

# PARLIAMENT OF CEYLON

1st Session 1953



## Ceylon (Parliamentary Elections) (Amendment) Act, No. 26 of 1953

*Date of Assent : April 25, 1953*

*Printed on the Orders of Government*

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*Ceylon (Parliamentary Elections) (Amendment) 3*  
*Act, No. 26 of 1953.*

AN ACT TO AMEND THE PROVISIONS OF THE CEYLON  
(PARLIAMENTARY ELECTIONS) ORDER IN COUNCIL,  
1946, RELATING TO THE PRINTING AND DISTRIBUTION  
OF ELECTION PAMPHLETS.

[Date of Assent: April 25, 1953.]

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. 26 of 1953.

Short title.

2. The following new section is hereby inserted immediately after section 52 of the Ceylon (Parliamentary Elections) Order in Council, 1946, (hereinafter referred to as the "principal Order"), and shall have effect as section 52A of that Order:—

Insertion of  
new section  
52A in the  
Ceylon  
(Parliamentary  
Elections) Order  
in Council,  
1946.

" Printing,  
etc. of  
election  
publications  
by persons  
other than  
candidates  
and election  
agents.

52A. Every person who, not being a candidate or an election agent, prints, publishes, distributes or posts up, or causes to be printed, published, distributed or posted up, any advertisement, handbill, placard or poster which refers to any election and which does not bear upon its face the names and addresses of its printer and publisher, shall be guilty of an offence and shall on conviction by a District Court be liable to a fine not exceeding five hundred rupees:

Provided, however, that a person shall not be guilty of an offence under the preceding provisions of this section, in relation to any advertisement, handbill, placard or poster, if he satisfies the District Court that the omission of the aforesaid names and addresses, or any such name or address, as the case may be, arose from inadvertence or from some other reasonable cause of a like nature and did not arise from any want of good faith."

4 *Ceylon (Parliamentary Elections) (Amendment)*  
*Act, No. 26 of 1953.*

Amendment of  
section 58  
of the  
principal  
Order.

3. Section 58 of the principal Order is hereby amended in sub-section (1) thereof as follows:—

(1) in paragraph (c) of that sub-section by the substitution, for the word “ prints ”, of the words “ being a candidate or an election agent, prints ”; and

(2) by the addition, at the end of that sub-section, of the following Proviso:—

“ Provided, however, that a candidate or an election agent shall not be guilty of a corrupt practice referred to in the preceding paragraph (c), in relation to any advertisement, handbill, placard or poster, if he satisfies the District Court that the omission of the names and addresses referred to in that paragraph, or any such name or address, as the case may be, arose from inadvertence or from some other reasonable cause of a like nature and did not arise from any want of good faith.”.

Insertion of  
new section  
73A in the  
principal  
Order.

4. The following new section is hereby inserted immediately after section 73 of the principal Order and shall have effect as section 73A of that Order:—

“ Defence  
in charge  
of corrupt  
practice  
relating to  
election  
publications.

73A. Upon the trial of an election petition respecting an election under this Order, a candidate or an election agent shall not be found by the election judge to have committed a corrupt practice referred to in section 58 (1) (c), in relation to any advertisement, handbill, placard or poster, if the candidate or election agent satisfies the judge that the omission of the names and addresses referred to in section 58 (1) (c), or any such name or address, as the case may be, arose from inadvertence or from some other reasonable cause of a like nature, and did not arise from any want of good faith.”

*Ceylon (Parliamentary Elections) (Amendment) 5  
Act, No. 26 of 1953.*

5. The amendments made in the principal Order by this Act shall be deemed to have come into force on the first day of January, 1952, and accordingly, but subject to the provisions of sub-section (6) of section 6 of this Act, the principal Order shall—

Retrospective  
effect of  
amendments.

- (a) for all purposes be deemed on and after that day to have had effect, and have effect, and
- (b) be applicable in the case of any legal proceedings pending on the date of the commencement of this Act,

in like manner as though that Order had on that day been amended in the manner provided by this Act.

6. (1) In any case where, before the date of the commencement of this Act, an election judge has after trial of an election petition—

Provision  
for reversal  
of past  
determination,  
and savings.

- (a) made a determination that the election of any candidate at the General Election held under the principal Order in the year 1952 was void; and
- (b) made a report that, in respect of any advertisement, handbill, placard or poster, from which the names and addresses referred to in section 58 (1) (c), of the principal Order, or any such name or address, as the case may be, had been omitted, a corrupt practice referred to in section 58 (1) (c) of the principal Order was committed by or with the knowledge and consent of that candidate or by his agent,

the candidate may within one month from the date of the commencement of this Act appeal to the Supreme Court against that determination.

(2) In any appeal preferred under sub-section (1), the Supreme Court shall permit any party to the appeal to adduce any evidence which would have been admissible at the trial of the election petition if section 73A of the principal Order (as amended by this Act) had actually been inserted in that Order on January 1, 1952.

(3) Where on any appeal under sub-section (1) by a candidate the Supreme Court is satisfied that, if the principal Order had actually been amended on January 1, 1952, in the manner provided by this Act and if any such evidence as may be adduced under

6 *Ceylon (Parliamentary Elections) (Amendment)*  
*Act, No. 26 of 1953.*

sub-section (2) of this section had been adduced at the trial of the election petition, the election judge would neither have made a report that a corrupt practice referred to in section 58 (1) (c) of that Order (as amended by this Act) had been committed in connection with the election of that candidate nor have made a determination that the election of that candidate was void, the Supreme Court shall reverse the determination of the election judge.

(4) The provisions of the principal Order relating to appeals against the determination of an election judge shall be applicable in the event of and in relation to any appeal preferred in pursuance of this section in like manner as though the appeal were preferred under section 82A of that Order:

Provided, however, that for the purpose of the application of section 82c (1) of that Order, the period of one month from the date of the commencement of this Act shall be substituted for the period referred to in that section.

(5) An appeal in pursuance of this section against the determination of an election judge may be preferred together with an appeal under section 82A of the principal Order against that determination; and notwithstanding that an appeal in pursuance of this section is separately preferred, it may be heard and disposed of together with an appeal under the said section 82A.

(6) Every determination or report under the principal Order, which was made before the date of the commencement of this Act by an election judge after trial of an election petition, shall, unless such determination is reversed or such report is rendered inoperative by the decision on any appeal under this section or under section 82A of that Order, have for all purposes the same force and effect as it would have had if this Act had not been enacted.