

CHAPTER 4
ELECTORAL

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Act No. 42 of 1971

AN ACT TO ENABLE PROVISION TO BE MADE FOR THE REGISTRATION OF VOTERS AND ELECTION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES

[2nd September 1971]

Short title

1. This Act may be cited as the Electoral Act.

Powers of Electoral Commission

2.—The Electoral Commission may make regulations for the purpose of carrying into effect the provisions of the Constitution regarding the election of members to the House of Representatives and in particular, and without prejudice to the generality of the foregoing, for any of the following matters:—

- (a) the registration of voters;
- (b) the nomination of candidates;
- (c) the holding and conduct of elections;
- (d) the prescription of offences in connection with registration, nomination and voting.

Residential qualification

3.—(1) Persons seeking to register as voters shall apply to be registered in respect of the constituency in which they are normally resident at the date of application for registration or, in the case of persons resident outside Fiji, in respect of the constituency in Fiji in which they were last so resident prior to such date.

(2) For the purposes of this Act, a person shall be deemed to be or to have been normally resident in a constituency if he has been resident in that constituency for the period of six months immediately preceding the date upon which he applies for registration:

Provided that a person who has established a bona fide change of residence within Fiji or has arrived within Fiji during the period of six months immediately

prior to the date of application for registration, may only apply for registration in that constituency in which he is resident at the time of his application.

(3) The onus of proving that an applicant for registration is or has been normally resident in a particular constituency shall lie on such applicant.

Controlled by Office of the Prime Minister

CHAPTER 4

ELECTORAL

SECTION 2—ELECTORAL REGULATIONS

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*Regulations 28th January 1977, as amended**

(Made by the Electoral Commission)

PART I—PRELIMINARY

Short title

1. These Regulations may be cited as the Electoral Regulations.

Interpretation

- 2.—(1) In these Regulations, unless the context otherwise requires—
 - “appropriate form” means any form prescribed or approved by the Supervisor with the approval of the Electoral Commission;
 - “candidate” means any person who is nominated as a candidate for election as a member of the House of Representatives;
 - “Court” means the Supreme Court of Fiji;
 - “election officer” includes the Supervisor, the Assistant Supervisor, any registration officer, assistant registration officer, returning officer, assistant returning officer, presiding officer, enumerator, polling assistant and any person appointed by or to assist any election officer;

* See Legal Notices Nos. 26, 79 and 198 of 1977, and 48 of 1982

"postmaster" means the officer in charge of any post office or postal agency;
 "prescribed" means prescribed by the Supervisor with the approval of the Electoral Commission;

"Supervisor" means the Supervisor of Elections and includes the Assistant Supervisor of Elections;

"voter" means any person whose name appears on a roll of voters.

(2) Where any officer is required by these Regulations to publish any document and no specific provision is made for publication he shall make public the document by making copies thereof available for inspection by the public during business hours in his office and, if he thinks fit, in any other manner which is, in his opinion, desirable for the purpose of bringing the contents of the document to the notice of those interested.

(3) When any act or thing is directed to be done within a specified time after the date of publication of any document, that time shall be computed from the date on which the document was first published.

Election officers

3.—(1) The Supervisor shall appoint by name or office registration officers, assistant registration officers, returning officers, and assistant returning officers.

(2) Assistant registration officers and assistant returning officers may exercise all the powers and perform all the duties of registration officers and returning officers respectively.

(3) Returning officers shall appoint such enumerators and polling assistants as they may consider necessary.

Powers of Supervisor

4. The Supervisor—

- (a) shall exercise general direction and supervision over the administrative conduct of elections and enforce on the part of all election officers fairness and impartiality;
- (b) shall issue to election officers such instructions as he may from time to time deem necessary to ensure effective execution of their duties;
- (c) may correct any apparent errors, omissions or duplications;
- (d) may on the application of a voter amend the roll to record his amended name, address or occupation;
- (e) shall take all necessary steps to ensure that all qualified applicants are placed on the appropriate communal roll and the national roll;
- (f) may strike off the register the name of any person whom he has good reason to believe is dead or disqualified from registration.

PART II—REGISTRATION OF VOTERS

Compilation of register of voters

5.—(1) Once in each year and at such other times as he may consider necessary the Supervisor shall publish a notice in the Gazette calling upon every person who is duly qualified to be registered as a voter and who is not already so registered to apply during such period as may be specified to the registration officer of the constituency in which he ordinarily resides.

(2) Every application for registration shall be in the appropriate form and shall be delivered to a registration officer within the period referred to in paragraph (1):

Provided that all applications for registration delivered since the close of any registration period shall be dealt within the registration period next succeeding that in which they were delivered.

(3) Every application for registration shall be signed by the applicant and a declaration of the truth of the particulars in the application shall be made.

(4) Every declaration made in Fiji under the provisions of this regulation shall be made before one of the following:

- (i) the Supervisor of Elections;
- (ii) a member of Parliament;
- (iii) a barrister and solicitor or law clerk;
- (iv) a Commissioner for Oaths;
- (v) a Justice of the Peace;
- (vi) a medical practitioner, dental practitioner or pharmacist;
- (vii) a member of or person elected to a city council, town council, provincial council, rural local authority or general or rural advisory council;
- (viii) an established civil servant or retired established civil servant or a member of the Police Force;
- (ix) a registered or licensed teacher;
- (x) a health inspector or assistant health inspector;
- (xi) a Fijian magistrate;
- (xii) a roko or an assistant roko;
- (xiii) an ex-buli;
- (xiv) a turaga-ni-koro;
- (xv) a hotel manager or assistant hotel manager;
- (xvi) a licensed shopkeeper;
- (xvii) a trade union president or secretary;
- (xviii) a school manager;
- (xix) a ship's captain;
- (xx) a registered accountant;
- (xxi) a cane gang sirdar;
- (xxii) a marriage officer;
- (xxiii) a sergeant or higher ranked member of the Royal Fiji Military Forces;
- (xxiv) a bank official;
- (xxv) a registered architect;
- (xxvi) a treasurer or bailiff of a provincial council;
- (xxvii) a field officer of the Fiji Sugar Corporation Limited;
- (xxviii) the secretary, a land agent or assistant land agent of the Native Land Trust Board;
- (xxix) a fieldman of the Agriculture Department;
- (xxx) any person appointed for that purpose by the Supervisor of Elections.

(5) Every declaration made outside Fiji pursuant to the provisions of this regulation shall be made before one of the following:

- (i) a notary public;
- (ii) a magistrate or legal practitioner;
- (iii) a British consular official;
- (iv) a Fiji civil servant serving overseas;
- (v) a Fiji citizen aged 21 years or over.

Registers

6. Such registers for constituencies shall be prepared as the Electoral Commission may from time to time specify.

Polling stations

7.—(1) The Supervisor shall prescribe in respect of each constituency such polling stations as he deems necessary and shall publish a list of polling stations in the Gazette.

(2) The names of voters shall be listed in alphabetical order in the register under the names of the polling stations to which they have been assigned by the Supervisor.

(3) No voter other than a postal voter may vote at a polling station other than that at which he is registered.

(4) Notwithstanding anything contained in these Regulations, the Supervisor may, by notice in the Gazette, assign all or any voters registered under a polling station to another polling station.

Voters to have four votes

8. Each voter shall be entitled to cast—

(a) one vote in respect of the communal roll constituency in which he is registered;

(b) three votes, one each in favour of a Fijian, an Indian, and a person who is neither Fijian nor Indian, respectively, in respect of the national roll constituencies, in which he is registered.

Preparation of register

9.—(1) The name of every person from whom an application for registration is received within the period referred to in paragraph (1) of regulation 5 and who appears qualified to be registered shall be placed on the rolls of voters.

(2) The Supervisor or the registration officer may make such enquiry as he may deem necessary to satisfy himself that an applicant is qualified to be registered before placing his name on the rolls.

(3) The Supervisor may, in addition to any other powers he may possess, place on the rolls the names of persons who appear qualified to be registered, pursuant to information obtained from such sources as the Electoral Commission may from time to time approve.

Objections

10.—(1) As soon as possible after the expiry of the time allowed for receiving applications to register as voters, the Supervisor or registration officer shall give notice in the Gazette, and by radio in the English, Fijian and Hindustani languages, and in such other manner as he may think fit, that the rolls or copies thereof are open to inspection at all reasonable hours at the offices of the registration officers and such other places as may be specified in such notice.

(2) Any person whose name appears on the rolls may object to the inclusion of the name of any other person on the rolls.

(3) Such objection shall be in writing and shall state the grounds of objection and shall be invalid unless received by the registration officer of the appropriate constituency within seven days of publication of the notice referred to in paragraph (1).

(4) On receiving an objection, a registration officer shall make such enquiry as he deems necessary or desirable.

(5) If the registration officer considers an objection is frivolous or has no merit, he shall dismiss it and advise the objector accordingly.

(6) If an objection is not dismissed under the provisions of paragraph (5), the registration officer shall send a notice by registered post requiring the person against whom the objection is lodged to answer the objection and shall state the time within which such person must answer the objection either in person or in writing. If such person does not answer the objection within the time allowed the registration officer shall proceed to deal with the objection and may either dismiss or sustain the objection.

(7) In every case in which an objection is sustained the registration officer shall notify the voter concerned and shall forthwith remove his name from the register. In every case in which an objection is dismissed the registration officer shall notify the objector and the voter concerned.

Settling objections

11. Each registration officer shall settle all objections within 14 days of receipt thereof and shall immediately thereafter forward to the Supervisor particulars of objections received by him stating whether they have in each case been allowed or dismissed, and the reasons therefor.

Publication of rolls

12. The Supervisor shall as soon as practicable thereafter publish the rolls as amended.

Revision of rolls

13.—(1) The Supervisor may cause the rolls to be revised fully at such times as he may deem necessary.

(2) The provisions of these Regulations with regard to registration shall apply *mutatis mutandis* to revision of rolls.

Transfers

14.—(1) Any voter who has established a bona fide change of residence may during the period permitted for application for registration, apply to the Supervisor to have his name transferred to the register for the constituencies in which he then resides.

(2) Any voter may during the period referred to in paragraph (1) apply to have his name transferred to a different polling station within the same constituency.

PART III—ELECTIONS

Writs of election

15.—(1) For every general election of members of the House of Representatives and for the election of any member to fill a vacancy in the House of Representatives caused by death, resignation or otherwise, the Governor-General will issue writs of election under the public seal of Fiji to the proper returning officers.

Every writ shall be forwarded to the Supervisor for transmission to the returning officer to whom it is addressed and a copy shall be published in the Gazette.

(2) The writ shall specify:

- (a) the date on or before which it is returnable to the Governor-General;
- (b) the date (hereinafter called the nomination date) on which and the place at which, the returning officer shall receive nominations of candidates for election;
- (c) the date on which, or the dates between which, the poll will be taken in case the election is contested.

(3) Where a writ specifies dates between which the poll may be taken it shall further provide that the returning officer shall appoint a date or dates within such period upon which the poll will be taken and may appoint different dates for different polling places.

Telegraphic notification of writ

16. The Supervisor may on the issue of a writ of election cause notice thereof to be sent by telegraph or radio to the returning officer to whom any such writ is addressed or to his assistant returning officer informing him of the date and place appointed for the nomination of candidates and of the polling date or dates, and the receipt by the returning officer of such notice shall be deemed to be the receipt by him of the writ and the date of such receipt shall be endorsed on the writ.

Day of nomination of candidates

17.—(1) The Supervisor shall, forthwith on receipt of a writ of election, mark thereon and initial the date of receipt and shall publish a notice in the appropriate form of the day and place named for the nomination of candidates and of the time appointed for the receipt of nominations which shall be a period of three hours between 10 a.m. and 3.00 p.m.

(2) In addition to any other method of publication such notice shall be publicly exhibited in all post offices and court houses in the constituency concerned and shall be published in the Gazette.

Nomination of candidates

18.—(1) On the day and at the places appointed for nomination of candidates by the writ of election, the returning officer shall attend during such three hours between the hours of ten o'clock in the forenoon and three o'clock in the afternoon as may be specified by the Supervisor in the notice referred to in regulation 17.

(2)—(a) Every candidate shall be nominated in writing on one nomination paper in the appropriate form signed by not less than six and not more than eight voters of the constituency for which he seeks election. The candidate shall assent to the nomination in writing by affixing his signature to the nomination paper;

(b) the voters specified in sub-paragraph (a) shall state their full names and their numbers in the register of electors on the nomination paper.

(3) In his nomination paper each candidate shall specify an office or place within three miles of the office of the returning officer as an address for service. Delivery at such office or place of any claim, writ or document addressed to a candidate shall be deemed service on such candidate of such claim, writ or document.

(4) The nomination paper shall be delivered to the returning officer by the candidate proposed or by one person appointed by him in writing, at the place and during the time appointed for receiving nominations and only the candidate and one other person selected by him may, except for the purpose of assisting the returning officer, be entitled to attend the proceedings.

(4A) A person shall not be nominated as a candidate for more than one constituency. (*Inserted by Regulations 10th May 1982**).

(4B) In any case where nomination papers are received nominating the same person as a candidate for more than one constituency, every such nomination shall be deemed to be void and the deposit accompanying every such nomination shall be forfeited and paid into the Consolidated Fund. (*Inserted by Regulations 10th May 1982**).

(5) Where, after the expiry of the time provided for delivering objections under the provisions of regulation 19 and after the returning officer has resolved any objection made thereunder, candidates not exceeding the number to be elected remain nominated, then the returning officer shall forthwith declare such candidate or candidates to be duly elected and shall endorse on the writ of election the name of the person or persons so elected and forward the writ to the Supervisor.

Objections to nomination

19.—(1) Subject to the provisions of this regulation, any voter in any constituency may object to the nomination of any candidate for that constituency as not being duly qualified.

(2) Every such objection shall be in writing and shall contain the reasons alleged why the candidate is not duly qualified.

(3) Every such objection shall be delivered to the returning officer between the hours of ten in the forenoon and noon on the day following the day appointed for the nomination of candidates by the writ of election or on such other day as may be appointed by the Supervisor, and the returning officer shall forthwith decide on its validity.

(4) If the returning officer disallows an objection his decision shall be final but if he allows it his decision shall be subject to reversal on a petition questioning the election or return.

Withdrawal or death of candidates

20.—(1) A candidate may withdraw his candidature by giving notice in writing signed by him to the returning officer within forty-eight hours of the acceptance of his nomination by such officer.

(2) If one of the candidates shall die after the acceptance of his nomination by the returning officer and before the result of the poll has been ascertained the returning officer shall upon being satisfied of the fact of such death countermand the poll and all proceedings with reference to the election shall be commenced afresh by a new writ of election:

Provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermand of the poll.

* See Legal Notice No. 48 of 1982

Deposits by candidates

21.—(1) Every candidate nominated at an election, shall, within forty-eight hours after his nomination has been accepted by the returning officer deposit or cause to be deposited with such returning officer the sum of one hundred dollars and in default thereof the candidate shall be deemed to have withdrawn from his candidature.

(2) If, at any time after the deposit is made, but before the result of the poll is ascertained, a candidate dies or if after the deposit is made and within forty-eight hours of the acceptance of his nomination, his candidature is withdrawn, the deposit shall be returned to the person by whom it was made or to his personal representative.

Forfeiture of deposits

22. If a candidate who has made the required deposit withdraws his candidature later than forty-eight hours after the acceptance of his nomination, or if that candidate is not elected and the number of votes polled by him does not exceed ten per cent of the total number of valid votes polled, the amount deposited shall be forfeited to the Crown and shall be paid into the Consolidated Fund; but in every other case the amount shall be returned to the person by whom the deposit was made or his personal representative, as soon as practicable after the result of the election is declared.

Notice of poll

23.—(1) If an election is contested, the returning officer shall publish in English, Fijian and Hindustani in newspapers published and circulating in Fiji as soon as practicable after the close of nominations, a notice containing the following information:

- (a) particulars of the candidates as described in their respective nomination papers; and
- (b) the names of the persons who have subscribed the nomination papers of each candidate; and
- (c) the order in which the names of the candidates will be printed in the ballot paper; and
- (d) the place or places at which polling stations for the constituency will be established; and
- (e) the date and hours between which he or his assistants will attend at the various polling stations to take votes, such date being the date appointed in the writ of election as the date for polling, or if the writ provides that the returning officer shall appoint and publish the date on or the dates between which the poll shall be taken, such date or dates within the specified period as the returning officer shall in his discretion think proper.

(2) In addition to any other means of publication, a copy of such notice shall, as soon as practicable, be published in the Gazette and exhibited in all post offices and court houses in the constituency.

(3) The returning officer shall forthwith transmit by telegraph or other expeditious means to the Supervisor the names of the candidates nominated for each vacancy to be filled at the election in the order in which their names should be printed in the ballot papers and such information shall be confirmed by letter in which shall be stated the total number of ballot papers required for the election.

Symbols

24. Forthwith after the receipt by him of the names of candidates for each election, the Supervisor shall in his discretion and in such a manner as to avoid any possibility of confusion, allot each candidate a symbol and shall inform every such candidate by registered post of the symbol allotted to him, publishing a list of the candidates and their respective symbols in the Gazette.

Voting by ballot

25.—(1) In the case of a poll at an election the votes shall be taken by ballot and the ballot of each voter shall consist of a paper (hereinafter called the ballot paper) prepared in accordance with these Regulations.

(2) Forthwith after the receipt by him of the names of the candidates for each vacancy, the Supervisor shall cause to be printed a sufficient number of ballot papers for the ballot of each voter at the poll.

Ballot paper

26.—(1) The ballot paper in an election for an Indian member shall consist of a printed paper showing on the face thereof the names of the candidates in English characters, and of no other persons, arranged alphabetically in order according to the English spelling of their first names. If two or more Indian candidates have the same names they shall be distinguished by the addition in characters of the same size of their respective father's names. If an Indian candidate has adopted a surname his name in the ballot paper shall be printed as provided in paragraph (2):

(2) The ballot paper in an election for a member who is a Fijian or for a member who is neither Fijian nor Indian shall consist of a printed paper showing on the face thereof the surnames of the candidates and of no other persons set out alphabetically in order of their surnames which shall be in large characters and where two or more candidates have the same surname they shall be distinguished on the ballot paper by the addition in smaller characters of their first names and such other matter as may be necessary to distinguish them.

(3) Every ballot paper shall have the symbol allotted to a candidate printed alongside the name of each candidate.

(4) Ballot papers shall be in the appropriate form and shall be bound in books with serially numbered counterfoils and shall be capable of being folded.

(5) The ballot papers when printed shall be delivered to the Supervisor who shall check them and shall issue to the returning officer the series of ballot papers for use in the poll or polls to be taken in that constituency. The ballot papers shall be kept in safe custody.

PART IV—THE POLL

Times for polling

27.—(1) The poll at each polling station shall take place on the day and during the hours appointed by the returning officer.

(2) Voting shall normally begin at each polling station at half past seven in the forenoon and close at half past five in the afternoon but the returning officer, may in the notice referred to in regulation 23, appoint different hours, and any presiding officer may in relation to any polling day, extend the closing time of the poll for a

period not exceeding two hours immediately after the said time or after the latest time specified in any such notice, as the case may be.

Facilities at polling stations

28.—(1) The returning officer shall ensure that each polling station is provided with:

- (a) such doors, barriers, tables, chairs, compartments and other conveniences as may be necessary and that the same are properly arranged for carrying out the provisions of these Regulations;
- (b) an appropriate number of proper ballot boxes of convenient size provided with a lock and key and so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom, without the boxes being unlocked;
- (c) copies of the register or such part thereof as contains the names of voters entitled to vote at that polling station;
- (d) materials for voters to mark the ballot paper;
- (e) written directions for the guidance of voters in the form approved from time to time by the Supervisor.

(2) The polling compartments shall be so constructed and arranged that the voters can mark their votes therein screened from observation.

(3) The directions to voters referred to above shall be reproduced in such language or languages as the returning officer considers appropriate, and immediately adjacent thereto there shall be displayed a specimen of the ballot paper for the election showing opposite the name of each candidate, the name of that candidate written in the same language as that in which the direction itself is reproduced.

Presiding officers and clerks

29.—(1) The returning officer shall appoint a presiding officer to preside at each polling station and the officer so appointed shall attend at the station on the day or days and during the hours appointed for taking the poll and shall receive the votes of all persons whose names are on the proper register and who appear and apply for a ballot paper.

(2) The presiding officer shall keep order at his station, shall regulate the number of voters to be admitted at a time and shall exclude all persons except members of the Electoral Commission, the Supervisor, the returning officer, the clerks, the candidates, not more than seven agents (who shall be appointed in writing) of each candidate or such lesser number as the presiding officer may specify, police officers on duty and as many voters at a time as the presiding officer thinks fit.

(3) The returning officer may appoint as many clerks as may be necessary for effectually conducting the election and in addition may appoint competent persons to assist him in counting the votes. No person shall be appointed by a returning officer for any purpose connected with an election who has been employed by any other person other than an election officer in or about that election.

(4) The presiding officer may do, by the clerks appointed to assist him, any act which he is authorised or required to do at a polling station other than ordering the arrest, exclusion or ejection from the polling station of any person.

Ballot boxes to be shown empty before poll commences

30. The presiding officer, immediately before the commencement of the poll,

shall show each of the ballot boxes empty to such persons as may be present at his station so that they may see that they are empty and shall then lock up and seal each box in such manner as to prevent it being opened without breaking the seal and shall place it within his view for the receipt of ballot papers. No box shall be again unlocked except by the returning officer in the manner specified in these Regulations.

Candidates' agents

31.—(1) The agents of the candidates, if any, shall be seated in such a place that they are able to see each person who presents himself as a voter, and hear his name as given by him and interfere in the proceedings to the extent allowed by these Regulations, but so that they are unable to see how any voter votes, or otherwise interfere.

(2) If any agent persists, after being warned, in contravening any of these provisions, it shall be lawful for the presiding officer to require him to leave the polling station, and if necessary, to have him removed therefrom and at any time to summon police officers within the polling station for the purpose of preserving order.

Questions which may be put to voter

32. At the time of polling the presiding officer may, at his discretion, and shall if required on behalf of any candidate, put to any person, at the time of his applying for a ballot paper, the following questions, or either of them:

First: Are you the same person whose name appears as
on the (Fijian or Indian or General or National, as the case may
be) register of voters now in force for the
polling station for the constituency?

Second: Have you already voted, either here or elsewhere at this election or
has a postal ballot paper been issued to you?

(2) If any person answers the first question in the negative or the second question in the affirmative or refuses to answer either of such questions the presiding officer shall refuse to deliver a ballot paper to him.

(3) The presiding officer may put to any person such further questions as he may deem appropriate to determine the entitlement of such person to a ballot paper and, if not satisfied that such person is entitled to vote at that polling station, may refuse to deliver a ballot paper to him.

Manner of voting

33.—(1) Each person on coming to vote shall address himself to the presiding officer, and shall state his name and address.

(2) Each person having come to vote shall have his left forefinger marked with an indelible substance in such manner as the Electoral Commission may from time to time direct:

Provided that a presiding officer may at his discretion waive the requirements of this paragraph for reasons of physical disability.

(3) The presiding officer shall then write the number of the voter as shown in the register on the counterfoil of each ballot paper, mark each ballot paper on the back thereof with his initials, or with or by an official mark to be used only for the election in progress and, calling out the names of the voter in an audible voice, shall deliver the papers to him within the polling station.

(4) The voter shall then retire to a compartment or place within the polling station, and having privately marked his vote on the papers in the manner prescribed by regulation 34 and folded up each of such papers so as to conceal his vote but so as to show the initials of the presiding officer or his official mark on the back of each of such papers, and, after showing to the presiding officer the initials or marks on the back, shall place them in the appropriate ballot boxes in the presence of the presiding officer. The voter shall thereupon forthwith leave the polling station.

(5) The presiding officer, after having delivered to the voter the ballot papers and while the voter is recording his votes, shall make a mark against the name of the voter on his copy of the registers to denote that he has received ballot papers in respect of each of the constituencies in respect of which he is entitled to vote, but without showing the particular ballot papers given to him.

Marking of ballot papers

34. A voter shall record his vote by making the sign of a tick (✓) in the space provided in the ballot paper alongside the name and symbol of the candidate for whom he wishes to vote. (*Substituted by Regulations 10th May, 1982**)

Tendered ballot papers

35. If a person, representing himself to be a particular voter named on the register, applies for a ballot paper after another person has voted as such voter, the applicant shall, upon duly answering the questions set forth in regulation 32, be entitled to mark ballot papers in the same manner as any other voter, but those ballot papers (hereinafter called "tendered ballot papers") shall be of a colour different from those of the other ballot papers, and instead of being put into the ballot box shall be sealed by the voter in an envelope, and given to the presiding officer who shall place the envelopes in a separate packet for each constituency. Tendered ballot papers shall not be counted by returning officers. The name of the voter and his number on the register shall be entered on a list to be called "The Tendered Votes List".

Spoiled ballot papers

36. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving the inadvertence to the satisfaction of that officer, obtain another ballot paper in the place of that so delivered up (hereinafter called a "spoiled ballot paper") and the spoiled ballot paper shall be immediately cancelled by the presiding officer writing the word "cancelled" indelibly across the face thereof and initialling the same.

Illiterate or incapacitated voters

37. If any voter is illiterate or is incapacitated by blindness or other physical cause from voting in the manner prescribed by these Regulations the presiding officer shall, at the request of that voter made in the presence of the agents, if any, of the candidates, cause his vote to be marked by one polling assistant in the presence of one other polling assistant on a ballot paper in the manner directed by such voter, and the ballot paper so marked to be placed in the ballot box. The name

*See Legal Notice No. 48 of 1982

and number on the register of every voter whose vote is so marked, shall be entered on a list which shall be kept by the presiding officer.

Sealing of ballot boxes and papers after poll

38. The presiding officer of each station shall, immediately after the close of the poll, in the presence of the agents, if any, of the candidates, make up into separate packets or parcels sealed and clearly labelled with the name of the relevant polling station and that of the constituency where the polling station is situated and their contents—

- (i) the ballot boxes in use at his station, unopened but with the key attached, and so sealed as to prevent the introduction of additional ballot papers;
 - (ii) the unused and spoiled ballot papers placed together;
 - (iii) the tendered ballot papers;
 - (iv) the counterfoils of all used, spoiled and tendered ballot papers;
 - (v) the marked copies of the register of voters;
 - (vi) the tendered votes list, and the list of the voters whose ballot papers were marked by him;
 - (vii) the ballot paper account referred to in regulation 39; and
 - (viii) the official stamp (if any) used at his station,
- and shall, with all convenient speed and by trustworthy means, deliver the packets or parcels to the returning officer.

Ballot paper account

39. The packets or parcels shall be accompanied by a statement in the appropriate form made by the presiding officer showing the number of ballot papers entrusted to him and accounting for them under the heads of total ballot papers in the ballot box or boxes, unused, spoiled and tendered ballot papers, which statement is hereinafter referred to as the ballot paper account. The ballot paper account shall include a facsimile of the initials or official mark put on the ballot papers at the polling station.

PART V—VOTING BY POST

Eligibility for voting by post

40.—(1) Any voter who resides more than ten miles from his polling station, or who can demonstrate that on polling day; on account of ill-health, infirmity, religious conviction or for any good cause which in the opinion of the returning officer will render him unable to vote in person at the polling station at which he is registered, shall be entitled to vote by post, and may apply in writing to the returning officer for the issue of a postal ballot paper.

(2) Any application in which the applicant claims to be prevented from voting in person on account of ill-health or infirmity must be accompanied by a certificate to this effect signed by a registered medical practitioner, a health sister or a nurse.

(3) An application in which the applicant claims to be prevented from voting in person on account of his undergoing a sentence of imprisonment must be accompanied by a certificate to this effect by the officer-in-charge of the prison concerned.

(4) No postal ballot paper will be sent to an applicant unless his application reaches the returning officer at least seven clear days before the day on which polling is due to commence at the polling station at which he is registered.

Postal ballot papers

41.—(1) If the returning officer is satisfied that an applicant is entitled to vote by post, he shall as soon as possible send to the applicant by registered post or by such other means as he may think fit, or on the personal application of the applicant may hand to the applicant a postal ballot paper in the appropriate form and an official paid envelope addressed to the returning officer concerned, in respect of each constituency in which the applicant is entitled to vote.

(2) An applicant whose application contains a signature by mark or thumb print or in characters other than English or in block letters or in any manner other than cursive script shall not be entitled to have postal ballot papers sent to him by post, but shall be informed in writing by the returning officer that he is eligible to record his vote as provided by paragraph (3) of regulation 42.

(3) No person to whom a postal ballot paper has been issued, or who has had a postal ballot paper marked for him as in paragraph (3) of regulation 42, shall be entitled to receive a ballot paper at a polling station.

Method of voting by post

42.—(1) A voter to whom a postal ballot paper has been issued shall, in order to record his vote, produce the paper unmarked to the appropriate returning officer, or to any other person appointed for this purpose by the Supervisor (hereinafter in this regulation referred to as the witnessing officer). He shall then, in the presence of the witnessing officer but in such a way that the latter shall not see how the paper is marked, mark each paper by making the sign of a tick (✓) in the space provided in the postal ballot paper alongside the name and symbol of the candidate for whom he wishes to vote. No other mark, writing or signature save as hereinafter provided shall be placed by the voter on the postal ballot paper. The voter shall then fold the ballot paper so as to conceal his vote, and shall sign his name in English cursive script thereon in the place provided on the counterfoil in the presence of the witnessing officer who shall witness such signature by signing the counterfoil. The voter shall then enclose each postal ballot paper in the envelope provided in respect of the constituency concerned, and shall send each envelope to the returning officer by registered post or by such other means as the returning officer may approve, so as to be received by the returning officer before the commencement of the count. (*Substituted by Regulations 10th May 1982**).

(2) No charge shall be made for postage or registration of postal ballot papers which are posted in Fiji in the official envelopes provided.

(3) Any voter who would otherwise be entitled to vote by post, but who is disqualified by paragraph (2) of regulation 41 from having postal ballot papers sent to him by post, may appear before any returning officer or district officer and request that he be handed a postal ballot paper for the constituencies in which he is registered and if—

- (a) the constituency is his own, the returning officer shall then hand to the voter a postal ballot paper;
- (b) the constituency concerned is not his own, the returning officer or district officer shall obtain a postal ballot paper from the returning officer of the constituency concerned and forthwith notify the voter of the time, date and place he should attend for the purpose of being handed the postal ballot paper.

* See Legal Notice No. 48 of 1982

The voter upon being handed such ballot paper, shall state the name of the candidate for whom he wishes to vote. The returning officer shall then, in the presence of one assistant returning officer, mark the postal ballot paper as directed by the elector, in the manner provided in paragraph (1), and shall fold the ballot paper so as to expose the counterfoil. The voter shall then place his thumb print in the place provided on the counterfoil in the presence of the returning officer who shall witness the placing of such thumb print by signing the counterfoil. The returning officer shall then enclose each postal ballot paper in the envelope provided in respect of the constituency concerned.

(4) The returning officer shall keep all envelopes containing completed ballot papers relating to his own constituency in safe custody and unopened until the votes are counted and shall send any envelopes containing completed postal ballot papers relating to other constituencies to the respective returning officers of constituencies. Such envelopes shall then be kept by the respective returning officers in safe custody unopened until the votes are counted.

(5) The returning officer shall keep separate lists of the names of the electors for whom he has marked votes, according to constituencies, in the manner described in paragraph (3) and shall send a copy of those lists which relate to other constituencies to the returning officer concerned. As soon as possible after the completion of the count, each list to be known as the "Marked Postal Ballot List" shall be sent to the Supervisor together with the other documents specified in paragraph (1) of regulation 62.

Presiding officer to be notified

43. The returning officer shall record on the register against the name of the applicant the fact that postal ballot papers have been sent to him and the date of posting and shall, before the poll commences, notify to the presiding officer at every polling station where a register on which the name of the applicant appears is used, the fact of the issue of such postal ballot.

Opening of postal ballot papers

44. At the count of the poll, the returning officer shall produce unopened all envelopes containing postal ballot papers received by him before the commencement of the count, and such envelopes shall be opened in the presence of the candidates or their agents, if any, if they or any of them desire to be present.

Late postal ballot papers

45. Postal ballot papers received by the returning officer after the commencement of the count of the poll shall not be opened but the envelopes shall be marked "late" by the returning officer, dated and initialled by him and sent to the Supervisor together with the other documents referred to in regulation 62.

Verification of postal ballot papers

46.—(1) The returning officer shall then produce all applications for postal ballot papers and, without unfolding the postal ballot paper or allowing it to be inspected, compare the signature or thumb print of the voter on the postal ballot paper with the signature or thumb print on the application, and the returning officer shall determine whether or not the signature or thumb print on the postal ballot paper is that of the applicant.

(2) If the postal ballot paper is allowed by the returning officer, he shall tear off the counterfoil containing the name of the voter taking care not to see the name

of the candidate for whom he has voted and shall thereupon mix the postal ballot papers with the other ballot papers and deal with them in the manner prescribed by regulation 52.

Disallowance of postal ballot papers

47.—(1) If a postal ballot paper is filled up or otherwise dealt with in a manner contrary to that provided by these Regulations, the returning officer shall disallow such postal ballot paper, and the vote shall not be counted.

(2) If the returning officer disallows a postal ballot paper, then such postal ballot paper shall be included in a sealed packet marked "rejected" and the returning officer shall forward it to the Supervisor together with the other documents referred to in regulation 62.

(3) The decision of the returning officer in respect of any postal ballot paper shall be final.

Form of postal ballot papers

48. A postal ballot paper shall contain a list of the names of the candidates, arranged and set out in the manner prescribed by regulation 26 and shall be capable of being folded so that the counterfoil shall be visible. Each postal ballot paper shall have attached a counterfoil with the number marked thereon. The counterfoil shall contain a space for the signature of the voter and for the witness thereto as provided by these Regulations.

PART VI—THE COUNT

Appointment for the count

49. The returning officer shall make arrangements for counting the votes in the presence of not more than seven agents of each candidate as soon as practicable after the returning officer has received all the ballot boxes, packets or parcels from all the different polling stations in the constituency. The returning officer shall notify the candidates or their agents of the day and time and place at which he will begin to count the votes.

Who may be present at the count

50. On the day and at the time appointed, only the returning officer, his assistants and clerks and the candidates and not more than seven agents of each candidate, except with the sanction of the returning officer, may be present at the opening of the ballot boxes and during the count of the votes.

Verification of ballot paper accounts

51. On the day and at the time appointed, the returning officer shall identify the ballot boxes and packets received from each polling station, dealing with one station at a time. He shall then open the ballot boxes received from each station and count the total number of ballot papers in each box and the unused and spoiled ballot papers so as to ascertain whether those papers together with those which from the tendered votes list appear to have been used for tendered votes, account for all ballot papers issued for the purpose of the election to the particular polling station and shall record in writing the result of his examination.

Counting the votes

52. The returning officer shall then mix together the whole of the ballot papers contained in all the different ballot boxes for the constituency and shall then count the votes recording as he proceeds the number of votes given for each candidate.

Counting to proceed continuously

53. The returning officer shall, so far as practicable, proceed continuously with the counting of the votes, allowing only time for refreshment.

Counterfoils and tendered ballot papers not to be opened.

54. The returning officer shall not open the sealed packets of counterfoils from any station, or refer to the numbers on the counterfoils of or open the sealed packets of tendered ballot papers.

Void ballot papers

55.—(1) Any ballot paper:

- (a) which has not on the back the initials of the presiding officer or the official mark; or
- (b) on which votes are given to more candidates than the voter is entitled to vote for; or
- (c) on which anything is written or marked by which the voter can be identified; or
- (d) which is unmarked or void for uncertainty,

shall be void and shall not be counted.

(2) Notwithstanding anything contained in regulation 34, if a returning officer is satisfied that the intention of a voter is clear beyond all reasonable doubt, he may at his discretion accept and count as valid the ballot paper of such voter, and the decision of the returning officer shall be final.

Rejected ballot papers

56.—(1) The returning officer shall endorse "rejected" on any ballot paper which he may reject as void, and except in the case of a postal ballot paper, shall add to the endorsement "rejection objected to" if an objection is made to his decision by any person entitled to be present.

(2) The returning officer shall seal up in a parcel all postal ballot papers rejected by him under regulation 47 and shall endorse on such parcel a description of the contents thereof and shall sign the endorsement.

(3) The returning officer shall record and include in his report to the Supervisor referred to in regulation 47 ballot papers rejected and not counted by him under the several heads specified in regulation 55 and shall on request allow any candidate, or his agent, to copy the record.

Returning officer's decision final

57. Subject to reversal on petition questioning an election or return, the decision of a returning officer as to any question arising in respect of any ballot paper shall be final.

Equality of votes

58. Where an equality of votes is found to exist between any candidates and the addition of a vote would entitle any one of such candidates to be declared elected then the election of one of such candidates shall be decided by lot.

Declaration of result of poll

59. As soon as practicable after the returning officer has arrived at the number of votes given to each candidate by means of the process prescribed in these Regulations he shall publicly state the result of the voting, and declare the candidate to whom the majority of votes have been given (or in case of equality of votes, in whose favour the lot has been drawn) to be elected a member of the

House of Representatives according to the tenor of the writ of election addressed to him:

Provided that, in a constituency returning more than one member, the returning officer shall declare such number of members to be elected, according to the tenor of the writ of election issued, as have received in their favour the most votes.

Declaration of result

60. When the result of the poll has been ascertained, the returning officer shall forthwith:

- (a) return the name or names of the elected candidate or candidates to the Supervisor;
- (b) endorse the name of the elected candidate or candidates on the writ in accordance with the appropriate form;
- (c) forward the endorsed writ and a note of the result of the election to the Supervisor.

Returning officer's report

61.—(1) As soon as practicable after any election, the returning officer shall make a report to the Supervisor of the result of the election in accordance with, and containing all the information referred to in the appropriate form.

(2) The Supervisor shall cause such report to be published in the Gazette.

Documents to be sent to Supervisor

62.—(1) As soon as practicable after the completion of the count, the returning officer shall seal up in separate packets:

- (a) the excluded, rejected and counted ballot and postal ballot papers;
- (b) the late postal ballot papers;
- (c) the unopened packets of tendered votes;
- (d) the marked copies of the registers;
- (e) the counterfoils;
- (f) the ballot paper accounts;
- (g) the tendered votes list;
- (h) the lists of votes marked by the presiding officers and statements relating thereto;
- (i) the official stamps (if any) used.

(2) Each packet shall be endorsed with a description of its contents, the name of the constituency, and classification thereof, to which the papers relate and the date of the election.

(3) All such documents shall then be made up into one parcel sealed so that the parcel cannot be opened without breaking the seal, endorsed with a note of the election to which the papers refer and sent to the Supervisor who shall keep the parcel in safe custody and allow no person to have access thereto.

(4) If an election petition has been presented questioning the validity of any election or return, or a criminal prosecution arising out of the election has been instituted, the Supervisor shall, on an order of the Court, deliver to the proper officer of the Court, the papers relating to the election or return involved. No person shall open any of such parcels or separate packets or be allowed to inspect any of the papers contained therein, except by order of the Court.

(5) After the expiration of twelve months from the date of any election the Supervisor shall destroy by burning the papers used at that election:

Provided that the Electoral Commission may, after giving two weeks' notice in the Gazette of its intention so to do, abridge the time to a period of not less than six months. (*Proviso inserted by Regulations 20th December 1977*.*)

Publication of name of successful candidate

63. As soon as the Supervisor has received an endorsed writ under the provisions of these Regulations he shall return it to the Governor-General and shall publish in the Gazette the result of the election and the name or names of the elected member or members.

Special procedure for counting votes

64. Notwithstanding the other provisions of these Regulations, the Electoral Commission may, by order published in the Gazette, apply to any place or area where communications do not permit the delivery of ballot papers to the returning officer in time for the count, the following provisions:

- (a) the person specified in such order, shall as soon as may be convenient after the closing of the poll, count the votes cast in such place or area and shall send by radio or by telegraph to the returning officer details of the number of votes cast for each candidate.
- (b) the returning officer shall include the votes counted under the provisions of paragraph (a) in the count made under the provisions of these Regulations and the decision of the returning officer on any question arising in respect of such votes shall be final.

PART VII—OFFENCES RELATING TO ELECTIONS

Offences in connection with registration

65.—(1) Any person who wilfully makes any false statement or declaration in connection with an application for registration as a voter shall be guilty of an offence.

(2) Any person who having already applied for registration, wilfully applies to have his name entered on the register of voters shall, unless he has withdrawn his previous application, be guilty of an offence.

Inducing persons to apply for postal ballot papers

66. Any person who attempts to induce anyone to obtain a postal ballot paper with the intention of influencing him by bribery or intimidation to record his vote in favour of any particular candidate shall be guilty of an offence.

Persons not to congregate near polling stations

67.—(1) Subject to the provisions of paragraph (2), during the hours when a polling station is open on polling day, any person who assembles or congregates in a polling station or within fifty yards thereof shall be guilty of an offence.

(2) The provisions of this regulation shall not apply to—

- (a) any voters who are waiting to vote at such polling station and who obey such instructions as may be given by the presiding officer or any police officer for the purpose of forming a queue with other voters so waiting; or

* See Legal Notice No. 198 of 1977

- (b) any person who is only lawfully remaining in, entering or leaving such station with reasonable despatch.

Influencing voters to vote for any candidate

68. During the hours when a polling station is open on polling day, any person who, in any polling station or within fifty yards of any polling station, seeks to influence any voter to vote or to refrain from voting for any candidate or unlawfully ascertains for whom any voter intends to vote or has voted, shall be guilty of an offence.

Disclosing state of the poll

69. Any election officer who without lawful authority makes known for what candidate any voter has voted, or before the close of the poll makes known the state of the poll or gives or purports to give any information by which the state of the poll may be known shall be guilty of an offence and upon conviction shall be liable to a fine of \$100.

Bribery, personation and illegal practices

70.—(1) Every person who is convicted of the offence of bribery, personation, treating or undue influence shall be liable to a fine not exceeding \$400 or to imprisonment for a term not exceeding six months. (*Amended by Regulations 6th July 1977**).

(2) Every person who—

- (a) votes, or induces or procures any person to vote at an election knowing that he or that other person is not entitled to vote; or
- (b) before, or during an election, knowingly publishes any false statement of the withdrawal of a candidate at the election, for the purpose of promoting or procuring the election of another candidate; or
- (c) prints, publishes or posts or causes to be printed, published or posted any bill, placard, poster or other document having reference to any election which does not bear upon the face thereof the name and address of the printer and publisher,

is guilty of an illegal practice, and shall be liable on conviction to a fine not exceeding \$200, or in default of payment to imprisonment for a term not exceeding six months. (*Amended by Regulations 6th July 1977**).

(3) Every person who—

- (a) forges or counterfeits or fraudulently defaces or destroys, any ballot paper or the official mark on any ballot paper; or
- (b) without due authority supplies a ballot paper to any person; or
- (c) fraudulently takes out of a polling station any ballot paper; or
- (d) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purpose of any election,

is guilty of an offence and shall be liable, if he is a presiding officer or clerk employed at a polling station, to a fine not exceeding \$400 or to imprisonment for a term not exceeding six months, or if he is any other person, to a fine not exceeding \$300 or to imprisonment for a term not exceeding six months. (*Amended by Regulations 6th July 1977**).

* See Legal Notice No. 79 of 1977

Persons guilty of bribery

71. The following persons are guilty of bribery within the meaning of these Regulations:

- (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 to endeavour to procure, any money or valuable consideration to or for any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of that voter having voted or refrained from voting at an 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 voter, or to or for any person on behalf of that voter, or to or for any person, in order to induce that voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter 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, promise, procurement or agreement as aforesaid to or for any person, in order to induce that person to procure or to endeavour to procure, the return of any person as a member of the House of Representatives, or the vote of any voter at any election;
- (d) every person who, upon or in consequence of any gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to influence, the return of any person as a member of the House of Representatives, or the vote of any voter at any election;
- (e) every person who advances or pays, or causes to be paid, any money to or for the use of any other person, with the intent that that 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 voter who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election;
- (g) every person who, after any election, directly or indirectly, by himself or 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.

* See Legal Notice No. 79 of 1977

Persons guilty of treating

72. The following persons are guilty of the offence of treating within the meaning of these Regulations:

- (a) every person who corruptly by himself or by any other person, either before, during or after any election directly or indirectly gives or provides, 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 that election, or on account of that person or any other person having voted or refrained from voting at the election;
- (b) every voter who corruptly accepts or takes any such food, drink, entertainment or provisions.

Persons guilty of undue influence

73. Every person who, directly or indirectly, by himself or any other person on his behalf—

- (a) makes use, or threatens to make use, of any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss upon or against any person, in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting at any election; or
 - (b) by abduction, duress or any fraudulent contrivance, impedes or prevents the free exercise of the franchise of any voter, or thereby compels, induces or prevails upon any voter either to give or refrain from giving his vote at any election,
- is guilty of undue influence within the meaning of these Regulations.

Persons guilty of personation

74. Every person who at any election applies for a ballot paper, or tenders a vote in the name of another person whether the name is the name of a person living or dead, or of a fictitious person, or who, having voted at an election, applies for a ballot paper or tenders a vote at the same election in his own name, which he is not entitled to tender under the provisions of these Regulations, is guilty of the offence of personation.

Publishing of forms

75. Any person who publishes, issues or prints, or makes any copy of a form referred to in these Regulations without the authority of the Supervisor and without placing thereon the word "copy only" in letters at least half an inch in height, shall be guilty of an offence.

Breaches of official duty

76. Any person who, being required under the provisions of these Regulations to perform any official function thereunder, without reasonable cause commits, or omits to do, any act in breach of his duty under such provisions shall be guilty of an offence.

Penalty and disqualification

77.—(1) Any person who is guilty of an offence under the provisions of these Regulations for which no specific penalty is provided, shall be liable to a fine not exceeding \$300 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment. (*Amended by Regulations 6th July 1977**).

(2) Any person who is convicted of any offence under the provisions of this Part shall, in addition to the penalties imposed by such provision, be incapable, during a period of six years from the date of such conviction, of being registered as a voter or voting at any election of a member of the House of Representatives.

PART VIII—ELECTION PETITIONS

Who may present election petitions

78. A petition complaining of an undue return or undue election of a member of the House of Representatives, hereinafter called an election petition, may, within twenty-one days after the returning officer has declared any candidate to be elected, be presented to the Supreme Court by any one or more of the following persons:

- (a) any person who voted, or had a right to vote, at the election to which the petition relates; or
- (b) any person who claims to have had a right to be returned or elected at the election; or
- (c) any person who claims to have been a candidate at that election.

Trial of election petitions

79.—(1) Every election petition shall be tried by a judge of the Supreme Court sitting in open court.

(2) At the trial of an election petition the procedure shall, as nearly as circumstances will admit, be the same, and the Court shall have the same powers, jurisdiction and authority, as on the trial of a civil action; and witnesses shall be summoned and sworn as in the trial of a civil action in the Court and shall be subject to the same penalties for perjury.

(3) At the conclusion of the trial, the Court shall determine whether the member of the House of Representatives of whose return or election complaint is made, or any other person, was duly returned or elected, or whether the election, was void, and shall certify the determination to the Governor-General and upon so certifying that determination shall be final and the return shall be confirmed or altered, or a writ for a new election shall be issued, as the case may require.

Votes given to persons guilty of bribery, etc. to be struck out

80. When a candidate, on a trial of an election petition, is proved to have been guilty of bribery, treating or undue influence in respect of any person who voted for him at the election, or where any person retained or employed for reward by or on behalf of the candidate, for all or any of the purposes of the election, as agent, clerk, messenger or in any other capacity is proved on the trial to have voted for the candidate at the election, the vote of every person who so voted and who is proved to have been so bribed, treated or unduly influenced, or so retained or employed for reward as aforesaid shall be struck out.

* See Legal Notice No. 79 of 1977

Election not to be held invalid for certain irregularities

81. Notwithstanding anything contained in these Regulations, no election shall be questioned or deemed to be invalid by reason of any failure to comply with any of the provisions of these Regulations, or of any mistake in the use of any form prescribed or of any defect or invalidity in the appointment of any election officer if the election was held in accordance with the provisions of the Constitution.

PART IX—MISCELLANEOUS PROVISIONS

Privileges of candidates the same as their agents

82. Any candidate may himself do, or aid in doing, anything which his agent may do under the provisions of these Regulations and may be present at any place at which his agent may under these Regulations be present.

Duty of secrecy

83.—(1) Every officer, clerk or agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in that station, and shall not communicate to any person, except for any purpose authorised by the provisions of these Regulations, before the poll is closed any information as to the name or number on the register of the voters of any voter who has or has not applied for a ballot paper or voted at that station; and no person shall interfere, or attempt to interfere, with a voter when marking his vote, or otherwise attempt to obtain in the polling station any information as to the candidate for whom any voter there is about to vote or has voted.

(2) Every 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 attempt to communicate any information obtained at the counting as to the candidate for whom any vote is given in any particular ballot paper.

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

(4) Any person acting in contravention of the provisions of this regulation shall be guilty of an offence and shall be liable to a fine not exceeding \$300 and in default of payment to imprisonment for a term not exceeding six months.

Non-attendance of candidates or agents

84. The non-attendance of any candidate, or of any agent nominated by him, shall not in any way invalidate any act or thing done under the provisions of these Regulations, notwithstanding that that act or thing is required or authorised to be done in the presence of a candidate or of his duly authorised agent.

Voter not required to state for whom he has voted

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

Controlled by Office of the Prime Minister