

# PARLIAMENT OF CEYLON

3rd Session 1958-59



## Ceylon Parliamentary Elections (Amendment) Act, No. 11 of 1959

Date of Assent : May 7, 1959

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L. D.—CF. 3/57.

AN ACT TO AMEND THE CEYLON (PARLIAMENTARY ELECTIONS) ORDER IN COUNCIL, 1946.

[Date of Assent: May 7, 1959.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Ceylon Parliamentary Elections (Amendment) Act, No. 11 of 1959.

Short title.

2. Section 4 of the Ceylon (Parliamentary Elections) Order in Council, 1946, hereafter in this Act referred to as the "principal enactment", is hereby amended, in sub-section (1) of that Section, by the substitution, in paragraph (b) of that sub-section, for the words "twenty-one years", of the words "eighteen years".

Amendment of section 4 of the Ceylon (Parliamentary Elections) Order in Council, 1946.

3. Section 15 of the principal enactment, as amended by Act No. 16 of 1956, is hereby amended as follows:—

Amendment of section 15 of the principal enactment.

(1) in sub-section (1) of that section, by the substitution, for all the words from "electors, and no name" to the end of that sub-section, of the word "electors."; and

(2) by the insertion, immediately after sub-section (1) of that section, of the following new sub-sections:—

"(1A) Where a dissolution of Parliament occurs before the certification of the register of electors required by sub-section (1) of this Section to be prepared for any altered or new electoral district, the registering officer of such electoral district shall, for the purposes of the election of a Member of Parliament or more than one Member of Parliament, as the case may be, for such electoral district at the general election consequent on such dissolution of Parliament, forthwith—

(a) notify in the *Government Gazette* at least seven days before the day of nomination fixed under Section 27 of this Order those parts of the register or registers in operation immediately prior to the publication of

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the Proclamation specifying such electoral district and made under Section 43 of the Ceylon (Constitution) Order in Council, 1946, which relate to the area comprised in such electoral district, and

- (b) prepare or cause to be prepared, in accordance with the provisions of sub-section (1) of this Section, a register of electors for such electoral district.

The provisions of sub-sections (2), (3) and (4) of this Section and the provisions of Section 22 of this Order shall not apply to the register of electors prepared under this sub-section. The registering officer shall certify the register of electors prepared under this sub-section and shall publish a notice of such certification in the *Government Gazette* and in one or more newspapers circulating in the electoral district to which such register relates. The certified register shall come into operation on the date of the publication of such notice in the *Government Gazette* and shall cease to be in operation on the conclusion of the aforesaid general election. The provisions of this sub-section shall not be deemed to prevent the preparation or the completion of the preparation of a register of electors for the aforesaid altered or new electoral district in accordance with the provisions of this Section other than the provisions of this sub-section, but such register shall not be certified under this Order until the register prepared and certified under this sub-section for such electoral district ceases to be in operation.

(1B) The registering officer of any altered or new electoral district—

- (a) shall include or cause to be included in a new register of electors prepared under sub-section (1) of this Section for such electoral district the names of persons who, although their names are not in the parts of the register or registers referred to in that sub-section, appear to him to be qualified to have their names entered in the new register; and
- (b) shall not include or cause to be included in a new register of electors prepared under sub-section (1A) of this Section for such electoral district any names other than the names referred to in sub-section (1) of this Section.

(1C) For the purposes of the general election referred to in sub-section (1A) of this Section, every person whose name appears in the parts of the register or registers notified in the *Government Gazette* under that sub-section shall—

- (a) be deemed to be a person who is qualified to be an elector and shall accordingly be eligible for election as a Member of Parliament and may, under sub-section (1) of Section 28 of this Order, be nominated as a candidate for election, and
- (b) be deemed to be a person whose name is in the register of electors for the altered or new electoral district to which the aforesaid parts of the register or registers relate and shall accordingly be qualified, under sub-section (2) of Section 28 of this Order, to be a proposer or seconder of the nomination of any candidate seeking election as a Member of Parliament for such electoral district.”.

4. Section 16 of the principal enactment, as amended by Act No. 48 of 1949, is hereby amended, in sub-section (7) of that section, as follows:—

Amendment of  
section 16 of  
the principal  
enactment.

- (a) in paragraph (a) of that sub-section by the substitution, for the words “may cause”, of the words “shall cause”, and by the substitution, for the word “specify”, of the words “specify, within seven days from the date of service of such notice,”;
- (b) by the insertion, immediately after paragraph (c) of that sub-section, of the following paragraph:—

“(cc) Where a person fails to comply with a notice under paragraph (a), the Commissioner shall determine which one of the registers in which such person is qualified to have his name entered or retained shall be the register in which such name shall be entered or retained, and such name shall be entered or retained in the register determined by the Commissioner and in no other register.”; and

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(c) in paragraph (d) of that sub-section by the substitution, for the expression "paragraph (a)," of the following:—

"paragraph (a), or the failure of the Commissioner to comply with the provisions of paragraph (cc) in respect of that person".

Amendment of  
section 18 of  
the principal  
enactment.

**5.** Section 18 of the principal enactment is hereby amended by the addition, at the end of that section, of the following sub-section:—

"(3) The registering officer shall—

(a) in respect of List A referred to in sub-section (1) of this Section, give to each person whose name appears in that List as a person who has become disqualified, notice of that fact and the reason for his disqualification, and

(b) in respect of List B referred to in sub-section (1) of this Section which is prepared for the purpose of revising a register of electors in every third year following the year in which that register was last prepared and certified under this Order, give to each person whose name appears in that List as a person who appears to the registering officer to be qualified to have his name entered in that register, notice of that fact and the place of his residence which is to be specified in that register.

A notice to any person under this sub-section may be sent to him by post or may be delivered to him or to an adult member of his household.".

Amendment of  
section 22A of  
the principal  
enactment.

**6.** Section 22A of the principal enactment, as amended by Act No. 16 of 1956, is hereby amended, in sub-section (2) of that section, by the substitution, for the words "and in the English language", of the following:—

"and, where the language of the majority is not the official language of Ceylon, in such official language".

7. The following section is hereby inserted immediately after section 22B, and shall have effect as section 22C, of the principal enactment:—

Insertion of  
section 22C in  
the principal  
enactment.

Issue of  
official  
identity  
cards.

22C. (1) The Commissioner—

(a) shall, after such date as may be appointed for the purpose of this Section by the Minister of Home Affairs by Order published in the *Government Gazette*, send or cause to be sent an official identity card to each elector whose name appears in any register of electors which is in operation on that date and who complies with the notice given under sub-section (5) of this section; and

(b) shall thereafter, whenever a register of electors comes into operation after its certification under this Order, send or cause to be sent an official identity card to each elector whose name appears in such register and to whom such a card has not been previously sent under this Section.

(2) A new official identity card may, upon application made in that behalf, be sent or caused to be sent by the Commissioner to any elector whose name appears in any register of electors which is in operation at the date of such application if his previous official identity card has been lost or damaged or otherwise rendered unusable.

(3) The official identity card for any elector—

(a) shall specify—

- (i) the date of the issue of such card,
- (ii) his name and address at that date, and
- (iii) the electoral district in respect of which he is registered as an elector at that date; and

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(b) shall bear—

- (i) a photograph of such elector provided by or under the authority of the Commissioner, and
- (ii) a facsimile of the signature of the Commissioner.

(4) The Commissioner shall cause one or more duplicates of every official identity card issued under this Section to be made, and such duplicate or duplicates shall, subject to the provisions of Section 36, be retained in the custody of the Commissioner or of any officer authorised in that behalf by the Commissioner.

(5) The Commissioner shall, by notice given in such manner as he may deem expedient, require the electors whose names appear in a register of electors for the time being in operation to attend at any of such places and at any of such times and on any of such dates as may be specified in the notice and to permit photographs of themselves to be taken by any of such persons as may be authorised by the Commissioner to take such photographs.”.

Insertion of  
section 28A in  
the principal  
enactment.

8. The following section is hereby inserted immediately after section 28, and shall have effect as section 28A, of the principal enactment:—

“ When a political party is to be treated as a recognised political party for the purpose of the provisions of Section 29, relating to the deposit to be made by candidates.

28A. (1) The secretary of any political party may, not later than seven days after the date of the Proclamation ordering the holding of a general election or the notice ordering the holding of any election in any electoral district to fill a vacancy in the seat of a Member, make on behalf of such party a written application to the Commissioner that, in respect of such election, such party be treated as a recognised political party for the purpose of the provisions of Section 29 relating to the deposit to be made by candidates.

(2) Upon the receipt of an application duly made under sub-section (1) of this Section on behalf of any political party, the Commissioner shall,—

- (a) if he is satisfied that such party has been in existence for at least five years prior to the date of the making of such application or that at least two members of such party are or have been Members of Parliament, make order that such party shall, in respect of the election to which such application relates, be treated as a recognised political party for the purpose of the provisions of Section 29 relating to the deposit to be made by candidates, and
- (b) if he is not so satisfied, make order disallowing such application.

(3) The Commissioner shall communicate in writing his order on an application made under sub-section (1) of this Section on behalf of a political party—

- (a) to the secretary of such party ; and
- (b) if the application is made in respect of a general election, to the returning officer for each electoral district; or
- (c) if the application is made in respect of an election in any electoral district to fill a vacancy in the seat of a Member, to the returning officer for that district.

(4) The order of the Commissioner on an application made under sub-section (1) of this Section shall be final and conclusive and shall not be called in question in any court. ”

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Amendment of  
section 29 of  
the principal  
enactment.

9. Section 29 of the principal enactment is hereby amended by the repeal of sub-section (1) of that section and the substitution therefor of the following sub-section:—

“(1) A candidate at any election, or some person on his behalf, shall deposit or cause to be deposited with the returning officer or with some person authorised by the returning officer in that behalf, between the date of the publication of the Proclamation or notice referred to in Section 27 and one o'clock in the afternoon of the day of nomination,—

(a) where such candidate is a candidate of a political party which is ordered by the Commissioner under section 28A to be treated, in respect of such election, as a recognised political party, the sum of five hundred rupees in legal tender; and

(b) where such candidate is not a candidate of a political party which is so ordered by the Commissioner to be so treated, the sum of one thousand rupees in legal tender;

and, if he fails to do so, he shall be deemed to have withdrawn his candidature under Section 33. The returning officer shall forthwith pay the said sum to the Treasury or the nearest Kachcheri and such sum shall be dealt with in accordance with the provisions of this Order.”.

Insertion of  
section 35A in  
the principal  
enactment.

10. The following section is hereby inserted immediately after section 35, and shall have effect as section 35A, of the principal enactment:—

“Notice to  
elector  
regarding  
his regis-  
tration  
number,  
polling  
station,  
time of  
the poll,  
etc.

35A. (1) The returning officer for any electoral district in which an election is contested shall send to each elector whose name appears in the register for that electoral district a notice specifying—

(a) the name and number of the electoral district,

(b) the name, address, and registration number of the elector as stated in the register,

(c) the polling district,

(d) the polling station allotted to the elector, and

(e) the date and hours of the poll:

Provided that no such notice shall be sent to an elector who is entitled to be treated as a postal voter.

(2) A notice under sub-section (1) of this Section shall be so sent to an elector as to reach him at least seven days before the date of the poll. Where a post office fails to deliver such a notice to the person to whom it is addressed, it shall be retained in such post office until the date of the poll and shall be delivered to the addressee if he calls for it.”.

11. Section 36 of the principal enactment is hereby amended, in sub-section (1) of that section, by the substitution, for the words “ assigned to his polling station.”, of the words “ assigned to his polling station, a list of such of the names of electors in that copy as appear in the postal voters’ list, and a duplicate of the official identity card issued to each elector whose name appears in that copy.”.

Amendment of  
section 36 of  
the principal  
enactment.

12. Section 39 of the principal enactment, as amended by Act No. 16 of 1956, is hereby amended as follows:—

Amendment of  
section 39 of  
the principal  
enactment.

(a) in sub-section (1) of that section by the substitution, for all the words from “ allotted to him:” to the end of that sub-section, of the words “ allotted to him.”;

(b) by the repeal of sub-section (2) of that section; and

(c) in sub-section (5) of that section,—

(i) by the substitution, in paragraph (a) of that sub-section, for all the words from “ polling station ” to the end of that paragraph, of the words “ polling station.”;

(ii) by the omission of paragraph (b) of that sub-section; and

(iii) by the relettering of paragraph (c) of that sub-section as paragraph (b) of that sub-section.

13. The following new marginal note is hereby substituted for the marginal note to section 42 of the principal enactment:—

“ Voting in person.”.

Substitution  
of a new  
marginal note  
for the marginal  
note to section  
42 of the  
principal  
enactment.

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Insertion of  
section 42A in  
the principal  
enactment.

**14.** The following section is hereby inserted immediately after section 42, and shall have effect as section 42A, of the principal enactment:—

"Voting  
by post."

**42A.** (1) A person who is entitled under this Section to be treated as a postal voter for the purpose of any election in any electoral district may vote by post, and shall not vote in person, at such election.

(2) An application to be treated as a postal voter for the purpose of any election in any electoral district may be made—

(a) by a member of the Ceylon Army, Royal Ceylon Navy or Royal Ceylon Air Force, or an officer or servant in the public service, on the ground that he is unable or likely to be unable to vote in person at the polling station allotted to him by reason of the particular circumstances of his employment as such member, officer or servant, and

(b) by a candidate at a general election on the ground that he is unable or likely to be unable to vote in person at the polling station allotted to him by reason of his candidature in some other electoral district.

(3) An application to be treated as a postal voter for the purpose of any election in any electoral district shall be made to the registering officer for that district not later than seven days after the day of nomination at such election. Such application shall be substantially in the Form prescribed for the purpose by the regulations contained in the Fifth Schedule to this Order.

(4) No application to be treated as a postal voter for the purpose of any election in any electoral district shall be allowed by a registering officer unless he is satisfied that the application is in accordance with the preceding provisions of this Section.

(5) The decision of a registering officer on an application to be treated as a postal voter for the purpose of any election in any electoral district shall be communicated in writing to the applicant.

(6) The decision of the registering officer to allow or disallow an application to be treated as a postal voter for the purpose of any election in any electoral district shall be final and conclusive and shall not be called in question in any court.

(7) Where an application to be treated as a postal voter for the purpose of any election in any electoral district is allowed by a registering officer, the applicant shall be a person entitled to be treated as a postal voter for such purpose.

(8) The registering officer for any electoral district shall keep a record of the persons entitled to be treated as postal voters for the purpose of any election in that district and of the addresses furnished by them as the addresses to which their ballot papers are to be sent. Such record shall be kept in the manner prescribed by the regulations in that behalf contained in the Fifth Schedule to this Order.

(9) The returning officer of any electoral district where there is an election shall, as soon as practicable, send by post to each person who is entitled to be treated as a postal voter for the purpose of that election, to the address furnished by such person,—

(a) where only one candidate has to be returned at that election, one ballot paper, and where more than one candidate has to be returned at that election, as many ballot papers as there are candidates to be returned;

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- (b) a form of declaration of identity;
- (c) an envelope which shall be smaller than the envelope referred to in paragraph (d) of this subsection, and which shall be marked "Ballot Paper Envelope" and also with the number printed on the postal ballot paper or on each postal ballot paper issued to such person, and in which the postal ballot paper or postal ballot papers shall be enclosed when it or they are returned duly marked; and
- (d) an envelope for the return of the aforementioned documents.

(10) The form of the ballot paper and the form of the declaration of identity which are to be used by persons entitled to be treated as postal voters for the purpose of any election in any electoral district, and the procedure to be followed at the proceedings on their issue, shall be according to the regulations contained in the Fifth Schedule to this Order.

(11) A ballot paper issued to a person entitled to be treated as a postal voter for the purpose of any election in any electoral district is in this Order referred to as a "postal ballot paper".

(12) The registering officer of any electoral district where there is an election shall, as soon as practicable, prepare a list (in this Order referred to as the "postal voters' list") specifying the name, address and number on the register of electors of every person entitled to be treated as a postal voter for the purpose of that election. Such list shall be prepared in such manner as may be prescribed in that behalf by the regulations contained in the Fifth Schedule to this Order.".

**15.** The following new section is hereby inserted immediately after section 43, and shall have effect as section 43A, of the principal enactment:—

" Production  
of official  
identity  
cards.

Insertion of  
new section 43A  
in the principal  
enactment.

**43A.** Notwithstanding anything to the contrary in any other provision of this Order, no ballot paper shall, after the date appointed by the Minister of Home Affairs under section 22c, be delivered to any voter at any polling station unless—

- (a) the voter produces his official identity card, or
- (b) where the voter fails to produce his official identity card, the presiding officer at the polling station is satisfied, by reference to such duplicates of official identity cards as are with the presiding officer or otherwise, that the voter is one of the electors assigned to the polling station.”.

**16.** Section 47 of the principal enactment as amended by Act No. 16 of 1956, is hereby amended, in sub-section (4) of that section, by the substitution, for the words “ a statement ”, of the words “ the duplicates of official identity cards entrusted to such presiding officer and a statement ”.

Amendment of  
section 47 of  
the principal  
enactment.

**17.** Section 48 of the principal enactment is hereby amended as follows:—

(a) by the repeal of sub-section (4) of that section and the substitution therefor of the following new sub-section:—

“(4) Before the returning officer proceeds to count the votes, he or a person authorised by him shall, in the presence of such of the candidates and their counting agents as attend,—

- (a) open the postal voters' ballot box, if any, and dispose of the contents thereof in accordance with the regulations contained in the Fifth Schedule to this Order;

Amendment of  
section 48 of  
the principal  
enactment.

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- (b) open the other ballot boxes and take out the ballot papers therein;
- (c) count the postal ballot papers, if any, which, in accordance with the regulations contained in the Fifth Schedule to this Order, are placed in the receptacle for postal voters' ballot papers, and record the number counted; and
- (d) mix together the whole of the ballot papers taken out of the ballot boxes under the preceding sub-paragraph (b) or, if there are any postal ballot papers counted under the preceding sub-paragraph (c), mix together the ballot papers so taken out and the postal ballot papers so counted."; and
- (b) by the insertion, immediately after sub-section (4) of that section, of the following new sub-sections:—

"(4A) A postal ballot paper shall not be deemed to be duly returned, unless it is returned so as to reach the returning officer before the close of the poll and is accompanied by the declaration of identity duly signed and witnessed.

(4B) The returning officer, while counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of such papers.".

Amendment of  
section 52 of  
the principal  
enactment.

18. Section 52 of the principal enactment is hereby amended, in sub-section (1) of that section, by the substitution,—

- (a) in paragraph (b) of that sub-section, for the words "any ballot paper or", of the words "any official identity card or ballot paper or";

(b) in paragraphs (c) and (d) of that sub-section, for the words "any ballot paper", wherever those words occur in those paragraphs, of the words "any official identity card or ballot paper"; and

(c) in paragraph (i) of that sub-section,—

- (i) for the words "any ballot paper", of the words "any official identity card or ballot paper"; and
- (ii) for the words "a ballot paper", of the words "an official identity card or a ballot paper".

19. The following section is hereby inserted immediately after section 52A, and shall have effect as section 52B, of the principal enactment as amended by Act No. 26 of 1953:—

Insertion of  
section 52B in  
the principal  
enactment.

"Provisions  
relating to  
display of  
handbills,  
posters,  
etc.

52B. (1) No person shall, for the purpose of promoting the election of any candidate at any election, display any handbill, placard, poster, notice, sign, flag or banner—

- (a) on or across any public road, or
- (b) in or on any vehicle used for public transport, or
- (c) in or on any vehicle, other than that used for the conveyance of a candidate at such election or his election agent, on the day on which a poll is taken at such election, or
- (d) in or on any premises belonging to or in the possession of the Crown, or any Municipal Council, Urban Council, Town Council or Village Committee, except at a meeting held in such premises for such purpose.

(2) Every person who contravenes the provisions of sub-section (1) of this Section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to

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imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(3) Every person who attempts to commit an offence specified in this Section shall be liable to the punishment prescribed for that offence.

(4) Every offence under this Section shall be a cognizable offence within the meaning of the Criminal Procedure Code.

(5) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) of this Section and may seize and remove any handbill, placard, poster, notice, sign, flag or banner used in such contravention.”

Amendment of  
section 56 of  
the principal  
enactment.

20. Section 56 of the principal enactment is hereby amended as follows:—

(a) by the renumbering of that section as sub-section (1) of section 56; and

(b) by the insertion, immediately after renumbered sub-section (1) of that section, of the following new sub-section:—

“(2) Every person who, at any time during the period commencing on the day of nomination at any election and ending on the day following the date of the poll at such election,—

(a) utters at any religious assembly any words for the purpose of influencing the result of such election or inducing any elector to vote or refrain from voting for any candidate at such election, or

(b) for such purpose distributes or displays at any religious assembly any handbill, placard, poster, notice, sign, flag or banner, or

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(c) holds or causes to be held a public meeting at a place of worship for the purpose of promoting the election of any candidate at such election,

shall be guilty of the offence of undue influence.”.

**21.** Section 67 of the principal enactment is hereby amended as follows:—

(a) by the substitution, for sub-section (3) of that section, of the following new sub-section:—

“(3) A person shall not let, lend, employ, hire, borrow or use any vehicle, vessel or animal for the purpose of conveying any voters to or from the poll, and a person knowingly acting in contravention of this sub-section shall be guilty of an illegal practice:

Provided that—

(a) the owner of any vehicle, vessel or animal may use it for the purpose of conveying himself or any member of his household to or from the poll, and

(b) any person may be conveyed to or from the poll in any such vehicle or vessel as is ordinarily used for public transport.”;

(b) by the repeal of sub-sections (4) and (5) of that section; and

(c) by the renumbering of sub-section (6) of that section as sub-section (4) of that section.

**22.** Section 78 of the principal enactment is hereby repealed and the following new section is substituted therefor:—

“Appointment of panel of election judges.

78. (1) The Governor-General shall, with the advice of the Judicial Service Commission, appoint a panel of not less than five election judges.

(2) Every person appointed under sub-section (1) of this Section shall, unless he earlier resigns his office, hold office for

Amendment of section 67 of the principal enactment.

Replacement of section 78 of the principal enactment.

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such period as the Governor-General may determine at the time of the appointment. Any person vacating office by effluxion of time shall be eligible for re-appointment.”.

Insertion of  
sections 78A,  
78B and 78C in  
the principal  
enactment.

**23.** The following sections are hereby inserted immediately after section 78, and shall have effect as section 78A, section 78B and section 78c, of the principal enactment:—

“ Nomination  
and powers  
of the  
election  
judge, etc:

**78A.** (1) The Chief Justice shall nominate from the panel of election judges an election judge for the trial of an election petition.

(2) The election judge nominated under sub-section (1) of this Section is, in this Order, referred to as the election judge.

(3) For the purpose of summoning or compelling the attendance of witnesses at the trial of an election petition, the election judge shall have the same power, jurisdiction, and authority as are possessed and exercised by the judge of a District Court in the trial of a civil action, and witnesses shall be sworn in the same manner, as near as circumstances will admit, as in the trial of such an action; and shall be subject to the same penalties for the giving of false evidence.

(4) The election judge shall be attended on the trial of an election petition in the same manner as if he were a Judge of the Supreme Court sitting at assizes.

Interlocutory  
matters may be  
dealt with and  
decided by a  
Judge of the  
Supreme Court.

**78B.** Unless otherwise ordered by the Chief Justice, all interlocutory matters in connection with an election petition may be dealt with and decided by any Judge of the Supreme Court.

Place of trial  
of an election  
petition.

**78C.** The place of the trial of an election petition shall be in or as near as practicable to the electoral district to which that petition relates.”.

**24.** (1) Section 82A of the principal enactment, as amended by Act No. 19 of 1948, is hereby amended as follows:—

(a) by the repeal of sub-section (1) of that section and the substitution therefor of the following new sub-section:—

“(1) An appeal to the Supreme Court shall lie on any question of law, but not otherwise, against—

- (a) the determination of an election judge under Section 81, or
- (b) any other decision of an election judge which has the effect of finally disposing of an election petition.”; and

(b) in sub-section (2) of that section by the substitution, for the word “determination”, of the words “determination or decision”.

(2) The following marginal note is hereby substituted for the marginal note to section 82A of the principal enactment:—

“Appeal on question of law against determination under Section 81 and any other decision of election judge which finally disposes of election petition.”.

**25.** Section 82B of the principal enactment, as amended by Act No. 19 of 1948, is hereby amended as follows:—

(a) by the repeal of sub-section (1) of that section and the substitution therefor of the following new sub-section:—

“(1) The Supreme Court may, upon any appeal preferred under Section 82A, affirm, vary or reverse the determination or decision of the election judge to which the appeal relates.”;

(b) by the renumbering of sub-section (2) and sub-section (3) of that section as sub-section (4) and sub-section (5) respectively; and

(c) by the insertion, immediately after sub-section (1) of that section, of the following sub-sections:—

“(2) Where the Supreme Court reverses on appeal the determination of an election judge under Section 81, that Court shall

Amendment of  
section 82A of  
the principal  
enactment.

Amendment of  
section 82B of  
the principal  
enactment.

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decide whether the Member whose return or election was complained of in the election petition, or any other and what person, was duly returned or elected, or whether the election was void, and a certificate of such decision shall be issued by that Court.

(3) The Supreme Court may, in the case of any appeal under Section 82A, order that the election petition to which the appeal relates shall be tried anew in its entirety or in regard to any matter specified by that Court and give such directions in relation thereto as that Court may think fit.”.

Amendment of section 85 of the principal enactment.

**26.** Section 85 of the principal enactment is hereby amended, in sub-section (1) of that section, by the insertion, immediately after paragraph (e) of that sub-section, of the following new paragraph:—

“(ee) the vote of any person who, not being entitled to vote in person at the election by reason of sub-section (1) of Section 42A, voted in person at the election;”.

Amendment of section 88 of the principal enactment.

**27.** Section 88 of the principal enactment is hereby amended as follows:—

(a) by the repeal of sub-section (1) of that section and the substitution therefor of the following new sub-section:—

“(1) For the purposes of this Order, there shall be a Commissioner of Parliamentary Elections who shall be appointed by the Governor-General and who shall hold office during good behaviour.”; and

(b) by the addition, at the end of that section, of the following new sub-sections:—

“(3) The salary of the Commissioner of Parliamentary Elections shall be determined by Parliament, shall be charged on the Consolidated Fund of Ceylon and shall not be diminished during his term of office.

(4) The office of the Commissioner of Parliamentary Elections shall become vacant—

(a) by his death; or

- (b) by his attaining the age of fifty-five years or such higher age as the Governor-General may determine; or
- (c) by his resignation in writing addressed to the Governor-General; or
- (d) by his removal by the Governor-General on account of ill-health or physical or mental infirmity in the like circumstances and subject to the same conditions as a public officer in receipt of similar pensionable emoluments; or
- (e) by his removal by the Governor-General upon an address from the Senate and the House of Representatives praying for his removal.”.

28. The following section is hereby inserted immediately after section 92B, and shall have effect as section 92c, of the principal enactment:—

“ Candidate's right to send matter relating to election post free.

92c. A person who is nominated as a candidate at an election in any electoral district shall, at any time between the day of nomination and the day which is the seventh day before the day of the poll to be taken at such election, be entitled to send free of any charge for postage to each elector whose name appears in the register of electors for such electoral district one postal communication containing matter relating to such election only.”.

Insertion of section 92c in the principal enactment.

29. The Parliamentary Election Petition Rules, 1946, set out in the Third Schedule to the principal enactment are hereby amended in the manner specified in Part I of the Schedule to this Act.

Amendment of the Third Schedule to the principal enactment.

30. The Fifth Schedule set out in Part II of the Schedule to this Act is hereby inserted immediately after the Fourth Schedule to the principal enactment.

Insertion of Fifth Schedule in the principal enactment.

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SCHEDULE.

PART I.

*Amendments to the Parliamentary Election Petition Rules, 1946.*

1. Rule 15. Substitute, for rule 15, the following new rule:—

" Service of notice of petition and copy of petition on the respondent. 15. (1) Notice of the presentation of a petition, accompanied by a copy thereof shall, within ten days of the presentation of the petition,—

(a) be served by the petitioner on the respondent ; or

(b) be delivered at the office of the Registrar for service on the respondent, and the Registrar or the officer of his department to whom such notice and copy is delivered shall, if required, give a receipt in such form as may be approved by the Chief Justice.

(2) The service under paragraph (1) of notice of the presentation of a petition and a copy thereof by the petitioner on the respondent may be effected either by delivering such notice and copy to the agent appointed by the respondent under rule 10 or by posting them in a registered letter to the address given under rule 10 at such time that, in the ordinary course of post, the letter would be delivered within the time above mentioned, or by a notice published in the *Government Gazette* stating that such petition has been presented and that a copy of it may be obtained by the respondent on application at the office of the Registrar.

(3) Where notice of the presentation of a petition, accompanied by a copy thereof, is delivered under paragraph (1) at the office of the Registrar for service on the respondent, such service may be effected in the same manner as the service of a notice issued by a Court is effected under the Civil Procedure Code. ”.

2. Rule 18. For the words “ shall be fixed ”, substitute the words and figures “ shall, subject to the provisions of Section 78c of the Order, be fixed ”.

PART II.

*The Fifth Schedule to be inserted in the principal enactment.*

*Fifth Schedule.*

*Postal Voters Regulations, 1959.*

Short title.

1. These regulations may be cited as the Postal Voters Regulations, 1959.

Interpretation.

2. For the purposes of these regulations, unless the context otherwise requires,—

“ agent ” includes an election agent and a person appointed to attend in the election agent’s place ;

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- "issue" includes the original and any subsequent issue;
- "postal ballot paper" means a ballot paper issued to a postal voter;
- "postal voter", with reference to any election, means a person entitled to be treated as a postal voter for the purpose of that election;
- "Schedule" means the Schedule to these regulations;
- "the Order" means the Ceylon (Parliamentary Elections) Order in Council, 1946.
3. An application to be treated as a postal voter shall be substantially in the Form A in the Schedule.

Form of application to be treated as a postal voter.

Record and list of postal voters.

4. (1) Subject to the provisions of this regulation, the record and list of postal voters kept by the registering officer under the Order shall be in such form as appears to him to be convenient.

(2) The address to which the ballot paper or ballot papers of a postal voter is or are to be sent shall be specified opposite his name in the postal voters' list.

(3) The names in the postal voters' list shall be numbered consecutively, beginning with the number one.

(4) As soon as the postal voters' list has been prepared, the registering officer shall publish it by making a copy thereof available for inspection at his office.

Form of postal ballot paper.

5. A postal ballot paper shall be in the same form as, and indistinguishable from, the ballot papers delivered to voters who are not postal voters.

Form of declaration of identity.

6. The form of declaration of identity sent to a postal voter with his postal ballot paper or postal ballot papers shall be substantially in the Form B in the Schedule.

Appointment of clerks.

7. There may be appointed persons to assist the returning officer as clerks at the proceedings on the issue of postal ballot papers:

Provided that no person shall be so appointed who has been employed by or on behalf of a candidate in or about the election.

Persons entitled to be present at issue and receipt of postal ballot papers.

8. (1) No person other than—  
(a) the returning officer and his clerks,  
(b) a candidate,  
(c) an election agent or any person appointed by a candidate to attend in his election agent's place, and  
(d) any agents appointed under paragraph (2) of this regulation, may be present at the proceedings on the issue of postal ballot papers.

(2) Where postal ballot papers are to be issued simultaneously in two or more batches, each candidate may appoint one or more agents up to the number he may be authorised by the returning officer to appoint not exceeding the number of such batches, so, however, that the number authorised shall be the same in the case of each candidate.

(3) Notice of the appointment stating the names and addresses of the persons appointed under paragraph (2) of this regulation shall be given by the candidate to the returning officer before the time fixed for the issue of the postal ballot papers.

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(4) If an agent dies or becomes incapable of acting, the candidate may appoint another agent in his place and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(5) Agents may be appointed and notices of their appointment may be given to the returning officer by the candidate's election agent instead of by the candidate.

(6) In these regulations, references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of agents appointed under paragraph (2) of this regulation, who are within the number authorised by the returning officer.

(7) A candidate may himself do any act or thing which any agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.

(8) Where in these regulations any act or thing is required or authorised to be done in the presence of the candidates or their agents the non-attendance of any such person or persons at the time and place appointed for the purpose shall not, if the act or thing is otherwise validly done, invalidate the act or thing done..

**Declaration  
of secrecy.**

9. (1) Every person attending the proceedings on the issue of postal ballot papers shall make a declaration of secrecy substantially in the Form C in the Schedule before the issue of such ballot papers.

(2) A declaration under paragraph (1) of this regulation shall be made by the returning officer in the presence of a Justice of the Peace and when made by any other person shall be made in the presence of the returning officer or a Justice of the Peace.

**Notice of  
issue of  
postal ballot  
papers.**

10. (1) The returning officer shall, not later than ten days after the day of nomination at an election, notify each candidate of the time and place at which he will issue the postal ballot papers and of the number of agents he may appoint under paragraph (2) of regulation 8 to attend the said issue.

(2) Where any subsequent issue of ballot papers is made, the returning officer shall notify each candidate as soon as practicable of the time and place at which he will make such subsequent issue and of the number of agents he may appoint under paragraph (2) of regulation 8 to attend the issue.

**Official mark  
to be made  
on postal  
ballot papers.**

11. (1) The postal ballot paper or postal ballot papers issued to each postal voter shall be stamped on the back, or perforated, with the official mark; and the number and name of such voter shall be called out, and the number of such voter shall be marked on the counterfoil of each such ballot paper, and a mark shall be placed in the postal voters' list against the number of such voter to denote that he has been issued such ballot paper or ballot papers but without showing the particular ballot paper or ballot papers issued to him.

(2) The number of the postal voter to be marked on the counterfoil of the postal ballot paper or the counterfoils of the postal ballot papers issued to him shall be the number of such voter in the postal voters' list.

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(3) The number printed on the postal ballot paper issued to a postal voter or, if more than one postal ballot paper is issued to such voter, the number printed on each such ballot paper, shall be marked on the form of declaration of identity sent to such voter. The number or each number so marked is herein-after referred to as the "marked number on the declaration of identity".

12. Where a returning officer is satisfied that two entries in the postal voters' list relate to the same postal voter, he shall not issue, in respect of the same voter, more postal ballot papers than one voter is entitled to.

Refusal to issue postal ballot paper.

13. (1) The number or each number marked on the Ballot Paper Envelope is referred to in these regulations as the "marked number on the Ballot Paper Envelope".

Interpretation of the expression "marked number on the Ballot Paper Envelope" and the expression "covering envelope".

(2) The envelope for the return of the postal ballot paper or postal ballot papers duly marked and enclosed in the Ballot Paper Envelope and of the form of declaration of identity duly filled up is referred to in these regulations as the "covering envelope".

14. All envelopes addressed to postal voters shall be counted and forthwith delivered by the returning officer to the nearest post office, and the postmaster shall stamp with the post office date stamp a form of receipt to be presented by the returning officer stating the number of envelopes so delivered, and shall immediately forward such envelopes for delivery to the persons to whom they are addressed.

Delivery to post office of envelopes addressed to postal voters.

15. (1) The returning officer shall, at the proceedings on the original issue of the postal ballot papers to postal voters, provide a ballot box or ballot boxes for the reception of the covering envelopes that may be received from postal voters. Every such ballot box shall be treated as a ballot box for the purposes of Section 48 of the Order.

Provision of postal voters' ballot box.

(2) Every ballot box referred to in paragraph (1) of this regulation shall be shown open and empty to such agents of the candidates as are present, and shall be sealed with the seal of the returning officer and the seals of such of the agents as desire to affix their seals, and shall be marked "postal voters' ballot box" and with the number and name of the electoral district for which the election is held, and the returning officer shall make provision for the safe custody of such ballot box.

16. (1) The returning officer, as soon as practicable after the completion of the issue of the postal ballot papers, and in the presence of the agents of the candidates, shall make up in separate packets—

Sealing up of postal voters' list and counterfoils.

(a) the marked copies of the postal voters' list, and  
(b) the counterfoils of the postal ballot papers which were issued,  
and shall seal such packets.

(2) The sealed packet containing the marked copies of the postal voters' list may be opened by the returning officer for the purpose of a subsequent issue of postal ballot papers, and, on completion of the issue, the copies shall be again made up and sealed in accordance with paragraph (1) of this regulation.

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Receipt of  
covering  
envelopes from  
postal voters.

Opening of  
postal voters'  
ballot box.

Opening of  
the covering  
envelopes.

17. The returning officer shall, immediately on receipt of a covering envelope before the close of the poll, place it unopened in the postal voters' ballot box.

18. Every postal voters' ballot box shall be opened by the returning officer, in the presence of the agents of the candidates, at the time fixed for the counting of the votes under Section 48 of the Order.

19. (1) Where a postal voters' ballot box is opened, the returning officer shall count and note the number of covering envelopes, and shall then open each covering envelope separately.

(2) Where the returning officer opens a covering envelope and—

(a) finds therein—

(i) a declaration of identity and a Ballot Paper Envelope, or

(ii) a declaration of identity, and a ballot paper or ballot papers not enclosed in a Ballot Paper Envelope, or

(iii) only a declaration of identity, or

(iv) only a ballot paper or ballot papers not enclosed in a Ballot Paper Envelope, or

(v) only a Ballot Paper Envelope, or

(b) finds nothing therein,

the succeeding provisions of this regulation shall apply.

(3) In the cases referred to in sub-paragraph (a) (i) and sub-paragraph (a) (ii) of paragraph (2) of this regulation, the returning officer shall satisfy himself that the declaration of identity has been duly signed and witnessed and that the marked number on the declaration of identity or each marked number on the declaration of identity corresponds, in the case referred to in the aforesaid sub-paragraph (a) (i), to a similar marked number on the Ballot Paper Envelope and, in the case referred to in the aforesaid sub-paragraph (a) (ii), to a similar marked number on the ballot paper or on a ballot paper. If he is so satisfied, he shall place such declaration in a separate receptacle (hereinafter referred to as the "receptacle for declarations of identity") and, in the case referred to in the aforesaid sub-paragraph (a) (i), the Ballot Paper Envelope, and, in the case referred to in the aforesaid sub-paragraph (a) (ii), the ballot paper or ballot papers, in another receptacle (hereinafter referred to as the "receptacle for postal voters' ballot papers").

(4) Where in the cases referred to in sub-paragraph (a) (i) and sub-paragraph (a) (ii) of paragraph (2) of this regulation, the returning officer is not so satisfied as is required by paragraph (3) of this regulation, he shall—

(a) mark on the declaration of identity the words "declaration of identity rejected";

(b) show such declaration to such agents of the candidates as are present and, if any objection is made by any agent to the decision of the returning officer regarding such declaration, add to the words marked on such declaration under the preceding sub-paragraph (a) the words "rejection objected to":

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- (c) attach to such declaration, in the case referred to in the aforesaid sub-paragraph (a) (i), the Ballot Paper Envelope or, in the case referred to in the aforesaid sub-paragraph (a) (ii), the ballot paper or ballot papers ; and
  - (d) place such declaration and the documents which under the preceding sub-paragraph (c) are attached to such declaration in a receptacle (hereinafter referred to as the " receptacle for rejected votes of postal voters ").
- (5) In the case referred to in sub-paragraph (a) (iii) of paragraph (2) of this regulation, the returning officer shall mark on the declaration of identity the words " declaration of identity rejected, no ballot paper and no Ballot Paper Envelope received ", and shall place such declaration in the receptacle for rejected votes of postal voters.
- (6) In the case referred to in sub-paragraph (a) (iv) of paragraph (2) of this regulation, the returning officer shall mark on the ballot paper or on each ballot paper the words " rejected, no declaration of identity received ", and shall place the ballot paper or ballot papers in the receptacle for rejected votes of postal voters.
- (7) In the case referred to in sub-paragraph (a) (v) of paragraph (2) of this regulation, the returning officer shall open the Ballot Paper Envelope in order to ascertain whether a declaration of identity is enclosed therein.
- (8) If, on opening the Ballot Paper Envelope under paragraph (7) of this regulation, a declaration of identity and a ballot paper or ballot papers are found in such envelope, the returning officer shall satisfy himself that such declaration has been duly signed and witnessed and that the marked number on the declaration of identity or each marked number on the declaration of identity corresponds to a similar marked number on such ballot paper or on any such ballot paper, and,—
- (a) if so satisfied, shall place such declaration in the receptacle for declarations of identity and place such ballot paper or ballot papers in the receptacle for postal voters' ballot papers, and
  - (b) if not so satisfied, shall—
    - (i) mark on such declaration the words " declaration of identity rejected " ;
    - (ii) show such declaration to such agents of the candidates as are present and, if any objection is made by any agent to the decision of the returning officer regarding such declaration, add to the words marked on such declaration under the preceding sub-paragraph (i) the words " rejection objected to " ;
    - (iii) attach to such declaration the Ballot Paper Envelope and such ballot paper or ballot papers ; and
    - (iv) place such declaration and the documents which under the preceding sub-paragraph (iii) are attached to such declaration in the receptacle for rejected votes of postal voters.

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(9) If, on opening the Ballot Paper Envelope under paragraph (7) of this regulation, the returning officer finds—

- (a) only a declaration of identity, or
- (b) only a ballot paper or ballot papers, or
- (c) nothing,

he shall—

- (i) in the case referred to in the preceding subparagraph (a), mark on such declaration the words "declaration of identity rejected, no ballot paper received";
- (ii) in the case referred to in the preceding subparagraph (b), mark on such ballot paper or on each such ballot paper the words "rejected, no declaration of identity received";
- (iii) in the case referred to in the preceding subparagraph (c), mark on the Ballot Paper Envelope the words "rejected, no contents received"; and
- (iv) if a declaration of identity or a ballot paper or ballot papers is or are found in the Ballot Paper Envelope, attach such declaration or ballot paper or ballot papers to such envelope; and

place the Ballot Paper Envelope and the document or documents, if any, attached to such envelope under the preceding sub-paragraph (iv) in the receptacle for rejected votes of postal voters.

(10) In the case referred to in sub-paragraph (b) of paragraph (2), the returning officer shall mark on the covering envelope the words "rejected ; no contents received", and shall place such envelope in the receptacle for rejected votes of postal voters.

(11) A declaration of identity shall not be deemed to be duly signed and witnessed unless it is signed and witnessed in accordance with the instructions contained on the back of the form of declaration of identity.

Opening of  
Ballot Paper  
Envelopes.

20. (1) On the conclusion of the proceedings under regulation 19, the returning officer shall open separately each Ballot Paper Envelope placed in the receptacle for postal voters' ballot papers.

(2) Where a Ballot Paper Envelope does not contain any ballot paper, the returning officer shall mark on that envelope the words "no ballot paper enclosed", and shall place it in the receptacle for rejected votes of postal voters.

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(3) Where a Ballot Paper Envelope contains a ballot paper or ballot papers, the returning officer shall—

- (a) if the marked number on such envelope or each marked number on such envelope corresponds to a similar marked number on such ballot paper or on any such ballot papers, place such ballot paper or ballot papers in the receptacle for postal voters' ballot papers;
- (b) if such envelope contains one ballot paper and the marked number on such ballot paper does not correspond to the marked number on such envelope or to any marked number on such envelope, mark on such envelope the word "rejected", attach such ballot paper to such envelope, and place them in the receptacle for rejected votes of postal voters ; and
- (c) if such envelope contains two or more ballot papers and the marked number on any such ballot paper does not correspond to any marked number on such envelope, mark on such envelope the word "rejected", attach such ballot papers to such envelope, and place them in the receptacle for rejected votes of postal voters.

21. On the conclusion of the proceedings under regulation 20, the returning officer shall put the contents of the receptacle for rejected votes of postal voters and the contents of the receptacle for the declarations of identity into two separate packets and shall seal up such packets.

Sealing up  
of rejected  
votes and  
declarations  
of identity.

22. (1) Every person attending the proceedings in connection with the issue of postal ballot papers shall maintain and aid in maintaining the secrecy of the voting and shall not—

Requirement  
of secrecy.

- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark made on postal ballot papers; or
- (b) except for some purpose authorised by law, communicate to any person at any time information obtained at those proceedings as to the number on the back of a postal ballot paper.

(2) Every person who acts in contravention of the provisions of paragraph (1) of this regulation shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months.

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Schedule to these regulations.

FORM A.

Regulation 3.

Application to be treated as postal voter.

Ceylon (Parliamentary Elections) Order in Council, 1946.

I, .....

(give name, Christian, or ge or other names in full;  
surname or ge name first)

of ..... am registered in the register of  
(give present address in full)

electors now in force for electoral district .....  
(give number and name

..... under .....  
of electoral district) (name, number, address  
and polling district of  
....., and I apply to be treated  
applicant in the register of electors)

as a postal voter for the purpose of the coming parliamentary  
election in that electoral district because I am unable\*/likely to  
be unable to vote in person at the polling station allotted to me—

\*(1) by reason of the particular circumstances of my employ-  
ment—

\*(a) as a member of the Ceylon Army\*/Royal Ceylon  
Navy\*/Royal Ceylon Air Force;

\*(b) as an officer or servant in the public service;

\*(2) by reason of my candidature in electoral district .....  
(give number and name of electoral district)

..... Signature of applicant.

Date: .....

Address to which his ballot  
paper\*/or papers is\*/or are  
to be sent:— .....

(If different from the address given above)

\* Delete inapplicable words.

FORM B.

*Regulation 6.*

*Form of Declaration of Identity.*

Ceylon (Parliamentary Elections) Order in Council, 1946.

FRONT OF FORM.

Ballot paper\*/Ballot papers: .....

(Insert the number of the ballot paper or, if more than one ballot paper is issued, the number of each such ballot paper)

I hereby declare that I am the person to whom the ballot paper\*/papers numbered as above and the envelope containing such ballot paper\*/papers (both of which I now produce) were sent.

.....  
Voter's signature.

Date: .....

The above named person, who is personally known to me, has shown me the ballot paper\*/papers and the envelope referred to above, and his official identity card, and has signed the above declaration in my presence.

.....  
Signature of witness.

Date: .....

If witness is serving in the Ceylon Army, Royal Ceylon Navy or Royal Ceylon Air Force, state rank.

- If witness is an officer in the public service, state official designation and address.

If witness is a Justice of the Peace, state so.

[See instructions on back of this Form]

\* Delete if inapplicable.

BACK OF FORM.

*Instructions to voter.*

1. Before signing the declaration of identity, the voter shall show the person before whom he is to sign such declaration—

- (a) the ballot paper\*/papers bearing the same number\*/numbers as is\*/are specified in such declaration,
- (b) the envelope in which the voter has received the form of declaration of identity and the ballot paper\*/papers, and
- (c) his official identity card.

2. The voter shall sign the declaration of identity in the presence of a witness who shall—

- (a) if the voter is a member of the Ceylon Army, Royal Ceylon Navy, or Royal Ceylon Air Force, be an officer of such Army, Navy, or Air Force;
- (b) if the voter is an officer or servant in the public service, be a superior officer of such service; and
- (c) if the voter is a candidate at a general election, be a Justice of the Peace.

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\*3. The voter has only one vote.

\*4. The voter has ..... votes, and he may give each of his votes to a different candidate or all or any of his votes to the same candidate. The voter shall give each vote on a separate ballot paper.

5. The voter shall vote by marking a ballot paper with a cross in the space provided for the purpose on the right hand side of such paper opposite the name of the candidate for whom he votes, thus X.

6. The voter shall not allow any person to see how he has voted.

7. Immediately after voting, the voter shall place the marked ballot paper\*/papers in the enclosed small envelope on which are printed the words "Ballot Paper Envelope" and fasten it up. The voter shall then place the Ballot Paper Envelope, together with the declaration of identity, in the other larger enclosed envelope addressed to the returning officer and despatch them by post without delay. Unless the voter returns the ballot paper\*/papers at once it may be too late to be counted.

\* Delete if inapplicable.

**FORM C.**

**Regulation 9 (1).**

*Form of declaration of secrecy.*

I solemnly promise and declare that I will not at these proceedings do anything forbidden by paragraph (1) of regulation 22 of the regulations contained in the Fifth Schedule to the Ceylon (Parliamentary Elections) Order in Council, which has been read to me.

.....  
Signature of declarant.

.....  
Signature of person before whom the declaration is made.

Date: .....

Note: The paragraph referred to must be read to the declarant by the person before whom the declaration is made. ' .