

6.0 PRESIDENTIAL/PARLIAMENTARY ELECTIONS LAWS

6.1 C. I. 15 PUBLIC ELECTIONS REGULATIONS, 1996

PART I - GENERAL PROVISIONS

Appointment of returning officer.

1. (1) For the purpose of holding a public election, the Electoral Commission, referred to in these Regulations as “the Commission”, shall appoint a returning officer for each constituency in which the election is to be held and such other assistants as the Commission may determine.
- (2) A returning officer or his assistant shall perform his duties under the general supervision of the District Electoral Officer of the Commission.
- (3) A person appointed as a returning officer or assistant shall swear in the presence of a Judge or a judicial officer that he will faithfully and impartially fulfill the duties of his office and shall abide by the laws and regulations governing the conduct of elections.

Writ of election.

2. (1) For the purpose of a public election, the Commission shall issue a writ of election to the returning officer.
- (2) The writ shall be in such form as the Commission may determine and shall specify –
 - (a) the period and place for the nomination of candidates; and
 - (b) the day on which the poll is to be taken.
- (3) The day on which the poll is to be taken shall –
 - (a) not be less than thirty days or more than ninety days after the last day appointed for the nomination of candidates, in the case of a general election; and
 - (b) not be less than ten days and not more than fourteen days after the nomination of candidates in the case of a by-election.
- (4) As soon as a writ has been issued, the Commission shall publish a notice in the Gazette stating that the writ has been issued and specifying the constituency to which it relates, the day and place for the nomination of candidates and the day on which the poll is to be taken.

Notice of election.

3. (1) On receipt of a writ of an election, the returning officer shall publish notice of an election throughout the constituency in such manner as the Commission shall direct.
- (2) Every notice of an election under these Regulations shall be in such form as the Commission may direct and shall specify the day, the place and time for the nomination of candidates and the day when the poll is to be taken.

Nomination of candidates for parliamentary election.

4. (1) A candidate for election to Parliament shall be nominated by a separate nomination paper in such form as the Commission shall determine which shall be delivered in quadruplicate by candidate himself or the person who proposes or seconds his nomination to the returning officer of the constituency for which the candidate seeks election on the day and at the place specified in the writ between the hours of nine in the morning and twelve noon and the hours of two and five in the afternoon.
- (2) The nomination paper for each candidate in an election to Parliament shall be –
 - (a) witnessed by the signature or mark of two electors as proposer and seconder and supported by eighteen other electors as assenting to the nomination; and
 - (b) endorsed with the candidate's consent to nomination
- (3) No candidate shall be nominated:
 - (a) in the case of a general election to Parliament, for more than one constituency; or
 - (b) in the case of a by-election to Parliament, if he or she is a member of Parliament
- (4) No person shall nominate more than one candidate for election to Parliament.

Nomination of candidates in presidential elections.

5. (1) A candidate for election as President shall be nominated by a separate nomination paper in such form as the Commission shall determine.
- (2) The nomination paper for each candidate in an election for President shall -
 - (a) be signed by the candidate;
 - (b) be signed by not less than two persons who are registered voters registered in the area of authority of each district assembly; and
 - (c) designate a person to serve as Vice President; and

- (d) be delivered to the Commission on or before the day appointed as nomination day in relation to the election;
- (3) The nomination form shall be in quadruplicate and shall be delivered by the presidential candidate himself or the person who proposes or seconds his nomination between the hours of nine in the morning and twelve noon and the hours of two and five in the afternoon on or before the nomination day.
- (4) No person shall nominate more than one candidate in a presidential election.
- (5) The Chairman of the Commission shall be the returning officer for the purpose of election of President.

Statutory declaration and deposit by presidential and parliamentary candidates.

6. (1) A candidate for President or Parliament shall, at the time of his nomination -
- (a) deliver or caused to be delivered to the returning officer a statutory declaration in such form as the Commission may determine, stating that he is qualified to be an is not disqualified from being elected President or a member of Parliament;
 - (b) deposit or cause to be deposited such sum as the Commission shall determine; and
 - (c) deliver or cause to be delivered to the returning officer two post card size copies of his recent photograph (bust).
- (2) The statutory declaration shall be made before a Judge, a judicial officer, notary public, commissioner of oaths, or any person authorized by law to administer an oath who shall certify it under his signature.
- (3) The Statutory declaration provided for under paragraph (a) of subregulation (1) shall also be made by a person designated as vice-president for the election.

Nominated candidate.

7. (1) Whenever the nomination paper and the statutory declaration of a candidate are delivered and the deposit is paid in accordance with these Regulations, the candidate shall be considered to stand nominated, unless proof is given to the satisfaction of the returning officer of the candidate's death, withdrawal or disqualification.
- (2) The returning officer shall inform a candidate that his nomination is invalid where -
- (a) the particulars of the candidate or the persons subscribing to the nomination paper are not as required by law; or
 - (b) the nomination paper is not subscribed to as required by law, and allow the candidate an opportunity to make any amendment or alteration that the candidate considers necessary.

- (3) Where the returning officer decides that a nomination paper is invalid, after complying with sub-regulation (2) of this regulation, he shall endorse and sign on the nomination paper the fact and the reasons for his decision, and inform the Commission accordingly and the Commission shall refer the matter with its observations on it to the Attorney-General.
- (4) Nothing in this regulation shall prevent the validity of a nomination being questioned on an election petition.
- (5) Before the close of nominations on the nomination day, the returning officer, the candidate, if present, or such of the persons who have nominated the candidate as are present shall sign a declaration to the effect that, at the close of nominations, the nomination of the candidate was presented and received by the returning officer, who shall state in the declaration the time at which each nomination was received by him and the time at which he accepted the nomination.

Withdrawal of nomination and exhibition of names of nominated candidates.

8. (1) Nomination of candidates shall be submitted and concluded by close of day for nomination and a list of the nominated candidates as at close of nomination day shall be prepared and signed by the returning officer.
- (2) On the next day following the last day for nomination, the returning officer shall post at the constituency centre, and at such other places as the Commission may direct, a notice providing the names of the candidates nominated and a list of the persons who have sponsored each candidate.
- (3) Subject to sub-regulation (2) of regulation 11, a duly nominated candidate may withdraw his candidature at any time prior to the day before election day except that, where a duly nominated candidate whose name appears on the nominated list exhibited under this regulation withdraws his candidature after the printing of ballot papers and related election notices, the ballot papers and related notices may continue to include his name and other particulars and there shall not be refunded to such latter candidate the deposit paid by him for his nomination.

Where no candidate is nominated.

9. (1) Where at the expiration of the time allowed for delivery of nomination papers no candidate stands nominated, the returning officer shall certify the fact by endorsing that on the writ and forwarding the writ to the Commission.
- (2) Within thirty days after the receipt by the commission of a writ endorsed as provided under sub-regulation (1) of this regulation in respect of any constituency, a fresh writ shall be issued for an election in that constituency.

Unopposed candidate.

10. Where at the expiration of the time allowed for delivery of nomination papers and on the day before the election only one candidate stands nominated, that candidate shall be declared elected.

Contested election and death of a candidate.

11. (1) Where at the expiration of the time allowed for the delivery of nomination papers and on the day before the election two or more candidates stand nominated, a poll shall be taken in the manner provided by these Regulations and in accordance with any existing applicable law.
- (2) Where for the purpose of a public election two or more candidates are duly nominated at the close of the nominations but before the day of the election only one candidate stands nominated, a further period of ten days shall be allowed for nomination of other candidates, and it shall not be lawful for any person nominated within that period of ten days to withdraw his nomination.
- (3) Where at the close of nominations and after the expiry of the further period of ten days under sub-regulation (2) of this regulation only one candidate stands nominated, there shall be no election and that candidate shall be declared elected.
- (4) Where at the close of nominations, but before the election, one of the candidates dies, a further period of ten days shall be allowed for nominations; and where the death occurs at any time within twenty-five days before the election, the election in that constituency shall be postponed for not less than twenty-one days.

Allocation of symbols and colours.

12. (1) Where an election is contested, the Commission shall, as soon as practicable after the nomination day -
 - (a) allocate to each candidate the symbol of his party in the case of a candidate sponsored by a registered political party; or
 - (b) allocate to a candidate who is not sponsored by a political party a symbol or colour chosen by him; or
 - (c) in any other case, allocate such symbols or colours as the Commission considers appropriate.
- (2) A symbol or colour shall be chosen or assigned for the purpose of this regulation from among symbols and colours approved by the Commission for the purposes of election.

- (3) No person shall be allocated a symbol which is connected with or is attached to the name, status or dignity of a chief or a symbol or a colour which is connected with any religious or racial association within the meaning of the Avoidance of Discrimination Act, 1957 (No. 38).

Notice of poll.

13. Whenever an election is to be held, the Commission shall, as soon as practicable after the allocation of symbols or colours, publish notice of the election in the Gazette and in such places in a constituency as it may direct and the notice shall state -

- (a) the day on which and the time at which the poll is to be taken; and
- (b) the full names and photographs or symbols or colours of the candidates nominated for the election.

Adjournment of poll.

14. (1) The Commission may, at any time between the issue of a writ and the day specified in the writ as polling day, by notice in the Gazette adjourn the taking of the poll not more than thirty days after day specified earlier.
- (2) Where a notice in the Gazette is issued under subregulation (1) of this regulation, the writ for the constituency to which the notice relates shall be considered as amended by the substitution of the day to which the taking of the poll is adjourned for the day specified in the writ as polling day.

Death of candidate.

15. (1) Where an election is to be held and proof of the death of a candidate is given to the returning officer before the poll is commenced, the returning officer shall inform the commission and all proceedings in relation to the election shall, subject to sub-regulation (2) of this regulation, be started afresh.
- (2) Where proceedings are started afresh, the Commission shall appoint –
- (a) a fresh nomination day, which shall be not less than fourteen days and not more than twenty-one days after the day on which proof of the candidate's death was given to the returning officer; and
 - (b) a fresh polling day, which shall not be more than fourteen days after the nomination appointed under paragraph (a) of this sub-regulation.

Provision of polling stations.

16. (1) For the purpose of taking the poll the existing polling stations prescribed by the Commission shall be used as polling stations.
- (2) The Commission may direct a returning officer to establish additional polling stations for any polling division.
- (3) Any convenient building, except a dwelling-house or a building or class of buildings exempted by the Commission, may be established by the returning officer as a polling station and used without charge for that purpose.
- (4) The government shall repair out of public funds any damage done to a building as a result of its being used as a polling station.
- (5) Where two or more polling stations are established for a polling division, the returning officer shall –
 - (a) assign to each of the stations such number of the voters registered in the division as the Commission considers appropriate; and
 - (b) give notice in the polling division in such manner as the omission may direct, of the polling stations to which the voters registered in the division have been assigned.

Presiding officers and polling assistants.

17. (1) The Commission shall appoint a presiding officer to preside at each polling station and such number of polling assistants as it considers necessary to assist the presiding officer in carrying out his duties.
- (2) A polling assistant may act as the presiding officer of a polling station during the absence or incapacity of the presiding officer.-
- (3) A person appointed as a presiding officer or polling assistant shall swear, before a member or senior officer of the Commission, upon penalty of perjury that he will abide by the laws and regulations governing the conduct of elections and will faithfully carry out his duties in a fair and impartial manner.

Equipment for polling stations.

18. (1) The returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as the Commission may direct.
- (2) Each ballot box shall be so constructed that a ballot paper can be put into it by the person voting but cannot be withdrawn by him.

- (3) The returning officer shall provide each polling station with –
- (a) materials for voting;
 - (b) instruments for perforating or stamping the ballot papers with the official mark;
 - (c) instruments for marking the means of identification of the voter in accordance with sub-regulations (1) and (2) of regulation 31 of these Regulations; and
 - (d) a copy of the divisional register, the transferred voters list, the proxy voters list, the election officers list and the absent voters list relating to the polling station.

Polling agents.

19. (1) A candidate may appoint one polling agent to attend at each polling station in the constituency for which he is seeking election or, in the case of a candidate for President, in every polling station nationwide, for the purpose of detecting impersonation and multiple voting and certifying that the poll was conducted in accordance with the laws and regulations governing the conduct of elections.
- (2) Every candidate shall submit in duplicate to the returning officer in charge of the constituency in which he seeks election letters of appointment stating the name and address of each polling agent and the polling station to which each is to be assigned.
- (3) On a date set by the returning officer, the polling agent shall appear before the returning officer to be sworn upon penalty of perjury that he shall abide by the laws and regulations governing the conduct of elections.
- (4) Upon the taking of the oath by the polling agent, the returning officer shall sign both the original and duplicate copies of the appointment letter and issue to the polling agent the duplicate copy which shall be presented to the presiding officer of the polling station to which the agent is assigned on the day of the poll.

Transferred voters list.

20. (1) A registered voter who at any time before a general election is resident for not less than two months in a constituency other than that in which he is registered, may apply to the returning officer of the constituency where he is resident for his name to be entered on the transferred voters list of the constituency.

- (2) An application under sub-regulation (1) of this regulation shall be made -
- (a) not less than twenty-one days before the last day of nomination to the constituency where the applicant is resident, where the application relates to a nomination; or
 - (b) not less than twenty-one days before election day to the constituency where the applicant is resident, where the application relates to voting.
- (3) A returning officer to whom an application is made under this regulation shall enter the applicant's name in the transferred voters list for the assigned polling station in his constituency if he is satisfied that the applicant has met the residency requirement established in sub-regulation (1) of this regulation and is registered in another constituency.
- (4) Whenever a returning officer enters the name of any person on the transferred voters list, he shall -
- (a) assign that person to a polling station in his constituency; and
 - (b) send a copy of the entry to the returning officer of the constituency where the person whose name has been entered is registered.
- (5) A person whose name is entered on the transferred voters list is entitled to vote at the election in the polling station to which he is assigned as if it were the polling station where he is registered, and the provisions of regulation 31 of these regulations shall have effect accordingly.

Special voters list.

21. (1) A voter who because of his duties on polling day will be unable to be present at the polling station where he is registered, may apply to the returning officer of the constituency in which he is registered to be entered as a special voter.
- (2) An application under sub-regulation (1) of this regulation shall be made not later than seven days before the polling day in the constituency of the applicant and, except in the case of an applicant who is a returning officer, shall be accompanied by a certificate from the applicant's superior stating that -
- (a) the applicant is registered at a polling station in the constituency of the returning officer to whom the application is made; and
 - (b) the applicant's duties will prevent him from being present on polling day at the polling station where he is registered.

(3) A returning officer to whom an application is made under subregulation (2) shall, where the applicant is a person whose duties are related to the elections, ascertain from the applicant where he will be working on election day and –

(a) if the applicant will be working in the same constituency where he is registered but at a polling station other than where he is registered –

(i) enter the name and voter ID number of the applicant on the election officers list for the polling station.

(ii) issue the applicant a certificate that entitles him to vote on election day in the polling station at which he is working; and

(ii) enter the name and voter ID number of the applicant in which the applicant is registered;

(b) if the applicant will be working in a constituency other than where he is registered –

(i) issue the applicant a certificate that entitles him to vote on a day set aside for special voters;

(ii) enter the name and voter ID number of the applicant on the special voters list;

(iii) enter the name and ID number of the applicant on the absent voters list of the polling station in which the applicant is registered; and

(iv) inform the applicant of the date and time set aside for special voting.

(4) Where an application is made to a returning officer under subregulation (1) and the applicant is a person other than an election officer the returning officer shall –

(a) enter the name and voter ID number of the applicant on the special voters list for the constituency;

(b) enter the name and voter ID number of the applicant on the absent voters list of the polling station in which the applicant is registered;

(c) inform the applicant of the date and time set aside for special voting.

(5) A person whose name is entered on the special voters list is entitled to vote at a polling station specified by the Commission and on a day which is not more than seven days before the polling day appointed by the returning officer and advertised in such manner as the Commission may direct;

(6) A person who is entitled to vote as a special voter shall not be entitled to vote otherwise at the election.

(7) No person shall vote at a polling station as a special voter unless his name is on the special voters list for that polling station.

(8) Subject to subregulation (9) of this regulation voting as a polling station for special station for special voters shall be conducted in the same manner as voting on polling day.

(9) The returning officer shall in relation to special voting –

(a) cause the ballot boxes to be kept in safe custody after the poll has closed and the boxes have been sealed; and

(b) arrange for the ballot boxes to be opened at the time of the counting of the votes cast on the polling day and the ballot papers shall be counted in the same manner as those contained in the ballot boxes used on the polling day.

Absent voters list.

22. (1) Each returning officer shall, before polling day, prepare for each polling station in his constituency an absent voters list containing the names of any persons registered in the station whose names have been entered on the transferred voters list for another constituency, the election officers list, or on the special voters list for his constituency.

(2) A person whose name is entered on the absent voters list for a polling station shall not be entitled to vote in that station and the provisions of regulation 31 of these Regulations shall have effect accordingly.

Voting by proxy.

23. (1) A registered voter who, because of ill-health or absence from his constituency, will be unable to present himself to vote on polling day may, not less than fourteen days before the poll in the constituency where he is registered, apply to the returning officer of the constituency where he is registered or to any representative of the Commission for his name to be entered on the proxy list.

(2) The applicant shall complete a proxy form in such manner as the Commission may direct.

(3) The application form shall be endorsed by the returning officer of the constituency of the applicant or the representative of the Commission to whom the application was made and distributed as follows –

- (a) the original to the returning officer of the constituency where the applicant wishes the proxy to vote;
- (b) the duplicate copy to the Commission
- (c) the triplicate copy to the person appointed as proxy; and
- (d) the quadruplicate to the applicant.

(4) The returning officer or any representative of the commission to whom the application is made shall, if satisfied that the proxy is qualified to be registered as a voter and that the applicant is a registered voter, enter the names and the particulars of the applicant and the proxy on the proxy list and –

(a) assign the proxy to a polling station in the constituency;

(b) indicate on the proxy list the polling station to which the proxy is assigned;

and

(c) forward a copy of the list to the presiding officer for the polling station to which the proxy is assigned.

(5) A person appointed as a proxy may vote in the elections at the polling station where he is assigned to vote and the provision relating to voting procedure under these Regulations shall have effect accordingly.

(6) No person shall be entitled to have more than one person at a time appointed as a proxy to vote for him at the election.

(7) A person whose application to vote by proxy is accepted and endorsed by the returning officer of the constituency or the Commission shall not vote at the election in respect of which the application was granted.

(8) The appointment of a proxy shall be cancelled by the returning officer or the Commission where an applicant is made for cancellation by the person who made the application for the appointment of the proxy.

(9) An application for the cancellation of proxy shall be made not less than seven days before the election to which the application relates and shall be made in such form as the Commission may determine.

(10) A proxy whose appointment is cancelled shall cease to have the right to vote for the applicant whether or not he is aware of the cancellation.

PART II – THE POLL

Number of votes and place of voting.

24. (1) No voter shall cast more than one vote when a poll is taken.

(2) Subject to the provisions relating to transferred voters list, special voters list, election officers list, and absent voters list under regulations 20, 21 and 22 respectively, a voter shall vote at the polling station allotted to him.

Poll to be taken by ballot.

25. (1) The votes at the poll shall be given by ballot and the result shall be ascertained by counting the votes cast for each candidate.

(2) The candidate who receives the most valid votes cast shall be declared elected in the case of a parliamentary election.

Ballot papers.

26. (1) The ballot of every voter shall consist of a ballot paper.

(2) Each ballot paper shall –

(a) contain the names and photographs or symbols or colours of all the candidates contesting the election in the constituency;

(b) be capable of being folded up;

(c) have a number printed on it; and

(d) have attached to it a counterfoil with the same number printed on it.

(3) Notwithstanding sub-regulation (2) of this regulation, a ballot paper shall not be void because it does not bear any number if it is certified by the Commission that it is a ballot paper issued by it.

Polling hours and admission to polling station.

27. (1) The poll shall be taken between the hours of seven in the morning and five in the evening.

(2) The presiding officer shall regulate the number of voters to be admitted to the polling station at each time, and shall exclude all other persons except –

(a) the candidates, their spouses and their polling or counting agents;

(b) election officers;

(c) security officers on duty;

(d) persons authorized by the Commission; and

(e) persons accompanying voters who are blind or otherwise physically incapacitated.

Keeping order at polling station.

28. (1) It is the duty of the presiding officer to keep order at his polling station.

(2) If a person misconducts himself in a polling station or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by a security officer; and a person so removed shall not, without the permission of the presiding officer, again enter the polling station on the polling day.

(3) Any person removed under sub-regulation (2) may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a police officer for an offence without a warrant.

(4) The powers conferred by this regulation shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having the opportunity of voting at that station.

Sealing of ballot boxes.

29. (1) Immediately before the commencement of the poll, the presiding officer shall show the ballot boxes empty to the persons present in the polling station so that they can see that the ballot boxes are empty, and shall then -

(a) close the ballot boxes and place his seal upon them in such manner as to prevent their being opened without breaking the seal; and

(b) place them in view of the public for the receipt of ballot papers.

(2) Polling agents of candidates may affix their seals on the ballot boxes after the Commission's seals have been affixed.

Identification of voters.

30. (1) A presiding officer may, before delivering a ballot paper to a person applying to vote at the election, require the person -

(a) to produce his or her voter identification card or to furnish such other evidence as may be determined by the Commission to establish that he or she is the registered voter whose name and voter identification number and particulars appear in the register; and

(b) to make a declaration in the prescribed form that he has not already voted anywhere at the election.

Voting procedure.

31. (1) Every voter desiring to record his vote shall present himself at his allotted station and the presiding officer or a polling assistant, after satisfying himself that the voter is registered and has not already voted, and that any other means of identification determined by the Commission in the possession of the voter is valid, shall deliver the ballot paper to the voter.

(2) Immediately before the ballot paper is delivered –

- (a) the ballot paper shall be perforated or stamped with an official mark of the Commission;
- (b) a mark shall be placed in the copy of the register against the number of the voter to indicate that the ballot paper has been received; and
- (c) a mark, which shall, so far as possible, be permanent shall be made on the voter.

(3) The voter on receiving the ballot paper shall immediately proceed to one of the places set aside in the polling station for the marking of the ballot paper, and shall secretly make on the ballot paper an imprint of his thumb in the box and column provided for that purpose directly against the name and symbol of the candidate for whom he wishes to vote.

(4) The voter shall then fold up the ballot paper and in the presence of the presiding officer and the polling agents and in full view of the general public cast his vote by putting the folded ballot paper into the ballot box.

(5) The voter shall vote without undue delay, and shall leave the polling station as soon as he has put his ballot paper into the ballot box.

(6) This provision shall apply subject to the provisions in these Regulations relating to the transferred voters list, special voters list, election officers list, and absent voters list.

Assistance in voting.

32. (1) The presiding officer, on the application of a voter who is incapacitated because of blindness or other physical cause from voting in the manner directed in these Regulations, shall permit the voter to be assisted by a person of his own choice.

(2) When he accedes to the request of a voter under sub-regulation (1), the presiding officer shall record in the register opposite the name of the voter the fact that the voter was assisted and the reason for the assistance.

Tendered ballot papers.

33. (1) Where a person representing himself to be a particular voter named in the register applies for a ballot paper after another person has voted as such voter, the applicant shall, on making a

declaration in the prescribed form, be entitled, subject to this regulation, to vote using a tendered ballot paper.

(2) A tendered ballot paper shall –

(a) be of a different colour from the ballot paper; and

(b) instead of being put into the ballot box –

(i) be given to the presiding officer and endorsed by him with the name of the voter and his number in the register; and

(ii) be set aside by the presiding officer in a separate packet.

(2) The name of any person voting under this regulation and his number in the register shall be entered by the presiding officer on a list of such voters.

Spoilt ballot papers.

34. 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 it to the presiding officer and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in place of the ballot paper delivered and the spoilt paper shall be immediately cancelled and the counterfoil marked accordingly.

Adjournment of poll by presiding officer in case of riot, flood, etc.

35. (1) When the proceedings at any polling station are interrupted or obstructed by riot, open violence, storm, flood, or other natural catastrophe, the presiding officer shall adjourn the proceedings to the following day and shall immediately file notice to the returning officer.

(2) When the returning officer is satisfied that, because of an interruption or obstruction of the kind mentioned in sub-regulation (1) of this regulation, it is or will be impossible or impracticable for proceedings which have been adjourned to be continued on the day to which they have been adjourned, he may, with the concurrence of the Commission, further adjourn the proceedings for not more than seven days.

(3) Where the poll is adjourned under this regulation, the hours of polling on the day to which it is adjourned shall be the same as on the original polling day.

PART III - AFTER THE POLL

Counting of votes and attendance at the count, counting agents.

36. (1) Each candidate may appoint one counting agent to attend at the counting of votes at each polling station in the constituency for which he is seeking election or, in the case of a candidate for President, in every polling station nationwide.

(2) Each candidate shall submit in duplicate to the returning officer in charge of the polling station to which he intends to assign the counting agent, a letter of appointment stating the name and address of the counting agent and the polling station to which he is to be assigned.

(3) On a date set by the returning officer, the counting agent shall appear before the returning officer to be sworn by the returning officer upon penalty of perjury that he shall abide by the laws and regulations governing the conduct of elections and that he will sign the declaration of results following the count of the ballots, or state in writing to the presiding officer the reason for failing to do so.

(4) Upon the taking of the oath by the counting agent, the returning officer shall sign both the original and duplicate copies of the appointment letter and issue to the counting agent the duplicate copy.

(5) Unless otherwise directed by the candidate, the polling agent appointed by a candidate shall act as a counting agent at the counting of the votes at the assigned polling station.

(6) The returning officer shall make arrangements for counting the votes at each polling station in his constituency in the presence of the counting agents as soon as practicable after the close of the poll; and shall take such steps as he considers reasonable to give the counting agents notice of the time at which the counting of the votes will commence.

Result of elections.

37. (1) Immediately after the close of the poll, the presiding officer shall, in the presence of the candidates or their representatives and counting agents -

- (a) open each ballot box, take out all the ballot papers in the box;
- (b) proceed to count the ballot papers at the polling station; and
- (c) record the total number of votes cast in favour of each candidate.

(2) The presiding officer, the candidates, their representatives or their counting agents shall then sign a declaration stating -

- (a) the name of the polling station; and
- (b) the total number of persons entitled to vote at that polling station; and
- (c) the number of votes cast in favour of each candidate,

and the presiding officer shall there and then announce the results of the voting at that polling station before communicating them to the returning officer and shall provide each candidate, his representative or counting agent with a copy of the declaration of results.

(3) A candidate or his counting agent may, if present when the counting of the votes is completed, require the presiding officer to have the votes recounted or again recounted, but the presiding officer may refuse to perform the second recount if, in his opinion, the request is unreasonable and report such request to the returning officer who shall recount the ballots for that polling station only at the constituency centre.

(4) As soon as practicable after the announcement of the results of the voting at the polling station, the presiding officer shall, in the presence of such of the candidates and their counting agents as are present, make up into separate packets sealed with his own seal and the seals of such counting agents as desire to affix their seals –

- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers;
- (b) the unused and spoilt ballot papers placed together;
- (c) the tendered ballot papers, the tendered list and any declarations made under sub-regulation (1) of regulation 33 and of sub-regulation (2) of regulation 37 of these Regulations;
- (d) the marked copies of the register and the counterfoils of the used ballot papers; and
- (e) shall deliver the packets and the ballot boxes to the returning officer.

(5) The packets mentioned in sub-regulation (4) of this regulation shall be accompanied by a statement made by the presiding officer showing the number of ballot papers entrusted to him and accounting for them under the heads of ballot papers in the ballot box and unused, spilt, and tendered ballot papers.

Rejected ballot papers.

38. (1) Any ballot paper –

- (a) which does not bear the official mark of the Commission; or
- (b) which is not marked by the voter so as to clearly identify the candidate for whom the vote was cast; or
- (c) which is not marked at all;
- (d) which has on it writing or mark by which the voter could easily be identified; shall subject to sub-regulation (2) of this regulation, be void and not counted.

(2) Before rejecting a ballot paper as void, the presiding officer shall, taking all proper precautions to prevent any person from seeing the number printed on it, show the paper to each candidate or his counting agent, if present, and give him an opportunity to express an opinion on the matter.

(3) The presiding officer shall endorse the word “rejected” on any ballot paper which under this regulation is not to be counted, and shall add to the endorsement the words “rejection objected to” if an objection is made by a candidate or counting agent to his decision.

(4) The presiding officer shall draw up a statement showing the number of ballot papers rejected under the several heads of –

- (a) want of an official mark;
- (b) voting for more than one candidate;
- (c) writing or mark by which a voter could easily be identified;
- (d) unmarked; or
- (e) choice or voter could not be ascertained and any candidate or counting agent may copy the statement.

Decision on ballot papers.

39. The decision of the returning officer on any question arising in respect of a ballot paper is subject to adjudication or review on an election petition to the High Court.

Equality of votes in parliamentary elections.

40. (1) Where after the completion of the counting of the votes including re-count, in a parliamentary election an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall certify that fact by endorsing the writ and forwarding the writ so endorsed to the Commission.

(2) Within 30 days after receipt by the Commission of a write endorsed in the manner provided by this regulation in respect of any constituency, a second election shall be held.

(3) The candidates for election under sub-regulation (2) of this regulation shall be the candidates who obtained the equality of votes at the previous election and the candidate who obtains the most valid votes shall be declared elected.

Declaration and publication of contested election results.

41. (1) Subject to regulation 40 of these Regulations, immediately after the results of the poll for all the stations in his constituency have been given to him, the returning officer shall, in the presence of the candidates or their representatives or not more than two counting agents appointed by each candidates -

- (a) assemble the results from the polling stations without recounting the ballots in the ballot boxes, except where there is a challenge by a candidate or counting agent in respect of a specific ballot box;
- (b) give public of the total number of votes cast for each candidate;
- (c) publicly declare to be elected in a parliamentary election the candidate to whom the most votes have been given;
- (d) endorse on the writ the name of the person elected; and
- (e) forward to the Commission the endorsed writ and a note of the total number of votes cast for each candidate.

(2) On receipt of a writ endorsed in accordance this regulation, the Commission shall –

- (a) in a parliamentary election publish in the Gazette a notice stating the name of the person elected and the total number of votes cast for each candidate; and
- (b) inform the Clerk to Parliament soon after that of the name of the candidate elected.

Specific provisions relating to presidential elections.

42. (1) In a presidential election, the candidate who receives more than 50% of the valid votes cast shall be declared elected as President.

(2) Where at a presidential election there are more than two candidates and no candidate obtains the percentage of votes specified in subregulation (1) of this regulation a second election shall be held within twenty-one days after the previous election.

(3) The candidates for a presidential election held under subregulation (2) shall be the two candidates who obtained the two highest numbers of votes at the previous election.

(4) Where at a presidential election three or more candidates obtain the two highest number of votes they shall, subject to any withdrawals, be the candidates in the subsequent election and the same process shall be continued until a President is elected.

(5) A presidential candidate under subregulation (3) or (4) may, by writing under his hand, withdraw his candidature at any time before the election.

(6) If after a second presidential election held under subregulation (2) the two candidates obtained an equality of votes, notwithstanding any withdrawal, an election shall be held within twenty-one days after the election at which the two candidates shall be the only candidates and the same process shall, subject to any withdrawal, be continued until a President is elected.

(7) An instrument which –

- (a) is executed under the hand of the Chairman of the Commission and under the seal of the Commission; and
- (b) states that the person named in the instrument was declared elected as the President of Ghana at the election, shall be prima facie evidence that the person named was elected.

PART IV - MISCELLANEOUS PROVISIONS

Disposal of deposit.

43. (1) Subject to this regulation and regulation 8(3), the deposit made under regulation 6(1)(b) of these Regulations shall, as soon as practicable after the result of the election is declared, be returned to the person making it or his personal representative or forfeited to the state.

(2) Where a candidate is not shown as standing nominated in the notice mentioned in regulation 13 of these Regulations or if the poll is made inapplicable by reason of his death, his deposit shall be returned as soon as practicable after the publication of the notice or after his death, to the person making it or his personal representative.

(3) Where a poll is taken and after the completion of the counting of the votes, including any recount, a candidate is found not to have polled –

- (a) a parliamentary election, more than 12 ½% of the total valid votes cast within the constituency; or
- (b) in a presidential election, his deposit shall be forfeited and paid into the Consolidated Fund.

Disposal of documents.

44. (1) On the completion of the counting at an election, the returning officer shall seal up in separate packets the counted and rejected ballot papers in respect of each candidate and shall then forward to the Commission the following documents:

- (a) the sealed packets of counted and rejected ballot papers;
- (b) the ballot papers account and the statement of rejected ballot papers;

- (c) the tendered voters list and any declarations made under sub-regulation 37 of these Regulations;
- (d) the packets of ballot papers counterfoils; and
- (e) the packets containing marked copies of the register; and endorse on each packet a description of its contents, the date of the election to which they relate and the name of the constituency for which the election was held; and prepare a statement in respect of the said documents which may be copied by any candidate or counting agent.

(2) Subject to the provisions of these Regulations, the Commission shall retain for a year all documents forwarded to it under this regulation and shall then, unless otherwise directed by a court, cause them to be destroyed.

(3) Documents relating to an election in respect of which legal proceedings have been started shall not be destroyed until the proceedings have been finally disposed of.

(4) A court trying an offence relating to an election or the High Court hearing an election petition may make an order that any document retained by the Commission under this regulation shall be inspected, copied or produced at a time and place and subject to such conditions as it thinks fit.

(5) No order shall be made under sub-regulation (4) of this regulation unless the court is satisfied that the inspection, copying or production is required for the purpose of instituting, maintaining, defending, or otherwise for the purpose of prosecuting an election petition in respect of the election to which the document relates.

(6) Except as otherwise provided in sub-regulation (4) of this regulation, no person may inspect or copy any document retained by the Commission under this regulation.

Absence of candidate or agent.

45. Where in these Regulations expressions are used requiring, authorizing, or implying that any act or thing is to be done in the presence of the candidates or their polling agents or counting agents, those expressions shall be regarded as reference to the presence of such candidates or agent at that time and place shall not, if any act or thing is otherwise done, invalidate that act or thing.

Public notice and the Gazette.

46. Where any matter is provided in this Instrument to be published in the Gazette, it may, in lieu of or in addition to the publication in the Gazette, be published through radio, television, the national newspapers or any other medium of mass communication.

Application of regulations.

47. These regulations shall apply to presidential and parliamentary elections and with such modifications as may be necessary to such other public elections as the Commission may by constitutional instrument prescribe.

Interpretation.

48. (1) In these Regulation unless the context otherwise requires:

“absent voters list” means the absent voters list prepared under regulation 22 of these Regulations;

“allotted station” means in relation to the voter the polling station of the polling division in which he is registered or, in the case of a polling division for which two or more stations have been established, the station to which he is assigned;

“close of the poll” means the close of the poll in all polling divisions of the constituency including any polling division where the poll has been adjourned;

“Commission” means the Electoral Commission;

“election officer” means a member of the office of the Commission, or any other person authorized by the Commission to be present at a polling station in an official capacity;

“judicial officer” means a person presiding over a Community Tribunal, the Judicial Secretary or the Registrar of a Superior Court;

“polling division” means a constituency or an electoral area;

“special voter” means a person registered as a voter who is:

- (a) a security officer; or
- (b) an election officer; or
- (c) certified as such by the Commission.

“special voters list” means the special voters list provided for under regulation 21 of these Regulations;

“spoilt ballot paper” means a ballot paper inadvertently dealt with in such a manner that it cannot be conveniently used as a ballot paper;

“superior officer” means in relation to –

- (a) a member of the Police Service a police officer of that Force of or above the rank of superintendent;

(b) a member of the Armed Forces of Ghana, the adjutant of his battalion or an officer holding a comparable appointment;

(c) an election officer, not being a returning officer, the returning officer of the constituency in which the election officer will be on duty;

(d) any other person, as the Commission may determine.

“tendered ballot paper” means a ballot paper marked in accordance with regulation 33 of these Regulations;

“transferred voters list” means the transferred voters list provided for under regulation 20 of these Regulations;

“voter” means a person whose name appears at the time of a candidate’s nomination in the divisional register of candidate’s nomination in the divisional register of one of the polling divisions of the constituency for which the candidate seeks election.

(2) Reference in these regulations to a contested election or to an election being contested shall be construed as references to an election in which a poll is taken.

Revocation.

49. The following instruments are hereby revoked -

Public Elections (Parliament) Regulations, 1992 (L.I.1537);

Public Elections (Parliament) (Amendment) Regulations, 1992 (L.I.1544)

6.2 PNDCL 284 REPRESENTATION OF THE PEOPLE LAW, 1992.

PART I - CONSTITUENCIES FOR PARLIAMENTARY ELECTIONS

Constituencies of Ghana for Parliamentary elections.

1. (1) Ghana shall be divided into as many constituencies for the purpose of election of member of Parliament as the Interim National Electoral Commission, in this Law referred to as “the Commission”, shall by legislative instrument prescribe.

(2) Each constituency shall be represented by one member in Parliament.

(3) The boundaries of a constituency shall not fall within more than one region.

(4) The boundaries of each constituency shall be such that the number of inhabitants in the constituency is, as nearly as possible, equal to the population quota.

(5) For the purpose of subsection (4) of this section, the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features, density of population and area and boundaries of the regions and other administrative or traditional areas.

(6) For the purpose of this section “population quota” means the number obtained by dividing the number of inhabitants of Ghana by the number of constituencies into which Ghana is divided under subsection (1) of this section.

Appeal from decision of Commission.

2. (1) A person aggrieved by a decision of the Commission in respect of a demarcation of a boundary may appeal to a tribunal consisting of three persons appointed by the Chief Justice and the Commission shall give effect to the decision of the tribunal.

(2) A person aggrieved by a decision of the tribunal referred to in subsection (1) of this section may appeal to the Court of Appeal those decision on the matter shall be final.

Review of constituencies.

3. (1) The Commission shall review the division of Ghana into constituencies as intervals of not less than seven years, or within twelve months after the publication of the enumeration figures after the holding of a census of the population of Ghana, whichever is earlier and may, as a result, alter the boundaries of the constituencies.

(2) Where the boundaries of a constituency established under section 1 are altered as a result of a review, the alteration shall come into effect on the next dissolution of Parliament.

Polling divisions.

4. (1) The Commission shall divide every constituency into polling divisions and a polling division may be divided into as many polling stations as the Commission may prescribe.

(2) Where the boundaries of a constituency are varied, and in any other circumstances in which the Commission thinks it appropriate to do so, the Commission may alter the number and area of polling divisions within the constituency.

(3) Whenever the Commission divides a constituency into polling divisions or alter the number or area of polling divisions within a constituency, it shall, by legislative instrument, specify the polling divisions into which the constituency has been divided into or the alteration which has been made.

Appointment of election committee.

5. (1) The Commission shall appoint for every constituency an election committee which shall be a committee of the Commission.

(2) The members of an election committee shall be appointed from the registered voters in the relevant constituency.

(3) An election committee shall consist of not less than three members and not more than five members of whom one shall be appointed as a presiding member by the Commission.

(4) The presiding member of an election committee shall be the returning officer.

(5) An election committee shall be charge with the responsibility for the conduct and supervision of public election in the constituency under the supervision and direction of the Commission.

Presiding officer and deputies.

6. (1) The Commission shall appoint a presiding officer for each polling division and such number of deputy or assistant presiding officer as it considers necessary.

(2) Subject to such directions as may be given by the Commission, the duties imposed by this Law on a presiding officer may be performed by his deputy or his assistant.

PART II - QUALIFICATION OF VOTERS AND MEMBERS OF PARLIAMENT

Qualification of voters.

7. (1) A person qualifies to be registered as a voter if -

- (a) he is a citizen of Ghana of eighteen years of age or above; and
- (b) he is of sound mind; and
- (c) he is not otherwise disqualified to be registered as a voter by any law for the time being in force.
- (d) he is not otherwise disqualified to be registered as a voter by any law for the time being in force.

(2) No person shall be entitled to have his name included at any one time in the register of more than one constituency or in more than one divisional register in a constituency.

(3) Subject to subsection (2) of this section a person shall, for the purpose of this section be deemed to be resident in a polling division on the qualifying date if he has a place of abode in the division on that date.

(4) A person shall not be deemed to be resident in a polling division if he has been absent from his place of abode for a continuous period of six months ending on the qualifying date.

(5) A person who is a patient in an establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness or who is detained in legal custody in any place shall not be treated as resident there for the purposes of this section.

(6) A person who is resident in more than one place and who would, but for subsection (2) of this section be entitled to have his name included in the register of more than one constituency or in more than one divisional register in a constituency shall select one constituency and one polling division for the purpose of registration and voting.

Registration of officials abroad.

8. (1) A person who is a citizen of Ghana employed in a post outside Ghana -

(a) in the service of the Republic; or

(b) in the service of the United Nations or of any other international organization,

shall be entitled to be registered as a voter if he satisfies the requirements for registration prescribed under this Law other than those relating to residence in a polling division.

(2) Subsection (1) of this section shall also apply to the spouse of a person to whom subsection (1) applies where the spouse is resident outside Ghana with the employed spouse.

(3) Unless otherwise disqualified under this Law, a person employed on Government duty outside Ghana who is a citizen of Ghana, shall be entitled to be registered as a voter notwithstanding that the person does not satisfy the requirements of this Law relating to residence in a polling division.

(4) The Commission may appoint the Head of a Ghana Mission or Embassy abroad as a registration officer for the purpose of receiving claims from a person entitled under subsection (1), (2) or (3) of this section to be registered as a voter.

(5) The Commission may give such directions as it thinks fit to a person appointed as a registration officer under subsection (4) and the person shall comply with the direction.

Qualifications and eligibility of members of Parliament.

9. (1) A person shall not be qualified to be a candidate for the office of member of Parliament unless -

(a) he is a citizen of Ghana, has attained the age of twenty-one years and is a registered voter;

- (b) he is resident in the constituency for which he stands as a candidate for election to Parliament or has resided there, for a total period of not less than five years out of the ten years immediately preceding the election for which he stands or he hails from that constituency; and
- (c) he has paid all his taxes or made arrangements satisfactory to the appropriate authority for the payment of his taxes.

(2) A person shall not be qualified to be a member of Parliament if he –

- (a) owes allegiance to a country other than Ghana; or
- (b) has been adjudged or otherwise declared –
 - (i) bankrupt under any law in force in Ghana and has not been discharged; or
 - (ii) to be of sound mind or is detained as a criminal lunatic under any law in force in Ghana; or
- (c) has been convicted -
 - (i) for treason or for an offence involving the security of the State, fraud, dishonesty or moral turpitude; or
 - (ii) for any other offence punishable by death or by a sentence of not less than ten years imprisonment; or
 - (iii) for an offence relating to, or connected with public elections under a law in force in Ghana at any time; or
- (d) has been found by the report of a commission or a committee of inquiry to be incompetent to hold public office or is a person in respect of whom a commission or committee of inquiry has found that while being a public officer he acquired assets unlawfully or defrauded the State or misused or abused his office; or willfully acted in a manner prejudicial to the interest of the State, and the findings have not been set aside on appeal or judicial review; or
- (e) is under sentence of death or sentence of imprisonment imposed on him by any court; or
- (f) is not qualified to be registered as a voter under any law relating to public elections; or
- (g) is otherwise disqualified by a law in force at the time of the coming into force of this Law.

(3) A person shall not be eligible to be a member of Parliament if he -

- (a) is prohibited from standing election by a law in force in Ghana by reason of his holding or acting in an office the functions of which involve a responsibility for, or connected with, the conduct of an election or a responsibility for the compilation or revision of an electoral registrar; or
- (b) is a member of the Police Service, the Prisons Service, the Armed Forces, the Judicial Service, the Parliamentary Service, the Statistical Service, the National Fire Service, the Customs, Excise and Preventive Service, the Immigration Service or the Internal Revenue Service; or
- (c) is a chief or
- (d) has not declared his assets in accordance with the provisions of the Public and Political Office Holders (Declaration of Assets and Eligibility) Law, 1992 (P.N.D.C.L.280).

(4) For the purpose of subsection (2) (d) of this section, in the case of any finding made by a commission or committee of inquiry which is not a judicial or quasi-judicial commission or committee of inquiry, without prejudice to any appeal against or judicial review of that finding, the finding shall not have the effect of disqualifying a person under that subsection unless it has been confirmed by a Government White Paper.

(5) A person shall not be taken to be disqualified to be a member of Parliament under paragraph (c) or (d) of subsection (2) of this section if -

- (a) ten years or more have passed since the end of the sentence or the date of the publication of the report of the commission or committee of inquiry; or
- (b) he has been pardoned.

Vacation of seat in Parliament postponed in certain circumstances.

10. When a member of Parliament is adjudged or declared bankrupt or of unsound mind or sentenced to death or imprisonment, the decision shall not have the effect of causing him to vacate his seat in Parliament until -

- (a) where an appeal is lodged, the time within which an appeal may be lodged has expired; or
- (b) where an appeal is lodged, the appeal has been finally disposed of.

PART III - NOMINATION OF CANDIDATES AND VOTING AT ELECTIONS

Nominations and election of candidates at public elections.

11. (1) Where in any elections under this Law at the close of nominations and on the day before the elections -

- (a) two or more candidates have been nominated, the election shall be held and the candidate who receives the largest number of votes cast shall be declared elected; or
- (b) only one candidate is nominated, there shall be no election and that candidate is nominated, there shall be no election and that candidate shall be declared elected.

(2) Where for the purpose of the election two or more candidates are nominated but at the close of the nominations and on the day before the election only one candidate stands nominated, a further period of ten days shall be allowed for nomination of other candidates, and it shall not be lawful for a person nominated within that period of ten days to withdraw his nomination.

(3) Where at the close of nominations and after the expiry of the further period of ten days under subsection (2) of this section only one candidate stands nominated there shall be no elections and that candidate shall be declared elected.

(4) Where at the close of nominations, but before the election, one of the candidates dies, a further period of ten days shall be allowed for nominations; and where the death occurs at any time within twenty-five days before the election, the election in that constituency shall be postponed for twenty-one days.

(5) The Commission shall by regulations prescribe the procedure for the nomination of candidates and shall in particular provide for -

- (a) conditions of nomination;
- (b) declaration to be made by candidates; and
- (c) deposit to be paid and whether it is refundable or not and the conditions for such refund.

By-election.

12. (1) Whenever a vacancy occurs in the membership of Parliament, the Clerk to Parliament shall notify the Commission in writing within seven days after the vacancy occurred, and a by-election shall be held within thirty days after the vacancy occurred.

(2) Notwithstanding subsection (1) of this section, a by-election shall not be held within three months before the holding of a general election.

Voting at public elections.

13. (1) At a public election voting shall be by secret ballot.

(2) Immediately after the close of the poll, the presiding officer shall, in the presence of such of the candidates or the representatives and their polling agents as are present, proceed to count, at that polling station, the ballot papers of that station and record the votes cast in favour of each candidate.

(3) The presiding officer, the candidates or their representatives and the polling agents shall then sign a declaration stating –

(a) the total number of voters entitled to vote at that polling station; and

(b) the number of votes cast in favour of each candidate, and the presiding officer shall, there and then announce the results of the voting at that polling station before communicating them to the returning officer.

Candidate to conduct campaign freely.

14. every candidate for election to Parliament has the right to conduct his campaign freely and in accordance with law.

Conduct of elections.

15. The Commission may by legislative instrument make regulations generally for the conduct of elections including provisions for voting by proxy.

PART IV – ELECTION PETITIONS AND OTHER LEGAL PROCEEDINGS

Methods of questioning election.

16. (1) The validity of an election to Parliament may be questioned only by a petition brought under the Part.

(2) Every election petition shall be presented before the High Court for hearing.

Presentation of election petition.

17. An election petition may be presented by one or more of the following persons -

(a) a person who lawfully voted or had a right to vote at the election to which the petition relates;

- (b) a person claiming to have had a right to be elected at the election;
- (c) a person alleging himself to have been a candidate at the election;
- (d) a person claiming to have had a right to be nominated as a candidate at the election.

Time for presentation of petition.

18. (1) An election petition shall be presented within twenty-one days after the date of the publication in the Gazette of the result of the election to which it relates, except that a petition questioning an election on an allegation of corrupt practice and specifically alleging a payment of money or other award to have been made by the person whose election is questioned or to have been made by the person whose election is questioned or to have been made on his behalf to his knowledge, may be presented within twenty-one days after the date of the alleged payment.

(2) The presentation of an election petition under subsection (1) shall not be valid unless within the time specified in subsection (1), the petitioner gives ₵20,000 as security for costs.

(3) The time limit promoted by this section for the presentation of an election petition shall not be extended.

Relief which may be granted.

19. After the hearing of an election petition the High Court may make any of the following orders -

- (a) declare that the election to which the petition relates is void;
- (b) declare that a candidate other than the member whose election is questioned was duly elected.
- (c) dismiss the petition and declare that the member whose election is questioned was duly elected.

Grounds for canceling election results.

20. (1) The election of a candidate shall be declared void on an election petition if the High Court is satisfied -

- (a) that general bribery, general treating, general intimidation or other misconduct or circumstances, whether similar to those specified in this Law or not, have so extensively prevailed that they may be reasonably supposed to have affected the result of the election;

- (b) that there has been non-compliance with any provision of this Law or of regulations made under this Law and that it appears that the election was not conducted in accordance with the principles laid down by law and that such non-compliance affected the result of the election;
- (c) that the candidate was at the time of his election a person not qualified or a person not qualified or a person disqualified for election.

(2) Notwithstanding subsection (1) of this section –

- (a) where at the hearing of an election petition the High Court finds that a candidate has been guilty through his agent or representative of a corrupt or illegal practice, and the High Court further finds, that the candidate has proved to the High Court –
 - (i) that no corrupt or illegal practice was committed by the candidate himself or with his knowledge or consent or approval; or
 - (ii) that even though there was corrupt or illegal practice the candidate took all reasonable steps to prevent the commission of corrupt or illegal practice at the election; and
 - (iii) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate,

then, if the High Court so recommends, the election of the candidate shall not because of the corrupt practice be void or illegal and the candidate shall not be subject to any incapacity under this Law;

- (b) where at the hearing of an election petition the High Court finds that there has been failure to comply with any provision of this Law or of regulations made under it, and the High Court further finds -
 - (i) that the election was conducted in accordance with this Law and regulations made under it; and
 - (ii) that the failure did not affect the result of the election,

The election of the successful candidate shall not because of the failure be void and the successful candidate shall not be subject to any incapacity under this Law or regulations made under it.

Scrutiny.

21. (1) Where on an election petition the election is claimed for an unsuccessful candidate on the ground that he had a majority of lawful votes, the High Court may direct and examination of the votes cast at the election by the Commission or such other person as the Court may determine.

(2) On scrutiny, the following votes shall be struck off –

(a) the vote of a person –

- (i) whose name was not included in the divisional register of the polling division in which the vote was recorded;
- (ii) whose name was not included in that part of the register which contained the names of the voter assigned to the polling station at which the vote was recorded;
- (iii) who had no right under this Law or regulations made under it to vote at the polling station at which his vote was recorded;

(b) the vote of a person whose vote was procured by bribery, treating or undue influence;

(c) the vote of a person who committed or procured the commission of personation at the election;

(d) the vote of a person proved to have voted more than once at the election or in more than one constituency; and

(e) the vote of a person who has been disqualified from voting at the elections because of a conviction for a corrupt or illegal practice or because of a report made by a court under this Law.

(3) A tendered ballot paper, proved on scrutiny to be a valid vote shall be added to the poll.

Certification of decision.

22. (1) At the conclusion of the hearing of an election petition the High Court shall certify its decision to the Commission which shall request the return by the returning officer in respect of the election to which the petition relates to be confirmed or altered accordingly.

(2) Where the decision certified by the High Court under subsection (1) is to the effect that the election to which the petition relates is void, a writ shall be issued for a fresh election in the constituency concerned.

Report of court as to corrupt or Illegal practices.

23. At the conclusion of the hearing of an election petition, the High Court shall, if it is of the opinion that a person has been proved to have omitted the offence of corrupt or illegal practice in connection with the election to which the petition relates, send a written report to the Attorney-General giving the name and description of the person and the nature of the practice and such other information as the High Court considers relevant and appropriate.

Prohibition of disclosure of vote.

24. A person who has voted at an election shall not be required to state for whom he has voted in any proceedings questioning the election.

Determination of certain questions as to membership of the Parliament.

25. Any question as to whether in a public election the seat of any member of the Parliament has become vacant may be referred to and determined by the High Court on a petition presented by the Attorney-General.

Procedure.

26. (1) The rules of procedure for presentation and hearing of a petition under this Part shall be the same as the rules of procedure applicable to a civil cause or matter before the High Court.

(2) The provisions under section 1 of the State Proceedings Act, 1961 (Act 51) as amended, relating to one month notice to the Attorney-General before commencement of an action against the Republic shall not apply to election petitions against any act or omission of the Commission under this Part.

PART V – ELECTION OFFENCES

Registration offences.

27. A person who -

- (a) knowingly makes a false statement in or in connection with an application to have his name included in a register; or
- (b) having applied to have his name included in a divisional register, without withdrawing his application, applies to have his name included in another divisional register; or
- (c) by the use of force or threats prevents or attempts to prevent a person from exercising his right to register as a voter,

commits an offence and is liable on conviction to a fine not exceeding ₵1 million or to imprisonment for a term not exceeding two years or both and shall, for a period of five years from the date of the expiration of his term of imprisonment be disqualified from being registered as a voter or voting at an election.

Offences relating to nomination papers and the ballot.

28. A person who -

- (a) forges, fraudulently defaces, or destroys a nomination paper, or any other document relating to the registration of a voter, or delivers to a returning officer any nomination paper, knowing it to be forged; or
- (b) forges or counterfeits or fraudulently destroys a ballot paper or the official mark on a ballot paper; or
- (c) without authority supplies a ballot to any person; or
- (d) sells or offers to sell a ballot paper to any person or purchases or offers to purchase a ballot paper from any person; or
- (e) not being a person entitled under this Law or regulations made under it to be in possession of a ballot paper which has been marked with the official mark, has such a ballot paper in his possession; or
- (f) knowingly and intentionally puts into a ballot box anything other than the ballot paper which he is authorized by law to put in; or
- (g) without authority, destroys, takes, opens or otherwise interferes with a ballot box, ballot paper or packet of ballot papers in use or intended to be used for the purposes of an election; or
- (h) without authority, prints a ballot paper or what purports to be or is capable of being used as a ballot paper at an election; or
- (i) not being authorized to do so under this Law or regulations made under it, makes a mark on a ballot paper issued to a person, other than himself, with intent that the ballot paper shall be used to record the vote of the person,

commits an offence and is liable on conviction to a fine not exceeding ₵1 million or to imprisonment for a term not exceeding two years or both; and shall, for a period of five years from the date of the expiration of his term of imprisonment be disqualified from being registered as a voter or voting at an election.

Unauthorized voting.

29. A person who knowingly -

- (a) votes at an election at which he is not entitled to vote; or
- (b) votes more than once at an election,

commits an offence and is liable on conviction to a fine not exceeding ₵1 million or to imprisonment for a term not exceeding two years or both; and shall, for a period of five years from the date of the expiration of his term of imprisonment be disqualified from being registered as a voter or voting at an election.

Offences by election officers.

30. An election officer, clerk, interpreter or other person who has a duty to perform, whether under this Law or otherwise, in relation to an election and who -

- (a) makes in any record, return or other document, which he is required to keep or make in pursuance of this Law or of regulations made under it, any entry which he knows or has reasonable cause to believe to be false, or does not believe to be true; or
- (b) permits a person whom he knows or has reasonable cause to believe not to be a person who is blind or incapacitated from voting by other physical cause to vote in the manner provided for such persons; or
- (c) refuses to permit a person whom he knows or has reasonable cause to believe to be a person who is blind or incapacitated from voting by other physical cause to vote in the manner provided for such persons; or
- (d) willfully prevents a person from voting at the polling station at which he knows or has reasonable cause to believe the person is entitled to vote at; or
- (e) willfully counts a ballot paper as being cast for a candidate which he knows or has reasonable cause to believe was not validly cast for the candidate; or
- (f) without reasonable cause acts or fails to act in breach of his official duty,

commits an offence and is liable on conviction to a fine not exceeding ₵1 million or to imprisonment for a term not exceeding two years or both.

Requirement of secrecy.

31. (1) Every election officer, clerk, interpreter, candidate, election agent or polling agent on duty at a polling station shall maintain and help in maintaining the secrecy of voting and shall not, except for a purpose authorized by law, communicate to any person any information as to -

- (a) the name of a voter who has or has not applied for a ballot paper or voted at a polling station; or
- (b) the number on the register of a voter who has or has not applied for a ballot paper or voted at a polling station; or
- (c) the official mark.

(2) Every person present at the counting of votes shall maintain and help in maintaining the secrecy of voting and shall not communicate any information obtained at the counting of the votes as to the candidate for whom a vote is given on any particular ballot paper.

(3) No person shall –

- (a) interfere with or attempt to interfere with a voter when recording his vote; or
- (b) obtain or attempt to obtain in a polling station information about the candidate for whom a voter in that station is about to vote or has voted; or
- (c) communicate at any time to any person any information obtained in a polling station about the candidate for whom a voter in that station has voted or is about the number, if any, on the ballot paper given to a voter at that station; or
- (d) directly or indirectly induce a voter to display his ballot paper after he has marked or selected it so as to make known to another person the name of the candidate for whom he has or has not voted.

(4) A person who has undertaken to assist –

- (a) a blind voter to vote; or
- (b) a voter who is incapacitated from voting by any other physical cause to vote,

shall not communicate at any time to another person information as to the candidate for whom that disabled voter intends to vote or has voted, or as to the number, if any, on the ballot paper given for the use of the disabled voter.

(5) A person who contravenes any provision of this section commits an offence and is liable on conviction to a fine not exceeding ₵1 million or to imprisonment for a term not exceeding two years or both.

Personation.

32. A person commits the offence of personation if he -

- (a) votes as another person, whether that other person is living or dead or is a fictitious person; or
- (b) votes for a person whom he knows or has reasonable ground to believe to be dead or to be a fictitious person.

Bribery.

33. (1) A person commits the offence of bribery -

(a) if he directly or acting through another person –

(i) gives money or obtains an office for a voter in order to induce the voter to vote or refrain from voting; or

(ii) corruptly does such an act on account of a voter having voted or refrained from voting; or

(iii) makes a gift or provides something of value to a voter to induce the voter to vote in a certain way or to obtain the election of a candidate; or

(b) if he advances or pays money or causes money to be paid to or for the use of a person with the intent that the money or part of it shall be expended in bribery at an election, or knowingly pays money or causes money to be paid to a person in discharge or repayment of money wholly or in part expended in bribery at an election; or

(c) if before or during an election he directly or indirectly, by himself or through another person acting on his behalf, receives, agrees or contracts for money, gift, a loan or valuable consideration or an office, place or employment for himself or for another person for voting or agreeing to vote or for refraining or agreeing to refrain from voting; or

(d) if after an election he directly or through another person receives money or valuable consideration on account of a person having voted or refrained from voting or having induced another person to vote or to refrain from voting.

(2) For the purpose of subsection (1) -

(a) references to giving money include giving, lending, agreeing to give or lend, offering, promising and promising to procure or to endeavour to procure money or valuable consideration; and

(b) references to procuring office include giving, procuring agreeing to give or procure, offering, promising and promising to procure or to endeavour to procure an office, place or employment.

Treating.

34. A person commits the offence of treating -

(a) if he corruptly either himself or through another person, before, during or after an election gives or provides or pays wholly or in part the expenses of giving or providing meat, drink, entertainment or provision to or for any person -

- (i) for the purpose of corruptly influencing that person or another person to vote or refrain from voting; or
- (ii) on account of that person or another person having voted or refrained from voting or being about to vote or refrain from voting; or

(b) if he corruptly accepts or takes any meat, drink, entertainment or provision offered in the circumstances for the purposes mentioned in paragraph (a) of this section.

Undue influence.

35. A person commits the offence of undue influence -

(a) if he directly or indirectly or through another person acting on his behalf –

- (i) makes use of or threatens to make use of force, violence or restraint; or
- (ii) inflicts or threatens to inflict on another person a temporal or spiritual injury, damage, harm or loss,

(b) if by abduction, duress or any fraudulent method he impedes or prevents the free exercise of the franchise of a voter.

Interference with electioneering activities of other persons.

36. A person who, before or during an election for the purpose of effecting or preventing the return of a candidate either directly or indirectly -

- (a) by words, whether spoken or written, sign or any other representation or in any manner whatsoever seeks to excite or promote disharmony, enmity or hatred against another person, group of persons or political party on grounds of religious, tribal, professional, regional or political affiliation; or
- (b) organizes a group of persons with the intention of training the group in the use of, force, violence, abusive, insulting, corrupt or vituperative songs or language calculated to discredit, malign, disparage, condemn, insult or abuse another person or candidate or with a view to causing disharmony or a breach of the peace or to disturbing public tranquility so as to gain unfair advantage in the election over that other person or candidate; or
- (c) obstructs or interferes or attempts to obstruct or interfere with the free exercise of the franchise of a voter or compels or induces or attempts to compel or induce a voter to vote or to refrain from voting; or
- (d) compels, induces or attempts to compel or induce a candidate to withdraw his candidate or voter with injury or harm of any kind; or

- (e) in any manner whatsoever threatens any candidate or voter with injury or harm of any kind; or
- (f) induces or attempts to induce any candidate or voter to fear or believe that he will suffer illness or will become an object of divine, spiritual or fetish displeasure or censure;

commits an offence and is liable on conviction to a fine not exceeding ₵1 million or to imprisonment for a term not exceeding two years or both; and shall for a period of five years from the date of the expiration of his term of imprisonment be disqualified from being registered as a voter at a public election and in the case of a political party that political party shall be declared a prohibited organization.

Certain activities prohibited on polling day.

37. (1) During the hours when a poll is open on polling day, no person shall, within five hundred metres of any polling station, seek to influence, in whatever manner, any person to vote for any candidate or to ascertain for which candidate any voter intends to vote or has voted.

(2) During the hours when a poll is open on polling day no person shall, within five hundred metres of any polling station, sell any intoxicating liquor.

(3) Any person who contravenes any provision of this section commits an offence and is liable on conviction to a fine not exceeding ₵500,000 or to a term of imprisonment not exceeding six months or both.

False statements.

39. (1) A person who before or during an election for the purpose of effecting or preventing the election of a candidate makes or publishes or causes to be made or published by words whether written or spoken, or by song a statement which is false or which he knows or has reason to believe to be false in relation to the personal character of another candidate or the conduct of a political party commits an offence.

(2) A person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate for the purpose of promoting or procuring the return of another candidate commits an offence.

(3) A person who commits an offence under this section is liable on conviction to a fine not exceeding ₵1 million or to imprisonment for a term not exceeding two year or both.

(4) The provisions of this section shall not take away the right of a person to sue for defamation of character.

Obstruction of officers.

40. A person who willfully obstructs or interferes with an election officer in the execution of his duty commits an offence and is liable on conviction to a fine not exceeding ₵1 million or to imprisonment for a term not exceeding two years or both.

Penalty and incapacity for corrupt and illegal practices.

41. (1) A person convicted of the offence, of personation, bribery, treating or undue influence, under sections 32, 33, 34 or 35 of this law, shall be liable on conviction to a fine not exceeding ₵1 million or to a term of imprisonment not exceeding two years or both; and shall for a period of five years after the date of the expiration of his term of imprisonment be disqualified from being registered as a voter or voting at a public election.

(2) Where a court convicts a person of a corrupt or illegal practice under this Law, it shall report the conviction in writing to the Commission.

Consent to prosecution.

42. No person shall be prosecuted for an offence under this Law without the consent in writing of the Attorney-General, except that this section shall not prevent a person being -

- (a) charged with such an offence; or
- (b) arrested with or without warrant in respect of the offence; or
- (c) remanded on bail or in custody in respect of the offence,

without the consent of the Attorney-General.

PART VI - MISCELLANEOUS PROVISIONS

Record of disqualified persons and removal from register.

43. (1) The Commission shall keep a record of persons who by the operation of sections 27, 28, 29 or 41 of this Law are disqualified from being registered as voters, voting at an election or becoming members of Parliament.

(2) Where a person whose name is included in the register of a constituency is by the operation of sections 27, 28, 29 or 41 of this Law, disqualified from being registered as a voter, the Commission shall cause his name to be deleted from the register.

Duty of registrars of courts to report certain convictions to Commission.

44. Where a person is convicted of an offence under sections 27, 28 or 29 of this Law the Registrar of the court by which the person is convicted shall as soon as possible after the conviction report the conviction in writing to the Commission.

Saving where election declared void.

45. Where on an election petition or on a petition under section 25 of this Law, the election of a person as a member of Parliament is declared to be void, the declaration shall not invalidate anything done by that person during the period preceding the declaration in the purported exercise of the functions of that office.

Inaccurate description of persons or place.

46. No inaccurate description of a person or place named or described in a register, notice or other document prepared or issued under or for the purpose of this Law shall, if the person or place is so designated as to be commonly identifiable or understood, affect the validity of that register, notice or document or the operation of this Law or of regulations made under it in respect of that person or place.

Regulations.

47. The Commission may by legislative instrument, make regulations providing for -

- (a) issuing of writ and notice of election;
- (b) nomination of candidates;
- (c) allocation of symbols and colours to candidates;
- (d) notice of polls;
- (e) procedure for voting;
- (f) forms;

and generally for giving full effect to the provision of this Law.

Fees and appeals under legislative instrument made under this Law.

48. A legislative instrument made under this Law may prescribe fees or other payments to be made in respect of a matter provided for under that instrument and may also provide for a right of appeal to the High Court from a determination of a cause or matter made under that instrument.

Exemption.

49. A declaration of secrecy made for the purpose of a public election, shall not be liable for stamp duties.

Interpretation.

50. In this Law unless the context otherwise requires -

“by-election” means an election held to fill a vacancy occurring otherwise than on the dissolution of Parliament;

“Commission” means the Interim National Electoral Commission established under section 1 of the Interim National Electoral Commission Law, 1991 (P.N.D.C.L.271);

“constituency” means one of the constituencies into which Ghana is for the time being divided;

“corrupt practice” means the offence of personation, bribery, treating or undue influence or of aiding, abetting, counseling or attempting the commission of such an offence;

“counting agent” means a counting agent appointed under regulations made under this Law;

“divisional register” means the register relating to a polling division.

“election” means an election held to elect the members of Parliament;

“election officer” means a registration officer, a returning officer, a deputy or assistant registration or returning officer, a presiding officer or a polling assistant;

“nomination day” in relation to an election means the day appointed for the nomination of candidates;

“official mark” means the official mark with which a ballot paper is perforated or stamped;

“polling agent” means an agent appointed under regulations made under this Law;

“polling assistant” means a polling assistant appointed under regulations made under this Law;

“polling day” in relation to an election means the day appointed for the taking of a poll;

“polling division” means one of the polling divisions into which a constituency is for the time being divided by regulations made under this Law;

“presiding officer” means the presiding officer of a polling station appointed under regulations made under this Law;

“qualifying date” in relation to a constituency means, the date on which there is published by the Commission an instrument indicating that the constituency is affected by a decision of the Commission to cause a revision or replacement of registers to be undertaken;

“register” means a register of voters;

“returning officer” means the presiding member of an election committee appointed under this Law;

“scrutiny” means the examination of the votes cast at an election directed by the High Court;

“vote” means vote at an election;

“voter” includes a person entitled to vote, a person claiming to be so entitled and a person seeking or intending to vote.

(2) References in this Law to “the registration officer” and “the returning officer” shall, unless the context otherwise requires be construed, in relation to any particular constituency, as references to the registration officer or the returning officer, as the case may be, appointed for that constituency under this Law.

(3) Nothing in Part IV of this Law shall be construed as conferring on the High Court trying an election petition power to convict a person of a corrupt or illegal practice.

Presidential elections and referenda.

51. The Commission may by legislative instrument make such modification to this Law as may be necessary for the purpose of presidential elections and the holding of referenda.

Repeals.

52. The following enactments are hereby repealed -

- (i) Representation of the People Decree, 1968 (N.L.C.D. 255);
- (ii) Representation of the People (Amendment) Decree, 1968 (N.L.C.D.270);
- (iii) Representation of the People (Amendment) Decree, 1969 (N.L.C.D.350).
- (iv) Representation of the People (Amendment) (No.2) Decree, 1969 (N.L.C.D. 363);
- (v) Representation of the People (Amendment) Decree, 1978 (S.M.C.D. 191); and
- (vi) Representation of the People (Amendment) Decree, 1979 9D.M.C.D. 230).

6.3 ACT 699 REPRESENTATION OF THE PEOPLE (AMENDMENT)

ACT 2006 (ROPAL)

PNDCL 284 amended.

1. The Representation of the People Law, 1992 (PNDCL 284) as amended is further amended as follows:

(a) in paragraph (c) of section 7(1) by the addition of the words “ or hails from the constituency” after “division”.

(b) by the substitution for section 8 of the following:

“Registration of Ghanaian citizens abroad

8. (1) A person who is a citizen of Ghana resident outside the Republic is entitled to be registered as a voter if the person satisfies the requirements for registration prescribed by law other than those relating to residence in a polling division.

(2) The Commission may appoint the Head of a Ghana Mission or Embassy abroad or any other person or institution designated in writing by the Commission as a registration officer to register a person to be a voter for an election.

(3) The Commission may give such directions as it considers appropriate to a person appointed as a registration officer”;

(c) by the insertion of the following after “by-election” in section 50, “citizen” means a citizen of Ghana under the Citizenship ‘Act, 2000 (Act 591)”.

Modalities for the implementation of the Act.

2. The Electoral Commission shall, by Constitutional Instrument, make Regulations to prescribe the modalities for the implementation of this Act..

6.4 PRESIDENTIAL ELECTIONS LAW PNDCL 285, 1992.

Qualification for election as a President.

1. (1) A person is not qualified to be a candidate for the office of President of Ghana unless -

(a) he is a citizen of Ghana by birth;

(b) he has attained the age of forty years;

- (c) he is a registered voter;
- (d) he is resident in a constituency for which he can stand as a candidate for election to Parliament or has resided there for a total period of not less than five years out of the ten years immediately preceding the election for which he stands or he hails from that constituency; and
- (e) he has paid all his taxes or made arrangements satisfactory to the appropriate authority for the payment of his taxes.

(2) A person is not qualified to be a candidate for the office of President of Ghana if he -

- (a) owes allegiance to a country other than Ghana; or
- (b) has been adjudged or otherwise declared –
 - (i) bankrupt under any law in force in Ghana and has not been discharged; or
 - (ii) to be of unsound mind or is detained as a criminal lunatic under any law in force in Ghana; or
- (c) has been convicted -
 - (i) for treason or for an offence involving the security of the State, fraud, dishonesty or moral turpitude; or
 - (ii) for any other offence punishable by death or by a sentence of not less than ten years; or
 - (iii) for an offence relating to, or connected with elections under a law in force in Ghana at any time; or
- (d) has been found by the report of a commission or a committee of inquiry to be incompetent to hold public office or is a person in respect of whom a commission or committee of inquiry has found that while being a public officer he acquired assets unlawfully, or defrauded the State, or misused or abused his office, or willfully acted in a manner prejudicial to the interest of the State and the findings have not been set aside on appeal or judicial review; or
- (e) is under sentence of death or other sentence of imprisonment imposed on him by any court; or
- (f) is not qualified to be registered as a voter under any law relating to public elections; or
- (g) is otherwise disqualified by a law in force on the nomination day.

(3) The disqualifications specified in paragraphs (c), (d) and (e) of subsection (2) of this section are not subject to a grant of pardon or lapse of time.

(4) For the purpose of paragraph (d) of subsection (2) of this section, in the case of a finding made by a commission or committee of inquiry which is not a judicial or quasi-judicial commission or committee of inquiry without prejudice to any appeal against or judicial review of that finding, the finding shall not have the effect of disqualifying a person under that paragraph unless it has been confirmed by a Government white paper.

(5) A person shall not be eligible to be elected as the President of Ghana if he –

- (a) is prohibited from standing election by a law in force in Ghana by reason of his holding or acting in an office the functions of which involve a responsibility for or are connected with the conduct of an election or responsibility for the compilation or revision of an electoral register; or
- (b) is a member of the Police Service, the Prisons Service, the Armed Forces, the Judicial Service, the Legal Service, the Civil Service, the Audit Service, the Parliamentary Service, the Statistical Service, the Fire Service, the Customs, Excise and Preventive Service, the Immigration Service, or the Internal Revenue Service or
- (c) is a chief; or
- (d) has not declared his assets in accordance with the provisions of the Public and Political Office Holders (Declaration of Assets and Eligibility) Law, 1992 (P.N.D.C.L. 280).

Qualifications and disqualifications of Vice-President.

2. The qualifications and disqualifications specified in section 1 of this Law shall apply to a candidate for the office of Vice-President.

Election of President.

3. (1) No person shall be a candidate in a presidential election unless he is nominated for election as President by a document which -

- (a) is signed by him;
- (b) is signed by not less than two persons who are registered voters resident in the area of authority of each district assembly;
- (c) is delivered to the Commission on or before the day appointed as nomination day in relation to the election; and
- (d) designates a person to serve as Vice-President.

(2) The document referred to in subsection (1) of this section shall be accompanied with –

- (a) a statutory declaration in the form specified in the Schedule to this Law made by the candidate; and
- (b) a deposit of such sum as the Commission shall direct.

(3) The statutory declaration shall be made before a magistrate, notary public, commissioner for oaths or any other person authorized by law to administer an oath who shall certify it under his signature.

(4) The statutory declaration provided in paragraph (a) of subsection (2) shall also be made by a person seeking election as Vice-President.

(5) A person who makes a statutory declaration under this section which he knows to be false in a material particular or recklessly whether it is true or not, shall be guilty of an offence and liable on summary conviction to a fine not exceeding ₵1 million or a term of imprisonment not exceeding two years or both and his deposit shall be forfeited to the State.

(6) Subject to subsection (5) of this section, a deposit made by a candidate under this section shall be refunded to him if he polls more than twenty-five per cent of the total votes cast in the election.

Election result for Presidency.

4. (1) A person shall not be elected as President of Ghana unless at the presidential election the number of votes cast in his favour is more than fifty per cent of the total number of valid votes cast at the election.

(2) Where at a presidential election there are more than two candidates and no candidate obtains the number or percentage of votes specified in subsection (1) of this section, a second election shall be held within twenty-one days after the previous election.

(3) The candidates for a presidential election under subsection (2) of this section shall be the candidates who obtained the two highest numbers of votes at the previous election, and the candidate who obtains the highest number of votes shall be declared elected.

(4) An instrument which –

- (a) is executed under the hand of the Chairman of the Commission; and
- (b) states that the person named in the instrument was declared elected as the President of Ghana at the election of the President,

shall be prima facie evidence that the person named was so elected.

Challenge of election of President.

5. (1) The validity of the election of the President may be challenged only by a citizen of Ghana who may present a petition for the purpose to the Supreme Court within twenty-one days after the declaration of the result of the election in respect of which the petition is presented.

(2) A declaration by the Supreme Court that the election of the President is not valid shall be without prejudice to anything done by the President before the declaration.

(3) The Rules of Court Committee may, by legislative instrument, make Rules of Court for the practice and procedure for petitions to the Supreme Court challenging the election of a President.

(4) Until rules are made under subsection (3) of this section, the Supreme Court may direct the procedure to be followed in relation to the presentation and hearing of a petition for the purposes of this Law.

Application of existing electoral laws.

6. Subject to this Law, the provisions of the following enactment shall apply to the election of the President with such modifications as the Commission may direct -

(a) Representation of the People Law, 1992 (P.N.D.C.L.284); and

(b) Public Elections Regulations, 1992 (L.I. 1537).

Interpretation.

7. In this Law unless the context otherwise requires -

“Commission” means the Interim National Electoral Commission.

“nomination day” means the day appointed for the nomination of candidates by the Commission.

Repeals.

8. The following enactments are hereby repealed -

Presidential Elections Decree, 1979 (S.M.C.D. 228);

Presidential Elections (Amendment) Decree, 1979 (S.M.C.D. 232);

Presidential and Members of Parliament (Elections) (Amendment) Decree, 1979 (A.F.R.C. 1); and

Presidential Elections (Challenge) Decree, 1979 (A.F.R.C.D. 2).

NOTE: STATUTORY DECLARATION OF A PERSON NOMINATED AS A CANDIDATE FOR ELECTION AS PRESIDENT/VICE PRESIDENT OF GHANA. (SEE APPENDIX)

6.5 ARTICLES 49 AND 50 (1992 Constitution)

49. (1) At any public election or referendum, voting shall be by secret ballot.

(2) Immediately after the close of the poll, the presiding officer shall, in the presence of such of the candidates or their representatives and their polling agents as are present, proceed to count at that polling station, the ballot papers of that station and record the votes cast in favour of each candidate or question.

(2) The presiding officer, the candidates or their representatives and, in the case of a referendum, the parties contesting or their agents and the polling agents if any, shall then sign a declaration stating –

(a) the polling station; and

(b) the number of votes cast in favour of each candidate or question;

and the presiding officer shall, there and then, announce the results of the voting at that polling station before communicating them to the returning officer.

(3) Subject to the provisions of this Constitution, an issue for determination by referendum shall not be taken to be determined by referendum unless at least thirty-five percent of the persons entitled to vote at the referendum voted and, of the votes cast, at least seventy percent voted in favour of the issue.

Election of Candidates.

50. (1) Subject to the provisions of this Constitution, where at the close of nominations and on the day before a public election –

(a) two or more candidates have been nominated, the election shall be held and the candidate who receives the largest number of votes cast shall be declared elected; or

(b) only one candidate is nominated, there shall be no election and that candidate shall be declared elected.

(2) Where for the purposes of a public election two or more candidates are nominated but at the close of the nominations and on the day before the election, only one candidate stands nominated, a further period of ten days shall be allowed for nomination of other candidates, and it shall not be lawful for any person nominated within that period of ten days to withdraw his nomination.

(3) Where at the close of nominations under clause (2) of this article only one candidate stands nominated, there shall be no election and that candidate shall be declared elected.

(4) Where at the close of nomination, but before the election, one of the candidates dies, a further period of ten days shall be allowed for nominations; and where the death occurs at any time within twenty-five days before the election, the election in that constituency or unit shall be postponed for twenty-one days.

6.6 REFERENDUM LAW 1992 PNDCL 277

PART I - GENERAL PROVISIONS

Referendum to approve Constitution.

1. (1) Notwithstanding any law to the contrary, the provisions of this Law shall govern the conduct of the referendum to approve the draft Constitution presented by the Consultative Assembly to the Provisional National Defence Council on Tuesday 31st March, 1992, and published in the Gazette.

(2) For the purpose of conducting the referendum the Commission shall divide the country into electoral areas and each electoral area shall be divided into such zones and units as the Commission shall by legislative instrument prescribe.

Election Committees and Returning Officers.

2. (1) The Commission shall appoint an election committee for each area which shall consist of not less than three persons or more than five persons.

(2) The members of an election committee shall be appointed from the registered voters in the relevant area.

(3) One of the members of an election committee shall be appointed as the presiding member by the Commission.

(4) The presiding member of each election committee shall be the returning officer for the area concerned.

(5) A returning officer may with the prior approval of the Commission appoint a deputy to be known as the deputy returning officer.

(6) Subject to directions given by the Commission, any powers conferred or any duties imposed by this Law on a returning officer may be exercised or performed by his deputy.

(7) An election committee shall be charged with the responsibility for the conduct and supervision of the referendum in the area under the supervision and direction of the Commission.

Register of voters.

3. (1) There shall be a voters' register for each polling zone, unit or station.

(2) The voters' registers of all the polling zones, units and stations in an area shall together form the register of the area.

Qualification for voting at referendum.

4. No person shall qualify to vote at the referendum unless –

(a) he is a registered voter; and

(b) he is not disqualified by any law for the time being in force from voting at public elections.

Proxy Voting.

5. (1) A voter who is resident outside Ghana may apply to the Commission not later than fourteen days before the polling day for the issue to him of a proxy paper for the appointment of a proxy.

(2) A person shall not be entitled to have more than one person at a time appointed as a proxy to vote for him at the referendum.

(3) A person shall not be qualified to be appointed to vote as a proxy at the referendum unless he is a registered voter.

(4) A person shall not be entitled to vote as a proxy at the referendum in any polling zone, unit or station on behalf of more than two voters of whom that person is not the husband, wife, parent, grandchild, nephew, uncle or niece.

(5) The Commission shall issue a proxy paper for any application duly made to it for the appointment of a proxy if it is satisfied –

(a) that the applicant is registered as a voter for the referendum; and

(b) that the proxy is qualified to be, and is willing to be, appointed.

(6) The appointment of a proxy may be cancelled by the Commission if a notice in that behalf is given by the person who made the application for the appointment of the proxy.

(7) The Commission shall keep a record of persons for whom proxies have been appointed and the names and addresses proxies so appointed.

Results of referendum.

6. The issue for determination at the referendum to be conducted in pursuance of subsection (1) of section 15 of the Consultative Assembly Law, 1991 (P.N.D.C.L. 253), shall be determined by a simple majority of the votes cast at the referendum.

PART II - REFERENDUM OFFENCES

Offences relating to referendum.

7. Any person who -

- (a) forges or fraudulently defaces or fraudulently destroys any official document relating to the holding of the referendum, or alters such a document or delivers to the returning officer any document, which he knows to be forged; or
- (b) forges or counterfeits or fraudulently destroys a ballot paper or the official mark on a ballot paper; or
- (c) without authority supplies any ballot paper to any person; or
- (d) sells or offers to sell an official document relating to the holding of the referendum without authority to any person or purchases or offers to purchase such a document from any person; or
- (e) not being a person entitled under this Law to be in possession of a document relating to the holding of the referendum, has such a document in his possession; or
- (f) knowingly and intentionally puts into any ballot box anything other than the ballot paper which he is authorized by law to put in; or
- (g) without authority, takes out of a polling station a ballot paper or other document relating to the referendum or is found in possession of a ballot paper or such document outside a polling station; or
- (h) without authority, destroys, takes, opens or otherwise interferes with a ballot box, ballot document or other property in use or intended to be used for the purposes of the referendum; or
- (i) without authority, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at the referendum; or
- (j) without authority under this Law makes any mark on a ballot paper issued to a person, other than himself, with intent that the ballot paper shall be used to record the vote of the other person,

commits an offence and is liable on summary conviction to a minimum fine of ₵50,000.00 or to imprisonment for a term not exceeding two years or both.

Unauthorized voting.

8. A person who knowingly -

- (a) votes at a referendum at which he is not entitled to vote; or
- (b) votes more than once at a referendum,

commits an offence and is liable on summary conviction to a minimum fine of ₵50,000.00 or to imprisonment for a term not exceeding two years or both.

Offences by referendum officers.

9. A referendum officer, clerk, interpreter or other person who has a duty whether under this Law or otherwise, in relation to the referendum who -

- (a) makes in any record, return or other document which he is required to keep or makes in pursuance of this Law any entry which he knows or has reasonable cause to believe to be false, or does not believe to be true, or
- (b) permits a person whom he knows or has reasonable cause to believe not to be a person who is blind or incapacitated from voting by other physical cause to vote in the manner provided for such persons; or
- (c) refuses to permit any person whom he knows or has reasonable cause to believe to be a person who is blind or incapacitated from voting by other physical cause or incapacitated from voting by other physical cause to vote in the manner provided for such persons; or
- (d) willfully prevents any person from voting at the polling station at which he knows or has reasonable cause to believe the person is entitled to vote; or
- (e) willfully, rejects or refuses to count any ballot paper which he knows or has reasonable cause to believe is validly cast in favour of the issue; or
- (f) willfully counts a ballot paper as being cast in favour of the issue which he knows or has reasonable cause to believe was not validly cast for the issue; or
- (g) without reasonable cause acts or fails to act, in breach of his official duty,

commits an offence and is liable on summary conviction to a minimum fine of ₵50,000.00 or to imprisonment for a term not exceeding two years or both.

Unlawful communication at referendum.

10 (1) Every referendum officer, clerk or interpreter on duty at a polling station shall maintain and help maintain the secrecy of voting and shall not, except for a purpose authorized by law, communicate to any person any information as to –

- (a) the name of any voter who has not applied for a ballot paper or voted at a polling station; or
- (b) the number on the register of any voter who has or has not applied for a ballot paper or voted at a polling station; or
- (c) the official mark.

(2) Every person on duty at the counting of votes shall maintain and help maintain the secrecy of voting and shall not communicate any information obtained at the counting of the votes as to how anyone voted.

(3) No person shall –

- (a) interfere with or attempt to interfere with a voter when the voter is casting his vote; or
- (b) otherwise obtain or attempt to obtain in a polling station, information as to the issue in favour of which a voter in that station is about to vote or has voted; or
- (c) communicate to any person any information obtained in a polling station as to the issue in favour of which a voter in that station has voted or is about to vote, or as to the number of the ballot paper given to a voter at that station; or
- (d) directly or indirectly induce a voter to display his ballot paper after he has marked or selected it so as to make known to any person the issue in favour of which he has or has not voted.

(4) No person who has undertaken to assist –

- (a) a blind voter to vote, or
- (b) a voter who is incapacitated from voting by any other physical cause to vote,

shall communicate to any person information as to how that voter intends to vote or has voted, or as to the number on the ballot paper for the use of that voter.

(5) A person who contravenes any provision of this section commits an offence and is liable on summary conviction to a minimum fine of ₵50,000.00 or to imprisonment for a term not exceeding two years or both.

Personation.

11. A person commits the offence of personation where he -

- (a) votes as another person, whether that other person is living or dead or is a fictitious person; or
- (b) votes for a person whom he knows or has reasonable grounds to believe to be dead.

Bribery.

12. (1) A person commits the offence of bribery -

- (a) if he directly or indirectly or through another person –
 - (i) gives money or obtains an office for a voter in order to induce the voter to vote or refrain from voting; or
 - (ii) corruptly does such an act on account of a voter having voted or refrained from voting; or
 - (iii) gives money or makes any procurement to any person in order to induce that person to falsify any record or document relating to the referendum;
- (b) if as a result of any gift, he procures or agrees, promises or endeavours to procure the declaration of a majority of votes in favour of the issue or against the issue; or
- (c) if he advances or pays any money or causes any money to be paid to or for the use of any other person with the intention that the money shall be expended in bribery at the referendum, or knowingly pays money or causes money to be paid to any person in discharge or repayment of any money expended in bribery at the referendum; or
- (d) if before or during the referendum he directly or indirectly by himself or through another person acting on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration or an 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; or
- (e) if after the referendum he directly or indirectly himself or through another person acting 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.

(2) For the purpose of subsection (1) of this section –

- (a) references to giving money include giving, lending, agreeing to give or lend, offering, promising and promising to procure or to endeavour to procure any money or valuable consideration; and
- (b) references to procuring office include giving, procuring, agreeing to give or procure, offering, promising and promising to procure or to endeavour to procure any office, place or employment.

Treating.

13. A person commits the offence of treating -

- (a) if he corruptly by himself or through another person either before, during or after the referendum directly or indirectly gives or provides or pays wholly or in part the expenses of giving or providing any meat, drink, entertainment or provision to or for any person;
 - (i) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or
 - (ii) on account of that person or any other person having voted or refrained from voting or being about to vote or refrain from voting; or
- (b) if he corruptly accepts or takes any meat, drink, entertainment or provision offered in the circumstances and for the purposes mentioned in paragraph (a) of this section.

Undue influence.

14. A person commits the offence of undue influence -

- (a) if he directly by himself or through another person acting on his behalf –
 - (i) makes use of, or threatens to make use of, any force, violence or restraint; or
 - (ii) inflicts or threatens to inflict on another person any temporal or spiritual injury, damage, harm or loss;

in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or

- (b) if by abduction, duress or any fraudulent device or contrivance he impedes or prevails upon a voter either to vote or to refrain from voting.

Penalty.

15. A person who contravenes sections 11, 12, 13 or 14 commits an offence and shall upon summary conviction, be liable to a minimum fine of ₵50,000.00 or to a term of imprisonment not exceeding two years or both.

Activities prohibited on polling day.

16. (1) During the hours when a poll is open on polling day, no person shall, within four hundred metres of any polling station, seek to influence, in whatever manner, any person to vote for or against issue or to ascertain for which answer any voter intends to vote or has voted.

(2) During the hours when a poll is open on polling day no person shall, within four hundred metres of the polling station sell any intoxicating liquor.

(3) A person who contravenes subsections (1) or (2) commits an offence and is liable on summary conviction to a minimum fine of ₵10,000.00 or to a term of imprisonment not exceeding twelve months, or both.

Defacement of notices.

17. (1) A person who without lawful excuse, the proof of which shall be on him, destroys, mutilates, defaces or removes any notice which is exhibited under the authority of this Law or any document which is made available for inspection in pursuance of this Law commits an offence and is liable on conviction to a fine not exceeding ₵2000,000.00 or to a term of imprisonment not exceeding six months or both.

(2) A court convicting a person of an offence under this section shall, within fourteen days of the conviction, report the conviction in writing to the Commission.

Obstruction of officers.

18. A person who willfully obstructs or interferes with a referendum officer in the execution of his duty commits an offence and is liable on summary conviction to a minimum fine of ₵50,000.00 or to imprisonment for a term not exceeding two years or both.

Unidentified publications.

19. A person who prints, publishes or, distributes or posts up or causes to be printed, published, distributed or posted up any advertisement, handbill, placard, poster or any such document which refers to the referendum and which does not bear upon its face the name and address of its printer and publisher commits an offence and is liable on summary conviction a minimum fine of ₵50,000.00 or to a term of imprisonment not exceeding two years or both.

Consent to prosecution.

20. (1) A person shall not be prosecuted for an offence under this Law without the consent in writing of the Attorney-General.

(2) Subsection (1) shall not prevent a person from being –

- (a) charged with such an offence; or
- (b) arrested with or without warrant in respect of any such offence, or
- (c) remanded on bail or in custody in respect of any such offence,

without the consent of the Attorney-General.

(3) In a prosecution for an offence under this Law in relation to a ballot box, ballot paper or any other document, the property in the ballot box, ballot paper or other document as well as the property in the counterfoil of any ballot papers shall be stated to be in the Commission.

PART III - DETERMINATION OF REFERENDUM PETITION

Method of testing results of voting.

21. The validity of the results of the voting in each polling station may be questioned by a petition brought for that purpose under this Part of this Law, subject to the right of appeal conferred by section 32.

Presentation of referendum petition.

22. A petition may be presented to the High Court of Justice by one or more of the following persons -

- (a) a person who lawfully voted or had a right to vote at the referendum to which the petition relates; or
- (b) a person claiming to have had a right to vote at the referendum.

Security for costs.

23. The presentation of a petition shall not be valid unless within the time limited by section 24 the person seeking to present the petition gives security for costs amounting to ₵20,000.00.

Time for presentation of election petition.

24. (1) Subject to this section a referendum petition shall be presented within seven days after the date of the publication in the Gazette of the results of the referendum.

(2) A petition questioning the results of the voting in a polling station upon an allegation of corrupt practices and specifically alleging the payment of money or other reward to have been made by any person or on his account or with his privity, in furtherance of the alleged corrupt practice may be presented within seven days after the date of payment.

(3) The time limit provided by this section for the presentation shall not be extended.

Relief which may be granted.

25. After the hearing of a petition the High Court may -

- (a) grant a declaration that the voting in a polling station to which the petition relates is void; or
- (b) dismiss the petition and declare that the voting in the polling station to which the petition relates was regular.

Grounds for avoidance of results of referendum.

26. (1) The voting in a polling station shall be declared void on a petition, if any of the following matters are proved to the satisfaction of the High Court -

- (a) that general bribery, general treating, general intimidation or other misconduct or circumstances, whether similar to those already enumerated in this Law or not, have so extensively prevailed that they may be reasonably supposed to have affected the results of the voting; or
- (b) that there has been non-compliance with any provisions of this Law, if it appears that the voting was not conducted in accordance with the principles laid down in any such provision or instruction and that the non-compliance affected the results of the voting; or
- (c) that a corrupt practice was committed in connection with the voting.

(2) Notwithstanding subsection (1) of this section -

- (a) where on the hearing of a petition the High Court finds, after giving the Attorney-General an opportunity of being heard, that it has been proved to the High Court -

- (i) that no corrupt practice was committed on an extensive scale as to affect the results of the voting in a polling station; and
- (ii) that any person mentioned in connection with any corrupt practice took all reasonable means for preventing the commission of corrupt practice at the voting, and
- (iii) that in all other respects the voting was free from any corrupt practice on the part of the person mentioned,

then the High Court may declare that the voting at the polling station shall not, by reason of any such practice, be void; or

(b) where upon the trial of a petition the High Court finds that there has been failure to comply with any provisions of this Law, and the High Court further finds, after giving the Attorney-General an opportunity of being heard, that it is satisfied -

- (i) that the voting was conducted in accordance with the principles laid down in this Law; and
- (ii) that such failure did not affect the result of the voting,

the voting in that polling station shall not, by reason of such failure, be void.

Scrutiny.

27. (1) Where on a petition it is claimed that the question attracted more votes than that declared in favour of that question, the High Court may direct an examination of the votes cast at the voting in the polling station concerned.

(2) On a scrutiny the following votes shall be struck off –

(a) the vote of any person –

- (i) whose name was not included in that part of the register which contains the names of the registered voters assigned to the polling station at which the vote was recorded; or
- (ii) who was not otherwise authorized under this Law to vote at the polling station at which his vote was recorded;

(b) the vote of any person whose vote was procured by bribery, treating or undue influence.

(c) the vote of any person who committed or procured the commission of personation at the voting; and

(d) the vote of any person proved to have voted more than once at the voting or, in more than one polling station.

(3) The vote of a registered voter shall not be struck off on a scrutiny by reason only of the fact that the voter was not qualified to have his name entered on the register.

(4) Any tendered ballot paper proved on a scrutiny to be a valid vote shall be added to the poll.

Certification of decision.

28. (1) At the conclusion of the hearing of a petition, the High Court shall certify its decision to the Commission which shall cause the return by the returning officer in respect of the voting to which the petition relates to be confirmed or altered accordingly.

(2) Where the decision certified by the High Court under subsection (1) is to the effect that the voting to which the petition relates is void, a writ shall be issued for a fresh voting in the polling station concerned.

Report of court as to corrupt practices.

29. At the conclusion of the hearing of a petition the High Court shall, if it is of the opinion that any person has been proved to have committed the offence of a corrupt practice in connection with the voting to which the petition relates, send a written report to the Attorney-General giving the name and description of the person and the nature of the practice and such other information as the High Court considers relevant and appropriate.

Prohibition of disclosure of vote.

30. No person who has voted in the referendum shall, in any proceedings relating to the voting in a polling station be required to state for which question he has voted.

Procedure.

31. (1) The hearing of referendum petition shall be conducted in accordance with the law relating to the hearing of a civil cause or matter by the High Court in the exercise of its original jurisdiction.

(2) The High Court shall have, for the purpose of the hearing the same powers, jurisdiction and authority as it has for the hearing of civil causes or matters.

Appeal.

32. (1) Any person aggrieved by the decision of the High Court may appeal to the Court of Appeal against the decision.

(2) An appeal under subsection (1) shall be lodged not later than seven days after the decision of the High Court.

PART IV - MISCELLANEOUS PROVISIONS

Inaccurate description.

33. No misnomer or inaccurate description of a person or place named or described in any register, notice or other document issued under this Law shall, if the person or place is so designated as to be commonly identifiable or understood, affect that person or place, the validity of that register, notice or document or the operation of this Law in question.

Exemption from stamp duty.

34. Declaration of secrecy made for the purposes of the referendum shall not constitute an instrument liable for duty under any law relating to stamp duties.

Interpretation.

35. In this Law unless the context otherwise requires -

“area” means the area of authority of a District Assembly;

“Commission” means the Interim National Electoral Commission;

“Consultative Assembly” means the Consultative Assembly established under the Consultative Assembly Law, 1991 (P.N.D.C.L. 253);

“corrupt practice” means the offence of personation, bribery, treating or undue influence or of aiding abetting, counseling or attempting the commission of any such offence;

“issue” means the question submitted to a vote in the referendum to ascertain the wishes of the citizens of Ghana;

“official mark” means the official mark with which a ballot paper is perforated or stamped;

“polling day” in relation to the referendum means the day appointed for the taking of a poll;

“polling station” means one of the polling stations within a zone or unit;

“polling zone or unit” means one of the polling zones and units into which an area is for the time being divided under section 1 of this Law;

“presiding officer” means the presiding officer of a polling station at the referendum;

