

One-stop Election Guide SRI LANKA



PAFFREL

PAFFREL

PEOPLE'S ACTION FOR FREE & FAIR ELECTION
12 / 3, Robert Gunawardena Mawatha, Robert Terrace, Colombo - 06.

Tele. No. :- 0112 514441 / 42
0115 557010 / 11

Email :- paffrel@sltnet.lk
paffrel@eureka.lk

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FOREWORD

Elections in Sri Lanka have a long history extending over a period of 75 years with adult franchise being introduced in 1931 to elect members to the then Legislative Council before Sri Lanka obtained independence. Members to the first parliament then known as the State Council were elected on the first past the post system. Similarly members to municipal councils, urban councils, town councils and village committees were elected on the same basis. Procedure regarding these elections and the annual revision of the electoral list were governed by only two legislative enactments. They were the (Parliamentary Elections) Order-in- Council of 1946 and the Local Authorities Election ordinance (Chapter 262) The conduct of elections at those times were convenient, less complicated and not time consuming. Campaign expenses of candidates were also minimal and affordable to all candidates.

These laws and procedure changed drastically with the introduction of the second Republic Constitution of 1978. Presidential election and conduct of referenda were two new elections while proportional representation and preferential voting were the other new features. Subsequently in 1987 provincial councils were created leading to the introduction of another type of elections. Abolition of the first past the post system and ward-based elections in local authorities was yet another change. With these changes, procedures regarding marking of votes and preferences, nomination of candidates and counting of votes and preferences had to be changed.

Even after more than two decades, it appears that many political parties, candidates and voters are not fully familiar with the new systems. This has led to rejections of nomination papers and a large number of invalid ballot papers being rejected at count of votes. Candidates seem to be unaware of elections offences, illegal practices and corrupt practices which are enumerated in various election laws.

In these circumstances there was a long felt need to make available a concise and easily understandable publication explaining the various laws and procedures. I am therefore pleased that Peoples' Action for Free and Fair Elections (PAFFREL) has undertaken the task to publish this guide. It is hoped that political parties, candidates and others interested in the election process will make use of this guide and familiarize themselves with the election process. This will help eliminate errors, omissions and infringements of election laws which in turn will lead to avoidance of expensive and time consuming litigation.

Dayananda Dissanayake

Commissioner of Elections

March 2008

PREFACE

This one stop election guide is a joint project of the National Democratic Institute, NDI and the People's Action For Free and Fair Elections, PAFFREL.

It is dedicated to the multi-party steering committees of Galle, Matara, Hambantota, Ampara, Batticaloa and Trincomalee. Appreciation goes to USAID for their support of this project.

This guide has been prepared to assist political party officials, candidates and others interested in the election process in Sri Lanka, to understand its basic features. It is not a fully comprehensive and a complete explanation but serves as a summary. Hence the relevant Acts containing Election Laws should be treated as the final and conclusive authority.

At the time of going to the press, the Parliamentary Select Committee on Electoral Reform has released its report. It is thought that based on this report certain amendments will be introduced to election law, in which event reference will have to be made to the amendments, if passed by Parliament.

CHAPTER I

VOTER REGISTRATION

The procedure regarding voter registration is laid down in the Registration of Electors Act, No. 44 of 1980. The suitability (qualifications) to have a person's name registered as an elector is subject to disqualifications specified in Article 89 of the Constitution.

1. Qualifications

The qualifications or in other words absence of disqualifications specified in Article 89, required to be fulfilled are that he/she is/has:

- (i) a citizen of Sri Lanka;
- (ii) 18 years of age on the qualifying date, that i.e. 1st June of the year in which the registration of electors commences.
- (iii) mentally of sound mind.
- (iv) not served or serving a prison term for a period of 6 months or more for any offence for which the punishment is a period not less than 2 years. This disqualification period of 7 years should commence immediately preceding the date on which the registration of electors commences i.e. 1st June.
- (v) not under death sentence or is serving a prison term in lieu of execution of death sentence. Here too, the prison term should have been 7 years before the date of commencement of registration of electors.
(In the case of (iv) and (v) above if the person affected is granted a free pardon this disqualification will end on the date on which the pardon was granted.)
- (vi) a period of seven years has not elapsed:
 - (a) since being found guilty of offences relating to forging and defacing of nomination papers, ballot papers, and identity cards, destroying or tampering with ballot boxes, tampering with covers containing postal ballot papers, forging selling of poll cards, removal of indelible mark on finger, canvassing of votes and obstruction of

voters on polling day, printing of publications, display of handbills, flags and banners, failure to maintain secrecy at elections etc. at a referendum.

- (b) similar disqualifications apply in instances of a conviction for corrupt practices specified in the Ceylon (Parliamentary Elections) Order in Council, at a Referendum, Presidential or Parliamentary Election. The corrupt practices are impersonation, treating of voters, undue influence, and bribery.
 - (c) if after the commencement of the Constitution of 1978, is found guilty of any corrupt practice at a referendum, presidential or parliamentary election.
 - (d) convicted or found guilty of bribery under the Bribery Act or any future law in regard to bribery.
- (vii) A period of five years has not elapsed since:
- (a) convicted of any offence under sections 77 to 82 of the Local Authorities Elections Ordinance (LAEO). These offences relate to maintenance of secrecy at local elections, forging and defacing of nomination papers, forging, misusing or destroying of ballot papers, meddling with ballot boxes, making false statements in postal voter applications, destroys, opens, or tampers with covers containing postal vote ballot papers, canvassing of votes, obstructing of voters, distribution of handbills, posters, etc. on elections day. Maintenance of election offices, conduct processions, display of banners and flags, plural voting, impersonation, treating of voters, intimidation and threatening and undue influence on voters, bribing of voters, use of vehicle for transport of voters, false reports in newspapers, printing and publicity through publications etc.
 - (b) convicted of an offence under Sections 2 and 3 of the Public Bodies (Prevention of Corruption) Ordinance. (Article 89)(f)(ii).
- (viii) A period of three years has not elapsed since:
Being convicted for an illegal practice under the Ceylon (Parliamentary Elections) Order in Council or such offence at a referendum, presidential or parliamentary elections. Illegal practices are transport of voters,

employment by candidates of persons other than the agent and polling agents and printing and publishing of publications without the names and addresses of printer and publisher.

- (ix) Undergoing a period of civic disability imposed by Parliament on the recommendation of a Special Presidential Commission (Article 81 and 89) (h).
- (x) A period of 7 years has not elapsed since:
 - (a) convicted of an offence under Section 188 to 201 of the Penal Code.
 - (b) convicted of an offence of contempt against or disrespect to any Special Presidential Commission of Inquiry specified in Article 81 of the Constitution.
 - (c) convicted for interference with the Judiciary specified in Article 116.

The above basic qualifications are necessary to be fulfilled by a person to be eligible and registered as an elector. Besides these requirements it is also necessary that the person to be registered is resident in the electoral district. And that he is "ordinarily resident" at the qualifying address on the day the revision commences.

The word "Ordinarily Resident" needs clarification. In normal circumstances the registration officer considers as 'ordinary residence' a place at which a person lives with his/her spouse and children. This is the residence to which he returns after his/her daily employment to spend the night. In the case of an unmarried individual, it is the house in which he resides with his/her parents or his/her immediate members of the family. A married person living away from his/her family due to the nature of his/her employment and is resident temporarily away from his/her home, the place where his/her spouse and children live is considered to be his/her ordinary residence. Similarly students who are living in school hostels and boarding houses are eligible to be registered at the residence of his/her parents. There are also persons who live in urban areas in their own or rented houses but also own land and property in their ancestral village. Such persons may qualify to be registered at either address. But they cannot register at both qualifying addresses as Section 7 precludes such multiple registrations.

There is provision in Section 12(7) for the Registering Officer to register such persons at any one of the two or more qualifying addresses.

2. Appointment and role of registering officers

For purposes of registration of electors the Commissioner of Elections appoints the District Secretary/Government Agent of each District as the Registering Officer of the Electoral District. He also appoints several Assistant Registering Officers. All these appointments are by designation and not by name of any officer. In the day to day voter registration functions it is the Assistant Commissioner of Elections who is also an Assistant Registering Officer who carries out all the duties relating to this process. His activities are subject to supervision of the Registering Officer. The Commissioner of Elections gives directives to both the Registering Officer and Assistant Registering Officers in the form of circulars and conferences. Although the Registering Officer has all the powers and functions relating to registration of electors he does not directly handle these matters on a daily basis unless directed by the Commissioner. The Registering Officer generally monitors the progress of the registration process and helps the Assistant Commissioner of Elections in case of a problem. The other Assistant Registering Officers who are staff officers working in and around the District Secretariat/Kachcheri are called upon to assist the Assistant Commissioner in specific instances like holding of inquiries into claims and objections or to perform functions of Assistant Commissioner during his/her absence.

3. Electoral districts

There are 22 electoral districts in Sri Lanka. Each administrative district, other than those in the Northern Province, constitute one electoral district. Administrative districts of Jaffna and Kilinochchi form one electoral district of Jaffna, while Mannar, Vavuniya and Mullaitivu districts form the other electoral district of Vanni.

4. Polling divisions

For purposes of conducting elections, each electoral district is divided into polling divisions. There are 160 polling divisions corresponding to the former

parliamentary electoral districts which were in operation till the promulgation of the Constitution of 1978. Each polling division is sub-divided into several polling districts. At elections each polling district constitutes a polling station area. The polling districts are revised periodically taking into consideration increases or decreases in the number of electors, population changes and requests from electors and political parties.

5. Annual revision of the electoral register

Each year on 1st June the Commissioner of Elections publishes a notice in the Gazette and in the Newspapers stating that the revision has commenced and indicating how a person could ascertain whether his/her name is registered and if not how he can ensure that he is registered at the place of his/her residence. (Section 12(1) Registration of Electors Act (REA), No. 44 of 1980) The Registering Officers distribute through the Grama Niladharis and, through special enumerators in certain urban areas to every household a printed form called "BC form" on which the Chief Occupant of the house is required to furnish information regarding every eligible person living in his/her house.

6. Enumeration of names

The Grama Niladhari or the special enumerator is required to personally distribute and collect the BC forms during the period June to August. The information to be furnished by the Chief Occupant consists of the full name as appearing in the National Identity Card, National Identity Card number, sex, relationship to the Chief Occupant, date of birth, occupation and address of the place of work, address of last registration, year of such registration, Grama Niladhari Division and district of such address. It is also necessary to state whether every person is a citizen of Sri Lanka. This information has to be furnished in respect of every name entered in the form. The address of the last registration has to be furnished only if that name is being entered under that household for the first time due to a change in residence or if the name is being entered after a lapse of some time. The Chief Occupant is generally required to furnish a letter from the Grama Niladhari of the area in which such person was registered earlier, to the effect that such person's name has been deleted at the

current revision. The Grama Niladhari/enumerator should, when collecting the completed form, check the accuracy of the details given by the Chief Occupant and also satisfy himself that all the persons are eligible to be registered and are actually ordinarily resident in the house. The forms so collected are checked at the office of the Grama Niladhari/enumerator and two lists are prepared by them in regard to deleted names and new names. They are required to prepare a list called "A" list containing names that were in the current register but are to be deleted from the new register and a "B" list containing new names to be added to the new register. These documents i.e. BC forms, "A" and "B" lists and other statistics required by the Elections Department have to be handed over to the District Elections Office on a stipulated date. The staff of the Elections Office check all the names enumerated and other lists etc. with the aid of the Grama Niladhari/enumerator.

7. Role of political parties in the revision of electoral registers

In terms of a decision made by the Parliamentary Select Committee on Electoral Reforms about 30 years ago the Commissioner permits authorized representatives of recognized political parties to observe the revision process at the village level. For this purpose Secretaries of all recognized political parties are called upon in March every year to furnish to the Registering Officers lists of names of their representatives for each Grama Niladhari Division or polling district. These persons are permitted to observe the process by accompanying the Grama Niladhari/enumerator in the house to house visits and also check the completed BC forms and "A" and "B" lists at the Office of the Grama Niladhari. The party representatives may, if they wish, send their observations directly to the Registering Officer.

8. Multiple registration

In instances where the Registering Officer discovers any duplicate or multiple enumerations in more than one qualifying address the Registering Officer shall require such person to choose one of the addresses and after an inquiry if he is satisfied that the person is qualified under one particular address he would take

action to delete the name as associated with the other qualifying addresses in the register. Section 12(7) Registration of Electors Act.

11. Preparation of "A" and "B" lists

The procedure adopted by the Registering Officer to revise the register after the receipt of all the enumeration documents commences with the preparation of the "A" and "B" lists. The former contains names of the persons which were in the previous register that are to be deleted in the new register. The latter contains new names coming under each household to be added to the new register. Preparation of these lists have to be completed on or before 31st January of the following year. Section 13(1) Registration of Electors Act.

12. Exhibition period

Under Section 12(2) of the Registration of Electors Act it is obligatory for the Registering Officer to publish a notice in the Gazette and in the newspapers to the effect that the "A" and "B" lists have been completed and that they are available for inspection. The notice should specify the places at which any person may inspect these lists, the current register of electors and/or the relevant extracts of the register. The exhibition takes place at the office of the Registering Officer (District Elections Office), Divisional Secretariat, Grama Niladhari Office, Office of the Local Authority and at the Main Post Office. Generally the exhibition takes place in the months of November/December for a period of 4 weeks (28 days).

13. Claims and objections

During the period of exhibition the Registering Officer(R.O) entertains written claims and objections from interested persons. Claims can be submitted by any person who is qualified to have his/her name included in the register. In order to avoid unnecessary submission of claims it is advised that a person examine the current register and satisfy himself that his/her name is not in the register. If the name exists in the current register he should then check the "A" list pertaining to that address and ascertain whether his/her name appears in the "A" list. If the name is not in the "A" list that means that his/her name will continue

in the new register. He need not therefore send a claim. On the other hand if his/her name is found in the "A" list it means that his/her name is to be deleted from the register for some reason. Then he should send a claim to the registering officer in the specified form. The form to be used in these instances is called Form A. There is also provision for a person to send the claim in a similar manner on behalf of another person if the latter is not in a position to submit a claim on his/her own. The form to be used in such instances is the Form B. A list of claims received by the R.O. is published in the Office of the R.O.

Objections can be raised by a person whose name appears in the register or in the "B" list regarding his/her own name or the name of another person being entered in the register or in the "B" list. It is also possible for a person to object to a name of a claimant. For this purpose he could inspect the notice of claims published by the Registering Officer at the office of the R.O. The form to be used for objections against one' own name is Form C, while Form D is to be used for other objections. (Section 14 Registration of Electors Act)

It is not essential for claims and objections to be made on the printed forms which are made available at places of exhibition. The law requires that claims and objections should be sent in writing substantially in the forms specified i.e. Form A, B, C or D. Objections have to be sent in duplicate to enable the R.O. to send one copy to the person against whom the objection is raised.

14. Inquiries into claims and objections

The Registering Officer will make arrangements as soon as possible after receipt of claims and objections to hold public inquiries giving 7 days' notice to claimants, objectors and persons subject to objections. Generally inquiries are held in the Divisional Secretariat or in the District Elections Office. The Registering Officer is also empowered to allow a claim without holding a public inquiry provided there is no objection received against such claim. (Section 14(9) Registration of Electors Act.

If the claimant or objector is unable to be present at the inquiry he may send a representative on his/her behalf. Such representative should bring with him a

letter of authority from the claimant or the objector. However it is in the best interest of the claimant or the objector to be present in person as the Registering Officer will require them to provide satisfactory proof of eligibility, grounds for objection, etc. In the case of objections, if the Registering Officer is satisfied with the grounds for objection then the Registering Officer will ask the person whose name is objected to, to provide sufficient proof of his/her qualification to be registered as an elector.

The Registering Officer is required under Section 14(16) of the Registration of Electors Act to inform in writing, to the parties concerned, his/her decision on every claim and objection. Although the law states that any communication made by the Registering Officer under this Act may be sent by ordinary post, registering officers generally communicate the decision of disallowance of claims and acceptance of objections by registered post.

15. Appeals against the decision of the Registering Officer

Any claimant, objector or any person subject to the objection can appeal against the decision of the Registering Officer within 10 days of the receipt of the communication from the Registering Officer. The Revision Officer for appeals is the District Judge of the area.

16. Certification of the Register

On completion of inquiries into claims and objections the Registering Officer should take appropriate action to include the names of claims that were allowed and delete the names of persons against whom objections were successfully made. The Registering Officer need not wait for the decision of the Revising Officer to certify the register. The register is certified before 31st May as the next revision will commence on 1st June at which the certified register has to be made available for inspection. If any decision of the Revising Officer is received after the certification of the register he could adjust the register accordingly. As soon as the register is certified the Registering Officer is required to publish a notice in the Gazette and in the newspapers to the effect that the register has been certified and is available for inspection in his/her office.

The Register so certified remains valid until the certification of the next years register which will be approximately 11 months later.

17. Register valid for all elections

The Register certified under the Registration of Electors Act No. 44 of 1980 is valid for all types of elections and referenda. There is provision to prepare a fresh register after a report of a Delimitation Commission is gazetted by the President.

CHAPTER II

RECOGNITION OF POLITICAL PARTIES

Section 7 of the Parliamentary Elections Act, No. 1 of 1981 contains the rules regarding recognition of political parties. The laws relating to the subject have been amended by Act, No. 29 of 1988.

1. Law relating to applications for recognition

Before the enactment of the Act political parties were recognized under the Ceylon (Parliamentary Elections) Order-in-Council, 1946. Parties that were recognized under the Order-in-Council were entitled to be recognized for purposes of the new Act. They were also permitted to continue to use the election symbol already allotted. The number of political parties that have received the Commissioner's recognition stands at 53. Of these only a handful are represented in Parliament. The number of parties that generally contests a national election is about 25. The proliferation of recognized political parties is due to the absence of any rigid general qualifications to apply for recognition.

According to Section 7(4)(a) a political party can apply for recognition with a copy of the constitution of the party and the list of its office bearers. There are no other requirements to be fulfilled at the time of applying for recognition. This permits even a small group of persons with a common interest based on any ground such as caste, religion or region, to apply for recognition. The election symbol that the party prefers to have should also be mentioned in the application.

However, there are certain limitations under the amendment (No.29 of 1988) referred to above. Accordingly, applications for recognition cannot be sent during the following periods, commencing from:

- (i) the date of dissolution of Parliament or the date of the Order announcing the holding of a Parliamentary Election to the date of such election.

- (ii) the date of Order issued announcing the holding of a Presidential Election to the date of such election.
- (iii) the date of notice of election to a Provincial Council to the date of such election.
- (iv) the date of notice of an election to a Local Authority (Municipal and Urban Councils and Pradeshiya Sabhas) to the date of election.
- (v) The date of Order announcing the holding of a referendum to the date of holding of the referendum.

There is also a further restriction with regard to the applications for recognition which have been disallowed by the Commissioner. Under section 7(4)(d), a party whose applications has been disallowed, cannot re-apply until the expiry of a period of six months after the rejection of the original application.

2. Procedure adopted by the Commissioner after receipt of an application

The Commissioner will conduct an inquiry that he/she considers appropriate to be satisfied that the applicant party is a political party and that it is organized to contest an election. The Commissioner may call upon the applicant to produce more evidence other than the constitution of the party and list of members. Information as to whether the party was engaged in political activities in the past, held regular meetings of the executive committee, annual general meetings etc, can be requested. The Commissioner may also peruse records of meetings held, membership directory, bank statements, press clippings and news reports on the party's political activities etc. He/she may also undertake to be satisfied with the aims and objectives of the party and that such aims are in fact political. After considering such evidence the Commissioner, if satisfied that the party has engaged in political activities and is organized to contest elections, shall decide to recognize that party.

The Commissioner will then allot an election symbol from the list of symbols already approved and gazetted. If the symbol requested for by the party in its application is one from among the approved list the Commissioner may permit such symbol to the party. A recognized political party can request the Commissioner to allot another symbol instead of the one allotted to it at the time

of recognition. Such requests must be made in writing within seven days of the gazetting of a notice ordering the holding of an election. The Commissioner uses his/her discretion in allowing such a request. The new symbol so allotted has to be one not already given to another party. There is provision in section 7(6) for the Commissioner to disallow an application if the name of the party is identical to the name of a party which is already recognized, which can lead to confusion or misdirect the voter.

Although section 7(7) states that the Commissioner's decision is final and cannot be questioned in a court of law, there have been instances where aggrieved parties appealed against the Commissioner's decision and obtained favourable verdicts. The main ground on which a decision of a Commissioner was challenged was that their fundamental rights were violated.

3. End of a party's recognition

Every recognized political party is required under section 8 to furnish to the Commissioner any amendments in the party constitution or any changes to its office bearers, within 30 days of such amendment or change. If the party requests an extension of this time period, the Commissioner may give a further extension of up to 60 days. A party that fails to comply with these requirements ceases to be a recognized party. (Section 9).

4. Rivalry among sections of a party.

If the Commissioner has reasonable cause to believe that difficulties will arise at an election due to be held owing to rival factions of a party claiming to be that party, he is empowered to issue a direction to the Returning Officers stating which party or rival faction should be considered as the recognized political party. He can also decide not to accept any party or faction (Section 13). A similar power is given to the Commissioner under Section 10 of the Presidential Elections Act, Section 11 of the Provincial Councils Elections Act and Section 27E of the Local Authorities Elections Ordinance).

5. Facilities provided to recognized parties

A recognized party enjoy the following facilities.

1. Reduced deposit at Presidential Elections.
2. Exemption from the requirement to pay a deposit at all other elections.
3. State (financial) assistance to parties that poll not less than 1% of the valid votes at a previous Parliamentary General Election. This concession applies only to Parliamentary Elections.

6. Recognition valid for all elections

Political parties recognized under the Parliamentary Elections Act are entitled to take part in all other elections under the allotted symbol of the party.

CHAPTER III

POSTAL VOTES

The facility to vote by post instead of at the Polling Station on the polling day is provided at all elections in Sri Lanka. This facility is restricted to certain categories of public officers including those in essential services. Election candidates also enjoy this facility. Since the procedures relating to postal votes prescribed in all legislative enactments are uniform this chapter explains the rules and procedures applicable to all types of elections in Sri Lanka. Every Election Act and the Referendum Act contains a schedule of Regulations governing the procedure regarding postal voting.

1. Period of Application

The period for submission of applications is not the same for all types of elections. The periods are:

1. **Presidential Elections:** Within 10 days from the date of publication of the Order announcing the date of nomination. (Sec.23(3))
2. **Parliamentary Elections:** During the period commencing from the seventh day and ending on the fourteenth day after the date of publication of Proclamation or Order requiring the holding of an election (Sec. 26(3)).
3. **Provincial Councils Elections:**
4. **Local Authorities Elections:** } Within 10 days after the publication of the nomination notice. (Sec. 24(3) and Sec 39B(3) respectively.
5. **Referendum:** Within 10 days from the publication of Proclamation (Section 9(3).)

2. Eligibility to Apply

The categories of persons who are eligible to apply to vote by post are:

- (i) Members of the three Armed Services.
- (ii) Members of the Police Department.
- (iii) Members of the Department of Prisons.
- (iv) Members of the Department of Telecommunications.

- (v) Members of the Sri Lanka Central Transport Board or Regional Transport Boards.
(These categories of officers are permitted on the ground that they are unable to or likely to be unable to vote in person by reason of the particular circumstances of their employment. This would mean that any member of those services who could be granted leave to cast their votes in person at the polling station need not apply to vote by post. By this the number of postal vote applications will be kept to a minimum.)
- (vi) Other officers and servants of the public service including the Central Bank of Sri Lanka or the Local Government Service who will be deployed for election work.
- (vii) Candidate at an election (In practice candidates cannot apply as the nomination period ends after the period prescribed for submission of postal votes applications.)

3. Certifying Officers and their duties

For purposes of certifying of postal voting applications and follow up action, the Commissioner will request heads of Ministries, Departments and other State institutions to nominate one or more senior responsible officers to be designated as Certifying Officers. Certifying Officers are required to:

- (i) certify postal votes applications of employees in their institution after satisfying himself/herself of the identity of the applicant. S/He should also certify whether the applicant is unable to vote in person at the polling station.
- (ii) maintain records of applications certified by him/her and of follow up action and hand over such in sealed packets to the Returning Officers in terms of instructions issued by the Commissioner or the Returning Officer.
- (iii) make arrangements to receive sealed packets containing postal ballot papers and to keep them unopened in safe custody until the date of marking of ballot papers as communicated to him/her by the Commissioner or the Returning Officer.

- (iv) inform secretaries of recognized political parties and leaders of independent groups of the date and place at which the ballot papers of postal voters will be marked by postal voters.
- (v) make arrangements for voters to mark their ballot papers in secret. Permit agents duly appointed to observe the proceedings of marking of ballot papers. Maintain a journal of proceedings.
- (vi) ensure that each marked ballot paper is inserted in the correct envelope and returned to the Returning Officer concerned along with the duly signed and certified form of declaration of identity.
- (vii) retain all unmarked ballot papers unopened till 4.00 p.m. on the date of poll to enable any voter to call over to mark his/her ballot paper.
- (viii) return all the covers containing unmarked ballot papers to the relevant Returning Officers and the original of the journal to the Returning Officer of the district where the certifying officer is serving.

Detailed instructions regarding the duties enumerated above will be sent by the Commissioner or the Returning Officer whenever an election is due to be held.

4. Applications to be treated as a postal voter

Applications to be treated as a postal voter should be made to the Returning Officer of the electoral district where the applicant is registered as a voter. Printed application forms that an applicant has to complete are made available to all heads of government institutions and at centres where electoral registers of the entire island are exhibited for perusal by prospective applicants. Applications could also be sent substantially on the form which is specified in the postal voters regulations.

5. Postal voters

Any person, whose application to be treated as a postal voter has been allowed or disallowed by the Returning Officer, will be informed of such fact by the Returning Officer. A copy of the communication will also be sent to the Certifying Officer who certified the application. The postal voter should call at the office of the Certifying Officer on the appointed date and mark his/her ballot paper. A

postal voter cannot, under any circumstance, exercise this vote in person at a polling station.

6. Processing of postal vote applications

Applications for postal votes will be processed at the District Elections Office.

7. Preparation of the postal voters list

On completion of the processing of applications the Returning Officer will prepare a postal voters list containing the names of voters and their registered address, serial number of the polling district and of the voter in the electoral register as well as the name and official address of the Certifying Officer to whom the postal ballot paper will be sent. Copies of the postal voters list will be supplied to Secretaries of recognized political parties and leaders of independent groups which are contesting the election. A copy of the list is also available for inspection at the District Elections Office. (Regulation 4)

8. Notice of issue of postal ballot papers

Returning Officers will notify the authorized agents/group leaders/referendum agents of the date, time and place of issue of ballot papers. The notice will be sent not later than 10 days after the date of nomination/proclamation of the Referendum. The agent or a person authorized by him/her could attend the place of issue of ballot papers. If there is more than one place of issue a representative could be appointed to each such place. (Regulation 10)

9. Maintenance of secrecy

Every person i.e. officials, and agents, are required to maintain secrecy of the proceedings specially with regard to the official mark made on the ballot papers and the serial number printed on the back of the ballot paper. They will be required to sign a declaration of secrecy on form "C". (Regulation 9)

10. Issue of postal ballot papers

At the issue of postal ballot papers, a group of officers under the supervision of an Assistant Returning Officer will commence proceedings at the time noticed to the contesting parties and independent groups. The procedure is as follows:

- (i) one officer will read out the name and serial number of the postal voter from the postal voters list.
- (ii) the Second officer who is in charge of the ballot paper will note down the serial number of the voter on the counterfoil of the ballot paper to be issued. He/She will then separate the ballot paper from the counterfoil and place the official mark on the margin or the edge of the ballot paper and pass it on to the next officer.
- (iii) the Third officer will note down the serial number of the ballot paper on the ballot paper envelope and clip the two documents together and pass on to the next officer.
- (iv) the Fourth officer will enter the serial number of the ballot paper on the form for declaration of identity (Form "B") clip the form to the ballot paper and the ballot paper envelope. These three documents will be passed on to the next officer.
- (v) the Fifth officer will check whether the serial number of the ballot paper has been correctly entered on both the ballot paper envelope and the form of Declaration of Identity and then pass the three documents on to the sixth officer.
- (vi) The Sixth officer will clip the three documents to the covering envelope. Before doing so, he/she should check the accuracy of the return address of the Returning Officer and the name of the ED/PD/Local Authority (as applicable) which would have been previously entered by the staff of the Elections Office.

- (vii) The Seventh officer or the sixth officer himself/herself will enclose all four documents inside the final envelope in which the documents will be sent to the Certifying Officer. Here too, the officer should check whether the address of the Certifying Officer has been correctly written previously by the staff of the Elections Office on the envelope and also that the name of the postal voter has been entered on the envelope.
- (viii) The last officer will paste the envelope and seal it with special tamper proof sticker. A minor employee will assist him/her.
- (ix) On completion of issue of postal votes, the sealed envelopes containing the documents will be arranged in a systematic order and a list prepared in duplicate which should be handed over to the post office with the envelopes. An acknowledgement has to be obtained from the post office for the sealed packets.

11. Sealing of the postal voters ballot box

Immediately after the conclusion of the issue of postal ballot papers the postal ballot paper box has to be sealed in the presence of the Agents if they are present. The empty boxes will be shown to the Agents and the boxes locked and sealed with the seal of the Returning Officer. The Agents will also be permitted to place their seals. The sealed ballot boxes are meant for depositing of covering envelopes returned by Certifying Officers.

12. Postal delivery of packets containing ballot papers

The sealed packets containing postal votes handed over by the Returning Officer to the post office will be delivered to the Certifying Officers commencing the following day. Certifying Officers who will receive the packets should and keep them in safe custody unopened till the day fixed for marking of ballot papers.

13. Notice to authorized agents and group leaders

The Commissioner will announce the date/s fixed for marking of postal ballot papers through the print and electronic media. The Certifying Officers are also required by law to inform party Secretaries or Authorized Agents and group leaders of the time date and place at which voting will take place. The contesting political parties and groups are entitled to send two observers each to the place of marking of postal ballot papers. The names, addresses and identity card numbers of observers should be sent to the Certifying Officer in writing either in advance or on the day of marking. (Regulation 16A)

14. Marking of postal vote ballot papers by voters

When a postal voter calls at the office of the Certifying Officer he/she will first ascertain the identity of the voter and after being satisfied of his/her identity he will trace the relevant sealed packet and open the packet in the presence of the voter. The voter should be asked to sign the form of Declaration of Identity first and it should be certified by the Certifying Officer. Subsequently the ballot paper will be given to the voter to mark his/her vote in secret. After marking the ballot paper he should be asked to fold the ballot paper and place it inside the ballot paper envelope himself. The envelope containing ballot paper should be sealed in the presence of the voter. The form of Declaration of Identity will be clipped to the ballot paper envelope and then the two documents are placed inside the covering envelope. This envelope should also be sealed as instructed by the Returning Officer.

15. Handing over of sealed packets by the Certifying Officer

On completion of the day's proceedings or from time to time as sealed packets get accumulated, the Certifying Officer will arrange to deliver the packets to the post office along with a list prepared in duplicate. One signed copy of the list should be obtained from the post office as proof of dispatch.

16. Receipt of covering envelopes at the Returning Officer's office

The Returning Officer will make arrangements to receive the covering envelopes. An Assistant Returning Officer (ARO) will be given the responsibility to receive covering envelopes and to deposit them in the appropriate postal voters ballot box, keeping proper records of receipts and deposits made. All covering envelopes received until 4.00 p.m. on the day of poll will be deposited in the postal ballot box. (Regulation 17)

17. Closure of poll

Immediately after 4.00 p.m. on the day of the poll, the postal votes ballot boxes will be closed by the A.R.O. and seals placed on them. He will be responsible to deliver the sealed ballot boxes to the Counting Centre at the time fixed by the Returning Officer.

18. Notice of the count

The Returning Officer has to give notice of the count to authorized agents and group leaders in writing (Regulation 19). The date, time and place at which the counting centre/s are situated should also be indicated in the notice.

The Agents /Group Leaders are entitled to appoint two Counting Agents per centre. The names and identity card numbers should be furnished to the Returning Officer (R.O) well in time. This enables the R.O. to make arrangements to issue special passes to enter the premises and also to enter the counting centre.

19. Disposal of covering envelopes

The agents and the staff should sign the attendance register at the counting centre first and the Oath of Secrecy in front of the A.R.O.

Before commencement of the count the A.R.O will explain briefly the procedure regarding the count especially regarding sensitive issues like decisions on doubtful ballot papers.

- 19.1 The procedure regarding the count is as follows. (Regulation 24)
- (i) Open the box and count and record the total number of covering envelopes found inside. (Regulations -23 and 24)
 - (ii) Open one covering envelope at a time.
 - (iii) For every duly perfected declaration of identity and ballot paper envelope, the counting officer (A.R.O.) will check whether the serial number of the ballot paper written on the declaration of identity corresponds to the number written on the ballot paper envelope, and if they tally, he/she will place the declaration in the receptacle "declaration of identity" and the ballot paper in the receptacle "postal voters ballot papers."
 - (iv) For every declaration of identity and ballot paper (not enclosed inside an envelope), the counting officer will check whether the serial number of ballot paper which is printed on the back corresponds to the number written on the declaration of identity, and if the declaration of identity duly signed by the voter and certified by the Certifying Officer, he/she will place the declaration of identity in the receptacle "declaration of identity" and the ballot paper in the receptacle for "postal voters' ballot papers." If "declaration of identity" has not been duly signed and certified, he/she will write the words "declaration of identity rejected", show it to the agents and if any agents object to the decision he/she will write the words "rejection objected to" attach the declaration of identity to the ballot paper, place both the documents together in the receptacle "rejected ballot papers."
If the two numbers do not tally, the words "declaration of identity rejected", are written on the declaration. It is shown to the agents and if any of them object to the decision, the words "rejection objected to" are written on the ballot paper. Then the declaration will be attached to the envelope and both placed together in the receptacle "rejected votes of postal voters."
 - (v) Where there is only a declaration of identity, the document is rejected and placed in the receptacle "declaration of identity rejected. No ballot paper".

- (vi) Where there is only a ballot paper, the ballot paper is rejected and placed in the receptacle "rejected No declaration of identity."
- (vii) Where the covering envelope is empty, it is placed in the receptacle "rejected No contents."

19.2 On conclusion of these proceedings, each ballot paper envelope in the "receptacle for postal voters ballot papers" is opened, one envelope at a time

- (i) If no ballot paper is found inside the envelope, the words "no ballot paper enclosed" is marked on the envelope and placed in the receptacle for "rejected votes of postal votes."
- (ii) If a ballot paper is found inside the envelope, and the marked number tallies with the serial number of the ballot paper, such ballot paper is placed in the receptacle "Postal Voters Ballot Papers."
- (iii) If the number does not correspond then the word "rejected" is written on the ballot paper and the ballot paper and the envelope are clipped together and placed in receptacle "rejected votes of postal voters' "

19.3. On conclusion of these steps the contents in the receptacles of "rejected votes of postal voters" and the receptacle "declarations of identity" are packed separately.

20. Counting of postal votes

After the disposal of covering envelopes as explained in the above paragraph the procedure regarding counting of postal ballot papers is the same as the procedure followed in counting of votes at other counting centres.

As regards Presidential Elections there are a few variations. In all other elections the vote is marked for a political party or independent group while in a presidential election the vote is marked for a candidate by the digit "1". (However some voters who are used to marking the vote with the mark "x" may

mark his/her vote with the "x" instead of the digit "1") After marking the vote in the Presidential Election, the 2nd and 3rd preferences are expected to be marked with the digit "2" or "3" as applicable.

In counting of postal votes of a Presidential Election only the first preferences ("1" or "x" or other mark by which the voter's intention is clear) is counted in the first instance and the result of the count is reported to the Returning Officer. The necessity to count 2nd and 3rd preferences will arise only if a candidate does not receive an absolute majority after all the votes in the island are totalled at the office of the Commission.

All the counting officers including those of postal votes and counting centres, have to await instructions from the Returning Officer regarding counting of 2nd and 3rd preferences.

In all other elections namely, parliamentary, provincial and local government elections and referenda, the Counting Officers will count the votes cast for each party and independent group/ for or against the proposal in a referendum. The counting of preferences cast for candidates will immediately follow the counting of votes.

The procedures adopted in regard to counting of votes and preferences are explained in the respective chapters covering the different elections.

CHAPTER IV

PRESIDENTIAL ELECTIONS

The rules regarding the conducting of Presidential Elections are contained in the Presidential Elections Act, No. 15 of 1981. The principal Act has been amended by Act, No. 16 and Act No. 35 of 1988. There are also certain provisions in Chapter XIV of the Constitution regarding the disqualification for candidates at a Presidential Election and the manner in which voters are required to cast their vote and mark second and third preferences. (Articles 92 and 94).

1. Qualifications for candidates at elections to the office of President

The analysis that follows embodies the provisions of both the Constitution and the Presidential Elections Act. Every person qualified to be an elector is eligible to be a candidate at a Presidential Election. Qualifications to be an elector are explained in Chapter I of this manual. The disqualifications enumerated in Article 92, read with Article 91 of the Constitution are, that the candidate-

- (i) has not attained the of age of 30 years¹
- (ii) is a judicial officer. or the Parliamentary Commissioner for Administration, the Secretary-General of Parliament or member of his/her staff, Commissioner of Elections, Auditor General, Public Officer of Staff rank, Staff Officer in State Corporation, Member of Armed Services, Police Officer, or Public Officer exercising police functions.
- (iii) has interest in any contract made by or on behalf of State or a Public Corporation.
- (iv) is an undischarged bankrupt or insolvent.
- (v) During the preceding seven years has been adjudged to have accepted a bribe or gratification to influence judgement as a Member of Parliament.
- (vi) has been twice elected to the office of the President.

¹ Article 92 of the Constitution or Section 11 of the Presidential Elections Act, does not specify the date on which he/she should reach this age. The Commissioner determines the date of nomination as the date on which a candidate should qualify.

(vii) removed from office of the President under Article 38(2)(d) of the Constitution.

(viii) There is a further requirement that if the person nominated as a candidate is not from a recognized political party such candidate should have been or is an elected member of the legislature. A Member of Parliament who enters Parliament on the national list is also considered as an elected Member of Parliament.

2. When is an election due

Wherever a Presidential Election is required to be held, the Commissioner has to publish an Order in the Gazette fixing the date of nominations and the date of poll. There are two occasions when he is required to issue this Order, first being when the incumbent President's term of office is due to end and the second being when incumbent President on completion of 4 years in office in the first term of his/her office declares his/her intention to appeal to the people for a mandate for a further term. The Constitution by the Third Amendment provides for the President to seek this mandate during his/her first term.

3. Notice of nominations and elections

4.1. The Commissioner when issuing Order has to fix the date of nominations to be not less than sixteen days and not more than 21 days from the date of issue of the Order. Date of poll should also be mentioned in the Order which has to be not less than four weeks, not more than six weeks from the date of nomination. (Section 2)

4.2. When the date of election is fixed at the incumbent's term coming to an end (i.e. at the end of 6 years or 12 years) the Commissioner has to take into consideration the amendment brought to Section 21 and new Section 46A in Elections (Special Provisions) Act No. 35 of 1988. Under Section 21(2) where due to an emergency or due to unforeseen circumstances the poll cannot be held on the scheduled date, another date has to be fixed and such date has to be not later than one month before the expiration of the term of office of the President in office. Under Section 46A of the

Elections (Special Provisions) Act the Commissioner can fix a repoll after annulment of any poll in a polling station where certain disturbances occurred. In view of the need to fix another date for the poll under Section 21(2) at least one month before the date of expiry of the term of office of the President in office, a re-poll will also has to be held at least one month before such date.

4. Nomination procedure

4.1. Deposits: Any person qualified to contest is required to place a deposit with the Commissioner after the notice of nomination is published. Payment of deposit has to be made before 12.00 noon on the day before the date of nominations. The deposit can be made by a prospective candidate himself or by another person on his/her behalf. If the candidate is from a recognized political party the deposit is Rs. 50,000/- while other candidates have to pay Rs. 75,000/-.When deposits are made by a Secretary of a political party (not recognized) or by an elector, a certificate from the Secretary General of Parliament is necessary to the effect that the candidate is or has been an elected member of the legislature. (Section 8)

The deposit will be refunded if the nomination paper of a candidate is rejected or if no nomination paper is submitted in the name of a person who made a deposit. On conclusion of the election deposits of other candidates who received more than 1/8 of the valid counted votes will be refunded. (Section 9)

4.2. Preparation of Nomination Papers: Nomination of candidates can be made by recognized political parties, or by any political party (not recognized). In addition an elector who is a registered voter could also nominate a candidate.

When the Commissioner has reasonable cause to believe that due to rival factions in a recognized political party claiming to be the political party there could be difficulties at an election that is due to be held he can in

his/her discretion decide which faction represents the party or whether none of the factions represents the party. Generally before the Commissioner makes a decision on an issue of this nature he consults the various factions regarding their claims. (Section 10)

A candidate should be nominated by not more than 3 separate nomination papers. The form to be used for this purpose is described in the first schedule to the Act. The form is called Form "A". It is not essential to use the printed nomination form which is supplied free of charge by the Commissioner to prospective candidates, but it should be substantially in line with the Form specified in the schedule.(Section 12)

Nomination Paper of a candidate of a recognized political party or of a political party (not recognized) should be signed by the Secretary of the party as the proposer. Where the candidate is nominated by an elector, the elector should sign as the proposer.

If more than one nomination paper (maximum is 3) is submitted all such nomination papers should be signed by the same person. If this requirement is not complied with the candidate runs the risk of being treated as not nominated. (Section 12(3)(b))

It is also irregular for a person to sign nomination papers of more than one candidate. If such nomination papers are received the Commissioner will treat as valid the nomination paper delivered to him first. All other nomination papers received subsequently will be rejected. (Section 12(6))

The signature of the persons signing the nomination paper should be attested by a Justice of the Peace or a Notary Public. It is also essential for the candidate who is nominated to give his/her consent to the nomination by placing his/her signature on the nomination paper in the appropriate place. (Section 12 (4) and (5))

4.3. Delivery of nomination papers: Nomination papers should be delivered to the Commissioner at the place of nomination between 9.00 a.m. and 11.00 a.m. on the date fixed for that purpose. The candidate in person or the person who signed the nomination paper should handover the nomination and not by any other person. The 'person who signed' refers to either the Secretary of the political party or the elector who proposes the candidate's name by signing the nomination paper. (Section 13) Any defects such as the absence of signatures, attestation J.P./N.P. omission of other particulars can cause the nomination paper to be rejected. It is advised that when more than one set of nomination papers is to be handed over, that in the first instance only one is handed and the others later. In the event that the first nomination paper is defective the candidate could then correct the defects by handing over a corrected second set or a third set. It is also not necessary that the nomination paper should be handed over with a copy of it.

If after handing over of a nomination paper it appears to a candidate that there are omissions or clerical errors in it, the candidate or the person who signed the nomination paper could apply in writing, before the expiry of the time period fixed for nominations, to correct such omission or error. The Commissioner may allow the request if he is satisfied that such omission or error is due to inadvertence or was unintentional.

However omission of the name of the candidate, failure to endorse the candidate's consent or the failure of the party Secretary or the elector to sign or failure to attest by J.P./N.P. are not considered as omissions or errors.

After taking delivery of the nomination paper the Commissioner will make a copy of the nomination paper and display the copy on a notice board outside the place of nomination. This will enable candidates or electors to scrutinise nomination papers for the purpose of lodging objections.

4.4. Objections to nomination papers: The period that is allowed for raising of objections is from 9.00 a.m. until half an hour after the nomination period has ended i.e. 11.30 a.m. Those entitled to raise objections are the candidates or the electors who signed nomination papers. The objections have to be made in writing. The grounds on which objections can be raised where:-

- (i) it is apparent or obvious from the contents of the nomination paper that the candidate is not qualified to be elected.
- (ii) the candidate has been convicted of corrupt or illegal practice at an election.
- (iii) civic disability has been imposed.

Objections made on ground (i) above can be decided upon by the Commissioner. His/Her decision has to be conveyed to the candidate concerned if he allowed the objection. The ground on which the objection was allowed should also be stated. Objections taken on grounds (ii) and (iii) should be referred to the Supreme Court for a decision. The Supreme Court is expected to give its verdict within 7 days of filing of the case by the Commissioner. If the Court decision is not received within the time limit the procedure to conduct the poll will continue without interruption.

4.5. Rejection of nomination papers: The Commissioner has the authority to reject a nomination papers on any of the following grounds-

- (i) Nomination paper not delivered or handed over by the candidate or by the person who signed it.
- (ii) The deposit of Rs.50,000/- or Rs. 75,000/- as applicable has not been made.
- (iii) Second and Third nomination papers have not been signed by the person who signed the first nomination paper.
- (iv) Signature of the person who signed the nomination paper has not been attested by a J.P. or N.P.
- (v) The candidate's consent for the nomination is not endorsed.

- (vi) Nomination paper has been signed by a person who has also signed a nomination paper of another candidate.
- (vii) The signature of the proposer i.e. Secretary of the political party or the elector does not appear.
- (viii) When an objection is raised on the ground that it is apparent from the contents of a nomination paper that the candidate is not qualified to be elected has been allowed.

The decision of the Commissioner to reject a nomination paper should be informed to the candidate or the person who delivered the nomination paper. (Section 15)

4.6. Persons allowed to be present at the place of nominations: Only the following persons are allowed to be present at the place of nominations.

- (i) Candidates.
- (ii) Persons who signed nomination papers.
- (iii) One other person selected by each candidate.
- (iv) Commissioner and his/her staff.

4.7. Uncontested elections: On conclusion of the nomination procedure including the period of objections if only one candidate remains nominated then that candidate will be declared elected as President. (Section 17) If no candidate is left after disposal of the objections the Commissioner has to issue a notice of a second nomination day which should be not less than 7 days and not later than 14 days from the date of notice. (Section 18)

4.8. Contested Elections: If after the nomination procedure is concluded and more than one candidate stands duly nominated the Commissioner will forthwith allocate election symbols to the candidates. The symbols of recognized political parties will be allotted to candidates of those parties. The other candidates will be given symbols from among those gazetted by mutual agreement of the candidates. If there is any disagreement in regard to a symbol a decision will be made by drawing of lots. At the nomination candidates will be asked to give their option as to how their

names should be printed on the ballot paper and in statutory notices. The candidates can request to omit any of the names in the accepted nomination paper and also which of the names should be indicated with initials only. (Section 20)

5. Death of a candidate

If a candidate dies after the conclusion of the nomination period but before the poll, the Secretary of the political party or the elector will be called upon by the Commissioner to nominate another person in place of the deceased candidate. The nomination has to be made on the usual nomination form prescribed in the Act. (Section 22)

If the Party or the elector fails to nominate a candidate, the poll will take place as scheduled if there is more than one candidate remaining. If only one candidate remains he /she will be declared as President.

6. Postal voting

Please see Chapter III.(Page 16)

7. Official poll card

Seven days before the date of election every voter, other than those allowed to vote by post and those allowed to vote at another polling station under Section 119B, (Provisions under Section 119B, which is specially meant for displaced voters is explained in Chapter IX) will receive a poll card issued by the Returning Officer.

The poll card will specify the following:-

- (i) name and number of the electoral district,
- (ii) polling division letter and polling district number,
- (iii) polling station allotted to the elector,
- (iv) date and hours of poll and
- (v) name of the elector, qualifying address and the registration number in the electoral register.

Poll cards will be delivered to the voter's registered address by post. Cards not delivered will be retained at the post office to be collected by the addressee after proving his/her identity.

8. Presiding officers and other staff at the polling station

The Returning Officer will appoint one or more Presiding Officers to each Polling Station with one of them designated as the Senior Presiding Officer (S.P.O). Others will be designated as Junior Presiding Officers (J.P.O) A team of Clerks and a KKS will also be appointed to each Polling Station. The S.P.O. will exercise supervision of the activities of the Polling Station, including the J.P.O, Clerks and Polling Agents. (Section 25)

9. Arrangements of polling stations

The polling station should be arranged according to guidelines given to the S.P.O. by the Returning Officers. Generally 3/6 clerks should sit on one side of the entrance to the Polling Station with the Polling Agents facing them on the other side or behind the clerks. The S.P.O. should have his/her table and chair in a position from where he/she can observe all the activities of the station. The Ballot Box must be kept in front of the S.P.O. The voting cubicles should be placed to enable the voters to cast his/her vote in secret.

10. Notices to be exhibited at polling stations.

The notices that should be exhibited at a polling station are:

- (i) A notice giving guidelines to voters in Sinhala, Tamil and English inside every voting cubicle and outside the polling station at several places.
- (ii) A notice showing the names of the candidates, election symbols allotted, name of the political party, name of the elector if nominated by an elector. This notice should be exhibited outside the polling station. (Section 27)

11. Ballot paper

The ballot paper should be printed in Sinhala, Tamil and English as per the specimen shown in Form B of the First Schedule to the Act. The ballot paper must contain the names of the candidates arranged alphabetically in Sinhala, the symbol allotted to each candidate will be shown next to the name with a blank cage to mark the preference by the voter. The name of the candidate will be in Sinhala, Tamil and English (Section 29)

12. Election agents

Each candidate can appoint himself/herself or another person as his/her Election Agent on or before the nomination day. If no appointment is made it will be presumed that the candidate has appointed himself/herself as the Election Agent. The name, address and the national identity card number of the Election Agent should be communicated to the Commissioner who will notify the name and address of the Agent by a notice affixed to the notice board. (Section 31)

13. Authorized Agents and other agents

The Election Agent can appoint one authorized agent for each electoral district. The appointment has to be made within one week from the date of nomination. The name, address and the national identity card number must be furnished to the Returning Officer. If no appointment is made, the Election Agent is deemed to have appointed himself/herself as the Authorized Agent (Section 32).

Each Authorized Agent can appoint a Divisional Agent for each polling division. The appointment should be made within two weeks from the date of nomination in writing giving his/her name, address and the national identity card number. If no appointment is made the Authorized Agent is presumed to be the Divisional Agent.

The Polling Agents for polling stations in the polling division have to be appointed by the Divisional Agent. The name, address and the national identity card number of each Polling Agent should be furnished in writing to the Presiding Officer of the polling station. Two Polling Agents will be permitted to be inside a polling station at one time. But the Divisional Agent can appoint a reasonable number of polling agents to meet any eventuality during the period of the poll.

14. Persons allowed inside a polling station

Only the candidates, election agents, authorized agents, divisional agents and polling agent are allowed inside a polling station other than the voters and staff and police officers on duty. The Senior Presiding Officers will remove any unauthorized person entering a polling station (Section 33).

15. Commencement of the poll

15.1. Sealing of the ballot box: Before commencement at 7.00 a.m. any polling agents who turn up with their letters of appointment are admitted. In the presence of the agents present, the empty ballot box will be shown to them. The box will be locked and sealed. The key to the ballot box will also be enclosed in an envelope and sealed. Agents present will be allowed to place their seals as well and samples of their seals obtained. (Section 34)

15.2. Issue of ballot papers to voters_(Section 35): The first clerk seated at the entrance with the voters list will first ask the voters for the poll card and their name and the document of identity. The identity document is compulsory but not the poll card. The clerk will then trace the voter's name on the register. He will call out the name and the serial number of the voter loud enough to be heard by the polling agents and the clerk in charge of the ballot papers. He will also examine the voter's identity document and ascertain his/her identity. If he/she is satisfied with the identity and no objections are raised by a polling agent/s, he/she will place a mark in the register of voters against the voter's name.

The voter will then move on to the next clerk (Marking Officer) who will examine the little finger of the left hand of the voter to see if any mark similar to the mark made with indelible ink has already been applied. If satisfied he/she will apply the indelible ink on the little finger of the left hand and direct the voter to the next clerk.

The third clerk would have meanwhile written the voter's serial number, which was called out by the first clerk, on the counterfoil of the ballot paper. He/she will then detach the ballot paper from the counterfoil, place his/her official mark on the margin or the edge of the ballot paper, and hand it over, with the face upward, to the voter.

The voter will move into one of the cubicles, mark the ballot paper as per the guidelines on the notice inside the cubicle. He should then fold the ballot paper and place it in the ballot box.

15.3. Instances where the clerks will refer voter to the S.P.O.: In the following instances the clerks will refer the voters to the S.P.O without issuing a ballot paper.

- 15.3.1. If the voter does not bring an identity document.
- 15.3.2. If the voter's name cannot be traced in the register.
- 15.3.3. If after examining his/her little finger on the left hand the second clerk finds a mark similar to the indelible ink mark.
- 15.3.4. If the voter does not allow the clerk to examine the finger.
- 15.3.5. If the voter does not allow indelible ink to be applied.
- 15.3.6. If an objection is raised against a voter.

The S.P.O. with the assistance of his/her J.P.O. will question the voter and decide whether to issue a ballot paper to such person.

15.4. The voters to whom ballot papers are not issued: The S.P.O. will not issue a ballot paper to any voter where:

- 15.4.1. the S.P.O. is satisfied that the mark on the left little finger is similar to the indelible mark used at the polling station.
(Section 36)
- 15.4.2. the voter refuses to allow the finger to be examined.(Section 36)
- 15.4.3. the voter refuses to be marked with the indelible ink.
(Section 36)

15.4.4. the voter is subject to an objection by a polling agent and the voter refuses to sign the declaration on the form provided. (Section 41)

15.4.5. the voter does not produce his/her NIC or other identity document. (Act No. 14 of 2004)

A record of voters to whom ballot papers were not issued should be maintained as Form 'C' set out in the 1st Schedule (Section 36(2) and in terms of Act No. 14 of 2004).

15.5. Assistance to voters: At the request of a voter the S.P.O. or an officer authorized by him shall explain to the voter within sight and hearing of the polling agents the method of voting as specified in the Third Schedule to the Act. (Section 38)

If a voter who is incapacitated by blindness or physical cause, requests assistance, the S.P.O. with another member of the staff should enquire from the voter how he/she wishes to vote and mark the ballot paper as requested.

15.6. Spoilt ballot papers: If a voter due to inadvertence spoils a ballot paper he/she can be issued another ballot paper. The spoilt ballot paper should be immediately cancelled. The spoilt ballot paper should be enclosed in the appropriate envelope. (Section 42)

15.7. Tendered ballot papers: If a voter applies for a ballot paper after another person has voted, he/she will be issued a tendered ballot paper by the S.P.O. after the voter subscribes to a declaration (Form H). The tendered ballot paper after being marked by the voter will be enclosed in the appropriate envelope and the name and address, etc. of the voter entered in the tendered voters list.

15.8. End of poll: The poll will close at 4.00 p.m. Any voter inside the polling station to whom a ballot paper has been issued will be allowed to cast

his/her vote after 4.00 p.m. Immediately after that the ballot box will be closed and seals placed. (Section 44)

16. Count of votes

Returning Officers will make arrangements to count the votes soon after the ballot boxes of polling stations assigned to each counting centre have been received subject to directions issued by the Commissioner, especially in regard to disturbances at polling stations under Section 46A. (Please see chapter X) There will be several counting centres in an Electoral District with a number of polling stations assigned to each centre. In addition to counting centres set up to count votes of polling stations there will be one or more separate counting centres set apart for postal votes and displaced voters.

Chapter III explains the procedure regarding the postal votes including the counting procedure leading up to the disposal of covering envelopes containing the postal ballot papers and the declaration of identity. After the disposal of covering envelopes, the counting of postal ballot papers is also conducted at the same postal votes counting centre. The procedure adopted is exactly the same as the counting of votes at normal counting centres, except that there is no opening of ballot boxes, recording of the number of ballot papers in each box and later mixing of all the ballot papers.

17. Counting Officers

The Returning Officers will appoint a senior officer from among the Assistant Returning Officers as Counting Officer. Such Counting Officers will be in overall charge of the count of votes at his/her centre assisted by several A.R.Os and other staff. (Section 47).

18. Notice of count

The Returning Officer will give notice in writing to each candidate, election agent and authorized agent of the date and place of count and the approximate time at which the count will commence. He will also give a list of polling stations that would be assigned to each counting centre. (Section 48). The list of counting

centres, including those of postal votes and displaced voters, if any, should also be supplied along with the notice.

19. Counting Agents

The Authorized Agent can appoint up to five Counting Agents per counting centre. The Act states that the names, addresses and national or other identity card of the counting agents should be given to the Counting Officer before the counting commences. However, in view of large number of Agents that would assemble in the premises at about the same time and the security concerns and to avoid confusion and inconvenience to officers and agents, the R.O. obtains the name of Agents in advance before the date of poll and issues individual passes to the Agents to enter the premises and also a special letter authorizing Agents to enter the counting centre. (Section 49)

20. Commencement of the count

The counting of votes will commence after all the boxes assigned to the counting centre has arrived and after the R.O. has given a direction to commence count after fulfilling the requirement of Section 46A regarding disturbances at polling stations. The Commissioner may direct that certain ballot papers, at a polling station where disturbances have occurred, should be removed from the count or that the entire poll in that polling station be annulled and therefore all the ballot papers of that polling station should be removed from the count. In such an instance the Counting Officer should first comply with that directive. The Agents will be given an opportunity to see each ballot paper account before opening of ballot boxes.

21. Counting of ballot papers in each box

The process of counting will begin with the opening of each ballot box separately one at a time and counting the total number of ballot papers in each box and recording the figure. The figure will be tallied with the number of ballot papers issued at the polling station. Any discrepancy will be noted. The counted ballot papers in each box will thereafter be transferred to a trough. After all the boxes

have been opened and ballot papers counted and transferred to the trough an A.R.O in charge of the trough will mix all the ballot papers together. (Section 50)

22. Sorting of ballot papers

At this stage the ballot papers will be sorted according to the first preference marked in each ballot paper giving no consideration for 2nd and 3rd preferences.

Any ballot paper-

- (i) with no official mark,
- (ii) on which anything is written or marked by which the voter can be identified,
- (iii) which is unmarked by the voter. (No vote given to any candidate)
- (iv) where voter's mark is uncertain,
- (v) with vote marked for more than one candidate,
- (vi) with 2nd preference or 3rd preference only or both such preferences, with the vote not marked, shall be sorted out as "doubtful" and transferred to the counting officer's table from time to time. (Section 50 and 51)

23. Rejection of ballot papers

The counting officer with the assistance of one of his/her A.R.O. examine each doubtful ballot paper and reject any ballot paper that cannot be counted for any candidate. Before rejecting a ballot paper he/she will show it to the agents and hear their views. A ballot paper without the official mark will not be rejected for that reason alone, if the C.O. is satisfied that the ballot paper is not forged or a counterfeit. (Section 51)

24. Counting of ballot papers

The sorted ballot papers are counted and bundled into bundles containing fifty ballot papers in each. In this process ballot papers sorted for each candidate are counted separately. After all the sorted bundles have been counted and checked by the staff as many times as the Counting Officer may direct, the Counting Officer himself/herself may check the bundles of ballot papers of candidates separately. He/She will then inform the Agents present of the number of votes counted for each candidate and inquire if they are satisfied.

25. Recount of votes

At this stage the Agents are free to ask for recounts. The total number of recounts allowed is two. (Section 51(8))

26. Preparation of the statement of the count

After the count is over, including re-counts the Counting Officer will prepare a statement of the votes received by each candidate and transmit it to the Returning Officer. (Section 51(7). (At this stage only the 1st preferences (votes) counted for each candidate are taken into consideration).

27. Count of postal votes and displaced voter's ballot papers

As regards postal ballot papers, the procedure adopted in paragraph 23 to 27 will be followed at the Postal Voting Counting Centres. (Section 54 and Regulation 27 of the postal voters regulations 1981 contained in the Second Schedule.)

At the counting centres for displaced voters' ballot papers the procedure in paragraphs 13 to 28 will be followed.

After the preparation of the statement of votes received by each candidate is sent to the R.O. the counting centre will not be closed but await instructions under Section 57 regarding the necessity to count the 2nd and 3rd preferences.

28. Statement under Section 55(1)

The statements sent by the Counting Officers to the R.O. will be collected by him/her and with the assistance of a group of officers, he/she will proceed to prepare a statement of votes received by each candidate from all the counting centres including the postal voters' and displaced voters' counting centres. (Section 55(1)) These proceedings can be observed by the Authorized Agents of the candidates and the other persons selected by the Authorized Agent. (Section 55(1))

29. Ascertainment whether a candidate has absolute majority

The Returning Officers will transmit the statement prepared by him/her to the Commissioner who will ascertain from these statements if any candidate has received more than one half of the valid votes cast at the election, i.e. absolute majority.

Before the Commissioner gets the reports of Returning Officers under Section 55(1), he/she will be in constant touch with the Returning Officers about the proceedings. He/She will obtain continuous reports of the progress and obtain copies of results of each counting centre as and when counting ends.

30. Declaration of election result

Where a candidate has received more than one half of the valid votes or the absolute majority (50%+1) the Commissioner will immediately declare the result (Section 56(2)).

31. No candidate with absolute majority

If no candidate has received more than one half of the votes, the Commissioner will direct the Returning Officer to count the preferences given to candidates other than the two leading candidates. In terms of the Commissioner's direction, the Returning Officer will direct the counting officers to count preferences.

32. Count of preferences

32.1. Where there are only 3 candidates:

- i. eliminate candidate with the lowest number of votes.
- ii. examine each ballot paper of the eliminated candidate and if a preference is marked therein, count that ballot paper as a vote for that candidate for whom the preference is marked.

32.2. Where there are more than 3 candidates:

- i. eliminate from the contest all the candidates other than 2 leading candidates.
- ii. examine each ballot paper of the candidates eliminated and if the 2nd preference is marked for one of the two leading candidates, count that ballot paper as valid for such candidates.
- iii. where the 2nd preference is not marked for any of the two leading candidates, count the third preference as a vote for one of the two leading candidates if the 3rd preference is for that candidate.

In this process if the 2nd and 3rd preferences are marked for more than one candidate, such preferences are not counted for any of the leading candidates. (Section 57 and 58).

33. Statement of preferences counted at the counting centre

On the completion of sorting and counting of ballot papers with the 2nd and 3rd preferences given to anyone of the two leading candidates the counting officer shall permit up to 2 recounts if requested by any agents. The Counting Officer should, after recounts, if any, prepare a statement of votes counted to the leading candidates based on the 2nd and 3rd preferences. The statement is sent to the R.O. (Section 59).

The Returning Officer will in turn after receipt of statements under Section 59 from all the counting officers, prepare a statement of preferences received by each of the two leading candidates. The statement will be transmitted to the Commissioner. (Section 60)

34. Declaration of the result

After the statements under Section 60 have been received from all the Returning Officers, the Commissioner will add the 2nd and 3rd preferences to the votes already counted under Section 55, to the two leading candidates. The candidate who has a majority of votes is declared elected. (Section 61)

35. Place of Declaration of Result

The place where the Commissioner will collect all the counting reports sent by Returning Officers and prepare statements of votes received by candidates (Section 56), and preferences (Section 61) is called the Place for Declaration of Result. The candidates and election agents are invited to be present at the Place for Declaration of Result. Hence the Commissioner should inform the candidates in advance of the date, time and place of declaration of result.

36. Election offences

- i. Forging, defacing or destroying of nomination papers.
- ii. Delivering to the Commissioner a forged nomination paper.
- iii. Forging, counterfeiting, defacing or destroying of ballot papers.
- iv. Supplying a ballot paper to another person.
- v. Displaying of a marked ballot paper.
- vi. Selling or offering to sell or purchasing or offering to purchase a ballot paper.
- vii. Possessing a marked ballot paper.
- viii. Putting into ballot box any thing other than a ballot paper.
- ix. Taking any ballot paper outside or possessing a ballot paper.
- x. Destroying or tampering with the ballot box.
- xi. Printing of ballot papers which are capable of being used as a genuine ballot papers.
- xii. Making of false statements in postal votes applications.
- xiii. Destroying or tampering with a ballot paper.
- xiv. Printing of false poll cards.
- xv. Voting at an election while being aware that one is legally incapable or disqualified from voting. (Section 66)
- xvi. Canvassing or acting as an agent or speaking on behalf of a candidate by a person who is subjected to civil disabilities under Article 81. (Section 67)
- xvii. On polling day i.e. on the day of the election canvassing or soliciting for votes, persuading a voter not to vote at all and distributing and exhibiting of handbills, placards, posters, election symbols, using and operating any megaphone, loudspeaker, behaving in a disorderly manner near the entrance to a polling station or in the nearby environment. (Section 68)

- xviii. Conducting or taking part in processions during the period from nomination day to 7 days after the declaration of the result. (Section 69)
- xix. Public meetings during the period commencing 48 hours before the date of poll and ending the week after the declaration of the result. (Section 70)
- xx. Printing, publishing, distributing any advertisement, handbill, placard or poster which does not bear the name and address of the printer and publisher. (Section 72)
- xxi. Election offices other than one central office in each Electoral District and one in each polling division are maintained during the period commencing on the date immediately before the date of poll and ending on the day immediately following the day of the poll. One branch office in a polling district (polling station area) can be maintained during the period commencing from the date of nominations and ending on the day before the poll. The election offices should be notified to the R.O. and the Police.(Section 73)
- xxii. Display of handbills, posters, flags, banners, photographs of candidates, symbols, etc., in a public or private place, any vehicle other than the vehicle used for conveyance of the candidate, on or across a public road. (Section 74)
- xxiii. Disclosing of certain activities at a polling station or counting centre. (Maintenance of Secrecy) (Section 75)

37. Corrupt Practices

- i. Impersonation and voting more than once (Section 76)
- ii. Treating - giving food and drinks, bribery, etc and acceptance of such gifts (Section 77)
- iii. Undue Influence: threatening, using force, violence, on voters, abducting to prevent voters from exercising the franchise, influence by a religious organisation, employer, etc.

38. Illegal Practices

- i. Payments for transport or providing of vehicles for transport of voters. (Section 82)
- ii. False reports in newspapers, journals, magazines, pamphlets or other publications, employment of persons on payment for promotion of an elector of a candidate.
- iii. Printing of publications relating to election without the name and address of the printer and publisher. (Section 83-85)

39. Election Petitions

39.1. Who may present a petition: An election petition can be presented to the Supreme Court by one or more persons who was/were candidates and by the person who signed the nomination paper of any candidate. (Section 93)

39.2. Relief to be claimed (Section 94): A petitioner can claim the following relief in a petition:

- i. declaration that the election is void.
- ii. declaration that the election of a candidate was undue.
- iii. declaration that any candidate was duly elected and ought to have been returned.
- iv. where the office of the President is claimed for an unsuccessful candidate on the ground that he/she had a majority of lawful votes, a scrutiny.

39.3. Parties to a petition (Section 95): If what is being sought is only a declaration that the election be deemed void or undue, then only the 'returned candidate' needs to be made a party to the petition. If however a further declaration is sought claiming that either the petitioner, or any other candidate be elected in place of the 'returned candidate', all the contestants should be made party to the petition.

If corrupt or illegal practices are alleged, then any candidate or person against whom such allegation is made should be made a party to the petition.

39.4. Contents of the petition: An election petition must state the right of the petitioner (Section 93), the result of the election, concise statement of the facts, particulars of the corrupt or illegal practices, supporting affidavits, etc. (Section 96)

40.5. Grounds on which a petition can be filed: Section 91 deals with the grounds on which an election petition may be filed. They are as follows:

- i. bribing, treating, intimidation.
- ii. non-compliance with the provisions in the Act.
- iii. corrupt/illegal practice committed by the candidate, his/her agent.
- iv. engaged a person who within seven years been found guilty of a corrupt practice in a Parliamentary Election or Referenda, or on whom civic disabilities has been imposed, to canvass for the candidate.
- v. the candidate was disqualified to stand for election.

41 Powers of the Supreme Court

The hearing of an election petition has to be by at least five judges. Chief Justice shall be one of them unless he/she directs otherwise. (Section 92)

42. Time for presentation of election petitions

Every election petition should be filed within 21 days of the date of publication of the result in the Gazette. (Section 102) (However where any corrupt practice was committed after this date, the petition can be filed within 28 days after such practice.)

43. Procedure for presentation of election petitions

Sections 97, to 101, 103 to 106 specifying in detail the procedure before the Supreme Court, the Determination, the report of the Supreme Court, the Certificate to be forwarded to the Speaker, the effect of the report etc. "Presidential Election Petition Rules, 1981" published as the Fourth Schedule to

the Act, specifies in detail the manner of presentation of petitions, form of petition, security deposits, withdrawal of petition etc.

44. Duty of employers to grant leave to employees

Employers are required to grant leave without loss of pay if an application is made by an employee who is entitled to vote at that election. The minimum period of leave to be granted is 4 hours. Every employer is also required to exhibit a notice specifying the name of employees who applied for leave and the period of leave granted to each of them. (Section 110)

45. Free postal facilities

Under Section 114, candidates are permitted to send by post, free of charge to every elector one postal communication. The communication should be open for examination and should not exceed 30 grams in weight. Such communication shall be handed over any day between the date of nomination and the 10th day before the poll. The Postmaster-General will issue further instructions regarding the dimensions and other arrangements regarding the process.

46. Radio and television broadcasting facilities

The Sri Lanka Broadcasting Corporation and the Sri Lanka Rupavahini Corporation will provide on application free broadcasting facilities to the candidates. Such broadcasts will end 72 hours before the date of poll.

Soon after the nomination, the Commissioner will arrange for the time slots to be given to each candidate. (Section 117)

47. Voting at another polling station by displaced voters

Any registered elector who reasonably fears that due to the conditions prevailing in the areas within which his/her polling station is situated, that he/she is unable to cast his/her vote at such polling station, can make an application to the Commissioner within one month of the notice of nomination, for permission to cast his/her vote at another polling station. The Commissioner is required to

inform such voters within a week of the receipt of such application whether his/her application has been allowed. A list of voters who have been allowed the facility should be published at the office of the Commissioner and at the District Offices. (Section 119B) Please also see Chapter IX.

CHAPTER V

PARLIAMENTARY ELECTIONS

1. **Term of Parliament**

The term of Parliament is 6 years (Article 62(2) of the Constitution) unless dissolved by the President (Article 70) earlier. An election to Parliament is therefore, due when the term of Parliament expires or when it is dissolved by the President.

2. **Proclamation fixing date of election**

When the President dissolves the Parliament or when Parliament becomes dissolved on expiry of its term, the President will issue a Proclamation in which he/she will fix the date of the election and the date on which Parliament should meet, which will be a date not later than 3 months after the date of such Proclamation. In terms of Section 10 of the Parliamentary Elections Act, No. 1 of 1981 the President is required to fix the period of nominations and indicate the places of nominations. The period of nominations has to commence 10 days after the date of proclamation and end at 12.00 noon on the 17th day while the election has to be fixed for a date not less than five weeks and not more than seven weeks from the last date of nominations.

3. **Number of members to be elected**

The number of members to be elected from each of the 22 electoral districts will be the number certified by the Commissioner under Article 98(8) after the certification of the operative electoral register. Total number to be elected is 225 of which 196 will be elected based on the votes received by parties and independent groups at the election and the balance 29 will be allotted to the parties/groups that contested the election proportionately according to the total number of votes received by them in all the 22 electoral districts.

4. Operative electoral register

The electoral list that will be used at an election is the register that is in force on the date the proclamation referred to above is issued. A register certified after the proclamation and before the date of election will not be used for that election. (Section 4)

5. Returning Officers and Assistant Returning Officers

The District Secretary/ Government Agent is appointed by the Commissioner as the Returning Officer for each electoral district. Several Assistant Returning Officers are also appointed to each district by the Commissioner to assist the Returning Officer. (Section 6)

6. Political Parties entitled to Contest

Political parties recognized by the Commissioner of Elections under the provisions of the Parliamentary Elections Act, are entitled to contest the election. The procedure relating to recognition of political parties is discussed in Chapter II. No new party can apply for recognition after the proclamation is issued by the President. Section 11 of the Act requires that any recognized political party that intends to contest the election should inform the Commissioner of its intention within 7 days from the date of the Proclamation.

7 Qualifications to be a candidate

Any person who is qualified to be an elector is qualified to be elected to Parliament unless disqualified under Article 91 of the Constitution (This means that it is not mandatory that a prospective candidate should be a registered elector to hand in nominations.) Qualifications to be an elector are discussed in Chapter I. The disqualifications in Article 91 are that the Candidate:

- i. Is disqualified to be registered as an elector under Article 89 (Please see chapter I).
- ii. Stands nominated as a candidate in more than one electoral district by one recognized political party or independent group.
- iii. Is the President of the Republic.
- iv. Is a judicial officer.
- v. Is the Parliamentary Commissioner for Administration (Ombudsman).
- vi. Is the Secretary-General of Parliament or member of his/her staff.
- vii. Is a member of a Public Service Commission.
- viii. Is the Commissioner of Elections.
- ix. Is the Auditor-General.
- x. Is a staff officer in the public service or a public corporation.
- xi. Is a member of the Armed Forces or the Police Force or a public officer exercising police functions.
- xii. Has an interest in a contract made by or on behalf of the State or Public Corporation.
- xiii. Is declared bankrupt or insolvent.
- xiv. During the preceding 7 years has been adjudged to have accepted a bribe or gratification to influence judgement as Member of Parliament.

It is an offence for a person disqualified to being elected due to being convicted of a corrupt practice or illegal practice under the Parliamentary Elections Act or if a Presidential Elections Act or if civic disability has been imposed under Article 81 (1) of the Constitution to signify his/her consent for nomination as a candidate.

8. Deposits

Leader of an independent group which intends to contest an election or a person authorized by such a Group Leader has to place a deposit with the Returning Officer during the period commencing from the date of publication of proclamation and time of handing over of nomination paper. The deposit is calculated at the rate of Rs. 2000 per candidate (Section 16)

9. Nomination of candidates

Nomination of candidates for election can be made by one nomination paper. The nomination paper has to be prepared in the manner described below. The form of the nomination paper is shown in Form "A" in the First Schedule to the Act. Printed forms can be obtained from the Returning Officer. The number of candidates to be nominated should be equal to three times the number of members to be elected to the electoral district.

The consent of each candidate should be endorsed on the nomination paper.

The nomination paper should be signed by the Secretary of the recognized political party or by the leader of the independent group. For nominations of independent groups the candidate whose name appears first in the nomination paper is considered as the group leader.

A Justice of the Peace or a Notary Public should attest to the signature of the Secretary or the group leader.

In addition to the above requirements, each candidate must subscribe to the oath / affirmation prescribed in the 7th Schedule to the Constitution, which should be attached to the nomination paper. (Section 15)

10. Delivery of nomination papers to R.O.

Nomination papers should be handed over to the Returning Officer during office hours during the period of nominations. In the case of a nomination paper of a recognized political party it should be handed over by the Secretary of the party or by the candidate whose name appears first in the nomination paper. The group leader of an independent group has to hand over its nomination paper. However, when these persons are unable to do so the candidate whose name appears 2nd in the nomination paper should hand over the nomination paper. The candidate whose name appears first in a nomination paper of a political party is considered to be the authorized agent of the party. (Section 15(4))

11. Exhibition of nomination papers

As soon as possible after taking delivery of a nomination paper by the Returning Officer he/she will take a copy of it and exhibit the copy on his/her notice board. (Section 15(6))

12. Objections to nomination papers

Objections to any nomination can be raised between the hours of 12.00 noon and 1.30 p.m. on the last day of nominations. (Section 19(1)(a))

13. Rejection of nomination papers

Immediately after the expiry of the nomination period the Returning Officer will scrutinize the nomination papers and reject any nomination paper

- i. which was not handed over by the person authorized to do so or where the number of candidates required to be nominated is not included.
- ii. where the deposit required has not been placed.
- iii. where one or more candidates have not given his/their consent to the nomination or where the affidavit/oath has not been signed
- iv. where the party Secretary/ Group Leader has not signed or J.P./N.P. has not attested the signatures. (Section 19)

14. Uncontested elections

If after the nomination period only one political party or one independent group remains in the contest the Returning Officer will request the Secretary of the Political Party or Group Leader to forward to the R.O. within a period fixed by him, the names of candidates who should be declared elected. On receipt of a reply the Returning Officer will proceed to declare those candidates as elected. If no reply is received within the specified period the Returning Officer will declare as elected the candidates in the order in which they appear on the nomination paper. Subsequently the Commissioner will publish the names of the members declared elected by a notice in the Gazette. (Section 20)

15. Procedure when no nominations have been received

In the event that no nominations were duly received or when all the nomination papers have been rejected the Returning Officer will report the fact to the Commissioner who will within 7 days of such report publish a notice calling for nomination a second time. The period for second nominations will be from 7th to the 10th day after the publication of the notice. (Section 21)

16. Contested elections

When there is a contest the Returning Officer will without delay allot election symbols to recognized political parties and independent groups. When there is more than one independent group each group will be allocated a distinguishing number starting with 1 to each group. The nomination proceedings will then be concluded. (Section 22)

The Returning Officer will without delay furnish a report to the Commissioner in terms of Section 22 (3)(b) and (c).

17. The poll

17.1. Notice of poll: On receipt of the report of the R.O. regarding contested elections, the Commissioner will published a notice in the Gazette indicating

- i. the electoral district in which the election is contested,
- ii. names of candidates arranged according to the Sinhala alphabet,
- iii. serial numbers allotted to the candidates,
- iv. election symbols allotted to the parties/ groups,
- v. serial number if any allotted to independent groups,
- vi. date and time of poll,
- vii. list of polling stations,

If due to an emergency a polling station needs to be altered subsequently the Commissioner is empowered to do so. If the elections could not be held on the scheduled date due an emergency the Commissioner will fix another date which should not be earlier than 14 days after the publication of a notice in the Gazette. (Section 24)

17.2. Death of a candidate: If any candidate dies before the commencement of the poll, the political party/ group leader will be asked to name another candidate. (Section 25) On receipt of the name of the candidate, it will be substituted for the name of the deceased. The Commissioner will also publish a notice in the Gazette regarding the change.

17.3. Voting by post (Section 26): The procedure regarding postal voting from the stage of submission of applications to the disposal of covering envelopes containing ballot papers and the declaration of identity is explained in Chapter III. The procedure explained in Chapter III applies to all types of elections.

17.4. Official poll card: The Returning Officer will send to each voter (other than postal voters and displaced voters under Section 127B,) an official poll card to reach the voter at least seven days before the poll. The poll card will contain the following:

- i. name and number of the electoral district,
- ii. name of the elector, qualifying address and the serial number allotted to the elector,
- iv. polling division,
- v. polling district,
- vi. name of the polling station, and
- vii. date and time of poll.

The postal department will make special arrangements to deliver the poll cards. Poll cards that were not delivered will be retained at the post office until the day of poll to enable any elector to call over at the post office and collect the poll card after proving his/her identity. (Section 27)

17.5. Format of the ballot paper: The format of the ballot paper is shown in the First Schedule to the Act. A ballot paper consists of 2 parts. The first part will have the names of political parties arranged according to the Sinhala alphabet and the election symbol immediately against each party. Just below the names of parties, the independent groups, if any, will be shown with the serial number given to such groups. Against each independent group the symbols allotted to it

will be shown. The 2nd part of the ballot paper will have serial numbers allocated to the candidates equal to the number elected increased by three.

The specimen of the ballot paper is shown in form "C" in the First Schedule to the Act. (Section 32)

17.6. Appointments of Polling Agents: Contesting parties/groups are entitled to appoint 2 polling agents per polling station. In appointing the agents, consideration should be given to the fact that the need may arise to cancel some appointments and therefore a reasonable number of polling agents may be appointed. But at one time only 2 agents can be present inside a polling station.

The letters of appointments of agents should contain the name, address and number of the identity card of the appointees. The letters of appointment should be produced at the polling station to the Presiding Officer.

The authority to sign letters of appointment of agents can be delegated to one of the candidates in each polling division. Any delegation of powers should be made known to the R.O. 7 days before the poll. (Section 24)

17.7. Presiding Officer and staff at polling stations: The R.O. will appoint one or more Presiding Officers to a polling station with one of them designated as Senior Presiding Officer. The S.P.O. will exercise general supervision over other presiding officers and staff.

R.O. will also appoint a number of other staff (poll clerks and K.K.S) to each polling station. (Section 28)

17.8. Facilities at Polling Stations:

The R.O. will arrange to provide the following for each polling station:

- i. adequate staff,
- ii. cubicles for voters to mark their ballots in secret.
- iii. extracts of the voters register, list of postal voters and the list of displaced voters if any under Section 127B.
- iv. ballot papers (Ordinary and Tendered).

- v. ballot boxes.
- vi. instruments to mark official mark on the ballot paper. (Section 29)

17.9. Notices to be exhibited at polling stations (Section 30): Notice giving guidance to voters to be exhibited inside the cubicle and outside the polling station. A notice of the poll giving names of political parties/groups, symbols allotted, the names of the candidates and the serial number allotted to each candidate to be exhibited outside the polling station.

17.10. Sealing of the ballot box: Before the commencement of the poll the S.P.O. should show the empty ballot box to the agents present. The box should then be locked up and seals placed in such a way that the box cannot be opened without breaking the seals. The polling agents are also permitted to affix their seals. Before the issue of ballot papers to voters the S.P.O. should show to the agents the ballot papers, official mark and the extract of the voters' list. (Section 36)

17.11. Issue of ballot papers to voters at the polling station (Section 37):

- i. The first poll clerk will obtain the poll card and the identity document brought by the voter (the poll card is not compulsory but it will help the clerk to trace voter's name from the register).
- ii. After tracing the name in the register if he/she is satisfied with the identity of the voter the clerk will announce the name and the serial number of the voter loud enough to be heard by other polling clerks and polling agents.
- iii. If no objection is raised by any polling agent the clerk will make a mark in the voters' register against the voter's name which will indicate that a ballot paper has been issued to that voter.
- iv. The second clerk will examine the little finger of the voter's left hand and if he/she is satisfied that the finger does not have a mark resembling the appropriate mark used at the polling station he/she

will apply the indelible ink on the little finger of the left hand of the voter.

- v. The third clerk will enter the serial number of the voter which was read out by the 1st clerk on the counterfoil of the ballot paper, separate the ballot paper from the counterfoil, place the official mark on the margin/edge of the ballot paper and issue it to the voter.
- vi. The voter has to go across to the cubicle and mark the ballot paper (vote for a party / group and if he/she wishes indicate his/her preference to not more than three candidates) (Section 30 and the 3rd Schedule to the Act.)
- vii. If the first clerk is not satisfied with the identity of the voter or if he/she is unable to trace the name of a voter in the Register, he/she will refer such voter to the S.P.O.
- viii. If the second clerk observes that the voter's left little finger or in the absence of that finger the next available finger, bears a mark resembling the official mark (indelible ink), he/she will refer such voter to the Presiding Officer.

17.12. Voters to whom ballot papers are not issued:

- (i) A voter who does not produce his/her national identity card or any other acceptable identity document issued by a government authority. (Act, No. 14 of 2004)
- (ii) A voter who does not permit his/her fingers to be examined to ascertain whether it is already marked with the appropriate indelible ink mark.
- (iii) A voter whose finger has a mark resembling the appropriate mark used at the polling station.

- (iv) A voter who does not allow his/her finger to be marked with the appropriate mark.
- (v) A voter against whom an objection has been raised by a polling agent and if such person after being questioned by the S.P.O. refuses to sign the declaration forms at the polling station.

A list of voters to whom ballot papers were not issued should be maintained by the S.P.O. (Section 38(2)(i))

17.13. Assistance to voters: If any voter requests assistance the S.P.O. or an officer authorized by the S.P.O. can explain to the voter the manner in which the vote should be cast and preferences marked. The advice given should be audible to polling agents. If a voter who is blind or physically unable to cast his/her vote requests assistance, the S.P.O. with another member of the staff should mark the ballot paper according to the wish of the voter. (Section 40)

17.14. Plural voting: It is an offence to vote at an election more than once either in the same electoral district or in two electoral districts or even to ask for a ballot paper. (Section 42)

17.15. Spoilt ballot papers: A voter who spoils his/her ballot paper due to inadvertence can request the S.P.O. to replace it by another ballot paper. If the S.P.O. is satisfied of the inadvertence, he/she could issue another ballot paper to the voter. The spoilt ballot paper should be put into an envelope marked "spoilt ballot papers." (Section 44)

17.16. Tendered votes: Whenever a person comes to the polling station and asks for a ballot paper and it is found that against his/her name a mark has been placed in the electoral list, which means that a vote has been cast already in that name, the person concerned is issued with a tendered ballot paper by the S.P.O. Before issuing the ballot paper the S.P.O. will get the voter to subscribe to a

declaration on Form I. The S.P.O. will also enter the voter's details on the ballot paper and in the tendered voters' list. (Section 45)

17.17. Close of poll: The poll will end at 4.00 p.m. Only a voter inside the polling station who has been issued a ballot paper will be permitted to cast his/her vote after closing time. After the last voter has cast his/her vote, the S.P.O. should close the ballot box and place his/her seals. The polling agents will also be permitted to place their seals with specimen copies being forwarded to the S.P.O. (Section 46)

The S.P.O. will then prepare the ballot paper account which is an important document that is required at the counting centre. The ballot paper account, key of the ballot box, unused and spoilt ballot papers, marked copy of the voters' list and the counterfoil of ballot papers, list of voters to whom ballot papers were not issued and the tendered voters list should be enclosed in envelope meant for them and delivered to the appropriate counting officer.

17.18. Disturbances at polling stations, annulment of poll and re-polls

Please see Chapter X.

18. Count of Votes

18.1. Counting Officer and Staff: The Returning Officer will appoint from among the Assistant Returning Officers one officer to be the Counting Officer. He will be assisted by a team of A.R.O, and staff (S.P.O, J.P.O. & Clerks). (Section 49)

18.2. Notice of count: The Returning Officer will inform the Secretaries of political parties or Authorized Agents and Group Leaders in writing of the date, time and place of the count, along with a list of counting centres and the polling stations assigned to such counting centres. (Section 50)

18.3. Appointment of Counting Agents: Contesting political parties and Independent Groups are entitled to send up to five counting agents to a counting centre. In the case of counting centres which have only one polling station

assigned to it, the number of Counting Agents that can be appointed is limited to two for each party/group (Section 51(1)(b)). The appointment can be made by the Secretary or the Authorized Agent of the party or the Group Leader. The power to appoint counting agents can be delegated to a candidate for each Polling Division. If only one polling station is assigned to a counting centre. Such delegation should be made known to the R.O. seven days before the poll. (Section 34) Letters of appointment of agents issued by the Secretary/Authorized Agent of the party, Group Leader or by a candidate should bear the name, address and identity card number of the agents.

18.4. Commencement of count: The counting of votes will commence at the time specified in the notice of the count given to the contesting parties/ groups or after all the ballot boxes of each polling station has arrived which ever is later and after the R.O. has given a direction under Section 48A regarding disturbances at polling stations. Before the commencement the ballot paper an account of each polling station is shown to agents who will be allowed to copy down the particulars. A journal of proceedings at the count will be maintained by the C.O.

18.5. Box Count: At the first stage of the count, each ballot box will be opened one by one and the ballot papers in each box will be counted separately keeping the face side of the ballot papers upwards preventing the serial numbers of ballot papers from being seen. The number of ballot papers found in each box will be recorded and the counted ballot papers will be deposited in a box (trough). A record of the number of ballot papers counted in each box is noted in the form maintained by the Counting Officer. After the contents of all the boxes have been disposed of in this manner, the ballot papers deposited in the trough will be mixed together by the A.R.O. in charge of the trough. (Section 52)

18.6. Sorting of Ballot Papers (Sections 52 and 53): The next stage is to sort the ballot papers according to votes cast for each political party or independent group. During this process the ballot papers are handled face upwards preventing agents or others from seeing the serial number on the reverse of the ballot paper. Any ballot paper:

- i. which does not bear the official mark.

- ii. where the vote is given to more than one political party or independent group or a combination of one or more parties or independent groups.
- iii. where anything is written or marked by which the voter can be identified.
- iv. where the vote is not marked.
- v. where the voter's intention is not certain.

will not be sorted for any party or group but left for a decision by the Counting Officer. These ballot papers will be placed in a tray labelled "Doubtful Ballot Papers". The tray containing doubtful ballot papers will be transferred to the Counting Officer from time to time to make a decision.

18.7. Rejection of ballot papers: The C.O. will reject ballot papers referred to in paragraph 18.6.1. to 18.6.5. He will write the word "Rejected" on each rejected ballot paper. Before rejecting a ballot paper he/she will show it to the agents and hear their views (Section 53(4)).

In deciding on doubtful ballot papers (Para 18.6.1) the Counting Officer will not reject a ballot paper merely because it does not bear the official mark. If he/she is satisfied that it is not a forged or counterfeit ballot paper he/she will not reject it. Similarly, in the case of ballot papers on which the intention of the voter is not clear, (paragraph 18.6.5.) the C.O., if satisfied that any mark made on a ballot paper clearly indicates the intention of the voter, will not reject such ballot paper. (Section 53)

18.8. Counting of sorted ballot papers: The ballot papers sorted according to the votes cast for political parties and independent groups will be counted separately and made into bundles of fifty. These bundles are once again counted by another group and checked for whether each bundle contains ballot papers of the same party or group and also that there are only 50 in a bundle.

The bundles of fifty are arranged in separate trays for each party/group. The Counting Officer will recount the ballot papers as many times as he/she thinks necessary before he/she informs the agents present of the result of the count.

18.9. Re-Count of votes: The agents could at this stage ask for a recount of the votes. The maximum number of recounts allowed at the request of one or more agents is limited to two.

18.10. Statement under Section 53(7): After the count of votes is completed, the C.O. has to prepare a statement of votes counted for the party and group and send it to the R.O. The statement should be signed by the C.O. with a member of the staff signing as a witness. The agents may also be permitted to sign as witnesses if they wish to.

18.11. Counting of preferences: After the votes of all the parties and groups have been counted, the preferences given to various candidates of the parties and groups have to be counted. As the counting and recording of preferences of a large number of candidates is both cumbersome and complex, the procedure recommended by the Commissioner is explained below, in brief.

The bundles of ballot papers of party or the group which has received the highest number of votes are first unbundled and the ballot papers are sorted into the following categories:

- i. ballot papers where one preference is marked for any one candidate only.
- ii. ballot papers where two preferences are marked for two different candidates.
- iii. ballot papers where three preferences are marked for three different candidates.
- iv. ballot papers where no preferences are marked.
- v. ballot papers where the preference is not clearly indicated (or is void for uncertainty)
 - (a) ballot papers in categories (iv) and (v) are considered invalid and are rejected by the Counting Officer.
 - (b) ballot papers in category i, ii, and iii are counted and bundled separately in bundles of fifty each. These ballot papers are treated as valid ballot papers.

- (c) ballot papers in category “vi” are treated as doubtful and passed on to the Counting Officer for him to determine whether the preferences marked in them are to be counted in favour of any candidate or be rejected.

The Counting Officer will examine the ballot papers in category vi (where the preference is not clearly marked for a candidate) and determine if any of the preferences marked in such ballot papers should be counted for any particular candidate or candidates. The C.O. will take into consideration whether the marked preferences indicates the intention of the voter to give his/her preference/s for any candidate/s. The ballot papers determined by the C.O. as acceptable are placed in the appropriate candidate’s bundle. The ones determined as not valid will be rejected.

After sorting the ballot papers of the party/group with the highest number of preferences, the preferences in each bundle of fifty ballot papers, sorted according to the number of preferences, will be transferred to a Tally Sheet. Each Tally Sheet will accommodate preferences of a bundle of 50 ballot papers. The totals in each Tally Sheet will be transferred to the Summary Form. The total in the summary form will indicate the number of preferences counted for each of the candidates of the party/group.

In this manner, the preferences of other parties/groups in the contest will be counted, entered in the Tally Sheets and the summary form and the preferences obtained by each candidate determined.

18.12. Statement under Section 53(7): Two statements have to be prepared by the Counting Officer of a counting centre. One will be prepared soon after the vote count is completed and the other after the counting of preferences. In the first statement the number of votes counted for each political party and groups are recorded and sent to the R.O. (please see paragraph 18.10) The second statement will record the number of preferences counted for each candidate in each party/group. Since there will be more than one party/group in the contest the statements of preferences have to be prepare separately for each such

party/group. The Counting Officers in charge of the postal votes counting centres also have to send to the R.O. these statements in regard to their counting centres.

18.13. Notice of declaration of result (Section 57): The Returning Officers have to give notice of the declaration of result in writing to the Secretary or the authorized agent of recognized political parties and group leaders, indicating the time and place of where the results will be declared.

18.14. Agents to the Centre of Declaration of Result (Section 58): The contesting parties and groups are entitled to send two Agents to be present at the Centre for Declaration of Result. Names, addresses and identity card numbers of the agents should be furnished to the R.O. by the Secretary or authorized agent or the group leader.

18.15. Declaration of result: The R.O. will commence the proceedings after the statements (Section 53(7)) have been received from all the counting centres including postal votes counting centres. Although law provides for declaration of the results to be made after the statement of votes and preferences are received by the R.O. it is not practically possible as counting of preferences takes more time and in some instances continues till noon the following day. Hence, the R.O. will commence the determination of the number of members elected based on the votes received after relevant statements from all the counting officers are received without waiting for receipt of statements of preferences.

The sealed packets containing statements of votes counted for parties/groups (Section 53(7)) are shown to the agents present and then opened. The votes counted for each party/group are recorded and the total number of votes obtained by each party/ group are determined.

The determination of the number of members elected from each political party group is made in terms of Article 99 of the Constitution. The specific sub-sections of the Article are (4) to (11). In terms of Article 99(4) the party/group which receives the highest number of votes becomes entitled to have the

candidate nominated by it, who receives the highest number of preferences to be elected as a member of Parliament. This declaration will be made by the R.O. after he/she receives the results of the count of preferences. (This seat is commonly known as the "*Bonus Seat*").

Any political party or independent group which polls less than one-twentieth of the votes poll will be disqualified from having any of its candidates being declared elected. Hence such party/group should be eliminated as explained below.

The total number of votes polled by the disqualified parties and groups, if any will be deducted from the total number of votes polled in the electoral district. The result arrived from the deduction is referred to as "*Relevant Number of Votes*".

The *Relevant Number of Votes* will then be divided by the number of members to be elected for the district reduced by one (The one reduced represents the "*Bonus Seat*".) The figure arrived at by the division is called the "*Resulting Number*" (If in the division the result is a whole number (integer) and a fraction, the next higher whole number will be treated as the *Resulting Number*.)

To arrive at the number of candidates to be elected as Members of Parliament from each party/group the following procedure is followed.

The number of votes polled by each party and group (other than those that were disqualified due to polling less than one-twentieth of the total polled) beginning with the party/group that polled the highest number of votes, will be then be divided by the Resulting Number. The whole number resulting from the division is treated as the number of candidates elected to Parliament from that party/group excluding the candidates already elected for the Bonus Seat. The remainder of the votes, if any, after the division will be kept aside to be dealt with at a later stage.

In this manner, each of the other parties/ groups left will be allocated membership.

After the process is over, if there are any more members to be declared elected, the remainder of votes after the division is taken into consideration, along with votes of any party or group that did not get an opportunity to get any member elected due to their votes being less than resulting number. The remaining number of members will be declared elected, based on the remainders and the votes of the party/group that did not get any member elected so far, other than eliminated parties or groups.

Wherever there is an equality of votes in the allocation of seats, including the Bonus Seat, the determination will be made by drawing lots.

The names of the candidates elected will be announced by the Returning Officer after he/she receives the statements of preferences from the counting centres. The names will be selected according to the preferences received by them beginning with the candidate who receives the highest number of preferences. The Bonus Seat will be allocated to the candidate who receives the highest number of preferences from the party / group which received the highest number of votes.

19. Election of M.PP on the basis of the total number of votes received at the General Election (National List)

This provision is available in Article 99A of the Constitution (14th Amendment). Every recognized political party or independent group contesting a general election is required to submit to the Commissioner within the nomination period a list of persons qualified to be elected as M.PP. (Number of names that should be included in the list is not specified. Generally a party/ group submit a maximum of 29 names.) The lists are published in the Gazette and in the newspapers.

After the declaration electing 196 Members to Parliament, the Commissioner will apportion the balance of 29 seats among the parties/groups in proportion to the total number of votes polled at the general election by the parties/groups.

The Commissioner will then issue a notice to the parties/groups that became entitled to a seat or seats to nominate within one week persons qualified to be elected to fill such seat or seats. The persons nominated could be either from the list referred to above or from any nomination paper of any electoral district. When the Commissioner issues this notice he/she is required to determine whether the number of members elected belonging to any community, ethnic or otherwise is commensurate with its national population and request the Secretaries of political parties/Leaders of independent groups in nominating the persons to ensure as far as practicable that the representation of all communities is commensurate with its national population.

20. Election Offences (Sections 66 to 76)

The offences specified are briefly as follows:

- (i) forging, fraudulently defacing, destroying a nomination paper and delivering a forged nomination paper.
- (ii) forging, counterfeiting, defacing or destroying of ballot papers.
- (iii) supplying ballot papers to any person
- (iv) wilfully displaying a marked ballot paper.
- (v) selling, offering to sell, purchasing or offering to purchase a ballot paper.
- (vi) possessing a ballot paper with the official mark.
- (vii) putting anything other than a ballot paper into a ballot box.
- (viii) removing a ballot paper from a polling station or being in possession of a ballot paper outside a polling station.
- (ix) destroying, opening, or interfering with a ballot box or destroying a ballot paper.
- (x) manufacturing, constructing, importing, or possessing any appliance, device or mechanism by which a ballot paper deposited in a ballot box could be extracted, affected or manipulated.
- (xi) making false statements in any postal votes application or declaration of identity.

- (xii) destroying, taking, opening, or tampering with or interfering with documents relating to a postal votes ballot box.
- (xiii) printing of poll cards.
- (xiv) placing the appropriate mark on any voter.
- (xv) voting at an election knowing that he/she is disqualified or incapable.
- (xvi) canvassing, acting as an agent or speaking on behalf of a candidate by a person whose civic disability has been revoked.
- (xvii) canvassing soliciting for votes persuading a voter not to vote for a party or group, to refrain from voting, distributing or exhibiting of handbills, posters, etc. on a polling day within half kilometre of a polling station.
- (xviii) operating loudspeaker, behaving in disorderly manner near entrance to a polling station or in the neighbourhood on the date of poll.
- (xix) conducting or holding of processions (other than May Day and religious processions) during the period commencing from the date of commencement of the nomination period and ending one week after the results are announced.
- (xx) holding of public meetings during the period commencing 48 hours before the date of poll and ending one week after the declaration of results of all the electoral districts.
- (xxi) printing and publishing advertisements, handbills, posters, etc. referring to the election by any person, other than a candidate without the name and address of the printer and the publisher.
- (xxii) having election offices from the first day of the nomination period other than the one central office in the electoral district and one in each polling district.
- (xxiii) displaying of handbills, posters, flags, or banners from the first day of the nomination period to one day after the date of poll except in the vehicle that is used for travelling by the candidates and at a place where a public meeting is to held.
- (xxiv) canvassing of votes by candidates by visiting residences of electors.
- (xxv) contravening of the Oath of Secrecy taken to maintain the secrecy of activities in a polling station or a counting centre.

21. Corrupt Practices

- i. Impersonation, voting in the name of another person and voting more than once in his/her own name.
- ii. Treating, giving food and drink and refreshments.
- iii. Undue influence, use of force, threatening and intimidation, utterances at religious assembly, terminating or threatening to terminate the services of an employee by employer.
- iv. Bribery, offering or giving bribes directly or indirectly.

22. Illegal Practices

- i. Conveyance of voters to polling stations. (except with permit obtained from a Returning Officer)
- ii. False reports in newspapers.
- iii. Employment of persons on payment except agents.
- iv. Printing and publishing of advertisements, handbills, placards, posters, etc. without the name and address of the printer and the publisher.

23. Election Petitions

- 23.1 The election of candidates can be declared void on he/she being convicted of any corrupt or illegal practice, employment of a person found guilty of a corrupt practice or who has been imposed a civic disability or that the candidate was disqualified from being elected. (Section 92 (2)).
- 23.2 The election of any electoral district can be declared void on proof of bribery, treating or misconduct, that a section of the electors were prevented from voting and on the ground that the election was not conducted in accordance with the principles laid down in the Act. (Section 92(1)).
- 23.3 The time for presenting an election petition is 21 days from the date of publication of the result in the Gazette. (Section 108)

- 23.4 Every petition will be heard by the Court of Appeal. (Section 93)
- 23.5 An election petition can be filed by a candidate or by a person who claims to have had the right to be elected. (Section 95)
- 23.6 The respondents to a petition can be a candidate or other person against whom allegations of corrupt or illegal practice are made or all the candidates. (Section 97).
- 23.7 A declaration that a candidate's election is void or was undue or that a candidate was duly elected and ought to have been elected can be claimed as relief in a petition. (Section 98)
- 23.8 The contents of an election petition are enumerated in Section 98.
- 23.9 The determination of the Election Judge can be appealed against to the Supreme Court within one month of the date of the determination of the Election Judge. (Section 102). The Supreme Court may affirm or vary or reverse the judgement of the Election Judge.
- 23.10 The determination of the Election Judge and of the Supreme Court will be transmitted to the President. The determination/s will be forthwith published in the Gazette. The Registering Officer and the Returning Officer will take appropriate action on the determination.
- 23.11 Where the determination of the Election Judge or the Supreme Court is that the election in any electoral district is void the President will within one month publish an Order in the Gazette ordering the holding of an election.
- 23.12 The procedure and practice regarding election petitions are described in detail in the Fourth Schedule to the Act.

24. General

- 24.1. When an election could not be held in any electoral district due to whatever reason the President will issue an order that an election be held in that district. (Section 113)
- 24.2. Deaths, withdrawal or disqualification of a candidate will not invalidate or anyway affect the nomination paper of that party or group. (Section 115)
- 24.3. Employers are required to give sufficient leave to their employees to cast their votes. Minimum period of leave is four hours. Employees should make a written application for leave and the employer is required to exhibit a list of the employees granted such leave. (Section 122)
- 24.4. Secretary of a recognized political party or group leader can at any time between the last date of the nomination period and before the tenth day before the poll send free of postal rate to each voter one communication by ordinary post. Detailed instructions regarding making use of this facility will be furnished to the candidates by the Postmaster-General immediately after the nomination period. (Section 125)
- 24.5. Every recognized political party or independent group contesting the election can apply for the use of broadcasting facility on state owned radio and television. The period allowed for such broadcasts will depend on the number of electoral districts contested and the number of candidates. (Section 126)
- 24.6. Every recognized political party which polled not less than one percent of the total valid votes at the last general election will be entitled to a financial grant equal to 50 cents per vote. (Section 127)
- 24.7. Voting at another polling station by displaced voters. (Section 127B) Please see Chapter IX.

CHAPTER VI

PROVINCIAL COUNCILS ELECTIONS

The Provincial Councils were established under the provisions of Chapter XXIIA of the Constitution, contained in the Thirteenth Amendment to the Constitution. Elections to Provincial Councils are held under the provisions contained in the Provincial Councils Elections Act, No. 2 of 1988.

1. Number of members of a council and electoral area

When an election is due to be held the Commissioner of Elections will publish a notice determining the number of members of each council based on the number specified by the President under Section 3 of the Provincial Councils Act, No. 42 of 1987 read with Section 2 of Act No. 5 of 2004.

2. Register of electors

The electoral register that will be used at an election will be the register certified under the Registration of Electors Act, No. 44 of 1980 and in operation on the date of publication of the notice

3. Polling divisions and polling districts

Each polling division and polling district (polling station area) under the Registration of Electors Act, No. 44 of 1980 shall be deemed to be polling division and polling district for purposes of the Provincial Councils Elections Act. (Section 4)

4. Returning Officers & Assistant Returning Officers

The Commissioner will appoint a Returning Officer (R.O) for each Administrative District and several Assistant Returning Officers to assist the R.O. The District Secretary /Government Agent is appointed as R.O. The Assistant Commissioner

of Elections, who is one of the Assistant Returning Officers, is mainly responsible for organization of the election in the District. (Section 7 of the Provincial Councils Elections Act). An administrative district is considered as an electoral area or district.

5. Recognized political parties

Political parties recognized under the Parliamentary Elections Act will be treated as recognized political parties for the purpose of elections. The election symbols allotted to these parties under the Parliamentary Elections Act will be applicable for Provincial Elections as well. (Section 8 Provincial Councils Elections Act)

When the Commissioner believes that difficulties may arise at an election when rival sections of a recognized political party claim to be that party, he/she may in order to remove such difficulties, recognize one section as the party or none of the sections. (Section 11 Provincial Councils Elections Act)

6. Disqualification of membership

Section 3 of Provincial Councils Act, No. 42 of 1987 states that no person is qualified to be elected as a member or to sit or vote as a member, if such person is:

- i. subject to any disqualifications specified in paragraphs (a),(c),(d),(e),(f) and (g) of Article 91(1) of the Constitution. (These disqualifications are explained in paragraph 7 of Chapter V)
- ii. disqualified from voting at an election of members to a local authority under any law.
- iii. a member of Parliament.
- iv. a member of any other Provincial Council or stands nominated as a candidate for more than one Provincial Council.
- v. nominated as a candidate for election to a Provincial Council, by more than one recognized political party or independent group.

7. Term of a Provincial Council

The term of a Provincial Council is five years. The expiration of the period of five years will operate as dissolution of the Provincial Council. The Governor may also dissolve a council before the expiry of the term of a Council.

8. Nomination period

Within one week of dissolution of a Provincial Council, the Commissioner will publish a notice of nomination specifying a period of nomination during which period the Returning Officer will receive nominations during normal office hours at his/her office. The notice will also specify the number of candidates to be nominated. The nomination period will commence on the fourteenth day after the date of publication of the notice and expire at 12.00 noon on the twenty-first day. (Section 10 Provincial Councils Elections Act)

9. Deposits by Independent Groups

A group leader or any other person authorized by him/her should between the date of publication of the nomination notice and not later than 12.00 noon on the day immediately preceding the end of the nomination period, deposit with the R.O., a sum calculated at the rate of Rs. 2000/- in respect of each candidate. (Section 14 and 15 Provincial Councils Elections Act)

10. Nomination papers (Section 13 Provincial Councils Elections Act)

Any recognized political party or a group of persons can submit a nomination paper to contest an election. The nomination paper shall set out the names of the candidates as is equivalent to the number of members to be elected plus three. The form to be used is substantially Form "A" in the first schedule to the Act. Printed forms could be obtained free of charge from the Returning Officer.

The written consent of each candidate should be endorsed on the nomination paper and the oath or affirmation in the form set out in the Seventh Schedule to the Constitution taken and subscribed to by each candidate and in the case of an independent group in addition a receipt for the deposit paid to the R.O. should

be attached to the nomination paper. Each nomination should be signed by the Secretary of the recognized political party or in the case of independent groups by the candidate whose name appears first in the nomination paper. The candidate whose name appears first will be referred to as the leader of the independent group. The signature of the Secretary of the recognized political party or the leader of the independent group should be attested by a J.P. or a Notary Public.

The completed nomination paper together with a copy should be delivered to the Returning Officer during office hours within the nomination period, by the Secretary of the party or by the candidate whose name appears first in the nomination paper or by the group leader of an independent group. The first name appearing in the nomination of a recognized political party will be referred to as the Authorized Agent. When any of these persons are unable to deliver the nomination paper, the candidate whose name appears second in the nomination paper could deliver the nomination paper.

After delivery of the nomination paper, it appears that there is an omission or clerical error in it, the Secretary of the party, authorized agent or the Group Leader can apply to the R.O. to correct the omission or clerical error. If the R.O. is satisfied that such omission or error is due to an inadvertence, he/she may allow the applicant to correct the omission or the error in the presence of the R.O.

12. Consent to nomination by disqualified person

It is an offence for a person to give his/her consent to a nomination if he/she is disqualified by being convicted of a corrupt or illegal practice under the Parliamentary Elections Act, by reason of civic disability under Article 81(1) of the Constitution or is subject to any disqualifications specified in Act No. 38 or 39 of 1978 relating to Local Authorities. (Section 16)

13. Rejection of nomination papers *(Section 17 Provincial Councils Elections Act)*

The R.O. can reject any nomination paper on the following grounds:--

- i. Not delivered with a copy and by the Secretary of the recognized political party, authorized agent, group leader or the candidate whose name appears second in the nomination paper.
- ii. Does not contain the required number of candidates.
- iii. The deposit has not been made.
- iv. Consent of any one or more candidates not endorsed or the oath or affirmation is not attached.
- v. The Secretary of the political party or the independent group leader has not signed the nomination paper or that such signature has not been attested by a J.P. or N.P.

14. Uncontested Elections

Where only the candidates of one political party or independent group stand nominated, the R.O. will call upon the Secretary of that party or the leader of the independent group to decide within a specified period, which of the candidates should be elected. If he/she responds within the specified period, the R.O. will proceed to declare the candidates selected by the Secretary of the party or group leader as members of the council of that electoral district. If on the other hand, no reply is received, the R.O. will declare such number of candidates in the order in which the names appear in the nomination paper. (Section 18 Provincial Councils Elections Act)

15. No nominations received

When no nomination papers have been received or if all the nomination papers have been rejected, the R.O. will issue a second nomination notice within seven days after the first nomination period. The nomination period will commence on the seventh day after the publication of the notice and end on the fourteenth day. (Section 19 Provincial Councils Elections Act)

16. Contested elections

At the end of the nomination period if there is a contest, the R.O. will allot symbols to the parties and independent groups and when there are two or more independent groups allocate a distinguishing number to each such group. (Section 20 Provincial Councils Elections Act)

17. Persons entitled to be present at the nominations

The following persons are entitled to be present at the place of nominations:—

- i. Secretary of recognized political party.
- ii. Authorized Agent.
- iii. The candidates whose name appears second in the nomination paper.
- iv. Independent Group Leader.
- v. One other person selected by the Secretary of the party/Group Leader.
- vi. Returning Officer and his/her staff. (Section 21 Provincial Councils Elections Act)

18. The poll

18.1. Notice of poll: The R.O. should soon after the conclusion of nominations, publish a notice in the Gazette specifying:

- (a) the administrative district.
- (b) names of candidates placed in the alphabetical order in Sinhala, serial number allotted to each candidate, the election symbol assigned to each political party and independent group and the distinguishing number of the independent group.
- (c) date of poll, which shall be not less than five weeks and no more than eight weeks from the date of publication of the notice.
- (d) the location of polling stations.

If due to any emergency situation, the location of a polling station has to be changed, the R.O. may arrange for an alternative location.

If due to any emergency or unforeseen circumstance the poll cannot be taken on the scheduled date, the Commissioner may by notice published in the Gazette fix another date, such day being not earlier than the fourteenth day after

publication of the notice in the Gazette. (Section 22 Provincial Councils Elections Act)

18.2. Death of a candidate: If a candidate dies before the commencement of the poll, the R.O. will expunge the name of the deceased candidate from the nomination paper and the poll will be taken as specified. (Section 23 Provincial Councils Elections Act)

18.3. Voting by post: Please see Chapter III

18.4. Official poll card: The R.O. will send to every voter (other than postal voters and displaced voters) a poll card, specifying the following—

- (i) the name of the administrative district.
- (ii) the name of the voter, address and registration number in the electoral register.
- (iii) the polling division.
- (iv) the polling district.
- (v) the polling station.
- (vi) date and time of poll.

The poll card shall be sent by post to reach the voters at least seven days before the poll. The poll cards that are not delivered by the Postal Department are kept at the post office until 4.00 p.m. on the day of poll. Any elector whose poll card was not delivered to his/her house could call at the post office and obtain his/her poll card after proving his/her identity. (Section 25 Provincial Councils Elections Act)

18.5. Presiding Officers: The R.O. is responsible to provide all facilities at a polling station. In addition to the S.P.O. and other presiding officers, other staff such as poll clerks have to be appointed to polling stations.

Cubicles or compartments for voters to mark their ballot papers in secret, copy of the extract of the electoral register, postal voters' list ballot boxes, etc. are

some of other items to be provided to a polling station. (Section 27 Provincial Councils Elections Act)

18.6. Notices to be exhibited at polling station: The following notices should be exhibited at a polling station:

- (i) Notices for the guidance of voters, substantially in the specimen shown in the Third Schedule to the Act.
- (ii) Notice specifying the name of each political party and independent group contesting the election and, symbol allotted to each party and group, the names of candidates and the serial numbers allotted to each candidate. (Section 28 Provincial Councils Elections Act)

18.7. Ballot papers: The ballot paper to be used at an election should be substantially in the Form 'C' set out in the First Schedule to the Act. A ballot paper should contain the names of recognized political parties in the three languages, arranged alphabetically in Sinhala and with the election symbol against the name of the party. Immediately thereafter the independent groups with the distinguishing number of each group. The symbol allotted to each group will be printed against the distinguishing number of the group. Immediately below will be printed the serial numbers of the candidates placed in numerical order equal to three times the number of members to be elected. There will also be a counterfoil for each ballot paper. The ballot paper will be serially numbered on the reverse with the same serial number printed on the counterfoil. (Section 30 Provincial Councils Elections Act)

18.8. Hours of poll: The hours of poll will be from 7.00 a.m to 4.00 p.m., unless the Commissioner varies it by notification published in the Gazette. (Section 31 Provincial Councils Elections Act)

18.9 Polling Agents and delegation of power to appoint Agents: Each contesting party and independent group is entitled to have two Polling Agents at a polling station at any given time. The Secretary of the party or its authorized agent or the Group Leader can appoint a reasonable number of polling agents to each polling station, keeping in mind the need to change appointments during the

course of the day. The letter of appointment, giving the names, addresses and identity card numbers should be handed over to the Presiding Officer on the date of poll. The power to appoint Polling Agents can be delegated to any candidate. This delegation has to be limited to one candidate per polling division. The delegation should be made in writing and sent to the R.O. at least seven days before the poll. (Section 32 Provincial Councils Elections Act)

18.10. General conditions: The presiding officer will keep order in the polling station. He/she will regulate the number of voters and will permit only the voters and authorized persons to enter the polling station. Candidates are also allowed inside a polling station but only one of them from each contesting political party or independent group will be allowed inside the polling station at a time. Any person who misconducts him/her self inside the polling station or fails to obey the orders of the presiding officer, the presiding officer can remove such person from the polling station. (Section 33 Provincial Councils Elections Act)

18.11. Sealing of ballot box: Before the commencement of the poll, the Presiding Officer should show the empty ballot box to the agents present and lock up and seal the box. The Agents should also be allowed to place their seals on the box.

The Presiding Officer should also show to the Agents present the ballot papers, official seal and the mark, extracts of the electoral register that will be used at the polling station.

18.12. Issue of Ballot Papers: (Sections 35, 36, 37 and 41 Provincial Councils Elections Act). The duties connected with issue of ballot papers at a polling station will be handled by three polling clerks. They would be seated at the entrance. The Polling Agents should be provided seats in front of the clerks or behind, depending on the space available and the number of queues used to admit voters.

When a voter calls for a ballot paper, the first polling clerk who has the extract of the register of electors will ask the voter for his/her poll card and the identity document (required under Act, No. 14 of 2004). The poll card which is useful to

trace a voter's name from the register is not a mandatory document. The clerk will trace the name from the register and after being satisfied with the voter's identity call out the voter's name and his/her serial number in the register, loud enough for the third clerk and the Polling Agents to hear. If no objection is raised by any Polling Agent the clerk will place a mark in the register against the voter's name.

The voter then moves to the 2nd clerk who has the tube of indelible ink. He/she will inspect the little finger of the left hand of the voter to make sure that the voter has not already voted at this election. If he/she is satisfied that the little finger or any other finger on the left hand does not have a mark resembling the indelible ink mark used at the polling station, he/she will apply indelible ink all round the finger including the cuticle.

The voter will then move to the 3rd clerk who is in possession of the ballot paper book. This clerk would have by now written the voter's serial number on the counterfoil, if there was no objection raised against the voter by a Polling Agent. He/she will detach the ballot paper from the counterfoil, place the official mark on the ballot paper and, with its face upwards hand over the ballot paper to the voter.

The voter will then be directed to the cubicle. He/she will mark his/her ballot paper, fold it into two and deposit it in the ballot box and leave the polling station.

At least 95% of the voters will be handled this way. The voters who cannot be given a ballot paper described in the above manner will be directed to the Presiding Officer. The voters who will be directed to the Presiding Officer without being issued a ballot paper by the poll clerk are those:

- (i) who does not produce the national identity card or other acceptable identity document in terms of Act, No. 14 of 2004,
- (ii) who does not bring the poll card and his/her name cannot be traced in the register,
- (iii) against whom an objection has been raised by a polling agent,

- (iv) whose left little finger has a mark similar to the indelible mark (appropriate mark) placed at the polling station,
- (v) who does not permit the finger to be examined,
- (vi) who after being examined does not allow the finger to be marked.

The voters who do not produce a national identity card or other photo-identity card issued by a Government Authority (category (i) above), and those in category (v) and (vi) will not be issued a ballot paper. In the case of category (ii), the S.P.O. or a J.P.O. will question the voter and attempt to trace his/her name from the electoral list. If the name is traced the S.P.O. will direct the poll clerk to issue such voter with a ballot paper. A voter against whom an objection has been raised (category iii above) the S.P.O. will question the voter and if he/she is satisfied with his/her identity and if his/her name is found in the register he/she can be allowed to vote. However if any polling agent insists that the voter make and subscribe to the declarations in form E, F, and G, the voter should be asked to sign the declaration form. If he/she refuses to do so, he/she will not be issued with a ballot paper. The S.P.O. may handover such voter or any other voter whom he/she suspects to be an impersonator to the police for further investigations.

In the case of a voter (category vi) if after examination of the finger it is disclosed that the voter has been already marked with the appropriate mark with the indelible ink the S.P.O. will refuse to issue a ballot paper to him.

A record of persons who were not issued with ballot papers is maintained by the S.P.O.

18.13. Spoilt ballot papers: A voter who has inadvertently spoilt his/her ballot paper can be issued with another ballot paper if the S.P.O. is satisfied that the ballot paper was spoilt due to the inadvertence of the voter. The spoilt ballot paper should be cancelled by the S.P.O. and retained by him. (Section 42 Provincial Councils Elections Act)

18.14. Tendered ballot papers: Tendered ballot papers are blue in colour and kept with the S.P.O. to be issued whenever a necessity arises. A tendered ballot paper is issued to a voter when a voter calls for a ballot paper and it is found that his/her name is already marked in the register as having voted. In such instances the S.P.O. will inform the voter of the fact and obtain a declaration from him on form H and then issue him a tendered ballot paper. The S.P.O. should enter details of the voter on the reverse of the tendered ballot paper and in the tendered votes list. (Section 43 Provincial Councils Elections Act)

18.15 Closure of poll: Issue of ballot papers to voters will end at the time fixed to close the poll which is 4.00 p.m. Any voter or voters inside the polling station who have already been issued a ballot paper will be permitted to mark their ballot papers. Soon after the last voter has voted the ballot box should be sealed by the S.P.O. The polling agents also permitted to place their seals.

18.16 Disturbances at Polling Stations (Section 125A)

Please see Chapter X.

19. Count of votes

19.1. Counting Officers: From among Assistant Returning Officers(A.R.O) appointed by the Commissioner the Returning Officer(R.O) will appoint a Senior A.R.O. to be the Counting Officer who will be in charge of the Counting Centre. The R.O. will also appoint one or more A.R.O to assist the Counting Officer. There will also be other staff appointed by the R.O. (Section 47 Provincial Councils Elections Act)

19.2. Notice of Count: The R.O. has to give notice of the count to each Secretary of a political party and Leader of independent group stating the time and place of the count. The notice of count should be accompanied by a list of counting centres and the list of polling stations assigned to each counting centre including postal votes counting centres. (Section 48 Provincial Councils Elections Act)

19.3. Appointment of Counting Agents: The Secretary of each political party and Leader of an independent group can appoint up to five Counting Agents per counting centre. However, where only one polling station is assigned to a counting centre the number of agents is limited to two only. The power to appoint counting agents can be delegated to one of the candidates where there is only one polling station assigned to a counting centres (Section 49(2))

The names, addresses and national identity card numbers of the Agents appointed including the candidate who has been delegated power to appoint counting agents should be stated to the Returning Officer a few days before the date of count. Although the law states that letters of appointment of agents should be given to the Counting Officer, before the commenced of the count. In view of the large number of persons assembling at the precincts of the counting premises and due to security concerns the R.O. would want party Secretaries and group leaders to send letters of appointment in advance in order to issue them with entry passes, vehicle passes and other instructions before the date of the count. (Section 49(3))

19.4. Commencement of the count: Although Section 50 states that counting of votes can commence after all the ballot boxes from all the polling stations assigned to the counting centre have arrived, in view of the provisions in Section 46A it is necessary for the counting officers to get clear instructions from the Returning Officer as to when the count can commence. (Please see Chapter X)

After clearance has been obtained from the R.O. to commence the count the counting officer should show the agents the ballot paper account received from each polling station and allow the Agents to obtain copies of the ballot paper accounts.

19.5. Counting of ballot papers in each ballot box:

In view of the provisions of Section 46A the Returning Officer may direct the counting officer to remove from the count the entire contents of a ballot box or certain identified ballot papers in a box. In such an event, before commencing to

count the counting officer should exclude the ballot box or the specified ballot papers from the count.

The first stage of the count of votes is the counting of the number of ballot papers found in each ballot box. At this stage one box will be opened at a time. The contents of the box will be emptied on to the counting table where a group of about 6 to 10 officers will be seated. These officers will, keeping the face of the ballot papers upwards preventing any person from seeing serial number printed on the reverse of the ballot paper, count, the number of ballot papers. The counted ballot papers are bundled into fifty and secured by a rubber band. The total number of ballot papers found in the box is reported to the counting officer by an A.R.O. The Counting Officer may order a recount or to transfer the ballot paper to the trough which is in charge of an A.R.O. In this manner all the ballot boxes are opened and contents disposed of.

After all the ballot papers have been placed in the trough the A.R.O. in charge of the trough will mix the ballot papers thoroughly. Any tendered ballot papers found in any box should be separated and handed over to the Counting Officer.

19.6. Sorting of ballot papers: After removal from the count of any ballot papers in terms of the provisions of Section 46A and ballot papers in each box have been counted, the next step is the sorting of ballot papers.

The counting table will have a number of officers about 30 to 40 seated on either side at the counting table. They will function in groups of six to ten. The ballot papers in the trough will be transferred to each group seated on either side of the table. The counting staff will sort the ballot papers according to the vote marked for each election symbol. The sorted ballot papers will be placed in the respective trays marked with the symbol. In this process any ballot paper without the official mark, which is not marked for any symbol or where it is marked for more than one symbol or where the mark is uncertain as to which symbol it is marked will be treated as a doubtful ballot paper and placed in the tray labelled "doubtful ballot papers". The doubtful ballot paper tray will be

transferred to the Counting Officer from time to time throughout the sorting process.

19.7. Rejection of ballot papers (Section 51): The Counting Officer with the assistance of one or two A.R.O.s will examine each doubtful ballot paper and determine whether to reject any ballot paper or if it should be sorted to one of the party symbols. The following ballot papers will be rejected by him/her after it is shown to the Counting Agents and their views are heard.

- (i) which do not bear the official mark, if the counting officer is satisfied that it is not a genuine ballot paper,
- (ii) which bears a vote for more than one symbol, (political party or group)
- (iii) which bears a vote for a combination of one or more symbols, (parties and groups)
- (iv) which bears a mark or words written on ballot paper by which identity of the voter is disclosed,
- (v) which bears no mark,
- (vi) if the counting officer is satisfied of the intention of the voter in making that particular mark he/she will decide to sort the ballot paper to that particular symbol. Otherwise he/she will reject such ballot paper.

The rejected ballot papers will not be counted for any party or group. Statement of ballot papers rejected will be prepared by the Counting Officer and allow any agent to obtain a copy of it.

19.8 Counting of sorted ballot papers: The ballot papers that were sorted according to symbols of each party or group will now be counted separately taking each party or group at a time. The counted ballot papers will be made into bundles of fifty with a rubber band securing the bundle. The counted and bundled ballot papers will be checked by a different group of officers examining each ballot paper to see if all the ballot papers in the bundle are of the same symbol and that there are exactly fifty ballot papers. In this manner the ballot papers of all the parties and groups will be counted and checked separately. The counting officer can order as many recounts as he/she thinks is necessary. After

the counting officer is satisfied with the accuracy of the count he/she will inform the agents of the results. Any agent may request for a recount. Only two recounts can be made in this manner.

After all the recounts are over the Counting Officer will prepare a statement under Section 51(7) giving details of the number of votes counted for each party and group. The statement will be signed by the C.O. and witnessed by a member of the counting staff. Agents who wish to sign the statement are also permitted to do so. The statement is enclosed in a sealed cover and sent to the Returning Officer.

19.9 Counting of preferences (Section 51): After the count of the votes has been completed the counting officer proceed to count of preferences. The count of preferences will be taken up with one party or group at a time. Counting Officers are instructed by the Commissioner to start this process with the ballot papers of the party or group which has the highest number of votes.

The ballot papers which are in bundles of fifties will be unbundled and sorted in the manner explained below and placed in appropriate trays.

- (i) ballot papers with one preference.
- (ii) ballot papers with two preferences.
- (iii) ballot papers with three preferences.
- (iv) ballot papers with more than three preferences.
- (v) ballot papers with no preferences.
- (vi) ballot papers with preferences not clearly marked. (void for uncertainty)

Ballot papers in categories (iv) and (v) are invalid and rejected. Ballot papers in category (vi) are examined by the Counting Officer and he/she will decide whether to reject the ballot paper. Ballot papers that are accepted will be passed on to the counting tabled to be sorted into one of the categories above.

Subsequently the ballot papers in categories (i), (ii) and (iii) are separately counted and bundled into bundles of fifties and secured with a rubber band. The

bundles in each category are again taken separately and the number of preferences marked on each ballot paper is entered in tally sheets. Each tally sheet will contain the preferences marked in fifty ballot papers. Different group of officers will check the entries made in the tally sheet comparing with the ballot papers. After all the ballot papers have been dealt in this manner the total number of preferences counted for each candidate in each tally sheet is transferred to the first summary. If the first summary is not sufficient to enter preferences of all the tally sheets a second summary will also be prepared. From these summaries the number of preferences obtained by each candidate at that counting centre is determined. The counting officer will prepare a statement of preferences received by each candidate and it will be transmitted to the R.O. in a sealed envelope.

20. Declaration of Results

20.1. Notice of declaration of results: The Returning Officer will notify the Secretary or the authorized Agent of the political party or the Group Leader in the contest, of the time and place where the results will be declared. (Section 55)

20.2. Appointment of Agents to attend the declaration of results: The contesting political parties and independent groups are entitled to send two agents to be present at the place where results will be declared. The names, addresses and identity card numbers of agent should be given to the R.O. in writing before the proceedings commence. (Section 56)

20.3. Sealed packets containing reports of counting officers: The Returning Officer will show to the agents the sealed packets containing statements under Section 51(7) sent by the Counting Officers.

20.4. Relevant number of votes: The Returning Officer will open the sealed packets and determine the number of votes given to each party and group from all the counting centres. The total number of votes counted for all the parties and groups is referred to as the '*Relevant Number of Votes*'.

20.5. Resulting Number: The relevant number of votes is divided by the number of members to be elected from the electoral district and the whole number from such division is referred to as the '*Resulting Number*'. (Section 58(d))

20.6. Determination of members elected from parties and groups: The number of votes polled by each party or group is divided by the *resulting number* and the whole number resulting from that division is determined as the number of members elected from each party or group from that electoral district. The remainders of the votes after the division are not taken into account at this stage.

If after this determination there are more members to be elected the remainders left after the division and number of votes polled by parties or groups that did not get any member elected by that division are considered in determining the balance number of members. In this process the party or the group having the highest and the next highest and so on are taken into account. (Section 58(f) and 52(2)).

After all the members of the Provincial Council from that district have been elected the Returning Officer will proceed to declare the candidates elected by referring to the number of preferences received by the candidates.

Any equality of votes or preferences will be decided by drawing of lots (Section 58(3))

20.7. The result of the election will be reported to the Commissioner by the R.O.

20.8. Bonus Seats: After the Commissioner receives reports from all the Returning Officers the Commissioner will determine the political party or the independent group which has received the highest number of votes in the Province and award two bonus seats to that party or group. For this purpose the Commissioner will call upon the Secretary of the political party or the Leader of

the independent group to nominate two members for the Provincial Council from among candidates nominated by the party/ group. (Section 61A)

21. Offences.

The offences under Section 66 to 77 of the Provincial Councils Elections Act are as follows:

- (i) Forging or fraudulently defacing or destroying any nomination paper or delivering a nomination paper knowing the same to be forged.
- (ii) Forging or counterfeiting, defacing or destroying any ballot paper or the official mark placed on a ballot paper.
- (iii) Supplying a ballot paper to any person.
- (iv) Selling, offering to sell, purchasing or offering to buy a ballot paper.
- (v) Having in possession a ballot paper which has been marked with the official mark.
- (vi) Wilfully displaying a marked ballot paper at a polling station.
- (vii) Putting into the ballot box any thing other than a ballot paper.
- (viii) Taking outside the polling station a ballot paper or being in possession of a ballot paper outside the polling station.
- (ix) Destroying, taking, opening, or interfering with a ballot box or a ballot paper.
- (x) Printing of ballot paper.
- (xi) Manufacturing or importing, having in possession any appliance, device or mechanism by which a ballot paper can be extracted from a ballot box.
- (xii) Making a false statement in a postal votes application or a declaration of identity.
- (xiii) Destroying, taking, opening or tampering with postal voters application or any covering envelope or ballot paper envelope.
- (xiv) Printing of poll cards.
- (xv) Defacing an appropriate mark placed on any voter.
- (xvi) Voting knowing that he/she is legally incapable or disqualified.
- (xvii) Voting by a person disqualified due to a civic inability being imposed.
(Section 67)

- (xviii) Canvassing, soliciting, persuading an elector to vote for any party or group, persuading an elector to refrain from voting and distributing or exhibiting handbills, posters etc., on the date of poll. (Section 68)
- (xix) Using or operating within or at the entrance to a polling station or in the neighbourhood of a polling station any megaphone or a loudspeaker or shouting or behaving in a disorderly manner. (Section 68)
- (xx) Conducting, holding or taking part in any procession commencing from the 1st day of nominations and ending one week after the declaration of results. May day processions and religious processions are exempted. (Section 69)
- (xxi) Holding public meetings during the period commencing from 48 hours before the date of poll and ending one week after the declaration of results. (Section 70)
- (xxii) Printing and publishing of advertisement, handbills, posters etc. without the name and address of the printer and the publisher, by a person who is not a candidate. (Section 72)
- (xxiii) Having an election office other than the central office in the district and a office in each polling district during the period from the 1st day of nominations and until the date immediately preceding the date of poll and during the period from the day immediately preceding the date of poll until the day immediately following such date one central election office in the district and a branch office in respect of each candidate.
- (xxiv) Displaying handbills, posters, etc. in any public or private place or in any vehicle other than the vehicle in which the candidate travels (display or exhibiting of posters, banners etc. at a place where a public meeting is held is permitted)
- (xxv) Canvassing and soliciting for votes, persuading any voter not to vote for any party or group, persuading a voter to refrain from voting and distributing handbills, posters etc. by visiting houses of voters by a candidate or a member of his/her family.
- (xxvi) Canvassing or acting as an agent for a candidate by a person who is disqualified from voting at any local authority election or on whom civic disability has been imposed. (Section 76)

(xxvii) Violating the need to maintain secrecy regarding certain happening in the polling station or the counting centre.

22. Corrupt practices

Corrupt practices are specified in Section 78 to 83 and can be summarized as follows:

- i. Impersonation.
- ii. Voting more than once.
- iii. Treating or undue influence, threatening use of force, abduction, duress.
- iv. Political messages at religions assemblies, threats by an employer to employee etc.
- v. Bribery.

23. Illegal practices

The following illegal practices are specified in Sections 84 to 90.

- i. Payments made for transport of voters to polling stations, for use of buildings or premises or exhibition of any address, bill or notice.
- ii. False reports in newspapers relating to any candidate political party or group.
- iii. Employment of persons other than polling agents, counting agents, clerks and messengers.
- iv. Printing and publishing of any advertisement, handbill, placard etc. without the name and address of the printer and the publisher.

24. Election petitions

An election in a district can be declared void on the ground of general bribery, or treating or intimidation or other misconduct and on the ground that the election was not conducted in compliance with the provisions of the Act.

An election of a candidate as a member of a provincial council can be declared void on the ground that corrupt or illegal practice was committed by the

candidate. A candidate who was at the time of election disqualified for election could be unseated by an election petition.

Election petitions filed under the Act will be heard by the Court of Appeal. All petitions should be filed within 21 days of the date of publication of the result of the election in the Gazette. (Sections 93 and 108)

An election petition can be filed by a person claiming to have had a right to be elected at such election or by a person who was a candidate. (Section 95)

The relief that can be claimed in a petition are that an election in regard to an administrative district be declared void, that the returning of any candidate be declared undue and that any candidate who was not elected be declared as duly elected. (Section 96). One can also claim that he/she, himself/herself be declared as a member. (Section 97)

The report of the Election Judge will be kept in the custody of the Registrar of the Court of Appeal. (Section 101) An appeal against the judgement of the Court of Appeal can be made to the Supreme Court, such appeal being made before the expiry of one month. (Section 102)

If no appeal is filed, the Court of Appeal will transmit its judgment to the President and if an appeal has been made the Supreme Court transmit to the President its judgement with the order of the Court of Appeal. The President will publish the report in the Gazette immediately. The Returning Officer and the Registering Officer will take appropriate action soon after the report is published.

25. General

25.1. Duty of employers to grant leave: It is the duty of the employers to give sufficient leave to his/her employees on application, for them to cast their votes. A minimum of four hours must be granted. The leave granted should be without loss of pay.

25.2. Displaced voters: Under Section 125A, enacted by Act No. 7 of 1993 any voter who is unable to cast his/her vote at his/her polling station due to fear, can request the Commissioner to present such vote at another polling station. Please see Chapter IX for details.

25.3. National Identity Card: Candidates, Polling Agents or other agents are required to have the National Identity Card at places of nomination, polling station, counting centres and at places where the results are declared. (Section 128)

CHAPTER VII

LOCAL AUTHORITY ELECTIONS

Elections to the local authorities namely, municipal councils, urban councils and pradeshiya sabhas are governed by the Local Authorities Elections Ordinance (Chapter 262).

1. Appointment of Election Officers

For purposes of conducting elections under the Ordinance the Commissioner appoints a Returning Officer for each district and one or more persons as Assistant Returning Officers (Section 4).

The Commissioner generally appoints the District Secretary/Government Agent as the Returning Officer for the District and the Assistant Commissioner of Elections as the Returning Officer of each of the local authorities in the district. The ACE is also appointed as an A.R.O for the District.

The Assistant Election Officer or the Assistant Returning Officer is empowered to exercise or perform the functions and duties of the Elections Officer. (Section 5)

The terms "Elections Officer" or "Assistant Election Officer" should be read and construed or interpreted as a reference to the Returning Officer and Assistant Returning Officer respectively of the district. (Refer footnote to Section 4).

2. Qualification of voters

Every person whose name is registered as an elector in the parliamentary electoral register in operation at the time of an election is qualified to vote at a local election. (Section 6)

3. Qualification for membership

3.1. General qualifications: Any person who is not subjected to any of the disqualifications specified in Section 9 is qualified for election as a member of any local authority, if he/she on the date of commencement of the preparation

of the operative parliamentary register in which the electoral area (local authority) or a part of that area is situated, qualified to have his/her name entered in that register and also that on the first of June in the year in which the preparation or the revision of the register took place he/she was ordinarily resident in that electoral area. (Section 8)

An interpretation of this section would mean that it is not essential for a person to be registered to be elected to a local authority but should only be qualified to be registered. But it is necessary for him to be ordinarily resident in that local authority area. The term ordinarily resident is explained in Chapter I.

3.2. Disqualifications for membership (Section 9): No person is qualified to be elected or to sit or to vote as a member of any local authority if such person is:

- i. not a citizen of Sri Lanka or due to his/her own act is under any acknowledgement of allegiance, obedience or adherence to any foreign power or state.
- ii. less than 18 years of age.
- iii. a judicial officer.
- iv. a member of the Armed forces or of the Police.
- v. a Peace Officer exercising police functions.
- vi. a public officer of staff officer grade.
- vii. an officer in a public corporation serving in staff grade post.
- viii. a member of Parliament, Provincial Council or Local Authority.
- ix. an officer or a servant of such local authority or a person whose employment with that local authority was terminated within a period of one year before the date of the election of that local authority.
- x. directly or indirectly holds or enjoys any contract or agreement or commission on account of such authority.
- xi. declared to be of unsound mind.
- xii. bankrupt or insolvent.
- xiii. serving a sentence of imprisonment for an offence punishable for a term exceeding 12 months.
- xiv. under death sentence, or serving a prison term in lieu of execution of death sentence.

- xv. a member of the Local Government Service constituted by Local Government Service Law No. 18 of 1969. (Provided the post is not of staff grade)
- xvi. Disqualified by Section 5 of the Public Bodies Ordinance (Prevention of Corruption Ordinance) by reason of conviction or of findings of a Commission of Inquiry.
- xvii. Serving or has five years immediately preceding the completion of a sentence of imprisonment on conviction for a crime within the meaning of the Prevention of Crimes Ordinance.
- xviii. Nominated as a candidate in more than one nomination paper for the same general election.
- xix. Disqualified by Article 91(1) (g) of the Constitution- adjudged by a Court or a presidential commission of inquiry to have accepted a bribe.
- xx. removed from the office of mayor, member of a municipal council, chairman or a member of an urban council or of a pradeshiya sabha during the preceding five years.

4. Vacation of membership

If any member of a local authority is, by reason of the operation of the above provision of Section 9 disqualified from sitting or voting as a member of such local authority, his/her seat or office shall by that very fact become vacant. In the event a vacancy occurs in a local authority it should be filled as if the member resigned his/her office or seat. (Section 10)

5. Vacation of office on ceasing to be member of a recognized political party

When an Election Officer of a district is satisfied that a candidate whose name appears in a nomination paper has ceased to be a member of the party the elections officer will publish a notice in a gazette declaring that he/she has vacated his/her office or he/she has forfeited his/her right to have his/her name retained in the nomination paper, as the case may be. However before the elections officer publishes the notice he/she has to give notice to such person and such political party and then publish the notice 21 days after the date of such

notice. The Party Secretary is also required to furnish to the elections officer information regarding such expulsions. (Section 10(a))

6. Division into polling districts

Every parliamentary polling district (polling station area) will be deemed to be a polling district for the purpose of elections, unless it is modified by the elections officer after the notification published in the Gazette. (Section 12)

However where a new local authority has been constituted or when the administrative limits of a local authority have been altered the elections officer will divide the electoral area into polling districts, assign new numbers, determine the polling stations and publish a notice in the Gazette giving details of the new divisions etc. (Section 12A)

7. Preparation of lists

For the purpose of a general election to a local authority, the Elections Officer of a district will prepare a list of voters comprising the operative parliamentary electoral register and certify the list to be so prepared. (Section 12B). The list will be open for inspection at the office of the local authority and the district elections office. A notice to the effect that the list has been certified and that it is available for inspection should be published.

However if the Minister in charge of the subject of local government is of the opinion that the alterations of the limits of the electoral area is such that it is necessary to prepare a new electoral list he/she will direct by an Order published in the Gazette that a new list be prepared. (Section 12F)

On the publication of the Order, the elections officer will proceed to prepare a new list and publish a notice to the effect that the list is prepared and is available for inspection at the office of the local authority (Section 16).

On publication of the notice under Section 16 any claims and objections will be entertained and inquired into. The procedure followed in regard to claims and objections is similar to the procedure followed in regard to registration of

electors (see Chapter I). On completion of this process the list will be certified under Section 22.

8. Elections

8.1. Date of election: A general election to a local authority should be held within a period 6 months preceding the date on which the term of office is due to commence. (Section 25)

8.2. Nomination notice: The elections officer will publish a notice indicating his/her intention to hold an election and specifying the nomination period during which nominations will be received and the time and place of the nomination and connected activities. The nomination period should commence on the 14th day after the date of publication of the notice and expire at 12.00 noon on the 21st day. (Section 26)

8.3. Recognition of political parties: Political parties recognized under the Parliamentary Elections Act will be deemed to be recognized parties for purposes of local elections. (Section 27A) (Please see Chapter II regarding recognition of political parties)

There is also provision in the Local Authorities Elections Ordinance under Section 27A(3) for the Commissioner to call for applications for recognition of political parties for local authorities once in every 4 years.

Any application received will be considered by the Commissioner and recognition for a period of 4 years granted if he/she is satisfied that the party has been engaged in political activities for the last five years. (This provision has not been acted upon due to limitations in Section 7(4)(c) of the Parliamentary Elections Act. as explained in the third sub-paragraph of paragraph 2 in Chapter II.)

8.4. Rival sections in a recognized party: Please see paragraph 5 of Chapter II.

8.5. Nomination of candidates: At the time that the elections officer publishes a nomination notice the Commissioner also publishes a notice in the Gazette and the newspapers specifying the number of youth candidates that should be

nominated for each local authority. The minimum number of youth candidates is 40% of the total number of candidates.

The term “youth candidate” is defined in Section 89 as follows:

“youth” means a person not less than 18 years of age as at first June of the year in which the revision of the operative electoral register commenced under the Registration of Electors Act No. 44 of 1980 and not more than 35 years of age on the last day of the nomination period.

8.6. Nomination papers: Any recognized political party or a group of persons can submit a nomination paper prepared substantially on the form set out in the first schedule to the Ordinance. Printed nomination papers are provided by the Department free of charge. The nomination paper must contain the number of candidates as is equivalent to the number of members to be elected increased by 6 or 1/3rd of such number whichever is less. (Section 28)

The written consent of each candidate should be endorsed on the nomination paper. Every candidate should also take and subscribe to the oath or affirmation specified in the 7th Schedule to the Constitution. The duly signed Oath or the Affirmation should be attached to the nomination paper.

The number of youth candidates, equal to at least 40% of the total number of candidates should be included in the nomination paper. Attached to the nomination paper should be a certified copy of the birth certificate or an affidavit signed by each youth candidate certifying the date of birth in respect of each youth candidate. (A certified copy of the Birth Certificate means an original birth certificate certified by Registrar General, Deputy Registrar General, Assistant Registrar General or the Additional District Registrar. A photocopy without the original signature of the officer of the Registrar General’s Department is not acceptable.) (Section 28(1A), 28(1B) and 28(4A).

Each nomination paper should be signed by the Secretary of the recognized political party or in the case of an independent group by the candidate whose name appears first in the nomination paper. (This candidate will be referred to as

the Group Leader) The signature of the Secretary or the Group Leader should be attested by a J.P. or N.P. (Section 28(5))

The duly prepared nomination papers should be delivered to the Returning Officer within the nomination period by the Secretary or the Authorized Agent of the Party or by the Group Leader in the case of nomination papers of independent groups. (Section 28(5))

As soon as practicable the Returning Officer should make a copy of the nomination paper received by him and display a copy on the notice board. (Section 28(2))

After the delivery of nomination paper if the Secretary of a recognized party or a Group Leader observes any omission or clerical error in a nomination paper he/she can make an application to the R.O. before the expiry of the nomination period to correct such omission or error. If the R.O. is satisfied that such omission or error is due to inadvertence he/she may allow the correction to be made in his/her presence. (Section 28(8))

9. Deposits by Independent Groups

Independent Groups are required to place a deposit with the Returning Officer between the date of publication of the nomination notice and the submission of the nomination paper of that group. The deposit must be made not later than 12.00 noon on the day immediately preceding the end of the nomination period.

The deposit required is Rs.250/- per candidate. The deposit can be made by the group leader or by any other person authorised by the Group Leader. (Section 29)

10. Procedure after the nomination period.

10.1. Rejection of nomination papers: The Returning Officer shall, immediately after the nomination period reject any nomination paper on the following grounds.

- i. Nomination papers not delivered to the R.O. by the Secretary or the Authorized Agent of the party or by the Group Leader.

- ii. Does not contain the total number of candidates required to be nominated.
- iii. Does not contain the minimum number of youth candidates.
- iv. Certified copy of the birth certificate of a youth candidate or an affidavit by such candidate not attached to the nomination paper.
- v. Deposit required from independent groups not made.
- vi. Consent of one or more candidates not endorsed on the nomination paper or Oath or Affirmation in the 7th Schedule to the Constitution of one or more candidates not attached.
- vii. Signature of the Secretary of the political party or of the Group Leader not appearing on the nomination paper and such signature not attested.

The Returning Officer has to inform the Secretary of the political party or the group Leader of the rejection. (Section 31)

10.2. Objections to nomination papers: Objections to nomination papers can be lodged between 12.00 and 1.30 p.m. on the last day of nominations (Section 31(1)(a))

10.3. Uncontested elections: After the processing of nomination papers including rejections if any, if there are no nominations left either due to rejection of all or non receipt of any nominations, the elections officer will within 7 days publish a notice calling for nominations for a second time. If during the second nomination period no nominations are received or if all the nominations are rejected the Commissioner will publish a notice in the Gazette to the effect that no candidates stand nominated for that local authority. The Minister in charge of local government can nominate persons eligible as members of the local authority. (Section 35)

When only one nomination paper has been submitted, the Returning Officer will call upon the Secretary of the political party or the group leader to decide within a specified period which of the candidates in the nomination paper shall be declared as Mayor /Chairman, Deputy Mayor/Vice Chairman and as members of the local authority. On receipt of the reply the returning officer will declare as Mayor/ Chairman, Deputy Mayor/Vice Chairman and the other members of the

local authority the candidates mentioned in the reply. If no reply is received within the period specified the R.O. will forthwith prepare a single list of candidates based on the names given in the nomination paper but placed in alphabetical order of their names in Sinhala. The R.O. will then declare the first and second names in the single list as Mayor/Chairman and Deputy Mayor/Vice Chairman of the Local Authority and the other candidates in the order in which their names appear in the single list as members. On receipt of report from the R.O. regarding the above, the Commissioner will publish a notice in the Gazette of the result. (Section 36)

10.4. Contested elections: When there is a contest the Returning Officer will first allocate symbols to the parties and independent groups and adjourn the nomination proceedings. (Section 37)

10.5. Notice of poll: The Elections Officer of the District will forthwith publish a notice in the Gazette under Section 38 specifying the following :

- i. The names of candidates of each recognized political party and independent groups with the serial number allotted to each of them and the symbol allotted to each party and group. If more than one independent group is in the contest each group will be allocated a distinguishing number beginning with number 1. (The names of the candidates will be arranged in alphabetical order in Sinhala- Single list)
- ii. The date of the poll which will be not less than 5 weeks and not more than 7 weeks from the date of publication of the notice.
- iii. Situation of polling stations.

10.6. Death of a candidate: If any candidate dies after nomination of candidates and before the date of poll, the poll will be held notwithstanding such death. The R.O. will expunge the name of the deceased candidate from the nomination form. (Section 39)

10.7. Poll cards: The Returning Officer will send by post a poll card to every voter (other than Postal Voters) to reach them at least five days before the date of poll. The poll card will specify the following:

- i. Name of the local authority.
- ii. Name, address and the serial number of the voter.
- iii. Electoral district and polling district.
- iv. Polling station.
- v. Date and hours of poll. (Section 39A)

10.8. Voting by post (Section 39): Please see Chapter III

10.9. Presiding Officers: The R.O. will appoint one or more Presiding Officers to a polling station with one of them designated as the Senior Presiding Officer. Other staff required for poll duties will also be appointed. (Section 40)

10.10. Hours of poll: Hours of poll will be 7.00 a.m. to 4.00 p.m.

10.11. Notices to be exhibited at each polling station: The following notices should be exhibited at every polling station.

- i. Outside the polling station and inside every voting cubicle a notice giving directions for the guidance of voters. A specimen of the notice is shown in the Second Schedule to the Ordinance.
- ii. Outside every polling station a notice specifying the names of recognized political parties and the independent groups showing their distinguishing numbers, names of candidates, serial number allotted to each candidate and the symbols allotted each party and group. (Section 45)

10.12. Ballot paper: Every ballot paper should be substantially in the form set out in the Third Schedule to the Ordinance. A ballot paper will be in two parts, the first part will have the names of recognized political parties arranged in order of the Sinhala alphabet with the symbols allotted to each party printed against each and immediately below, the independent groups, if any, with their distinguishing numbers and symbols allotted to them. The Second part will be immediately below showing the serial numbers of the candidates placed in one or more rows in serial order as is equal to the number to be elected increased by 6 or 1/3 rd whichever is less. There will be three cages with a serial number printed in the first cage. The ballot paper will have a serial number printed on

the reverse-side and will be attached to a counterfoil with the same serial number printed on the face. (Section 47)

10.13. Polling agents: Every contesting political party and independent group is entitled to have two Polling Agents at every polling station. Notice of such appointments should be given by the Secretary / Authorised and the leader of the independent group to the Presiding Officer at the polling station. The names, addresses and identity card numbers of Agents should be specified in the notice. Although two Polling Agents are allowed at a polling station at any one time a reasonable number i.e. more than two, can be appointed to each polling station to meet any eventualities during the poll.

Persons holding office as members of a local authority or an officer or servant of such local authority should not be appointed as polling agents. (Section 49)

10.14. Sealing of the ballot box: Immediately before the commencement of the poll the Presiding Officer should show the empty ballot box to the Polling Agents present and lock up the ballot box. The box should be sealed with the Presiding Officer's seal in such a way that it cannot be opened without breaking the seals. Agents present may also be permitted to place their seals on the box.

10.15. Procedure at polling stations: When a voter calls at a polling station and applies for a ballot paper the 1st poll clerk at the entrance should ask the voter for his/her poll card and the document to prove his/her identity. (The poll card is not compulsory but it is useful for the poll staff to easily trace the voter's name in the list of voters) The poll clerk will trace the name from the register and if the voter's identity is ascertained he/she will read out the name and the serial number of the voter loud enough to be heard by the polling agents and the other poll clerks. If no objection is raised by any of the polling agents the 1st poll clerk will make a mark against the name of the voter in the register to indicate that the voter has been issued a ballot paper. The voter will proceed to the second clerk who will examine the little finger of the left hand or if that finger is not there the next available finger and satisfy himself/herself that the finger does not have a mark resembling the appropriate mark used at the polling station. If he/she is satisfied he/she will then smear the finger with the indelible ink. The voter will then move on to the 3rd clerk who by now would have entered

on the counterfoil of the ballot paper the serial number of the voter which was read out by the 1st clerk. He will detach the ballot paper from the counterfoil place the official mark on the margin or the edge of the ballot paper and hand it over to the voter with the face of the ballot paper upwards. The voter will walk over to the voting cubicle or the compartment, mark his/her vote and if he/she wishes, mark the preferences, then fold the ballot paper into two and deposit in the ballot box. Almost 99% of the voters will be attended to in this manner. Problems may arise with regard to the other voters. The procedure that should be followed is explained in paragraph 10.17.

10.16. The manner of voting: The Second Schedule to the Ordinance explains the manner in which a voter should deal with the ballot paper issued to him. He will first place a cross (X) on the right hand side of the ballot paper opposite the name and the symbol of the political party or the serial number of the independent group to which he/she gives his/her vote. Subsequently he/she may indicate his/her preferences to not more than 3 candidates of the party or the group to which he/she gave his/her vote.

10.17. Voters to whom ballot papers are not issued: The following voters are not issued the ballot paper but such voter is referred to the S.P.O. for a decision whether to issue a ballot paper or not:-

- i. A voter who does not prove his/her identity with the national identity card or other photo identity card issued by a government authority. (Act No. 14 of 2004)
- ii. A voter against whom an objection is raised by a polling agent. (Section 52)
- iii. A voter who refuses to allow inspection of the finger, or having allowed such inspection it is disclosed that the voter has already being marked with the appropriate mark or a voter who allows the inspection but does not permit the appropriate mark to be made. (Section 53A)

With regard to a voter who does not produce an identity document, he/she is not issued with a ballot paper. S.P.O. will keep a record of the name of the voter and his/her registration number in the appropriate form. In instances where an objection is raised by a polling agent the S.P.O. will question the voter in order

to ascertain whether he/she is the person named in the register and if he/she is satisfied with his/her registration and also his/her identity he/she can be permitted to cast his/her vote. However he/she can ask the voter to subscribe to the declarations specified in the Act before he/she is allowed to cast his/her vote. The polling agents who objected to the voter are entitled to insist on the voter subscribing to the declaration. (Section 52(1)) If the voter refuses to subscribe to the declaration he/she is not issued with the ballot papers. Such voters may be referred to the police by the S.P.O. for further investigations. Voters who already have a mark placed on a finger which resembles the appropriate mark used at the polling stations and those who do not permit inspection of the finger or having allowed inspection does not allow the application of the appropriate mark will also not be issued with the ballot paper. A record of voters who were refused should be maintained by the S.P.O. (Section 53A)

10.18. Assistance to voters: If a request is made by a voter the Presiding Officer or an officer authorized by him/her may explain to the voter within sight and hearing of the polling agents the manner of voting as explained in the Second Schedule to the Ordinance. Similarly a voter who is incapacitated by blindness or other physical cause can be helped to mark a ballot paper by the presiding officer in the presence of another member of the staff. (Section 54)

10.19. Spoilt ballot: A voter who has inadvertently spoilt a ballot paper may be given another ballot paper by the Presiding Officer if he/she is satisfied that the spoilt ballot paper cannot be used. The spoilt ballot paper should be taken over by the S.P.O. and an entry made in a journal (Section 57).

10.20. Closure of poll: The poll closes at 4.00 p.m. Any voter who has been issued with a ballot paper before the closing time but has not cast his/her vote will be permitted to vote. No ballot paper will be issued after 4.00 p.m. After the last voter has cast his/her vote the opening on the ballot box will be closed and sealed with the S.P.O.'s seal. Polling agents will also be allowed to place their seals. As soon as practicable the S.P.O. will deliver the sealed ballot box and the sealed packets containing various documents to the counting centre. (Section 58 and 59)

11. Procedure after close of poll

11.1. Arrangements for count of votes: The Returning Officer will make arrangements in advance to count the votes including receipt of sealed ballot boxes and documents brought by the S.P.O. He/she will also appoint Counting Officers and other staff to assist them.

11.2. Appointment of Counting Agents: The contesting political parties and independent groups are entitled to send two Counting Agents to each counting centre including postal votes counting centres. They are also entitled to send two Agents to each of the places where declaration of results will take place under Section 65. The names and addresses of the agents appointed should be communicated to the Returning Officer well in advance to enable him to make arrangements for their admittance without a hassle. (Sections 60 & 65)

11.3. Notice of count: The Returning Officer has to give notice in writing to the Secretaries of the contesting parties or authorized agents and to group leaders of the date, time and place where counting of votes and the declaration of results will take place. A list of the counting centres and the polling stations assigned to each counting centre should also be sent. (Section 61)

11.4. Postal votes: Postal ballot papers should be counted in accordance with the regulations in the 9th Schedule. Please see Chapter III.

11.5. Count of votes: Count of votes begins with the opening of each ballot box separately after all the ballot boxes of the polling stations assigned to the counting centres have been received. However, before the Counting Officer commences the process he/she should obtain clearance from the Returning Officer as to whether he/she could commence the count. (Although there is no provision in the Local Authorities Elections Ordinance for the Commissioner to annul a poll and order a re-poll as in other types of elections, he/she may apply the principles of the relevant laws in other election Acts and decide to annul a poll at any particular polling station and order a re-poll or may decide to remove from the count certain identified ballot papers)

11.6 Procedure for opening ballot boxes: Before opening the sealed ballot boxes the Counting Officer will open the sealed packets containing the ballot paper account of each polling station and permit the Counting Agents present to take copies of the same if they desire to do so. Each ballot box is then opened separately one at a time. The contents of the box are emptied on to the table where the counting staff is seated. They will, keeping the face of the ballot papers up, count the number of ballot papers in the box and organize them into bundles of 50 each. At this stage ballot papers are not sorted according to the vote. The number of ballot papers in each box is recorded by the counting officer and after he/she orders to do so the ballot papers will be deposited in a trough. After all the ballot boxes have been opened, ballot papers counted and the number recorded and deposited in the trough the first stage ends. The Officer in Charge of the trough will mix the ballot papers in trough thoroughly.

11.7 Sorting of ballot papers: The counting staff sits in groups of about 10 on either side of the table. The ballot papers in the trough are brought and emptied onto the table in front of each group. The staff will commence sorting the ballot papers according to symbols and deposit them in trays marked with the symbol. In the process of sorting, a doubtful ballot paper will be placed in a separate tray labelled "doubtful ballot papers". While sorting according to symbols proceeds the doubtful ballot papers will be transferred from time to time to the Counting Officer. The following ballot papers are considered as doubtful:

1. Ballot papers without the official mark.
- ii. Ballot papers on which a vote is given to more than one political party or independent group or combination of one or more parties and groups.
- iii. Ballot papers on which something is written or marked but by which the voter cannot be identified.
- iv. Ballot papers which are unmarked.
- v. Ballot papers which are void for uncertainty as to the party or the group to which the vote has been marked. (Section 63)

11.8 Decisions on doubtful ballot papers: The Counting Officer with the assistance of one or two A.R.O has to decide on the disposal of doubtful ballot

papers. In the case of a ballot paper without the official mark the counting officer, if he/she is satisfied that the ballot paper is not forged or a counterfeit, he/she will accept it as genuine and sort it to the party or the group for which the vote is marked. In the case of doubtful ballot papers which are considered as void for uncertainty if the counting officer is satisfied that any mark made on the ballot paper clearly indicates the intention of the voter he/she will not reject such ballot paper. The other types of doubtful ballot papers will be rejected and the word "rejected" will be written on the ballot paper. (Section 63)

11.9 Counting ballot papers: The ballot papers sorted according to symbols will be counted by the counting staff and every 50 ballot papers will be bound by a rubber band. In this process ballot papers of one party or group should be taken separately. Once all the sorted ballot papers of a party or group are counted and bundled they will be deposited in a tray marked with the symbol of that party or group. Similarly all the ballot papers of all the contesting parties and groups should be counted and deposited in separate trays. The counting staff will check every bundle once again and be satisfied that each bundle contains ballot papers of the same party or group and that the number in each bundle is 50. The Counting Officer may order as many recounts as he/she thinks it necessary before recording the results. He will then announce to the counting agents the result of the count.

11.10. Recounts: If any of the counting agents requests a recount the votes will be recounted but the total number of recounts will be limited to two. (Section 63(3)).

11.11. Statement under Section 63(6): After the counts and recounts are concluded the counting officer will prepare a statement of votes given to each recognized political party and independent group. The statement will be signed by him and witnessed by a member of the staff and any agents who wish to do so. The signed statement will be sent to the Returning Officer in a sealed packet.

11.12. Counting of preferences: After the conclusion of counting of votes and the statement under Section 63(6) has been sent to the R.O., the Counting Officer will proceed to count the preferences given to candidates. For this purpose, each party/group has to be taken separately to prevent any confusion

and mix up. The counting officer will start the counting of preferences with the party or the group that has received the highest number of votes and then the party or the group with the second highest and so on.

First the ballot papers which are now in bundles are undone by removing the rubber bands. Then the ballot papers are sorted according to the number of preferences marked in each ballot paper as follows:-

1. Ballot Paper with one preference only.
2. Ballot papers with two preferences.
3. Ballot papers with three preferences.
4. Ballot papers with no preferences marked for any of the candidates.
5. Ballot papers with more than three preferences.
6. Ballot papers which are void of uncertainty.

The total number of ballot papers in each category are counted and recorded. The total number should be equal to the number of votes counted for that party or group.

The ballot papers in category 4, 5 and 6 are eliminated from the count of preferences. The Counting Officer will decide whether to accept or reject ballot papers which are void for uncertainty.

The other three categories are taken separately and counted and bundled into bundles of fifty each.

Each category i.e. 1, 2 and 3 above is taken separately and the number of preferences in each ballot paper is entered on a Tally Sheet. The preferences of one bundle of 50, can be entered in one Tally Sheet. The entries are checked by another group of staff. In this manner, all the preferences are entered in tally sheets, first those with one preference, second those with two preferences and third, those with three preferences.

The total of preferences on each tally sheet is then transferred to the First Summary and where necessary to a second Summary. After this process, the number of preferences received by each candidate can be arrived at. After checking and rechecking as many times as is necessary, the C.O. will announce

the result to the candidates. He will then prepare a statement of preferences received by each candidate in terms of Section 63(6). He will sign it, obtain the signature of a member of staff as witness. The Agents present will be allowed to sign as witnesses if they wish to.

The signs statements are enclosed in a sealed packet and sent to the R.O.

12. Declaration of results

The Returning Officer on receipt of Statements of votes under Section 63(6) from all the counting centres will proceed to add the figures of all the counting centres and arrive at the total number of votes given to each political party and independent group. (Section 65)

12.1. Relevant number of votes: Total number of votes received by each party and group are added together and the figure arrived by the addition is treated as the '*Relevant number of votes*'.

12.2. Resulting number: The relevant number of votes is divided by the number of members to be elected to that local authority reduced by 2. (Two reduced seats are the *Bonus Seats* given to the party or the group that receives the highest number of votes.) The whole number resulting from the division is referred as the *Resulting Number*.

12.3. Determination of the number of members elected: This is determined by dividing the number of votes given to each party or independent group by the resulting number. In this process the R.O. will first take the party or the group with the highest number of votes and then the next highest and so on. The whole number arrived at by this division is treated as the number of members elected from each party or group. After this determination if there are still more members to be declared as elected to that local authority the remainders left after the division are considered. Along with the remainder of the number of votes given to parties or groups which did not have any members elected in the division i.e. those that polled less than the resulting number, are considered at this stage. A party or the group with the highest number of votes at this stage is given a seat and if still more has to be declared elected the parties or groups

with next highest votes is allotted a seat and so on until all the members of the local authority are declared elected.

12.4. Declaration of names of members elected based on the preferences: After the statements of preferences counted for candidates are received from all the counting centres the R.O. will add the figures and arrive at the number of preferences that the candidates of all the parties and groups have received. The names of the members elected from each party and independent group is determined on the basis of the number of preferences received by the candidates. (Section 65(c))

12.5. Equality of votes or preferences: Where an equality of votes or preferences is found the winner will be determined by drawing of lots by the Returning Officer. (Section 65(1)(d))

12.6. Election of Mayor/Chairman and Deputy Mayor/Vice Chairman: The party or the independent group which received the highest number of votes and was awarded two bonus seats will be notified by the Returning Officer to name the candidates who should be appointed as Mayor/ Deputy mayor, Chairman Vice Chairman. On receipt of the reply the Returning Officer will publish a notice in the Gazette giving the names of the Mayor/Chairman, Deputy Mayor/Vice chairman and the other members of the local authority. If no reply is received within the specified period R.O. will declare the two candidates with the highest number of preferences as Mayor/Chairman and Deputy Mayor/Vice Chairman.

13. Offences

13.1. Election offences: are specified in Sections 76 to 78, 81A, 81B, and 82 of the Ordinance. They are as follows:

- i. Disclosure of certain information relating to voting at polling stations and count of votes at counting centres.
- ii. Forging or fraudulently defacing, destroying any nomination paper, delivery of forged nomination paper.
- iii. Signing of an affidavit of a youth candidate knowing that one or more statement in the affidavit is false.

- iv. Forging or counterfeiting, defacing or destroying of a ballot paper.
- v. Supplying a ballot paper to any other person.
- vi. Sells or offers to sell, purchases or offers to purchase ballot paper.
- vii. Possessing of a ballot paper with the official mark.
- viii. Displaying of a marked ballot paper in the polling station.
- ix. Putting anything other than a ballot paper into the ballot box.
- x. Taking out of a polling station a ballot paper.
- xi. Destroying, taking or opening or interfering with the ballot box or ballot papers.
- xii. Printing of ballot papers.
- xiii. Manufacturing, constructing or importing possessing any appliance or device by which ballot papers may be extracted from a ballot box.
- xiv. Making a false statement in applications for postal voting or in a declaration of identity.
- xv. Destroying, taking, opening, or tampering with an application for postal voting, declaration of identity or any covering envelope or a ballot paper envelope.
- xvi. Canvassing or soliciting of votes, persuading voters to vote for any party or group or refrain from voting, distributing handbills posters etc., using and operating a loudspeaker or behaving in disorderly manner on polling day within a distance of a quarter mile from the polling station.
- xvii. Using of any building on the day of the poll to promote the election other than the residence of the candidate.
- xviii. Conducting or holding of processions to promote the candidature during the period commencing from the 1st date of the nomination period and ending on the day following the date of poll.
- xix. Displaying of handbills flags banners etc. in any public place commencing from the 1st day of the nomination period and ending date following the day of poll. (Flying of a flag or displaying of posters on the vehicle used for conveyance of the candidate or at a place where a public meeting is to be held are permitted)
- xx. Voting more than once.

13.2. Corrupt practices: Sections 82A to 82F of the Ordinance specifies the corrupt practices.

- i. impersonation. Votes in person or by post as some other person.
- ii. Treating. Offering food and drink.
- iii. Undue influence. Using force, threatening to use force, uttering any politically favourable messages/words at a religious assembly, termination of services or threatening to do so by an employer, bribery

13.3. Illegal practices: Sections 82G to 82N specify the illegal practices as follows:

- i. Expenditure considered illegal practice. Payment to transport voters to polling stations, use of house or land or building.
- ii. False reports in newspapers regarding utterances or activities of the candidates, political party or independent group or regarding the conduct or management of the election.
- iii. Employment of persons on payment other than polling agents and reasonable number of clerks and messengers.
- iv. Printing and publishing of advertisements, handbills, placards, posters, etc. without the name of the printer and the publisher.

14 Election petitions

A member of a local authority can be unseated if found guilty of a corrupt or illegal practice. (Section 82O) An election to a local authority shall be declared void on an election petition on the grounds of general bribery, treating intimidation or misconduct. (Section 82 P(1) (a))

The election of a member of a local authority can be declared void on an election petition on grounds such as corrupt or illegal practice, engaging a person as canvasser or agent if such persons has been found guilty of corrupt practice within a period of 7 years or a person on whom civic disability has been imposed or on the ground that the candidate was a person disqualified from being elected. (Section 82P)

A High Court Judge will hear an election petition. (Section 82Q)

Any person who claims to have had a right to be elected or a candidate can present an election petition. (Section 82R)

Determination of the Election Judge (Section 82W) can be challenged by an appeal to the Supreme Court. (Section 82Y) The determination of the Election Judge or of the Supreme Court will be transmitted to the President. (Section 82AC) The President will published the determination in the Gazette. (Section 82AE)

On publication of the determination in the Gazette the Returning Officer will take follow up action in terms of the determination. (Section 82AE)

The time within which an Election Petition can be presented is 21 days after the publication of the results in the Gazette.

CHAPTER VIII

REFERENDUM

1. Introduction

The concept of referendum was introduced to Sri Lanka with the promulgation of the Second Republican Constitution in 1978. Chapter XIII of the Constitution deals with the circumstances under which a referendum is held. Article 87(1) of the Constitution states that the Commissioner of Elections shall conduct every referendum, the results of which should be communicated to the President. The law relating to the holding of an referendum is laid down in the Referendum Act, No. 7 of 1981.

When a Referendum is required to be held, the President will issue a Proclamation published in the Gazette. The Proclamation will specify the proposal in the form of a question which should be answered by "Yes" or "No". It will also specify the day on which the Referendum should be held which should not be earlier than 30 days from the date of publication of the Proclamation. (Section 2 of the Referendum Act)

2. Register of electors

The register of electors that will be used will be the register in operation on the date of publication of the Proclamation. The Electoral Districts, Polling Divisions and Polling Districts in the operative register will apply to the referendum. (Section 5 of the Referendum Act)

3. Polling stations - notice

Within three weeks from the date of publication of the Proclamation the Commissioner is required to publish a notice in the Gazette specifying the situation of polling stations for the polling districts. (Section 4 of the Referendum Act)

4. Referendum Returning Officer and District Returning Officer

The Commissioner is required to appoint a person to be the Referendum Returning Officer for the Republic and one or more others to assist the Referendum Returning Officer. The Commissioner also appoints a Returning Officer for each Electoral District and several others as Assistant Returning Officers. (Section 7 of the Referendum Act)

5. Appointment of Referendum Agents

The Secretary of any recognized political party can appoint a Referendum Agent for each electoral district. Such appointment should reach the Referendum Returning Officer not later than 10 days from the date of Proclamation. The Referendum Agent has the power to appoint polling observers and counting observers. (Section 8 of the Referendum Act)

6. Voting by Post (Section 9)

Please see Chapter III regarding postal voting. The procedure described therein applies in the case of a referendum. (Section 9), except that there is no sorting of ballot papers according to candidates. Instead sorting is done on the basis of symbols, viz the Lamp and the Pot.

7. Official poll card

An official poll card in which the

- (i) the name and the number of the electoral district,
- (ii) the polling division name,
- (iii) the polling district number,
- (iv) the name, qualifying address and the registration number,
- (v) the name of the polling station, and
- (vi) the date and hours of poll

are specified, should be sent by the Returning Officer to reach each voter on or before seven days from the date of poll. The poll card will be delivered to the voter by the Postal Department. Any undelivered poll card will be kept at the

post office until the date of poll to be collected by the voter on production of an identity document. (Section 10 of the Referendum Act)

A poll card should not be transferred to another person, sold or offered to be sold to another person. Possession of a poll card that belongs to another person is an offence.

8. Poll staff

The Returning Officer will appoint one or more Presiding Officers to a polling station with one of them designated as the Senior Presiding Officer (S.P.O.) and others as Junior Presiding Officers (J.P.O.). (Section 11 of the Referendum Act)

9. Facilities at polling stations

Each polling station is also provided with one or more cubicles for voters to mark their ballot papers in secret, ballot boxes, copy of the extract of the register with the names of voters who have been given postal voting facility or authorized to vote at another polling station under Section 76B marked in the register, ballot papers, etc. (Section 12 of the Referendum Act) Also Please see Chapter IX.

10. Notices to be exhibited at polling stations

The following notices are exhibited at each polling stations:

- (i) A notice in Sinhala, Tamil and English giving guidelines to voters. A specimen of the notice is given in the Second Schedule to the Act. This notice should be exhibited inside the cubicle and at several places outside the polling station.
- (ii) A notice specifying the Proposal put to the People. (Section 13 of the Referendum Act) This notice should be displayed at several places outside the polling station.

11. Ballot Paper

The Ballot Paper to be used at a Referendum will be different from the usual ballot paper since there are no contesting political parties or candidates. A sample of the ballot paper is shown in the Third Schedule to the Referendum Act Act. Accordingly the ballot paper will have on it the question put to the people and on the right-hand side, two cages, one below the other, with the word "Yes" and the symbol " Lamp" printed on the top cage and the word "No" and the symbol "Pot" printed on the cage below. There will be two empty cages against each for the voter to mark his/her vote. Each ballot paper will be serially numbered on the back with a counterfoil on which the same serial number is printed on the face. (Section 15 of the Referendum Act)

12. Polling Observers

The Referendum Agent appointed under Section 8 of the Referendum Act, can appoint Polling Observers to each polling station. The number that can be appointed is one or more but only two observers will be permitted inside a polling station at one time. The letters of appointment giving the name, address and national identity card number of the observer should be given to the S.P.O. at the polling station.

The Referendum Agent may delegate his/her powers to appoint observers and not more than one person may be so appointed for each polling division. Any delegation shall be notified to the Returning Officer in writing not less than seven days before the date of the poll. (Section 17 of the Referendum Act)

Although a reasonable number of referendum observers can be appointed to a polling station, only two observers can be present at one time inside the polling station. (Section 17 of the Referendum Act)

13. The poll

13.1. Arrangements of a polling station: The seating arrangements for the poll staff (3 clerks) will be at the entrance to the polling station with the observers seated in front or behind the poll clerks where the number of voters is less than

900. In a station where there are more than 900 voters the poll clerks will sit on either side of the entrance (3 to 4 on each side) with observers seated behind. The S.P.O's table and chair will face the entrance so that the S.P.O from his/her seat could see activities and also hear the announcement of the 1st clerk and also objections that may be raised by observers.

The ballot box should be placed in front of the S.P.O's table. The cubicle shall be placed in such a way that the voter could cast his/her vote in secret.

13.2. Sealing of the ballot box: Before the commencement of the poll, the presiding officer should show the empty ballot box and then lock it and seal it with S.P.O.'s seal. The key to the box should also be placed inside an envelope and sealed. The observers should be allowed to place their seals on the box, with samples of such seals given to the Presiding Officer.

The observers present should also be shown the ballot papers, official mark and the copies of the registers of electors. (Section 19 of the Referendum Act)

13.3. Commencement time: The issuing of ballot papers to voters shall commence at 7.00 a.m. or at the hour fixed by the Commissioner. (Section 16 of the Referendum Act)

13.4 Issue of ballot papers: Only one ballot paper will be issued to a voter. The procedure adopted when a voter calls for a ballot paper is explained below. The first clerk should ask the voter for his/her name and then take over the poll card if the voter has it and the voter's national identity card or other identity document issued by a government authority should also be checked. After tracing the name in the voters register the clerk should satisfy himself of the identity of the voter by examining the document of identity brought by the voter. If he/she is satisfied of the voters of identity, he/she should read out the name and the serial number of the voter to be heard by the 3rd clerk and the observers. If no objection is raised against the voter by a polling observer, the 1st clerk will place a mark against the name of the voter in the register to indicate that the voter has voted. The second clerk will examine the little finger or in the absence

of the little finger, the next finger on the left-hand of the voter. If he/she is satisfied that the voter's finger does not have a mark similar to the indelible mark used at an election, he/she should apply indelible ink on the finger. The voter then moves to the 3rd clerk. He will enter the serial number of the voter on the counterfoil of the ballot paper, and the ballot paper is then detached from the counterfoil, official mark is placed on the margin of the ballot paper and handed over to the voter. The voter then proceeds to the cubicle or compartment, marks his/her ballot paper, folds it into two and drops it into the ballot box. (See 2nd Schedule to the Referendum Act.)

13.5. Instances where the Poll Clerks will not issue a ballot paper and refer the voter to S.P.O. :

- i. The voter does not bring an identity document.
- ii. The voter does not bring a poll card and his/her name cannot be traced.
- iii. The voter's finger has already been marked with the indelible ink.
- iv. The voter refuses to allow an inspection of the finger.
- v. The voter refuses to allow to mark the finger with indelible ink.
- vi. An observer raises an objection against the voter.
- vii. Such voters should not be turned away, but referred to the S.P.O. for a decision.

13.6. Voters to whom ballot papers are not issued:

- i. Voters who do not produce a valid identity document. (Act No. 14 of 2004)
- ii. Voters who do not allow the finger to be examined.
- iii. Voters who do not allow the finger to be marked with indelible ink.
- iv. Voters whose finger is already marked
- v. Voters against whom an objection has been raised and refuses to sign the appropriate declaration.

A list of voters to whom ballot papers were not issued should be maintained. (Section 36(2) of the Referendum Act)

13.7. Assistance to voters:

If a voter requests for assistance with regard to the manner of voting, the S.P.O or another officer should explain the manner of voting in such a manner that it is heard by the voter as well as the observers. (Section 23 of the Referendum Act)

If a voter who is incapacitated due to blindness or any other physical disability requests for assistance, the S.P.O. in the presence of another member of the staff, may mark the ballot paper as directed by the voter. (Section 23 of the Referendum Act)

13.8. Plural voting

It is an illegal practice to vote in more than one Electoral District or ask for a ballot paper for that purpose or vote more than once in same electoral district or ask for a ballot paper for that purpose. (Section 24 of the Referendum Act).

13.9. Subscribing to the declaration by voter

A Presiding Officer can, at his/her discretion or at the request of a polling observer, ask a voter to subscribe to all or any of the declarations in forms, C, D, E and F as set out in the Third Schedule.

If any voter refuses to make such declaration the Presiding Officer will refuse to give him a ballot paper. (Section 26 of the Referendum Act)

13.10. Spoilt ballot papers

If a voter inadvertently spoils a ballot paper and he/she requests that it be replaced, the S.P.O. if satisfied that the ballot paper was inadvertently spoilt, will provide to the voter another ballot paper. The spoilt ballot paper should be taken over by the S.P.O. and cancelled immediately. (Section 27 of the Referendum Act)

13.11. Tendered votes

When a person comes to a polling station and calls himself a voter in the register and asks for a ballot paper and if it is found that another person has already voted in that name, the applicant is asked to sign a declaration, form 'G', and he/she is entitled to receive a tendered ballot paper. The details of the person's

registration are noted in the tendered ballot paper and the tendered votes list by S.P.O. (Section 28 of the Referendum Act)

13.12. Close of Poll

No ballot paper will be issued to a voter after the hours fixed for voting. Any voter who has been issued with a ballot paper inside the polling station and is waiting to mark it, should be allowed to mark his/her ballot paper. (Section 29 of the Referendum Act)

13.13. Procedure after the closure of the poll

After the last voter (See para 13.15 above) has cast his/her vote the opening on the ballot box shall be closed and sealed. Observers too can be allowed to place their seals.

The S.P.O. will then proceed to sort all the documents required to be delivered to the R.O. He/She will place them inside the appropriate cover, paste and seal them. (Section 30 of the Referendum Act)

14. Count of Votes

14.1. The Returning Officer will appoint a Counting Officer for each counting centre to be in charge of all the activities of a counting centre. In addition several assistants and clerks are also appointed by the R.O. to assist the counting officer. (Section 31 of the Referendum Act)

14.2. The Returning Officer will notify each Referendum Agent or the person to whom the Referendum Agent's powers are delegated, under Section 17(2), of the date, time and place of the count. Also included will be a statement showing the list of counting centres and polling stations assigned to each counting centre. The law does not state the date by which this notification should be sent but the R.O. will send the notification as soon as the counting centres are finalized. (Section 32 of the Referendum Act)

The Referendum Agent or the person referred to in Section 17(2) should inform the Returning Officer in writing of the names, addresses and identity card

numbers of two counting observers assigned to each counting centre (Section 33 of the Referendum Act) who have been assigned to attend the counting.

14.3. The Counting Officer should commence the count after all the ballot boxes assigned to the counting centre have arrived. However before he/she commences the count, he/she should consult the R.O., and obtain his/her instructions, if for any reason, the commencement has to be delayed.

14.4. The ballot paper accounts are shown to the counting observers present and they are permitted to obtain copies of them. (Section 34 of the Referendum Act)

14.5. Each Ballot Box is opened separately, and the number of ballot papers found in such box counted. The numbers found in the box is compared with the number issued (in the Ballot Paper Account). Any discrepancy is noted in the journal.

14.6. The contents in each box are then transferred to a trough.

14.7. After all the ballot boxes have been opened and the contents counted and transferred to the trough, all the ballot papers in the trough are mixed together.

14.8. The ballot papers in the trough are transferred in bundles to the counting table and then staff will commence sorting the ballots according to the symbols - Lamp and Pot.

14.9. The sorted ballot papers are then counted and bundled together in bundles of 50.

14.10. The counting staff will check the bundles one or more times as the counting officers directs.

14.11. The Counting Officer may also check the bundles at random and satisfy himself that the ballot papers have been sorted and counted correctly.

14.12. The Counting Officer will announce to the Observers the result and enquire if they are satisfied with the count.

14.13. Up to two recounts will be allowed at the request of observers.

14.14. After, recounts if any, are over the Counting Officer will prepare a statement of the number of votes counted to the two symbols. This statement will be sent to the R.O. The observers will be permitted to take a copy of the statement. (Section 35(7) of the Referendum Act.

14.15. In the sorting process, the ballot papers which are considered doubtful by the staff will be referred to the C.O. Doubtful ballot papers are -

- (i) those without the official mark,
- (ii) those where the vote is marked both for and against the proposal,
- (iii) those in which anything is written or marked by which the voter could be identified,
- (iv) those not marked for or against,
- (v) those where the vote is not clearly marked.

The Counting Officer will examine each doubtful ballot paper and decide whether to accept or reject. Before rejecting a ballot paper he/she will show it to the observers. The word "rejected " will be written on the ballot paper by the counting officer. (Section 35 of the Referendum Act)

14.16. A statement of the ballot papers rejected should be prepared and allow any observer who wishes to be allowed to copy down the particulars.

14.17. The Postal Ballot Papers too should be counted in the manner explained in the Chapter III.

14.18. The R.O. will after he/she receives reports under Section 35(7) referred to in paragraph 14.14 from all the counting centres, including postal counting centres and displaced voters' counting centres will prepare a statement of the total number of votes counted for the 2 symbols and transmit the statement to the Referendum Returning Officer who will function at the Head Office of the Department. (Section 39)

15. Preparation of the final result

The Referendum Returning Officer after the receipt of statements from all the Returning Officers will prepare a statement showing the following for the entire Island:-

- i. Number of votes given in favour of the proposal.
- ii. Number of votes given against the proposal.
- iii. Number of voters rejected.
- iv. Number of voters registered.

and then transmit it to the Commissioner. The Commissioner will in turn transmit it to the President.

16. Offences (Sections 44 -51)

- i. Forging, counterfeiting or fraudulently destroying a ballot paper.
- ii. Supplying a ballot paper to any person.
- iii. Wilfully exhibiting a marked ballot paper.
- iv. Selling or offering to sell, purchase or offering to purchase a ballot paper.
- v. Unlawful possession of a marked ballot paper.
- vi. Putting into the ballot box anything other than a ballot paper.
- viii. Taking out a ballot paper from the polling station.
- ix. Destroying, taking away or tampering with a ballot box.
- x. Printing of ballot papers.

- xi. Manufacturing or importing or any appliance, device or mechanism by which a ballot paper could be extracted from a ballot box.
- xii. Making false statements in postal voter applications or declaration of identity.
- xiii. Printing of poll cards.
- xiv. Places an appropriate mark on a voter similar to the official mark placed on the finger.
- xv. Voting knowing that he/she is disqualified.
- xvi. Canvassing and soliciting of votes, persuading an elector not to vote and distribution of handbills, placards, posters, etc. on the date of poll.
- xvii. Using of/or operating of any megaphone or loudspeaker on polling day within or at the entrance of a polling station.
- xviii. Acting in a disorderly manner within or at the entrance to a polling station.
- xix. Conducting or taking part in processions from the date of publication of the Proclamation until the date after the announcement of the result.
- xx. Holding of public meetings during the period commencing forty-eight hours before the date of poll.
- xxi. Printing and publishing of advertisement, handbill, placard or poster which does not have the name and address of the printer and publisher.
- xxii. Maintaining of a referendum office other than one central office in each electoral district and one in each polling division commencing from the day preceding the date of poll and the day immediately following.
- xxiii. Displaying of flags, banners in any premises, across a public road, in or on any vehicle during the period commencing from the date of publication of the Proclamation and ending on the day following the date of poll. However, display of flags, banners, etc. is allowed on the premises where a public meeting is to be held to promote the Referendum.

- xxiv. Maintaining of secrecy in regard to the names and number of persons who voted and similar matters in a polling station.

17. Corrupt practices (Sections 52 to 56)

- (i) Impersonation or voting more than once.
- (ii) Treating of voters - offering food and drink.
- (iii) Undue influence - use of force, threats, duress etc. which will prevent free exercise of the franchise.
- (iv) Influencing of voters at a religious assembly.
- (v) An employer who attempts to influence his/her employees.
- (vi) Bribery.

18. Illegal practices (Sections 57 to 61)

- i. Conveyance of voters to the polling stations in vehicles.
- ii. False reports in newspapers.
- iii. Employment of persons.

19. Holding of another Referendum

When a referendum could not be held in any district or a part of it, the President may order another referendum to be held in those areas, provided that the number of voters in those areas is such that the result could have been materially affected. (Section 63 of the Referendum Act)

20. Leave to employees to cast their votes

Employers are required to grant leave to their employees if a written application is made by an employee for the purpose of voting. A minimum of 4 hours leave without loss of pay should be granted. (Section 71 of the Referendum Act)

21. Post-free facility to recognized political parties

Secretaries of recognized political parties can send by post an item of literature to every voter. Such communication should be sent ten days before the date of poll. (Section 74 of the Referendum Act)

22. Free radio and TV broadcasting facility

Recognized political parties are granted a broadcasting facility on radio and television free of charge. Such broadcasts should end 72 hours before the commencement of the poll. The period allowed will be decided on by the Commissioner on the principles specified in Section 75 as amended by At No. 17 of 1988.

23. Voting at another polling station by displaced voters (Section 76B)

Please see Chapter 1X.

24. Referendum petitions

A referendum petition can be filed in the Supreme Court on the following grounds by a Secretary of a recognized political party or by an elector, on the grounds of:-

- i. general bribery.
- ii. non compliance with the provisions in the Act.
- iii. commission of corrupt or illegal practice.

Referendum petitions should be filed within twenty one days of the publication of the results of the referendum in the gazette.

A referendum petition should be heard by five Judges of the Supreme Court one of whom should be the Chief Justice or another Judge directed by him.

A petitioner can claim a declaration to declare void the Referendum in respect of the whole island or in respect of any electoral district.

The Supreme Court's determination will be sent to the President, who will transmit it to the Commissioner.

The Commissioner will publish the determination of the Supreme Court and take follow up action in terms of the determination.

CHAPTER IX

DISPLACED VOTERS - FACILITY TO VOTE AT ANOTHER POLLING STATION

1. Provisions have been made for the Presidential Elections, Parliamentary Elections, Provincial Councils Elections and Referenda for a facility for the voter who is compelled, by conditions prevailing in the area within which his/her polling station is situated, to reside outside such area and who reasonably fears that he/she would not be able to cast his/her vote at such polling station, to apply to the Commissioner within one week of the notice of nomination requesting that he/she may be allowed to cast his/her vote at another polling station. The Commissioner will on receipt of such an application, inform the applicant within a week if the application is allowed or rejected. The polling station where such voter is allowed to vote is decided by the Commissioner in his/her absolute discretion. This facility has been permitted under the following amendments to the various principal Acts:-

1. Act, No. 16 of 1988 - Section 119B (Presidential)
2. Act, No. 15 of 1988 - Section 127B (Parliamentary)
3. Act, No. 7 of 1993 - Section 125A (Provincial)
4. Act, No. 17 of 1988 - Section 76B (Referenda)

2. The law does not lay down a specific procedure to be followed. The Commissioner in his/her discretion, keeping to the principles followed at elections, calls for applications from such persons on a specified form devised for this purpose. The application has to be certified by the Grama Niladhari or by the Officer-in-Charge of any refugee camp. The Grama Niladhari/ OIC refugee camp is also required to indicate the polling station at which the applicant could cast his/her vote.

3. On receipt of an application it is checked with the register of voters of the area from which the applicant was displaced, and the applicant is informed as to whether the application is allowed or rejected.

4. A register of voters who have been given this facility is prepared at the Office of the Commissioner and copies of it sent to the Returning Officers concerned. The

contesting political parties and independent groups are also supplied with copies free of charge.

5 The displaced voters are also sent a communication by the Commissioner indicating the number allotted to the application, serial number assigned to him, in the displaced voters' list and the situation of polling station, at which he/she could cast his/her vote etc.

6. The Returning Officer of the District where the voter is registered has to supply the ballot paper to the Returning Officer of the District where the voter will be casting his/her vote. The Returning Officer of the District of Voting will make arrangements to provide additional facilities such as staff, ballot boxes etc. at the polling station where the displaced voters will vote. In most areas, the polling stations for displaced voters are the normal polling stations used for voters of the area, but in areas where there is a concentration of refugees, special polling stations are set up exclusively for displaced voters. The parties and independent groups in the contest are permitted to appoint polling agents to the polling stations.

7. The counting of votes of displaced voters' will take place in the district where they voted. The Returning Officer will make arrangements as in other counting centres for votes of displaced voters to be counted and the result transmitted to the Commissioner and the Returning Officer of the District, in which the voter is registered. Contesting political parties and independent groups are allowed to appoint counting agents to observe the proceedings.

CHAPTER X

Disturbances at polling stations, annulment of poll and re-poll

Elections (Special Provisions) Act, No. 35 of 1988 has given powers to the Commissioner to annul an election and order a re-poll where necessary due to interruption to a poll at Election of a President, Parliamentary Elections and Provincial Councils Elections. Under this Act, the Senior Presiding Officer is required to inform the Returning Officer without delay if any of the following incidents occur at a polling station:

- (i) the poll could not commence at the specified time.
- (ii) having commenced the poll on time, it could not be continued uninterrupted until the scheduled closing time.
- (iii) ballot box or boxes could not be delivered to the counting officer.

The Commissioner is empowered to annul the poll in the polling stations where the incident occurred after inquiring into the reported incidents. The votes cast at such polling stations will not be counted.

After counting of votes is completed and reports of all the Returning Officers have been received, if the Commissioner is of the opinion that the result of the election will not be effected by the decision not to count votes of annulled polling stations, he/she will proceed to declare the result of the election after consulting the candidates. Where the Commissioner is of the opinion that the result could have been affected then he/she will order a re-poll to be held in those polling stations.

Due to widespread violence at polling stations in elections held in late 1999 and in 2000 despite above provisions, the Centre for Policy Alternatives filed a Fundamental Rights case before the Supreme Court and claimed that the above provisions were not sufficient to curb incidents at polling stations and sought relief in the form of issue of guidelines with regard to the conduct of election campaigns and in regard to annulment of polls and removal from count of ballot papers where violence and other incidents had occurred. (Supreme Court Case No. 640/2000).

As a result of this Case on instructions received from the Supreme Court, the Commissioner in consultation with the Secretaries of recognized political parties prepared certain guidelines to strengthen the provisions in the Elections (Special Provisions) Act, No. 35 of 1988. The guide lines were submitted to the Supreme Court. In terms of these guidelines, the Commissioner is empowered to annul an election or remove from the count, ballot papers of a polling station and to order a repoll on the following grounds in addition to the incidents mentioned in the first paragraph:—

- i. inability of the S.P.O. to continue the poll due to any reason beyond the control of the S.P.O.
- ii. threatening, assaulting or chasing away of one or more polling agents during the poll.
- iii. inability of a member of the staff of the polling station to arrive at the polling station due to obstructions to the road.
- iv. breakdown of the peaceful atmosphere at a polling station preventing continuation of the poll.
- v. stuffing of ballot boxes by unauthorized persons.
- vi. any incident preventing the conduct of free, fair and successful poll at any polling station.

These provisions apply to the Presidential Elections Act (Section 46A), Parliamentary Elections (Section 48A) and the Provincial Councils Elections (Section 46A). The Local Authorities Elections Ordinance does not have this provision but if the necessity arises the Commissioner may apply the principles of this law in consultation with Secretaries of political parties.

CHAPTER XI

Establishment of the Election Commission under the Seventeenth Amendment to the Constitution

1. **The Seventeenth Amendment to the Constitution:** was enacted by Parliament on 3rd October, 2001. It provides for the establishment of a Constitutional Council and several other Commissions including the Election Commission.

The Constitutional Council will consist of the following:

- (a) the Prime Minister.
 - (b) the Speaker of Parliament, who will be the Chairman.
 - (c) the Leader of the Opposition.
 - (d) one person appointed by the President.
 - (e) five persons appointed by the President on the nomination of both the Prime Minister and the Leader of the Opposition.
 - (f) one person nominated by members of Parliament belonging to political parties and independent groups other than those that belong to the parties or groups to which the Prime Minister and the Leader of the Opposition belongs to. (Article 41A of the Constitution)
2. **Constitution of the Election Commission:** In terms of Article 41B, the Constitutional Council has to select the persons for membership in various Commissions and recommend names to the President, who shall appoint them. The name of the Chairman of a Commission is also recommended by the Constitutional Council. Article 41B(1) specifically states that no person shall be appointed as Chairman and Members of a Commission except on a recommendation of the Constitutional Council.
 4. **Appointment of Election Commission:** The Election Commission will consist of five members appointed by the President on the recommendation of the

Constitutional Council. The nominees to the Commission shall be persons who have distinguished themselves in any profession or field of administration and education. One of the members will be appointed as Chairman, also on the recommendation of the Constitutional Council (Article 103 (i)).

5. **Object of the Commission:** The object of the Commission is to conduct free and fair elections and referenda (103(2))
6. **Powers, functions and duties:** Chapter XIVA contained in the Seventeenth Amendment deals with the establishment of the Election Commission, its powers, functions and duties, deployment of police, deployment of the Armed Forces and the appointment of the Commissioner-General of Elections and the other officers of the Commission, Returning Officers, Public Officers, Power of the Supreme Court to issue writs, etc. The Commission shall exercise, perform and discharge all powers, duties and functions conferred or imposed or assigned to the Commission or the Commissioner-General of Elections, by the Constitution including election of the President, members of Parliament, Provincial Councils, Local Authorities and conduct of Referenda, and duties and functions relating to the preparation and revision of registers of electors. (Article 104B(i))
7. **Annual report to Parliament:** The Commission is responsible and answerable to Parliament and shall forward to Parliament for each calendar year a report on its activities. (Article 104 B(3)) Even before promulgation of this Amendment the Commissioner submits his/her annual report to the Parliament after approval by the Cabinet of Ministers. After the conclusion of an election a report on the election is also published as soon as practically possible.
8. **Use of State property during periods of election:** The Commission is empowered to prohibit the use of any movable or immovable property belonging to the State or any public corporation during the period of election to promote or prevent election of any candidate, political party or independent group contesting an election. (Article 104B(4)) For this purpose the Commission can issue directions to Heads of State Institutions but has no powers to enforce such directions.
9. **Guidelines to the media:** The Commission is empowered to issue guidelines to the Media to ensure a free and fair election. The S.L.B.C. and the S.L.R.C. are

required to comply with the guidelines. (Article 104B(5)) If these two institutions fails to comply with the guidelines, the Commission have the power to appoint a Competent Authority to monitor all broadcasts of a political nature or any programmes which could affect an election.

10. **Deployment of the Police:** During a period of election, the Commission can notify the I.G.P. of the facilities and the number of police officers required to hold or conduct an election or referenda and the I.G.P. is required to comply with the request of the Commission. (Article 104C)
11. **Deployment of Armed Forces:** The Commission is empowered to recommend to the President regarding the deployment of the armed forces for the prevention or control of activities or incidents which will adversely affect the holding or conducting of a free and fair election or referendum.
12. **Commissioner General of Election:** The Commission can appoint the Commissioner-General subject to the approval of the Constitutional Council.

The Commissioner-General shall subject to the discretion of the Commission, implement the decisions of the Commission and exercise supervision over the officers of the Commission.

The Commission may delegate to the Commissioner-General or other officers of the Commission any power, duty or function of the Commission. (Article 104E)

CHAPTER XII

ELECTION OBSERVATION

1. Parliamentary and Local Elections in Sri Lanka have a long history compared with most of the democratic countries in the Commonwealth. Sri Lanka has enjoyed adult franchise since 1931. Elections in the country were held till 1977 in a very free and fair manner and peacefully. Election malpractice and violence were never a problem. The only serious incident that one could recall occurred after the State Council Election of 1947 when a supporter of the winning candidate in Matale was shot dead while participating in a victory procession. Governments changed frequently at general elections held since independence was gained in 1948, by using the peoples' ballot and not the bullet.
2. However the Parliamentary General Election in July 1977 saw violent incidents taking place especially after the poll, involving damage to property and killing of supporters of the losing political party. Subsequent elections, especially the Referendum of 1982 to extend the life of the Parliament, saw the ugly head of violence rising even at polling stations. Election laws were violated openly, ballot boxes were stuffed, polling agents obstructed and the conducting of the poll disrupted.
3. The situation drew the attention of the public as well as civil society organizations and stringent measures to curb the trend were demanded. The disturbing events of 1988 when there was a civil uprising worsened the situation. The Commissioner was powerless and the co-operation that was received from the authorities responsible for law and order was not adequate. In 1988, election laws were strengthened by giving the Commissioner power to annul polls and order re-polls.
4. It was in this background that demands were made to invite independent international observers to observe the elections. As a result the Commissioner with the concurrence of the contesting political parties and candidates decided to invite international observers during the period of elections. At the beginning a group of eminent persons mainly from Commonwealth countries was invited.

Subsequently, instead of inviting individuals, the Commissioner decided to invite organisations like the Commonwealth Secretariat, European Union and the Association of Asian Election Authorities to send their representatives to observe elections. They spent about two weeks in the country observed the election and produced their report. This led to a reduction in the degree of violence and intimidation but a group of 100 or so observers could not have an impact on the polling which was spread all over the country in nearly 10,000 polling stations.

5. Civil society took cognizance of the situation and in order to quell the situation, organizations like PAFFREL and CMEV volunteered to observe the elections. Although elections laws do not permit outsiders to enter polling stations or counting centres the international observers who were invitees of the Commissioner were given the privilege to enter polling stations and counting centres, treating them as official observers.
6. In view of the restriction in the laws the Commissioner could not extend the facility to domestic observers. However with the passage of time, it was seen that election observation by local observers also had an impact in curbing widespread violence and election malpractices. The local organizations, especially PAFFREL was well organized and was able to cover almost all the polling stations at an election. Hence, after a few years the Commissioner for the first time in 2004, permitted observers of the PAFFREL and CMEV to enter polling stations and observe the process. The organisations were also requested to forward to the Commissioner of Elections a report on the result of their observations. At the Presidential Election in November 2005, a new organization, Diriya Foundation was also given the facility to enter polling stations. Initially there was a reluctance on the part of certain political parties to agree to permit domestic observers to enter polling stations but gradually due to persistent requests from civil society that attitude has now changed.
7. The following organizations are domestic observation groups recognized by the Commissioner of Elections.
 1. People's Action for Free and Fair Elections, Colombo 6. (PAFFREL)
 2. Centre for Monitoring Election Violence, Colombo 3. (CMEV)
 3. Diriya Foundation, Kalutara.

CHAPTER XIII

POLLING AGENTS AT POLLING STATIONS AND THEIR ROLE

In the appointment of persons to function as polling agents at polling stations, political parties, independents groups and candidates should try to select persons who are residents in the area who generally know the identity of voters. This will enable them to identify any person who tries to engage in impersonation of voters.

The polling agent should have in his/her possession a letter of appointment issued by the Divisional Agent, Authorized Agent or the Secretary of a recognized political party or the leader of the independent group. An authorized candidate could also function as the appointing authority. When the polling agent arrives at the polling station this letter of appointment and the national identity card or other recognized photo identity document should be brought and produced to the Senior Presiding Officer (SPO) of the polling station. The Polling agents should also have with him an extract of the voters' register pertaining to the polling station.

Although Election laws do not specify it, agents are advised to be preferably attired in neutral colours and also not display any party symbols. This will help in maintaining decorum and prevent unnecessary friction with agents of political parties and even voters.

Some of the recommended "dos" and "don'ts" are indicated below for the guidance of polling agents:

- i. Arrive at to polling station at least by 6.30 am.
- ii. Produce the letter of appointment and an identity document to the S.P.O. (the letter of appointment will be retained by the S.P.O.)
- iii. Sign the declaration of secrecy and hand over to the S.P.O.
- iv. Raise an objection, if any, against a voters' identity before his/her finger is marked with indelible ink and not after.
- v. Such objection should be addressed to the S.P.O. and not to the voter or a member of the staff.

- vi. Objections should be loud and clear so as to be heard by the S.P.O. and the polling clerk responsible of marking of the voter's finger.
- vii. The S.P.O. will conduct inquiries into the objection. Do not intervene in the inquiry other than to furnish any information asked for by the S.P.O.
- viii. Do not engage in any conversation with a voter against whom an objection was raised.
- ix. The voter's register in the possession of the polling agent should not be removed from the polling station. It should be handed over to the agent taking his/her place or left with the S.P.O.
- x. The agent should as far as possible remain in the polling station until the conclusion the poll. If an agent needs to go out of the polling station he/she should inform the S.P.O. and leave the electoral register with the S.P.O.
- xi. Do not engage in conversation or arguments with voters, rival agents and members of the staff.
- xii. Before commencement of the poll, the agents may examine the ballot box to be used and satisfy themselves that the box is empty.
- xiii. The S.P.O. will give the agents an opportunity to peruse the ballot papers, official mark, seal and the extract of the voters' register before the commencement of the poll.
- xiv. The agent could place their own seals on the ballot box or boxes. Samples of the seals shall be handed over to the S.P.O. Such seals should not have the parties or groups election symbol.
- xv. Agents may make any representation or complaints to the S.P.O. who will enter it in the journal which should be signed by the agent.
- xvi. Any observations or complaints regarding the conduct of the poll could be recorded in a separate booklet provided to record such observations and complaints. A copy of the entry will be given to the agent concerned.

Glossary of Terms in the Manual

AGENTS

Authorized Agent	:	The person whose name appears first in the nomination paper of a recognized political party at Parliamentary, Provincial Council or Local Authority Election.
Election Agent	:	The agent appointed by a Candidate at a Presidential Election
Polling Agent	:	The person appointed to function at a polling station to observe the proceedings on polling day at any election.
Appropriate Mark	:	The mark placed on the little finger of the left hand of a voter with indelible ink.
Article	:	A section in a Chapter of the Constitution
Assistant Elections Officer	:	The designation by which the Assistant Commissioner of Elections of a district is designated for purposes of election to Local Authorities.
Assistant Returning Officer	:	An officer appointed by the Commissioner to assist the Returning Officer of a District or an electoral area of a local authority.
Ballot Paper	:	The paper on which a voter marks his/her vote and preferences at a polling station or a postal vote marking centre in any election.
Bonus Seat	:	The bonus seat awarded to a recognized political party or an independent group which receives the highest number of votes at Parliamentary / Provincial / Local Authority Election.
Certifying Officers	:	An officer designated to certify postal votes applications and follow up action thereafter in regard to postal voting.
Chapter	:	A chapter in the Constitution
Chief Counting Officer (CCO)	:	The officer (ARO) in charge of the overall counting of votes at a counting centre.
Commissioner-General of Elections	:	The person appointed by the Election Commission under the Seventeenth Amendment to the Constitution.
Counting Officer	:	Officer (ARO) appointed to assist the chief counting officer (CCO)
Claims	:	Application made by a person to have his/her name or that of another included in the Electoral Register at the exhibition stage in the annual revision of electoral registers.

Covering Envelope	:	The envelop in which a marked postal ballot paper and declaration of identity are sent to the Returning Officer by a Certifying Officer.
Corrupt Practices	:	Offences relating to election campaigns. Enumerated in various elections Acts.
Consent of Candidate	:	The consent given by each Candidate to the candidature by placing his/her signature on the appropriate column in the nomination paper.
Deposit	:	The deposit required to be made in cash by a candidate at elections to the office of the President, and by candidates of independents groups at other Elections.
Displaced voters	:	Electors who are unable to vote at the polling station at which they are registered by having had to leave the area due to fear.
Elector	:	A person who is registered as a qualified voters in the Electoral Register.
Election Officer	:	Officer designated by this description under the Local Authorities Election Ordinance. The District Secretary / Government Agent is designated as the election officer of the District.
Election Offences	:	Offences enumerated in various Election Acts.
Electoral District	:	An administration District is treated as an Electoral District for elections to the office of the President, Parliament and Provincial Councils. Jaffna and Kilinochchi districts are treated as one Electoral District while Mannar, Vavuniya and Mulative as one Electoral District.
Election Commission	:	The Election Commission envisaged under the Seventeenth Amendment to the Constitution. This Commission will replace the current Commissioner of Elections.
Group Leader	:	The person whose name appears first as a candidate in the nomination paper of an independent group at Parliamentary, Provincial Council and Local Authority Election.
Independent Group	:	A group of persons who submits a nomination paper to contest an election as an independent group.
Indelible Ink	:	Ink applied on the little finger of a voter.
Local Authority	:	A Municipal Council, Urban Council or Pradeshiya Sabha.
National List	:	The list of 29 persons nominated by a registered political party or independent group at a Parliamentary Election before end of the nomination period, for appointment as

		Members of Parliament based on the number of votes obtained by the Party/Group at an election.
Official mark	:	The mark placed on a ballot paper before it is issued to voters.
Operative Register	:	The Electoral Register in operation or valid at the time of an election.
Objections	:	Objections raised against the name of a person in the Electoral Register at the annual revision of Electoral registers.
Postal Voter	:	A person who is permitted to vote by post instead of voting in person at a polling station on the date of election.
Postal Voter's Register	:	Register of voters who have been allowed to vote by post.
Poll Card	:	The intimation sent to every voter by the Returning Officers seven days before the date of the poll indicating registration details and the polling station.
Polling District	:	Polling Station area in the Electoral Register.
Polling Division	:	A sub-division of an Electoral District. A polling division is co-terminus with the former Parliamentary Electoral District.
Polling Observers	:	Person appointed by registered political parties to observe the poll at a Polling Station at a Referendum.
Polling Station	:	The centre at which voters of a Polling District cast their vote.
Returning Officers	:	The Officer in charge of the election at the district level.
Referendum Returning Officer	:	Officer appointed by the Commissioner at a Referendum.
Relevant Number of Votes	:	The total number of valid votes obtained by all parties and independent group at a parliamentary, Provincial Council and Local Authority Elections.
Resulting Number	:	The number of votes arrived at by dividing the relevant number of votes by the number of members to be elected reduced by the bonus seats.
Symbol	:	The election symbol assigned to recognized political parties, and to independent groups at an election.
Tendered Ballot Paper	:	Blue coloured ballot paper issued to a voter whose vote has already been given in his/her name by another vote.

Annexure A

Election observation groups recognized by the Commissioner of Elections

1. People's Action for Free and Fair Elections (PAFFREL)

No. 93/10, Dutugemunu Street, Colombo 6
Telephone : 011-2514441/2
Fax : 0115-557012
E-mail : paffrel@sltnet.lk
Chairman : Mr. Kingsley Rodrigo

2. Centre for Monitoring Election Violence (CMEV)

9/A, 5th Lane,
Colombo 3
Tele: 011-5540141-47, 011-5540149, 011-5621886, 011-5621904
Fax : 011-5540151-5
Director : Dr. P. Saravanamuttu

3. Diriya Foundation Incorporated

53, Sri Sumangala Road (S)
Kalutara North
Tele/Fax : 034-2225786
E-mail : diriya@sltnet.lk
Director/Secretary : Mr. Lionel Gulawita

4. Human Development Organization

37, Mulgampola Road,
Kandy
Tel: 0812-224430
Fax : 0812-224430
E-mail : hdo@ids.lk
Director : Mr. P. P. Sivapragasam

Annexure B

DEPARTMENT OF ELECTIONS

Updated on 05.03.2007

ADDRESS : Elections Secretariat, P.O. Box 02, Sarana Mawatha, Rajagiriya, 10107.

GENERAL TELEPHONE NUMBERS - 011-2868441, 011-2868442, 011-2868443

E-MAIL : election@st.lk

WEB SITE : slections.gov.lk

	NAME	OFFICE	FAX	RECIDENCE	HEAD OF THE BRANCH
Commissioner of Elections	Mr. Dayananda Dissanayake	011-2868444	011-2868445	011-2776681	
Additional Commissioner	Mr. P.M. Siriwardana	011-2868447	011-2868368	011-2851428	Mr. H.Gunaratna
Additional Commissioner	Mr. W.P. Sumanasiri	011-2868446	011-2868367	033-2260095	Mr. C.Jagodaarachchi
Deputy Commissioner	Mr. W.W.M. Deshapriya	011-2868448	011-2868448		
Asst. Commissioner (Admin)	Mr. R.V.N.Gunawardena	060-2187750	011-2868450	060-2150675	Mr.S.M.Wickremasinghe
Accountant (Finance)	Mr. E.A.Weerasena	011-2868449	011-2877612	011-2563307	
Accountant (Supplies)	Mr. E.A.Weerasena	011-2868454	011-2877608	011-2563307	Miss.M.W.C.M.Vitharana
Computer System Analyst	Mrs.J.S.P.A.D.Weerasuriya	011-2877615	011-2877615	011-2657682	
Computer Programmer	Mr. E.Sumanasiri	011-2879570	011-2879570	011-2701474	
<i><u>DISTRICT OFFICE</u></i>	<i><u>ASSISTANT COMMISSIONER</u></i>	<i><u>OFFICE</u></i>	<i><u>FAX</u></i>		<i><u>CHIEF CLERK</u></i>
Anuradhapura	Mr. S. M. S. Bandulasena	025-2222551		025-2222670	Mr. K. P. S. Wijesurendre
Ampara	Mr. T. M. L. D. Tennakoon	063-2224342	063-2222077	063-2222270	Mr. Lal Wickramaarachchi
Badulla	Mr. T. A. C. N. Talangama	055-2222424		055-2222195	Mr. A. M. Tilakaratne
Batticaloa	Mr. T. Krishnanandalingam	065-2224312	065-2227351	065-2224374	Mr. M. Thillaivasan
Colombo (City)	Mr. A. Senanayake	011-2872248			Mrs. D. C. S. Jayasinghe
		011-2872247			
Colombo (District)	Mr. A. Arunthavaraja	011-2867471			Mr. R. Wimalaratna
		011-2867472			
Gampaha	Mr. M. M. Mohamed	033-2222047		033-2282738	Mr. M. Chandrasena
Galle	Mr. A.B.I. De Silva	091-2234028		091-2234724	Mr. P. Bandu
Hambantota	Mr. J.A.S.P.Jayasinghe	047-2220248			Mr. K. G. Dharmadasa
Jaffna	Mr. P. Kaganathan	021-2222655		021-2228002	Mr. N. B. Navaratnam
Kalutara	Mr. Rasika Peiris	034-2222266		034-2223331	Mrs. G. Hema Bandumathi
Kandy	Mr. U.Amaradasa	081-2233187			Mrs. K. Mallika
Kegalle	Mr. P.A. Senaratne	035-2222561		035-2222600	Mr. M. H. G. Jayatilake
Kurunegala	Mr. R. M. A. L. Rathnayake	037-2222369			Mr. H. D. Gunaratna
Matale	Mr. G. D. N. de Silva	066-2222422			Mr. R. Wimalasena
Matara	Mr. C. A. Suneth Lochana	041-2222305	041-2222203		Mr. K. Jayasena
Mannar	Mr. A. S. Karunanidhi (Actg)	023-2232289	023-2232232		Mr. P. J. D. Amarasinghe
Monaragala	Mr. C. N. Umagiliya	055-2276315		055-2276059	Mr. R. M. Gunatilake
Nuwara-Eliya	Mr. M. K. S. S. Ratnayaka	052-2222325		052-2222985	Mrs. M. A. Chandrani Abeyasinghe
Polonnaruwa	Mr. W. H. R. Wijekumara	027-2222212		027-4599209	Mr. D. M. Senanayake
Puttalam	Mr. A. O. M. Nafeel	032-2265246		032-2265293	Mr. A. H. M. Gunaratnabanda
Ratnapura	Mr. M. A. P. C. Perera	045-2222023		045-2263293	Mr. H. M. L. Herath
Trincomalee	Mr. M. M. S. K. Bandara Mapa	026-2222304		026-2222835	Miss. S. Amarasingham
Vavuniya	Mr. A. S. Karunanidhi	024-2222311		024-2222353	Mr. M. Paramasivam



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