

Elections-Relevant Legislation

The relevant legislation is the R.S.A. c. E30 *Elections Act* and the Election Registration Regulations E30-1 respectively, hereinafter referred to as the Act and the Regulations, respectively.

Nomination

Nominations and uncontested elections (Section 29)

(1) On receiving a writ, a Returning Officer shall publish in the *Gazette*, and may in one or more newspapers published in Anguilla, publish a notice in Form 4 of the day and place fixed for the nomination of candidates.

(2) The notice shall be published at least 7 clear days before the day fixed for nomination and the Returning Officer shall give further notice of the issue of the writ and of the time and place fixed for the nomination of candidates by causing notices to be posted on the outer door of any court house, police station, church, chapel, school-house or other building in the Electoral District as he considers necessary.

(3) Nomination papers shall be provided by the Returning Officer and shall be in Form 5.

(4) On the day and at the place so fixed for the nomination of candidates, a Returning Officer shall attend from 10 a.m. to 1 p.m. and from 2 p.m. to 4 p.m. and receive the nomination of any duly qualified candidate for the seat to be filled.

(5) A candidate for election shall be nominated on one nomination paper by at least 2 persons who are registered voters in the Electoral District for which the candidate seeks election and his consent to nomination shall be given in writing on the nomination paper and attested by one witness, but no candidate shall be deemed to have been invalidly nominated by reason only of the fact that subsequent to nomination day any person by whom his nomination paper was signed is struck off the register of voters for the relevant Electoral District.

(6) If at 4 p.m. only one qualified candidate has been nominated for the seat to be filled, the Returning Officer shall declare that candidate to be duly elected and shall immediately thereafter certify by endorsement on the writ the return of the candidate in Form 6 and shall return the writ so endorsed to the Supervisor of Elections for transmission to the Governor within the specified time for that purpose in the writ. (7) Any candidate duly nominated may, not less than 3 clear days before the day fixed for taking the poll, withdraw from his candidature by giving notice to that effect, signed by him, to the Returning Officer, if on the withdrawal there remain not less than 2 duly nominated candidates.

Deposit (section 30)

(1) A candidate for election, or someone on his behalf, shall deposit with the Returning Officer, on or before the day of his nomination, the amount of \$1,000 and, if he fails to do so, the nomination of the candidate is deemed to be withdrawn

(2) The deposit may be made in any legal tender or, with the consent of the Returning Officer, in any other manner.

(3) The full amount of every deposit made under subsection (1) shall forthwith after its receipt be transmitted by the Returning Officer to the Accountant General.

(4) If after the deposit is made the candidature is withdrawn in accordance with section 29(7), the deposit shall be returned by the Accountant General to the person by whom it was made and, if the candidate dies after the deposit is made and before the taking of the poll, the deposit, if made by him, shall be returned to his personal representative or, if not made by him, shall be returned to the person by whom it was made.

When deposit forfeited or returned (section 31)

(1) If a candidate in respect of whom a deposit referred to in section 30 has been made is not elected, and the number of votes polled by him does not exceed one-eighth of the total number of votes polled, the amount deposited shall be forfeited to the Crown, and in any other case the deposit shall be returned by the Accountant General to the candidate, his personal representative, or the person by whom the deposit was made, as the case may be, as soon as practicable after the result of the election is declared.

(2) For the purposes of this section, the number of votes polled is the number of the ballot papers, other than rejected ballot papers, that are counted.

Contested elections, publication of date and place, etc. (section 32)

(1) If there is more than one candidate duly nominated, a poll shall be taken, and in that case the Returning Officer shall adjourn the election to the day specified in the writ, and the poll shall be taken on that day in the manner provided in this Act.

(2) The Returning Officer shall, as soon as practicable after adjourning the election, give notice in Form 7, of— (a) the day and time on which, and the addresses of the polling stations in the Electoral District at which, the poll will be taken; and (b) the names of the candidates nominated for election and the place where, and the day and time when, the number of votes given to the candidates for the Electoral District will be counted.

(3) The notice shall be published in the manner that the Supervisor of Elections directs.

VOTERS

Who may vote (section 53)

(1) Where there is contained in the list of voters a name, address and occupation that corresponds so closely with the name, address and occupation of a person by whom a ballot paper is demanded as to suggest that the entry in the list of voters was intended to refer to him, that person shall, upon taking an oath or affirmation in Form 17 and complying in all other respects with this Act, be entitled to receive a ballot paper and to vote.

(2) The name, address and occupation of a voter referred to in subsection (1) shall be correctly entered in the poll book and the fact that the oath or affirmation has been taken shall be entered in the proper column of the poll book.

(3) If required by the presiding officer, the poll clerk, one of the candidates or an agent of a candidate, or by a voter present, a voter shall before receiving his ballot paper take an oath or affirmation in Form 18 and, if he refuses to take the oath or affirmation, erasing lines shall be drawn through his name on the official list of voters and in the poll book, if his name has been entered in the poll book, and the words "Refused to be sworn or affirmed" shall be written after it.

Qualification for registration (Section 21)

Sections 43 and 44 of the Constitution of Anguilla apply to the determination as to whether or not a person is qualified to be registered as a voter.

Right to remain registered (section 22)

A person registered pursuant to this Part shall remain registered unless and until the name of that person is deleted from the register of voters because—

- (a) the person has died;
- (b) an objection to the registration of the person has been allowed; or
- (c) the person has become disqualified for registration under section 44 of the Constitution of Anguilla, under this Act or any other written law imposing disqualification for registration as a voter.

Provision as to incomplete registration (section 23)

Notwithstanding section 21, a person shall not be registered as a voter until he has complied with the provisions of this Part and the regulations relating to the registration of voters.

Regis

Requirement for registration (Section 10)

Every person who is qualified to be registered as a voter shall, unless registered in the register of voters for an Electoral District—

(a) apply to the Registration Officer for that Electoral District, during the enumeration year; or

(b) apply to the Electoral Registration Officer, after the enumeration year;

to be registered as a voter in accordance with this Act and the regulations

Continuous registration (Section 12)

After the enumeration year—

(a) there shall be continuous registration of all persons qualified to be registered as voters under this Act; and

(b) when a person is qualified or will be qualified on the next qualifying date to be registered as a voter in an Electoral District, that person may apply to the Electoral Registration Officer to be registered as a voter in that Electoral District in accordance with this Act and the regulations.

Quarterly lists (Section 13)

(1) After the enumeration year, the Electoral Registration Officer shall, not later than the 40th day of every quarter in every succeeding year, prepare a quarterly list of voters for every Electoral District which shall consist of—

(a) persons whose names do not appear on the register of voters or any revised quarterly list for any Electoral District and who have applied to be registered as voters for an Electoral District and who the Electoral Registration Officer has reasonable cause to believe are qualified or will be qualified, on the next qualifying date, to be registered as voters in that Electoral District;

(b) persons whose names appear on the register of voters for an Electoral District and who have notified the Electoral Registration Officer of a change in their name, address or occupation but who remain qualified to be registered as voters in that Electoral District; and

(c) persons whose names appear on the register of voters for an Electoral District and who have satisfied the Electoral Registration Officer that they have changed address and are ordinarily resident in another Electoral District.

(2) A person who is qualified to be registered as a voter but whose name does not appear on the register of voters for an Electoral District shall be entitled to be registered on the quarterly list of voters prepared in accordance with subsection (1), upon making application in accordance with this Act and the regulations.

(3) The quarterly lists of voters for every Electoral District shall be revised and published in accordance with the regulations and shall be used to revise the register of voters for that Electoral District in accordance with section 14.

Preparation of registers after enumeration year (section 14)

(1) After the enumeration year, the register of voters for every electoral district shall be prepared in accordance with this section and the regulations.

(2) After the enumeration year, the Electoral Registration Officer shall prepare and publish not later than the 72nd day of every quarter of every succeeding year a preliminary list of voters for every Electoral District in accordance with this section and the regulations, and

the preliminary list when revised and published in accordance with the regulations shall, subject to the provisions of this Act and the regulations, constitute the register of voters for that Electoral District.

(3) The preliminary list of voters for each Electoral District under subsection (2) shall be prepared by—

(a) deleting from the existing register of voters for that Electoral District last published under this Act the names, addresses and occupations of persons whom he has reasonable cause to believe are dead or disqualified for registration as voters in that Electoral District;

(b) making the requested alterations to the names, addresses or occupations of persons registered in the existing register of voters for that Electoral District last published under this Act and whose names appear on the last revised quarterly list of voters for that Electoral District by virtue of section 13; and

(c) adding to the existing register of voters for that Electoral District last published under this Act the names, addresses and occupations of persons not registered in the register of voters for that Electoral District who he is satisfied are qualified to be registered as voters for that Electoral District and whose names appear on the last revised quarterly list of voters for that Electoral District by virtue of section 13.

The Poll-Elections

Power to adjourn poll (section 33)

(1) Where the proceedings at any polling station are interrupted or obstructed by riot, open violence or by the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or outbreak of infectious disease or other calamity whether similar to the foregoing or not, the presiding officer may adjourn the proceedings till the following day and thereafter from day to day as may be necessary and shall forthwith give notice of the adjournment to the Returning Officer.

(2) Where the poll is adjourned at any polling station—

(a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and (b) references in this Act to the close of the poll shall be construed accordingly.

Polling stations (section 34)

(1) On the day named in the notice published under section 32(2) for the taking of the poll, the Returning Officer shall cause to be opened in each Polling Division in the Electoral District to which he is appointed the number of polling stations that the Supervisor of Elections determines.

(2) The Returning Officer shall provide each polling station with the number of compartments that he considers necessary to enable voters to record their votes screened from observation.

(3) Unless the writ otherwise directs, polling stations shall be opened at 7 a.m. and shall be closed at 6 p.m.

Division of list (section 35)

Where more than one Polling Station is established for a Polling Division, the Returning Officer shall divide the register of voters for that Polling Division or, where the Electoral District comprises more than one Polling Division, that part of the register of voters that relates to the Polling Division in question, into as many separate lists as there are polling stations in the Polling Division.

Presiding officers (section 36)

(1) The Supervisor of Elections shall, subject to the approval of the Governor, appoint a presiding officer to attend at each polling station to receive the votes, but he shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.

(2) The Supervisor of Elections may preside at any polling station.

(3) Forthwith upon his appointment each presiding officer shall take and subscribe an oath or affirmation in Form 8 and shall transmit the oath or affirmation to the Supervisor of Elections.

Poll clerks (section 37)

(1) Subject to the approval of the Governor, the Supervisor of Elections shall appoint a poll clerk for every polling station in an Electoral District.

(2) Forthwith upon his appointment, every poll clerk shall take and subscribe an oath or affirmation in Form 9 and shall transmit the oath or affirmation to the Supervisor of Elections.

(3) If any presiding officer dies or becomes incapable of performing his duties during the taking of the poll, the poll clerk shall forthwith assume the office of presiding officer and shall appoint some other person to act as poll clerk.

(4) If any poll clerk dies or becomes incapable of performing his duties during the taking of the poll, the presiding officer shall forthwith appoint some other person to act as poll clerk.

(5) Every appointment made under subsection (3) or (4) shall be immediately reported to the Supervisor of Elections by the person making the appointment.

Supply of election material (section 39)

(1) The Returning Officer shall provide each presiding officer with the number of ballot boxes and ballot papers that in the opinion of the Returning Officer are necessary

(2) The Returning Officer shall provide each polling station with—

(a) a statement showing the number of ballot papers so provided together with their serial numbers;

(b) the necessary materials to enable voters to mark the ballot papers;

(c) the necessary materials for putting the official mark on the ballot papers;

(d) at least 2 copies which shall be certified by the Returning Officer of the register of voters relating to the Electoral District to which he is appointed or to the part of the Electoral District that contains the names of the voters allocated to the polling station hereinafter referred to as the "official list of voters";

(e) at least 3 copies of the directions for the guidance of voters in Form 10;

(f) a blank poll book;

(g) the forms of various oaths and affirmations to be administered to voters or other persons; and

(h) such other things as may be necessary for conducting the election in the manner provided by this Act.

Polling and counting agent (section 40)

(1) Each candidate may, before the commencement of the poll, appoint one polling agent to attend at a polling station and one counting agent to attend at the counting of the votes.

(2) An agent may be appointed on behalf of more than one candidate.

(3) Every appointment of an agent shall be in writing and shall state the name and address of the person appointed and shall be given, duly signed by the candidate, to the presiding officer or the Returning Officer, as the case may be.

Taking of poll and the ballot (section 41)

(1) The poll shall be taken in each Polling Division by secret ballot in accordance with the provisions of sections 49, 50 and 51.

(2) The ballot of each voter shall be a printed paper in Form 11 on which the names, descriptions, symbols and places of residence of the candidates arranged alphabetically in the order of their surnames and numbered accordingly shall be printed exactly as they are set out in the nomination paper.

(3) Each ballot paper shall have a number printed on the back and shall have attached to it a counterfoil with the same number printed on the face, and there shall be a line of perforations between the ballot paper and the counterfoil.

Inspection of polling station (section 42)

Each presiding officer shall, no later than the day fixed for taking the poll, visit his polling station and see that it is provided with the proper conveniences as aforesaid for taking the poll.

Where voter shall vote (section 43)

Subject to sections 45 and 46, no person shall be entitled to vote in any Polling Division unless his name appears on the list of voters in respect of that Polling Division.

Restriction on voting (section 44)

No person shall vote for the election of more than one candidate.

Transfer of voters in special cases (section 45)

(1) Where any person whose name appears on the official list of voters for any polling station is appointed as presiding officer or poll clerk for some other polling station in an Electoral District, the Returning Officer shall transfer the name of the presiding officer or poll clerk, as the case may be, to the official list of voters for the polling station of which the person is appointed the presiding officer or poll clerk.

(2) The Returning Officer shall give notice in writing to every candidate in his Electoral District of any transfer made under subsection (1) and to the presiding officer of the polling station at which the person whose name is so transferred would have been entitled to vote but for section 46.

Where transferred voter may vote (section 46)

(1) Every person whose name is transferred in accordance with section 45 from any official list of voters to another official list of voters shall vote, if he votes at all, in the polling station of which he is appointed presiding officer or poll clerk, as the case may be.

(2) Every presiding officer who issues to any person whose name has been transferred from any official list of voters to any other official list of voters any ballot paper at any polling station, other than the polling station of the Polling Division to which the person's name has been transferred, is liable on summary conviction to a fine of \$1,000 or to imprisonment for 1 month.

Proceedings at poll (section 47)

(1) At the hour fixed for opening the poll, the presiding officer and the poll clerk shall, in the presence of the candidates, their agents and the voters who are present, open the ballot box and ascertain that there are no ballot papers or other papers inside the ballot box, after which the presiding officer or poll clerk—

(a) shall lock the box and the presiding officer shall keep the key to it; and

(b) shall place the box on a table in full view of all present and shall ensure that it remains there until the close of the poll.

(2) Immediately after the ballot box is so locked, the presiding officer shall call on the voters to vote.

(3) The presiding officer shall—

(a) secure the admittance of every voter in the polling station; and

(b) see that they are not impeded or molested at or about the polling station

(4) Upon entering the polling station, every voter shall declare his name, residence and occupation. The poll clerk shall then ascertain if the name of the voter appears on the official list of voters used at the polling station. When it has been ascertained that the applicant voter is qualified to vote at

the polling station, his name, address and occupation shall be entered in the poll book to be kept by the poll clerk in Form 12, a number corresponding to the consecutive number allotted to the voter on the official list of voters being prefixed to the voter's name in the appropriate column of the poll book and the voter shall immediately be allowed to vote, unless an election officer or any agent of a candidate present at the polling station desires that he be first sworn or affirmed.

(5) The poll clerk shall—

- (a) make the entries in the poll book opposite the name of each voter that the presiding officer pursuant to this Act directs;
- (b) enter in the poll book opposite the name of each voter as soon as the voter's ballot paper has been deposited in the ballot box, the word "voted";
- (c) enter in the poll book the word "Sworn" or "Affirmed" opposite the name of each voter to whom any oath or affirmation has been administered indicating the nature of the oath or affirmation; and
- (d) enter in the poll book the words "Refused to be sworn" or "Refused to affirm" or "Refused to answer" opposite the name of each voter who refused to take an oath or affirmation when he was legally required to do so, or refused to answer questions that he was legally required to answer.

Who are to be admitted within polling stations (section 48)

(1) The presiding officer shall—

- (a) keep order at his polling station;
- (b) regulate the number of voters to be admitted at one time; and
- (c) exclude all other persons except the Supervisor of Elections, the Returning Officer of the Electoral District, the polling clerk, the candidates, one agent for each candidate appointed by the candidate in accordance with section 40 and the police officers on duty.

(2) The agent for each candidate shall be posted so that he can see each person who presents himself as a voter and hear his name as given by him, but not so that he can see how any voter votes.

(3) An agent shall not interfere in the proceedings except in so far as he is allowed to do so by this Act.

General mode of taking ballot (section 49)

(1) Each voter shall receive from the presiding officer a ballot paper—

(a) on which the officer has previously put his initials so placed as indicated in Form 11 that, when the ballot paper is folded, the initials can be seen without opening it; and

(b) on the counterfoil of which the officer has placed a number corresponding to the consecutive number on the official list of voters and entered in the poll book opposite the name of the voter.

(2) The presiding officer shall instruct the voter how to make his mark, and shall properly fold the voter's ballot paper, directing him to return it, when marked, folded as shown, but without inquiring or seeing for whom the voter intends to vote, except when the voter is unable to vote in the manner provided by this Act on account of illiteracy, blindness or other physical incapacity.

(3) The procedure for depositing the ballot paper shall be as follows—

(a) the voter shall on receiving the ballot paper forthwith enter one of the polling compartments in the polling station and there mark his ballot paper by marking with a black lead pencil and not otherwise a cross (x) within the space opposite the name and symbol of the candidate for whom he intends to vote;

(b) the voter shall fold the ballot paper as directed so that the initials and the numbers on the counterfoil can be seen without opening it;

(c) the voter shall hand the paper to the presiding officer;

(d) the presiding officer shall, without unfolding it, ascertain by examination of the initials and numbers appearing on it that it is the same paper as that delivered to the voter;

(e) the presiding officer shall, in full view of the voter and of all others present, remove the counterfoil and return the ballot paper to the voter; and

(f) the voter shall deposit the ballot paper in the ballot box in the presence of the presiding officer.

A voter—

(a) who is given a ballot paper that is soiled or improperly printed; or

(b) who has spoiled a ballot paper in marking it; shall return it to the presiding officer who shall—

(c) cancel it by writing “spoiled” across its face; and

(d) deliver another ballot paper to the voter.

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

(6) If at the hour of closing of the poll there are any voters in the polling station, or in line at the door of the polling station, who are qualified to vote and have not been able to do so since their arrival at the polling station, the poll shall be kept open a sufficient time to enable them to vote before the outer door of the polling station is closed, but no person who is not actually present in line at the when he arrives.

Questions which may be put to a voter (section 50)

(1) The presiding officer may, and if requested by a candidate or his agent, shall, put to the voter the following questions—

(a) Are you the same person whose name appears as “A.B.” on the list of voters now in force for this Polling Division?

(b) Have you already voted at this election either here or elsewhere?

(2) If any person refuses to answer a question referred to in subsection (1) that is put to him, the presiding officer shall refuse to give him a ballot paper.

(2) If any person makes a false answer to a question referred to in subsection (1), is liable on summary conviction to imprisonment for 6 months.

Oath of person when another has voted in his name (section 51)

(1) Subject to any other provision of this Act as to proof of qualification as a voter and as to the administration of oaths or affirmations, if a person representing himself to be a particular voter applies for a ballot paper after another person has voted as that person, he shall be entitled to

receive a ballot paper and to vote after taking the oath or affirmation of identity in Form 13, and otherwise establishing his identity to the satisfaction of the presiding officer.

(2) In a case referred to in subsection (1), the presiding officer shall put on the ballot paper his initials together with a number corresponding to the number allotted to the voter on the list of voters and entered in the poll book opposite the name of the voter, and the poll clerk shall enter in the poll book—

- (a) the name of the voter;
- (b) a note of his having voted on a second ballot paper issued under the same name;
- (c) the fact of the oath or affirmation of identity having been required and taken and the fact of any other oath or affirmation being required and taken; and
- (d) any objections made on behalf of any candidate and that candidate's name.

Voting by incapacitated voters (section 52)

(1) On application by a voter who is incapacitated from any physical cause, other than by blindness or by reason of illiteracy, from voting in the manner provided by this Act, the presiding officer shall—

- (a) require the voter to swear an oath or affirmation in Form 14 with regard to his incapacity to vote without assistance;
- (b) thereafter assist the voter by marking the ballot paper in the manner directed by the voter in the presence of the poll clerk and the sworn agents of the candidates and of no other person; and

(c) place the ballot paper in the ballot box.

(2) On application by a voter who is incapacitated by blindness or by reason of illiteracy from voting in the manner provided by this Act, the presiding officer shall deal with the voter in the manner described in subsection (1) unless the voter requests to vote with the assistance of a friend.

(3) A voter who—

(a) is incapacitated by blindness or by reason of illiteracy from voting in the manner provided by this Act; (b) requests to vote with the assistance of a friend who—

- (i) has accompanied him,
- (ii) has complied with subsection (4), and
- (iii) has not in that election acted as a friend to any other voter; and

(c) has taken an oath or affirmation in Form 15; shall be permitted by the presiding officer to have the friend accompany him into the voting compartment and to have the friend mark the voter's ballot paper for him.

(4) A friend of a voter who proposes to mark the voter's ballot paper shall take an oath or affirmation in Form 16.

(5) Whenever a voter has had his ballot paper marked by another person under this section, the poll clerk shall, in addition to making any other entry, enter in the poll book opposite the voter's name the reason why the ballot paper was so marked.

Who may vote (section 53)

(1) Where there is contained in the list of voters a name, address and occupation that corresponds so closely with the name, address and occupation of a person by whom a ballot paper is demanded as to suggest that the entry in the list of voters was intended to refer to him, that person shall, upon taking an oath or affirmation in Form 17 and complying in all other respects with this Act, be entitled to receive a ballot paper and to vote.

(2) The name, address and occupation of a voter referred to in subsection (1) shall be correctly entered in the poll book and the fact that the oath or affirmation has been taken shall be entered in the proper column of the poll book.

(3) If required by the presiding officer, the poll clerk, one of the candidates or an agent of a candidate, or affirmation in Form 18 and, if he refuses to take the oath or affirmation, erasing lines shall be drawn through his name on the official list of voters and in the poll book, if his name has been entered in the poll book, and the words "Refused to be sworn or affirmed" shall be written after it.

Who may be present (section 54)

(1) No person other than the presiding officer, the poll clerk, the candidates, one agent for each candidate in each polling station, and the police officers on duty shall be permitted to remain in the polling station during the period that the poll remains open but no candidate and his agent shall be in the same polling station at the same time for more than 5 consecutive minutes.

(2) The agent of a candidate, on being admitted to the polling station, shall take an oath or affirmation in Form 19 to keep secret the name of the candidate for whom a voter has marked his ballot paper in the agent's presence.

(3) With the permission of the presiding officer, agents of candidates may absent themselves from, and return to, the polling station at any time before one hour before the close of the poll.

Proceedings after poll (section 55)

(1) Forthwith upon the close of the poll, the presiding officer shall in the following order—

(a) seal the ballot boxes;

(b) count the number of voters whose names appear in the poll book as having voted and make an entry of the number on the line immediately below the name of the voter who voted last as follows: "The number of voters who voted at this election in this polling station is" (stating the number), and sign his name to it in the poll book;

(c) count the spoiled ballot papers, if any, place them in the special envelope supplied for that purpose and indicate on the envelope the number of spoiled ballot papers and seal it up;

(d) count the unused ballot papers, place them with all the stubs of all used ballot papers in the special envelope supplied for that purpose and indicate on the envelope the number of such unused ballot papers; and

(e) check the number of ballot papers supplied by the Returning Officer against the number of spoiled ballot papers, if any, the number of unused ballot papers and the number of voters whose names appear in the poll book as having voted in order to ascertain that all ballot papers are accounted for.

(2) The ballot boxes, poll book, envelopes containing the spoiled and unused ballot papers, official list of voters and other documents used at the poll shall be transmitted to the place notified for the counting of the votes or delivered to the Returning Officer.

(3) The Returning Officer may specially appoint one or more persons for the purpose of collecting the ballot boxes and ballot papers from a given number of polling stations, and that person or persons shall, on delivering the ballot boxes and papers to the Returning Officer, take the oath or affirmation in Form 20.

(4) The presiding officer shall, with the ballot boxes and papers, transmit or deliver to the Returning Officer, the keys of the ballot boxes in the envelope provided for that purpose.

The count (section 56)

(1) Upon receipt by him of each of the ballot boxes, the Returning Officer shall—

(a) take every precaution for its safe keeping and to prevent any person other than himself from having access to it; and

(b) seal it under his own seal so that it cannot be opened without the seal being broken but without effacing or covering any other seals affixed to it.

(2) After all the ballot boxes have been received, they shall be opened by the Returning Officer for the count of votes—

(a) in the presence of the candidates or their agents;

(b) if any candidate or agent is absent, in the presence of the candidates or agents who are present; or

(c) if none of the candidates is represented by an agent, in the presence of at least 2 voters.

(3) The Returning Officer shall—

(a) record and count the number of votes given to each candidate; and

(b) reject all ballot papers—

(i) that have not been marked for any candidate,

(ii) on which votes have been given for more candidates than there are seats to be filled, (iii) upon which there is any writing or mark by which the voter could be identified, but no ballot paper shall be rejected on account of any writing, number or mark placed on it by any presiding officer, or

(iv) that have been so improperly marked that in the opinion of the returning officer they cannot be counted.

(4) In recording and counting the number of votes under paragraph (3)(a), the Returning Officer shall allow the candidates and their agents full opportunity to see the votes but not the official number on the back of the ballot paper, and a poll clerk and not less than 2 witnesses shall be supplied with tally sheets upon which they may keep their own score as each vote is called out by the Returning Officer.

(5) If in the course of counting the votes any ballot paper is found with the counterfoil still attached to it, the Returning Officer shall—

(a) remove the counterfoil (carefully concealing the numbers on it from all persons present and without examining them himself); and

(b) not reject the ballot paper merely by reason of the failure of the presiding officer to remove the counterfoil.

(6) If in the course of counting the votes the Returning Officer discovers that the presiding officer has omitted to affix his initials to any ballot paper as provided by section 49(1), he shall, in the presence of a poll clerk and the candidates or their counting agents who are present, affix his initials to the ballot paper and shall count the ballot paper as if it had been initialled by the presiding officer in the first place, if he is satisfied that—

(a) the ballot paper is one that has been supplied by the presiding officer; and

(b) every ballot paper supplied to the presiding officer has been accounted for as provided by section 55(1)(e).

(7) The Returning Officer shall—

(a) keep a record on the special form printed in the poll book of every objection made by any candidate or his counting agent or any voter present to a ballot paper found in a ballot box;

(b) decide every question arising out of an objection; and

(c) number every objection, place a corresponding number on the back of the ballot paper and initial it; and, subject to reversal on petition questioning the election or return, the decision of the Returning Officer is final.

(8) All the ballot papers not rejected by the Returning Officer shall be counted and a list shall be kept of the number of votes given to each candidate and of the number of rejected ballot papers.

(9) Immediately after the counting of the votes pursuant to this section has terminated, a candidate or his agent present at the count may demand a recount and thereupon, unless the Returning Officer considers the demand to be unreasonable having regard to the result of the first count, he shall proceed to re-count the votes accordingly to ascertain the result of the poll.

(10) In the event of a re-count of votes —

(a) every other candidate or his agent shall have the right to demand a further re-count, and the Returning Officer may in his own discretion conduct further re-counts; but in any case, the Returning Officer shall not be obliged to conduct the recounts more than twice;

(b) the result of the poll shall be determined by the final count of the votes.

(11) When the result of the poll has been ascertained the Returning Officer shall, subject to section 57 forthwith publicly declare to be elected the candidate or candidates, as the case may be, to whom the majority of the votes has been given.

(12) The ballot papers that respectively indicate the votes given for each candidate shall be put into separate envelopes, all rejected ballot papers shall be put into a special envelope and all the envelopes shall be sealed by the Returning Officer and by any of the agents or witnesses present who desire to seal them or to sign their names on them.

Procedure in the event of a tie (section 57)

(1) Where it appears to the Returning Officer that as a result of an equality of votes cast between any of the candidates for election it is not possible to declare the election of a candidate in respect

of a vacancy falling to be filled at an election in the Electoral District, then the Returning Officer shall report the circumstances of the casting of the equality of votes to the Governor forthwith.

(2) In any case where a report under subsection (1) has been duly made, the election in the Electoral District concerned shall be deemed to be void; and a by-election shall ensue within the next succeeding period of 2 weeks to fill the vacancy not duly filled at such election.

Maintenance of order at polling stations (section 58)

(1) Subject to subsection (2), during the hours when the poll is open on polling day, no persons shall assemble or congregate within 100 yards of any building in which any polling station is located.

(2) This section shall not apply—

(a) to any voters who are waiting to poll their votes at the polling station and who obey any instruction that may be given by the presiding officer or poll clerk or any police officer for the purpose of forming a queue with other voters who are waiting; or

(b) to any person who may under this Act lawfully enter or remain in the polling station.

(3) Every person who contravenes or fails to comply with this section is liable on summary conviction to a fine of \$9,600 or to imprisonment for 6 months or to both.

Influencing of voters to vote for any candidate (Section 59)

(1) During the hours that the poll is open on polling day, no person shall on any public road or in any public place within 100 yards of any building in which a polling station is located seek to influence any voter to vote for any candidate or to ascertain for what candidate any voter intends to vote or has voted.

(2) Every person who contravenes any of the provisions of subsection (1) is liable on summary conviction to a fine of \$9,600 or to imprisonment for 6 months or to both.

Election return (Section 60)

(1) The Returning Officer shall, within the time specified for the return of any writ, forward to the Supervisor of Elections—

(a) the writ with his return in Form 21 endorsed on it that the candidate having the majority of votes has been elected;

(b) a report of his proceedings—

(i) showing the number of votes cast for each candidate at each polling station, and

(ii) making such observations as the Returning Officer may think proper as to the state of the election papers as received from the presiding officer;

(c) the number of persons to whom, as appears from the counterfoils, ballot papers have been supplied in each Polling Division;

(d) the reserve supply of undistributed blank ballot papers;

(e) the poll book used at each polling station, a packet containing the counterfoils and unused ballot papers, packets containing the ballot papers cast for the several candidates, a packet containing the spoiled ballot papers, a packet containing the rejected ballot papers and a packet containing the official lists of voters used at the polling stations, and the written appointments of candidates' agents; and

(f) all other documents used for the election.

(2) The Supervisor of Elections shall, on receiving the return of a member elected to serve in the Assembly, cause it to be entered, in the order in which the return is received by him, in a book to be kept by him for the purpose and thereupon immediately cause a notice to be published in the *Gazette* of the name of the candidate so elected and in the order in which it was received.

(3) The Supervisor of Elections shall, on receiving the return of a member elected to serve in the Assembly, transmit the writ with the return endorsed on it to the Governor within the time specified in the writ. The Governor shall within 7 days of the receipt of the writ return it to the Supervisor of Elections for safe custody in accordance with section 61.

(4) The Supervisor of Elections shall—

(a) immediately after each general election, cause to be printed a report giving, by Polling Division—

(i) the number of votes polled for each candidate,

(ii) the number of rejected ballot papers,

(iii) the number of names on the register of voters, and

(iv) any other information that he considers fit to include; and

(b) at the end of each year, cause to be printed a similar report on the by-elections held during the year.

(5) If—

(a) any Returning Officer wilfully delays, neglects or refuses duly to return any person who ought to be returned to serve in the Assembly for an Electoral District; and

(b) it has been determined on the hearing of an election petition respecting the election for that Electoral District that that person was entitled to have been returned; the Returning Officer shall forfeit to the person aggrieved the amount of \$20,000 and costs in addition to all damages sustained.

Custody of election documents (section 61)

(1) The Supervisor of Elections shall keep the election documents referred to in section 60(1) in safe custody and shall not allow any person to have access to them but—

(a) if an election petition has been presented questioning the validity of any election or return, the Supervisor of Elections shall, on the order of a Judge, deliver to the Registrar of the High Court the documents relating to the election that is in dispute; and

(b) after the expiration of 12 months from the day of any election, the Supervisor of Elections may cause the documents used at the election to be burnt.

(2) No election documents in the custody of the Supervisor of Elections shall be inspected or produced to any person except on the order of a Judge and an order for inspection or production may be made by a Judge on being satisfied by evidence on oath or affirmation that the inspection or production of the election documents is required for the purpose of instituting or maintaining a prosecution for an offence in relation to an election or for the purpose of a petition that has been filed questioning an election or return.

(3) An order for the inspection or production of election documents may be made subject to the conditions as to persons, time, place and mode of inspection or production that the Judge deems expedient.

Custody of ballot boxes (Section 62)

(1) Forthwith upon making the return to the writ in accordance with section 60, the Returning Officer shall cause the ballot boxes used at the election together with their locks and keys and the screens and other appliances used in the polling station to be deposited in the custody of the police officer in charge of a police station in the Electoral District.

(2) Upon delivery to him of the ballot boxes, locks, keys, screens and other appliances, the custodian shall issue his receipt and shall at the next ensuing election, upon request, deliver the ballot boxes, locks, keys, screens and other appliances to the Returning Officer to whom the writ is directed, taking such Returning Officer's receipt.

Loudspeakers, ensigns, banners, etc., prohibited on polling day (section 72)

(1) No person—

(a) shall furnish or supply any loudspeaker, bunting, ensign, banner, standard, set of colours or other flag, to any person with intent that it be carried, worn or used on a motor car, truck or other vehicle, as political propaganda, on polling day; or

(b) shall, with that intent, carry, wear or use, on a motor car, truck or other vehicle, any loudspeaker, bunting, ensign, banner, standard or set of colours, or other flag, on polling day.

(2) No person—

(a) shall furnish or supply any flag, ribbon, label or like favour to or for any person with intent that it be worn or used by any person within any Electoral District on polling day as a party badge to distinguish the wearer as the supporter of any candidate, or of the political or other opinions entertained or supposed to be entertained, by the candidate; or

(b) shall use or wear any flag, ribbon, label or other favour, as badge for a purpose described in paragraph (a) within any Electoral District on polling day.

(3) Nothing contained in subsection (1) or (2) shall extend to the furnishing or supplying of any banner bearing only the name of a candidate or only his name preceded by the words "Vote for" or of any rosette or to the use of any banner on any vehicle or the use of any rosette.

(4) Any person who contravenes this section is liable on summary conviction to a fine of \$40,000 or to imprisonment for 6 months.

Infringement of secrecy (section 83)