

NATIONAL ASSEMBLY ELECTION ORDER, 1992

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SCHEDULE 1 - FORMS**SCHEDULE 2 - SAVINGS AND TRANSITIONAL PROVISIONS****ORDER NO. 10 OF 1992****NATIONAL ASSEMBLY ELECTION ORDER, 1992****ORDER**

To provide for the registration of electors and the conduct of election of members to the National Assembly and to provide for incidental matters.

ENACTED BY THE MILITARY COUNCIL**CHAPTER 1 PRELIMINARY****Short title and commencement**

1. (1) This Order may be cited as the National Assembly Elections Order 1992.
- (2) This section commences on the date on which this Order is published in the Gazette.
- (3) The remaining provisions of this Order commence on such date or dates as the Chairman of the Military Council may fix by notice published in the Gazette.

Interpretation

2. (1) In this Order, unless the context otherwise requires -
 - “absent elector” means any person who has voted or has applied to vote at an election as an absent elector;
 - “absent electors’ ballot account” means the ballot account referred to in section 67;
 - “agent” or “candidate’s agent” means an agent for a

"area electoral officer" means an electoral officer appointed and holding office under section 7 (1);

"Authorised representative", in relation to a political party means a person authorised in writing by the secretary of the political party concerned for the purpose of the provisions in which the expression occurs;

"ballot envelope" means an envelope used or to be used for the purpose of transmitting the vote of a person voting as an absent elector;

"by-election" means an election for a constituency to fill a vacancy which has occurred in the representation of the constituency in the National Assembly;

"candidate" means a person who is nominated as a candidate for election as a member of the National Assembly in accordance with this Order;

"certified", in relation to a copy of an electoral list, means certified by the Director of Elections;

"Commission" means the Independent Electoral Commission established by section 66 of the Constitution;

"competent witness" means a person who, at the time of acting as a witness, is qualified to be registered as an elector;

"constituency" means a constituency determined in accordance with Chapter 4;

"constituency delimitation notice" means a notice published in the Gazette in accordance with section 38;

"corrupt practice" means any of the offences referred to in Part 3 of Chapter 9;

A.8/97
s.4

O.14/92
Sch.4

A.8/97
s.4(d)

"court of competent jurisdiction" means the High Court or a court having jurisdiction to try an offence alleged to have been committed against this Order;

"Defence Force" means the Royal Lesotho Defence Force;

"dependant", in relation to a public officer, means any person who is related to the officer through blood or marriage (including a reputed marriage) and who is dependent on that officer for the necessities of life;

"deputy presiding officer", in relation to a polling station, means the deputy presiding officer appointed in respect of the polling station under this Order, and includes a person acting in that capacity;

"diplomatic mission" includes an embassy, high commission, legation, charge d'affaires and consulate;

"Director of Elections" means the Director of Elections appointed under section 9D and includes any person who is acting in that office;

"document" includes part of a document;

"election" means -

- (a) a general election of members of the National Assembly; or
- (b) in relation to a particular constituency, an election or by-election to elect a member to represent the electors of the constituency in the National Assembly;

and includes the proceedings relating to the nomination of candidates;

"election notice" means -

- (a) in relation to a general election - a notice published under section 48 (3)(b); and
- (b) in relation to -
 - (i) a by-election for a constituency; or
 - (ii) a fresh election for a constituency after the failure of an election for the constituency; or
 - (iii) a fresh election for a constituency ordered by the High Court,

a notice published under section 146;

"election period" means, in relation to a general election or to a by-election or fresh election for a constituency, the period beginning with the date of publication in the Gazette of the relevant election notice and ending with the date of publication in the Gazette of the relevant election result notice;

"election petition" means a petition presented to the High Court in accordance with Chapter 8;

"election result notice" means -

- (a) in the case of a general election - the notice of the results of the election published under section 93; or
- (b) in the case of a by-election or fresh election for a constituency - the notice of the result of the election published under section 51 or 93;

"elector" means a person who is registered as an elector and, in relation to a particular constituency, a person whose name

"electoral area" means an area designated area under section 6;

"electoral list", in relation to a constituency, means a list of those electors who are eligible to vote at an election for the constituency, and includes a copy of such a list;

"electoral officer" means the Director of Elections or an area electoral officer, returning officer, deputy returning officer, presiding officer, deputy presiding officer, official witness, polling officer or counting officer;

"general register" means the general register of electors established and maintained under section 13 (1), and includes a copy of the register;

"Headman" includes a Chief who performs the functions of a Headman;

"high judicial office" has the same meaning as in section 154(1) of the Constitution;

"illegal practice" means an offence arising under Part 4 of Chapter 9;

"independent candidate" means a candidate whose candidature for election is not supported by a political party;

"National Assembly" means the National Assembly of the Parliament of Lesotho elected or to be elected under this Order;

"nomination day", in relation to an election, means the day specified in an election notice for the close of nominations for the election;

"offensive weapon" means anything which, when used in a threatening or violent manner, is capable of inflicting death or injury;

“officer”, in relation to a political party or other organisation, includes the chairman, president, vice-chairman, vice-president, secretary, treasurer and any member of the executive committee or committee of management of the party or organisation;

“official mark” means a mark produced by the application of a marking instrument provided by the Director of Elections under section 56; O.14/92 Sch.4

“official symbol” means a symbol for identifying a political organisation or an unendorsed candidate at an election, and includes any reproduction of such a symbol;

“official witness” means a person appointed and employed as an official witness under this Order, and includes a presiding officer, a deputy presiding officer and a polling officer;

“party candidate” means a candidate whose candidature for election is supported by a political party; A.8/97 s.2(d)

“perform”, in relation to a function, means, where the function is a power, exercise the function;

“police officer”, includes a member of the Defence Force who is authorised to exercise the functions of a police officer under this Order;

“political party” means a political party registered under this Order, O.8/97 s.4(h)

(a) except when paragraph (b) applies - an organization registered under the Societies Act 1966 whose purpose is, or one of whose purposes is, to secure the election of candidates as members of the National Assembly; and

(b) in relation to an election for which the nomination of

endorsed one or more candidates who have been nominated for election as members of that Assembly;

“polling day” means the day or one of the days on which polling at an election has taken, is taking or is to take place;

“polling district” means a polling district determined under section 32 and includes such a district adjusted from time to time in accordance with that section;

“polling officer” means a polling officer appointed and holding office under this Order, and includes a person acting in that capacity;

“polling place” means a polling station, or premises where voting by absent electors is being conducted;

“polling room”, in relation to an election, means that part of a polling place in which the ballot boxes are located so as to enable electors to vote at the election;

“polling station” means a polling station established under section 55;

“presiding officer”, in relation to a polling station -

(a) means the presiding officer appointed and employed under this Order to conduct polling at the polling station; or

(b) if that officer is absent from the polling station while polling is in progress or is otherwise incapacitated from performing his or her functions, means the deputy presiding officer so appointed and employed for that polling station;

“presiding officer for absent electors”, in relation to a polling place where voting by absent electors is being

conducted, means the person who is the presiding officer for that place by virtue of section 61 (3);

“public officer”, for the purposes of Chapters 2 and 3, includes a person employed by a public authority or an agency of the Government;

“publish” means -

- (a) publish in a newspaper, journal or other periodical publication; or
- (b) publish by means of a handbill, pamphlet or notice; or
- (c) broadcast by radio or television transmission; or
- (d) bring to the attention of the public, or to any members of the public, by any other means;

“returning officer”, in relation to a constituency -

- (a) means the returning officer appointed for the constituency under this Order; or
- (b) if that officer is absent from the constituency during an election period or is otherwise incapacitated from performing his or her functions, means the deputy returning officer appointed for that constituency;

“sign”, in relation to a person who is unable to write, includes placing a mark by means of a finger or thumb print;

“tendered ballot paper” means a ballot paper referred to in section 82;

“the regulations” means regulations made and in force under this Order.

“voting compartment” means a part of a polling place set aside to enable electors to vote in secret.

(2) Whenever -

- (a) under this Order any act or thing (other than polling) is required to be started, finished or done on a particular day; and

- (b) that day happens to fall on a Saturday, Sunday or a public holiday,

that act or thing is to be started, finished or done on the next working day after that Saturday, Sunday or public holiday.

- (3) The Interpretation Act 1977 applies to this Order as if this Order were an Act within the meaning of that Act.

CHAPTER 2: FURTHER PROVISIONS RELATING TO ELECTORAL COMMISSION

Oath of members of Commission

- 3. Every member of the Commission shall, before assuming the duties of his office, take and subscribe the oath specified in Schedule 3 to this Order.

Other powers, duties and functions of Commission

- 4. For the purpose of carrying out its functions under the Constitution and this Order, the Commission shall have the following powers —
 - (a) to establish and maintain liaison and co-operation with political parties and other interested civic groups;
 - (b) to undertake and promote research into electoral matters;

- (c) to continuously review legislation and other matters relating to elections and referenda and to make appropriate recommendations thereon;
- (d) to promote through the media and other appropriate and effective means the civic education of the citizens concerning elections;
- (e) to develop and promote the development of electoral expertise and technology in all spheres of government;
- (f) to divide Lesotho into electoral areas and to publish the areas, by notice, in the Gazette;
- (g) to register as electors the citizens of Lesotho who qualify to be registered as such;
- (h) to prepare and maintain a general register of electors;
- (i) to appoint electoral officers, consultants and other persons and to specify their functions;
- (j) to prepare and maintain an electoral list for each constituency;
- (k) to establish and maintain a register of official symbols for use by political parties and candidates at elections;
- (l) to establish committees to assist or advise it in the performance of its functions; and
- (m) to discharge such other functions as are conferred upon the Commission by this Order or any other law made thereunder or as are necessary for the proper carrying out of the purposes of this Order.

Particular means of safeguarding independence of Commission

- 5. For the purpose of safeguarding the independence of the Electoral

- (a) every member and every officer of the Commission shall perform his functions impartially and independently, in good faith and without fear, favour or prejudice;
- (b) no member of the Electoral Commission —
 - (i) shall, during his term of office, be eligible for nomination or appointment to any other public office;
 - (ii) may, whether directly or indirectly in any manner, give support to, or oppose any party or candidate participating in an election or any of the issues in contention between political parties or candidates;
 - (iii) may, by his membership, association, statement, conduct or in any other manner place in jeopardy his perceived independence or prejudice the credibility, impartiality or integrity of the Commission.

Party Delegates

- 6. (1) Every political party shall have the right to nominate not more than two delegates (hereinafter referred to as "party delegates") to the Commission each of whom shall be a registered elector.
- (2) Party delegates shall represent the political party nominating them with the Commission and shall have the right in general to be informed of all sittings of the Commission relating to electoral matters and decisions taken thereat.
- (3) Party delegates shall have full and free right of access to the offices of the Commission, to all records kept therein and to check, verify and obtain any information regarding the work of the Commission:

Provided that the Commission shall have the right to nominate an official of the Commission to accompany such

- (4) A party delegate shall continue in office until removed by the political party nominating him.
- (5) Party delegates shall have the right to seek and obtain from the members of the Commission as well as from any other official connected with management, supervision or security of the elections or of any aspect thereof, information showing whether or not such persons are taking adequate measures to comply with the provisions of the law in any forthcoming elections, and the members or such other persons shall be bound to furnish such information immediately.
- (6) Notwithstanding any provision in this Order granting party delegates the right to seek and obtain information, such right shall not include the right to be made aware of security features relating to the ballot papers, voting documents and the official mark used by the Commission on ballot papers.
- (7) The information referred to in this section may be given orally or in written form; and where the information is of a confidential nature, a party delegate to whom it is given shall have the same obligation as to its confidentiality as the person from whom the information is obtained.

Power of Commission to resolve complaints

7. (1) Any complaint submitted in writing alleging any irregularity in any aspect of the electoral process at any stage shall, if not satisfactorily resolved at a lower level of authority, be examined and decided by the Commission; and where the irregularity is confirmed, the Commission shall take necessary action to correct the irregularity and any effects it may have caused.
- (2) An appeal shall lie to the High Court against a decision of the Commission confirming or rejecting the existence of an irregularity.
- (3) The appeal shall be made by way of an application,

specify the declaration that the High Court is being requested to make.

- (4) On hearing an application under subsection (2), the High Court may make such order as it thinks fit and its decision shall be final.
- (5) The High Court shall proceed to hear and determine an appeal under this section as expeditiously as possible and may for that purpose, suspend any other matter pending before it.
- (6) The Chief Justice shall, make rules of Court for regulating the procedure in respect of any appeals under this section and may, for that purpose, adopt any procedure prescribed by any law, subject to such modifications as he may specify.

Right of Commission to institute actions

8. For the purpose of performing its functions, the Commission may bring an action before any court in Lesotho and may seek from the court any remedy which may be available under the law.

Exemption from liability

- 9A. A member of the Commission or an officer or employee of the Commission or any other person performing any function of the Commission under the direction of the Commission, shall not be personally liable to any civil proceedings for any act done in good faith in the performance of those functions.

Special powers of Commission

- 9B. Where, during the course of an election, it appears to the Commission that, by reason of any mistake, miscalculation or emergency, any of the provisions of this Order or any law relating to the election, other than the Constitution, does not accord with the exigencies of the situation, the Commission may, by particular or general instructions, extend the time for doing any act, increase the number of electoral

as may be required to achieve the purposes of this Order or that law to such extent as the Commission considers necessary to meet the exigencies of the situation.

Duty to submit reports

- 9C. (1) The Commission shall submit to Parliament through the Minister responsible for Law and Constitutional Affairs —
- (a) within six months after the end of each financial year, an annual report of its functions, activities and affairs and an audited statement of its revenue and expenditure for that year; and
 - (b) within six months after the declaration of the results of a general election or a referendum, a report on the election or referendum, and the Minister shall lay the annual report and the audited statement or, as the case may be, the report on the election or referendum before the National Assembly and the Senate.

- (2) The National Assembly and the Senate shall deliberate upon such reports and every elector shall be entitled to make oral or written representations to the Commission regarding the election or referendum.

Director of Elections and other staff of Commission

- 9D. (1) The Commission shall have a Director of Elections who shall be a public officer appointed by the Commission acting in consultation with the Public Service Commission upon such terms and conditions as may be determined by the Commission in consultation with the Public Service Commission and specified in his instrument of appointment.
- (2) The Director of Elections shall be appointed from amongst persons of high moral character and proven integrity, possessing the relevant qualifications and proven ability in

- (3) The Director of Elections shall be the chief executive of the Commission and shall perform such functions as are conferred upon him by this Order and such other functions as may be assigned to him by the Commission.

- (4) The Director of Elections may be removed by the Commission only for —

- (a) inability to exercise the functions of his office whether arising from infirmity of body or mind or any other cause; or
- (b) misbehaviour.

- (5) The Commission shall also have such other officers and employees, made available to it by the Minister responsible for the Public Service as required under section 66A (2) of the Constitution, as may be necessary for the discharge of its functions.

Appointment of area electoral officers

- 9E. (1) The Commission shall appoint a public officer to be the area electoral officer for each electoral area.

- (2) The functions of an area electoral officer are —

- (a) in relation to the electoral area concerned —
 - (i) to perform such of the functions of the Director of Elections as that officer specifies; and
 - (ii) to perform the functions of presiding officer for absent electors; and
- (b) to perform such other functions as are imposed or conferred on area electoral officers under this Order.

Appointment of other electoral staff

- 9F.** (1) The Commission shall appoint and employ such registration officers and enumerators as are, in its opinion, required for the purpose of registering persons as electors.
- (2) Whenever an election is to be held for a constituency, the Commission —
- (a) shall appoint and employ a returning officer and deputy returning officer for the constituency; and
 - (b) shall, after consultation with the returning officer, appoint and employ a presiding officer for each polling station to be established within the constituency; and
 - (c) may, after similar consultation, appoint and employ a deputy presiding officer for each such polling station and such official witnesses and polling officers as may, in its opinion, be required to conduct polling at the polling station; and
 - (d) shall, after similar consultation, appoint and employ such counting officers as may, in its opinion, be required to count the votes cast at the election.
- (3) A person may hold two or more offices under this section at the same time.
- (4) If for any reason an officer appointed in respect of a polling station is unable to perform his or her functions at the station, any other person appointed in respect of the polling station —
- (a) may; and
 - (b) if directed to do so by the returning officer or presiding officer concerned, shall, perform those functions.

- 9G.** (1) Subject to any general or special directions that may be given by the Commission, the head of a Lesotho diplomatic mission in another country -
- (a) has the functions of the Director of Elections for the purposes of registering as electors -
 - (i) public officers employed in the service of the Government of Lesotho in that other country; and
 - (ii) the dependants or employees of public officers referred to in subparagraph (i), who are qualified to be registered as electors; and
 - (b) has the functions of a presiding officer for absent electors for the purpose of enabling electors who are public officers employed in the service of the Government of Lesotho in that other country, and electors who are the dependants and employees of those officers, to vote at an election as absent electors.
- (2) The deputy of the head of Lesotho diplomatic mission has the functions referred to in subsection (1) (a) and (b) for the purpose of enabling the head of that mission to be registered as an elector and to vote at an election as an absent elector.

CHAPTER 3 - REGISTRATION OF ELECTORS

PART I - QUALIFICATION AND DISQUALIFICATION OF ELECTORS

Qualifications for registration as an elector

- 10.** A person is qualified to be registered as an elector if he is so qualified

Qualifications for an elector to be registered for a particular constituency

11. (1) A person who is a citizen of Lesotho and who has attained the age of eighteen years shall, unless he is disqualified under section 57 of the Constitution to be registered as such, apply to be registered as an elector for the constituency where he —
- originates from; or
 - ordinarily resides; or
 - is in employment,
- and, subject to this Order, a registered elector has the right to vote in the polling district where he is registered and at the polling station or polling place allocated to him.

- (2) Subject to subsection (1), if a person, other than an absent elector, registered as an elector for a particular constituency—

- changes his place of residence or place of employment from that constituency to another and wishes to vote in the latter constituency; or
- for any good cause, as may be determined by the Director of Elections, wishes to vote in a polling district other than the one in which he is registered within the same constituency.

he shall apply in the prescribed form, to the Director of Elections for the transfer of his registration to the other constituency or, as the case may be, to the other polling district; but a transfer of one's registration from one constituency to another may only be effected prior to the commencement of any suspension of registration of electors provided for in section 19 and shall not entitle the elector to vote for a candidate other than a candidate for the latter constituency.

- (3) An application under subsection (2) shall only be granted if the Director of Elections is satisfied that the applicant is

Other disqualifications from entitlement to be registered as an elector or to vote

12. (1) In addition to the disqualifications specified in subsection (3) of section 57 of the Constitution, a person shall not be qualified to be registered or to continue to be registered as an elector or to vote in an election to the National Assembly for a period of five years following the date on which he is convicted of an offence under Part 2 (except sections 114 and 118), Part 3 or Part 4 of Chapter 9 or the date on which he is reported guilty of such an offence by the court trying an election petition.

- (2) Where a court convicts a person or reports him guilty of an offence referred to in subsection (1), it shall inform the Director of Elections in writing who, if the person concerned is registered as an elector, shall —

- delete his name from every register of electors in which he is registered; and
- inform all other electoral officials whose duties include the registration of electors, of the deletion of that person's name from the register as well as the period of his disqualification and order them to delete his name from all electoral lists.

PART 2 - REGISTRATION AND REGISTER OF ELECTORS

Functions of the Director of Elections with respect to the registration of electors

13. (1) The Director of Elections shall establish and maintain a general register of electors.
- (2) The general register is to be derived from applications for registration and the following particulars of each elector are to be recorded in alphabetical order according to electors' surnames -
 - (a) the elector's surname and christian or given names; and
 - (b) the elector's residential address or, where he or she has no permanent residential address, the address of his or her business or place of employment; and
 - (c) the elector's sex and date of birth; and
 - (d) the elector's identifying number; and
 - (e) any other information that may be required by the regulations for the purposes of this paragraph.

Applications for registration

14. (1) A person (not being a person disqualified under section 12) shall, within 60 days after becoming qualified to be registered as an elector, make an application to the Director of Elections to be registered as an elector.
- (2) A person (being a person otherwise qualified to be registered as an elector) shall, within 60 days after the date on which the person ceases to be disqualified under section 12, make an application to the Director of Elections to be registered as an elector.

- (3) Subsections (1) and (2) do not apply to a person who is absent from Lesotho.
- (4) A person who is 17 years of age may, during the prescribed period, make an application to the Director of Elections to be registered as an elector if he or she would, if 18 years of age, be eligible to be registered as an elector.
- (5) The prescribed period is -
 - (a) for the first general election after the commencement of this Order - the period beginning with a date to be notified in the Gazette by the Director of Elections and ending with the date from which the registration of electors is suspended for the election under section 19(1); and
 - (b) for any subsequent general election - the period on which the National Assembly is dissolved immediately before the election and ending with the date from which the registration of electors is suspended for the election under section 19 (1); and
 - (c) for a by-election for a constituency - the period beginning with the date on which the vacancy in the membership for the constituency in the National Assembly occurs and ending with the date from which the registration of electors is suspended under section 19 (2).
- (6) When an applicant under subsection (4) reaches 18 years of age and not before, the Director of Elections shall, subject to subsection (7) and subject to the applicant satisfying the requirements of sections 15 and 16, register the applicant as an elector.
- (7) Subsection (6) does not have effect while the registration of electors is suspended under section 19 (1), in the case of a

general election, or section 19 (2), in the case of a by-election or fresh election for a constituency.

- (8) Except as provided by subsection (4), a person who has not reached 18 years of age is not entitled to make an application to be registered as an elector.

Form of application for registration

15. (1) An application for registration as an elector shall -
- (a) be in accordance with the application form prescribed by Schedule 1; and
 - (b) be completed in the Sesotho or English language, so as to disclose all the particulars required by the form; and
 - (c) comply with subsection (2).

(2) The application shall -

- (a) be accompanied by documentary proof of the identity of the applicant; or
- (b) be signed by the applicant personally in the presence of a competent witness and, if so signed, contain a sworn declaration, signed by the witness.

- (3) If, because of physical incapacity or illness or because of an inability to read, an applicant for registration is unable to complete and sign an application for registration, a registration officer or an enumerator may, in the presence of the applicant and a competent witness, complete and sign the application on behalf of the applicant.

How applications for registration are to be dealt with

16. (1) The Director of Elections shall, on receiving an application

- (a) check the information in the application; and

- (b) cause appropriate enquiries to be made if the information appears to be incorrect or incomplete.

- (2) The Director of Elections shall, if satisfied that an applicant for registration is qualified for registration and is not disqualified under the provisions of the Constitution and this Order -

- (a) issue the applicant an elector's registration card in the prescribed form, being a card bearing a distinct identifying number -

- (i) to which a photograph of the applicant, taken by the registration officer, is attached; and

- (ii) on which is placed by the applicant the signature or prescribed mark of the applicant; and

- (b) register that person in the general register by entering the particulars of that person as prescribed in section 13 (2) on which shall be marked by the applicant the signature or prescribed mark of the applicant,

but, if the Director of Elections is not so satisfied (whether because of the failure to produce adequate evidence of identity or for any other reason), he shall refuse the application and notify the applicant in writing of the refusal which shall include a statement of reasons.

- (3) If applications for registration in respect of more than one address are received from a person, the Director of Elections shall, as far as possible, ensure that the person's name is included in the general register only once.

- (4) The Director of Elections shall, not later than the fourteenth day of each month, compile a list of applications for

registration that were refused during the preceding month, showing -

- (a) the name and address of each of the applicants; and
- (b) the reasons for refusing the applications.

(5) The Director of Elections shall provide a copy of the list without charge -

- (a) to the authorized representative of each political party; and
- (b) to such other persons, or persons of a specified class, as may be prescribed by the regulations.

(6) If the elector's registration card is lost, destroyed, defaced, torn or otherwise damaged, the elector shall notify the registration officer or other officer duly authorized in that behalf in writing giving proof thereof, and upon the officer being satisfied with such proof he shall issue to the elector a duplicate copy of the card with the words "DUPLICATE" clearly marked or printed thereon.

Monitoring of registration of electors by political parties

16A. Every political party contesting an election shall have the right to monitor the registration of electors and shall do so through its designated representatives assigned to a specified registration centre and whose names shall be notified in writing to the Director of Elections; and in the absence of such notification by any political party it shall be presumed that that party does not desire to monitor the registration of electors at the registration centre.

Rights and duties of representatives of political parties

16B. (1) Representatives of political parties shall have the following rights —

- (a) to be treated with due respect and consideration by

by the representatives of other political parties;

- (b) to request and obtain information on activities relating to the registration of electors.

(2) It is the responsibility of the representatives of political parties in exercising their rights under subsection (1) —

- (a) to monitor the registration activities conscientiously and objectively;
- (b) to co-operate in order to ensure that the registration activities proceed normally by avoiding unjustified interference in and obstacles to the work of registration officers;
- (c) to refrain from divulging any information about an elector or prospective elector as a consequence of acting as a representative and which is not relevant to the registration process.

Elector to notify change of address

17. If the address of an elector, as recorded in the general register changes, the elector shall, within 60 days of the change, give notice in writing of the change to the Director of Elections.

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Consequences of failing to comply with a request by the Director of Elections for information

18. (1) If the Director of Elections has, by notice in writing served on a person, required the person to provide specified information relevant to the registration of the person or another person, the first-mentioned person shall, in so far as he or she is able to do so, provide the Director of Elections with that information -

- (a) within 14 days after being served with the notice; or

(b) within such extended period as the Director of Elections may allow.

(2) If a person who fails to comply with subsection (1) is an applicant for registration as an elector, the application lapses and the person is taken not to have complied with section 14.

(3) If a person who fails to comply with subsection (1) is an elector who has given a notice under section 17 -

(a) the notice lapses and the person is taken not to have complied with that section; and

(b) the Director of Elections may cancel the registration of the elector under section 20.

Suspension of registration

19. (1) Whenever a general election is to be held, the registration of electors is suspended for the relevant period.

(2) Whenever a by-election or fresh election is to be held for a particular constituency, the registration of electors is suspended in respect of the constituency for the relevant period.

(3) The relevant period is -

(a) the period beginning 7 days from the beginning of the election period for the general election, by-election or fresh election and ending with the last day of that period; or

(b) if at the end of the 7 days referred to in paragraph (a) more than 90 days of the election period remain — the period beginning 90 days before the end of that period.

(4) (a) At any time other than a time during an election period, the King -

direct that the registration of electors be suspended, either with respect to the whole of Lesotho or any specified part of Lesotho; and

(ii) may amend or revoke the order by notice similarly published.

(b) An order made by the Minister under this subsection, and in force at the commencement of this Order is, after that commencement, taken to be an order made by the King under that subsection, as in force after that commencement.

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(5) The Commission shall comply with any such direction.

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s.11(b)

(6) The maximum period for which an order, or consecutive orders, under subsection (4) may direct the suspension of registration of electors is 3 months and no order may be made under that subsection that would have the effect of extending that period.

(7) If an application for registration as an elector is made during a period when registration is suspended, the application is to be received, but not dealt with until the period has ended.

Amendment of the general register

20. (1) Subject to subsections (5) and (6), the Director of Elections shall, if satisfied as to the relevant facts, amend the general register for the purpose of -

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(a) correcting any mistake (including a mistake by way of omission); or

(b) cancelling any particulars that should not have been included in the register; or

(c) recording any change in the particulars of registration of an elector; or

- (d) cancelling the registration of any person who has died; or
- (e) cancelling the registration of a person who is no longer qualified to be, or is disqualified from being, registered as an elector; or
- (f) cancelling the registration of an elector who fails to comply with a requirement under section 18; or
- (g) cancelling the registration of a fictitious person; or
- (h) cancelling the earlier registration of a person whose name appears in the register more than once; or
- (i) restoring the particulars of a elector whose particulars were wrongly removed from the register; or
- (j) including the particulars of an applicant for registration whose application for registration has been wrongly refused.

(2) The Director of Elections shall inform the elector concerned, by notice in writing, if that Officer cancels the registration of an elector (other than an elector who has died or is a fictitious person).

(3) If the general register is amended under this section, the Director of Elections shall ensure that corresponding amendments are made to the relevant electoral list or lists.

(4) If necessary, the Director of Elections shall arrange for a supplementary electoral list to be prepared, printed and distributed.

(5) The general register and electoral lists do not have to be amended under this section during the period beginning at 4 p.m. on the seventh day before the polling day or, if there is more than one polling day, the first polling day for the election and ending at the end of the election period

- (6) The general register and electoral lists do not have to be amended under this section during the period of suspension of the registration of electors referred to in subsection 19 (1), in respect of recording the change of address of an elector where the Director of Elections has received notice of the change of address during that period.

Entitlement of members of the public to inspect the general register

21. (1) The Director of Elections shall ensure that a copy of the most recent version of the general register is made available for public inspection, without charge, at the office of that Officer during ordinary office hours. The copy shall be in readable form.

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(2) The Director of Elections may also make available for public inspection, without charge, a copy of the most recent version of the general register or an extract of that register relating to an electoral area at any other place that he or she considers appropriate.

(3) Any person who wishes to do so may, without charge, make a copy of any document made available for inspection under this section.

Director of Elections to publish a provisional version of the general register

21A. (1) Immediately after the dissolution of the National Assembly and at any other time when it appears to the Director of Elections that a general election is to be held, he or she shall -

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(a) prepare a provisional version of the general register; and

(b) as soon as practicable afterwards, ensure that there is published within each electoral area either -

(i) that provisional version; or

- (ii) an extract containing the part of that provisional version that relates to the area concerned.
- (2) Immediately after a seat in the National Assembly becomes vacant (otherwise than on a dissolution of that Assembly), the Director of Elections shall -
- (a) prepare a provisional version containing the part of the general register that relates to the constituency concerned; and
 - (b) as soon as practicable afterwards, ensure that the version is published within that constituency.
- (3) The Director of Elections shall -
- (a) as and when necessary, prepare a supplement to a provisional version of the general register or part of that register prepared under this section containing particulars of those persons whose names have been included in, added or restored to or removed from the general register or part since the preparation of that version; and
 - (b) as soon as practicable afterwards, ensure that the supplement or the relevant extract of that supplement is published within the electoral area or constituency concerned.
- (4) Publication under this section may be in such manner and form as the Director of Elections considers appropriate.

PART 3 - ELECTORAL LISTS

Director of Elections to prepare an electoral list for each constituency

22. (1) The Director of Elections may, whenever he or she considers it necessary to do so, and shall, as soon as practicable after

- (b) in the case of a by-election or a fresh election for a constituency - an electoral list for the constituency.
- (2) The Director of Elections shall, except when the registration of electors is suspended, prepare at the end of each month a supplementary list for each constituency specifying-
- (a) the names of those electors whose names have been added to the electoral list for the constituency; and
 - (b) the names of those electors whose name have been removed from that list.
- (3) The Director of Elections shall provide a copy of each of the lists prepared under this section, without charge -
- (a) to the authorized representative of each political party; and
 - (b) to each area electoral officer.
- (4) The Director of Elections shall ensure, as far as possible, that, except as provided by section 11, the name of an elector-
- (a) is not included in more than one electoral list; or
 - (b) is not included in an electoral list in respect of any address other than the address at which, at the date of application for registration or date of notifying a change or residential address, the elector is residing or has a permanent home.
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s.12(a)
- (5) Subsection (1) does not apply to a fresh election held under section 53.
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- (6) Without prejudice to section 33, a person entitled to be registered as an elector or an authorized representative of a political party may, in accordance with such procedure as may be prescribed by the Commission, make representations to the Director of Elections regarding any matter relating to
- A.8/97
s.12(b)

Particulars to be shown in electoral lists and lists of additions and removals

23. (1) An electoral list and a supplementary list prepared under section 22-
 - (a) shall be divided according to polling districts (which shall be listed in alphabetical order); and
 - (b) shall, in respect of each elector registered for the constituency, specify in alphabetical order under the heading for the appropriate polling district and according to the elector's surname, the particulars referred to in section 13 (2).

- (2) An electoral list is not valid for the purposes of an election unless it is certified as correct and dated by the Director of Elections.

Arrangements for the printing of electoral lists

24. (1) The Director of Elections shall arrange for the printing of -
 - (a) in the case of a general election - an electoral list for each constituency not later than 30 days before the polling day, or if there is more than one polling day, the first polling day for the election; and
 - (b) in the case of a by-election or fresh election for a constituency - an electoral list for the constituency not later than 30 days before the polling day, or if there is more than one polling day, the first polling day for the by-election or fresh election.
- (2) The Director of Elections may arrange for the printing of an electoral list for a constituency at such other times as he or she considers necessary.
- (3) Every member of the public is entitled to purchase an electoral list printed under this section on payment of the fee

- (4) As soon as practicable after an electoral list is printed under this section, the Director of Elections shall provide a copy of the list, without charge -
 - (a) to the authorized representative of each political party; and
 - (b) to the area electoral officer of the electoral area concerned.

Entitlement of members of the public to inspect the electoral lists and lists of additions and removals

25. (1) The Director of Elections shall ensure that a copy of the most recent version of the electoral list for each constituency, and a copy of the most recent supplementary list prepared for the constituency under section 22 (2), is made available for public inspection during ordinary office hours, without charge -
 - (a) at the office of the Director of Elections; and
 - (b) at the office of each area electoral officer.

- (2) Any person who wishes to make a copy of the whole or any part of those lists may do so without charge.

PART 4 - SUPPLEMENTARY PROVISIONS ON DELIMITATION AND REGISTRATION

Headman to report to the Director of Elections the death of an elector who dies within the Headman's area

26. (1) If an elector dies while within an area that is under the jurisdiction of a Headman, the Headman shall, by notice in writing, inform the Director of Elections of the death within 7 days after it happens.
- (2) Subsection (1) does not apply where a medical practitioner

the Director of Elections of the death within the period referred to in that subsection.

Person in charge of a hospital or nursing home to report to the Director of Elections the death of an adult person who dies while in the hospital or nursing home

27. (1) If an adult dies while in a hospital, nursing home or similar institution, the person in charge of the institution shall, by notice in writing, inform the Director of Elections of the death within 7 days after it happens.

(2) Subsection (1) does not apply where a medical practitioner has certified the death and has, by notice in writing, informed the Director of Elections of the death within the period referred to in that subsection.

Medical practitioner who certifies the death of an adult person to report the death to the Director of Elections

28. (1) A medical practitioner who certifies the death of an adult person shall, by notice in writing, inform the Director of Elections of the death within 7 days after it happens.

(2) This section does not apply where the death is reported under section 27 (1).

Registrar or clerk of a court to report conviction to Director of Elections if the conviction would disqualify the person from being an elector

29. (1) If a court -

(a) sentences a person to death; or

(b) convicts an adult person of an offence referred to in section 47(1)(b) or reports that an adult person is guilty of such an offence; or

(c) adjudges or declares a person to be of unsound mind,

the register or clerk of the court shall by notice in writing, inform the Director of Elections of the sentence, conviction, report or order within 7 days after the relevant time.

(2) For the purpose of subsection (1), the relevant time is -

(a) if the person has a right to appeal against the sentence, conviction, report or order but does not exercise the right - the time when the right expires; or

(b) if the person has such a right of appeal which is exercised and the appeal is dismissed - the date on which the appeal is dismissed; or

(c) if there is no such right of appeal - the date of the sentence, conviction or report.

Registrar-General to report the renunciation or deprivation of citizenship to the Director of Elections

30. If -

(a) a declaration by a person renouncing citizenship of Lesotho is registered under section 22 of the Lesotho Citizenship Order 1971; or

(b) a person is deprived of citizenship of Lesotho under section 23 of that Order, the Registrar-General shall, by notice in writing, inform the Director of Elections of the declaration or deprivation of citizenship within 7 days after registering the declaration or becoming aware of the deprivation of citizenship.

Constituency delimitation to be publicised and right to make representations, etc.

31. (1) Without prejudice to subsection (2), before a constituency delimitation order is published in the Gazette, a person entitled to be registered as an elector or an authorized

representative of a political party may, in accordance with such procedure as may be prescribed by the Commission, make representations to the Director of Elections regarding any matter relating to the proposed delimitation of that constituency.

(2) A person entitled to be registered as an elector or a representative of a political party may object to the proposed delimitation in connection with any matter relating thereto; and the provisions of sections 33 and 34 shall apply, *mutatis mutandis*, to the objection.

(3) As soon as practicable after a constituency delimitation order under section 67 of the Constitution is published, the Director of Elections shall —

- (a) make available for public inspection, without charge, at the Director of Elections office a single map or a series of maps that show the names and boundaries of all constituencies in Lesotho;
- (b) make available, without charge, at that office and such other places in Lesotho as he or she considers appropriate, a description of the boundaries of those constituencies and of the Commission's reasons for delimiting those boundaries in that manner;
- (c) display in each constituency, in a conspicuous place to which members of the public have access, a map showing the boundaries of the constituency; and
- (d) publish a notice in one or more newspapers circulating generally in Lesotho or in such other manner as he may deem fit informing members of the public of the availability for inspection and the display of the matters mentioned in paragraphs (a), (b) and (c).

(4) When a constituency delimitation order is published and as a result of the order —

(a) a part of a constituency becomes part of another constituency; or

(b) the name or number of a constituency is changed, the Director of Elections shall amend the general register and the electoral lists for the constituencies so that the register and lists accord with the order.

Constituencies to be divided into polling districts

32. (1) The Director of Elections shall ensure —

(a) that each constituency is divided into polling districts; and

(b) that each such polling district is assigned a distinguishing number.

(2) Whenever a new delimitation of constituencies comes into effect under this Order, the Director of Elections shall arrange for the polling districts forming part of each constituency affected by the new delimitation to be adjusted.

PART 5 - OBJECTIONS TO THE REGISTRATION OF PERSONS AS ELECTORS

Right to object to the registration of a person as an elector

33. (1) A person who is entitled to be registered as an elector or a representative of a political party may object to —

(a) the inclusion of any name in, the addition or restoration of any name to, or the removal of any name from, the general register; or

(b) the refusal of any application for registration.

(2) An objection shall —

(a) be lodged with the Director of Elections; and

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- (c) set out the grounds on which it is made.
- (2A) An objection shall be lodged [within 15 days] or such further period as the Director of Elections by notice in the gazette may specify after the relevant date.
- (2B) The relevant date is -
- (a) in the case of an objection relating to the inclusion of a name in, the addition or restoration of a name to, or the removal of a name from the general register
- the date on which the relevant provisional version of that register, the relevant extract or part of that register or the relevant supplement or extract of that supplement is published in accordance with section 21A; and
- (b) in the case of an objection relating to the refusal of an application for registration - the date on which the refusal is notified in writing to the applicant.
- (3) When an objection is lodged under this section, the Director of Elections shall, subject to subsection (4) -
- (a) acknowledge receipt of the objection; and
- (b) by registered post, notify the grounds of the objection to the person who is the subject of the objection.
- (4) The Director of Elections shall -
- (a) refuse an objection under this section if satisfied that it is frivolous or vexatious; and
- (b) by notice in writing, inform the objector of the refusal and the ground on which it is based.
- (5) The person who is the subject of the objection may, within

- (3) (b), make representations personally or in writing to the Director of Elections.
- (6) After considering any representations made under subsection (5), the Director of Elections shall -
- (a) determine the objection; and
- (b) by notice in writing, notify the determination to the objector and the person who is the subject or the objection; and
- (c) include in the notice a statement to the effect that a party to the determination who is dissatisfied with the determination is entitled to have the determination reviewed under section 34.
- (7) The determination shall include a statement of reasons.
- (8) The Director of Elections shall, on determining that the objection should be upheld, rectify without delay the general register and the relevant electoral list.
- (9) Subject to section 34, the determination of the Director of Elections under this section is final.

Right of a person to require a case to be stated if dissatisfied with a determination under section 33

34. (1) If a person -

- (a) who has made an objection under section 33; or
- (b) in respect of whom the objection has been made,

is dissatisfied with the determination of the Director of Elections, he shall submit the determination to the magistrate designated for that purpose by the Chief Justice, by notice published in the Gazette, in respect of the constituency in which such person has applied for registration.

- (2) The magistrate to whom the determination is submitted may, before reviewing the determination, order the applicant to provide security for any costs awarded against the applicant.
- (3) If security ordered under this subsection is not provided, the matter is not to be proceeded with further.
- (4) On conducting a review of the determination, the magistrate concerned may -
- call for further evidence or submission to be provided; and
 - give such decision and make such order as to costs as he or she considers appropriate.
- (5) If the decision under subsection (4) is inconsistent with the determination under review, the Director of Elections shall give effect to that decision and, where necessary, modify that determination and rectify the register and the electoral list concerned.

CHAPTER 4 - REGISTRATION OF POLITICAL PARTIES

Political parties to register

35. (1) No political party may endorse a candidate for election unless it has first been registered in accordance with the provisions of this Order.
- (2) For the purposes of subsection (1) a political party may apply to the Commission for registration and the Commission shall register such party if it fulfils the conditions prescribed in section 36.
- (3) An application for registration of a political party shall be made by the president, chairman or secretary of the party in the prescribed manner and shall be accompanied by a copy of the constitution of the party and the name of the

political party, its abbreviated name (if any) and its distinguishing mark or symbol and shall also be accompanied by -

- the application fee as may be prescribed;
- a declaration in the prescribed form, signed by not less than (500) members of the political party in question whose names appear on the general register of electors in support of the application for registration; and the declaration shall contain -
 - the full names and the physical and postal addresses of the persons who have signed the declaration; and
 - the names or numbers of the constituencies in respect of which such signatories are registered;
- particulars of all assets and liabilities and all bank accounts of the political party;
- a statement indicating a single bank account into which all income of the political party including contributions from any source shall be paid and from which all election expenses shall be paid.

- (4) Upon the registration of a political party and on payment of the prescribed registration fee, the Director of Elections shall issue that political party with a registration certificate in the prescribed form and publish the particulars of such registration in the Gazette.

Qualifications and conditions for registration

36. (1) No political party shall be qualified to be registered -
- unless its membership is voluntary and open to all citizens of Lesotho without discrimination on the grounds of race, colour, sex, language, religion

- national or social origin, property, birth or other status;
- (b) if by its constitution or policy —
- (i) its sole intention is to advocate or promote the interests of any religious belief or group, or of only a specific area or part of the Kingdom of Lesotho;
 - (ii) its intention is to advocate or promote the interests of any ethnic or racial group;
 - (iii) it accepts or advocates the use of force or violence as a means of attaining its political objectives; or
 - (iv) it does not allow periodic and democratic election of its leadership.

(2) The Commission may not register a political party if its proposed name, abbreviated name, distinguishing mark or symbol mentioned in the application —

- (a) resembles the name, abbreviated name, distinguishing mark or symbol, as the case may be, of any other registered party to such extent that any of them is likely to mislead, confuse or deceive; or
- (b) contains anything which portrays the propagation of or incitement to violence or hatred or which may cause serious offence to any section of the population on the ground of race, colour, sex, age, language or culture, religion, conscience or belief, disability or national social or ethnic origin, property, birth or other status; or
- (c) contains a representation of the national flag, or the national armorial ensign, of Lesotho or so closely resembles that flag or ensign as to be likely to be

- (d) contains a representation of any coat of arms or emblem used by or associated with the Royal Family of Lesotho or so closely resembles that coat of arms or emblem as to be likely to be mistaken for it; or
- (e) contains a representation of any logo, mark or symbol of a prominent public body or so closely resembles that logo, mark or symbol as to be likely to be mistaken for it; or
- (f) is, in its opinion, obscene or is likely to cause offence to members of the public or is such that if registered the electoral system would be likely to be brought into disrepute.

Cancellation of registration of political party

37. The Commission may direct the Director of Elections to cancel the registration of a political party if —

- (a) the Commission, after due notice in writing to that political party and an inquiry into the matter, is satisfied that the party no longer functions or has ceased to exist;
- (b) the Commission is notified by that party in the prescribed manner that the party has dissolved or is intending to dissolve on a specified date; or
- (c) the party is in breach of any any of the conditions referred to in subsections (1) (a) and (b), (2) (b) and (f) of section 36 or any of the provisions of this Order or any law made thereunder.

Appeals

38. (1) A political party which is aggrieved by a decision of the Commission not to register it or to cancel its registration may, within 30 days after the party has been notified of the decision, appeal to the High Court against the decision.

CHAPTER 5 - REGISTRATION OF OFFICIAL SYMBOLS

Register of official symbols

41. (1) The Director of Elections shall, in accordance with this Chapter, establish and maintain a register called the register of official symbols.
- (2) The register shall contain pictures (in black and white) of all registered official symbols and specify the political parties and persons authorised to use the symbols at elections.
- (3) Subject to subsection (2), the Director of Elections may maintain the register in a form and manner in which he or she considers appropriate.
- (4) The Director of Elections shall ensure that the register is made available for public inspection during ordinary office hours, without charge, at the office of that Officer.
- (5) Any person who wishes to make a copy of an entry in the register may do so without charge.

Applications for registration of official symbols

42. An application for registration of an official symbol shall be made to the Director of Elections in a form provided or approved by that Officer for the purpose of this section, and shall -
 - (a) if made by or on behalf of a political party -
 - (i) specify the party's name and address; and
 - (ii) contain a representation (which shall be in black and white) of the official symbol that the party candidates propose to use for election purposes; and
 - (b) if made by or on behalf of a person who proposes to stand for election as an independent candidate -
 - (i) specify the person's name and residential address;

- (2) In considering such an appeal against the refusal to register a party in terms of subsection (2) (a) of section 36, the High Court —

- (a) shall take into account the fact that the party which is associated with the name, abbreviated name, distinguishing mark or symbol, as the case may be for the longest period, should *prima facie* be entitled thereto;
- (b) may, for the purposes of paragraph (a) -
 - (i) afford the parties concerned an opportunity to offer such proof, including oral evidence or sworn or affirmed statements by any person which, in the opinion of the High Court, may be of assistance in the expeditious determination of the matter; and
 - (ii) administer an oath or affirmation to any person appearing to testify orally before it.

Inspection of documents

39. A copy of every document in the possession of the Commission for the purposes of the registration of a political party, shall be kept at the office of the Commission and, at the discretion of the Commission, be available for inspection by the public and any person wishing to inspect such document during office hours without payment.

Saving the right of political parties to register for other purposes under the Societies Act¹

40. Notwithstanding anything to the contrary in this Chapter, the rights of any political party to register under the Societies Act shall not be prejudiced.

- (ii) contain a representation (which shall be in black and white) of the official symbol that the person proposes to use for election purposes; and
- (c) set out any other information, and be accompanied by any other document, required by the regulations for the purposes of this paragraph.

Registration of official symbols

43. (1) If an application complies with section 42, the Director of Elections shall register the official symbol that is the subject of the application unless he or she refuses the application under subsection (3).
- (2) On registration of an official symbol under this section, the Director of Elections shall give written notice of the registration to the applicant.
- (3) The Director of Elections shall refuse an application made under section 42 if, in his or her opinion, the design of the symbol -

- (a) is the same as another official symbol that is already registered under this Chapter or so closely resembles that other symbol as to confuse electors or to be likely to be mistaken for it; or
- (b) is or contains a representation of the national flag, or the national armorial ensign, of Lesotho or closely resembles that flag or ensign as to be likely to be mistaken for it; or
- (c) is or contains a representation of any coat of arms or emblem used by or associated with the Royal Family of Lesotho or so closely resembles that coat of arms or emblem as to be likely to be mistaken for it; or
- (d) is or contains a representation of the logo, mark or symbol of a prominent public body or so closely

resembles that logo, mark or symbol as to be likely to be mistaken for it; or

- (e) is obscene or is likely to cause offence to members of the public or is such that if registered the electoral system would be likely to be brought into disrepute.

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(4) The Director of Elections shall, if he or she refuses an application under subsection (3), give the applicant written notice of the refusal and a statement of the reasons for the refusal.

(5) Unless cancelled under section 45, the registration of an official symbol under this section remains in force for a period of 5 years and then expires unless previously renewed under section 44.

Director of Elections to make official symbols available for use by certain independent candidates

43A. (1) The Director of Elections shall make available a selection of symbols for use by persons who may be nominated as independent candidates and in respect of whom official symbols are not registered under section 43.

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(2) The Director of Elections shall not make a symbol available under this section if the symbol -

- (a) is registered under section 43; or
- (b) is such that, if an application for registration of the symbol had been made under section 42, the Director of Elections would have been required to refuse the application under section 43 (3).

Renewal of registration of an official symbol

44. (1) An application may be made in accordance with this section to the Director of Elections for the renewal of registration of an official symbol registered under section 43.

- (2) The application shall be made in a form provided or approved, and in the manner specified, by the Director of Elections.

Cancellation of registration of an official symbol

45. (1) The Director of Elections may cancel the registration of an official symbol on the written request of an officer of the political party or, as the case be, of the person by whom or on whose behalf the application for registration was made.
- (2) The Director of Elections may also cancel the registration of an official symbol if satisfied on reasonable grounds that -
- (a) the political party concerned has ceased exist; or
 - (b) the person concerned has died; or
 - (c) the registration was obtained by fraud or misrepresentation.

CHAPTER 6 - QUALIFICATIONS FOR ELECTION TO NATIONAL ASSEMBLY

Other qualifications for membership of the National Assembly

46. A person shall be qualified to be elected as a member of the National Assembly if he is so qualified in accordance with section 58 of the Constitution and is not disqualified under the provisions of section 59 of the Constitution and section 47 of this Order.

Other disqualifications from membership of the National Assembly

47. (1) In addition to the disqualifications specified in section 59 of the Constitution, a person shall not be qualified —
- (a) to be elected as a member of the National Assembly if, in terms of subsection (2) of section 59 of the Constitution, at the date of his nomination for the

is acting in an office referred to in this Order and which involves responsibility for the conduct of that election or the compilation of any register of electors for the purposes of that election;

- (b) to be nominated for election as a member of the National Assembly if, in terms of subsection (3) of section 59 of the Constitution —
 - (i) at any time prior to the date of his nomination, he has been convicted or reported guilty by a court trying an election petition, of any offence under Part 2 (except sections 114 and 118), Part 3 or Part 4, of Chapter 9 of this Order; and
 - (ii) at the date of his nomination, a period of five years following his conviction or the report of the court has not elapsed; or
 - (c) to be elected as member of the National Assembly if, in terms of subsection (4) of section 59 of the Constitution
 - (i) he is a member of the Defence Force, the Police Force, the National Security Service or the Prison Service; or
 - (ii) or he holds, or is acting in, a public office.
- (2) For the purposes of subparagraph (ii) of paragraph (c) of subsection (1) "public office" does not include the office of—
- (a) a Minister or Assistant Minister;
 - (b) a Chief (other than a Principal Chief) or a Headman;
 - (c) a member of the Defence Force who is not employed in that Force full-time;

- (d) any person who, while Lesotho is at war or engaged in armed conflict, is a member of the Defence Force enlisted solely for purposes of that war or conflict;
- (e) a member of the council, committee, board or governing body of any public authority who receives no payment for his or her services as a member other than an allowance as reimbursement for subsistence and travelling expenses;
- (f) a member of a commission or committee of inquiry appointed by the Government and whose work is of a temporary nature.

- (3) For the purpose of section 60(2) of the Constitution, the decision of a court in relation to a member of the National Assembly who is sentenced to death or to imprisonment for a term exceeding six months, adjudged or declared to be of unsound mind, adjudged or declared insolvent, or convicted or reported guilty of an offence referred to in paragraph (b)(i) of section 47(1) shall have effect from such time or date as is specified in section 29(2).

CHAPTER 6A - ELECTION CAMPAIGNS

Application and construction of this Chapter

- 47A. (1) This Chapter shall apply to campaigns by independent candidates in the same manner as it applies to political parties and, wherever the context so permits, reference to a political party includes reference to a candidate.
- (2) In this Chapter, a meeting includes a procession, rally or demonstration.

Objective of campaigns

- 47B. The objective of election campaigns shall be to enable political parties, their candidates, members and supporters to disseminate their

intended policies to the electors for discussion and consideration.

Campaigning

- 47C. (1) All political parties and candidates shall have the right to campaign in an election.
- (2) Campaigning by or in the name of any political party or a candidate shall not be conducted in any public place unless the political party has notified the Local Authority in writing, with a copy of such notification to the Police Officer in charge of the ward where the campaigning is to take place.
- (3) Where two or more political parties have given notification under subsection (2) to hold a public meeting at the same venue and at substantially the same time, the political party whose notification was first received by the Local Authority shall have priority over any other party to hold its meeting and the Local Authority shall notify the other party or parties as to what other time they may hold their meetings.

Period of campaigning

- 47D. For the purposes of this Order, the period of campaigning in public by every political party under this Chapter shall be a period of two months closing forty-eight hours before the opening of the poll on the first polling day.

Equal treatment of political parties and candidates

- 47E. Every public officer and public authority shall give and be seen to give equal treatment to all political parties to enable each political party to conduct its campaign freely.

Freedom of expression and information

- 47F. Every political party and every representative, member or supporter thereof shall enjoy complete and unhindered freedom of expression and information in the exercise of the right to campaign under this Order and no person shall, during or after the period of campaigning,

be subjected to any criminal prosecution for any statement he or she made or any opinion he or she held or any campaign material he or she produced, published or possessed while campaigning in the election.

Freedom of assembly

47G. Subject only to section 47C (2) every political party and any representative, member or supporter thereof shall, either alone or in common with others, enjoy complete and unhindered freedom of peaceful assembly in campaigning in an election.

Norms during campaigning

47H. Notwithstanding guarantees of freedom of expression, information and assembly under this Order, no person shall in campaigning in an election act contrary to the commitments, undertakings and stipulations set out in section 3 and 4 of the Electoral Code of Conduct set out in Schedule 4 to this Order.

Access to public facilities

47I. All public facilities the uses of which is subject to the payment of a fee shall be available to all political parties and candidates to hold meetings on the basis of equal charges.

Prohibited places for campaigning

47J. No person shall hold a campaign meeting under this Order in or within the premises of -

- (a) any premises reserved for use by the Defence Force, or the Police Force for official duties or for residence;
- (b) public institutions and workplaces during normal working hours;
- (c) educational institutions during periods of classes.

News broadcasts and reports

47K. (1) Every political party shall have the right to have the substance of its campaign propaganda reported on news broadcasts of the Government-owned media and in any newspaper in circulation in Lesotho:

Provided that in the case of news broadcasts by Government-owned media —

- (a) the content of the news shall be professionally determined by that media;
- (b) the media shall maintain neutrality in the manner of reporting the news of the campaign propaganda of political parties and generally in its commentaries;
- (c) the Commission shall monitor such news broadcasts and shall ensure news coverage of the campaigning by all political parties.

(2) The Commission shall, by arrangement with the Government-owned media, allocate time on the radio or television during which political parties may be allowed to speak or appear in campaigning for an election and the Commission shall determine the allocation of time to each political party.

(3) For the purposes of this section, "campaign propaganda" means any activity, statement, appearance or any other form of expression aiming directly or indirectly at promoting votes for any candidate or political party contesting in an election.

(4) No political party or candidate shall be entitled to broadcast commercial advertisements for its or his campaign on Government-owned media.

Publication of books, pamphlets, etc.

- 47L. During the campaign period any political party may publish campaign materials in the form of books, booklets, pamphlets, leaflets, magazines or newspapers and shall, in any such publication, specify particulars sufficient to identify the political party.

Campaign posters

- 47M. The Commission shall, in consultation and co-operation with the District Secretary and the Local Authority of any area provide and designate places or spaces in parts of such area on which may be posted or affixed election education materials and campaign materials of political parties and every political party shall be entitled to equal access to such place or space.

Campaign financing

- 47N. (1) A political party may, for the purpose of financing its campaign, appeal for and receive voluntary donations from any individual or organization in or outside Lesotho and the source of every donation exceeding M20,000 shall, within thirty days of its receipt, be disclosed to the Commission by the Secretary of the party concerned.

- (2) All such donations shall be deposited into, and all election expenses paid from, the bank account referred to in subsection (3) (d) of section 35.

CHAPTER 7 - CONDUCT OF ELECTIONS

PART 1 - PRELIMINARY

ARRANGEMENTS AND NOMINATION OF CANDIDATES

Notification of election and date for closing of nominations

48. (1) A general election of members of the National Assembly is to be held on such day or days as are fixed by proclamation

The proclamation is to be directed to the Commission and is to be in accordance with Form 2 in Schedule 1.

- (2) If the National Assembly is dissolved or stands dissolved, the King, acting in accordance with the advice of the Council of State, shall make a proclamation under subsection (1) not later than four days after such dissolution.

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- (3) As soon as practicable after a proclamation has been made under subsection (1), the Director of Elections shall publish in the Gazette -

- (a) a copy of the proclamation; and
- (b) a notice specifying the date on and from which the registration of electors is to be suspended in accordance with section 19 (1); and
- (c) a notice specifying -
 - (i) the date on which the nomination of candidates is to close; and
 - (ii) the place within each constituency where a nomination court is to consider nominations; and
 - (iii) the person appointed to be the returning officer for each constituency; and
 - (iv) the date on which the election results are to be published.

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The day specified under subsection (3) (c) (i) -

- (a) shall be not less than 30 days and not more than 60 days before the polling day, or if there is more than one polling day, the first polling day for the election; and
- (b) if Parliament does not stand dissolved - may be on

- (5) The place at which the nomination court for a constituency is to be held shall be within the constituency.

Procedure for nominating candidates for election

49. (1) Between 9 a.m. and 2 p.m. on nomination day, the returning officer for each constituency shall, at the place specified for the constituency under section 48 (3) (c) (ii), hold a nomination court for the nomination of candidates for election for that constituency.

- (2) A returning officer for a constituency shall not accept the nomination of a person as a candidate for election unless the person is -

- (a) proposed by a person whose name appears on the electoral list for the constituency; and
- (b) is seconded by another person whose name appears on that list.

- (3) The nomination shall be in accordance with Form 3 in Schedule 1 and -

- (a) shall be signed by the proposer and seconder; and
- (b) may be delivered to the returning officer at any time after the publication of the relevant election notice and before the close of proceedings of the nomination court.

- (4) A returning officer shall not accept the nomination of a person as a candidate unless the nomination form includes a statement signed by the person consenting to nomination and-

- (a) if the person is candidate of a political party -
 - (i) a certificate, signed by an office-bearer of the party, certifying that the person is the

candidate of the party at the election for the constituency concerned; and

- (ii) a representation (which shall be in black and white) of the party's registered official symbol; or

- (b) if the person is not a party candidate -

- (i) a certificate, signed by the person, stating that the person is not a party candidate; and
- (ii) a representation (which also shall be in black and white) of the person's registered official symbol.

(5) A person may only withdraw his consent to nomination for election not later than five days before the date on which the nomination of candidates is to close, as determined under section 48, by lodging with the returning officer a written notice of withdrawal and, if he is a party candidate, a copy of the notice to the political party which endorsed his candidature.

If at 2 p.m. on nomination day -

- (a) a person who is present at the nomination court is ready to propose a candidate for nomination; or

- (b) a person has been proposed but the person's nomination has not been completed, the returning officer shall, unless or until satisfied that the nomination cannot be completed, continue the proceedings of the nomination court for such period as will enable the person to be properly nominated as a candidate.

(7) If on nomination day it is proposed to nominate a person as an independent candidate and no official symbol is registered in respect of the person under section 43, the person shall

select a symbol from the symbols made available under section 43A and not already selected by another person.

- (8) When a person has selected a symbol under subsection (7), the symbol is taken to be the registered symbol of that person but only for the purpose of the election for which the person is nominated as a candidate.
- (9) Sections 42, 43, 44 and 45 do not apply to a symbol selected under subsection (7).

Deposit to be lodged in respect of a candidate in certain cases

- (1) If two or more persons are nominated for election for a constituency, the returning officer shall, before the close of the proceedings of the nomination court concerned, require a deposit of M 200 to be lodged with that officer by or on behalf of each of those persons.
- (2) If a requirement under subsection (1) is not complied with, the nomination of the candidate concerned is taken to have been withdrawn.
- (3) If at an election for a constituency the total number of votes received by an unsuccessful candidate is less than 10 per cent of the number of votes received by all candidates who contest the election, the deposit lodged by or on behalf of that candidate -
 - (a) is forfeited to the Crown; and
 - (b) is to be paid into the Consolidated Fund.
- (4) As soon as practicable after declaring the result of an election, a returning officer with whom a deposit has been lodged under this section shall, unless the deposit is forfeited under subsection (3), ensure that the deposit is returned to the person who lodged it or, if not, then to that person's representative.

What happens when only one candidate is nominated for election

- (1) If at the close of the proceedings of a nomination court only one person has been nominated as a candidate for election, the returning officer shall immediately -
 - (a) record on the prescribed election result form that the person was the only candidate nominated for election for the constituency concerned; and
 - (b) invite the candidate or the candidate's agent to sign the form; and
 - (c) declare that candidate to be the duly elected member of the National Assembly for that constituency with effect from the date on which the election period ends.
- (2) A declaration under subsection (1) is to be made both inside and outside the office of the returning officer.
- (3) As soon as practicable after making a declaration under subsection (1), the returning officer shall -
 - (a) send by registered post or deliver to the Director of Elections and the area electoral officer concerned copies of the completed election result form; and
 - (b) give another copy of the form to the candidate or the candidate's agent; and
 - (c) arrange for another copy of the form to be posted in a conspicuous place on the outside, or in the immediate vicinity, of the office of the returning officer.
- (4) Any declaration by the returning officer under this section is final, unless the High Court sets aside the election of the candidate under Chapter 8.

Poll to be held when two or more candidates are nominated for election

52. (1) If at the close of the proceedings of the nomination court, two or more candidates have been nominated for election, the returning officer shall immediately notify the Director of Elections in the prescribed form specifying the name, address and occupation of each candidate nominated for election and-
- (a) if the candidate is a party candidate, the name of the political party that has endorsed the candidate and a representation of the party's registered official symbol; or
 - (b) if the candidate is not a party candidate that the candidate is an independent and a representation of the candidate's registered official symbol.
- (2) On being notified under subsection (1), the Director of Elections shall arrange for a poll to take place in the constituency concerned on the polling day or days prescribed.

What is to happen when an election fails

53. (1) If, in relation to a particular constituency -
- (a) a candidate nominated for election dies before polling begins; or
 - (b) no candidates are nominated for election,
- the returning officer shall immediately -
- (c) declare the election to have failed; and
 - (d) notify the declaration in writing to the Director of Elections.
- (2) When the Director of Elections receives a declaration under subsection (1), the following provisions apply -

- (a) the Director of Elections shall cancel the election notice in so far as it relates to the constituency concerned;
- (b) the King shall proclaim a date for a fresh election for that constituency and the Director of Elections shall publish a fresh electoral notice as for a by-election;
- (c) the electoral list that was prepared for the original election is to be used for the fresh election;
- (d) the fresh election shall be conducted in the same manner as if a vacancy had occurred with respect to the member for that constituency in the National Assembly.

- (3) If an election has failed because of the death of a candidate, no fresh nomination is necessary for any other candidate who had been nominated at the time when the election notice was cancelled under subsection (2)(a). However, any such other candidate may elect to withdraw his or her consent to nomination and in that case the returning officer shall ensure that the deposit lodged in respect of that candidate is returned to the person who lodged it or, if not, then to that person's representative.

Public notice of election to be given when two or more persons are nominated as candidates

54. If two or more persons are nominated as candidates for a constituency, the Director of Elections shall, as soon as practicable after the close of nominations, arrange for public notice of the following matters to be given in every town and village within the constituency -
- (a) the date or dates on which, and the hours during which, polling is to take place;

- (b) the location of each polling station within the constituency;
- (c) the name, address and occupation of each candidate nominated for election for the constituency and -
 - (i) in the case of a party candidate - the name of the political party by which the candidate is endorsed and the registered official symbol of that party; and
 - (ii) in the case of an independent candidate - the word "independent" and the registered official symbol by which the candidate is to be identified at the election.

How polling stations are to be established

55. (1) The Director of Elections shall ensure that at least one polling station is established in each polling district.
- (2) The location of such a polling station is to be determined after consultation with the candidates nominated for the election for the constituency concerned.
- (3) The Director of Elections may, after consultation with the person in charge and without charge, use as a polling station any building which was provided or is maintained out of public money.
- (4) The Director of Elections may also enter into contracts for the use of other buildings as polling stations.
- (5) The Director of Elections shall, out of money provided by the Parliament for the conduct of elections, pay compensation for-
- (a) any damage done to a building used under this section; and
 - (b) the loss or destruction of, or any damage to, property within, or used in connection with, the building; and

- (c) any expense properly incurred by the owner or person in charge of the building as a result of its use as a polling station.

- (6) In this section, "building" includes a part of a building.

What equipment is to be provided for an election

56. (1) The Director of Elections shall ensure that all necessary steps are taken to facilitate polling at an election and for the effective conduct of the election.
- (2) In particular, the Director of Elections shall ensure that every returning officer is provided with sufficient of the following articles to enable polling at each polling station within the officer's constituency to be conducted in an effective and efficient manner -
- (a) voting compartments;
 - (b) ballot boxes;
 - (c) ballot papers that are in accordance with Form 4A in schedule 1;
 - (d) for each polling district within the constituency - an extract of that part of the certified copy of the electoral list for the constituency which relates to the polling district;
 - (e) seals;
 - (f) instruments for marking ballot papers with the official mark;
 - (g) necessary forms and stationery;
 - (h) any other items necessary for conducting the election.
- (3) Voting compartments do not have to be provided for a

suitable arrangements can be made to ensure that secrecy of voting at the polling station will be maintained.

- (4) For purpose of enabling persons to vote at a polling place as absent voters, the Director of Elections shall ensure that each presiding officer for absent electors is provided with sufficient of the following articles to enable polling at that place to be conducted in an effective and efficient manner -
- (a) application forms to enable persons to vote as absent electors;
 - (b) ballot papers that are in accordance with Form 4B in Schedule I;
 - (c) covering envelopes for the despatch of absent electors' applications marked on the back "Constituency of";
 - (d) smaller envelopes which are marked on the front "Ballot envelope - Constituency of";
 - (e) a list, in alphabetical order, containing the names of the constituencies concerned and, below the name of each of those constituencies, the prescribed particulars of the candidates nominated for election for the constituency (arranged in alphabetical order according to the candidates' surnames);
 - (f) the address of the area electoral officers to whom applications by absent electors shall be sent;
 - (g) stamps depicting the registered official symbols of all political parties that have endorsed candidates for the election and of all independent candidates;
 - (h) a copy of the electoral list for each constituency;
 - (i) the items referred to in subsection (2) (e) - (h).
- (5) A area electoral officer shall ensure that the returning

the names of all electors for that constituency in respect of whom applications to vote as absent electors have been allowed.

- (6) If the names referred to in subsection (5) are not already recorded on the relevant extracts of the electoral list when they are supplied to the returning officer under this section, he or she shall, as soon as practicable after being informed of those names, record them on those extracts.

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Appointment of candidates' agents

57. (1) A candidate may appoint one or more persons as the candidate's agents.
- (2) However, a candidate is not entitled to appoint more than two agents for each polling station in the constituency concerned.
- (3) A person is not eligible to be appointed under this section unless he or she is an elector whose name appears on the electoral list for the constituency concerned.
- (4) Immediately after appointing or terminating the appointment of an agent, a candidate shall give to the Director of Elections a document specifying -
- (a) the name and address of the agent; and
 - (b) that the agent has been appointed or, as the case may be, that appointment of the agent has been terminated.
- (5) A candidate is not, at any particular time, entitled to have more than one agent present at a polling place or at a place where votes are counted.
- (6) A candidate's agent who is attending or seeking to attend any place where polling or the counting of votes is in progress shall produce his or her document of appointment if required

to do so by the Director of Elections or the returning officer or presiding officer concerned.

- (7) A candidate's agent who fails to comply with subsection (6) may be refused access to the place concerned or, if already present in that place, may be ordered to leave it.

Persons required to make a declaration of secrecy

58. (1) This section applies to the following persons -

- (a) a returning officer and deputy returning officer;
- (b) a presiding officer for absent electors;
- (c) a presiding officer and deputy presiding officer at a polling station;
- (d) a polling officer;
- (e) an official witness;
- (f) a counting officer;
- (g) a candidate, candidate's agent or representative of a political party, or any other person, entitled or authorized to attend while polling at a polling place, the consideration of absent electors' votes or the counting of votes is in progress.

- (2) A person to whom this section applies shall not perform a function conferred or imposed on the person by this Order unless the person has made on oath a declaration of secrecy in accordance with a form provided by the Director of Elections.

- (3) If the person required to make a declaration of secrecy is a returning officer or presiding officer for absent electors, the declaration shall be made before the Director of Elections or a person authorized in writing by the Director of Elections. If the person required to make such a declaration is not a

declaration shall be made either before the area electoral officer or the returning officer concerned.

- (4) The Director of Elections shall ensure that a person to whom this section applies does not contravene subsection (2).

Form of ballot paper

59. (1) A ballot paper to be issued to an elector at a polling station shall -

- (a) be included in a book of ballot papers; and
- (b) be in accordance with Form 4A in Schedule 1; and
- (c) comply with subsection (2).

- (2) There shall be printed on the ballot paper, in alphabetical order according to surnames, the names of the candidates nominated for election for the constituency concerned and -

- (a) in relation to a party candidate -
 - (i) the name of the political party that has endorsed the candidate; and
 - (ii) a picture of the party's registered official symbol shown in black and white; and
- (b) in relation to an independent candidate -
 - (i) the word "independent"; and
 - (ii) a picture of the candidate's registered official symbol shown in black and white.

- (3) A ballot paper to be issued to an absent elector shall -

- (a) be included in a book of ballot papers; and

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(b) if practicable, be in accordance with Form 4A in Schedule 1 or, if not practicable, be in accordance with Form 4B in that Schedule.

(4) If the number of ballot papers in Form 4A in Schedule 1 is insufficient to enable all electors who wish to do so to vote at a polling station, the presiding officer shall, if they are available, issue those electors with ballot papers that are in accordance with Form 4B in that Schedule.

(5) Subject to subsection (4), a ballot paper to be issued to an elector under section 82 shall be in accordance with Form 4A in Schedule 1 except that on the front of the paper there shall be written the words "tendered ballot paper"

(6) A ballot paper that is not in accordance with this section is not a valid ballot paper.

Presiding officer and returning officer to ensure production of certain instruments of appointment

60. (1) Before the start of polling at a polling place, the presiding officer shall ensure that -

- (a) every other electoral official; and
- (b) every candidate's agent and authorized representative of a political party;

who is to carry out official functions at the polling place in connection with the election shows his or her letter of appointment to the presiding officer before entering the place to begin work at the election.

(2) On the polling day or days for an election for a constituency, the returning officer shall ensure that -

- (a) every other electoral official; and
- (b) every candidate's agent;

who is to carry out official functions at the office of the returning officer in connection with the election shows his or her letter of appointment to the returning officer before being allowed to enter that office.

PART 2 - VOTING BY ABSENT ELECTORS

Persons entitled to vote as absent electors

61. (1) Any person who is registered as an elector and who will not be able to attend at a polling station in the polling district in which he or she is registered at any time while polling is in progress at an election -

- (a) because the person -
 - (i) is a public officer employed in the service of the Government of Lesotho in another country; or
 - (ii) is the dependant or employee of such an officer who is residing with the officer in that other country or at some other place outside Lesotho; or

(b) because the person will be carrying out official duties at the election as an election official; or

(c) because the person will be carrying out official duties at the election as a police officer or member of the Defence Force; or

(d) because the person is a candidate at the election; or

(e) because the person will be carrying out duties at the election as a candidate's agent or an authorised representative of a political party at the election,

may, during the period beginning 28 days and ending 10 days before the start of polling at polling stations, apply to vote as an absent elector.

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- (2) Such an application shall be made in the prescribed form.
- (3) For the purposes of this section, the person to whom an application to vote as an absent elector should be made is -
- in the case of an application made within Lesotho other than by a person referred to in subsection (1) (c) - the area electoral officer located at the place nearest to the applicant's place of residence; and
 - in the case of an application made within Lesotho by a person referred to in subsection (1) (c) - either the relevant area electoral officer as specified in paragraph (a) or an election official appointed by the Director of Elections to be a special presiding officer for absent electors; and
 - in the case of an application made by a person who is a public officer employed by the Government of Lesotho in another country or who is the dependant or employee of such an officer - as provided by section 9.
- (4) An application under this section shall be signed by the applicant in the presence of a competent witness and an election official
- authorized to receive applications to vote as an absent elector both of whom shall sign the application as witnesses.
- (5) However, if such an application is made by a person who is unable to read or write, the form of application may be completed and signed on the person's behalf by an election official authorized to receive applications under this section in the presence of the applicant and a competent witness, who shall sign the application as a witness and certify the presence of the applicant.

Responsibilities as regards the acceptance of applications to vote

62. An election official authorized to receive applications to vote as an absent elector shall not accept an application by an elector to vote as an absent elector, unless -
- the officer has seen the elector and the witness sign the application and has personally signed the application; and
 - the officer is satisfied that the statements in the application are true.

Appropriate presiding officer for absent electors

62A. For the purposes of this Part, the appropriate presiding officer for absent electors is -

- in the case of an application made within Lesotho by a person other than a person referred to in section 61(1)(c) - the returning officer for the constituency for which the person is registered;
- in the case of an application made within Lesotho by a person referred to in section 61(1)(c) - either the returning officer for the constituency for which the person is registered or a person appointed by the Director of Elections as a special presiding officer for absent electors; and
- in the case of an application made by a person who is a public officer employed by the Government of Lesotho in another country or who is the dependant or employee of such an officer - as provided by section 9G.

Consideration of applications by persons to vote as absent electors

- 62B. (1) An area electoral officer shall give every candidate for election in the constituencies within the officer's electoral area sufficient notice of the date, time and place where the

officer will consider the applications by absent electors so as to enable the candidate or an agent of the candidate, or both, to be present at the consideration of those applications.

- (2) A special presiding officer shall give every candidate for election sufficient notice of the date, time and place where that officer will consider applications to vote as absent electors made to that officer so as to enable the candidate or an agent of the candidate, or both, to be present at the consideration of those applications.

- (3) On the date and at the time and place specified in the notice given under subsection (1) or (2), the relevant officer shall -

(a) if satisfied that an application is properly completed and signed and that the name of the applicant appears on the electoral list for the constituency concerned or that the applicant has adequate proof of registration and identity, allow the application; and

(b) if the application is the only application that the officer has received in respect of the same elector, arrange for the application to be sent to the returning officer for the constituency for which the person is registered or to a special presiding officer for absent electors, as the case may be.

- (4) If the officer receives two or more applications that appear to have been made by the same elector, the officer shall -

(a) compare the applications; and

(b) if satisfied that the applications have been made by the same elector, deal with the earliest completed application in which there is no defect, and reject all other applications from the same elector.

- (5) If an application is rejected under this section because it is materially defective, the officer shall by notice in writing -

(a) inform the applicant of the reason for the rejection; and

(b) if the period during which an elector may make an application to vote as an absent elector has not expired, invite the applicant to make a fresh application to vote as an absent elector.

How absent electors may cast their votes

63.

- (1) As soon as practicable, after a presiding officer for absent electors has received the approved application of a person who wishes to vote as an absent elector and has referred to the list of candidates for the constituency concerned, or has received adequate proof of registration and identity, the officer shall -

(a) if the elector is to be issued with a ballot paper that is in accordance with Form 4B in Schedule 1 -

(i) write in the appropriate places on the ballot paper the name of the constituency, the date or dates on which the election is to be held and the names of the candidates nominated for the constituency (in alphabetical order according to surnames) and the other particulars referred to in section 59 (2) (a) (i) and (b) (i); and

(ii) stamp in the appropriate places on the ballot paper, in the case of party candidates, the registered official symbols of the political parties that have endorsed them and, in the case of independent candidates, the candidates' registered official symbols; and

(iii) write in the appropriate place on the corresponding counterfoil the name of the constituency; and

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- (b) in any case, write in the appropriate place on that counterfoil the identifying number of the applicant; and
- (c) write on the front of a ballot envelope the name of the constituency; and
- (d) write on the front of a covering envelope the address of the area electoral officer to whom the application shall be sent and write on the back of the envelope the name of the constituency; and
- (da) tear the ballot paper from the corresponding counterfoil; and
- (c) place on the ballot paper, ballot envelope and covering envelope the official mark in the spaces provided.

(2) Immediately after taking the steps described in subsection (1), the presiding officer shall -

- (a) issue to the applicant the ballot paper and the ballot envelope prepared in accordance with subsection (1); and
 - (b) direct the applicant to a place in the same room where he or she can vote in secret.
- (3) The applicant shall vote by placing a tick, cross or some other mark in the square adjacent to the name of the candidate for whom the applicant wishes to vote.

(4) The applicant shall then -

- (a) place the ballot paper in the ballot envelope, fasten the envelope and hand the ballot envelope to the presiding officer; and
- (b) immediately after complying with paragraph (a) leave the polling place.

- (5) The presiding officer shall, immediately after being handed the ballot envelope, place that envelope in the covering envelope for the constituency concerned. O.10/93
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- (5A) The presiding officer shall after having complied with the requirements of section 65, place the covering envelope in the ballot box for absent electors or, where the presiding officer is a special presiding officer for absent electors appointed under section 62A, place that envelope in a covering envelope for the constituency concerned. O.10/93
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- (6) If an absent elector -
 - (a) inadvertently spoils a ballot paper or ballot envelope; or
 - (b) inadvertently votes for a candidate for whom the elector does not wish to vote; or
 - (c) inadvertently does something on the ballot paper or the ballot envelope which could lead to the rejection of the ballot paper or ballot envelope, the elector may return the ballot paper or ballot envelope to the presiding officer.
- (7) If satisfied of the inadvertence, the presiding officer shall, after first cancelling the spoiled ballot paper or ballot envelope by writing the word "cancelled" on its face and on the corresponding counterfoil -
 - (a) give the absent elector another ballot paper; and
 - (b) retain the spoiled ballot paper or ballot envelope.
- (8) In addition to the presiding officer for absent electors and the officer's assistants only the following persons are entitled to be present when persons are voting in Lesotho as absent electors -

(a) any candidate at the election or one of the candidate's agents;

(b) not more than one authorized representative of each political party that has one or more endorsed candidate at the election;

(c) any person authorized in writing by the Director of Elections.

functions of presiding officer for absent electors after polling has concluded

4. (1) In the case where a presiding officer for absent electors is a special presiding officer for absent electors appointed under section 62A - as soon as proceedings for voting by absent electors have concluded, the presiding officer shall for each constituency fasten the covering envelope for the constituency and then arrange for the covering envelope to be sent by registered post to the returning officer for that constituency or to be delivered to that officer and when a returning officer for a constituency receives a covering envelope from a special presiding officer, the returning officer shall place the individual covering envelope in the ballot box for absent electors.

(2) In any case, as soon as the proceedings for voting by absent electors have concluded, the presiding officer shall enclose the following items in separate packets addressed to the Director of Elections -

- (aa) any spoiled ballot papers (including spoiled tendered ballot papers) and spoiled ballot envelopes; and
- (ab) the ballot papers and ballot envelopes not used for voting at the polling place; and
- (ac) the marked copies of electoral lists; and

(b) declaration of secrecy and documents of appointment (if any) of electoral officials, candidates' agents and authorised representatives of political parties handed to the presiding officer; and

(c) the instruments used for marking ballot papers and ballot envelopes with the official mark; and

(d) any items provided for purposes of the election (including forms and stationery but excluding ballot papers and ballot envelopes) that were not used for those purposes.

(3) The presiding officer shall then -

(a) seal with the officer's own seal the packets referred to in subsection (2); and

(b) allow any candidates, candidates' agents or, authorized representatives of political parties present at the polling place to affix their seals if they wish to do so.

(4) The presiding officer shall put a temporary seal on the ballot box with the officer's own seal and allow candidates, candidates' agents or authorized representatives of political parties present at the polling place to affix their seals and then ensure that the ballot box is kept under safe custody until polling day.

(5) The returning officer for a constituency shall designate a polling station within the constituency as the place where the ballot papers of absent electors will be mixed with other ballot papers and shall notify all candidates of the designated polling station.

(6) As soon as conveniently possible, the presiding officer shall arrange for the packets referred to in subsection (2) to be delivered to the Director of Elections or to a person

authorized by that Officer to receive those packets on his or her behalf.

revision of ballot boxes in connection with voting by absent electors

(1) The Director of Elections shall provide every returning officer for a constituency with sufficient ballot boxes for voting by absent electors for that constituency and shall also provide special presiding officers for absent electors with sufficient ballot boxes for voting by absent electors.

(2) Immediately before the returning officer places the first ballot envelopes in a ballot box, the officer shall-

- (a) show to those present the ballot box open and empty; and
- (b) close the box and seal it with the officer's seal; and
- (c) allow those candidates and candidates' agents or authorised representatives of political parties who wish to affix their seals to do so; and
- (d) mark the box with the words "ballot box for absent electors" and the name of the constituency concerned.

(3) The officer shall ensure that each ballot box for which he or she is responsible is kept under safe custody.

6. Repealed

Functions of a presiding officer for absent electors in respect of ballot boxes containing the votes of absent electors

(1) A presiding officer for absent electors shall -

- (a) enclose in a packet, sealed with the officer's seal of office, all approved applications that the officer has received from persons who have applied to vote at an election as absent electors; and

(b) as soon as practicable, arrange for the packet to be delivered to the Director of Elections.

(2) Not later than 5 p.m. on the polling day or, if there is more than one polling day, on the last or later polling day for the election, the returning officer for a constituency shall -

- (a) close and seal the openings in the ballot boxes for absent electors; and
- (b) allow the candidates and their agents and authorized representatives of political parties to affix their seals if they wish to do so; and
- (c) prepare a ballot account for absent electors in the prescribed form; and
- (d) without delay arrange for the ballot boxes and ballot account to be delivered to the presiding officer at the polling station designated under section 64(5).

(3) Instead of taking action under subsection (2) (d), the officer may arrange for the ballot boxes, ballot accounts and packets to be delivered on the day after polling has closed, but in that case, he or she shall -

- (a) keep the ballot boxes, ballot accounts and packets in a place of safe custody and under guard; and
- (b) allow those candidates and their agents and authorized representatives of political parties who wish to do so to keep the ballot boxes, ballot accounts and packets under observation,

until delivery is made to the returning officers concerned.

Functions of a presiding officer on receiving ballot boxes and ballot accounts relating to voting by absent electors

68. A returning officer who has received ballot boxes and a ballot account delivered under section 67 shall -

- (a) keep those articles in a place of safe custody and under guard; and
- (b) allow those candidates and their agents and authorized representatives of political parties who wish to do so to keep those articles under observation,
- until the counting of votes at the office of that officer begins.

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What happens if an absent elector dies before polling day

69. The death of an elector who has voted at an election as an absent elector before the polling day (or, if there is more than one polling day, the first polling day) for the election does not invalidate the elector's vote.

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PART 3 - VOTING AT POLLING STATIONS

Polling for all constituencies to be held on the same day

70. All polling for a general election is, except as otherwise specifically provided by this Order, to be conducted in all constituencies on the day or days fixed for the election under section 48 (1).

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Hours for polling at polling stations

71. (1) Polling at a polling station -
- (a) is to start at 7 a.m. on the polling day or, if there is more than one polling day, the first polling day for the election; and
- (b) is, except as otherwise provided by this Part, to finish at 5 p.m. on that day or, as the case may be, each of those days.

- (2) However, the presiding officer for a polling station shall allow any person to vote who wishes to vote and is in the station at 5 p.m. and polling

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Subsections (3), (4) and (5) omitted

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- (6) If polling conducted at a polling station on a polling day is to be resumed on the following day, the presiding officer shall -

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- (a) seal the opening of each ballot box through which ballot papers have been placed with the officer's own seal and allow the candidates and their agents to affix their seals if they wish to do so; and
- (b) arrange for the ballot boxes and the documents relating to the election to be kept in safe custody and under guard, and allow the candidates and their agents to keep those ballot boxes and documents under observation if they wish to do so, until the time when polling is to resume next day; and
- (c) immediately before the time for the resumption of polling -
- (i) inspect the seals on the ballot boxes and record any tampering with them; and
- (ii) allow the candidates and their agents to inspect those seals; and
- (iii) reopen the openings in the ballot boxes.

Persons entitled or allowed to be present while proceedings are in progress at a polling station

72. Only the following persons are entitled to be present at a polling station while proceedings concerning the conduct of an election are in progress at the station -

- (a) electors who are entitled to vote at the station and have not already voted at the election;
- (b) election officials;
- (c) police officers.

- (d) candidates, one agent for each of those candidates and one authorised representative of each political party which has endorsed any of those candidates; and
- (e) persons whom the Director of Elections has authorized in writing to be present at the polling station during those proceedings.

owers of the presiding officer and other officers at a polling station

3. (1) While proceedings concerning the conduct of an election are in progress at a polling station, the presiding officer is required -

- (a) to keep order at the polling station; and
- (b) to regulate the number of electors to be admitted to the polling station at any particular time; and
- (c) to ensure that persons, other than those referred to in section 72, are excluded from the polling station.

- (2) The deputy presiding officer and any official witness or polling officer on duty at a polling station may, and, if directed to do so by the presiding officer shall, exercise the powers of the presiding officer conferred by subsection (1).

- (3) The presiding officer at a polling station may require a person to leave the polling station -

- (a) if the person is not a person referred to in section 72; or
- (b) if the person (including a person so referred to) is creating a disturbance at the polling station.

- (4) A police officer may, at the request of the presiding officer, arrest without warrant a person who fails to comply with a requirement under subsection (3).

- (5) The presiding officer at a polling station may, after consultation with any police officers on duty at the station while proceedings concerning the conduct of an election are in progress, take any steps which that officer considers necessary -

- (a) for the protection of persons who are carrying out official functions at the station in connection with the election; or

- (b) for stopping or preventing riot or violence at the station.

- (6) The powers conferred by this section shall, as far as practicable, be exercised in such a way as not to prevent an elector who is entitled to vote at the election from voting at the polling station.

What happens when polling is interrupted or obstructed

74. (1) If polling at a polling station is so seriously interrupted or obstructed by riot or violence that it is impossible to continue with the polling, the presiding officer shall, in consultation with any police officers on duty at the station, adjourn the polling until polling at the station can be resumed.

- (1A) If polling at a polling station is seriously delayed or cannot take place on a polling day because of problems related to the supply of equipment necessary for the conduct of the election or for other reasons, the Director of Elections may adjourn the polling until polling at the polling station can be completed.

- (2) If at the time when polling is due to finish, the polling is still adjourned, the presiding officer shall -

- (a) if the next day is also a polling day - further adjourn the polling to that day so to allow polling to continue in accordance with section 71 (1); and

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- (b) if the next is not a polling day - further adjourn the polling to that day so that polling may be resumed in accordance with subsection (3).
- (3) When polling has been adjourned under subsection (2) (b), polling is to resume at 7 a.m. on the next day and to be continued in the same manner and for so long as may be necessary to allow the electors who still wish to vote at the polling station to do so.
- (4) If polling at a polling station has been adjourned under this section, the presiding officer may further adjourn polling at the polling station from day to day until the electors who wish to vote at the polling station have been able to do so without interruption or obstruction.

Who can vote at an election

75. (1) An extract of a certified copy of an electoral list relating to a polling district within a constituency is, subject to subsection (2), conclusive as to the right of a person named in the extract to vote at an election at a polling station established for the polling district.
- (1A) A person is not entitled to vote at a polling station for a polling district within a constituency unless the person's name is included in the electoral list relating to that polling district within the constituency or the person has adequate proof of registration for that polling district and also adequate proof of identity such as a passport or driver's licence or the identity of the person is verified by the official witness.
- (2) Even though a person's name appears on an electoral list for a constituency, the person is not entitled to vote at an election for the constituency if the person is disqualified under section 12 from being, or continuing to be registered as an elector.
- (3) A person who votes at an election as an absent elector shall not vote at the same election at a polling station.

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At what place an elector can vote

76. (1) An elector is not entitled to vote at a place other than a polling station established for the polling district for which the person is registered as an elector -
- (a) except as provided by subsection (2); or
- (b) unless the elector is entitled to vote at the election as an absent elector.
- (2) If an elector whose name appears on the electoral list for a constituency is an election official, police officer or member of the Defence Force who will, on the polling day or polling days for an election, be on duty at a polling station established for a polling district other than the one for which the elector is registered, the returning officer may, on the application of the elector, issue the elector with a certificate authorizing the elector to vote at the polling station at which he or she will be on duty. The certificate is to be in accordance with a form provided or approved by the Director of Elections and shall specify the elector's identifying number.
- (3) An application under subsection (2) shall -
- (a) be in writing in a form provided or approved by the Director of Elections; and
- (b) be made not later than 7 days (or such shorter period as the Director of Elections may allow) before the polling day or, if there is more than one polling day, the first polling day for the election.
- (4) On issuing a certificate under subsection (2), the returning officer shall immediately arrange for a copy of the certificate to be delivered to the presiding officer at a polling station established for the polling district for which the elector is registered.

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(5) On receiving the copy of the certificate, the presiding officer at a polling station established for the polling district for which the elector is registered shall amend the extract of the certified copy of the electoral list for that district by cancelling the entry in that extract which relates to the elector.

(6) On presentation of the certificate to the presiding officer at the polling station where the elector is on duty or, if the elector is the presiding officer, the deputy presiding officer, that officer shall -

(a) enter the elector's name and identifying number on the extract of the certified copy of the electoral list for the polling district for which the polling station is established; and

(b) draw a line in ink through that elector's name and identifying number as so entered.

(7) The following provisions of section 79 apply (with any necessary modifications) to voting by an elector to whom a certificate is issued under this section -

- (a) subsection (2);
- (b) subsection (3) (paragraph (a) excepted);
- (c) subsection (4) (paragraph (c) excepted);
- (d) subsections (5)-(10).

Functions to be performed by a presiding officer before polling begins

77. (1) Before polling begins on the polling day or, if there is more than one polling day, on the first polling day for the election, the presiding officer at a polling station shall -

- (a) show the ballot boxes open and empty to all the persons present; and

(b) close the boxes and seal them with his or her seal; and

(c) allow those candidates and candidates' agents who wish to affix their seals to do so.

(2) The presiding officer of a polling station shall ensure that, as far as practicable, the polling station is opened for polling precisely at the time when polling is required by this Order to begin.

What an elector shall do before being allowed to vote

78. (1) An elector is entitled to vote at an election only once.

(2) Subsection (1) applies even if the elector's name appears on more than one electoral list or more than once on the same electoral list.

(3) Except in the case of an elector who has no hands, the presiding officer shall refuse to issue a ballot paper to an elector who refuses to display his or her hands to a polling officer for inspection so as to enable the officer to determine whether or not the elector has already voted at the election.

(4) The mark is to be of a kind designated or approved by the Director of Elections.

(5) Except as provided by this section, no enquiry may be made at an election as to the identity of a person claiming to be an elector or as to the person's right to vote.

(6) The presiding officer may and, if so requested by a candidate or a candidate's agent or an authorised representative of a political party which has endorsed the candidate or the official witness, shall, before allowing a person to vote at an election, require the person to declare on oath -

- (a) that the person is in fact the elector whose name appears on the electoral list for the constituency concerned; and

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constituency and has adequate proof of registration: and

- (b) that the person has not yet voted in the election as an absent elector or at a polling station in that constituency or in any other constituency.

(7) The presiding officer shall refuse to issue a ballot paper to any person who refuses to comply with a requirement made to the person under subsection (6).

(8) If a candidate or a candidate's agent or an authorized representative of a political party which has endorsed the candidate makes a declaration on oath before the presiding officer at a polling station stating that -

- (a) a person whose name appears on the electoral list for the constituency concerned or who claims to be registered for that constituency is dead or is incapacitated by sickness, physical disability or some other cause or is absent from Lesotho; and
- (b) it is therefore impossible for the person to be present at the polling station, the presiding officer shall refuse to issue a ballot paper to any person claiming to be entitled to vote in the name of the person who is the subject of the declaration, unless the claimant complies with subsection (9).

(9) In order to comply with this subsection, the claimant shall, after the presiding officer has read to the claimant the declaration referred to in subsection (8), make a declaration on oath before that officer to the effect -

- (a) that the claimant is in fact the person whose name appears on the electoral list concerned or who has been registered for that constituency; and
- (b) that the statements made in the declaration so referred to are false; and

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- (c) that the claimant has not yet voted in the election as an absent elector or at a polling station in that constituency or any other constituency.

(10) Even though a person has made a declaration in accordance with subsection (6) or subsection (9), the presiding officer shall refuse to issue a ballot paper to the person if -

- (a) an official witness at the polling station has made a further declaration contradicting the person's declaration; and
- (b) that officer believes the official witness's declaration.

or if, as a result of inquiries made under subsection (11), that officer is not satisfied as to the truth of the person's declaration in some material respect.

(11) The presiding officer at a polling station may make inquiries of the presiding officer at any other polling station whether in the same or any other constituency, for the purpose of verifying a declaration made by a person in accordance with this section.

(12) The presiding officer at a polling station may direct any police officer on duty at the polling station to arrest without a warrant any person whom the presiding officer suspects on reasonable grounds of -

- (a) having made a false declaration; or
- (b) having committed or attempting to commit the offence of personation.

How voting at a polling station is to be conducted

79. (1) Voting at a polling station is to be by secret ballot and, as far as practicable and subject to this Order, is to be conducted in accordance with this section.

- (a) take the paper to a vacant voting compartment in the polling station;
- (b) without delay, vote by placing a tick, cross or some other mark in the square adjacent to the name of the candidate for whom the applicant wishes to vote; and
- (c) fold the ballot paper so that the official mark on the paper is visible; and O.20/92
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- (d) while holding the ballot paper so that the presiding officer, or the polling officer in charge of the ballot box, can recognize the ballot paper, leave the voting compartment; and O.20/92
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- (da) return the folded ballot paper for inspection by the presiding officer, or a polling officer in charge of the ballot box, who after being satisfied with the ballot paper, removes the second counterfoil and hands the ballot paper back to the elector; and O.20/92
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- (e) except in the case of an applicant who has no hands, place or allow to be placed an indelible mark -
- (i) in the prescribed place on his or her left hand; or
- (ii) in the case of an applicant who has only a right hand, in the prescribed place on his or her right hand; and O.14/92
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- (f) in the presence of that officer, place the ballot paper into the ballot box.
- (6) The applicant shall leave the polling station immediately after complying with subsection (5).

- (2) A person wishing to vote at a polling station shall personally apply for a ballot paper at the polling station.
- (3) A polling officer at the polling station shall -
- (a) ascertain by reference to the relevant extract of the certified copy of the electoral list for the constituency concerned, whether the applicant's name appears on the list or ascertain by reference to adequate proof of registration and proof of identity provided by the applicant, whether the applicant has been registered for that constituency; and O.14/92
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- (b) satisfy himself or herself by enquiry and by inspecting the applicant's hands that no ballot paper has previously been issued to the applicant at that or another polling station at the election. O.10/92
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- (4) After complying with subsection (3), the polling officer shall-
- (a) enter on a counterfoil attached to the ballot paper that is to be issued to the applicant the applicant's identifying number as recorded in the electoral list or as indicated by the applicant's proof of registration; and O.10/92
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- (b) tear the ballot paper from the corresponding counterfoil; and O.20/92
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- (c) stamp the official mark on the ballot paper; and O.20/92
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- (d) hand the ballot paper to the applicant; and O.14/92
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- (e) draw, where appropriate, a line in ink through the applicant's name and identifying number as recorded in the relevant extract of the certified copy of the electoral list. O.10/92
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(7) An electoral official at the polling station shall not provide any assistance or explanation to the applicant other than -

- (a) by directing the applicant to the voting compartment where the applicant is to vote; or
- (b) by informing the applicant that, for the applicant's guidance, a list of the names and other particulars of the candidates is exhibited in a conspicuous place in the voting compartment to which the applicant is directed; or
- (c) by advising the applicant to vote by placing a tick, cross or some other mark in the square adjacent to the name of the candidate for whom the applicant wishes to vote; or
- (d) by asking the applicant to show the official mark on the back of the ballot paper to the officer in charge of the ballot box and then place the ballot paper into the ballot box; or
- (e) as otherwise expressly provided by this Order.

(8) A person shall not, except as provided by this Order, approach, interfere with, speak to or assist a person wishing to vote at an election from the time the person has entered the polling station to vote until the person leaves the polling station.

(9) The presiding officer shall ensure that, except as provided by section 81, no more than one person is present in the same voting compartment at the same time.

(10) In any legal proceedings under this Order, evidence that a line was drawn through the name and identifying number of a person whose name appears on an electoral list is evidence that the person has received a ballot paper for the purpose of voting at the election concerned.

(11) If, at the close of polling on a day, the following day is also a polling day, the presiding officer shall, immediately after the close of polling -

- (a) ensure that the ballot boxes and the electoral lists and other documents relating to the election are kept in a place of safe custody and under guard; and
- (b) allow any of the candidates or agents or authorized representatives of political parties which endorsed any of those candidates who wish to do so to keep those boxes, lists and documents under observation.

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Fresh ballot paper to be given to an elector who spoils a ballot paper at a polling station

80. (1) An elector may return a ballot paper to the presiding officer at a polling station if the elector has -

- (a) inadvertently spoiled a ballot paper; or
- (b) inadvertently voted for a candidate for whom the elector does not wish to vote; or
- (c) inadvertently done something on the ballot paper which could lead to its rejection.

(2) If satisfied of the inadvertence, the presiding officer shall, after first cancelling the spoiled ballot paper by writing the word "cancelled" on its face and on the corresponding counterfoil -

- (a) give the elector another ballot paper; and
- (b) retain the spoiled ballot paper.

When a person may vote on behalf of an elector

81. (1) On attending a polling station for the purpose of voting at an election, an elector who claims to be incapacitated by blindness or other physical cause from voting in the manner

permission to vote with the assistance of a person who is accompanying the elector.

(2) If the presiding officer is satisfied -

- (a) that the person who is accompanying the elector is a relative or friend of the elector; and
- (b) the elector is incapacitated as referred to in subsection (1),

the presiding officer shall permit the elector to vote with the assistance of that person.

(3) If permission is granted under this section, anything which is required by or under this Order to be done to or by an elector with respect to voting at an election may be done to or with the assistance of the person accompanying the elector, but that person shall mark the ballot paper issued to the elector in accordance with the elector's wishes.

What happens when it is found that a person has already voted in an elector's name

82. (1) If at an election -

- (a) a person attending a polling station applies for a ballot paper after another person has voted in the applicant's name as shown by the relevant marked extract of the certified copy of the electoral list for the constituency concerned; and
- (b) an official witness, at the polling station, by declaration on oath, identifies the applicant as the person who in fact has the name referred to in paragraph (a),

the presiding officer may, after the applicant has declared on oath that the applicant has not yet voted at the election as an absent elector or at any polling station in that constituency or

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any other constituency, issue the applicant with a ballot paper.

(2) On being issued with a ballot paper under subsection (1), the applicant is to vote in the same manner as any other elector but shall not place the complete ballot paper in a ballot box but, instead, shall -

- (a) fold the ballot paper so that the applicant's vote cannot be seen; and
- (b) hand that paper to the presiding officer.

(3) The presiding officer shall then write on the back of the ballot paper without unfolding it -

- (a) the applicant's name and identifying number as appearing on the relevant extract of the certified copy of the electoral list for the constituency concerned; and

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- (b) the word "tendered".

(4) The presiding officer shall then -

- (a) place the ballot paper in a ballot envelope; and
- (b) write on the envelope the words "tendered ballot paper"; and
- (c) put the envelope aside.

(5) A tendered ballot paper is to be counted only if the High Court orders a scrutiny of votes at the elections under this Order.

(6) The other provisions of this Part, so far as relevant, apply to voting under this section.

ART 4 - DETERMINATION OF THE ELECTION RESULT

otes to be counted at polling stations after the close of polling,

3. (1) Immediately after polling at a polling station has closed, the presiding officer shall, subject to sections 71 and 74 and in the presence of the candidates or their agents or the authorized representatives of political parties which endorsed those candidates -

- (a) close the polling station; and
- (b) open the ballot boxes; and
- (c) direct the counting officers present to count separately the number of votes recorded for each of the candidates.

- (2) The counting officers shall then -

- (a) check the ballot papers to determine if they bear the official mark; and
- (b) hand the ballot papers which do not bear the official mark on the back of them to the presiding officer; and
- (c) turn the ballot papers so that the votes face upwards and count the number of votes recorded for each candidate.

- (3) If, during the counting of votes under this section, a counting officer -

- (a) finds a ballot paper that, in that officer's opinion, is liable to be rejected as informal; or
- (b) is uncertain as to which candidate a ballot paper should be counted, that officer shall refer the paper to the presiding officer for further scrutiny.

- (4) During the counting of votes under this section, a candidate or candidate's agent or authorized representative of political parties which endorsed these candidates is entitled to object to the allowance or rejection of a ballot paper.

- (5) The presiding officer shall carefully consider each ballot paper referred to that officer, or objected to, in accordance with this section and decide whether it should be rejected or allowed.

- (6) If the presiding officer rejects a ballot paper referred to that officer, or objected to, in accordance with this section, he or she shall -

- (a) write on the back of the paper the word "rejected"; and
- (b) if an objection to the rejection is made by or on behalf of a candidate - add the words "rejection objected to".

- (7) If the presiding officer allows a ballot paper referred to that officer, or objected to, in accordance with this section, he or she shall -

- (a) write on the paper the word "allowed" and the name of the candidate for whom it is counted; and
- (b) if an objection to the allowance is made by or on behalf of a candidate - add the words "allowance objected to".

- (8) The presiding officer shall take all reasonable precautions to prevent any person other than that officer or a counting officer from seeing the numbers printed on the back of the ballot papers.

(9) When the counting of the ballot papers has been completed in accordance with this section, the presiding officer shall -

- (a) record on the prescribed form the number of votes cast at the polling station for each candidate; and
- (b) sign the form and invite those candidates, their agents and authorized representatives of political parties which endorsed any of those candidates who wish to do so to do the same; and
- (c) announce, both inside and outside the station, the result of the voting at the station; and
- (d) arrange for the form and the result of the voting to be conveyed to the returning officer by the quickest available means; and
- (e) give a copy of the completed form to each candidate or candidate's agent or an authorized representative of the political party which endorsed the candidate.

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ctions of presiding officers after the counting of votes is finished

(1) When the result of the counting of votes has been announced at a polling station, the presiding officer shall prepare a ballot account in the prescribed form showing the number of books of ballot papers issued to that officer and accounting for the ballot papers under the following heads -

- (a) ballot papers used by electors for voting at the station and not rejected, or objected to but allowed, under section 83;
- (b) ballot papers so used which were rejected under section 83;
- (c) ballot papers so used which were objected to but allowed under section 83;
- (d) ballot papers not used by electors for voting at the

(e) spoiled ballot papers;

(f) tendered ballot papers;

(g) spoiled tendered ballot papers.

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(2) The presiding officer shall then sign the ballot account and allow the candidates, candidates' agents and the authorized representatives of political parties which endorsed any of those candidates to do the same if they wish to do so.

(3) After signing the ballot account, the presiding officer at a polling station shall enclose the following items in separate packets addressed to the returning officer -

(a) all ballot papers that were used by electors for voting at the station other than ballot papers referred to in paragraphs (b), (c) and (d);

(b) any rejected ballot papers;

(c) any ballot papers referred to that officer, or objected to, in accordance with section 83 and allowed under that section;

(d) any tendered ballot papers;

(e) any spoiled ballot papers (including spoiled tendered ballot papers);

(f) the ballot papers not issued to electors for voting at the station;

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(g) the marked extracts of the certified copy of the electoral list for the constituency and any certificates presented at the polling station in accordance with section 76 (6).

(4) The presiding officer shall then enclose the following items in separate packets addressed to the Director of Elections -

- (a) the counterfoils of the used ballot papers (including the counterfoils of ballot papers referred to in subsection (3) (b), (c) and (d));
- (b) declarations of secrecy and the documents of appointment (if any) of electoral officials, candidates' agents and authorized representatives of political parties which endorsed any of those candidates handed to the presiding officer;

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(c) any declarations on oath made under section 78 or 82;

(d) the instruments used for marking ballot papers with the official mark;

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(e) any items provided for purposes of the election (including forms and stationery but excluding ballot papers) that were not used for those purposes.

(5) When the items referred to in subsections (3) and (4) have been enclosed in packets, the presiding officer shall seal the packets with the officer's own seal and allow the candidates or their agents to affix their seals if they wish to do so.

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(6) Subject to subsection (8) and unless the returning officer has given a direction under section 90 (3) (b), the presiding officer shall, immediately after doing the things referred to in subsections (1)-(5), arrange for the packets referred to in subsection (3) and the ballot account to be delivered to the returning officer for the constituency concerned -

- (a) under the escort of a police officer; and
- (b) if the candidates or their agents wish to accompany that escort - in the company of those candidates or

(7) If the presiding officer does not personally carry out the delivery of the packets and ballot account, the deputy presiding officer or a polling officer shall carry out the delivery.

(8) If the presiding officer so decides, subsection (6) may, instead of being complied with immediately after the things referred to in subsections (1)-(5) have been done, be complied with on the day following the announcement of the result of polling at the polling station.

(9) In that case, the presiding officer shall, until delivery can be made -

(a) ensure that the packets, ballot account and ballot boxes are kept in a place of safe custody and under guard; and

(b) allow any of the candidates or candidates' agents or the authorized representatives of the political parties which endorsed any of those candidates who wish to do so to keep those things under observation.

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(10) The returning officer shall, on receiving the packets referred to in subsection (3) and the ballot account -

(a) ensure that the packets and ballot account are kept in a place of safe custody and under guard; and

(b) allow any of the candidates or candidates' agents or the authorized representatives of the political parties which endorsed any of those candidates who wish to do so to keep those things under observation,

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until verification of the ballot account under section 89.

(11) Subject to any determination by the High Court to the contrary, the result of polling at a polling station, as recorded and announced at the station, is not affected by the fact that the packets containing the ballot papers used by electors at

the station are, or the ballot account is, lost or stolen or not delivered to the returning officer as required by his section.

- (12) As soon as conveniently possible, the presiding officer shall arrange for the packets, referred to in subsection (4) and the ballot boxes used at the election to be delivered to the Director of Elections or to a person authorized by that Officer to receive those packets and ballot boxes on his or her behalf.

Who may be present at the office of the returning officer during election proceedings

5. Only the following persons may be present at the office of the returning officer while proceedings concerning the conduct of an election are in progress at that office -

- (a) election officials;
- (b) police officers;
- (c) candidates, one agent for each candidate and one authorised representative of each political party which has endorsed a candidate for the election to which those proceedings relate;
- (d) persons whom the Director of Elections has authorized in writing to be present during those proceedings.

Powers of a returning officer

36. (1) A returning officer may require a person to leave the office of that officer while proceedings concerning the conduct of an election are in progress at that office -

- (a) if the person is not a person referred to in section 85; or
- (b) if the person (including a person so referred to) is creating a disturbance at that office.

- (2) A police officer may, at the request of the returning officer, arrest without warrant a person who fails to comply with a requirement under subsection (1).

- (3) The returning officer may, after consultation with any police officers on duty at that office while proceedings concerning the conduct of an election are in progress, take any steps which that officer considers necessary -

- (a) for the protection of persons who are carrying out official functions at that office in connection with the election; or
- (b) for stopping or preventing riot or violence at or in the vicinity of that office.

Counting of absent electors' votes by the presiding officer for the designated polling station

87. (1) When the presiding officer for the polling station designated under section 64(5) has received the ballot boxes for absent electors' ballot papers and the absent electors' ballot account from the returning officer for the constituency, the presiding officer shall -

- (a) examine whether the seals are in order and record any tampering with them; and
- (b) give the candidates, candidates' agents and authorized representatives of political parties which endorsed any of those candidates and other persons authorized to be present at the office of the returning officer, an opportunity to do the same.

- (2) The presiding officer shall then open the absent electors' ballot boxes and verify the absent elector's ballot account by comparing it with the numbers of ballot envelopes in each of those ballot boxes.

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- (3) If an absent elector's ballot account is found to be incorrect, the presiding officer shall report the matter to the Director of Elections.
- (4) When the presiding officer has completed the verification of the absent electors' ballot accounts, the counting officers at the polling station shall -
 - (a) check the ballot envelope for the official mark of the presiding officer for absent electors; and
 - (b) hand the ballot envelopes which do not bear the official mark of the presiding officer for absent electors on the back of the envelopes to the presiding officer; and
 - (c) open the other ballot envelopes and remove the ballot papers.
- (5) When that task has been completed, the counting officer shall then mix the ballot papers with other ballot papers to be counted under section 83.

Rejection of ballot paper as informal

88. (1) A ballot paper is to be rejected as informal if -
 - (a) the ballot paper does not bear the official mark on the back of it; or
 - (b) the ballot paper contains any writing or mark by which an elector can be identified; or
 - (c) the elector has recorded a vote for more than one candidate;
 - (d) the elector has failed to record a vote for any candidate.

- (2) If two or more ballot papers are removed from the same

- (3) If any ballot envelope -
 - (a) does not bear the official mark of the presiding officer for absent electors; or
 - (b) bears any name or signature by which an elector can be identified,
 the ballot envelope shall be rejected as informal without being opened.
- (4) Subject to this section, a ballot paper shall not be rejected as informal merely because -
 - (a) it bears a mark that is not strictly in accordance with, or is not required or authorized by or under, this Order; or
 - (b) it bears more than one mark.
 if, in the opinion of the presiding officer or returning officer concerned, the elector's intention is clearly indicated on the ballot paper.
- (5) The decision of a presiding officer or returning officer allowing or rejecting a ballot paper may be questioned only on a scrutiny of votes ordered by the High Court.
- (6) Subsection (5) is subject to section 90.

Verification of ballot accounts and other items

89. (1) The returning officer for a constituency shall verify in accordance with this section the ballot account and the packets delivered to that officer from a polling station in accordance with section 84.
- (2) The returning officer shall open the packets containing ballot papers and verify the ballot account by comparing with it the numbers of -

- (b) tendered ballot papers so used; and
- (c) ballot papers and tendered ballot papers spoiled at the polling station; and
- (d) ballot papers not issued to electors at the polling station.

- (3) If a ballot account is found to be incorrect, the returning officer shall report the matter to the Director of Elections.

Recounting of votes

90. (1) At any time before a returning officer of a constituency declares the result of an election for the constituency, the returning officer -

- (a) shall, if the Director of Elections so directs; and
- (b) may, if the returning officer considers it appropriate to do so and whether or not a candidate has requested a recount,

arrange for all or some of the ballot papers used at the election to be recounted.

- (2) In arranging for a recount of the ballot papers under this section or section 92, the returning officer shall ensure that, as far as practicable, the requirements of this part with respect to the counting of votes are complied with.

- (3) The returning officer may direct a recount of ballot papers to be carried out either -

- (a) at the office of that officer after all the packages containing the ballot papers used at polling stations within the constituency have been delivered to the returning officer; or

- (b) except in the case of a recount under section 92 - at the office of that officer (in the case of ballot papers used by absent electors) and at those polling stations.

- (4) If a recount is carried out at the office of the returning officer-

- (a) the returning officer has the same functions as are conferred on a presiding officer by section 83; and
- (b) all ballot papers referred or objected to in accordance with that section are to be dealt with afresh as if they had not been rejected or allowed by presiding officers under that section.

- (5) If -

- (a) a recount is carried out at the office of the returning officer; and
- (b) for any reason, such as theft or accident, the packets of ballot papers used by electors for voting at a polling station are not delivered to that office,

the number of votes recorded for each candidate as counted at the polling station is, unless the High Court otherwise orders, to be taken to be the number of votes recorded for the candidate in accordance with section 83 (9).

Declaration of the result of a poll for a constituency

91. (1) When the counting of votes (including any recount under section 90) has been completed in accordance with this Part, the returning officer for the constituency concerned shall -

- (a) record on the prescribed election result form the number of votes recorded for each candidate and sign the form and invite those candidates, candidates' agents and authorized representatives of the political parties which endorsed any of those

- (b) announce, both inside and outside the officer's office, the result of the election (including the number of votes recorded for each candidate); and
- (c) except where section 92 applies, declare the candidate who has received the greater or the greatest number of votes at the election to be the duly elected member of the National Assembly for that constituency with effect from the date on which the election period ends; and
- (d) give a copy of the completed election result form to each candidate or to his or her agent.
- (2) Immediately after making an announcement under subsection (1), the returning officer shall -
- (a) notify the result of the election for the constituency to the Director of Elections and the area electoral officer concerned by conveying to them by the quickest available means copies of the completed election result forms; and
- (b) arrange for another copy of the form to be posted in a conspicuous place on the outside, or in the immediate vicinity, of the office of the returning officer.
- (3) Any declaration by the returning officer under this section is final, subject to any determination of the High Court to the contrary.

What happens when the most successful candidates at an election for a constituency have the same number of votes

92. (1) If -
- (a) any two or more of the candidates for election for a constituency have received an equal number of votes; and

- (b) no other candidate has received a greater number of votes,
- the returning officer shall arrange for all the ballot papers used at the election to be recounted.
- (2) The provisions of section 90 (2)-(4) apply to a recount under subsection (1).
- (3) If, after the recount -
- (a) any two or more of the candidates for election still have an equal number of votes; and
- (b) no other candidate has a greater number of votes,
- the returning officer shall refer the matter to the Director of Elections.
- (4) When a matter has been referred in accordance with subsection (3), the Director of Elections shall refer the matter to the High Court, which shall determine the validity of any disputed ballot papers and arrange for all the ballot papers to be recounted, as nearly as practicable, in accordance with this Part.
- (5) If the determination and recount result in a candidate having more votes than any other candidate, the High Court shall declare that candidate to be elected as the duly elected member of the National Assembly for the constituency concerned, but if not, it shall order a fresh election to be held for that constituency.
- (6) For the purposes of this section, the High Court may order a scrutiny of votes recorded at the election and may make such ancillary orders as it considers appropriate.

Election results to be published

93. (1) As soon as the Director of Elections knows the names of the persons who have been elected as members of the National

Assembly at a general election, he shall inform the Commission and the Commission shall -

- (a) publish in the Gazette the full names, addresses and occupations of those members, together with the names of their constituencies; and
- (b) if the election was held in consequence of a dissolution of Parliament - inform the Speaker of the National Assembly of the particulars of those members.

- (2) As soon as the Director of Elections knows the name of the person who has been elected as a member of the National Assembly at a by-election or fresh election for a constituency, he shall inform the Commission and the Commission shall publish in the Gazette the full name, address and occupation of the member, together with the name of the member's constituency.

return as to Election Expenses

- 3A (1) Seven weeks after the publication of the results of the general election, every candidate or his agent or the authorized representative of the political party which endorsed his candidature shall transmit to the Director of Elections a true return in the prescribed form, containing in relation to the candidate a statement of all expenses incurred together with all bills and receipts.

- (2) The statement shall contain —

- (a) an account of personal expenses, if any, paid by the candidate;
- (b) an account of all monies received by the candidate or any other person on his behalf for the purposes of election expenses incurred, with a statement of every payment and from whom they were received.

- (3) A candidate or an election agent or authorized representative of a political party who knowingly makes a false declaration under this section is guilty of an offence and liable on conviction to a fine not exceeding M1000 or to imprisonment to a term not exceeding 12 months, or both.

How election documents are to be disposed of after an election

- 94 (1) Except as regards items already enclosed in packets, the returning officer shall, after declaring the result of an election for the constituency concerned, enclose the following items in separate packets addressed to the Director of Elections -
 - (a) all ballot papers that were used by electors for voting at the election (other than ballot papers referred to in paragraphs (b), (c) and (d));
 - (b) any rejected ballot papers;
 - (c) any ballot papers objected to but allowed under section 83 or 87;
 - (d) any spoiled ballot papers (including spoiled tendered ballot papers);
 - (e) all opened ballot envelopes;
 - (f) all ballot envelopes that were rejected without being opened;
 - (g) unused ballot papers;
 - (h) unused ballot envelopes;
 - (i) the ballot accounts from polling stations and the absent electors' ballot account;
 - (j) the marked copies and extracts of the electoral list for the constituency and all certificates presented in accordance with section 76 (6) at polling stations established for the constituency;

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- (k) declarations of secrecy and the documents of appointment (if any) of electoral officials, candidates' agents and authorized representatives of political parties handed to the returning officer;
- (l) any declarations on oath made under section 78 or 82;
- (m) any items provided for purposes of the election that were not used for those purposes and not already enclosed in packets.
- (2) After sealing the packets and allowing the candidates, their agents and authorized representatives of political parties to do the same if they wish to do so, the returning officer shall arrange for the packets and the ballot boxes used for voting by absent electors to be delivered to the Director of Elections under the escort of a police officer.

Functions of the Director of Elections with respect to packets containing election documents

95. The Director of Elections shall -

- (a) retain in a place of safe custody the packets delivered to that Officer in accordance with section 64, 84 and 94 and containing ballot papers, ballot envelopes and counterfoils of used ballot papers until the election can no longer be questioned; and
- (b) then, unless in the meantime a court of competent jurisdiction otherwise directs, arrange for those packets to be destroyed.

Entitlement of members of the public to inspect certain election documents

- 96. (1) The Director of Elections shall, for a period of 12 months after the end of the election period concerned, make available for public inspection the contents of all packets received by him or her under this Order that contain-

- (a) marked copies and extracts of electoral lists and certificates presented at polling stations in accordance with section 76 (6); and
- (b) the ballot accounts from polling stations and absent electors' ballot accounts; and
- (c) declarations of secrecy and the documents of appointment (if any) of electoral officials and candidates' agents handed to presiding officers and returning officers; and
- (d) any declarations on oath made section 78 or 82; and
- (e) the applications of persons who applied to vote as absent electors.
- (2) Any person who attends the office of the Director of Elections during ordinary business hours is entitled, without charge, to inspect and make a copy of any document referred to in subsection (1).
- (3) At the end of the period of 12 months referred to in subsection (1), the Director of Elections may -
 - (a) have the documents destroyed; or
 - (b) arrange for them to be disposed of in some other manner.

Packets containing ballot papers and ballot envelopes not to be opened except in accordance with an order of court

97. (1) A person shall not -

- (a) open a sealed packet of ballot papers or ballot envelopes referred to in section 94 (1) (a)-(f) or a sealed packet of counterfoils of used ballot papers; or

- (b) inspect or allow another person to inspect ballot papers, ballot envelopes or counterfoils removed from such a packet,
- except under the authority of an order of a court of competent jurisdiction.
- (2) A court of competent jurisdiction may grant an order under subsection (1) if it is satisfied by evidence on oath that the inspection of a particular ballot paper, ballot envelope or counterfoil is required for the purpose of -
- (a) prosecuting a person for an offence against this Order; or
 - (b) determining an election petition.
- (3) An order under subsection (2) may be made subject to such conditions as the court considers appropriate.
- (4) An order under this section may be made by a Judge in chambers as well as in open court.

Production of election documents in court proceedings

98. (1) If a court makes an order for the Director of Elections to produce a document in his or her possession relating to any specified election, the production by that Officer of the document, in the manner directed by the order or by a rule of court, is conclusive evidence that the document relates to that election.
- (2) An endorsement appearing on a packet of ballot papers or ballot envelopes produced by the Director of Elections is evidence of the contents of the packet.

Power of the Commission to rectify errors or omissions

99. (1) If there is a delay, error or omission in the preparation, issue, sending or return of an electoral list, ballot paper, ballot envelope or other document used for the purposes of an

election, the Commission may, by proclamation published in the Gazette, specify what action is to be taken to rectify the matter.

(2)

When the action specified in such a proclamation has been taken, the validity of the election is not to be questioned on account of the delay, error or omission.

A.8/97
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The King may extend time limits in certain cases

99A. (1)

The King may, by notice published in the Gazette either before, on or after any day specified in a proclamation or an election notice published under section 48 or 146-

O.14/92
Sch.4

(aa)

subject to subsection (1A) - provide that a general election is to be postponed from the day or days specified in a proclamation or an election notice published under section 48 or 146 and is to be held on a day or days to be specified in a notice to be published under paragraph (a); or

O.26/92
s.4(a)

(a)

subject to subsection (2) - specify that a later day or days is to be substituted for the day or days specified in a proclamation or an election notice published under section 48 or 146, is to be substituted for any such day either generally or in respect of a specified constituency or specified constituencies; or

O.26/92
s.4(a)
s.4(b)

(b)

provide for anything to be done to overcome any difficulty that might otherwise affect the election concerned.

(1A)

The King shall not publish a notice under subsection (1) (aa) more than 90 days after the day or days specified in a proclamation published under section 48 fixing the date of a general election or published under section 146 fixing the date of a by-election or fresh election for a constituency.

O.26/92
Sch.4(c)

(2)

The King shall not substitute a day for polling that is more

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s.4(c)

proclamation published under section 48 fixing the date of a general election or published under section 146 fixing the date of a by-election or fresh election for a constituency.

- (3) A notice published in the Gazette under this section has effect according to its tenor, irrespective of any other provision of this Order to the contrary.

CHAPTER 8 - ELECTION PETITIONS

High Court's jurisdiction in election petitions

100. The power to determine questions, in an election petition, relating to membership of the National Assembly is, in accordance with section 69 of the Constitution, vested in the High Court.

How and by whom an election may be disputed

101. An election may be disputed, in accordance with section 69 of the Constitution and the provisions of this Order by means of an application to the High Court and as may be prescribed by rules made under section 112 of this Order.

Requirements of an election petition

102. An election petition shall -
- (a) be presented to the High Court within 30 days after the end of the election period concerned; and
 - (b) set out the facts relied on to dispute the election or return; and
 - (c) specify the order sought from the High Court; and
 - (d) be signed by the petitioner before a witness; and
 - (e) contain the signature, occupation and address of the witness.

Parties to an election petition

103. (1) The parties to an election petition are the petitioner and any respondent under this section.
- (2) The Attorney General may, if not the petitioner, become a respondent to an election petition by giving notice to the High Court of his or her wish to do so at any time before the trial of the petition begins.
- (3) The person who was returned at the election is a respondent to the petition.

How the High Court is to deal with an election petition

104. (1) The High Court shall conduct the trial of an election petition in open court.
- (2) In determining a petition, the High Court shall be guided by the substantial merits of the case and good conscience, without regard to legal form or technicalities, and shall not be bound by the rules of evidence.
- (3) At the trial of an election petition, the Court has power -
- (a) of its own motion or on the application of a party to the petition, to compel the attendance of witnesses and the production of documents; and
 - (b) to examine witnesses on oath; and
 - (c) to punish a contempt of its authority by fine or imprisonment.
- (4) The Court shall take all reasonable steps to ensure that -
- (a) proceedings in relation to the petition begin within 30 days after the petition is lodged; and
 - (b) the Court's final orders in relation to the petition are given within 30 days after the end of the

- (5) Despite subsection (4), the Court shall give all parties to the petition at least 7 days' notice before it begins the proceedings relating to the petition.
- (6) At the trial of the petition, the Court may order a scrutiny of the ballot papers used at the election and may make such other ancillary orders for the determination of the petition as it considers appropriate.

What is to happen when the High Court orders a scrutiny of votes

105. (1) If the High Court orders a scrutiny of votes, all ballot papers used at the election are to be scrutinised.
- (2) At the scrutiny, the Court may inquire as to -
 - (a) whether the names of persons who voted appeared on the electoral list for the constituency in respect of which they were entitled to vote or whether the persons were registered for that constituency; and
 - (b) whether, during the counting or recounting of ballot papers, any ballot papers were incorrectly rejected as informal or were incorrectly allowed as formal.
- (3) The Court may carry out the scrutiny of votes itself in the presence of the parties to the petition or may order -
 - (a) that the scrutiny be carried out in the presence of those parties by the Director of Elections or the Registrar of the Court, or by such other person as may be specified in the order; and
 - (b) that the result of the scrutiny be reported to the Court.
- (4) If, at a scrutiny of votes, it is proved that a tendered ballot paper was a valid vote, any party to the petition may apply to the Court for an order under subsection (5).

- (5) On the hearing of an application under subsection (4), the Court may make an order directing that the tendered ballot paper be added to the poll and counted.

High Court may order security for costs to be provided

106. (1) If the High Court so orders, the petitioner shall provide as security for the costs of trying an election petition such amount, not exceeding M1,000, as the Court specifies in the order.
- (2) Security ordered under subsection (1) is to be provided within such period as the Court specifies in the order.
- (3) If an order under subsection (1) is not complied with within the specified period, the election petition is taken to have been withdrawn.

Powers of the High Court with respect to an election petition

107. (1) At the end of the trial of an election petition, the High Court shall determine whether the petition should be upheld or dismissed in whole or in part. For that purpose the Court may, subject to this section, make such of the following orders as it considers appropriate -
 - (a) an order declaring the candidate who was returned as elected to have been validly elected;
 - (b) an order declaring the candidate who was returned as elected not to have been validly elected;
 - (c) if the Court makes an order under paragraph (b) - an order declaring another candidate to have been validly elected;
 - (d) an order setting aside the election and directing a fresh election to be held.

(2) The Court shall make an order under subsection (1)(b) in relation to an election petition if -

- (a) it finds that -
 - (i) the candidate who was returned at the election; or
 - (ii) another person, with the consent or connivance of that candidate;
- was guilty of a corrupt or illegal practice during the election period; or
- (b) it is satisfied that that candidate was not qualified to be, or was disqualified from being elected as a member of the National Assembly; or
- (c) as a result of a scrutiny of the votes recorded at the election - it is satisfied that that candidate was not properly returned.

(3) The Court shall make an order under subsection (1)(b) or (d) in relation to an election petition on the ground that a person (other than the candidate returned at the election or another person with the consent or connivance of that candidate) was guilty of a corrupt or illegal practice, or some other misconduct, during the election period, if the Court is satisfied that the corrupt or illegal practice, or the misconduct, would or could have affected the result of the election.

(4) The Court shall not make an order under subsection (1)(b) or (d) in relation to an election petition on the ground that a procedure prescribed by, or a requirement of, this Order with respect to the conduct of elections was not complied with at the election, or was complied with but in an irregular manner, unless the Court is satisfied that the non-compliance or irregularity would or could have affected the result of the election.

(5) The Court shall not make an order under subsection (1)(b) or (d) on any of the following grounds -

- (a) any delay in the declaration of nomination of candidates, polling or the returning of candidates as elected members of the National Assembly;
- (b) the absence or error of, or an omission by, an electoral official that did not affect the result of the election;
- (c) a misspelling on a ballot paper;
- (d) that the names of the candidates on a ballot paper were not set out in the order required by section 59;
- (e) that a person or place was inaccurately or incorrectly named or described in a document prepared or issued under or for the purposes of this Order, unless the inaccurate or incorrect name or description prevented the person or place from being identified;
- (f) where an act or thing is required or authorised by this Order to be done by or in the presence of the candidates or their agents - that a candidate or candidate's agent failed to do the act or thing or to attend at the appointed time and place.

(6) The Court shall not, if it finds that an elector was prevented from voting at an election by a mistake or a contravention of a provision of Chapter 7, take into account evidence of the way in which the elector had intended to vote.

Registrar of Court to report offence found to have been committed at an election

108. (1) If, during the trial of an election petition, the High Court finds that any person has committed a corrupt or illegal practice, the Registrar of the Court shall, as soon as

Public Prosecutions, the Director of Elections and, if there is a National Assembly, the Speaker of that Assembly -

- (a) the finding; and
 - (b) if known, the names and addresses of the persons who were proved at the trial to have committed, or to have consented to or connived at the commission of, the practice.
- (2) The Court shall not make a finding to the effect that a person has committed, or consented to or connived at the commission of, a corrupt or illegal practice unless it has given the person an opportunity of being heard and of giving and calling evidence on the matter.

Power of the High Court to make orders as to costs

109. The High Court may order an unsuccessful party to an election petition to pay the reasonable costs of the other parties to the petition.

Notification and publication of determinations and orders of the High Court

110. (1) The High Court shall cause a copy of a determination under section 107, and any orders made under that section, to be delivered to the Commission and the Speaker of the National Assembly.

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- (2) The Commission shall, on receipt of the copy of the determination and orders referred to in subsection (1) -

- (a) publish their contents in the Gazette; and
- (b) proceed in accordance with section 146.

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Orders of the High Court not to be subject to appeal

111. A determination or order or other action of the High Court relating to an election petition is final and cannot be appealed against or questioned in any way.

Practice and procedure of the High Court

112. The Chief Justice may make rules of court providing for the practice and procedure of the High Court concerning -

- (a) election petitions and the scrutiny of votes; and
- (b) the fees to be paid, and the awarding of costs, in relation to those matters.

CHAPTER 8A - ELECTION OBSERVATION

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Meaning of election observation

- 112A. For the purposes of this Order, election observation means the verification of the various stages of an election by national and international organizations, non-governmental organizations, foreign governments and individuals duly recognized for the purpose in accordance with this Chapter.

Scope of election observation

- 112B. (1) Election observation shall consist of the following activities—

- (a) to verify and monitor the impartiality and the functioning of the Commission and its officers in conformity with this Order;
- (b) to verify and monitor the impartiality and legality of the decisions taken by the Commission and its officers in settling disputes;
- (c) wheresoever possible, to verify and monitor the registration of voters;
- (d) to observe the course of the campaigning for elections;

its agencies, the Commonwealth Secretariat and other election organizations;

- (b) observers from non-governmental organizations constituted and operating in Lesotho or in any foreign country;
- (c) observers from foreign governments; and
- (d) individual observers.

(2) A person shall not be recognized as an election observer unless—

- (a) in the case of the first three categories specified in sub-section (1), he has been designated by the relevant organization or foreign government in writing to the Commission disclosing his particulars and credentials;
- (b) in the case of the category of individual observers, he or she is a person of recognized election experience and prestige.

Recognition and identification of election observers

112G. Recognition of election observers shall be granted by the Commission which, for that purpose, shall—

- (a) establish adequate administrative procedures for the proper and timely recognition of the observers;
- (b) devise an identity card for each category of election observers and issue to every recognized observer the card corresponding to his category;
- (c) devise a common and easily identifiable badge for all election observers and issue the badge to every recognized election observer.

(f) to verify and monitor the determination of the results of the elections at all stages of determination;

(g) to observe access to and the use of the media.

(2) Any irregularities noted by election observers shall be reported to the Commission or to the competent officers of the Commission and the Commission or such officers shall examine the activities reported as irregularities and shall, where the irregularities are confirmed, take corrective measures necessary to bring the elections into conformity with this Order.

Beginning and end of election observation

112C. Election observation shall begin at the onset of the period of campaigning referred to in section 47D and end with the determination of the results of the election or the settlement thereafter of all election disputes.

Collaboration by competent authorities

112D. It shall be the duty of the Commission, every officer thereof and every competent public officer or other public authority in Lesotho to co-operate with election observers in their role and to offer to them the guarantees and other facilities necessary to fulfil their role.

Invitation to election observers

112E. The Commission may send invitations for election observation and may do so on its own initiative or on request by a political party to any government, organization or person competent under this Order to undertake election observation.

Categories of observers

112F. (1) For purposes of recognition under this Order, election observers shall be categorized as follows—

- (a) observers from the United Nations Organization and the Organization of African Unity and

Compulsory use of identity cards and the common badge

112H. Every election observer recognized under this Order shall, while exercising his functions, use the identity card and the badge issued to him.

Rights of election observers

112I. Election observers shall, in Lesotho, have the right—

- (a) where required, to obtain a multiple entry visa to enter Lesotho for the duration of the period of election observation as specified in section 112C;
- (b) to have unimpeded access to all election events and to observe all aspects of the civic education programmes, the registration of voters wheresoever possible, the nomination of candidates, the campaign, the voting and the counting of votes at all stages;
- (c) to enjoy freedom of movement throughout Lesotho;
- (d) to seek and obtain information on the official organs involved in the conduct of an election and regarding the election itself;
- (e) to communicate freely with any political party and with any organization or person;
- (f) to have access to information transmitted by or to the Commission and its officers;
- (g) to have access to complaints and responses about any occurrence or matter relating to the conduct of elections;
- (h) to open offices within Lesotho for the performance of their functions;
- (i) to communicate any specific concerns they may have to members and officers of the Commission; and

Obligations of election observers

112J. Election observers shall have the following obligations—

- (a) to exercise their role with impartiality, independence and objectivity;
 - (b) to respect the Constitution and the laws of Lesotho;
 - (c) not to interfere in, or to impede, the normal course of the election;
 - (d) to maintain the secrecy of the ballot;
 - (e) to provide to the Commission copies of written information and statements which they have produced; and
 - (f) to return the identity cards, the badge and any other identification material issued to them by the Commission after the end of their mission as observers.
- (2) The Commission may revoke the accreditation of any election observer who violates the obligations laid down in subsection (1) and thereupon his or her status as an election observer shall cease.

Position of diplomats

112K. Diplomats accredited to Lesotho who are designated and recognized as election observers under this Order shall exercise their functions as such election observers without prejudice to their status and positions as such diplomats.

Separate and joint operation of election observers

112L. Election observers may operate separately or jointly with other election observers of the same or different categories.

CHAPTER 8B - ELECTORAL CODE OF CONDUCT

Electoral Code of Conduct

112M. (1) The Electoral Code of Conduct (hereinafter referred to as "the Code") set out in Schedule 4 —

- (a) shall be subscribed to by—
 - (i) every political party registered in terms of section 35; and
 - (ii) every candidate nominated in terms of section 49, as a condition of their respective rights to be so registered or nominated; and
 - (b) shall, in so far as it is applicable, be binding on every political party or on the leader or any office-bearer, member or supporter of such political party or candidate.
- (2)** Subject to section 112N., any political party referred to in subsection (1) which, or the leader or any office bearer, member or supporter of such political party, or candidate so referred to who, infringes any provision of the Code shall, upon finding that any such provision has been so infringed, be liable—

- (a) in the case of any political party which has infringed the provisions of the Code, to one or more of the following penalties or sanctions, of which any or all may be suspended on specified conditions—
 - (i) a formal warning;
 - (ii) a fine not exceeding M10 000;
 - (iii) an order prohibiting such political party, whether permanently or for a specified period, from utilizing any media time,

broadcasting services as have been or may be made available to such political party, for electoral purposes by the Commission;

- (iv) an order prohibiting such political party or limiting the right of the political party —
 - (aa) to hold particular public meetings, demonstrations or marches, or any kind of such meetings, demonstrations or marches;
 - (bb) to enter any specified electoral district or area for purposes of canvassing for membership, or for any other electoral purpose;
 - (cc) to erect placards or banners, or to publish and distribute campaign literature or electoral advertising;

(b) in the case of a political party which has infringed the provisions of the Code—

- (i) by any act or omission involving violence or intimidation or a gross or systematic violation of the rights of any political party, candidate or voter, an order cancelling the registration of the political party in terms of section 35 and consequently its right to participate in the election concerned;
- (ii) by any fraudulent act by virtue of which votes have been obtained, an order reducing the number of votes counted in favour of that political party by a specified number of votes;
- (iii) by any act by virtue of which free and safe access by any other political party has been

party from any voting station situated in the area where such other political party has been prevented free and safe access; or

(c) in the case of the leader or any office-bearer, member or supporter of such political party or any candidate —

(i) who has infringed the provisions of the Code, to one or more of the penalties or sanctions referred to in paragraph (a) (i), (ii) or (iii);

(ii) who has infringed the provisions of the Code by any act or omission involving violence or intimidation or a gross or systematic violation of the rights of any political party, candidate or elector, an order disqualifying, in the case of a person who is a candidate, such person from being a candidate or deleting the name of such candidate from the list or lists of candidates concerned.

Institution of proceedings by Director of Elections: Monitoring in High Court

112N. (1) The Director of Elections may, either on his own motion or in consequence of any report made to him or her at any time, institute proceedings in the case of an alleged infringement of the Code or any alleged prescribed electoral irregularity or contravention of, or failure to comply with any provision of this Order, in the High Court.

(2) The High Court adjudicating an alleged infringement of the Code or other failure to comply with any provision of this Order, may only impose a penalty or sanction contemplated in section 112M(2) (a) (i) or (ii) or recommend to the Commission in a prescribed manner the imposition of any other penalty or sanction contemplated in section 112M(2)

(3) (a) Upon the recommendation of the High Court in accordance with subsection (2), the Commission may impose the recommended penalty or sanction or impose any other penalty or sanction contemplated in section 112M(2) which it may consider appropriate.

(b) There shall be no appeal from an order of the Commission imposing a penalty or sanction under paragraph (a).

(4) In making its decision regarding appropriate penalties or sanctions, the High Court or the Commission, as the case may be, shall have regard to any other legal consequence that may result from civil or criminal proceedings instituted by reason of the same occurrence.

CHAPTER 9 - ENFORCEMENT

PART 1 - OFFENCES IN GENERAL

Attempts to commit offence etc.

113. A person who -

- (a) attempts to commit an offence under this Chapter; and
- (b) incites, instigates or assists in the commission of such an offence,

is taken to have committed the offence.

PART 2 - OFFENCES RELATING TO REGISTRATION

Failure to register as an elector

114. (1) A person who, without reasonable excuse -

- (a) fails to register as an elector as required by section

- (b) fails to comply with a requirement of section 17, is guilty of an offence and liable on conviction to a fine not exceeding M250 or to imprisonment for a term not exceeding 3 months.
- (2) In a prosecution for an offence against subsection (1), the onus of establishing a reasonable excuse is on the defendant.

Inclusion of false names and particulars on the register

115. A person who includes, or causes to be included, in the general register or on an electoral list a name, address or any particular that the person knows to be fictitious, false or misleading is guilty of an offence and liable on conviction to a fine not exceeding M500 or to imprisonment for a term not exceeding 6 months, or both.

Improperly procuring the registration or cancellation of registration of a person as an elector

116. (1) Any person who procures the registration either of himself or herself or any other person (whether living, dead or fictitious) as an elector, knowing that he, she or the other person -
- (a) is not entitled to be registered as an elector; or
- (b) is already registered as an elector,

is guilty of an offence and liable on conviction to a fine not exceeding M500 or to imprisonment for a term not exceeding 6 months, or both.

- (2) Any person who, without lawful excuse, procures -

- (a) the cancellation of the registration as an elector of a person who is entitled to be registered as an elector; or
- (b) the removal from an electoral list of the name of a person who is entitled to have his or her name

is guilty of an offence and liable on conviction to a fine not exceeding M500 or to imprisonment for a term not exceeding 6 months or both.

- (3) In a prosecution for an offence against subsection (2), the onus of establishing a lawful excuse is on the defendant.

Obstruction of registration officers and enumerators

117. Any person who obstructs, or intentionally or recklessly misleads, the Director of Elections, an area electoral officer, a registration officer or an enumerator in the performance of his or her functions in connection with the registration of electors is guilty of an offence and liable on conviction to a fine not exceeding M1,000 or to imprisonment for a term not exceeding 6 months, or both.

Failure to notify deaths of electors etc. to the Director of Elections

118. (1) A person who, without reasonable excuse, fails to comply with an obligation under Part 4 of Chapter 3 to report the death of a person to the Director of Elections is guilty of an offence and liable on conviction to a fine not exceeding M500.

- (2) In a prosecution for an offence against subsection (1), the onus of establishing a reasonable excuse is on the defendant.

PART 3 - CORRUPT PRACTICES CONCERNING ELECTIONS

Undue influence

119. (1) A person who, by the use of violence, intimidation or fraud -
- (a) influences the vote of an elector at an election; or
- (b) obstructs or prevents an elector from voting at an election; or
- (c) induces an elector to vote at an election against the elector's will,

is guilty of the offence of undue influence.

- (2) A person who injures or threatens an elector with violence or harm on account of the elector -
- (a) having voted or not voted at an election; or
 - (b) having voted or not voted in a particular way,
- is also guilty of the offence of undue influence.
- (3) A person who, except as authorized by this Order, influences an electoral official in the performance of the official's duties under this Order is also guilty of an offence of undue influence.
- (4) A person who is convicted of the offence of undue influence is liable on conviction to a fine not exceeding M 1,000 or to imprisonment for a term not exceeding 12 months, or both.

Bribery

120. (1) In this section, "election conduct", in relation to a person, means -

- (a) the decision of the person to vote or not to vote at an election; or
- (b) the way in which the person votes or does not vote at an election; or
- (c) the person's nominating or not nominating as a candidate for an election or withdrawing such a nomination; or
- (d) the person's support of, or opposition to, a candidate or a political party at an election.

(2) A person is guilty of the offence of bribery if the person -

- (a) asks for or receives; or

- (b) offers, or agrees to ask for or receive,

any property or benefit of any kind (whether for that person or someone else) on the understanding that person's election conduct will be influenced or affected.

- (3) A person is also guilty of the offence of bribery if, in order to influence or affect another person's election conduct, the person gives, or promises or offers to give, any property or benefit of any kind to that other person or to a further person.
- (4) A person is also guilty of the offence of bribery if the person provides or lends any property knowing the property is to be used for the purpose of enabling another person to commit an offence under subsection (3) of for replacing any property that has been used for that purpose.
- (5) A person who is convicted of the offence of bribery is liable on conviction to a fine not exceeding M 1,000 or to imprisonment for a term not exceeding 12 months, or both.

Personation

121. A person who, at an election -

- (a) votes in the name of another person (including a dead or fictitious person); or
- (b) votes more than once; or
- (c) casts a vote that the person knows he or she is not entitled to cast; or
- (d) where the person knows that another person is not entitled to vote at the election - engages in conduct that induces that other person to vote,

is guilty of the offence of personation and liable on conviction to a fine not exceeding M 2,000 or to imprisonment for a term not exceeding 2 years, or both.

Fraudulent acts in connection with an election

122. (1) A person who, at or in connection with an election -
- (a) forges or fraudulently defaces, alters or destroys any electoral paper; or
 - (b) utters an electoral paper, knowing it or be forged; or
 - (c) counterfeits an official mark; or
 - (d) makes the signature of any other person on an electoral paper is guilty of an offence.
- (2) A person who, while the counting of votes is in progress at an election, fraudulently adds, removes, alters or destroys any ballot paper or ballot envelope used in connection with the election is guilty of an offence.
- (3) A person convicted of an offence against this section is -
- (a) in the case of an electoral official, police officer, candidate, candidate's agent, or authorized representative of a political party liable to a fine not exceeding M 2,000 or to imprisonment for a term not exceeding 2 years: and
 - (b) in the case of any other person, liable to a fine not exceeding M 1,000 or to imprisonment for a term not exceeding 12 months, or both.
- (4) In this section, "electoral paper" means a ballot paper, ballot envelope, nomination paper, electoral list or any form or other official document used in connection with an election.

PART 4 - ILLEGAL PRACTICES CONCERNING ELECTIONS

Disorderly conduct during an election

123. (1) A person who, in connection with the conduct of an election -

- (b) behaves in a disorderly manner, or causes a riot or violence, at a nomination court or at a polling place or place where votes are being counted; or
- (c) intentionally interrupts, obstructs or disturbs the proceedings at a nomination court or at a polling place or place where votes are being counted; or
- (d) without lawful authority, has possession of an offensive weapon at a nomination court or at a polling place or place where votes are being counted; or
- (e) except as authorized by this Order, enters a voting compartment or a place set aside for absent electors to record their votes; or
- (f) except as authorized by this Order, prevents a candidate, candidate's agent or other authorized person from entering or leaving a polling place while polling is in progress or a place where votes are being counted; or
- (g) obstructs, or intentionally or recklessly misleads, an electoral official in the performance of his or her functions in connection with the conduct of the election; or
- (h) hinders or interferes with the free exercise or performance by any other person of any right or duty conferred or imposed on that other person by this Order in relation to the election.

is guilty of an offence and liable on conviction to a fine not exceeding M1,000 or to imprisonment for a term not exceeding 12 months, or both.

- (2) In a prosecution for an offence against subsection (1) (d), the onus of establishing lawful authority is on the defendant.

Disorderly conduct at political meetings

124. (1) A person who, at a political meeting held in a constituency during an election period-
- (a) behaves in a disorderly manner, or causes a riot or violence, with the intention of preventing or disrupting the transaction of the business of the meeting; or
 - (b) without lawful authority, has possession of an offensive weapon at the meeting, is guilty of an offence and liable on conviction to a fine not exceeding M 1,000 or to imprisonment for a term not exceeding 12 months, or both.
- (2) In a prosecution for an offence against subsection (1) (b), the onus of establishing lawful authority is on the defendant.

Statements likely to mislead electors

125. A person who -
- (a) during an election period, publishes any information that is intended or likely to mislead an elector in relation to the manner of voting at the election; or
 - (b) during an election period, publishes a statement to the effect that a candidate has withdrawn from the election, knowing the statement to be false or being recklessly indifferent as to the truth of the statement; or
 - (c) before or during an election, publishes a statement relating to the personal character or conduct of a candidate intended to affect the election of the candidate, knowing the statement to be false or being recklessly indifferent as to the truth of the statement,

is guilty of an offence and liable on conviction to a fine not exceeding M 1,000 or to imprisonment for a term not exceeding 12 months, or both

Failure to comply with requirements of electoral officials

126. (1) A person who, without reasonable excuse, fails to comply with a lawful requirement of an election official relating to the conduct of an election is guilty of an offence and liable on conviction to a fine not exceeding M 250 or to imprisonment for a term not exceeding 3 months.
- (2) In a prosecution for an offence against subsection (1), the onus of establishing a reasonable excuse is in on the defendant.

- (3) In this section -

“electoral official” includes any person acting at the direction or under the authority of an electoral official;

“requirement” includes an order, request, instruction and direction.

Offences relating to ballot papers and ballot envelopes

127. (1) A person who -
- (a) being an elector, contravenes section 63 (4) or section 79 (5), (6) or (8); or
 - (b) contravenes section 81 (3); or
 - (c) except as required or authorized by this Order, takes a ballot paper or ballot envelope out of a polling place or a place where votes are being counted; or
 - (d) places in a ballot box or ballot envelope a ballot paper that has not been issued and completed in accordance with this Order; or
 - (e) places in a ballot box any paper other than a ballot paper or ballot envelope issued and completed in accordance with this Order; or

- (f) removes a ballot paper from a ballot box or ballot envelope except as required or authorized by this Order; or
- (g) destroys, removes or otherwise interferes with a ballot box or ballot envelope, or any form or other document, used in connection with an election, except as required or authorized by this Order, is guilty of an offence.

(2) A person convicted of an offence against this section is -

- (a) in the case of a electoral official, police officer, candidate or candidate's agent - liable to a fine not exceeding M 2,000 or to imprisonment for a term not exceeding 2 years, or both; and
- (b) in the case of any other person - liable to a fine not exceeding M 1,000 or to imprisonment for a term not exceeding 12 months, or both.

(3) If, in a prosecution for an offence under subsection (1) (d) brought against the presiding officer of a polling station, it is proved that the ballot boxes contained, or the ballot account shows, that there was a greater number of ballot papers issued to electors at the polling station than the number of electors who voted at that station, it is, in the absence of evidence to the contrary, to be presumed that the officer participated in the commission of the offence.

Infringing the secrecy of voting

128. (1) A person shall not -

- (a) unless ordered by a court of competent jurisdiction or authorized by this Order to do so, knowingly and intentionally unfold a ballot paper that has been marked and folded by an elector in accordance with

ascertaining how an elector has voted at an election; or

- (b) if the person is an electoral official who is performing or has performed functions in connection with an election - disclose information as to how an elector has voted at the election.

(2) A person shall not, except as authorized by this Order, assist or communicate with an elector who is about to vote at an election.

(3) A person shall not induce an elector to display a ballot paper after the elector has voted so as to disclose how the elector has or has not voted.

(4) A person shall not, except as authorized by this Order, place on a ballot paper or ballot envelope any mark which would enable an elector who uses the ballot paper or ballot envelope to be identified.

(5) A person who contravenes section 97 (1) or a provision of this section is guilty of an offence and liable on conviction to a fine not exceeding M 1,000 or to imprisonment for a term not exceeding 12 months, or both.

Canvassing, etc. in or near polling places

129. (1) When polling is in progress at an election, a person shall not, in or within the immediate vicinity of a polling place -

(a) canvass for votes; or

(b) induce an elector not to vote in a particular manner or not to vote at the election; or

(c) loiter or obstruct the free passage of electors who wish to vote at the election; or

(d) wear or display any flag, emblem, symbol or badge of a political party; or

- (c) use any instrument designed for making, amplifying or reproducing sound.
- (2) Subsection (1) (d) and (c) do not apply to any place within the vicinity of a polling place that is not a public place.
- (3) A person shall not, on a polling day or the day before polling at an election is to begin, convene, hold or attend a public meeting.
- (4) A person who is authorized by law to provide public transport service for the carriage of passengers shall ensure that the service operates on a polling day in accordance with the approved time table and on the approved route.
- (5) A person shall not induce a person referred to in subsection (4) to fail to comply with that subsection.
- (6) A person who contravenes any provision of this section is guilty of an offence and liable on conviction to a fine not exceeding M 1,000 or to imprisonment for a term not exceeding 12 months, or both.

Misuse of a royal name

130. (1) A political party shall not include in its name any prohibited words.
- (2) A political party shall ensure that no public speech purporting to be given, and no slogan or document purporting to be published, on behalf of the party or of any party candidate includes any statement that suggests that the political party or candidate enjoys the patronage of the King or any other member of the Royal Family.
- (3) A candidate or candidate's agent shall not -
- (a) campaign at an election under a name which consists of or includes any prohibited words or

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- (b) include in a public speech given for the purposes of an election, or in any slogan or document for publication for those purposes, any statement that suggests that the candidate or any political party by which the candidate is endorsed enjoys the patronage of the King or any other member of the Royal Family.
- (4) If a political party contravenes subsection (1) or (2), every officer of the party is guilty of an offence unless the officer proves that -
- (a) the contravention occurred without his or her knowledge; or
- (b) if the officer did have that knowledge he or she took all practicable steps to prevent the contravention.
- (5) A candidate or candidate's agent who contravenes subsection (3) is guilty of an offence.
- (6) A person convicted of an offence under this section is liable to a fine not exceeding M 500 or to imprisonment for a term not exceeding 3 months.
- (7) For the purposes of this section, the following words are prohibited -

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- (a) the words "Imperial", "Royal", "King" and "Queen";
- (b) any other words which suggest that the political party or candidate concerned enjoys the patronage of the King or any other member of the Royal Family.

Person not to consent to nomination as a candidate in more than one constituency

131. (1) A person who consents to being nominated for more than one constituency at the same general election is guilty of an

offence and is liable on conviction to a fine not exceeding M 500 or to imprisonment for a term not exceeding 6 months.

- (2) Subsection (1) does not apply if, at the time of consenting to be nominated for election, the person concerned has withdrawn all previous nominations made in respect of that person at the same election.

Author of electoral matter to be named

132. (1) A person who, during an election period -

- (a) prints, publishes or distributes; or
- (b) causes, permits or authorizes another person to print, publish or distribute, an advertisement, announcement, handbill, pamphlet or notice containing electoral matter that does not comply with subsection (2),

is guilty of an offence.

- (2) There shall appear or be stated at the beginning or end of an advertisement, announcement, handbill, pamphlet or notice referred to in subsection (1) -

- (a) in any case - the name and the residential or business address of the person who authorized the advertisement, announcement, handbill, pamphlet or notice; and
- (b) in the case of an advertisement, announcement or notice that is printed otherwise than in a newspaper, journal or other periodical publication - the name and business address of the printer.

- (3) If -

- (a) an article or a paragraph, containing electoral matter is printed in a newspaper, journal or other periodical publication: and

- (b) either -

- (i) the insertion of the article or paragraph is or is to be paid for; or
- (ii) any reward or compensation, promise of any reward or compensation, is or is to be made for the insertion of the article or paragraph; and

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- (c) the proprietor of the publication does not ensure that the word "advertisement" is printed as a headline to the article or paragraph in letters not smaller than 10 point,

the proprietor is guilty of an offence.

- (4) A person convicted of an offence under this section is liable to a fine not exceeding M 500 or to imprisonment for a term not exceeding 3 months.

- (5) In this section, "electoral matter" includes -

- (a) any matter which on the face of it is intended or likely to affect the result of an election; and
- (b) any report of a speech of a candidate if the report is to be paid for or any reward or compensation is to be provided.

Entitlement of employees to leave from their employment in order to vote

133. (1) An employer of an elector -

- (a) shall allow the elector a reasonable period of leave of absence to enable the elector to vote at an election; and
- (b) shall not make any deduction from the remuneration of the elector, or otherwise penalize the elector, for any absence so allowed.

- (2) Subsection (1) does not apply in relation to an elector where a polling day for the election is a Saturday, Sunday or public holiday unless the elector normally works, or the elector's employer requires the elector to work, on that day.

(3) An employer -

- (a) who contravenes subsection (1); or
- (b) who by, intimidation or threats or any other means, restrains an elector employed by the employer from voting at an election,

is guilty of an offence and liable on conviction to a fine not exceeding M1,000 or to imprisonment for a term not exceeding 12 months, or both.

PART 5 - OTHER OFFENCES

Offences by electoral officials

134. (1) Any electoral official, or any other person having official functions under this Order, who -

- (a) deliberately fails to perform a function that the official or officer is required to perform by or under this Order; or
- (b) performs such a function in a reckless or grossly negligent manner,

is guilty of an offence and liable on conviction to a fine not exceeding M 500 or to imprisonment for a term not exceeding 6 months, or both.

- (2) A person (being a person to whom section 58 applies) who contravenes subsection (2) of that section is guilty of an offence and liable on conviction to a fine not exceeding M 250.

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False or misleading statements in electoral documents

135. (1) A person who -

- (a) in any application, notice, declaration or other document required or permitted by or under this Order; or
- (b) in answer to any question put to the person under this Order,

makes a statement that the person knows to be false or misleading in a material respect is guilty of an offence and liable on conviction to a fine not exceeding M1,000 or imprisonment for a term not exceeding 12 months, or both.

- (2) For the purpose of subsection (1), a person who signs a statement is taken to have made the statement.

Liquor premises to be closed on polling day

136. (1) A person shall not, on a polling day -

- (a) sell or authorize the sale of intoxicating liquor; or
- (b) open or permit to be open any premises for the sale of intoxicating liquor, in any constituency in which a poll is being held or at any place outside the constituency that is within 4 kilometres of any polling station within the constituency.

- (2) Subsection (1) has effect irrespective of any law relating to the sale or supply of liquor except that it does not prevent the sale of intoxicating liquor to -

- (a) a person who has slept or intends to sleep the night on premises licensed under any law relating to the sale or supply of liquor; or
- (b) a person taking a meal on those premises; or

- (3) A person who contravenes this section is guilty of an offence and liable on conviction to a fine not exceeding M 500.

Political meetings not to be held on premises where the sale of liquor usually takes place

137. (1) A person shall not hire or use as a committee room, or for any meeting of electors -
- (a) for the purpose of promoting the election of a candidate at an election; or
 - (b) in connection with arrangements made by any person or political party in relation to an election, any premises -
 - (c) where the sale of intoxicating liquor is authorized by a licence; or
 - (d) where intoxicating liquor is sold or supplied to members of a club, society or association,
- or any part of any such premises.

- (2) A person shall not let premises or a part of premises referred to in subsection (1) knowing that the premises are, or the part is, to be used in contravention of that subsection.

- (3) A person who contravenes this section is guilty of an offence and liable on conviction to a fine not exceeding M 500 or to imprisonment for a term not exceeding 3 months.

- (4) A contract entered into in contravention of this section is void.

- (5) In this section -

“**licence**”, in relation to any premises, includes a licence for the sale of intoxicating liquor either on or off the premises;

“**sale**” includes wholesale and sale by retail.

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Offence to destroy, mutilate, deface or remove notice or document without authority

138. (1) A person who, without lawful authority, destroys, mutilates, defaces or removes a notice or document which is exhibited or made available for inspection under this Order is guilty of an offence and liable on conviction to a fine not exceeding M 250 or to imprisonment for a term not exceeding 3 months.
- (2) In a prosecution for an offence against subsection (1), the onus of establishing lawful authority is on the defendant.

Philanthropic work not to be undertaken by certain persons during an election period

139. (1) A political party shall not perform, or agree to undertake the performance of, philanthropic work during an election period.

- (2) A philanthropic society or body shall not give, or agree to give, any of its funds to a political party or for any political purpose.

- (3) If any such party, society or body contravenes this section, each officer of the party, society or body is guilty of an offence, unless the officer proves that -

- (a) the contravention occurred without his or her knowledge; or
- (b) if the officer did have that knowledge, he or she took all practicable steps to prevent the contravention.

- (4) A person convicted of an offence against this section is liable to a fine not exceeding M 250 or to imprisonment for a term not exceeding 3 months.