at this election in this polling station is” (stating the number) and sign his name thereto;
- (b) count the spoiled ballot papers, if any, place them in the special envelope supplied for that purpose and indicate thereon the number of such spoiled ballot papers and seal it up;
- (c) count the unused ballot papers undetached from the books of ballot papers, place them with all the stubs of all used ballots in the special envelope supplied for that purpose and indicate thereon the number of such unused ballot papers;
- (d) check the number of ballot papers supplied by the returning officer against the number of spoiled ballot papers, if any, the number of unused ballot papers and the number of voters whose names

appear in the poll book as having voted, in order to ascertain that all ballot papers are accounted for;

- (e) open the ballot box and empty its contents upon a table;
- (f) count the number of votes given to each candidate on one of the tally sheets supplied, giving full opportunity to those present to examine each ballot paper. The poll clerk and not less than two witnesses shall be supplied with a tally sheet upon which they may keep their own score as each vote is called out by the presiding officer.

(2) In counting the votes the presiding officer shall reject all ballot papers—

- (a) which have not been supplied by him; or
- (b) which have not been marked for any candidate; or
- (c) on which votes have been given for more than one candidate; or
- (d) upon which there is any writing or mark by which the voter could be identified, other than the numbering by the presiding officer in the cases hereinbefore referred to, but no ballot paper shall be rejected on account of any writing, number or mark placed thereon by any presiding officer.

(3) If, in the course of counting the votes any ballot paper is found with the counterfoil still attached thereto, the presiding officer shall (carefully concealing the numbers thereon from all persons present and without examining them himself) remove and destroy such counterfoil. He shall not reject the ballot merely by reason of his former failure to remove the counterfoil.

(4) If, in the course of counting the votes, the presiding officer discovers that he has omitted to affix his initials to any ballot paper, as provided by subsection (1)

of section 31, he shall, in the presence of the poll clerk and the agents of the candidates, affix his initials to such ballot paper and shall count such ballot paper as if it had been initialled by him in the first place, provided that he is satisfied that the ballot paper is one that has been supplied by him and that such an omission has really been made, also that every ballot paper supplied to him by the returning officer has been accounted for, as provided by paragraph (d) of subsection (1).

(5) Nothing in subsection (3) or subsection (4) shall relieve the presiding officer from any penalty to which he may have become liable by reason of his failure to remove or destroy the counterfoil at the time of the casting of the vote to which it relates or to affix his initials to any ballot paper before handing it to any elector.

(6) The presiding officer shall keep a record on the special form printed in the poll book of every objection made by any candidate, or his agent or any elector present, to any ballot paper found in the ballot box, and shall decide every question arising out of the objection. The decision of the presiding officer shall be final, subject to reversal on a count by the returning officer under paragraph (a) of subsection (2) of section 41 or on a re-count by a Resident Magistrate under section 43 or on petition questioning the election or return; and every such objection shall be numbered, and a corresponding number placed on the back of the ballot paper and initialled by the presiding officer.

(6A) Nothing in subsection (6) with regard to the form printed in the poll book shall prevent any candidate, or his agent or any elector present from making objections in the prescribed form to any ballot paper found in the ballot box whereupon—

2/1981
S. 5
(Sch.).

- (a) one copy of such form shall be initialled by the presiding officer and pasted in the poll book and shall form part of the official records of the polling station; and
- (b) another copy of such form shall be initialled by the presiding officer and returned to the candidate, agent or elector making such objection.

(7) All the ballot papers not rejected by the presiding officer shall be counted and a list kept of the number of votes given to each candidate and of the number of rejected ballot papers. The ballot papers which respectively indicate the votes given for each candidate shall be put into separate envelopes; all rejected ballot papers shall be put into a special envelope and all such envelopes shall be endorsed so as to indicate their contents, and shall be sealed by the presiding officer, and by such agents or witnesses present as may desire to seal them or to sign their names thereon in addition or instead.

(8) The presiding officer and the poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe respectively the prescribed oaths.

(9) The presiding officer shall make the necessary number of copies of the statement of the poll in the prescribed form one copy to remain attached to the poll book, one copy to be retained by the presiding officer and one copy for the returning officer which shall be enclosed in a special envelope supplied for the purpose, which envelope he shall seal and deposit by itself in the ballot box, and one copy each shall be delivered to every candidate or his agent present at the polling station.

2/1981
S. 5
(Sch.).

(10) The poll book, the several envelopes containing the ballot papers—unused, spoiled, rejected or counted for each candidate—each lot in its proper envelope,

the envelope containing the official list of electors and other documents used at the poll shall then be placed in the large envelope supplied for the purpose, and this envelope shall then be sealed and placed in the ballot box with (but not enclosing) the envelope containing the statement of the poll prepared for the returning officer and referred to in subsection (9). The ballot box shall then be locked and sealed with the seal of the presiding officer and, if so desired, the seal of the agents or representatives of each candidate and forthwith transmitted by registered mail or delivered to the returning officer. The returning officer may specially appoint one or more persons for the purpose of collecting the ballot boxes from a given number of polling stations and such person or persons shall, on delivering the ballot boxes to the returning officer take the oath in the prescribed form.

2/1981
S. 5
(Sch.).

(10A) Any arrangements made pursuant to subsection (10) for the delivery of ballot boxes to the returning officer otherwise than by registered mail or for the collection of ballot boxes by the returning officer shall include arrangements for the persons delivering or collecting the ballot boxes, as the case may be, to be accompanied by an agent or representative of each of the candidates.

2/1981
S. 5
(Sch.).

(11) The presiding officer shall, with the ballot box, transmit or deliver to the returning officer, in the envelope provided for that purpose, the key of such ballot box, the preliminary statement of the poll in the form prescribed by the Chief Electoral Officer and the polling station account furnished him in blank by the returning officer, having first caused it to be filled in and signed by the officials of his polling station entitled to fees, and by the landlord thereof, if any.

(12) The presiding officer shall transmit to the returning officer—

- (a) the ballot box;
- (b) the envelope containing the key thereof;

- (c) the preliminary statement of the poll;
- (d) the polling station account;
- (e) the record of information referred to in section 32(1)
 - (k) of the Representation of the People Act; and
- (f) the equipment referred to in section 33 (2),

2/1981
S. 5.
(Sch.).

in such manner as the Chief Electoral Officer may direct.

(13) If any presiding officer shall omit to enclose within the ballot box, and in the proper envelopes provided for that purpose, any of the documents mentioned in this section, he shall, in addition to any other punishment to which he may be liable, forfeit all right to payment for his services as such officer.

40A.—(1) Where—

- (a) polling stations have not opened for the taking of the poll within the period of the first five hours after the hour fixed for the opening of the poll and the number of electors on the official list of electors for those polling stations constitute at least twenty-five per cent of the electors in the electoral division;

Halting of
taking of the
poll.
28/1997
Sch.

- (b) there is an occurrence of any earthquake, flood, fire or other natural disaster which could substantially prevent or prejudice the holding of fair elections,

32/2002
S. 3.

the Constituted Authority established under section 40C may halt the taking of the poll so, however, that the decision to halt the taking of the poll shall be by a five-sixths majority of the members of that Authority.

23/2011
Sch.

(2) The Constituted Authority shall have the power to halt the taking of the poll in any polling station, polling division or electoral division on polling day.

Period within
which poll to
be retaken
after being
halted.
28/1997
Sch.

40B. Where under section 40A the Constituted Authority halts the taking of a poll, the poll shall be retaken on such day within a period of twenty-eight days from the date on which the poll is halted or so soon after such period as the Constituted Authority may deem reasonably practicable.

Establishment
of Constituted
Authority.
32/2002
S. 4.

40C.—(1) There shall be established, on the issuing of an election notice by a returning officer under section 15 (1), a body to be known as the Constituted Authority which shall continue in force for a period ending six months after the day referred to in section 15 (2) (b).

(2) The members of the Constituted Authority shall be—

23/2011
Sch.

- (a) the four selected members of the Electoral Commission of Jamaica established under the *Electoral Commission (Interim) Act*.

(b) two other persons appointed by the Governor-General after consultation with the Prime Minister and the Leader of the Opposition—

(i) one of whom shall be a retired Judge; and

(ii) one of whom shall be a member of the Privy Council,

so, however, that where a retired Judge is not available for appointment, another member of the Privy Council shall be appointed.

(3) The chairman of the Constituted Authority shall be the retired Judge but where no retired Judge is appointed the member of the Privy Council who is the more senior shall be the chairman.

(4) Where any member who is appointed under subsection (2) dies or is unable to perform his functions by reason of infirmity of body or mind or for any other cause, the Governor-General after consultation with the Prime Minister and the Leader of the Opposition shall appoint another person to replace that member.

Procedure subsequent to polling day

Final count of
votes and
custody of
ballot boxes
pending such
count.

41.—(1) The returning officer upon receipt by him of the ballot boxes, shall take every precaution for its safekeeping and for preventing any person other than himself and his election clerk from having access thereto, sealing it under his own seal so that it cannot be opened without the seal being broken, but without effacing or covering any other seals thereto affixed.

4/1990
S. 4 (a).

(1A) Each candidate at an election may by notice in the prescribed form addressed to the returning officer and delivered to him at least seven days before election day, appoint agents to act as observers in relation to the safekeeping and security of the ballot boxes, ballot papers and other documents during the period beginning with the receipt by the returning officer of the ballot boxes after the preliminary count and ending with the fourth day next after completion of the final count, or, where application has been made for a magisterial recount, after the completion of such recount.

4/1990
S. 4 (a).

(1B) The following provisions shall have effect in relation to appointments made under subsection (1A)—

- (a) the returning officer shall, on being notified as aforesaid, issue to the agent a certificate showing the name of the agent and specifying the times at which he shall be entitled to act as observer;
- (b) the agent shall act in conformity with that certificate and shall show it to the returning officer whenever requested to do so;

- (c) the agent shall not have access to the ballot boxes, ballot papers and other documents aforesaid and shall not enter any room or other place where they are stored for safekeeping; and
- (d) as respects each set of ballot boxes, papers and documents, not more than one agent per candidate at any one time shall function as an observer.

(2) Subject to subsection (2A) and after all the ballot boxes have been received, the returning officer, at the place, date and time specified in the election notice referred to in section 15 for the final count of the votes, and in the presence of the election clerk and of such of the candidates or their representatives as are present, shall open such ballot boxes, and—

4/1990
S. 4 (b).

- (a) count the votes contained therein cast for each candidate (allowing the candidates and their representatives to see such vote) and determine whether any of the votes so cast should be rejected;
- (b) count the votes rejected by the presiding officer (allowing the candidates and their representatives to see such votes) and determine whether any of such votes should be regarded as having been validly cast for any, and if so for which, candidate;
- (c) add up the total number of votes (including any votes rejected by the presiding officer but which he thinks should not have been so rejected) cast for each candidate;
- (d) make and sign any necessary amendments to the statement of the poll.

(2A) The Chief Electoral Officer, whenever he is satisfied that it is expedient to change the place designated for the final count, may direct the returning officer—

4/1990
S. 4 (c).

- (a) to carry out the final count of votes at such place as the Chief Electoral Officer may specify and to notify each candidate, within twenty-four hours, of the issue of such a direction; and
- (b) to postpone for a period not exceeding forty-eight hours in any one instance, the carrying out of the final count of votes, and to forthwith communicate notice of any such postponement to each candidate.

(3) The provisions of subsection (2) of section 40 shall apply to the returning officer as they apply to the presiding officer except that paragraph (a) of that subsection shall take effect as if there were substituted for the word “him” the words “presiding officer”.

(4) The provisions of subsection (6) of section 40 shall apply to the returning officer as they apply to the presiding officer except that for references in the subsection to the presiding officer there shall be substituted references to the returning officer and that the words “on a count by the returning officer under paragraph (a) of subsection (2) of section 41 or” shall be deemed to be omitted from the section.

(5) The provisions of subsection (7) of section 40 shall apply to the returning officer as they apply to the presiding officer except—

- (a) that the words “returning officer” shall be deemed to be substituted for the words “presiding officer”; and
- (b) that the documents referred to in that subsection shall be replaced in the envelopes from which they were removed by the returning officer and

such envelopes shall be fastened by a sheet of paper being pasted over the opening thereof.

(6) If at the final count of the votes none of the candidates or their representatives are present, it shall be the duty of the returning officer to secure the presence of at least two electors who shall remain in attendance until such final count of the votes has been completed.

(7) Subject to the provisions of subsection (8), the candidate who, on such final count of the votes, is found to have the largest number of votes, shall then be declared elected in writing and a copy of such declaration shall be forthwith delivered to each candidate or his agent, if present at the final count of the votes, or, if any candidate is neither present nor represented thereat, shall be forthwith transmitted to such candidate by registered post.

(8) (a) Whenever any candidate is dissatisfied with the accuracy of any count under this section he may demand a recount and thereupon the returning officer shall recount the votes.

(b) Any recount under this subsection shall be conducted in accordance with the provisions of this section as if such recount were the original count of the votes under this section and the results of any recount under this section shall be substituted for the results of the original count under this section or, where more than one recount is demanded, for the results of any preceding recount.

(9) Whenever on such final count of votes, an equality of votes is found to exist between any two or more candidates and an additional vote would entitle one of such candidates to be declared elected, the returning officer shall give such additional vote.

[The inclusion of this page is authorized by L.N. 146/1999]

Provisions
applicable
where
ballot box
not
returned.

42.—(1) If the ballot boxes are not returned to the returning officer by the time specified in the election notice under section 15, the returning officer shall adjourn the proceedings to a subsequent day, which shall not be more than a week later than polling day.

(2) In case the statement of the poll cannot be found and the number of votes polled for the several candidates cannot be ascertained, or if, for any other cause, the returning officer cannot, at the day and hour appointed by him for that purpose, ascertain the exact number of votes given for each candidate, he may thereupon adjourn to a future day and hour the final count of the votes given for each candidate, not being more than seventy-two hours after the time specified in the election notice under section 15.

(3) At the time to which the proceedings are adjourned in accordance with the provisions of subsection (2), the returning officer shall ascertain by such evidence as he is able to obtain the total number of votes cast for each candidate and shall declare elected the candidate appearing to him to have the largest number of votes.

(4) For the purposes of this section the returning officer shall have all the powers of and be deemed to be a commissioner appointed under the Commissions of Enquiry Act and the provisions of section 11 of the Commissions of Enquiry Act shall apply to all persons required by the returning officer to give evidence or to produce any documents before him as they apply to persons summoned to attend and give evidence or to produce documents before a commission of enquiry under the Commissions of Enquiry Act.

43.—(1) If within four days after the day on which the returning officer has declared a candidate elected it is made to appear, on the affidavit of a credible witness, to the Resident Magistrate hereafter described, that a returning officer in counting the votes has improperly counted or improperly rejected any ballot papers or has made an incorrect addition of the number of ballots cast for any candidate, and if the applicant deposits within the said period with the clerk of the court of such Resident Magistrate the sum of ten dollars as security for the costs of the candidate declared elected, the Resident Magistrate shall appoint a time within four days after the receipt of the affidavit to recount the said votes.

Recount by
Resident
Magistrate.

(2) The Resident Magistrate to whom applications under this section may be made shall be the Resident Magistrate for the parish in which is situated the place whereat the declaration of the election was made.

(3) If applications for a recount of the votes in two or more electoral divisions are made under this section to the same Resident Magistrate, such Resident Magistrate shall first proceed with the recount in the electoral division in respect of which the first application is made to him, and successively with the recounts in the electoral division or electoral divisions in respect of which applications were later made, and all such recounts shall proceed continuously from day to day until the last of them has been completed.

(4) The Resident Magistrate shall appoint and give written notice to the candidates of a time and place at which he will proceed to recount the votes.

(5) The Resident Magistrate shall also summon the returning officer and his election clerk to attend at the time and place so appointed with the parcels containing the used and counted, the unused, the rejected, and the

spoiled ballot papers, or the original statements of the poll signed by the presiding officers, as the case may be, with respect to or in consequence of which such recount is to take place.

(6) Every candidate shall be entitled to be present and to be represented by an agent at any proceedings under this section.

Manner of
making
recount.

44.—(1) The Resident Magistrate shall proceed to make such recount by recounting all the votes or ballot papers returned by the returning officer, and shall open the sealed envelopes containing the used and counted, the unused, the rejected, and the spoiled ballot papers.

(2) At every recount the Resident Magistrate shall recount the votes according to the directions in this Act set forth for presiding officers at the close of the poll, and shall verify or correct the statement of the poll giving the ballot paper account and the number of votes given for each candidate; and he shall also, if necessary or required, review the decision of the returning officer with respect to the rejection of any ballot papers or to the number of votes given for a candidate at any polling place where the ballot box used was not forthcoming when the returning officer made his decision, or when the proper statements of the poll were not found therein, and for the purpose of arriving at the facts as to such missing box and the statements of the poll, the Resident Magistrate shall have all the powers of a returning officer with regard to the attendance and examination of witnesses, who in case of non-attendance shall be subject to the same consequences as in case of refusal or neglect to attend on the summons of a returning officer.

(3) If in the course of the recount any ballot paper is found with the counterfoil still attached thereto, the Resident Magistrate shall remove and destroy such

counterfoil. He shall not reject the ballot by reason merely of the presiding officer's failure to remove the counterfoil, nor shall he reject any ballot paper by reason merely of the presiding officer's failure to affix his initials to such ballot paper.

(4) The Resident Magistrate shall, as far as practicable, proceed continuously, except on Sunday, with the recount, allowing only necessary adjournments for rest and refreshment, and excluding the hours between six o'clock in the afternoon and nine in the succeeding forenoon.

(5) During such adjournments the ballot papers and other documents shall be kept enclosed in parcels under the seals of the Resident Magistrate.

(6) The Resident Magistrate shall personally supervise such parcelling and sealing and take all necessary precautions for the security of such papers and documents.

(7) The Resident Magistrate shall thereupon declare the recount at an end, seal up all the ballot papers in separate packages, and forthwith certify the result of the recount to the returning officer, who shall forthwith in writing declare to be elected the candidate so certified as having the highest number of votes. Such declaration shall be communicated to candidates, in the same way as the prior declaration made under subsection (7) of section 41 and shall be deemed for all purposes to have been substituted therefor, whether it is the same as such prior declaration or different therefrom.

(8) In case of an equality of votes the returning officer, notwithstanding that he may have already voted pursuant to subsection (9) of section 41, shall have and cast another or deciding vote.

(9) If the recount does not so alter the result of the poll as to affect the return, the Resident Magistrate shall—

- (a) order the costs of the candidate appearing to be elected to be paid by the applicant;
- (b) tax such costs, following as closely as possible the tariff of costs allowed with respect to proceedings in the Resident Magistrate's Court.

(10) The moneys deposited as security for costs shall, so far as necessary, be paid out to the candidate in whose favour costs are awarded and if the said deposit is insufficient the party in whose favour the costs are awarded shall have his action for the balance.

Election
return.

45.—(1) Subject to the provisions of subsection (2), the returning officer upon the seventh day next following that upon which he has made the final count of or ascertained the number of votes given for each candidate, shall transmit to the Chief Electoral Officer—

- (a) a return in the prescribed form stating that the candidate having the majority of votes has been duly elected;
- (b) a report of his proceedings in the form prescribed by the Chief Electoral Officer;
- (c) the recapitulation sheets, in the form prescribed by the Chief Electoral Officer, showing the number of votes cast for each candidate at each polling station, and making such observations as the returning officer may think proper as to the state of the election papers as received from the presiding officers;
- (d) the statements of the polls;
- (e) the reserve supply of undistributed blank ballot papers;

- (f) the returns from the various polling stations enclosed in sealed envelopes, as prescribed by this Act, and containing the poll book used at the poll, a packet of stubs and of unused ballot papers, packets of ballot papers cast for the several candidates, a packet of spoiled ballot papers, a packet of rejected ballot papers and a packet containing the official list of electors used at the poll, and the written appointments of candidates' agents; and
- (g) all other documents used for the election.

(2) Where the returning officer has been summoned under subsection (5) of section 43 to attend a recount by the Resident Magistrate he shall delay transmission of such return and report until he shall have received from the Resident Magistrate a certificate of the result of such recount whereupon he shall transmit the same.

(3) The returning officer shall forward to each of the candidates a duplicate or copy of the return made by him under paragraph (a) of subsection (1).

(3A) The returning officer shall transmit the equipment referred to in section 33 (2) to the Chief Electoral Officer who shall keep such equipment safely in his custody.

2/1981
S. 5
(Sch.).

(4) A premature return shall be deemed not to have reached the Chief Electoral Officer until the same should have reached him in due course, and he shall, if circumstances so require, send back such return and any or all election documents connected therewith to the returning officer for completion or correction.

(5) The Chief Electoral Officer shall, on receiving the return of any councillor elected to serve on the Parish Council, enter it, in the order in which such return is received by him, in a book to be kept by him for such

purpose and thereupon immediately give notice in the *Gazette* of the name of the candidate so elected and in the order in which it was received.

(6) The Chief Electoral Officer shall, immediately after each General Election, cause to be printed a report giving, by polling divisions, the number of votes polled for each candidate, the number of rejected ballots, the number of names on the official list of electors, together with any other information that he may deem fit to include; and shall also, at the end of each year, cause to be printed a similar report on the by-elections held during the year.

6/1966
S. 4
(Sch.).

Neglect or
refusal to
return
candidate.

46. The provisions of section 50 of the Representation of the People Act (which relate to the penalty for any delay, neglect or refusal on the part of a returning officer to return an elected candidate) shall apply in relation to elections held under this Act as they apply in relation to elections held under the Representation of the People Act, subject to the modification that there shall be substituted for the words "in the House of Representatives" in the third line of the section the words "on the Parish Council", and for the word "constituency" in the third and fourth lines of the section and in the fifth and sixth lines of the section the words "electoral division".

Voiding of
taking of
the poll.
28/1997
Sch.

46A.—(1) The provisions of sections 52A and 52B of the Representation of the People Act (which relate to the voiding of the taking of the poll) shall apply in relation to elections held under this Act as they apply in relation to elections held under the Representation of the People Act.

Custody of
ballot
boxes.

47.—(1) So soon as may be after the conclusion of the final count of the votes under section 41 the returning officer shall cause the ballot boxes used thereat, with their locks and keys, to be deposited in the custody of the sub-officer in charge of a police station in the electoral division.

(2) The provisions of subsection (2) of section 51 of the Representation of the People Act (which relate to the custody of ballot boxes) shall apply in relation to elections held under this Act as they apply in relation to elections held under the Representation of the People Act.

48. The provisions of section 52 of the Representation of the People Act (which relate to the custody of election documents by the Chief Electoral Officer) shall apply in relation to elections held under this Act as they apply to elections held under the Representation of the People Act.

Custody of election documents.

49.—(1) Subject to the provisions of subsection (2), no expenditure shall be incurred in relation to the candidature of any person at any election in excess of one million dollars.

Election expenditure. 10/2003 S. 5.

(2) In determining the total expenditure incurred in relation to the candidature of any person at any election regard shall not be had—

- (a) to the deposit required to be made by the candidate under paragraph (b) of subsection (5) of section 17; or
- (b) to any expenditure incurred before the publication of the proclamation or of the order under section 8 whereby such election was initiated, in respect of services rendered or material supplied before the date of such publication.

50.—(1) No expenditure shall be incurred in respect of the candidature of any person at any election except by the candidate or by some person authorized in writing by the candidate.

Who may incur expenditure.

(2) No expenditure shall be incurred in respect of the candidature of any candidate at any election, by any person authorized in writing by such candidate, in excess of the amount specified in the authorization.

(3) Every person who contravenes subsection (1) or subsection (2) shall be guilty of an offence and, upon summary conviction before a Resident Magistrate, shall be liable to a fine not exceeding twenty thousand dollars or to be imprisoned for any term not exceeding six months.

10/2003
S. 6.

Certain
contracts to
be invalid.

51. Any contract whereby any expenditure is incurred in contravention of the provisions of subsection (1) or of subsection (2) of section 50 shall for all purposes be deemed to be void and unenforceable.

Period for
sending in
claims and
making
payments for
election
expenses.

52.—(1) Every claim against—

(a) a candidate at an election; or

(b) any person authorized in writing by a candidate at an election to incur expenditure in respect of such election,

in respect of any expenditure so incurred which is not sent in to the candidate or to the person by whom the expenditure was incurred within twenty-one days of the date upon which the expenditure was incurred shall be barred and shall not be paid.

(2) All expenditure incurred by or on behalf of a candidate at an election on account of or in respect of the conduct or management of such election shall be paid within six weeks next after election day.

(3) Every person who makes any claim in contravention of the provisions of subsection (1) or subsection (2) shall be guilty of an illegal practice.

Election
return.

53.—(1) Within six weeks after election day every person who was a candidate at any election shall make an election return to the returning officer for the electoral division in which he was a candidate.

(2) Every return under subsection (1) shall be in the prescribed form and shall contain a full statement under the appropriate head of all expenditure incurred in connection with the election by or on behalf of the candidate

and shall be supported by vouchers for all payments in excess of four dollars.

(3) Every return under subsection (1) shall contain a full statement of all moneys, securities, or the equivalent to money received by the candidate from any source in connection with the election.

(4) Every return under subsection (1) shall be supported by a declaration sworn to before a Justice of the Peace by the candidate stating—

- (a) that the return fully and correctly sets out all payments made by the candidate; and
- (b) that to the best of his knowledge, information and belief, the return is a full and correct return of all expenditure incurred by any person in connection with his candidature and of all moneys, securities or the equivalent of money received by him or any person on his behalf from any source in connection with the election.

Administrative Provisions as to Elections

54. The Chief Electoral Officer shall—

- (a) exercise general direction and supervision over the administrative conduct of elections and enforce on the part of all election officers fairness, impartiality and compliance with the provisions of this Act;
- (b) issue to election officers such instructions as from time to time he may deem necessary to ensure effective execution of the provisions of this Act; and
- (c) execute and perform all other powers and duties which in this Act are imposed upon him.

Powers and duties of Chief Electoral Officer.

55.—(1) The Minister may appoint for each electoral division a returning officer and an election clerk who shall each receive such remuneration as may be prescribed.

Returning officer and election clerk.

(2) Forthwith upon his appointment each returning officer and each election clerk shall take and subscribe an oath in the prescribed form and shall transmit such oath to the Chief Electoral Officer.

(3) Forthwith upon taking the oath referred to in subsection (2), the returning officer shall establish an office in the parish in which his electoral division is comprised and shall cause an advertisement to be inserted in a daily newspaper specifying the place at which he has established his office.

L.N.
223/1964.

(4) The Chief Electoral Officer shall designate one of the returning officers appointed in respect of the electoral divisions comprised in each parish to be the principal returning officer for that parish.

(5) If any returning officer during an election becomes incapable of performing his duties as such, the election clerk for the electoral division in respect of which such returning officer was appointed shall forthwith report the fact of such returning officer having become incapable of performing his duties to the Chief Electoral Officer, and shall, until such time as some other returning officer shall be appointed for such electoral division, do all acts required to be done by the returning officer as if he had been appointed returning officer for such electoral division.

Presiding
officer.
6/1966
S. 4
(Sch.).

56.—(1) The Governor-General shall appoint a presiding officer for each polling station in each electoral division who shall receive such fee as may be prescribed.

(2) Forthwith upon his appointment the presiding officer shall take an oath in the prescribed form and shall transmit such oath to the returning officer.

Poll clerks.
6/1966
S. 4
(Sch.).

57.—(1) The Governor-General shall appoint a poll clerk for each polling station in each electoral division who shall receive such fee as may be prescribed.

(2) Forthwith upon his appointment every poll clerk shall take an oath in the prescribed form and shall transmit such oath to the returning officer.

(3) If any presiding officer dies or becomes incapable of performing his duties during the taking of the poll, the poll clerk shall forthwith assume the office of presiding officer and shall appoint some other person to act as poll clerk.

58. Every election officer and every person who is required by this Act to take any oath or affirmation may take such oath or affirmation either before a Justice or before any returning officer or presiding officer or poll clerk appointed in accordance with the provisions of this Act and every such returning officer, presiding officer and poll clerk is hereby authorized and empowered to administer any oath or affirmation required by this Act to be made or taken by any election officer or other person.

Oaths to be taken before Justice, returning officer, presiding officer or poll clerk

59.—(1) Every person who is required to take an oath in pursuance of any of the provisions of this Act may elect to make a solemn affirmation instead of taking such oath.

Oaths.

(2) Every oath administered or caused to be administered in accordance with the provisions of this Act shall be in one or other of the prescribed forms.

60.—(1) The Minister may make regulations generally for carrying into effect the provisions of this Act relating or ancillary to the preparation for and conduct of any election under this Act and in particular, but without prejudice to the generality of the foregoing provisions, for the appointment, duties and remuneration of election officers, the returns to be made and oaths to be taken by election officers, candidates and electors, the forms to be used in connection with any election, the symbols to be used upon any ballot

Power of Minister. 2/1981 S. 5 (Sch.)

paper and the manner of allocation of such symbols to candidates, and any other matter, whether similar to the foregoing or not, authorized by this Act to be prescribed in relation to the preparation for or conduct of any election under this Act.

2/1981
S. 5
(sch.).

(2) The regulations made under subsection (1) except those which relate to the remuneration of election officers, shall be on the advice of and in conformity with the recommendations of the Electoral Advisory Committee established under the Representation of the People (Interim Electoral Reform) Act.

Offences in connection with Elections

Bribery.

61. The following persons shall be deemed guilty of bribery within the meaning of this Act:

- (a) Every person who directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or endeavour to procure, any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any other person in order to induce any elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such elector having voted or refrained from voting at any election.
- (b) Every person who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure, any office, place or employment, to or for any elector, or to or for any person on behalf of any elector, or to or for any other person in order to induce such elector to vote or refrain

from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at any election.

- (c) Every person who directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement as aforesaid, to or for any person in order to induce such person to procure or endeavour to procure the return of any person as a councillor of a Parish Council, or the vote of any elector at an election.
- (d) Every person who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure, the return of any person as a councillor of the Parish Council, or the vote of any elector at any election.
- (e) Every person who advances or pays, or causes to be paid, any money to or to the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.
- (f) Every elector who, before or during any election, directly or indirectly, by himself or by any other person in his behalf, receives, agrees or contracts for, any money, gift, loan or valuable consideration, office, place or employment, for himself or for any person, for voting, or agreeing to vote, or for refraining or agreeing to refrain from voting at any election.
- (g) Every person who, after any election, directly or indirectly, by himself or by any other person on

his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election.

Treating. The following persons shall be deemed guilty of treating within the meaning of this Act—

- (a) Every person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing any food, drink, entertainment, or provision, to or for any person for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election.
- (b) Every elector who corruptly accepts or takes any such food, drink, entertainment or provision.

Undue influence.

62. Every person who directly or indirectly by himself or by any other person on his behalf makes use of, or threatens to make use of, any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss, upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who by abduction, duress or any fraudulent contrivance, impedes or prevents the free exercise of the franchise of any elector, or thereby compels, induces or prevails upon, any elector either to give or refrain from giving his vote at any election, shall be guilty of undue influence within the meaning of this Act.

63. Every person who at an election applies for a ballot paper in the name of another person, whether that name be the name of a person living or dead, or of a fictitious person, or who having voted once at any election applies at the same election for a ballot paper in his own name, shall be guilty of personation within the meaning of this Act.

Personation.

64. Every person who is guilty of bribery, treating or undue influence, shall, on conviction, be liable to be imprisoned, with or without hard labour, for a term not less than three years nor more than five years or to a fine of not less than twenty thousand dollars nor more than eighty thousand dollars.

Penalty for bribery, treating, or undue influence.
2/1981
S. 5.
(Sch.).
10/2003
S. 7.

65. Every person who is guilty of personation, or of aiding, abetting, counselling or procuring, the commission of the offence of personation, shall be liable—

Penalty for personation.
4/1990
S. 9. (Sch.).

(a) on summary conviction in a Resident Magistrate's Court to imprisonment for a term not less than six months nor more than two years and in addition to such imprisonment to a fine not exceeding eighty thousand dollars; or

10/2003
S. 8.

(b) on conviction before a Circuit Court to imprisonment for a term not exceeding five years and in addition to such imprisonment to such fine as the Court may impose.

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

Disqualifying effect of conviction of either of those offences.

- (a) of being registered as an elector, or voting at any election of a councillor of a Parish Council;
- (b) of being elected a councillor of a Parish Council, or, if elected before his conviction, of retaining his seat as such councillor.

Illegal
practices.

67. Every person who—

- (a) votes, or induces or procures any person to vote, at any election, knowing that he or such other person is prohibited by this Act, or by any other Act, from voting at such election;
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate,

4/1990
S. 9.
(Sch.).
10/2003
S. 9.

shall be guilty of an illegal practice, and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding four hundred dollars and in default of payment to imprisonment for a term not exceeding twelve months or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment and be incapable during a period of five years from the date of his conviction of being registered as an elector, or voting at any election of a councillor of the Parish Council for the parish in which the illegal practice was committed.

False
statements in
relation to the
personal
character, etc.,
of candidates
or prospective
candidates.

68. Every person who before or during any election, for the purpose of affecting the return of any candidate or prospective candidate at such election, makes or publishes any false statement of fact in relation to the personal character or conduct

of such candidate or prospective candidate shall be guilty of an offence against this section and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding twelve months, or to imprisonment with or without hard labour for a term not exceeding twelve months, or to both such fine and imprisonment.

4/1990
S. 9.
(Sch.).
10/2003
S. 9.

69.—(1) Every person who—

Penalty on persons forging, counterfeiting, defacing, destroying ballot papers, etc.

(a) forges or counterfeits, or fraudulently defaces or destroys, any ballot paper or the official mark on any ballot paper;

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

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

7/1970
S. 2.

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

shall be guilty of a misdemeanour, and be liable, on summary conviction before a Resident Magistrate, to a fine of not less than twenty thousand dollars nor more than eighty thousand dollars or to imprisonment with or without hard labour for a term not exceeding three years.

2/1981
S. 5.
(Sch.).
10/2003
S. 10 (a)(b).

(2) Every person who, without due authority destroys, takes, opens or otherwise interferes with, any ballot box or any packet of ballot papers then in use for the purposes of any election, shall be guilty of a misdemeanour, and be liable on summary conviction before a Resident Magistrate to a fine of not less than twenty thousand dollars nor more than eighty thousand dollars or to imprisonment with or without hard labour for a term not exceeding three years.

2/1981
S. 5.
(Sch.).
10/2003
S. 10 (a)(b).

(3) Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

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

Obstruction of
election
officers, etc.
3-1981
S. 3.

69A.—Every person who—

- (a) threatens or assaults an election officer or obstructs such officer in the lawful exercise of his duties; or
- (b) wilfully destroys or causes damage to, or takes away, without lawful authority any equipment, article, material or document used in, or provided for use in the conduct of, any election; or

(c) aids or abets any person in the commission of an offence under paragraph (a) or (b),

10/2003
S. 11 (b).

shall be guilty of an offence and, on summary conviction before a Resident Magistrate, be liable to a fine not exceeding twenty thousand dollars or imprisonment with or without hard labour for a term not exceeding three years.

10/2003
S. 11 (c).

70. Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, shall be guilty of illegal payment, and any person withdrawing, in pursuance of such inducement or procurement, shall also be guilty of illegal payment.

Corrupt
withdrawal
from a
candidature.

71. Every person who wilfully mutilates, tears down, destroys or obscures any list or any notice published in accordance with the provisions of this Act or who makes any alteration in any copy of a list or notice so published

Mutilating
or altering
notices and
lists.

shall be guilty of an offence against this Act and upon summary conviction before a Resident Magistrate shall be liable to a fine not exceeding ten thousand dollars or to be imprisoned with hard labour for any term not exceeding twelve months.

10/2003
S. 12.

10/2003
S. 12.

False statement before returning officer. 6/1966 S. 2.

72. Every person who makes before a returning officer any statement upon oath or any solemn affirmation which he knows to be false or does not believe to be true shall be guilty of an offence and upon summary conviction before a Resident Magistrate shall be liable to imprisonment with hard labour for a term not exceeding three years, and in addition to such imprisonment shall be liable to a fine not exceeding twenty thousand dollars.

10/2003
S. 13.

10/2003
S. 13.

Providing money for illegal practice or payment to be illegal payment.

73. Where any person knowingly provides money for any payment which is contrary to the provisions of this Act, or for any expenses incurred in excess of the maximum amount allowed by this Act, or of replacing any money expended in any such payment or expenses, except where the same may have been previously allowed in pursuance of this Act to be an exception, such person shall be guilty of illegal payment.

Punishment of illegal payment or hiring.

74.—(1) A person guilty of an offence of illegal hiring or illegal payment shall on summary conviction, be liable

to a fine not exceeding two hundred dollars and in default of payment thereof to be imprisoned for any term not exceeding twelve months.

(2) A candidate who is personally guilty of an offence of illegal hiring or illegal payment shall be guilty of an illegal practice.

75. For the avoidance of doubt it is expressly declared that notwithstanding anything to the contrary no candidate shall be deemed to be guilty of an illegal practice by reason of any act or omission by any other person unless it shall be affirmatively proved that such act or omission was committed with the approval or at the instigation of the candidate.

Measure of proof necessary for charge of illegal practice by candidate.

76. Every bill, placard, or poster, having reference to an election shall bear upon the face thereof the name and address of the printer or publisher thereof; and any person printing, publishing, or posting, or causing to be printed, published or posted, any such bill, placard, or poster, as aforesaid, which fails to bear upon the face thereof the name and address of the printer and publisher, shall if he is the candidate, or the election agent of the candidate, be guilty of an illegal practice, and if he is not the candidate, or the election agent of the candidate, shall be liable on summary conviction to a fine not exceeding two hundred dollars.

Name and address of printer on placard.

77.—(a) Any premises on which the sale by wholesale or retail of any intoxicating liquor is authorized by a licence (whether the licence be for consumption on or off the premises); or

(b) any premises where any intoxicating liquor is sold or is supplied to members of a club, society or association other than a permanent political club; or

Use of committee room in house for sale of intoxicating liquor or refreshment or in primary school, to be illegal hiring.

(c) any premises whereon refreshment of any kind, whether food or drink, is ordinarily sold for consumption on the premises;

shall not be used as a committee room for the purpose of promoting or procuring the election of a candidate at an election, and if any person hires or uses any such premises or any part thereof for a committee room he shall be guilty of illegal hiring, and the person letting such premises or part, if he knew it was intended to use the same as a committee room, shall also be guilty of illegal hiring:

Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

2/1981
S. 5
(Sch.).

Certain
licensed
premises
to be
closed.

78.—(1) Every person who is the holder of any wholesale licence, town retail licence, village retail licence, or tavern licence granted under the Spirit Licence Act in respect of premises to which this section applies shall take all necessary steps to cause such premises to be closed to the public upon election day during the hours between the opening of the poll and the closing of the poll.

(2) Every person who is the holder of any hotel licence or special hotel licence or club licence granted under the Spirit Licence Act in respect of premises to which this section applies shall take all necessary steps to prevent the sale of alcoholic liquor at any time upon election day between the hour appointed for the opening of the poll and the hour appointed for the closing of the poll.

(3) The premises to which this section applies are any premises situated in any electoral division in which an election is in progress.

(4) Any person failing to comply with the provisions of subsection (1) or subsection (2) shall be guilty of an offence and on summary conviction before a Resident Magistrate shall be liable to a fine not exceeding fifty dollars and in default of payment thereof to imprisonment with or without hard labour for any term not exceeding three months.

79. [*Repealed by Act 23 of 2011.*]

80. [*Repealed by Act 23 of 2011.*]

81. [*Repealed by Act 23 of 2011.*]

82. [*Repealed by Act 23 of 2011.*]

Mainten-
ance of
order at
polling
stations.
10/2003
S. 14 (a).

83.—(1) Subject to the provisions of subsection (2) during the hours when the poll is open upon election day no persons shall assemble or congregate within one hundred metres of any building in which is situated any polling station.

10/2003
S. 14 (b).

(1A) During the hours referred to in subsection (1), no person shall, while within one hundred metres of a building referred to in that subsection, have in his possession any weapon or noxious substance which is capable of inflicting or causing injury.

10/2003
S. 14 (c).

(2) Subsection (1) shall not apply—

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

(b) to any person who may under the provisions of this Act lawfully enter or remain in such polling station; or

(c) to any outdoor agent lawfully appointed and acting in conformity with section 26A. 4/1990
S. 7.

10/2003
S. 14 (d).

(2A) Subsections (1) and (1A) shall not apply to any member of the—

(a) Jamaica Constabulary Force;

(b) Island Special Constabulary Force;

(c) Rural Police; or

(d) Jamaica Defence Force,

who is lawfully at the polling station in the execution of his duty.

(3) Every person who contravenes or fails to comply with the provisions of this section shall be guilty of an offence against this section and shall be liable on summary conviction before a Resident Magistrate—

10/2003
S. 14 (e).

(a) in the case of an offence under subsection (1), to a fine not less than five thousand dollars nor more than twenty thousand dollars or to imprisonment with or without hard labour for a term not exceeding six months or to both such fine and imprisonment; or

(b) in the case of an offence under subsection (1A), to a fine not less than twenty thousand dollars nor more than eighty thousand dollars or to imprisonment for a term not less than two years nor more than five years or to both such fine and imprisonment.

84.—(1) During the hours that the poll is open upon election day no person (including a person appointed an outdoor agent) shall upon any public road or in any public place within one hundred metres of any building in which a polling station is situated seek to influence any elector to vote for any candidate or to ascertain for what candidate any elector intends to vote or has voted.

Influencing
of electors
to vote for
candidate.
4/1990
S. 8.
10/2003
S. 15 (a).

(2) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

10/2003
S. 15 (b).

85.—(1) No person shall during an election call together, hold or address any election meeting in any public place unless written notice of the intention to hold such meeting at such place has been given not less than three hours before the commencement of such meeting to the Superintendent of Police in charge of the parish in which such place is situated or to the Sub-officer of Police in charge of the police station nearest to such place.

Notice of
election
meetings.

(2) Every notice under subsection (1) shall specify—

(a) the person in support of whose candidature the meeting is to be held;

(b) the approximate time at which such meeting is to commence.

(3) Every person who contravenes subsection (1) shall be guilty of an offence against this section and, on summary conviction before a Resident Magistrate, shall be liable to a fine not exceeding ten dollars or to be imprisoned for a term not exceeding thirty days.

(4) In this section "public place" means any street, road, lane or highway and any park, garden, field or sea beach to which the public has access whether as of right or upon payment of any sum of money or otherwise.

Duty of
secrecy.

86.—(1) Every officer, clerk and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorized by law, before the poll is closed, to any person any information as to the name or number on the register of electors of any elector who has or has not applied for a ballot paper, or voted at that station; and no person whosoever shall interfere with or attempt to interfere with an elector when marking his vote or otherwise attempt to obtain in the polling station any information as to the candidate for whom any elector in such station is about to vote or has voted.

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

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

(4) Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction to a fine not less than twenty thousand dollars nor more than eighty thousand dollars or to imprisonment for a term not less

10/2003
S. 16.

than three years nor more than five years; and the Resident Magistrate may, in addition to such fine or imprisonment, order that the person be disqualified from holding any post of election officer for a period of not less than seven years from the date of conviction.

87. Every returning officer or presiding officer who—

- (a) canvasses for votes on behalf of any candidate or political party; or
- (b) addresses any meeting on behalf of any candidate or political party; or
- (c) in any way actively associates himself with the election campaign of any candidate or political party,

Penalty for participation in election campaign by returning officer or presiding officer.

shall be guilty of an offence against this section and on summary conviction before a Resident Magistrate shall be liable to a fine not less than twenty thousand dollars nor more than eighty thousand dollars or to imprisonment for a term not less than three years nor more than five years; and the Resident Magistrate may, in addition to such fine or imprisonment, order that the person be disqualified from holding any post as election officer for a period not less than seven years from the date of conviction.

10/2003
S. 17.

88. Every election officer who—

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

Offences by election officers.
6/1966
S. 3.

- (b) permits any person whom he knows or has reasonable cause to believe not to be a blind person or an incapacitated person to vote in the manner provided for blind persons or incapacitated persons, as the case may be; or
- (c) refuses to permit any person whom he knows or has reasonable cause to believe to be a blind person or incapacitated person to vote in the manner provided for blind persons or incapacitated persons, as the case may be; or
- (d) wilfully prevents any person from voting at the polling station at which he knows or has reasonable cause to believe such person is entitled to vote; or
- (e) wilfully rejects or refuses to count any ballot paper which he knows or has reasonable cause to believe is validly cast for any candidate in accordance with the provisions of this Act; or
- (f) wilfully counts any ballot paper being cast for any candidate, which he knows or has reasonable cause to believe was not validly cast for such candidate,

shall be guilty of an offence against this section and, on conviction thereof before a Circuit Court, shall be liable to imprisonment with or without hard labour for any term not exceeding two years.

Validation of
certain acts.

89. Notwithstanding anything to the contrary, no order shall be made by any court postponing or prohibiting the taking of any step required to be taken under this Act preparatory to or in the course of any election or postponing or prohibiting the holding of the poll at any election or declaring any election to be void by reason of—

- (a) any official list of electors or any certificate or notice, required under this Act to be published, supplied or given by any election officer at any time or place or for any period or to any person not having been published, supplied or given at the time or place at which, or for the period for which, or to the person to whom such official list, certificate or notice ought lawfully to have been published, supplied or given, unless the court is satisfied that in failing to publish, supply or give such official list, certificate or notice in the manner required by this Act such election officer acted otherwise than in good faith; or
- (b) any irregularity in the appointment of any election officer; or
- (c) the wrongful omission from or inclusion in any official list of electors of the name of any person whose name ought or ought not to have been so omitted or included, as the case may be, unless the court is satisfied that such wrongful omission or inclusion was due to any election officer who was engaged in the preparation of such official list having acted otherwise than in good faith.

6/1966
S. 4
(Sch.).

42/1969
3rd. Sch.

90. The expense attendant on the election of a councillor to serve on the Parish Council shall be borne by the parish.

Expense of
elections
to be
borne by
Parish
Councils.

Declaration by Councillors

91. No councillor of a Parish Council shall sit or vote at any meeting of such Council until he has made and subscribed the following declaration—

Official
declaration
by
councillors.
2/1977
S. 6.

“I solemnly affirm that I will to the best of my ability do my duty as a councillor of the Parish Council of the parish of _____.”

Such declaration shall be made after a general election before the person designated by the Chief Electoral Officer to be Principal Returning Officer at such election, and on all subsequent occasions at a meeting of the Parish Council before the Chairman or other presiding councillor.

First Meeting and Election of Chairman

First
meeting
after
general
election,
election of
Chairman.
2/1977
S. 7 (a).

92.—(1) At noon on the first Thursday after every general election, unless it be a public holiday, in which case at noon on the first day after such Thursday which is not a public holiday or a Sunday the councillors elected in the several divisions of every parish as councillors of the Parish Council of such parish, shall assemble at the Parish Council office of such parish, and shall there make the required declaration before the person appointed as Principal Returning Officer as aforesaid. As soon as all the councillors have made the declaration aforesaid, or as soon after one o'clock on that day as at least five councillors shall have made it, the person appointed to administer the declaration shall call upon the councillors who have made it to proceed to the election of a Chairman, and he shall preside at the meeting to be held for that purpose.

(2) As soon as a Chairman has been elected the Principal Returning Officer shall vacate the chair in his favour, and leave the meeting, and the Chairman shall enter on his duties.

(3) If at three o'clock on the said day the requisite number of councillors shall not be present, it shall be lawful for the Principal Returning Officer to adjourn the meeting till noon on the following day, and so on from day to day until the requisite number be present. When the requisite number of councillors is present, if the votes for a Chairman are equally divided, the Principal Returning Officer shall have a casting vote for the purpose of deciding who shall be Chairman.

(4) As soon as a Chairman has been elected the Council shall at once proceed to the election of a vice-chairman.

(5) Subject to subsection (6), a Chairman shall hold office from the date of his election until the next general election of councillors under the provisions of section 8 so, however, that he shall continue in office until his successor in office has accepted office and made and subscribed the required declaration. 2/1977
S. 7 (b).
7/1998
S. 2.

(6) A Chairman may be removed from office after the expiry of twelve months from the date of his election on a motion supported by a majority of all the members of the Council in such manner and form as may be prescribed. 2/1977
S. 7 (b).

93.—(1) The term of office of the vice-chairman shall, unless sooner determined in accordance with subsection (4), expire on the conclusion of a general election of councillors under the provisions of section 8, so, however, that he shall continue in office until his successor in office has accepted office and made and subscribed the required declaration. Vice-
chairman.
22/1980
S. 2.

(2) In the event of the death, resignation, or disqualification from any cause, of the Chairman, the vice-chairman shall forthwith succeed to the office of Chairman, and shall, subject to subsection (6) of section 92, continue in office until the time when the Chairman whom he succeeded would have gone out of office, and he shall then go out of office.

(3) In the absence or illness of the Chairman, the vice-chairman shall be deemed to have authority to exercise all powers and discharge all the duties vested in and imposed upon the Chairman under and by virtue of this Act and any other enactment amending the same, and all things done, exercised or suffered by the vice-chairman as aforesaid shall be as valid and effectual in all respects as if they had

been done, exercised or suffered, as the case may be, by the Chairman.

(4) The vice-chairman may be removed from office after the expiration of twelve months from the date of his election on a motion supported by a majority of all the members of the Council in such manner and form as may be prescribed by regulations.

(5) In the event of the death, succession to office of Chairman, resignation, incapacity or disqualification from any cause of the vice-chairman, the Council shall elect one of their number to supply his place.

Death,
absence or
incapacity
of Chairman
and vice-
chairman.
22/1980
S. 2.

94. If the Chairman is dead, or is absent, or is otherwise incapable of acting in the exercise of his powers and duties under this or any other enactment for the time being in force, and the vice-chairman is also incapable of acting for any of the reasons hereinbefore specified, the Council shall forthwith—

(a) elect a councillor to execute the powers and duties of the Chairman; and

(b) elect a councillor to execute the powers and duties of the vice-chairman,

for such period, not exceeding the term of office of that Chairman or vice-chairman, as the case may be, as the Council may by resolution determine.

Who shall
preside;
original
and casting
vote of
person
presiding.
22/1980
S. 2.

94A. The Chairman or in his absence the vice-chairman shall preside at the meetings of the Council, and in the absence of both Chairman and vice-chairman, the councillors present at any meeting shall elect one of their number to preside thereat. The person presiding at any meeting shall have an original and a casting vote.

Quorum.
40/1995
S. 2.

95.—(1) Where the number of councillors is nine or less, three councillors, including the Chairman or other presiding councillor shall form a quorum.

(2) Where the number of councillors of a parish is not less than—

- (a) ten nor more than fourteen, the quorum shall be four;
- (b) fifteen or more, the quorum shall be five.

Appointment of Committees and Payment of Salaries and Travelling Expenses of Councillors

40/1995
S. 2.

96.—(1) A Parish Council shall appoint from among their number a finance committee consisting of not less than one-half the number of councillors of the Council, for regulating and controlling the finance of the Council and shall fix the term of office of the members of the committee and the powers and duties of the committee.

Appoint-
ment of
committees.
4/1956
S. 7.

(2) Subject to the provisions of subsection (1), a Parish Council may appoint committees for any such general or special purposes as in the opinion of the Parish Council would be better regulated and managed by means of a committee; and may delegate to a committee so appointed with or without restrictions or conditions, as they may think fit, any function exercisable by the Council either in respect of the whole parish or a part thereof except the power of fixing a rate or of borrowing money or of making regulations. In every such case the acts done and the proceedings taken by the committee in relation to the functions delegated to the committee shall be exercised in the name of the Council and shall be as valid and binding on all the parties as if the functions were exercised by the Council.

(3) The number of members of a committee appointed under subsection (2), their powers, duties and term of office, the quorum of the committee, and the area, if any, within which the committee is to exercise authority shall be prescribed by the Council.

(4) A committee appointed under subsection (2) may include persons who are not councillors of the Parish Council:

Provided that at least two-thirds of the members of every such committee shall be councillors of the Parish Council.

(5) Nothing in this section shall authorize the appointment of a committee for any purpose for which the Parish Council are authorized or required to appoint a committee by any other enactment for the time being in force.

Payment of
salaries to
councillors.
40/1995
S. 2.
15/2001
S. 2 (a).

96A.—(1) With effect from the 16th November, 1995, there shall be paid to each councillor, salary at such rate as may be provided in the Estimates of Revenue and Expenditure of a Parish Council.

15/2001
S. 2 (b).

(2) For the purposes of any arrangements which may be made for providing a pension scheme for councillors, the basic allowance paid to councillors with effect from the 1st of January, 1986 to the 15th of November, 1995, shall be deemed to be payment of salary.

Travelling
expenses of
councillors.
4/1956
S. 7.

97.—(1) A councillor of a Parish Council shall be entitled to receive payments at rates which shall be determined by the Council, after consultation with the Minister, by way of reimbursement of expenses on travelling and subsistence reasonably incurred by him for the purpose of enabling him to perform any approved duty as a councillor:

Provided that a Parish Council may, with the approval of the Minister, pay a commuted periodic allowance in lieu of the reimbursement of expenses on travelling and subsistence.

For the purpose of this section “approved duty” means—

- (a) attendance at any meeting of the Council or of any committee or sub-committee thereof;
- (b) the doing of any other thing approved by the Council for the purpose of or in connection with the discharge of the functions of the Council, or of any committee or sub-committee thereof;
- (c) attendance as the representative of the Council at any conference or meeting convened by one or more Parish Councils or by an association of Parish Councils.

(2) For the purposes of subsection (1) a councillor of a Parish Council shall include a person who, not being a councillor, is appointed to be a member of a committee of the Council pursuant to this or any other enactment.

Vacation of Seats

98.—(1) Subject to the provisions of subsection (2) of this section and of subsection (2) of section 99 the seat of any councillor who, though qualified to be elected at the time of his election, shall afterwards become disqualified to be elected, shall, on such councillor so becoming disqualified, be deemed to have been vacated.

Subsequent
disqualifi-
cation
vacates
seat.

(2) The seat of a duly elected councillor of the Council shall not be vacated under subsection (1) merely by reason of his being interested in a contract with the Council of which he is a councillor unless it appears that the contract was entered into with the actual knowledge of the councillor.

99.—(1) A contract entered into between a Parish Council and any councillor thereof or in which any such councillor is pecuniarily interested, whether directly or indirectly, whether the contract be made before or after he became a councillor of such Council, shall be null and void; unless—

Contracts
by council-
lor with
Council
void.
When
contracts
permitted.
2/1977
S. 9 (a).

(a) if made after he became such councillor it has been entered into with the express sanction; or

(b) if made before he became such councillor, it has received, prior to his nomination as a candidate, the subsequent approval,

2/1977
S. 9 (b).

of the Minister.

(2) The existence of any such contract when so sanctioned or approved, shall not disqualify any person to be a member of a Parish Council.

2/1977
S. 9 (c).

Councillors not to vote upon contracts in which they are interested.

100. Notwithstanding anything in section 98 or in section 99, no councillor of any Parish Council shall have any vote on any question relating to any contract with such Council if he is directly or indirectly pecuniarily or otherwise interested in such contract.

Penalty on councillor receiving money on void contract.
2/1977
S. 10.

101. If any person being or having been a councillor of a Parish Council shall, by virtue or in pursuance of any contract declared to be null and void under this Act, whether as the price of work done for, or of services rendered, or of goods supplied to, the Parish Council of which he is or was a councillor at the time when such work was done, services rendered, or goods supplied, receive from such Council any sum of money, whether alone or jointly with any other person or persons, such person shall be liable to a penalty equal to twice the amount so received, to be recovered by any person who shall sue for the same within six months of the receipt of the same.

Vacancies—what fact creates them.

102. If any councillor shall by writing under his hand addressed to the Chairman of the Parish Council, or in the case of the Chairman, addressed to the vice-chairman, resign his seat at the Council, or without leave of the Council first had and obtained, shall fail for a period of six months to attend a meeting of the said Council, or shall be adjudicated a bankrupt, or shall be sentenced in any part of the Commonwealth to death, penal servitude, or imprisonment with hard labour, or for a term exceeding twelve months, his seat at the said Council shall thereupon become vacant. The minutes of the Council shall be conclusive evidence as to the attendance of councillors for the purposes of this section.

Penalty on councillor voting if disqualified or after seat vacant.

103. Every person who, having been elected and returned as a councillor of any Parish Council, was at the time of his election disqualified to be a councillor of such Council,

and who shall nevertheless sit or vote at any meeting of such Council, shall for every day on which he sits or votes, and every person who shall sit or vote after his seat has become vacant, shall for every day on which he sits or votes after his seat has become vacant, be liable to a penalty of twenty dollars, to be recovered by action in the Resident Magistrate's Court for the parish, by any person who shall sue for the same:

Provided, that no process shall issue out of any Resident Magistrate's Court for the recovery of any such penalty, unless the person suing out the same shall deposit with the Clerk of the Courts the sum of fifty dollars; and any process issued without the payment of such sum shall be null and void.

104. The seat of an elected councillor of a Parish Council shall not be deemed to have been vacated, or to have become vacant, until such vacancy shall have been entered on the minutes of such Council, or until the Supreme Court shall have declared the seat to be vacant as hereinafter provided; and the expressions "the seat shall be deemed to have been vacated", "his seat at the said Council shall thereupon become vacant", and "after his seat has become vacant", in sections 98, 102 and 103, shall be read subject to this provision.

No seat deemed vacant till vacancy entered on minutes of Council or declared by Supreme Court.

105.—(1) When the Chairman of any Parish Council shall receive a certificate purporting to be signed by the Clerk of any court, and sealed with the seal of such court, certifying that judgment has been recovered in such court against any councillor of such Council for a penalty under this Act, or that an absolute order in bankruptcy has been made in such court against any councillor, or that any councillor has been sentenced in such court to death, or imprisonment for a term exceeding twelve months, the Chairman, if satisfied of the identity of the party named,

Proceedings to declare seat vacant on certificate.

shall, and he is hereby required to cause an entry of the vacancy of the seat of such councillor to be made on the minutes of the Council.

(2) Notwithstanding the proofs aforesaid are not forthcoming, it shall be lawful for any councillor of a Council at any meeting thereof, to call the Chairman's attention to the fact that a vacancy has occurred, and thereupon the question shall be submitted to the meeting whether such vacancy has occurred; and, if such question be decided in the affirmative, the Chairman shall, and he is hereby required to cause such vacancy to be entered on the minutes accordingly:

Provided always, that from any such decision of the Council an appeal shall lie to the Supreme Court, such appeal shall be made by summons or motion at the instance of the person whose seat is in question, or of any councillor on behalf of the Council, and the Court may thereupon declare the seat to be vacant or otherwise, and such declaration, if it varies or reverses the entry on the minutes aforesaid, shall forthwith supersede the same.

(3) Pending such appeal, the councillor whose seat is in question shall not sit or vote at any meeting of the Parish Council.

Notice to
councillor
of his
disqualifi-
cation.

106. If a councillor of a Parish Council has become disqualified under the provisions of this Act to be a councillor of such Council, and the vacancy of his seat has not been entered on the minutes of the Council, it shall be lawful for any person to give notice to such councillor that he has become disqualified as aforesaid for a cause or causes to be stated in such notice, and that in the event of such councillor sitting or voting at any meeting of the Council held after the giving of such notice, the person giving the same will proceed against him under the provisions of this section: and thereafter, if such councillor

shall sit or vote at any meeting of such Council he shall, for every day on which he sits or votes, be liable to a penalty of twenty dollars, to be recovered by any person who shall have given such notice as aforesaid, and who shall sue for the same.

107.—(1) It shall be the duty of the Chairman or other presiding officer at any meeting of the Parish Council, to whose attention it shall be brought at any such meeting, by any councillor of such Council, that any person elected and returned as a councillor of such Council was at the time of his election disqualified to be a councillor of such Council, or that the seat of any person as aforesaid has become vacant, and that such person notwithstanding such disqualification, or the fact that his seat has become vacant (as the case may be), is or has been nevertheless sitting or voting at such Parish Council, or that any past or present councillor of such Council is liable to a penalty under this Act, to bring the facts to the notice of the Attorney-General, and supply such information to the Attorney-General in support of the facts aforesaid as he may be able to procure; and thereupon, the Attorney-General shall cause enquiries to be made into the matter, and if he shall consider it a proper case for a prosecution under this Act, he shall direct the Clerk of the Resident Magistrate's Court of the parish to take proceedings under this Act against the person who has sat or voted as aforesaid: and the Clerk shall, on receiving such direction, and on being supplied with the necessary funds, by the Chairman or other officer authorized to draw moneys on behalf of such Council, for the payment of witnesses and other necessary expenses, sue in the name of the Attorney-General for the penalty or penalties incurred under this Act. And process shall be granted to the said Clerk suing as aforesaid, without any deposit as by this Act required; and such process shall be good and valid, anything in this Act to the contrary notwithstanding.

Proceedings against councillor sitting and voting when not qualified.

(2) If the Clerk of the Court sues as aforesaid, and fails in the action, the defendant shall be entitled to be paid the costs of his defence by the Parish Council of the parish out of the funds of the parish, and judgment shall be given for such costs against the Parish Council accordingly, although the said Council is not nominally a party to the action.

4/1956
S. 9.

Any penalties recovered under this section shall be paid to the Parish Council of the parish.

Powers

Power of
Council
to lease
land.

108. It shall be lawful for any Parish Council, with the approval of the Minister, to accept a lease of any land within the parish for the purpose of holding a periodical fair thereon, or for any other public purpose of which the Minister may approve:

Provided, that no such lease shall be for a longer term than twenty-one years.

Compul-
sory acquisi-
tion of
land.

109. In any parish it shall be lawful for the Parish Council from time to time, with the approval of the Minister, to acquire under the Lands Clauses Act, or in any other manner, for the purpose of a cemetery, or for any other public purpose to be named by the Minister in signifying his approval as aforesaid, lands not exceeding such quantity as in such approval shall be limited. All lands so acquired shall be conveyed to and vested in the Parish Council and its successors, and shall be held by it or them for the purpose for which the same shall have been acquired as aforesaid.

Incorporation
of the
Lands
Clauses
Act.

110. The Lands Clauses Act is incorporated with this Act, except sections 10, 11, 84, 88, 89, 90, 91, 92, 93, 101, 103, 104 and 105, so far as section 105 relates to the deduction of a percentage from money paid into the Treasury, and except so far as the said Act is varied by or is inconsistent with the provisions of this Act, and in

construing the same, the Parish Council of the parish by which the land is to be acquired, shall be deemed to be "promoters of the undertaking", and all costs and other sums of money payable in proceedings under such Act by the promoters of the undertaking, shall be paid out of the Treasury, with the sanction of the Minister, from the fund to the credit of such Parish Council, in the Treasury available for the purpose of acquiring the lands aforesaid, and shall not be in any way chargeable against the individual councillors of the Parish Council personally, nor shall they or any of them be liable personally for any penalty by the said Act imposed on the promoters of the undertaking.

111.—(1) A Parish Council may from time to time in accordance with the provisions of this section prepare and make a scheme (hereafter in this Act referred to as "a local scheme") in relation to the performance by the Council in the parish of services which they may not otherwise be authorized to perform, and thereafter carry out such scheme.

Prepara-
tion of
local
schemes.
4/1956
S. 8.

(2) Every local scheme when prepared shall be submitted to the Minister and thereafter published in the *Gazette* by the Parish Council during such period as the Minister may specify.

(3) No local scheme shall be of any effect unless and until it is approved by the Minister, and the Minister, after considering any representations he may receive with respect to the scheme may approve it with or without modifications or may reject it.

(4) Every local scheme shall fix the date or dates on which the scheme is to come into operation and may fix different dates for different provisions of the scheme and for different areas within the parish, and the dates so fixed may be made dependent on the happening of events specified in such scheme.

(5) A local scheme may contain such incidental, consequential or supplemental provisions as may appear necessary or proper for the purposes of the scheme and may be varied or revoked by a subsequent scheme made in like manner as the original scheme.

(6) No local scheme shall be prepared and made which does not relate to a local service.

For the purpose of this section the expression "local service" means any service which may be so declared by the Minister by order.

(7) The powers conferred by this section shall not be exercised so as to alter, affect, prejudice or interfere with the rights, duties or liabilities, conferred or imposed, upon any person under the provisions of any other enactment.

Disposal of
lands not
required.

112. Any surplus lands vested in any Parish Council under this Act and any lands which shall cease to be needed or used for the purposes of this Act may, with the sanction of the Minister, be sold by the Parish Council, or leased by the Council, upon such terms and conditions and subject to such covenants, obligations and agreements as the Minister may in each case determine. Any lands so sold shall be conveyed by the Council to such persons in such manner as the Council may direct. Lands so conveyed shall be thereupon discharged from any trust created by this Act and the purchase money shall be paid into the Treasury and shall be applied and accounted for in the same way as other moneys accruing to or belonging to the Parish Council. Any lease of any lands made under the provisions of this section shall be subject to all trusts and obligations affecting the same:

Provided that nothing herein contained shall empower a Parish Council to sell or lease a street or road over which there is a public right of way.

113. Any lease of any lands made by Parish Councils prior to the commencement of this Act shall be deemed and is hereby declared to be validly made anything in the said Act to the contrary notwithstanding.

Validation.

Power to Define Limits of Town or Village

114. It shall be lawful for the Parish Council of each parish, from time to time, as and when they shall think fit, by resolution to define, for all or for any specified purposes, the limits of any town or village within such parish, whether the limits or extent of such town or village shall or shall not have been previously ascertained or defined, and from time to time in like manner to alter such definition. The Parish Council may, if they shall think fit, define different limits for different purposes in any towns or villages. Such resolutions shall not take effect until they have been approved by the Minister, who shall have power to alter the same, and shall have been published in the *Gazette*. Such resolutions shall, after their approval, and first publication in the *Gazette*, be published for at least four weeks in the *Gazette* for general information, but such publication subsequent to the first shall not be necessary in order to make any resolution take effect.

Power to Parish Council to define the limits of towns, etc.

115. The limits of all towns defined under any repealed Law shall, until altered under this Act, continue to be the limits of such towns for the same purposes and to the same extent that they now are.

Limits of towns defined under Laws now repealed.

Dissolution

116. If any Parish Council, in the judgment of the Minister, is not competent to perform, or persistently makes default in the performance of the duties lawfully imposed upon it, or exceeds, or abuses its powers, it shall be lawful for the Minister, by an order published in the *Gazette*, to dissolve such Council.

Power to dissolve Council—consequences of dissolution.

When a Parish Council is so dissolved, the following consequences shall ensue—

- (a) all councillors of the Council shall, as from the date of the order, vacate their offices as such councillors;
- (b) all powers and duties of the Council shall, until a new Council shall have been elected under this Act, be exercised and performed by such person or persons as the Minister may from time to time appoint in that behalf;
- (c) all property vested in the Council shall, during the period aforesaid, vest in the person or persons aforesaid:

Provided, that no order for the dissolution of a Parish Council shall be valid, unless in and by such order a time is fixed for the election of a new Council in lieu of the Council so dissolved, not more than two years from the date of such order. Such new Council shall continue only for the residue of the triennial period in the course of which it is elected:

Provided further, that the Minister may at any time vary such order to the extent of diminishing the time fixed for the election of a new Council, and substituting an earlier date for such election or extending the time fixed for such election and substituting a later date for such election being a date which is not later than the expiration of a period of two years and six months from the date of such order; but notice of such change of date shall be given by publication in the *Gazette*, at least one calendar month in advance:

Provided further, that in any case in which there is no Parish Council in any parish, the same consequences shall ensue as if the Council had been dissolved under this section, and the Minister may make such orders as he

would be empowered to make if he dissolved the Council under the authority of this section.

Validity of acts of Councillors

117. The proceedings of a Parish Council or of any Committee thereof shall not be invalidated by reason of any vacancy among their number or by any defect in the election, appointment or qualification of any councillor thereof and the acts of any person elected to an office under this Act and acting in that office shall, notwithstanding his disqualification or want of qualification, be as valid and effectual as if he had been duly qualified.

Acts of Council not invalidated by want of qualification of councillor.

Liability of Councillors for certain Expenditure

118.—(1) In the event of any unauthorized expenditure or illegal payment of parochial funds, the amount thereof shall be recoverable from such of the following persons, namely, councillors and persons appointed or employed under the provisions of sections 6, 96 and 116 as have incurred or purported to authorize the same; and any persons from whom an amount is recoverable under this subsection shall be jointly and severally liable in that behalf.

Liability for unauthorized expenditure or illegal payment. 31/1965 S. 2.

(2) Any liability under subsection (1) may be enforced by action of debt at the suit of a public officer designated by the Minister for the purpose, and any moneys recovered in any such action shall be carried to the credit of such Parochial Fund as the Minister shall direct.

Power of Expulsion

119. It shall be lawful for any Parish Council, by resolution passed by a two-thirds majority of the whole Council to expel any councillor for persistent obstructiveness, or other misconduct tending to prevent the despatch of business, or to bring the Council into discredit:

Power to expel councillor.

Provided, that such sentence of expulsion shall be sanctioned and confirmed by the Minister within fourteen days of its being passed by the Council. Any councillor so expelled shall not be eligible to be re-elected as a councillor of such Council during the residue of the term for which such Council has been elected.

Power to make By-Laws

Power to
make
by-laws.
4/1956
S. 9.

120. It shall be competent for each Council to make by-laws for the regulation of their own proceedings, and of their committees, and for the regulation, management, use and upkeep of any public buildings, institutions, gardens, or property, now or hereafter to be vested in such Council; and generally, to make all necessary rules and regulations for carrying out and giving full effect to any of the provisions of this Act.

40/1995
S. 2.

Any person guilty of a breach of any by-law, rule, or regulation framed under this Act, or for a breach of any provision of this Act for which no penalty is specially appointed, shall be liable to a penalty of two thousand dollars, which may be recovered summarily before a Resident Magistrate.

All rules and regulations lawfully made by a Parish Council in force when this Act commences to operate, shall continue in force until new rules or regulations are duly substituted for the same.

Power to make certain Regulations

Power to
make
regula-
tions.
24/1961
S. 2 (a).

121.—(1) A Parish Council may from time to time make, alter and revoke regulations—

- (a) prohibiting or regulating the keeping of swine, goats or sheep, dogs, horsekind, cattle or poultry in any town or village;
- (b) prohibiting or regulating the driving of animals over any thoroughfare or in any public place;
- (c) prohibiting, regulating or suspending traffic of any kind whatsoever in any thoroughfare or public place;
- (d) regulating the closing up of portions of any thoroughfare or public place altogether, partially, permanently or temporarily;
- (e) regulating the opening of the surface of any thoroughfare or public place other than main roads;
- (f) prohibiting or removing encroachments and nuisances in any thoroughfare or public place;
- (g) prohibiting or regulating the holding of meetings in any thoroughfare or public place, and for the preservation of order at any public meeting;
- (h) prohibiting loitering in thoroughfares or public places;
- (i) regulating the opening up of new thoroughfares and public places and the stopping up of thoroughfares or public places;
- (j) prohibiting or regulating parking of vehicles in any thoroughfare or public place;
- (k) regulating the number of hackney carriages in the parish or in any town or other place in the parish;
- (l) regulating the number of passengers to be carried in any hackney carriage and the fares to be charged;

- (m) providing for the installation of taxi meters in any particular class of hackney carriage;
- (n) for the licensing of places of public amusement;
- (o) providing for the establishment of silence zones;
- (p) prohibiting or regulating the exposing of goods for sale on any piazza opening in any thoroughfare or in any public place;
- (q) prohibiting or regulating the exposing for sale and sale of goods in any thoroughfare or public place;
- (r) regulating the construction of buildings in towns and imposing suitable conditions and restrictions as to the elevation, size and design of houses to be built, and the extent of the accommodation to be afforded thereby;
- (s) governing the installation of sewers on premises in towns;
- (t) regulating the management of public parks and other public places in towns, and the management and use of parochial buildings;
- (u) prohibiting or regulating the removal of houses over any thoroughfare or public place;
- (v) prohibiting or regulating the offering or exposing for sale of meat intended for human consumption;
- (w) *[Deleted by Act 16 of 1983, 2nd Schedule.]*
- (x) for the naming of streets and lanes and the numbering of premises on such streets and lanes, the affixing or erecting of name boards and number plates and the fees to be paid therefor, and the duties of owners and occupiers in relation to the

50/1959
S. 2.

affixing or erecting of name boards and number plates;

(y) for the regulation and control of rivers and, in particular, but without prejudice to the generality of the foregoing, for the regulation of prescribed boats and vessels used on rivers, of landing places and piers used in connection with such boats and vessels and of bathing and other recreational uses of rivers;

39/1969
S. 10
(1) (a).

(z) for regulating the procedure for—

22/1980
S. 3.

- (i) the election of the Chairman or vice-chairman of any Parish Council;
- (ii) the removal from office of the Chairman or vice-chairman of any Parish Council.

All regulations made under this section may extend to the whole or any part of the parish.

The powers conferred by paragraphs (c), (k), (l), (m) and (o) on a Parish Council shall not be applicable so far as those paragraphs relate to motor vehicles as defined by the Road Traffic Act.

(2) Regulations made in pursuance of paragraph (y) of subsection (1) shall, in their application to any river, have effect subject to the provisions of any regulations made under section 9 of the River Rafting Act, and applicable to that river.

39/1969
S. 10
(1) (b).

122. All regulations made by any Parish Council under the provisions of the Kingston Police Law shall notwithstanding the repeal of that Law remain in full force and effect as if they were regulations made by the Parish Council under the provisions of this Act.

Keeping
in force
regulations
made
under
Kingston
Police Law
(repealed).
S. 3 of
27/1952.

Appoint-
ment of
Slaughtering
Places
and power
to make
regulations
governing
same.
Cap. 275
1953 Edtn.
(Omitted).

123. When a slaughtering place or places shall have been appointed by any Parish Council in accordance with the provisions of section 26 of the Parochial Markets Law the Parish Council may, from time to time make, alter and revoke regulations in relation to all or any of the following matters—

- (a) for the management of any slaughtering place or places and for the good government of the officers and other persons employed by the Parish Council and also of persons making use of such slaughtering place or places;
- (b) for receiving and enforcing the payment of fees and for regulating the rights and liberties of owners of any animals brought therein, and the right of access to such slaughtering place or places or any part thereof;
- (c) for regulating the manner of occupying and using any such slaughtering place or places and the inspection and slaughtering of animals therein;
- (d) for fixing the hours and days for the opening and closing of same;
- (e) for fixing the hours when, and prescribing the conditions and requirements under and subject to which, animals are to be slaughtered therein;
- (f) for fixing the times when, and prescribing the conditions and requirements under and subject to which, carcasses and other parts of any animals slaughtered in such slaughtering place or places shall be removed therefrom;
- (g) with respect to the licensing of slaughter-men and the suspension, revocation and cancellation of such licences;
- (h) for preventing nuisances or obstructions in any such slaughtering place or places or in the immediate approaches thereof;

- (i) for ensuring the maintenance, cleanliness and good order of such slaughtering place or places;
- (j) for maintaining order and preventing disturbance in any such slaughtering place or places by fighting or disorderly behaviour;
- (k) for excluding and removing from any such slaughtering place or places any person suffering from any infectious and contagious disease;
- (l) for dealing with any animal or carcass or part thereof which may be found to be diseased or unfit for human consumption;
- (m) for regulating the feeding and watering of animals brought therein and for preventing cruelty thereto;
- (n) for regulating the landing of animals intended to be taken direct from the landing place to any such slaughtering place or places, and prescribing the precautions to be observed by the owners of such animals in bringing such animals into a slaughtering place or places or any part thereof;
- (o) and generally, for such other purposes as may be deemed necessary for the government of any slaughtering place or places and for carrying into effect the provisions of this Part.

124.—(1) All by-laws, rules or regulations made under the provisions of this Act shall—

- (a) be notified to the Minister by memorandum in writing;
- (b) be published in the *Gazette*; and
- (c) be expressed to have effect as from a date not earlier than—
 - (i) thirty days after notification to the Minister pursuant to paragraph (a); or

Publica-
tion of
by-laws;
and Mini-
ster's
overriding
powers.
40/1995
S. 2.

- (ii) a date within that period of thirty days approved by the Minister by memorandum in writing and notified in the *Gazette*.

(2) If the Minister, in his discretion, considers that it is in the interest of national policy so to do, he may, during the period expressed pursuant to subsection (1) (c) (i), exercise any power given to the Parish Council to make, amend or revoke any such by-laws, rules or regulations and thereupon, until and unless the Minister otherwise directs by memorandum in writing to the Parish Council, the power of the Minister shall supersede the power of the Parish Council in relation to the subject matter addressed by the Minister in the exercise of his powers under this subsection.

(3) Where the Minister exercises the power conferred by subsection (2), he shall furnish to the Parish Council in writing an explanation of the reasons for his action.

(4) Where a Parish Council intends to make any by-laws, rules or regulations concerning the setting and amending of licence fees and user charges, the Parish Council shall inform the public of such intent by displaying a notice in a conspicuous place at the offices of the Council or by publishing such notice in a daily newspaper circulated in the parish.

125. [*Deleted by Act 40 of 1995.*]

126. Any person who contravenes any of the provisions of the regulations made under sections 121 to 125 shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a penalty not exceeding ten thousand dollars.

126A.—(1) A Parish Council may make, in addition to any other regulations which it is authorized to make under this Act, such regulations as it thinks necessary for—

Offences
and
penalty.

40/1995
S. 2.

Power to
make regu-
lations con-
cerning
discipline,
etc., of
employees.
12/1982
S. 2.

- (a) the control and superintendence of various categories of employees of the Parish Council;
- (b) regulating the conduct of, and maintaining discipline among such employees;
- (c) prescribing the procedure to be followed in respect of disciplinary proceedings against such employees;
- (d) prescribing the persons by whom such proceedings are to be conducted and the nature of the punishment which may be imposed as a result of those proceedings in the cases of various categories of employees;
- (e) determining the physical fitness of such employees to continue to hold office or employment or to hold any office or employment to which it may be proposed to transfer them.

(2) Regulations made under subsection (1) shall not take effect unless and until they have been confirmed by the Parish Councils Services Commission.

Parochial Audit

127. All accounts of Parish Councils and Parochial Officers shall from time to time be examined and audited by the Auditor-General, or some person or persons acting under his authority, in accordance with orders, rules and regulations, to be made under section 128.

Audit of Parochial Accounts, etc., required and provided for.

128. The Minister may from time to time make any orders, rules or regulations, that seem to him necessary or proper, and may from time to time revoke or vary the same, respecting the examination and audit of any books of account, accounts or vouchers, of Parish Councils and of Parochial Officers, including the form of keeping the books of account or the accounts of any Parish Council or any Parochial Officer, the day or days to which

Power to make orders and rules respecting the accounts and audit of them.

the accounts are to be made up, the time within which they are to be made up, the time within which the books, accounts and vouchers are to be sent up to the Audit Office or otherwise submitted for examination and audit, the mode in which they or any of them are to be certified and vouched, the mode of publishing any such accounts, the persons by whom the books of account, or the accounts and vouchers, are to be produced for examination and audit, and the mode of conducting the examination and audit.

Annual abstract of accounts of each parish with report to be submitted to the Minister

129. As soon as may be after the close of each financial year the Auditor-General shall prepare and submit to the Minister an abstract of the accounts of each parish for the past year, accompanied by such remarks as the Auditor-General may deem it his duty to make on any items in such accounts, and by a report on the financial position of the parish.

Every such abstract shall be published in the *Gazette*.

Parish Councils may have other and separate audits.

130. Notwithstanding any examination or audit as aforesaid, every Parish Council shall be at liberty to have any separate or other examination or audit made from time to time, when and as such Council shall think necessary, of any of the books of account or vouchers of such Council, or any books of account or accounts or vouchers of any Parochial Officer, or any person in the employment of or accountable to the Parish Council.

Publication and binding obligation of rules and orders under this Act.

131. All orders, rules and regulations, which shall be made by the Minister in pursuance of section 128, shall be published in the *Gazette*, and shall be binding on, and shall be obeyed, performed and observed by the Parish Council, or the body of persons affected or to be affected thereby; and all Parish Councils shall cause effect to be

given to the requests and instructions of the Auditor-General in relation to any examination or audit under this Act.

132. The Auditor-General shall have the power from time to time to call for any returns, books, or papers, from any Parish Council or Parochial Officer, relating to or in any wise concerning any of the accounts under the examination of the Auditor-General, or any person acting under his authority under this Act, or the receipt or expenditure of any parochial money, or any other matter of inquiry which he is or may be authorized to make which may be necessary for the purposes aforesaid, and to keep such books, accounts, or vouchers and papers for such time as he may require the same, and also to send for and examine upon oath (which oath the Auditor-General is hereby authorized to administer) any such officer, or any person entrusted with any parochial money, touching any matter or thing relating to the parochial accounts or any of them, or the receipt or expenditure of any parochial money, or any other matter of inquiry as aforesaid.

Power of Auditor-General to call for returns, etc., and to examine persons on oath.

133. Any Parochial Officer or person so examined who shall wilfully give false evidence shall be deemed guilty of perjury, and on conviction shall be liable to the penalties by any enactment in force in this Island imposed upon persons guilty of such offence.

False evidence punishable as perjury.