



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

REFERENDUM
ACT, No. 7 OF 1981

[Certified on 27th February, 1981]

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L.D—O. 57/80

AN ACT TO PROVIDE FOR THE CONDUCT OF A REFERENDUM IN TERMS OF CHAPTER XIII OF THE CONSTITUTION, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

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

1. This Act may be cited as the Referendum Act, No. 7 of 1981, and shall come into operation on such date as may be appointed by the President by Order published in the Gazette.

Short
title and
date of
operation.

PART I

PRELIMINARY

2. (1) A Referendum in terms of Chapter XIII of the Constitution shall be conducted by the Commissioner of Elections (hereinafter referred to as the "Commissioner"), where the President has, by Proclamation published in the Gazette, directed such Commissioner to conduct a Referendum.

President to
direct the
conduct of a
Referendum.

(2) A Proclamation issued under subsection (1) shall—

(a) specify the proposal to be put to the People at the Referendum in the form of a question which shall be answered by a "Yes" or a "No"; and

(b) appoint a day for the taking of the poll at such Referendum. Such day shall be—

(i) a day not earlier than thirty days from the date of publication of the Proclamation;

(ii) a day other than a Full Moon Poya day or any public holiday specified in the First Schedule to the Holidays Act, No. 29 of 1971; and if, after the publication of the Proclamation, the day specified in such Proclamation is declared to be a public holiday, such declaration shall in no way affect the validity of anything done on such day for the purpose of holding the Referendum.

3. (1) Each electoral district for the time being in force shall be deemed to be an electoral district for the purposes of this Act.

Electoral
districts,
polling
divisions,
&c.

(2) Each polling division and each polling district for the time being in operation shall be deemed to be a polling division and a polling district for the purposes of this Act.

Polling
stations.

4. (1) Within three weeks from the date of publication of the Proclamation under section 2, the Commissioner shall cause to be published in the *Gazette* a notice specifying the situation of the polling station or stations for each of the polling districts in each electoral district and the particular polling station, if any, reserved for female voters.

(2) Unless the Commissioner considers it necessary or expedient, in the special circumstances of any case, to provide a separate polling station for the female voters of any polling district, there shall be for each polling district, one polling station and no more.

(3) The polling station or stations for each polling district shall be situated within such polling district save where the Commissioner having regard to the special circumstances in any polling district may decide upon a polling station outside such polling district. The location of the polling station shall be such as to cause the minimum inconvenience to the electors of the polling district.

(4) Where due to any emergency it is necessary that the situation of any polling station should be different from that specified in a notice published under subsection (1), the Commissioner may cause the situation of that polling station to be altered in such manner as he may, in his absolute discretion, determine.

Registers of
electors.

5. The register of electors to be used in any electoral district for the purposes of this Act shall be the register of electors in operation for that electoral district on the date of the publication of the Proclamation under section 2, notwithstanding that a new register may have come into operation after the publication of such Proclamation.

Register of
electors
to be
conclusive
evidence
of the
right
to vote.

6. The register of electors of any electoral district in operation on the date of the publication of the Proclamation under section 2 shall be conclusive evidence for the purpose of determining whether a person is or is not entitled to vote at a Referendum, and the right of voting of any person whose name is for the time being contained in such register shall not be prejudiced by any appeal pending under any written law for the time being in force in respect of the entry of such person's name in the register, and any vote given by any

such person during the pendency of any such appeal shall be as good as though no such appeal were pending and shall not be affected by the subsequent decision of the appeal :

Provided that if any person, who by reason of his conviction of a corrupt practice or an illegal practice or by reason of any of the provisions of the Constitution is incapable of voting at a Referendum, votes at a Referendum, he shall, on conviction before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a period not exceeding six months :

Provided further that nothing in this section shall affect the liability of any person to any penalty for an infringement of the provisions of section 9 relating to voting in person or of section 25 relating to plural voting.

7. (1) The Commissioner, as occasion may require, shall by notice in the Gazette, appoint by name or by office a person to be the Referendum Returning Officer for the Republic, and may appoint by name or by office one or more persons to assist the Referendum Returning Officer in the performance of his duties. A person so appointed to assist the Referendum Returning Officer shall have all the powers and may perform all the duties of the officer whom he is appointed to assist and any reference in this Act to a Referendum Returning Officer shall, unless the context otherwise requires, be deemed to include a reference to an Assistant Referendum Returning Officer.

Referendum
Returning
Officer and
returning
officers.

(2) The Commissioner, as occasion may require, shall appoint by name or by office a person to be the returning officer of each electoral district and may appoint by name or by office one or more persons to assist the returning officer in the performance of his duties. A person so appointed to assist the returning officer shall have all the powers and may perform all the duties of the officer whom he is appointed to assist and any reference in this Act to a returning officer shall, unless the context otherwise requires, be deemed to include a reference to an assistant returning officer.

(3) An appointment made by the Commissioner under subsection (1) or subsection (2) may be revoked by him at any time.

(4) If the Referendum Returning Officer or any returning officer is by reason of illness or other cause prevented or disabled from performing any of his duties under this Act and there is not time for another person to be appointed

by the Commissioner, the Referendum Returning Officer or the returning officer, as the case may be, may appoint by name or by office, a deputy to act for him. Every such appointment shall, as soon as possible, be reported to the Commissioner, and may be revoked by him, but without prejudice to the validity of anything already done by such deputy.

PART II

THE POLL

Appointment
of
referendum
agents.

8. (1) The secretary of any recognized political party may appoint a referendum agent for each electoral district and shall furnish the name and address of each referendum agent so appointed so as to reach the Referendum Returning Officer not later than ten days from the date of publication of a Proclamation under section 2.

(2) A referendum agent duly appointed under subsection (1) and whose name and address have been furnished to the Referendum Returning Officer as required by that subsection shall have the power to appoint polling observers and counting observers as hereinafter provided.

(3) The failure to appoint a referendum agent or polling observers or counting observers, or their non-attendance at any proceedings under this Act, shall not invalidate any proceedings at a Referendum.

Voting by
post.

9. (1) A person who is entitled under this section to be treated as a postal voter for the purpose of any Referendum may vote by post, and shall not vote in person, at such Referendum.

Any person who votes in person at any Referendum in contravention of the preceding provisions of this subsection shall be guilty of an offence and shall, on conviction by a Magistrate, be liable to a fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

(2) An application to be treated as a postal voter in any electoral district may be made—

(a) by a member of the Sri Lanka Army, Sri Lanka Navy or Sri Lanka Air Force, or an officer or servant in the Department of Police, the Sri Lanka Government Railway, the Department of Posts and the Department of Telecommunications or the Sri Lanka Central Transport Board or any Regional Transport Board 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 ;

- (b) by any other officer or servant in the public service or of the Central Bank of Ceylon, or the Local Government Service, on the ground of the particular circumstances of his employment on the date of the poll for a purpose connected with a Referendum or of his being likely to be employed for that purpose.

(3) An application to be treated as a postal voter shall be made to the returning officer so as to reach him within ten days from the date of publication of the Proclamation under section 2. Such application shall be substantially in the form prescribed for the purpose by the regulations contained in the First Schedule to this Act.

(4) No application to be treated as a postal voter shall be allowed by a returning officer unless he is satisfied that the application is in accordance with the preceding provisions of this section.

(5) The returning officer may, for the purpose of the disposal of applications to be treated as postal voters, by notice require any person to give such officer any such information as may be necessary for that purpose.

(6) The decision of a returning officer on an application to be treated as a postal voter shall be communicated in writing to the applicant.

(7) The decision of the returning officer to allow or disallow an application to be treated as a postal voter shall be final.

(8) Where an application to be treated as a postal voter is allowed by a returning officer, the applicant shall be a person entitled to be treated as a postal voter for the purpose of a Referendum.

(9) The returning officer shall, as soon as practicable, send by post to each person who is entitled to be treated as a postal voter, to the address furnished by such person—

- (a) a ballot paper ;
- (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 issued to such person, and in which the postal ballot paper shall be enclosed when it is 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, and the procedure to be followed at the proceedings on their issue, shall be according to the regulations contained in the First Schedule to this Act.

(11) A ballot paper issued to a person entitled to be treated as a postal voter is in this Act referred to as a "postal ballot paper".

(12) The returning officer shall, as soon as practicable, prepare a list (in this Act 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. Such list shall be prepared in accordance with the regulations contained in the First Schedule to this Act.

**Official
poll card.**

10. (1) The returning officer of each electoral district shall send to each elector whose name appears in the register for that electoral district a poll card (in this Act referred to as an "official poll card") in such form as may be determined by the Commissioner, and specifying—

- (a) the name and number of the electoral district;
- (b) the name, qualifying address, and registration number of the elector as stated in the register;
- (c) the polling division;
- (d) the polling district;
- (e) the polling station allotted to the elector; and
- (f) the date and hours of the poll;

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

(2) An official poll card shall be so sent to an elector by ordinary post so as to reach him at least seven days before the date of the poll. Where a post office fails to deliver such card 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.

(3) Every person who—

(a) without authority supplies any official poll card to any other person, or

(b) sells or offers to sell any official poll card to any other person or purchases or offers to purchase any official poll card from any other person,

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 or to both such fine and imprisonment.

(4) Every person other than a public officer acting in the course of his duty as such officer, who has in his possession the official poll card of any other person 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 or to both such fine and imprisonment.

11. (1) Subject to the general or special directions of the Commissioner, each returning officer shall appoint, and may revoke the appointment of, one or more persons, hereinafter called presiding officers, to preside at each polling station in his electoral district. If more than one presiding officer is appointed for any polling station, the returning officer may appoint one of the presiding officers to be the senior presiding officer who shall exercise general supervision over the other presiding officers, and overall arrangements for the conduct of the poll in that station.

Presiding
officers.

(2) If any presiding officer is by reason of illness or other cause, prevented from acting at any Referendum, and there is not time for another person to be appointed by the returning officer, the presiding officer may appoint a deputy to act for him. Every such appointment shall as soon as possible be reported to the returning officer and may be revoked by the returning officer, but without prejudice to the validity of anything already done by such deputy.

(3) The returning officer may, if he thinks fit, preside at any polling station, and the provisions of this Act relating to a presiding officer shall apply to such returning officer.

Facilities
to be
provided
at
polling
stations.

12. (1) For the purposes of a Referendum the returning officer shall—

- (a) appoint such officers and servants as may be necessary for taking the poll;
- (b) furnish each polling station with such number of compartments as may be necessary to accommodate a reasonable number of voters at any one time and to ensure that the voters are screened from observation when they mark their ballot papers;
- (c) furnish each presiding officer with a copy of that part of the register of electors containing the names of electors in such register assigned to his polling station and a list of such of the names of electors in that copy as appear in the postal voters' list. A distinguishing mark shall be placed against the name of every elector who is entitled to be treated as a postal voter in the part of that register supplied to each such presiding officer;
- (d) furnish each presiding officer with such number of ballot boxes and ballot papers as, in the opinion of the returning officer, may be necessary for the number of voters assigned to that polling station.
- (e) provide each polling station with materials to enable voters to mark the ballot papers, with instruments for perforating or stamping thereon the official mark;
- (f) do such other acts and things as may be necessary for effectually conducting the Referendum in the manner provided by this Act.

(2) A Referendum shall not be questioned by reason of noncompliance with the provisions of subsection (1) or any informality relative to polling stations.

Notices to
be exhibited
at polling
stations.

13. (1) During the taking of the poll, the presiding officer at every polling station shall cause to be exhibited—

- (a) outside the polling station and in every compartment thereof, a notice substantially in the form set out in the Second Schedule to this Act, giving directions for the guidance of voters; and
- (b) outside the polling station a notice specifying the proposal to be put to the people.

(2) Every notice under this section shall be in Sinhala, Tamil and English.

14. Every ballot box shall be so constructed that the ballot papers can be put therein, but cannot be withdrawn therefrom, without the box being unlocked.

Ballot
boxes

15. (1) The votes at every Referendum shall be given by ballot. The ballot of each voter shall consist of a ballot paper in the form and containing the particulars hereinafter prescribed.

Ballot
papers

(2) Every ballot paper shall be substantially in form A set out in the Third Schedule to this Act, and—

(a) shall have printed on it the question to be put to the voters as specified by the President in terms of section 2(2) (a), and shall have printed on it the word "Yes" together with the symbol, lamp, and the word "No" together with the symbol, pot, alongside such question in two separate cages one below the other;

(b) shall be capable of being folded;

(c) shall have a number printed on the reverse; and

(d) shall have attached a counterfoil with the same number printed on the face.

16. Unless the Commissioner, by notification in the Gazette, appoints any other hour, the poll at the Referendum shall open at seven o'clock in the forenoon of the day appointed under section 2(2) (b) and shall close at four o'clock in the afternoon of that day.

Hours of
poll.

17. (1) The referendum agent appointed for an electoral district may appoint a reasonable number of polling observers for each polling station having regard to the need to revoke the appointment of any polling observer for that polling station during the poll. Notice in writing of every such appointment stating the names and addresses of the persons appointed shall be given by such agent to the presiding officer at that station before the opening of the poll or during the poll.

Appointment
of polling
observers.

(2) A referendum agent may delegate in writing the powers vested in him under subsection (1) to any person, so however, that such powers shall not be delegated to more than one person in respect of each polling division. Any delegation under this subsection shall be notified in writing to the returning officer not later than seven days before the date of the poll.

(3) Where such agent or the person to whom power is delegated under subsection (2), after informing such presiding officer of the name of any polling observer appointed to act at such station, revokes the appointment of that polling observer and appoints another polling observer to such station, such agent or such person shall inform such officer in writing of the revocation of such appointment and of the name and address of the new polling observer appointed to such station.

(4) Not more than two polling observers of each recognized political party shall at any time be admitted to or be allowed to remain in any polling station.

(5) No polling observer whose name has not been notified to the presiding officer as required by subsection (1) or subsection (3) shall be admitted to a polling station.

General
conduct of
the poll

18. (1) No person shall be admitted to vote at any polling station other than the polling station set apart for the group of voters to which he belongs.

(2) The presiding officer shall keep order in his station, and shall regulate the number of voters to be admitted at a time and shall exclude all other persons except the polling observers, the police officers on duty and other persons officially employed at the polling station.

(3) If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, the presiding officer may cause him to be removed forthwith from the polling station by any police officer or by any other person authorized in writing by the presiding officer or by the returning officer.

(4) Any person removed from a polling station under subsection (3)——

(a) shall not, except with the permission of the presiding officer, be allowed to enter the polling station again during the hours of the poll; and

(b) may, if he is charged with the commission of any offence in that station, be kept in custody until he can be brought before a Magistrate:

Provided that the powers conferred by this subsection shall not be exercised so as to prevent any voter who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

19. (1) Immediately before the commencement of the poll, the presiding officer at a polling station—

Sealing of
ballot
boxes and
commence-
ment of poll

- (a) shall show the ballot papers, the official seal, the official mark and the copies of the parts of the register of electors, to be used at the poll to such persons, if any, as may be present in such station ; and
- (b) shall also show each ballot box to be used at the commencement of the poll empty to the persons aforesaid so that they may see that it is empty, and shall then lock it up and place his seal upon it in such manner as to prevent it being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers and keep it so locked and sealed.

The duties imposed on the presiding officer by the preceding provisions of this section shall be performed by him in such manner as to ensure that the poll is opened at the hour fixed by this Act.

(2) The provisions of subsection (1) shall apply to every ballot box which is to be used after the commencement of the poll.

20. (1) Each voter shall be given one ballot paper and shall have one vote.

Issue of
ballot
papers.

(2) The ballot paper shall be delivered to the voter by the presiding officer or a person acting under his authority, immediately before the ballot paper is delivered to the voter—

- (a) the number, name and description of the voter as stated in the copy of the register of electors shall be called out ;
- (b) the number of the voter shall be marked on the counterfoil, and the ballot paper detached therefrom ;
- (c) the ballot paper shall be either stamped, embossed or perforated with the official mark ; and
- (d) a mark shall be placed in the register against the name of the voter to denote that he has received a ballot paper, but without showing the particular ballot paper he has received.

inspection of
voter and
marking
with the
appropriate
mark.

21. (1) No ballot paper shall be delivered to any voter at a Referendum—

- (a) if he refuses to allow the presiding officer or a person acting under his authority to make the appropriate inspection ; or
- (b) if, having allowed such inspection, it discloses that such voter has already been marked with the appropriate mark ; or
- (c) if, having allowed such inspection, it discloses that such voter has not already been marked with the appropriate mark, but such voter refuses to allow such officer or person to mark such voter with the appropriate mark,

and accordingly such voter shall, notwithstanding anything to the contrary in any other provisions of this Act, not be entitled to vote at such Referendum.

(2) The presiding officer of a polling station shall enter on a list, substantially in form B set out in the Third Schedule to this Act, the following particulars relating to each voter to whom a ballot paper was not delivered at such station under subsection (1)—

- (a) the number of such voter in the register of electors ;
- (b) the name of such voter as it appears in such register ;
and
- (c) the ground on which a ballot paper was not delivered to such voter.

Such list is in this Act called the "list of voters to whom ballot papers are not delivered under section 21."

(3) In this section—

- (a) the expression "appropriate mark" means a mark made with indelible ink ;
- (b) the term "appropriate" with reference to any context connected with or relating to the inspection or marking of a voter, means—
 - (i) the little finger of his left hand or, if such finger is missing, any other finger of his left hand ; or
 - (ii) if all the fingers of his left hand are missing, the little finger of his right hand or, if such finger is missing, any other finger of his right hand ; or

- (iii) If all the fingers of his left and right hands are missing, such extremity of his left or right hand as such voter possesses.

22. (1) The voter, on receiving the ballot paper, shall forthwith proceed into the compartment to which he is directed by the presiding officer or any person acting under that officer's authority and there secretly mark the ballot paper as near as may be in accordance with the directions given for the guidance of voters in the Second Schedule to this Act and fold the ballot paper so as to conceal his vote, and shall then show to the presiding officer the reverse of the paper, so as to disclose the official mark, and put the ballot paper, so folded, into the ballot box in the presence of the presiding officer.

Manner of voting.

(2) The presiding officer may at any time while a poll is proceeding take such steps as may be necessary to ensure that no voter delays unduly in any place reserved for the marking of ballot papers.

23. (1) The presiding officer, or any person authorized by the presiding officer, may, if he thinks fit on the application of any voter, explain to the voter, within sight and hearing of the polling observers, if present, the method of voting specified in the directions specified in the Second Schedule to this Act but in so doing he shall carefully abstain from any action which might be construed by the voter as advice or a direction to vote in favour of or against the proposal specified in the ballot paper.

Assistance to voters to enable them to vote.

(2) The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in accordance with the directions specified in the Second Schedule to this Act shall, in the presence of another member of his polling staff, mark the ballot paper of such voter in the manner directed by the voter and shall cause such ballot paper to be placed in the ballot box.

24. No voter shall be entitled to vote by proxy at a Referendum.

Voting by proxy forbidden.

25. If any person at a Referendum under this Act—

- (a) votes in more than one electoral district or asks for a ballot paper for the purpose of so voting; or
- (b) votes more than once in the same electoral district or asks for a ballot paper for the purpose of so voting,

Plural voting to be an illegal practice.

he shall be guilty of an illegal practice.

Power to
require
voter to
make
declaration.

26. (1) The presiding officer at any polling station may in his discretion, and, if required so to do by a polling observer, shall, require any voter, before he is given a ballot paper, to make and subscribe all or any of the declarations in forms C, D, E and F set out in the Third Schedule to this Act. Every such declaration shall be exempt from stamp duty.

(2) If any person refuses to make any such declaration, the presiding officer may refuse to give him a ballot paper.

(3) If any person wilfully makes a false statement in any such declaration, he 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.

Spoilt
ballot
papers.

27. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of such inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in place of the ballot paper so delivered up (in this Act called a "spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled by the presiding officer.

Tendered
votes.

28. If a person representing himself to be a particular elector named in the register applies for a ballot paper after another person has voted as such elector, the applicant shall on making and subscribing a declaration, which shall be exempt from stamp duty and which shall be substantially in form G set out in the Third Schedule to this Act, be entitled to receive a ballot paper and to vote in the same manner as any other voter, but the ballot paper, in this Act called a "tendered ballot paper", shall be of a colour different from the other ballot papers, and, before being placed in the ballot box, shall be endorsed by the presiding officer with the name of the voter and his number in the register, and that number shall be entered on a list, in this Act called the "tendered votes list" which shall be substantially in form H set out in the Third Schedule to this Act. Tendered ballot papers shall be dealt with in the manner hereinafter provided.

20. No ballot paper shall be delivered to a voter after the hour fixed for the closing of the poll. But if at the hour aforesaid there is in any polling station any voter to whom a ballot paper has been delivered, such voter shall be allowed to record his vote.

Closure of
poll

30. (1) As soon as practicable after the closure of the poll, the presiding officer of each polling station shall, in the presence of the polling observers, make up into separate packets, sealed with his own seal and the seals of such polling observers as desire to affix their seals—

Procedure on
closure of
poll

- (a) each ballot box used at that station, each such box remaining locked as it was at the time of the opening of the poll and being sealed after the closure of the poll so as to prevent the introduction of any ballot papers thereafter ;
- (b) the key of each ballot box ;
- (c) the unused and spoilt ballot papers, placed together ;
- (d) the marked copies of the register of electors and the counterfoils of the ballot papers ;
- (e) the list of voters to whom ballot papers are not delivered under section 21 ; and
- (f) the tendered votes list,

and shall deliver the packets to the counting officer.

(2) The packets shall be accompanied by a statement substantially in form I set out in the Third Schedule to this Act, (hereinafter referred to as "the ballot paper account") made by the presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of—

- (a) ballot papers issued to voters, other than spoilt ballot papers ;
- (b) spoilt ballot papers ; and
- (c) unused ballot papers.

PART III

THE COUNT

Counting
officers.

31. (1) Subject to the general or special directions of the Commissioner, each returning officer shall appoint, and may revoke the appointment of, a counting officer to be in charge of the counting of votes at each counting centre, and such number of assistants and clerks and other officers to assist such counting officer in the performance of his duties.

(2) The returning officer may, if he thinks fit, perform the duties of a counting officer and the provisions of this Act relating to a counting officer shall apply to such returning officer.

Notice of
count.

32. The returning officer shall make arrangements for counting the votes as soon as possible after the close of the poll and shall give notice in writing to each referendum agent of the situation of each counting centre, the date and time of the commencement of the count, and a statement setting out the counting centre and the polling station or stations assigned to such counting centre.

Appointment
of counting
observers.

33. (1) Each referendum agent or a person referred to in subsection (2) of section 17 may appoint not more than two observers (hereinafter referred to as "counting observers") to attend at the counting of the votes at each counting centre.

(2) Notice in writing stating the names and addresses of the persons appointed under subsection (1) shall be given by the referendum agent or the person referred to in subsection (2) of section 17 to the counting officer before the counting of votes commences. The counting officer may refuse to admit to the counting centre any counting observer whose name and address have not been so given.

The count.

34. (1) The counting officer shall commence the counting of votes after he has received all the ballot boxes from every polling station assigned to his counting centre under section 32.

(2) Before the counting officer proceeds to count the votes, he or a person authorized by him shall in the presence of such of the counting observers as attend—

(a) show such counting observers the ballot paper account and permit them to take copies thereof, and

(b) open each ballot box, and having taken out the ballot papers therein, count and record the number of such papers in each such box and then mix together the whole of the papers contained in the ballot boxes.

(3) The counting 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 reverse of such papers.

(4) The counting officer shall as far as practicable proceed continuously with counting the votes and shall endorse "rejected" on any ballot paper which he may reject as invalid.

(5) The counting officer shall not count the tendered ballot papers but shall place them in separate packets according to the answer given.

(6) The counting officer, his assistants and clerks and the counting observers but no other person except with the consent of the counting officer may be present at the counting of the votes.

35. (1) Any ballot paper—

- (a) which does not bear the official mark; or
- (b) on which votes are given in favour of and against the proposal; or
- (c) on which anything is written or marked by which the voter can be identified except the printed number on the reverse; or
- (d) which is unmarked; or
- (e) which is void for uncertainty,

Ballot
papers to be
rejected.

shall be rejected by the counting officer. The counting officer shall endorse the word "rejected" on any such ballot paper.

(2) Where the counting officer is satisfied that any mark made on a ballot paper clearly indicates the intention of the voter to give his vote in favour of or against the proposal the counting officer shall not reject the ballot paper under subsection (1) on the ground solely that it has not been marked in all respects in accordance with the directions given for the guidance of voters under the provisions of this Act

(3) Where the counting officer is satisfied that a ballot paper is not a forged or counterfeit ballot paper he shall not reject it solely on the ground that it is not stamped or perforated with the official mark. Before deciding not to reject a ballot paper under the preceding provisions of this section the counting officer shall show it to each counting observer if present and hear his views thereon.

(4) Before rejecting a ballot paper the counting officer shall show it to each counting observer if present and hear his views thereon taking all proper precautions to prevent any person from seeing the number printed on the reverse of the paper.

(5) The counting officer shall not count any ballot paper which is rejected by him under subsection (1).

(6) The counting officer shall draw up a statement showing separately the number of ballot papers rejected, under each of the grounds specified in subsection (1), and shall on request allow any counting observer to copy the statement.

(7) The counting officer shall prepare a written statement in words as well as in figures of the number of votes given in favour of or against the proposal and such statement shall be certified by the counting officer and witnessed by one of his assistants or clerks and any counting observers as are present and desire to sign. The counting officer shall on request allow any counting observer to copy the statement.

(8) Before the counting officer makes a written statement referred to in subsection (7), such number of recounts may be made as the counting officer deems necessary; and a recount or recounts shall be made upon the application of a counting observer so however that the maximum number of recounts that shall be so made, on the application of any counting observer or all the counting observers, shall not exceed two.

(9) The decision of the counting officer as to any question arising in respect of any ballot paper shall be final and conclusive.

36. Any power, duty or function of a counting officer under section 34 or section 35 may be exercised, performed or discharged for and on his behalf by any of his assistants or clerks acting under the supervision and direction of such officer.

37. Upon the completion of the counting at any counting centre, the counting officer shall forthwith deliver in sealed packets to the returning officer—

Closure of
the count.

- (a) the counted ballot papers ;
- (b) the rejected ballot papers ;
- (c) the tendered ballot papers ;
- (d) the ballot paper account ;
- (e) the packets referred to in paragraphs (c) to (f) of section 30(1) ;
- (f) the record of the count under subsection (2) (b) of section 34 ;
- (g) the statement under section 35 (6) ; and
- (h) the written statement under section 35 (7) of the number of votes given in favour of or against the proposal.

38. The postal ballot papers shall be counted in accordance with the postal voters' regulations set out in the First Schedule to this Act at a separate counting centre or such number of counting centres as may be determined by the returning officer.

Counting of
postal ballot
papers.

39. (1) After the receipt of the documents referred to in section 37, the returning officer shall, from the statements under subsection (7) of section 35 furnished to him by all the counting officers (including the counting officers at the counting centres where postal ballot papers were counted) prepare a return in respect of the electoral district showing—

Returning
officer to
prepare
statement.

- (a) the number of votes given in favour of the proposal ;
- (b) the number of votes given against the proposal ;
- (c) the number of votes rejected ; and
- (d) the whole number of electors in the register of electors.

Such return shall be witnessed by one of his assistants and any referendum agent as may be present and desire to sign. The returning officer shall, on request, allow any referendum agent to make a copy of such return.

(2) The returning officer may permit the referendum agent and one other person appointed by such referendum agent in writing to be present at the proceedings under subsection (1).

(3) The returning officer shall forthwith transmit the return prepared by him under subsection (1) to the Referendum Returning Officer.

Referendum
Returning
Officer to
prepare a
report.

40. (1) After the receipt of the return referred to in section 39 (3) from all the returning officers in the Republic, the Referendum Returning Officer shall prepare a report in respect of the whole Republic, showing—

- (a) the number of votes given in favour of the proposal;
- (b) the number of votes given against the proposal;
- (c) the number of votes rejected; and
- (d) the whole number of electors in all the registers of electors.

(2) The Referendum Returning Officer shall forthwith forward the report prepared by him under subsection (1) to the Commissioner, who shall immediately, on receipt of such report transmit it to the President.

Publication
of result.

41. Upon the receipt of the report referred to in section 40, the President shall cause such report to be published in the Gazette.

Disposal of
ballot
papers.
See.

42. The returning officer shall retain the packets and all documents forwarded to him under section 37 for a period of three months reckoned from the date of the receipt thereof and thereafter shall cause the said packets and documents to be destroyed unless otherwise directed by the Commissioner.

PART IV

OFFENCES

Offences
relating
to ballot
papers,
official
poll cards
See.

43. Every person who—

- (a) forges or counterfeits or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- (b) without due authority supplies any ballot paper to any person; or
- (c) sells or offers to sell any ballot paper to any person or purchases or offers to purchase any ballot paper from any person; or

- (d) not being a person entitled under this Act to be in possession of any ballot paper which has been marked with the official mark in accordance with this Act, has any such ballot paper in his possession; or
- (e) puts into any ballot box anything other than the ballot paper which he is authorized by law to put in; or
- (f) without due authority takes out of the polling station any ballot paper or is found in possession of any ballot paper outside a polling station; or
- (g) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers in use or intended to be used for the purposes of a Referendum; or
- (h) without due authority prints any ballot paper of what purports to be or is capable of being used as a ballot paper at a Referendum; or
- (i) manufactures, constructs, imports into the Republic, has in his possession, supplies or uses for the purpose of a Referendum, or causes to be manufactured, constructed, imported into the Republic, supplied or used for the purpose of a Referendum, any appliance, device or mechanism by which a ballot paper may be extracted, affected or manipulated after having been deposited in a ballot box during the polling at a Referendum; or
- (j) wilfully makes a false statement in any application to be treated as a postal voter under this Act, or in any declaration of identity sent to him under the postal voters' regulations set out in the First Schedule to this Act; or
- (k) without due authority destroys, takes, opens, or otherwise tampers or interferes with, any application to be treated as a postal voter, or any declaration of identity, or any covering envelope or ballot paper envelope within the meaning of the postal voters' regulations set out in the First Schedule to this Act; or
- (l) without due authority prints any official poll card or what purports to be or is capable of being used as an official poll card at a Referendum; or

- (m) without due authority places an appropriate mark on any voter at a Referendum or what purports to be or is capable of being mistaken for that mark; or
 - (n) fraudulently defaces an appropriate mark placed on any voter at a Referendum without due authority; or
 - (o) votes at a Referendum knowing that he is legally incapable of, or disqualified from, so voting;
- shall be guilty of an offence and shall, on conviction by the High Court, be liable to imprisonment of either description for a term not exceeding two years and shall, by conviction, become incapable, for a period of seven years from the date of his conviction, of being registered as an elector or of voting at a Referendum under this Act, or of being elected as a Member of Parliament, and if at that date he has been elected as a Member of Parliament, his election shall be vacated from the date of such conviction.

Certain
acts
prohibited
on polling
day.

44. (1) No person shall, on any date on which a poll is taken at a polling station, do any of the following acts within the precincts, or a distance of half a kilometre of the entrance, of that polling station:—

- (a) canvassing for votes;
- (b) soliciting the vote of any elector;
- (c) persuading any elector not to vote for or against the proposal;
- (d) persuading any elector not to vote at the Referendum;
- (e) distributing or exhibiting any handbill, placard, poster, drawing, or notice relating to the Referendum (other than any official handbill, placard, poster or notice) or any symbol referred to in section 15.

Every person who contravenes the provisions of this subsection 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 imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(2) No person shall, on any date on which a poll is taken at any polling station—

- (a) use or operate, within or at the entrance of a polling station or in any public or private place in the neighbourhood thereof, any megaphone or loud-speaker or other apparatus for magnifying or reproducing the human voice, or

- (b) shout or otherwise act in a disorderly manner within or at the entrance of a polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll or so as to interfere with the work of the officers and other persons on duty at the polling station. Every person who contravenes the provisions of this subsection 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 imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(3) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of subsection (2) and may seize any apparatus used for such contravention.

45. No person—

- (a) shall, at any time from the date of publication of the Proclamation in respect of a Referendum and ending on the day immediately following the date on which the result of the poll taken at such Referendum is declared, conduct, hold or take part in any procession, other than a procession on May 1 in the year, or any procession for religious or social purposes; or
- (b) shall, at any procession held or conducted during the period referred to in paragraph (a), do any act or thing calculated to affect the result of the Referendum referred to in the said paragraph (a).

Restriction
on
processions.

Every person who contravenes any of the preceding provisions 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 imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

46. No public meeting shall be held during the period commencing forty-eight hours before the date fixed for the poll and ending one week after the result of the Referendum has been declared.

Restriction
on public
meetings.

Every person who contravenes any of the preceding provisions 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

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

General provisions relating to offences under sections 43, 44, 45 and 46

47. (1) Every person who attempts to commit an offence specified in section 43 or section 44 or section 45 or section 46 shall be liable to the punishment prescribed for that offence.

(2) Every offence under section 43 or section 44 or section 45 or section 46 shall be a cognizable offence within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979.

(3) In a prosecution for an offence in relation to a ballot box, ballot paper or marking instrument at a Referendum (the property in such ballot box, ballot paper or marking instrument, as well as the property in the counterfoil of any ballot paper may be stated to be in the returning officer at that Referendum.

(4) A prosecution for an offence under section 43 or section 44 or section 45 or section 46 shall not be instituted without the sanction of the Attorney-General.

Printing, &c., of Referendum publication.

48. Every person who 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 a Referendum 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 Magistrate 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 Magistrate 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.

Restriction on number of referendum offices.

49. (1) A person who is a referendum agent at a Referendum or is the agent of such referendum agent, shall not have—

(a) during the period commencing from the date of the publication of a Proclamation under section 2 and ending on the day immediately following the date on which a poll is taken at such Referendum, any referendum office, other than one notified central referendum office in each electoral district, and one notified branch referendum office in each polling district;

- (b) during the period commencing on the day immediately preceding the date of such poll and ending on the day immediately following such date, any referendum office, other than one notified central referendum office in each electoral district and one notified branch referendum office in respect of each polling division.

(2) The use of the ordinary place of residence of any referendum agent as a referendum office shall be deemed not to be a contravention of the provisions of subsection (1).

(3) Every person who contravenes the provisions of subsection (1) 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 imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

(4) Every person who attempts to commit any offence specified in this section shall be liable to the punishment prescribed for that offence.

(5) A prosecution for an offence under this section shall not be instituted without the sanction of the Attorney-General.

(6) For the purposes of this section, the term "notified", in relation to any referendum office, means notified to the officer in charge of the police station for the area, and the returning officer for the electoral district, in which that office is situated, before such office is established.

50. (1) During the period commencing from the date of publication of the Proclamation under section 2 and ending on the day following the day on which a poll is taken at a Referendum, no person shall, for the purpose of promoting a Referendum, display—

Provisions relating to display of handbills, posters, &c.

- (a) in any premises, whether public or private, any flag or banner ; or
- (b) any handbill, placard, poster, drawing, notice, symbol or sign on any place to which the public have a right of, or are granted, access except in or on any premises on any day on which a meeting to promote the Referendum is due to be held in that premises ; or
- (c) any handbill, placard, poster, drawing, notice, symbol, sign, flag or banner, on or across any public road ; or
- (d) any handbill, placard, poster, drawing, notice, symbol or sign in or on any vehicle.

(2) Every person who contravenes the provisions of subsection (1) 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 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 Code of Criminal Procedure Act, No. 15 of 1979.

(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 subsection (1) and may seize and remove any handbill, placard, poster, notice, drawing, symbol, sign, flag or banner used in such contravention.

**Maintenance
of
secrecy at
Referendum.**

51. (1) Every officer, clerk, referendum agent and agent authorized to attend at a polling station, or at the counting of the votes, shall before so attending make a statutory declaration of secrecy, substantially in form J set out in the Third Schedule to this Act. Such declaration shall be made by the returning officer in the presence of a Justice of the Peace, and by a presiding officer or a counting officer in the presence of a Justice of the Peace or of the returning officer, and when made by any other person shall be made in the presence of the returning officer or of a Justice of the Peace or of a presiding officer or of a counting officer.

(2) Every officer, clerk, referendum agent and agent in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in such station, and shall not communicate, except for some purpose authorized by law, before the poll is closed, to any person any information as to the name or number on the register of electors of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark.

(3) No such officer, clerk, referendum agent or agent, and no person whosoever shall attempt to obtain in the polling station information as to whether any voter has voted for or against the proposal or whether a voter is about to vote in favour or against such proposal or communicate

at any time to any person any such information obtained in a polling station as to the aforesaid matters or as to the number on the reverse of the ballot paper given to any voter at such station.

(4) Every officer, clerk, referendum agent and counting observer in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the reverse of any ballot paper or communicate any information obtained at such counting as to whether a voter has voted for or against the proposal.

(5) No person, except a presiding officer acting for a purpose authorized by this Act, or a person authorized by the presiding officer and acting for such purpose as aforesaid, shall communicate or attempt to communicate with any voter after such voter has received a ballot paper and before he has placed the same in a ballot box.

(6) Every person who acts in contravention of the provisions 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 five hundred rupees or to imprisonment of either description for a term not exceeding six months.

(7) Every person who is convicted of an offence under this section shall, by conviction, become incapable for a period of seven years from the date of his conviction, of being registered as an elector or of voting at any Referendum under this Act.

CORRUPT PRACTICES

52. (1) Every person who at a Referendum—

Personation.

(a) votes in person or by post as some other person, whether that other person is living or dead or is a fictitious person; or

(b) votes more than once in or under his own name at such Referendum,

shall be guilty of the offence of personation which shall be a cognizable offence within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979.

(2) For the purposes of this section, a person who—

(a) has applied for a ballot paper for the purpose of voting in person; or

(b) has made an application to be treated as a postal voter ; or

(c) has marked, whether or not validly, and returned a ballot paper issued for the purpose of voting by post,

shall be deemed to have voted.

Treating.

53. Every person who, corruptly, by himself or by any other person, either before, during or after a Referendum, directly or indirectly gives or provides or causes to be given or provided, or is accessory to the giving or providing, or pays or engages to pay wholly or in part the expense of giving or providing any meat, drink, refreshment or provision or any money or ticket or other means or device to enable the procuring of any meat, drink, refreshment, or provision, to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at such Referendum or on account of any such person or any other person having voted or refrained from voting or being about to vote or refrain from voting at such Referendum, and every elector who corruptly accepts or takes any such meat, drink or refreshment or provision or any such money or ticket or who adopts such other means or device to enable the procuring of such meat, drink, refreshment, or provision shall be guilty of the offence of treating.

Undue influence.

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

(2) Every person who, at any time during the period commencing from the date of the publication of the Proclamation under section 2 and ending on the day following the date of the poll at such Referendum—

- (a) utters at any religious assembly any words for the purpose of influencing the result of such Referendum or inducing any elector to vote or refrain from voting in favour of or against the proposal at such Referendum ;
- (b) for such purpose distributes or displays at any religious assembly, any handbill, placard, poster, drawing, notice, symbol, sign, flag or banner ; or
- (c) holds or causes to be held a public meeting at a place of worship for the purpose of promoting the Referendum or the Referendum campaign in favour of or against the proposal,

shall be guilty of the offence of undue influence.

(3) Any member or official of a religious order or organization—

- (a) who denies, or threatens to deny, to any member or adherent of that order or organization, or to any member of the family of such member or adherent, any spiritual ministration, service or benefit, to which such member or adherent would in the ordinary course have been entitled ; or
- (b) excludes, or threatens to exclude, such member or adherent from such order or organization,

in order to induce or compel such member or adherent to vote or refrain from voting in favour of or against the proposal at a Referendum, or to support or refrain from supporting any proposal at such Referendum, or on account of such member or adherent having voted or refrained from voting in favour of or against the proposal at such Referendum, or having supported or refrained from supporting any such proposal at such Referendum, shall be guilty of the offence of undue influence.

(4) Any person who, being the employer of any other person,—

- (a) terminates or threatens to terminate such employment ; or
- (b) denies or threatens to deny to such other person any benefit or service which such other person already enjoyed, or would have enjoyed, in the ordinary course of such employment.

in order to induce or compel such other person to vote or refrain from voting in favour of or against the proposal at a Referendum, or to support or refrain from supporting the proposal at such Referendum, or on account of such other person having voted or refrained from voting in favour of or against the proposal at such Referendum, or having supported or refrained from supporting the proposal at such Referendum, shall be guilty of the offence of undue influence.

Bribery.

55. The following persons shall be deemed guilty of the offence of bribery :—

- (a) every person who directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector or to or for any other person, in order to induce any elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such elector having voted or refrained from voting at a Referendum under this Act ;
- (b) every person who, directly or indirectly, by himself, or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure any office, place or employment to or for any elector or to or for any person on behalf of any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at a Referendum under this Act ;
- (c) every person who, directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person in order to induce such person to vote in favour of or against the proposal or the vote of any elector at a Referendum under this Act ;
- (d) every person who upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement votes in favour of or against the proposal at a Referendum under this Act ;

- (e) every person who advances or pays or causes to be paid any money to or to the use of any other person with the intent that such money or any part thereof shall be expended in bribery at a Referendum under this Act or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such Referendum ;
- (f) every elector who, before or during a Referendum under this Act, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such Referendum ;
- (g) every person who, after a Referendum under this Act, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or to refrain from voting at any such Referendum.

56. (1) Every person who—

Punishment
and
incapacities
for corrupt
practice.

- (a) commits the offence of personation, or aids, abets, counsels or procures the commission of the offence of personation ; or
- (b) commits the offence of treating, undue influence or bribery,

shall be guilty of a corrupt practice, and shall on conviction by the High Court be liable, in the case referred to in paragraph (a) of this subsection, to rigorous imprisonment for a term not exceeding twelve months, and, in any other case, to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and such imprisonment.

(2) Every person who is convicted of a corrupt practice shall, by conviction, become incapable for a period of seven years from the date of his conviction of being registered as an elector or of voting at a Referendum under this Act or of being elected as a Member of Parliament, and if at that date he has been elected as a Member of Parliament, his election shall be vacated from the date of such conviction.

(3) A prosecution for a corrupt practice shall not be instituted without the sanction of the Attorney-General.

ILLEGAL PRACTICES

Certain
expenditure
to be illegal
practice.

57. (1) No payment or contract for payment shall, at a Referendum, be made—

- (a) on account of the conveyance of electors to or from the poll, whether for the hiring of vehicles or animals of transport of any kind whatsoever, or for railway fares, or otherwise ; or
- (b) to or with an elector on account of the use of any house, land, building, or premises for the exhibition of any address, bill or notice, or on account of the exhibition of any address, bill, or notice.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is knowingly made in contravention of this section either before, during or after a Referendum, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment or being a party to any such contract, knowing the same to be in contravention of this section, shall also be guilty of an illegal practice.

(3) Subject to any such express exceptions as are or may be made by or under this Act, a person shall not let, lend, employ, hire, borrow or use, or aid or abet any other person to let, lend, employ, hire, borrow or use, any vehicle, vessel or animal, in any electoral district during the period commencing one hour before the time of the opening of the poll at a Referendum in that district, and ending one hour after the time of the closure of such poll—

- (a) for the purpose of the conveyance of voters to or from the poll ; or
- (b) for any other purpose, other than—
 - (i) any legitimate business ;
 - (ii) any official business, that is to say, the performance of any duty or the discharge of any function accruing from or connected with or incidental to any office, service or employment, held or undertaken or carried on by him.

Any person acting in contravention of this subsection shall be guilty of an illegal practice.

(4) Notwithstanding anything in the preceding provisions of this section—

- (a) where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector, if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section;
- (b) where electors are unable at a Referendum to reach their polling stations from their place of residence without crossing the sea or a branch or arm thereof or a river, means may be provided for conveying such electors by sea to their polling stations, or to enable them to cross the river in order to reach their polling stations;
- (c) the conveyance of a person at his own expense to or from the poll at a Referendum in, or the use by any person at his own expense for the purpose of the conveyance of himself to or from the poll of, any public transport service provided by the Sri Lanka Central Transport Board, or any Regional Transport Board or the Sri Lanka Government Railway, shall be deemed not to be an illegal practice within the meaning of this section;
- (d) where the returning officer for any electoral district is satisfied upon written application in that behalf made to him by any person, or on behalf of such person by any other person, so as to reach such officer seven days before the day on which a poll is to be taken at a Referendum, that such person is unable, by reason of any physical disability to convey himself to and from the poll on foot or in any public transport service referred to in paragraph (c) of this subsection, the returning officer may give such person written authority to use any vehicle, vessel or animal for the purpose of conveying himself to and from the poll, and accordingly the use of a vehicle, vessel or animal for the purpose of such conveyance by such person shall be deemed not to be an illegal practice within the meaning of this section.

(5) Where at any poll taken in any electoral district any police officer, either of his own motion or after an investigation which he is hereby required to carry out on the complaint of any person, is satisfied that any vehicle, vessel or animal is being used in contravention of the provisions

of subsection (1) or subsection (3), that officer shall stop and seize such vehicle, vessel or animal, and take it to a police station and detain it therein until the conclusion of the poll.

(6) The High Court may, on the conviction of any person for the commission of an illegal practice within the meaning of this section, make order declaring that any vehicle, vessel or animal used in or in connexion with the commission of such practice shall be forfeited to the Republic.

False reports
in news-
papers.

58. (1) Where there is published in any newspaper any false statement concerning, or relating to—

- (a) the utterances or activities at a Referendum of any recognized political party or any person ; or
- (b) the conduct or management of such Referendum by any such recognized political party or person,

and such statement is capable of influencing the result of such Referendum, then, every person who at the time of such publication was the proprietor, the manager, the editor, the publisher or other similar officer of that newspaper or was purporting to act in such capacity, shall each be guilty of an illegal practice unless such person proves that such publication was made without his consent or connivance, and that he exercised all such diligence to prevent such publication as he ought to have exercised having regard to the nature of his function in such capacity and in all the circumstances.

(2) In this section, the term "newspaper" includes any journal, magazine, pamphlet or other publication.

Certain
employment
to be illegal.

59. (1) No person shall, for the purpose of promoting a Referendum, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for the purpose or in the capacities following—

- (a) a reasonable number of polling observers for each polling district having regard to the need to revoke the appointment of any polling observer for that polling district during the poll ; and not more than two counting observers for each counting centre ;
- (b) a reasonable number of clerks and messengers having regard to the area of the electoral district and the number of electors on the register of electors for such district.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any person is engaged or employed in contravention of this section, either before, during or after a Referendum, the person engaging or employing him shall be guilty of an illegal practice.

60. Any person, who 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 a Referendum and which does not bear upon its face the names and addresses of its printer and publisher shall be guilty of an illegal practice.

Printing, &c
of
Referendum
publications

61. (1) Every person who commits an illegal practice shall on conviction by the High Court be liable to a fine not exceeding three hundred rupees and shall by conviction become incapable for a period of three years from the date of his conviction of being registered as an elector or of voting at a Referendum under this Act or being elected as a Member of Parliament, and if at that date he has been elected as a Member of Parliament, his election shall be vacated from the date of such conviction.

Punishment
on conviction
for illegal
practices

(2) A prosecution for an illegal practice shall not be instituted without the sanction of the Attorney-General.

GENERAL

GENERAL

62. Where in any Proclamation under section 2 the President has specified more than one proposal to be put to the People at a Referendum, each such proposal shall be printed on a separate ballot paper of a different colour and accordingly the provisions of this Act shall, *mutatis mutandis*, apply to such Referendum.

Where
more than
one
proposal is
submitted.

63. If at any time after the President has by Proclamation fixed the date for a Referendum, it is shown to his satisfaction that in any electoral district or part thereof owing to any cause whatsoever no Referendum has been held in pursuance of such Proclamation he may at any time by notice in the Gazette issue another Proclamation that a Referendum shall be held in the district or part thereof and the provisions of this Act shall, *mutatis mutandis*, apply in relation to such electoral district or part thereof:

Power to
order
Referendum
in
exceptional
circum-
stances.

Provided that another Proclamation shall not be issued under the preceding provisions of this section where the total number of voters in any electoral district or the part

thereof in which no Referendum had been held is such that the result reported to the President under section 40 would not have been materially affected by the fact that the voters of such electoral district or part thereof had voted at such Referendum.

Failure to
comply
with
provisions
of Act.

64. No Referendum shall be invalid by reason of any failure to comply with provisions of this Act relating to a Referendum if it appears that the Referendum was conducted in accordance with the principles laid down in such provisions, and that such failure did not affect the result of the Referendum.

Use of
schools as
polling
stations.

65. (1) A returning officer may use, free of charge, as a polling station any school or any portion of a school in receipt of a grant, or in respect of which a grant is made out of moneys provided by Parliament.

(2) A returning officer shall make good any damage done to, and defray any expenses incurred by the persons having control over, any such school or portion thereof as aforesaid by reason of its being used as a polling station.

Presiding
officer
may act
through
officers
appointed
to assist
him.

66. The presiding officer of a polling station may do, by officers appointed to assist him, any act which he is required or authorized by this Act to do at that polling station except ordering the arrest, exclusion, or removal of any person from the station.

Secretary of
a recognized
political
party
may act
as his
own agent
or assist
his agent.

67. The secretary of a recognized political party may himself do any act or thing which a polling observer or counting observer or other agent of such political party, if appointed, would have been required or authorized to do, or may assist such agent in doing any such act or thing, but before acting under this section the secretary of the recognized political party shall make a declaration under section 51 required to be made by such agent.

Non-
attendance
of the
agents of
recognized
political
party.

68. Where under this Act any act or thing which is required or authorized to be done in the presence of the agent or agents of a recognized political party at a Referendum, the non-attendance of any agent or agents of such party at the time and place appointed for the purpose shall not, if that act or thing is otherwise duly done, invalidate the act or thing done.

Inaccurate
description
of places
and
persons.

69. No misnomer or inaccurate description of any person or place named or described in any register, notice or other document whatsoever prepared or issued under or for the purposes of this Act shall in any wise affect the operation

of this Act as respects that person or place if that person or place is so designated in such register, notice or document as to be identifiable.

70. (1) Where any notice is required by this Act to be published and, if in the opinion of the authority who is required to publish such notice, the prescribed mode of publication does not give sufficient publicity to the notice, he may, in addition to publishing the notice as required by this Act, exhibit copies of the notice in conspicuous places within the electoral district to which the notice relates or take such other steps as he may deem necessary for giving publicity thereto.

Publication
of notices,
&c.

(2) Every person who, without lawful authority, destroys, mutilates, defaces or removes any notice which is exhibited by any authority under subsection (1) or any document which is made available for inspection in accordance with this Act shall be guilty of an offence and shall on conviction before a Magistrate be liable to a fine not exceeding fifty rupees.

71. (1) Any person, being the employer of any other person who is entitled to vote in person at a Referendum, shall, upon application in writing in that behalf made by such other person, grant such other person leave, without loss of pay, for such continuous period (not less than four hours in duration) as that person may deem sufficient to enable such other person to vote in person at that Referendum.

Duty of
employers
to grant
leave to
enable
employees
to vote.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) 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 one month, or to both such fine and imprisonment.

72. (1) Where the Commissioner considers that any premises, other than any school referred to in section 65, are required for the purpose of being used as a polling station, he may requisition those premises for that purpose by order in writing addressed to and served on the person in actual possession of those premises, or, where no person is in such actual possession, on the owner of such premises.

Requisitioning
of premises
for use of
polling
stations.

(2) Where any premises are requisitioned under subsection (1), the period of such requisition shall not extend beyond four weeks.

(3) In this section, "premises" means any land, building or part of a building and includes a hut, shed or structure or any part thereof.

Compensation
for
requisi-
tioning
premises.

73. (1) Where any premises are requisitioned under section 72, the Commissioner shall pay, out of moneys provided for the purpose by Parliament, compensation for such requisition to the person who was in actual possession of those premises immediately before the requisition or, where no person was in such actual possession, the owner of those premises, and shall make good any damage done to those premises during the period of the requisition.

(2) The amount of compensation payable under subsection (1) in respect of any premises shall be determined by taking into consideration—

- (a) the rent payable in respect of those premises, or, where no rent is so payable, the rent payable for similar premises in the locality, and
- (b) if, in consequence of the requisition of those premises, the person who was in actual possession of those premises immediately before the requisition was compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

(3) Where any person entitled to compensation under this section is aggrieved by the decision of the Commissioner in regard to the amount of the compensation, that person may appeal in writing to the Court of Appeal from that decision.

Right of
secretary of
recognized
political
party
to send
matter
relating to
Referendum
post free.

74. (1) Subject to the provisions of subsection (2) of this section, the secretary of a recognized political party at any time between the date of publication of the Proclamation under section 2, and the day which is the seventh day before the day of the poll to be taken at a Referendum, be entitled to send free of any charges for postage to reach the elector whose name appears in the register of electors for such electoral district one postal communication by ordinary post containing matter relating to such Referendum only.

(2) The right to send a postal communication conferred on a person by subsection (1) shall be subject to the following conditions, and if any such condition is not complied with, such communication may be rejected by the Postmaster-General or any person acting under his authority :—

- (a) such communication shall be open for examination, and shall not exceed thirty grams in weight ; and
- (b) the length and width of, and the manner of franking, arranging and handling, such communication shall be as determined from time to time by the Postmaster-General.

75. (1) Every recognized political party shall, subject to such conditions as may be determined by the Director-General of Broadcasting, be entitled to the use of broadcasting facilities during the period commencing from the date of publication of the Proclamation under section 2 and ending seventy-two hours prior to the commencement of the poll.

Political
broadcasts.

(2) In the allocation of broadcasting time during the period referred to in subsection (1) to any recognized political party, the Director-General of Broadcasting shall ensure that each party shall be permitted to use—

- (a) in the case of radio broadcasting, a total period not exceeding forty-five minutes which may be used on one occasion or on not more than three occasions and each such occasion shall not exceed fifteen minutes ;
- (b) in the case of television broadcasting, a total period not exceeding forty-five minutes which may be used on one occasion or on not more than three occasions and each such occasion shall not exceed fifteen minutes.

(3) Where two or more recognized political parties agree to debate the proposal or proposals to be put to the People at a Referendum, it shall be the duty of the Director-General of Broadcasting to afford broadcasting facilities to such parties, so however that the time permitted for such debate shall not exceed the time allotted to each such party.

(4) The order in which each recognized political party shall use the broadcasting facilities shall be determined—

- (a) in the first instance by agreement among such parties ;
or
- (b) in the absence of such agreement, by lots cast or drawn in such manner as the Director-General of Broadcasting may, in his absolute discretion, determine.

**Powers of
Commissioner**

76. The Commissioner shall—

- (a) exercise general direction and supervision over the administrative conduct of a Referendum under this Act ;
- (b) have power to issue to Deputy and Assistant Commissioners of Elections, the Referendum Returning Officer, returning officers, presiding officers and other officers such directions as he may deem necessary to ensure effective execution of the provisions of this Act ;
- (c) execute and perform all other powers and duties which are conferred and imposed upon him by or under this Act.

**Removal of
difficulties.**

77. If any difficulty arises in first giving effect to any of the provisions of this Act, the Commissioner may, by Order published in the *Gazette*, issue all such directions as he may deem necessary with a view to providing for any special or unforeseen circumstances or to determining or adjusting any question or matter for the determination or adjustment of which no provision or effective provision is made by this Act.

**Interpre-
tation.**

78. In this Act, unless the context otherwise requires—

“Commissioner of Elections” means the Commissioner of Elections appointed under Article 103 of the Constitution ;

“elector”, “electoral district”, “polling district” “polling division”, “register of electors” and “registering officer” have the same meanings as in the Registration of Electors Act, No. 44 of 1930 ;

“proposal” means any matter which may be submitted to the People by Referendum in terms of Chapter XIII of the Constitution ; and

“voter” means a person who, whether his name does or does not appear in a register of electors, applies to vote, or votes at a Referendum.

Postal Voters (Referendum) Regulations, 1981

Short title

1. These regulations may be cited as the Postal Voters (Referendum) Regulations, 1981.

Interpretation.

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

“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 a Referendum, means a person entitled to be treated as a postal voter for the purposes of that Referendum;

“Proclamation” means the Proclamation made by the President under section 2 of the Act;

“Schedule” means the Schedule to these regulations;

“the Act” means the Referendum Act, 1981.

Form of application to be treated as a postal voter.

3. An application to be treated as a postal voter shall be substantially in the form “A” in the Schedule.

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 returning officer under the Act shall be in such form as appears to him to be convenient.

(2) The address to which the ballot paper of a postal voter is 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.

(4) As soon as the postal voters' list has been prepared, the returning 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 shall be substantially in the form “B” in the Schedule.

Appointment of clerks.

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

persons
required 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 referendum agent,
 - (c) a person appointed by a referendum agent to attend in his 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 referendum agent may appoint one or more agents up to the number he may be authorized by the returning officer to appoint not exceeding the number of such batches, so, however, that the number authorized shall be the same in the case of each referendum agent.

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

(4) If an agent dies or becomes incapable of acting, the referendum agent 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 any person authorized in writing by the referendum agent instead of by the referendum agent.

(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 authorized by the returning officer.

(7) A referendum agent may himself do any act or thing which any agent of his, if appointed, would have been authorized 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 authorized to be done in the presence of the referendum agents 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 persons shall be made in the presence of the returning officer or a Justice of the Peace.

(3) 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—

- (a) except for some purpose authorized 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 authorized 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.

(4) Every person who acts in contravention of the provisions of paragraph (3) 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.

10. (1) The returning officer shall, not later than ten days after the publication of the Proclamation, notify each referendum agent 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 3 to attend the said issue.

Notice of
issue of
postal ballot
papers.

(2) Where any subsequent issue of ballot papers is made, the returning officer shall notify the referendum agent 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 3 to attend the issue.

11. (1) The postal ballot paper 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 but without showing the particular ballot paper issued to him.

Official
mark to be
made on
postal ballot
papers.

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

(3) The number printed on the postal ballot paper issued to a postal voter shall be marked on the form of declaration of identity sent to such voter. The number so marked is hereinafter 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 that voter, more than one postal ballot paper.

Refusal
to issue
postal ballot
paper.

Interpretation of the expression marked number on the ballot paper envelope " and the expression "covering envelope".

Delivery to post office of envelopes addressed to postal voters.

Sealing up of postal voters' list and counterfoils.

Provision of postal voters' ballot box.

Receipt of covering envelopes from postal voters.

Counting officers.

13. (1) The number marked on the ballot paper envelope is referred to in these regulations as the "marked number on the ballot paper envelope".

(2) The envelope for the return of the postal ballot paper 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.

15. (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 referendum agents, shall make up in separate packets—

(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.

16. (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 38 of the Act.

(2) Every ballot box referred to in paragraph (1) of this regulation shall be shown open and empty to such agents of the referendum agents 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 and the returning officer shall make provision for the safe custody of such ballot box.

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. Subject to the general or special directions of the Commissioner, the returning officer shall appoint, and may revoke the appointment of, a counting officer to be in charge of the counting

of votes at the counting centre, or each counting centre where postal ballot papers are to be counted, and such number of assistants and clerks and other officers to assist such counting officer in the performance of his duties.

19. The returning officer shall make arrangements for counting the votes on the postal ballot papers as soon as possible after the close of the poll and shall give notice in writing to each secretary or the referendum agent of a recognized political party of the situation of the counting centre or each counting centre where postal ballot papers are to be counted and the date and time of the commencement of such count.

Notice of count.

20. Each recognized political party may appoint not more than two observers (hereinafter referred to as "counting observers") to attend at the counting of the votes at each counting centre where postal ballot papers are to be counted before the commencement of such count. Notice in writing of such appointments stating the names and addresses of the persons appointed shall be given by the secretary of such recognized political party or the referendum agent to the counting officer before the commencement of the count. The counting officer may refuse to admit to the counting centre any counting observer whose name and address have not been so given.

Appointment of counting observers.

21. Except with the consent of the counting officer no person other than the counting officer, the persons appointed to assist him and the counting observers may be present at the counting of the votes.

Persons entitled to be present at the count.

22. The provisions of section 51 of the Act shall apply at the proceedings at the counting of the postal ballot papers.

Maintenance of secrecy at the count.

23. Every postal voters' ballot box shall be opened by the counting officer, in the presence of the counting observers after the close of the poll and before such officer proceeds to count the votes.

Opening of postal voters ballot box.

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

Opening of the covering envelopes.

(2) Where the counting 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 not enclosed in a ballot paper envelope, or
- (iii) only a declaration of identity, or
- (iv) only a ballot paper 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,

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

- (a) mark on the declaration of identity the words "declaration of identity rejected";
- (b) show such declaration to such counting observers as are present and, if any objection is made by any observer to the decision of the counting officer regarding such declaration, add to the words marked on such declaration under the preceding sub-paragraph (a) the words "rejection objected to";
- (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; 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 counting 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 counting officer shall mark on the ballot paper the words "rejected, no declaration of identity received" and shall place the ballot paper 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 counting 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 are found in such envelope, the counting officer shall satisfy himself that such declaration has been duly signed and witnessed and that the marked number on the declaration of identity corresponds to a similar marked number on such ballot paper and—

(a) if so satisfied, shall place such declaration in the receptacle for declarations of identity and place such ballot paper 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 counting observers as are present and, if any objection is made by any observer to the decision of the counting 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; 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.

(9) If, on opening the ballot paper envelope under paragraph (7) of this regulation, the counting officer finds—

(a) only a declaration of identity, or

(b) only a ballot paper, or

(c) nothing,

he shall—

(i) in the case referred to in the preceding sub-paragraph (a), mark on such declaration the words "declaration of identity rejected, no ballot paper received";

(ii) in the case referred to in the preceding sub-paragraph (b), mark on such ballot paper the words "rejected, no declaration of identity received";

(iii) in the case referred to in the preceding sub-paragraph (c), mark on the ballot paper envelope the words "rejected, no contents received"; and

(iv) if a declaration of identity or a ballot paper is found in the ballot paper envelope, attach such declaration or ballot paper 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 counting 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.

25. (1) On the conclusion of the proceedings under regulation 24, the counting 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 counting 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.

(3) Where a ballot paper envelope contains a ballot paper, the counting officer shall—

(a) if the marked number on such envelope corresponds to a similar marked number on such ballot paper, place such ballot paper in the receptacle for postal voters' ballot papers; and

(b) if such envelope contains a ballot paper and the marked number on such ballot paper does not correspond to the 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.

Sealing up
of rejected
votes and
declarations
of identity.

26. On the conclusion of the proceedings under regulation 25, the counting 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.

The count.

27. (1) Before the counting officer proceeds to count the votes, he or a person authorized by him shall, in the presence of such of the counting observers as attend, take out the ballot papers placed in the receptacle for postal voters' ballot papers and count and record the number of such papers in such receptacle.

(2) In counting the votes in the ballot papers placed in the receptacle for postal voters' ballot papers, the provisions of subsections (3) and (4) of section 34 and sections 35 and 36 of the Act shall apply.

Closure of
the count.

28. Upon the completion of the counting, the counting officer shall forthwith deliver in sealed packets to the returning officer—

(a) the counted ballot papers;

(b) the rejected ballot papers;

(c) the written statement of the number of votes given in favour of or against the proposal prepared in terms of subsection (7) of section 25 of the Act;

(d) the record of the count under regulation 27 (1);

(e) the statement drawn up in terms of subsection (8) of section 35 of the Act; and

(f) the two sealed packets referred to in regulation 26.

SCHEDULE TO THESE REGULATIONS

REGULATION 3

FORM A

APPLICATION TO BE TREATED AS A POSTAL VOTER

To the Returning Officer of Electoral District No.
(give number and name of electoral district)

I,
hereby declare that my name appears as
in the register of electors of the above mentioned electoral district. The serial number, the
polling division and the polling district under which my name appears in the register are as
follows:—

Polling division letter :

Polling district number :

Serial number of my name :

I hereby apply to be treated as a postal voter at the Referendum because I am unable/
likely to be unable to vote in person at the polling station allotted to me by reason of the
particular circumstances of my employment—

*(a) as a member of the Sri Lanka Army/Sri Lanka Navy/Sri Lanka Air Force ;

*(b) as an officer or servant in the Department of Police/Sri Lanka Government Railway/
Department of Posts */ Telecommunications /Sri Lanka Central Transport
Board/ Regional Transport Board ;

(c) as an officer or servant in the public service-appointed/likely to be appointed for duties
connected with the Referendum ;

(d) as an officer or servant of the Central Bank of Ceylon appointed/likely to be appointed
for duties connected with such Referendum ;

The address to which my ballot paper and other documents should be sent is as follows:—

If the applicant is not entitled to
function as a certifying officer in
accordance with the provisions appearing
below, state official designation
and address of applicant's certifying
officer

If the applicant is entitled to
function as a certifying officer,
state applicant's official designation
and address.

Date :

Signature of applicant.

I hereby certify that I am unable*/likely to be unable*/the applicant is unable*/likely to
be unable*/to vote in person at the polling station allotted to me*/him for the reason stated
by me */ him in this application.

My official designation and address as stated in this application are correct.

Date and official frank :

Signature and designation of certifying
officer*/applicant.

*Delete inapplicable words.

NOTE

1. Every application shall be made to the returning officer of the electoral district where the applicant is registered as an elector within ten days from the date of publication of the Proclamation under section 2 of this Act.

2. Every application shall be duly filed in as otherwise it is liable to rejection by the returning officer.

3. Every applicant will be informed of the decision of the returning officer.

4. The ballot paper and other documents will be despatched to any applicant whose application has been allowed to his name and address as stated in his application if he is entitled to function as a certifying officer or, if he is not so entitled, under the care of the certifying officer whose official designation and address are stated in his application.

5. The expression "certifying officer"—

(a) in relation to any applicant who, being a member of the Sri Lanka Army or Sri Lanka Navy or Sri Lanka Air Force,—

(i) is the Commander of that Army or the Captain of that Navy or the Commander of that Air Force, or is the officer in immediate charge of the unit or establishment in which the applicant is serving, means the applicant; or

(ii) is not a person referred to in clause (i) of this subparagraph means the officer in immediate charge of the unit or establishment in which the applicant is serving;

(b) in relation to any applicant who, being an officer or servant in the public service or the Central Bank of Ceylon,—

(i) is the officer in immediate charge of any office, means the applicant; or

(ii) is not a person referred to in clause (i) of this subparagraph means the officer in immediate charge of the office in which the applicant is serving.

REGULATION 6

FORM B

Form of declaration of identity

FRONT OF FORM

Serial number of ballot paper.....
(to be inserted by returning officer).

* I hereby declare that I am the person to whom the ballot paper bearing the above serial number and the envelope containing such ballot paper (which have been now handed over to me) were sent under the care of the officer mentioned below who is a witness to my signature.

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

Date

Voter's Signature.

The ballot paper and the envelope referred to were sent to the above-named person under my care in my capacity as his certifying officer. The above named person is personally known to me, (being employed in the unit* / establishment* / office in my charge.

The ballot paper handed over to the voter was marked immediately by him in the compartment provided in my office. The marked ballot paper was placed in the ballot paper envelope by the voter and the envelope was sealed in my presence and that of the voter.

The above declaration of identity was signed in my presence by the voter before voting.

† The above named person who is personally known to me has shown me the ballot paper and the envelope referred to above and has signed the above declaration in my presence.

.....
*Signature and designation
of Witness.*

Date and official frank :
(see instructions on back of this form)

* Delete if inapplicable.

† Applicable only in respect of voters to whom the ballot paper and other documents were sent direct under their official designation and address and should be deleted if inapplicable. The witness to the declaration in respect of such voters will be as specified in the instructions overleaf.

BACK OF FORM

A. Instructions to voter in respect of whom ballot paper and other documents have been despatched under the care of his certifying officer.

1. Before signing the declaration the voter in respect of whom the ballot paper and other documents have been despatched under the care of his certifying officer shall see—

(a) the envelope in which the form of declaration of identity and the ballot paper were forwarded to the voter under the care of such officer;

(b) that the serial number of the ballot paper specified in the declaration of identity is the same as the number appearing on the ballot paper handed over to him.

The voter shall then sign the declaration in the presence of such officer who shall function as his witness.

2. The voter has only one vote.

3. 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 symbol "lamp" allotted to the word "Yes" or opposite the symbol "pot" allotted to the word "No", thus X.

4. THE VOTER SHALL NOT ALLOW ANY PERSON TO SEE HOW HE HAS VOTED.

5. Immediately after voting the voter shall fold the ballot paper, obtain the small envelope provided on which are printed the words "ballot paper envelope" from his witness, place the marked ballot paper in it without showing the front of the ballot paper and fasten the envelope up. The envelope shall then be sealed in the presence of the voter and his witness.

The voter shall then place the sealed ballot paper envelope together with his completed declaration of identity in the other larger enclosed envelope addressed to the returning officer, fasten the envelope up and hand it over to his witness for despatch without delay.

6. 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 ON THE POLLING DAY APPOINTED, AND IS ACCOMPANIED BY THE DECLARATION OF IDENTITY DULY SIGNED AND WITNESSED.

B. Instructions to voter in respect of whom ballot paper and other documents were sent direct to him under his official designation and address.

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 bearing the same number as is specified in such declaration; and

(b) the envelope in which the voter has received the form of declaration of identity and the ballot paper.

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 Sri Lanka Army, Sri Lanka Navy, or Sri Lanka Air Force, be a Commissioned Officer of such Army, Navy or Air Force;

(b) if the voter is an officer or servant in the public service or the Central Bank of Ceylon, be a superior officer of such service, or if the voter has no superior officer, any other officer of such service.

3. The voter has only one vote.

4. 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 symbol "Lamp" allotted to the word "Yes" or opposite the symbol "Pot" allotted to the word "No", thus X.

5. THE VOTER SHALL NOT ALLOW ANY PERSON TO SEE HOW HE HAS VOTED.

6. Immediately after voting, the voter shall place the marked ballot paper 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 at once it may be too late to be counted.

7. 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 ON THE POLLING DAY APPOINTED AND IS ACCOMPANIED BY THE DECLARATION OF IDENTITY DULY SIGNED AND WITNESSED.

FORM C

REGULATION 9

FORM OF DECLARATION OF SOREDOY

I solemnly promise and declare that I will not at these proceedings do anything forbidden by paragraph (3) of regulation 9 of the regulations contained in the First Schedule to the Referendum Act which has been read to me.

Signature of Declarant.

Signature of persons 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.

SECOND SCHEDULE

SECTIONS 13 and 22

FORM OF DIRECTIONS FOR THE GUIDANCE OF A VOTER IN VOTING WHICH SHALL BE EXHIBITED OUTSIDE EVERY POLLING STATION AND IN EVERY COMPARTMENT OF EVERY POLLING STATION

Every voter shall have one vote which may be given in favour of or against the proposal.

The voter will go into one of the compartments and place across (thus X) on the right hand side of the ballot paper opposite the symbol "Lamp" allotted to the word "Yes" or opposite the symbol "Pot" allotted to the word "No".

The voter will then fold up the ballot paper so as to show the official mark on the back to the Presiding officer and put the paper into the ballot box, and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the presiding officer, who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter votes both in favour of and against the proposal, his ballot paper will be void and will not be counted.

THIRD SCHEDULE

FORM A

Section 15 (2)

FORM OF FRONT OF BALLOT PAPER

Counterfoil No.			
Note.—The counterfoil is to have a number to correspond with that on the back of the ballot paper.	Proposal to be put to the People to be stated here in the form of a question	Yes "Lamp"	
		No "Pot"	
The Proposal and the words "Yes" and "No" must be printed in Sinhala, Tamil and English.			

FORM D
SECTION 26 (1)
DECLARATION

I, (name in full) of (address), hereby declare that I have not already voted either here or elsewhere at this Referendum in this electoral district.

.....
(Signature or thumb mark of voter.)

Declared before me this day of 19.....

.....
(Signature of Presiding Officer.)

Number and Name of
Electoral District :
Polling Division :
Polling District :
Polling Station :

FORM E
SECTION 26 (1)
DECLARATION

I, (name in full) of (address), hereby declare that I am not legally incapable of, or disqualified from, voting at this Referendum.

.....
(Signature or thumb mark of voter.)

Declared before me this day of 19.....

.....
(Signature of Presiding Officer.)

Number and Name of
Electoral District :
Polling Division :
Polling District :
Polling Station :

FORM F
SECTION 26 (1)
DECLARATION

I, (name in full) of (address), hereby declare that I have not already voted at this Referendum in any other electoral district.

.....
(Signature or thumb mark of voter.)

Declared before me this day of 19.....

.....
(Signature of Presiding Officer.)

Number and Name of
Electoral District :
Polling Division :
Polling District :
Polling Station :

FORM G

SECTION 28

DECLARATION

I solemnly and sincerely declare that I am the same person whose name appears as.....
 (Name) No..... (Serial Number) in the register of electors for the
 electoral district of.....

.....
 (Signature or thumb mark of voter)

Declared before me this..... day of..... 19.....

.....
 (Signature of Presiding Officer.)

Number and Name of
 Electoral District :

Polling Division :

Polling District :

Polling Station :

FORM H

SECTION 29

TENDERED VOTES LIST

No. of Voter	Name of Voter
--------------	---------------

.....
 (Signature of Presiding Officer.)

Date :

Number and Name of
 Electoral District :

Polling Division :

Polling District :

Polling Station :

FORM G

SECTION 28

DECLARATION

I solemnly and sincerely declare that I am the same person whose name appears as
 (Name) No. (Serial Number) in the register of electors for the
 electoral district of

(Signature or thumb mark of voter)

Declared before me this day of 19

(Signature of Presiding Officer.)

Number and Name of
 Electoral District :

Polling Division :

Polling District :

Polling Station :

FORM H

SECTION 29

TENDERED VOTES LIST

No. of Voter	Name of Voter
--------------	---------------

(Signature of Presiding Officer.)

Date :

Number and Name of
 Electoral District :

Polling Division :

Polling District :

Polling Station :

FORM I

SECTION 30

BALLOT PAPER ACCOUNT

Number and Name of

Electoral District :

Polling Division :

Polling District :

Polling Station :

No. of ballot papers received :

No. of ballot papers issued other than spoiled ballot papers :

Spoiled ballot papers :

Unused ballot papers :

No. of tendered ballot papers received :

No. of tendered ballot papers issued to voters :

No. of unused tendered ballot papers :

Date :

(Signature of Presiding Officer.)

FORM J

SECTION 51

FORM OF DECLARATION OF SWEAR

I solemnly promise and declare that I will not at this Referendum do anything forbidden by section 51 of the Referendum Act, 1981 which has been read to me.

(Signature of Declarant.)

Declared before me this day of 19

(Signature of person taking declaration.)

Note.—The section must be read to the declarant by the person taking the declaration.

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