



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**ELECTIONS (SPECIAL PROVISIONS)
ACT, No. 35 OF 1988**

[Certified on 21st October, 1988]

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Elections (Special Provisions) Act, No. 35 of 1988

[Certified on 21st October, 1988]

L.D.—O 58/88

AN ACT TO AMEND THE PARLIAMENTARY ELECTIONS ACT, No. 1 OF 1981, THE PRESIDENTIAL ELECTIONS ACT, No. 15 OF 1981 AND THE PROVINCIAL COUNCILS ELECTIONS ACT, No. 2 OF 1988.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Elections (Special Provisions) Act, No. 35 of 1988.

Short title.

PART I

AMENDMENTS TO THE PARLIAMENTARY ELECTIONS ACT, No. 1 OF 1981

2. Section 27 of the Parliamentary Elections Act, No. 1 of 1981 (hereinafter in this Part referred to as "the principal enactment") is hereby amended in the proviso to subsection (1) of that section, by the substitution, for the words "as a postal voter.", of the words "as a postal voter or to an elector in respect of whom an application made under section 127B has been allowed."

Amendment of section 27 of Act No. 1 of 1981.

3. Section 29 of the principal enactment is hereby amended in paragraph (c) of subsection (1) of that section by the substitution for the words "treated as a postal voter in", of the words "treated as a postal voter and against the name of every elector in respect of whom an application made under section 127B has been allowed in."

Amendment of section 29 of the principal enactment.

4. Section 32 of the principal enactment as amended by Act No. 15 of 1988 is hereby further amended in paragraph (a) of subsection (2) thereof, by the substitution for the words "the name of each such party or group," of the words "the distinguishing number of such group and immediately below this,".

Amendment of section 32 of the principal enactment.

5. The following new section is hereby inserted immediately after section 48, and shall have effect as section 48A of the principal enactment:—

Insertion of new section 48A in the principal enactment.

"Disturbances at polling stations.

48A. (1) Where due to the occurrence of events of such a nature—

- (a) it is not possible to commence the poll at a polling station at the hour fixed for the commencement of the poll; or

(b) the poll at such polling station commences at the hour fixed for the opening of the poll but cannot be continued until the hour fixed for the closing of the poll; or

(c) any of the ballot boxes assigned to the polling station cannot be delivered to the counting officer,

the presiding officer of such polling station shall forthwith inform the returning officer who shall in turn inform the Commissioner.

(2) On receipt of an information under subsection (1) in relation to a polling station in an electoral district, the Commissioner may, after such inquiries as he may deem necessary to ascertain the truth of such information, by Order published in the *Gazette* declare the poll at such polling station void.

(3) Where the Commissioner makes an Order under subsection (2) in respect of a polling station in an electoral district, the provisions of Part IV shall, *mutatis mutandis*, apply to the counting of votes polled in the election for such electoral district and the declaration of the result of such election, subject to the modifications set out in this section.

(4) The counting officer in charge of the counting centre to which the polling station in respect of which the Order under subsection (2) has been made, is assigned shall, notwithstanding anything in section 52, commence the counting of votes after he has received all the ballot boxes from the polling stations assigned to his centre other than the ballot boxes from the polling station in respect of which the Order under subsection (2) has been made.

(5) The returning officer shall, from the statements under subsection (7) of section 53 furnished to him by all the counting officers, add up and ascertain the votes polled by each recognized political party and inde-

pendent group and the preferences secured by each candidate nominated by each such party or group at the election for such electoral district (other than votes polled at the polling station in respect of which an Order under subsection (2) has been made) and shall forthwith forward a statement to that effect to the Commissioner.

(6) Where the Commissioner is of the opinion, upon receipt of a statement under subsection (5) that the result of the election for such electoral district will not be affected by the failure to count the votes polled, or the votes which would have been polled, in the polling station in respect of which an Order under subsection (2) has been made, he shall direct the returning officer to make a declaration under subsection (2) of section 60 in accordance with such statement and the provisions of that subsection, and the returning officer shall make a declaration accordingly.

(7) (a) Where the Commissioner is of the opinion, on receipt of a statement under subsection (5) that the result of the election for such electoral district will be affected by the failure to count the votes polled, or the votes which would have been polled, at the polling station in respect of which an Order under subsection (2) has been made, he shall forthwith appoint a date for taking a fresh poll at such polling station.

(b) The Commissioner shall give notice of the new date of poll in at least one newspaper in each of the National languages and by notices conspicuously displayed in the polling district in which such polling station is situated.

(c) The provisions of section 28 to 47 (both inclusive) shall, *mutatis mutandis*, apply to, and in relation to, voting at a poll ordered under paragraph (a). The register of electors to be used at that poll shall be same as that used at the earlier poll.

(d) For the purposes of the application of the provisions of sections 73, 74 and subsection (2) of section 79 to a poll ordered under paragraph (a), the references in those sections to "the day following the date on which a poll is taken at such election shall be deemed to be a reference to the day following the date appointed for the taking of such poll.

(e) A person who votes more than once at an election by reason of his voting at a poll ordered under Paragraph (a) shall be deemed not to be guilty of any offence under this Act.

(8) Upon receipt of the documents referred to in section 55 in respect of the poll ordered under subsection (7) the returning officer shall add the votes polled by each recognized political party and independent group and the preferences secured by each candidate nominated by each such party or group and set out in statement forwarded to the Commissioner under subsection (5) to the votes polled by each such party or group and the preferences secured by each such candidate at the poll ordered under subsection (7), and shall make a declaration under subsection (2) of section 60, in accordance therewith.

(9) The Commissioner shall consult the Secretary of every recognized political party and the group leader of every independent group, contesting an election held under this Act, or an agent authorized for that purpose by such Secretary or group leader, before giving a direction under subsection (6) or appointing a date under subsection (7) of this section, or marking an Order under subsection 3 of section 24."

Amendment
of section
64 of the
principal
enactment.

6 Section 64 of the principal enactment as amended by Act No. 15 of 1988 is hereby further amended by the addition at the end of that section the following new subsection :—

"(5) Notwithstanding anything in the preceding provisions of this section, where the seat of a member of Parliament declared elected under Article 99A of the Constitution

becomes vacant, Secretary-General of Parliament shall inform the Commissioner who shall require the Secretary of the recognized political party or the group leader of the independent group to which the member who vacated the seat belonged, to nominate a member of such party or group to fill the vacancy.

Upon receipt of such nomination, the Commissioner shall declare such person elected as a member of Parliament and cause the name of the member so declared to be published in the *Gazette*."

7 Section 126 of the principal enactment as amended by Act No. 15 of 1988, is hereby further amended by the addition at the end of that section of the following new subsection :—

Amendment of section 126 of the principal enactment.

"(9) For the purpose of this section a person whose name appears in the list of persons submitted by a recognized political party or an independent group contesting a general election, to the Commissioner, under Article 99A of the Constitution, shall be deemed to be a candidate nominated by such recognized political party or independent group, as the case may be, to contest such election."

8. Section 127B of the principal enactment is hereby amended by the addition of the following subsection at the end of that section :—

Amendment of section 127B of the principal enactment.

"(4) The Commissioner shall cause to be published a list of the names of the registered electors whose applications have been accepted under this section by making copies thereof available for inspection at his office and at the relevant district offices."

9. The Second Schedule to the principal enactment is hereby amended by the insertion, immediately after paragraph 16 of that Schedule, of the following paragraph :—

Amendment of the Second Schedule to the principal enactment.

"Polling agents.

16A. The certifying officer shall notify to the secretary of each recognized political party or its authorized agent and to the group leader of each independent group, the date

on, and the place at, which he intends to hold the poll by officers and servants of the office, unit or establishment in relation to which he is the certifying officer, being officers and servants who are treated as postal voters under this Act.

(2) The secretary of a recognized political party or its authorized agent or any group leader notified under subsection (1) may appoint such number of polling agents not exceeding two to attend at the poll, having regard to the need to revoke the appointment of any polling agent during the poll. Notice in writing of every such appointment stating the names, the numbers of the National or other Identity Cards issued by a government department or public corporation and the addresses of the persons appointed shall be given by such secretary or authorized agent or group leader to the certifying officer before the opening of the poll or during the poll.

(3) Where such secretary, authorized agent or group leader after informing such certifying officer of the name of any polling agent appointed to attend at such poll, revokes the appointment of that polling agent and appoints another polling agent to attend at such poll, such secretary, authorized agent, or group leader, as the case may be, shall inform such officer in writing of the revocation of such appointment and of the name, the number of the National or other Identity Card issued by a government department or public corporation and address of the new polling agent to attend at such poll.

(4) No polling agent whose name has not been notified to the certifying officer as required by subsection (2) or subsection (3) shall be admitted to attend at a poll held at such office, unit or establishment.

PART II

AMENDMENTS TO THE PRESIDENTIAL ELECTIONS ACT, No. 15
OF 1981

10. Section 21 of the Presidential Elections Act, No. 15 of 1981 (hereinafter in this Part referred to as the "principal enactment") is hereby amended as follows :—

Amendment
of section
21 of
Act No. 15
of 1981.

(1) by the renumbering of that section as subsection (1) of that section ; and

(2) by the insertion, immediately after the renumbered subsection (1), of the following new subsections :—

" (2) Where due to any emergency or unforeseen circumstances the poll for the election in any electoral district cannot be taken on the day specified in the notice relating to the election published under subsection (1), the Commissioner may, by Order published in the Gazette, appoint another date for the taking of such poll and such date shall not be later than one month before the expiration of the term of office of the President in office.

(3) Where a new date for taking a poll in an electoral district has been appointed by an Order made under subsection (2), the counting of votes polled in the other electoral districts shall not be commenced until after the close of the polls in the electoral district in respect of which such Order has been made."

11. Section 24 of the principal enactment is hereby amended in the proviso to subsection (1) of that section by the substitution, for the words "treated as a postal voter", of the words "treated as a postal voter or to an elector in respect of whom an application made under section 119B has been allowed".

Amendment
of
section
24 of the
principal
enactment.

12. Section 26 of the principal enactment is hereby amended in paragraph (c) of subsection (1) of that section, by the substitution, for the words "treated as a postal voter in ", of the words "treated as a postal voter and against the name of every elector in respect of whom an application made under section 119 B has been allowed in".

Amendment
of section 26
of the
principal
enactment.

Insertion of
new section
46A in the
principal
enactment.

13. The following new section is hereby inserted immediately after section 46 of the principal enactment and shall have effect as section 46A of that enactment :—

"Disturbance.
at polling
stations.

46A. (1) Where due to the occurrence of events of such a nature—

(a) it is not possible to commence the poll at a polling station at the hour fixed for the commencement of the poll ; or

(b) the poll at such polling station commences at the hour fixed for the opening of the poll but cannot be continued until the hour fixed for the closing of the poll ; or

(c) any of the ballot boxes assigned to the polling station cannot be delivered to the returning officer,

the presiding officer of such polling station shall forthwith inform the returning officer who shall in turn inform the Commissioner.

(2) On receipt of an information under subsection (1) in relation to a polling station in an electoral district, the Commissioner may, after making such inquiries as he may deem necessary to ascertain the truth of such information by Order published in the Gazette, declare the poll at such polling station void.

(3) Where the Commissioner makes an Order under subsection (2) in respect of a polling station in an electoral district the provisions of Part IV shall, *mutatis mutandis*, apply to the counting of votes in such polling station and the declaration of the result of the election, subject to the modifications set out in this section.

(4) The counting officer in charge of the counting centre to which the polling station in respect of which the Order under subsection (2) has been made, is assigned shall, notwithstanding anything in section 50, commence the counting of votes after he has

received all the ballot boxes from the polling stations assigned to his centre, other than the ballot boxes from the polling station in respect of which the Order under subsection (2) has been made.

(5) Where the Commissioner is of the opinion, upon receipt of the statement under section 55 furnished to him by all the returning officers, that the result of the election will not be effected by the failure to count the votes polled, or the votes which would have been polled, in the polling station in respect of which an Order under subsection (2) has been made, he shall proceed to make a declaration under section 56 or section 61.

(6) (a) Where the Commissioner is of the opinion, upon receipt of the statements under section 55 furnished to him by all the returning officers, that the result at the election will be affected by the failure to count the votes polled, or the votes which would have been polled, at the polling station in respect of which an Order under subsection (2) has been made, he shall forthwith appoint a date for taking a fresh poll at such polling station, and the date so appointed shall be not later than one month before the expiration of the term of office of the President in office. The Commissioner shall give notice of the new date of poll in at least one newspaper in each of the National language and by notices conspicuously displayed in the polling district in which such polling station is situated.

(b) The provisions of section 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 38, 39, 41, 42, 43, 44 and 45 shall, *mutatis mutandis*, apply to, and in relation to, voting, at a poll ordered under paragraph (a). The register of electors to be used at that poll shall be same as that used at the earlier poll.

(c) For the purpose of the application of the provisions of sections 73, 74 and subsection (2) of section 78 to a poll ordered under paragraph (a), the references in those sections to "the day following the date on which a poll is taken at such election" shall be deemed to be a reference to the day following the date appointed for the taking of such poll.

(d) A person who votes more than once at an election by reason of his voting at a poll ordered under paragraph (a) shall be deemed not to be guilty of any offence under this Act.

(7) Where a new date for taking a poll at a polling station has been appointed under subsection (6), no declaration shall be made by the Commissioner under section 56 or section 61 or section 63 until after the counting of the votes polled at such poll has been completed and a statement, under section 55, indicating the number of votes cast in favour of each candidate at such poll has been transmitted to the Commissioner.

(8) The Commissioner shall consult every candidate contesting an election held under this Act, or an agent authorized for that purpose by such candidate, before making a declaration under subsection (5) or appointing a date, under subsection (6) of this section, or making an Order under subsection (2) of section 21."

Amendment
of section
119B of the
principal
enactment

14. Section 119B of the principal enactment is hereby amended by the addition, at the end of that section, of the following subsection:—

"(4) The Commissioner shall cause to be published, a list of the names of the registered electors whose applications have been accepted under this section, by making copies thereof available for inspection at his office and at the relevant district Offices."

15. The Second Schedule to the principal enactment is hereby amended by the insertion, immediately after paragraph 16 of that Schedule, of the following paragraph:—

Amendment
of Second
Schedule to
the
principal
enactment.

"Polling
agents.

16A. The certifying officer shall notify to the secretary of each recognized political party or its authorized agent and to the group leader of each independent group, the date on, and the place at, which he intends to hold the poll by officers and servants of the office, unit or establishment in relation to which he is the certifying officer, being officers and servants who are treated as postal voters under this Act.

(2) The secretary of a recognized political party or its authorized agent or any group leader notified under subsection (1) may appoint such number of polling agents not exceeding two to attend at the poll, having regard to the need to revoke the appointment of any polling agent during the poll. Notice in writing of every such appointment stating the names, numbers of the national or other identity cards issued by a government department or public corporation and addresses of the persons appointed, shall be given by such secretary or authorized agent or group leader to the certifying officer before the opening of the poll or during the poll.

(3) Where such secretary, authorized agent or group leader after informing such certifying officer of the name of any polling agent appointed to attend at such poll, revokes the appointment of that polling agent and appoints another polling agent to attend at such poll, such secretary, authorized agent, or group leader, as the case may be, shall inform such officer in writing of the revocation of such appointment and of the name, the number of the national or other identity card issued by a government department or public corporation and address of the new polling agent appointed to attend at such poll.

(4) No polling agent whose name has not been notified to the certifying officer as required by subsection (2) or subsection (3) shall be admitted to attend at a poll held at such office, unit or establishment.”.

PART III

AMENDMENTS TO THE PROVINCIAL COUNCILS ELECTIONS ACT, No. 2 of 1988

Insertion
of new
section 46A
in Act No. 2
of 1988.

16. The following new section is hereby inserted immediately after section 46 of the Provincial Councils Elections Act, No. 2 of 1988 (hereinafter in this Part referred to as the “principal enactment”) and shall have effect as section 46A of that enactment:—

“Disturbances at polling stations. 46A. (1) Where due to the occurrence of events of such a nature—

(a) it is not possible to commence the poll at a polling station at the hour fixed for the commencement of the poll ;
or

(b) the poll at such polling station commences at the hour fixed for the opening of the poll but cannot be continued until the hour fixed for the closing of the poll ; or

(c) any of the ballot boxes assigned to the polling station cannot be delivered to the counting officer,

the presiding officer of such polling station shall forthwith inform the returning officer who shall in turn inform the Commissioner.

(2) On receipt of an information under subsection (1) in relation to a polling station in an administrative district, the Commissioner may, after making such inquiries as he may deem necessary to ascertain the truth of such information, by Order published in the Gazette, declare the poll at such polling station void.

(3) Where the Commissioner makes an Order under subsection (2) in respect of a polling station in an administrative district, the provisions of Part IV shall, *mutatis mutandis*, apply to the counting of votes polled in the election for such administrative district and the declaration of the result of such election, subject to the modification set out in this section.

(4) The counting officer in charge of the counting centre to which the polling station in respect of which the Order under subsection (2) has been made, is assigned shall, notwithstanding anything in section 50, commence the counting of votes after he has received all the ballot boxes assigned to his centre, other than the ballot boxes from the polling station in respect of which the Order under subsection (2) has been made.

(5) The returning officer shall, from the statements under subsection (7) of section 51 furnished to him by all the counting officers, add up and ascertain the number of votes polled by each recognized political party and independent group and the number of preferences secured by each candidate nominated by each such party or group at the election for such administrative district other than the votes polled at the polling station in respect of which an Order under subsection (2) has been made and shall forthwith forward a statement to that effect to the Commissioner.

(6) Where the Commissioner is of the opinion, on receipt of a statement under subsection (5), that the result of the election for such administrative district will not be affected by the failure to count the votes polled,

or the votes that would have been polled, at the polling station in respect of which an Order under subsection (2) has been made, he shall direct the returning officer to make a declaration under section 58 in accordance with that statement and the provisions of that section, and the returning officer shall make a declaration accordingly.

(7) (a) Where the Commissioner is of the opinion, on receipt of a statement under subsection (5), that the result of the election for such administrative district will be affected by the failure to count the votes polled, or the votes which would have been polled, at the polling station in respect of which an Order under subsection (2) has been made, he shall forthwith appoint a fresh date for taking a poll at such polling station.

(b) The Commissioner shall give notice of the new date of poll in at least one newspaper in each of the National Languages and by notices conspicuously displayed in the polling district in which such polling station is situated.

(c) The provisions of sections 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44 and 45 shall, *mutatis mutandis*, apply to and in relation to, voting, at a poll ordered under paragraph (a). The register of electors to be used at that poll shall be same as that used at the earlier poll.

(d) For the purposes of the application of the provisions of section 73, 74 and subsection (2) of section 80 to a poll ordered under paragraph (a) the references in those sections to "the day following the date on which a poll is taken at such election" shall be deemed to be a reference to the day following the date appointed for the taking of such poll.

(e) A person who votes more than once at an election by reason of his voting at a poll ordered under paragraph (a) shall be deemed not to be guilty of any offence under this Act.

(8) Upon receipt of the documents referred to in section 53 in respect of the poll ordered under subsection (7), the returning officer shall add the votes polled by each recognized political party and independent group and the preferences secured by each candidate nominated by each such party or group and set out in the statement forwarded to the Commissioner under subsection (5) to the votes polled by each such party or group and the preferences secured by each such candidate at the poll ordered under subsection (7) and shall make a declaration under section 58 in accordance therewith.

(9) The Commissioner shall consult the Secretary of every recognized political party and the group leader of every independent group contesting an election held under this Act, or an agent authorized for this purpose by such Secretary or group leader, before giving a direction under subsection (6) or appointing a date under subsection (7) of this section, or making an Order under subsection (6) of section 22."

17. The Second Schedule to the principal enactment is hereby amended by the insertion immediately after paragraph 16. of the following paragraph:—

Amendment
of Second
Schedule
to the
principal
enactment.

"Polling
Agents.

16A. (1) The certifying officer shall notify to the Secretary of each recognized Political party or its authorized agent and to the group leader of each independent group, the date on, and the place at which he intends to hold the poll by officers and servants of the office, unit or establishment in relation to which he is the certifying officer, being officers and servants who are treated as postal voters under this Act.

(2) The Secretary of a recognized political party or its authorized agent or any group leader notified under subsection (1) may appoint such number of polling agents not exceeding two to attend at the poll, having regard to the need to revoke the appointment of any polling agent during the poll. Notice in writing of every such appointment stating the names, numbers of the national or other identity cards issued by a government department or public corporation and the addresses of the persons appointed shall be given by such secretary or authorized agent or group leader to the certifying officer before the opening of the poll or during the poll.

(3) Where such secretary, authorized agent or group leader after informing such certifying officer of the name of any polling agent appointed to attend at such poll, revokes the appointment of that polling agent and appoints another polling agent to attend at such poll, such secretary, authorized agent, or group leader, as the case may be, shall inform such officer in writing of the revocation of such appointment and of the name, the number of the national or other identity card issued by a government department or public corporation and address of the new polling agent appointed to attend at such poll.

(4) No polling agent whose name has not been notified to the certifying officer as required by subsection (2) or subsection (3) shall be admitted to attend at a poll held at such office, unit or establishment."