

S.I. No. 297/1995:

LOCAL ELECTIONS REGULATIONS, 1995.

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S.I. No. 297 of 1995.

LOCAL ELECTIONS REGULATIONS, 1995.

The Minister for the Environment in exercise of the powers conferred on him by [section 22](#) of the [Local Government Act, 1994](#) (No. 8 of 1994) hereby makes the following Regulations, a draft of which has been approved by a resolution passed by each House of the Oireachtas:

PART I PRELIMINARY AND GENERAL

Citation.

1. These Regulations may be cited as the Local Elections Regulations, 1995.

Interpretation.

2. (1) In these Regulations, except where the context otherwise requires —

"the Act of 1941" means the [Local Government Act, 1941](#) (No. 23 of 1941);

"the Act of 1992" means the [Electoral Act, 1992](#) (No. 23 of 1992);

"the Act of 1994" means the [Local Government Act, 1994](#) ;

"certificate of political affiliation" has the meaning assigned to it by *article 14(5)*;

"clerk" means, in relation to the corporation of a county or other borough, the council of an urban district or the commissioners of a town, the town clerk;

"deposit" means the sum of money required by *article 15* to be deposited with the returning officer by or on behalf of a candidate;

"election" means a local election;

"elector" means, in relation to an election, a person whose name appears in the register as entitled to vote at that election;

"excluded day" means a day which is a Sunday, Good Friday or a day which is a public holiday within the meaning of the [Holidays \(Employees\) Act, 1973](#) (No. 25 of 1973) or a day which by virtue of a statute or proclamation is a public holiday;

"local authority" means the council of a county, the corporation of a county or other borough, the council of an urban district, or the commissioners of a town;

"local election" means an election held pursuant to the Act of 1994 and these regulations and, for the purpose of *article 120*, includes elections in Member States of the European Union other than the State and the United Kingdom by direct universal suffrage to appoint the members of the representative council and, where appropriate, under the laws in each such Member State, the head and members of a basic local government unit;

"member" means a member of a local authority and includes a cathaoirleach, leas-chathaoirleach, alderman, councillor and a commissioner of a town;

"Member State" has the meaning it has in the Treaties governing the European Communities (within the meaning of [section 1](#) (as amended, whether before or after the making of these Regulations) of the [European Communities Act, 1972](#) (No. 27 of 1972));

"the Minister" means the Minister for the Environment;

"personation agent" means a person appointed as an agent under *article 26(3)*;

"polling day" means, in relation to an election, the day fixed under section 21 of the Act of 1994 for the holding of the poll at that election;

"polling place" means a polling place appointed by a scheme in force under section 28 of the Act of 1992;

"postal voters ballot box" means a ballot box provided under *article 34* for the reception of covering envelopes returned by postal voters;

"the register" means the register of local government electors within the meaning of section 13 of the Act of 1992;

"secretary" means, in relation to a county council, the county secretary or the officer in whom the functions of the county secretary are vested.

(2) In these Regulations—

(a) every reference to a meeting or member of a local authority shall, where the local authority is the corporation of a county or other borough, be construed as a reference to a meeting or member of the council established by law in respect of such county or other borough;

(b) every reference to a particular officer shall be construed as including a reference to any person duly appointed as deputy for such officer or to act in the place of such officer during the absence or incapacity of the officer or during a vacancy in the office or to whom the duties of the office are assigned.

(3) In these Regulations—

(a) a reference to a Part, article, Schedule or Part of a Schedule is to a Part or article of or the Schedule or Part of the Schedule to these Regulations, unless it is indicated that reference to some other instrument is intended;

(b) a reference to a sub-article or paragraph is to a sub-article or paragraph of the article in which the reference occurs, unless it is indicated that reference to some other provision is intended;

(c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment.

Forms.

3. (1) Each of the forms in the Schedule shall be used for the purpose for which such form is expressed to be applicable.

(2) Any document referred to in these Regulations as a document to be used at a local election, other than a form referred to in the Schedule, shall be in the same form as the corresponding form used at an election to Dáil Éireann, subject to any necessary modification.

PART II RETURNING OFFICERS

Returning officer.

4. The clerk or secretary of a local authority shall be the returning officer for the election of members of the local authority.

General duty of returning officer.

5. It shall be the general duty of the returning officer for an election to do all such acts and things as may be necessary for effectually conducting the election in accordance with Part III of the Act of 1994 and these Regulations, to ascertain and declare the results of the election and to furnish to the local authority a return of the persons elected to be members of the local authority.

Deputy returning officers.

6. (1) The returning officer for an election may, in writing, appoint one, or more than one, person to be deputy returning officer or officers and may delegate to any such deputy such of the functions of the returning officer as may be specified in the appointment.

(2) The returning officer may at any time revoke the appointment of a deputy returning officer appointed under *sub-article (1)*.

(3) Where the polls at an election of members of a county council and members of the corporation of a borough, the council of an urban district or the commissioners of a town are taken on the same day, for the purpose of taking the poll at the election of county councillors in the borough, urban district or town, the clerk of the borough, urban district or town shall be deputy returning officer.

(4) A deputy returning officer shall have all the rights and be subject to all the duties and liabilities of the returning officer in relation to the functions for which he or she is appointed.

(5) In these Regulations, any reference to the returning officer in relation to any act, matter or function for which a deputy returning officer is appointed by or under this article shall, unless the context otherwise requires, be interpreted as a reference to such deputy returning officer.

Election office.

7. The returning officer for an election shall appoint a convenient place to be that officer's office for the purposes of the election.

Expenses of returning officer.

8. (1) The expenses of the returning officer in relation to the conduct of an election shall be defrayed by the local authority.

(2) On the request of the returning officer for an advance on account of his or her expenses in relation to the conduct of the election, the local authority by which the expenses are to be paid may make an advance on such terms as it thinks fit.

(3) Where the polls at elections of members of two different local authorities are taken on the same day in the same polling place or places, the cost of taking the polls at the elections in such place or places shall be borne equally by the local authorities concerned.

Mutual Assistance.

9. It shall be the duty of every person upon whom any function in relation to an election is conferred by or under Part III of the Act of 1994 or these Regulations and of every person appointed or employed (otherwise than by any candidate or political party) for any purpose relating to an election, to furnish such information and render such other assistance to any other such person as that other person requires for the purposes of an election.

PART III MANNER OF VOTING

Manner of voting.

10. (1) Subject to *sub-articles* (2) and (3), a person who is entitled to vote at an election shall be entitled to vote in person only and at the polling station allotted to him or her or, in case that person is authorised under *article* 61 or 62 by a returning officer, at the polling station specified in the authorisation.

(2) Every elector whose name is, at the time of an election, in the postal voters list for a local electoral area shall be entitled to vote in that local electoral area at the poll at such election by sending the ballot paper by post to the returning officer for that local electoral area and shall not be entitled to vote in any other manner.

(3) Every elector whose name is, at the time of an election, in the special voters list for a local electoral area shall be entitled to vote in that local electoral area at the poll at such election in accordance with *article* 46 and shall not be entitled to vote in any other manner.

PART IV NOMINATIONS

Notice of election.

11. The returning officer shall, not later than the twenty-eighth day before the polling day, give public notice of the election (in these Regulations referred to as the "notice of election") stating:—

- (a) the times for receiving nominations;
- (b) the amount of the deposit;
- (c) the times and place at which nomination papers may be obtained;
- (d) the times and place at which the returning officer will attend to receive nominations; and
- (e) the day and the period fixed for the holding of the poll if the election is contested.

Register of political parties.

12. On the day (disregarding any excluded day) before the latest day for the publication of the notice of election, the Registrar of Political Parties shall send to each returning officer a copy of the Register of Political Parties then in force.

Necessity for nomination.

13. A person shall not be entitled to have his or her name entered in a ballot paper as a candidate at an election unless that person has been nominated in the manner provided by these Regulations and the person's nomination paper has been ruled as valid by the returning officer.

Nomination of candidates.

14. (1) At an election a person may nominate himself or herself as a candidate or may, with his or her consent, be nominated by another person (being a person registered as an elector in the area of the local authority for which the person proposes to nominate the candidate) as proposer.

(2) Each candidate shall be nominated by a separate nomination paper in the form specified in *Part I* of the *Schedule*.

(3) A separate nomination paper shall be required for each local electoral area for which a candidate is nominated.

(4) Each nomination paper shall state the names (the surname being stated first) and the address and occupation (if any) of the candidate.

(5) A candidate may include in the nomination paper the name of the political party registered in the Register of Political Parties as a party organised to contest a local election of which he or she is a candidate, provided that, at the time the nomination paper is delivered to the returning officer, a certificate in the form specified in *Part II* of the *Schedule* (in these Regulations referred to as a "certificate of political affiliation") authenticating the candidature is produced to the returning officer, being a certificate signed by the officer or officers of such party whose name or names appear in the said Register pursuant to section 25(4)(c) of the Act of 1992. Where such a certificate is produced, the returning officer, provided he or she is satisfied that it is appropriate to do so in relation to the candidate, shall cause a statement of the name of the relevant political party to be specified in relation to the candidate on all the ballot papers and on notices.

(6) Where a candidate is not the candidate of a political party registered in the Register of Political Parties as a party organised to contest a local election the candidate shall be entitled to enter after his or her name on the nomination paper the expression "Non-Party" and, if the candidate does so, the returning officer shall cause a statement of that expression to be specified in relation to the candidate on all the ballot papers and on notices.

(7) The returning officer shall provide nomination papers during the usual office hours of the local authority, at such place or places as are named in the notice of election, on each day on which the offices of the local authority are open for public business, during the period beginning on the publication of that notice and ending at 12 noon on the latest day for receiving nominations and the returning officer shall supply a nomination paper or papers free of charge to any person applying therefor, but the use of a paper supplied by the returning officer pursuant to this article shall not be obligatory at an election, provided that the nomination paper used at the election is in the form specified in the *Schedule*.

(8) Every reference in this article to the Register of Political Parties shall be construed as a reference to the copy of that Register sent to the returning officer pursuant to *article 12*.

Deposit by candidates.

15. (1) A candidate at an election, or a person acting on the candidate's behalf, shall, before the expiry of the time appointed by *article 17* for receiving nominations, deposit with the returning officer in respect of each local electoral area for which the candidate is nominated, the appropriate sum specified in *sub-article (2)*, and if the said sum is not deposited in respect of any such local electoral area the candidature of the candidate for that local electoral area shall be deemed to have been withdrawn.

(2) The amount of the deposit shall be fifty pounds in the case of an election of members of the council of a county or of the corporation of a county borough and twenty five pounds in the case of any other election.

(3) The deposit to be made by or on behalf of a candidate pursuant to this article may be made by means of legal tender or, with the consent of the returning officer, in any other manner.

Return or disposal of deposit.

16. (1) The deposit made by or on behalf of a candidate in respect of a local electoral area shall be returned where the candidate—

(a) withdraws his or her candidature in accordance with *article 22* in respect of the local electoral area;

(b) is deemed, under *sub-article (2)* of *article 25* or *sub-article (1)* of *article 28*, to have withdrawn his or her candidature in respect of the local electoral area;

(c) dies before the poll is closed;

(*d*) has not, before the expiration of the time for the receipt of nominations, been validly nominated as a candidate for the local electoral area;
(*e*) is elected; or
(*f*) is not elected but the greatest number of votes credited to him or her at any stage of the counting of the votes in respect of the local electoral area exceeds one quarter of the quota.

(2) Any deposit which is not returned under *sub-article (1)* shall be forfeited.

(3) Where at 12 noon on the day (disregarding any excluded day) next following the latest day for receiving nominations at an election a candidate stands nominated in more than one local electoral area of the same local authority, not more than one deposit made by or on behalf of the candidate in relation to that local authority shall be returned, and, if but for this sub-article more than one such deposit would fall to be returned under this article, only such one of the deposits as the returning officer shall determine shall be returned and the other deposit or deposits shall be forfeited.

(4) Where a deposit is to be returned under *sub-article (1)* it shall be returned to the person by whom it was made: provided that a deposit made by a person who dies before the deposit is returned shall be paid to the personal representative of that person.

(5) A deposit forfeited under this article shall be applied by the returning officer towards his or her expenses in conducting the election and shall be accounted for by the returning officer accordingly.

(6) In this article "personal representative" has the meaning assigned to it by [section 3](#) of the [Succession Act, 1965](#) (No. 27 of 1965).

Times for receiving nominations.

17. The earliest time for receiving nominations shall be 10 a.m. on the day (disregarding any excluded day) next following the latest day for the publication of the notice of election and the latest time for receiving nominations shall be 12 noon on the seventh day (disregarding any excluded day) after the latest day for the publication of that notice.

Delivery of nomination papers.

18. (1) Every nomination paper shall be delivered to the returning officer within the times specified in *article 17*, by the candidate or the proposer of the candidate.

(2) The delivery of the nomination paper shall be made by the candidate in person except that, where the candidate is proposed by another person, it may be made either as aforesaid or by the proposer in person.

(3) The returning officer shall attend to receive nominations at the place specified in that behalf in the notice of election between the hours of 10 a.m. and 12 noon and between the hours of 2 p.m. and 5 p.m. on the day (disregarding any excluded day) before the latest day for receiving nominations and between the hours of 10 a.m. and 12 noon on such latest day.

Selection of nomination papers.

19. The returning officer shall number the nomination papers in the order in which they are received and the first valid nomination paper received by the returning officer nominating a candidate for election for a local electoral area shall be deemed to be the nomination of that candidate for that local electoral area.

Ruling on validity of nomination papers.

20. (1) The returning officer shall rule on the validity of each nomination paper within one hour after its delivery and may rule that it is invalid if, but only if, he or she considers that it is not properly made out or signed.

(2) The candidate nominated by each nomination paper and the candidate's proposer, if any, and one other person designated by the candidate or proposer, as the case may be, and no other person, except with the permission of the returning officer, shall be entitled to attend while the said nomination paper is being ruled upon by the returning officer.

(3) The returning officer shall object to the name of a candidate in a nomination paper if such name —

- (a) is not a name by which the candidate is commonly known; or
- (b) is misleading and likely to cause confusion; or
- (c) is unduly long; or
- (d) contains a political reference;

and where the returning officer so objects, he or she shall allow the candidate or proposer, as may be appropriate, to amend the name and, if it is not so amended to the returning officer's satisfaction, the returning officer may amend it, as he or she thinks fit, after consultation with the candidate or proposer, if either is present, or may rule that the nomination paper is invalid as not being properly made out.

(4) The returning officer shall object to the description of a candidate in a nomination paper which is, in the opinion of the returning officer, incorrect, insufficient to identify the candidate or unnecessarily long or which contains a political reference other than, where appropriate, a reference to a public or elected office held, or formerly held, by the candidate or an entry made pursuant to *sub-article (5) or (6) of article 14*. Where the returning officer so objects, he or she shall allow the candidate or proposer, as may be appropriate, to amend the description and, if it is not so amended to the returning officer's satisfaction, the returning officer may amend or delete it, as he or she thinks fit, after consultation with the candidate or proposer, if either is present, or may rule that the nomination paper is invalid as not being properly made out.

(5) Having ruled on the validity of a nomination paper, the returning officer shall note the decision on the nomination paper and shall sign the note. If the returning officer rules that the paper is invalid, the officer shall include a statement of the reasons for the decision. The decision of the returning officer under this article shall be final subject only to reversal on a petition questioning the election.

(6) As soon as practicable after ruling on the validity of a nomination paper, the returning officer shall give, by post or otherwise, notice in writing of the ruling to the candidate.

(7) Every person in respect of whom a nomination paper has, under this article, been determined to be valid and whose candidature is not withdrawn in accordance with *article 22* or is not deemed under *article 15 (1), 25 (2) or 28 (1)* to have been withdrawn shall stand validly nominated as a candidate.

Publication of nominations.

21. The returning officer shall, as soon as practicable after ruling that a nomination paper is valid, cause a notice to be displayed outside the place at which the officer is receiving nominations stating the name and description of the person nominated in the paper, the name and address of the person's proposer, if any, and the local electoral area for which the person has been nominated.

Withdrawal of candidature.

22. (1) A candidate may withdraw his or her candidature by a notice of withdrawal signed by the candidate and delivered in person by the candidate or by the candidate's proposer to the returning officer not later than the hour of 12 noon on the day (disregarding any excluded day) next following the latest day for receiving nominations.

(2) Where the returning officer is satisfied that a candidate wishes to withdraw his or her candidature and that the candidate and proposer are unable to attend, withdrawal may be effected by delivering to the returning officer, not later than the said hour, a notice of withdrawal signed by the candidate and by the person delivering the notice.

(3) Where a candidate has been nominated for more than one local electoral area of the same local authority the notice of withdrawal shall state the local electoral area in respect of which the candidate wishes his or her candidature to be withdrawn.

Publication of withdrawal.

23. The returning officer shall, immediately on the delivery to the said officer of a notice of withdrawal under *article 22*, give public notice of the withdrawal (and, in the case of the withdrawal of a candidate who was nominated by another person as proposer, of the name of the other person), stating the local electoral area for which the candidature has been withdrawn.

Obstruction of nominations.

24. (1) If the proceedings for or in connection with the nomination of candidates at an election for a local electoral area are obstructed by violence the returning officer may adjourn the proceedings to a later hour on the same day or to the next following day (disregarding any excluded day) and, if the returning officer so considers it necessary, may further adjourn the proceedings until such obstruction shall have ceased.

(2) Where any proceedings for or in connection with the nomination of candidates are adjourned under this article, the returning officer shall postpone the latest time for receiving nominations in the local electoral area for a period equal to the period of such adjournment and shall so inform the Minister who may, by order, appoint the day for the taking of the poll in the local electoral area. In case the Minister appoints a day under this article the returning officer shall give public notice accordingly and the poll shall be taken in the local electoral area concerned on the day so appointed and the order under section 21 of the Act of 1994 shall, in so far as it relates to the local electoral area, be construed and have effect as if the day appointed under this article were the day specified in the said order for taking the poll.

Procedure after nominations.

25. (1) Subject to the provisions of *sub-article (2)*, if at 12 noon on the day (disregarding any excluded day) next following the latest day for receiving nominations—

(a) the number of candidates standing nominated for a local electoral area exceeds the number of members to be elected for that area, the returning officer shall adjourn the election for that area and shall take a poll in accordance with Part III of the Act of 1994 and in the manner directed by these Regulations, or

(b) the number of candidates standing nominated for a local electoral area is equal to or less than the number of members to be elected for the area, the returning officer shall forthwith declare the candidates standing nominated to be elected and shall return their names to the local authority in the manner provided for in *article 90* and give public notice in accordance with the provisions of that article.

(2) Where, at 12 noon on the day (disregarding any excluded day) next following the latest day for receiving nominations, either no candidate stands nominated for election to a local authority or the candidates standing nominated who can be elected to a local authority are less in number than the quorum for meetings of the local authority, the candidature of any candidate standing nominated shall be deemed to have been withdrawn and the returning officer shall so inform the Minister and shall give public notice that the election will not be proceeded with and Part IV of the Act of 1941 shall have effect in relation to the said local authority as from the next following ordinary day of retirement of members of the authority.

(3) Where, by reason of a deficiency in the number of candidates standing nominated for one or more local electoral areas at 12 noon on the day (disregarding any excluded day) next following the latest day for receiving nominations, the candidates who can be elected at an election are less in number than the full number of members of the local authority but are not less in number than the quorum for meetings of such local authority, the local authority shall be validly constituted by virtue of such election notwithstanding the vacancies arising from such deficiency and such vacancies shall be deemed to be casual vacancies occurring on the day on which the newly elected members come into office under section 9 of the Act of 1994 and shall be filled accordingly.

PART V AGENTS OF CANDIDATES

General provisions as to agents.

26. (1) A candidate at an election may appoint agents to be present on his or her behalf—

- (a) at the issue of ballot papers to postal voters;
- (b) in polling stations;
- (c) at the opening of the postal ballot boxes; and
- (d) at the counting of the votes.

(2) Subject to the provisions of *sub-article (3)*, the number of agents who may be appointed to be present on behalf of any candidate shall be fixed by the returning officer so, however, that the same number shall be allowed on behalf of every candidate.

(3) A candidate may appoint one person (in these Regulations referred to as a "personation agent") to be present as the candidate's agent in each polling station in the local electoral area for which the candidate has been nominated, for the purpose of assisting in the detection of personation and such appointment shall be in writing and shall be produced to the presiding officer for the polling station concerned. Not more than one personation agent shall be appointed by any candidate to be present in a polling station at which the polls at the election of members of two different local authorities are taken on the same day.

(4) An appointment under this article may be revoked by the candidate.

(5) A candidate shall, not later than the time for the commencement of the issue of ballot papers to postal voters, give written notice to the returning officer of the name and address of every agent appointed by the candidate to be present at the said issue and the returning officer may refuse to admit to the place where the ballot papers are to be issued any agent whose name and address have not been so notified.

(6) A candidate shall, not later than 2 days (disregarding any excluded day) before the polling day, give written notice to the returning officer of the name and address of every personation agent appointed by the candidate together with the name of the polling station for which the personation agent is appointed. A personation agent appointed in accordance with this article and whose name and address have been duly notified to the returning officer shall be entitled to be present in the polling station referred to in the notification during the period commencing 30 minutes before the time fixed by the Minister for the commencement of the poll and ending when the ballot boxes have been sealed by the presiding officer pursuant to *article 72* and the documents and materials specified in that article have been placed in sealed packets.

(7) A candidate shall, not later than 2 days (disregarding any excluded day) before the polling day, give written notice to the returning officer of the name and address of every agent appointed by the candidate to be present at the opening of the postal ballot boxes and the returning officer may refuse to admit to the place where the postal ballot boxes are to be opened any agent whose name and address have not been so notified.

(8) A candidate shall, not later than 2 days (disregarding any excluded day) before the polling day, give written notice to the returning officer of the name and address of every agent appointed by the candidate to be present at the counting of the votes and the returning officer may refuse to admit to the place where the votes are to be counted any agent whose name and address have not been so notified.

(9) Where the appointment of an agent under this article is revoked or an agent appointed under this article dies, resigns or becomes incapable of acting during an election, another agent may be appointed under this article in place of the first-mentioned agent and, where such an appointment is made, the candidate shall forthwith give written notice of the name and address of the agent appointed to the returning officer.

(10) A candidate may lawfully do or assist in the doing of any thing which may lawfully be done on the candidate's behalf by an agent appointed under this article and may be present (in addition to, or in substitution for, any such agent) at any place at which any such agent may, pursuant to these Regulations, be present.

(11) Any thing required by these Regulations to be done in the presence of an agent of a candidate shall not be invalidated by reason only of the agent's not being present at the time and place appointed for doing such thing.

Officers not to act as agents of candidates, further candidature etc.

27. (1) A returning officer or a person employed by such officer for any purpose relating to an election shall not act as an agent for a candidate at that election and shall not be associated in furthering the candidature of a candidate or promoting the interests of a political party at the election.

(2) A returning officer shall not employ in any capacity for the purposes of an election a person who has been employed by or on behalf of a candidate in or about the election or has been associated in furthering the candidature of a candidate or promoting the interests of a political party at the election.

PART VI DEATH OF A CANDIDATE

Death of a candidate.

28. (1) Where, not less than forty eight hours before the latest time for receiving nominations the returning officer becomes satisfied that a candidate standing nominated has died, the returning officer shall immediately give public notice to that effect and the candidature of the candidate shall be deemed to have been withdrawn.

(2) Where, at any time during the period beginning forty eight hours before the latest time for receiving nominations and ending on the commencement of the poll, the returning officer becomes satisfied that a candidate standing nominated for election for a local electoral area has died, the following provisions shall have effect in relation to the election for that area—

(a) if notice of the poll has been given, the returning officer shall forthwith countermand the poll;

(b) the returning officer shall forthwith give public notice that all acts done in connection with the election (other than the nomination of the surviving candidates) are void and that a fresh election will be held;

(c) all the proceedings for the election shall be commenced afresh, but a fresh nomination or consent shall not be necessary in respect of any candidate who stood nominated at the time of giving the public notice under *paragraph (b)*;

(d) the returning officer shall forthwith publish the notice of election in relation to the fresh election;

(e) at the fresh election the earliest time for receiving nominations shall be 10 a.m. on the day (disregarding any excluded day) next following the date of the publication of the notice of election in relation to the fresh election and the latest time for receiving nominations shall be 12 noon on the third day (disregarding any excluded day) next following the said date;

(f) the poll at the fresh election shall be taken either on the seventh day (disregarding any excluded day) after the latest day for receiving nominations, and shall continue for such period (being not less than twelve hours, between the hours of 8 a.m. and 10.30 p.m.) as shall be fixed by the returning officer or on the day and during the period fixed by the Minister under section 21 of the Act of 1994 whichever is the later;

(g) *article 12* shall not apply in relation to the fresh election and references to the Register of Political Parties contained in *article 14* shall, in relation to the fresh election, be construed as references to the copy of that Register sent to the returning officer in relation to the original election.

(3) Where, at any time after the commencement of the poll in a local electoral area and before the close of such poll, the returning officer becomes satisfied that a candidate standing nominated for election for that local electoral area has died—

(a) all votes cast at the election for the local electoral area shall be disregarded and the ballot papers shall be destroyed by the returning officer;

(b) the provisions of *paragraphs (b) to (g) of sub-article (2)* shall apply.

(4) Subject to *sub-article (5)*, where a candidate at an election dies in circumstances other than those referred to in *sub-article (1), (2) or (3)* the death of that candidate shall not invalidate his or her nomination or any preference recorded for the candidate and, if the candidate is elected, such election shall not be invalidated by reason of the candidate's death, but he or she shall be deemed to have vacated membership of the local authority on the day on which the newly elected members come into office under section 9 of the Act of 1994 and the vacancy shall be deemed to be a casual vacancy and shall be filled accordingly.

(5) Where, by reason of the death of a candidate at an election in the circumstances specified in *sub-article (4)*, the remaining candidates who can come into office under section 9 of the Act of 1994 are less in number than the quorum for meetings of the local authority, the returning officer shall so inform the Minister and Part IV of the Act of 1941 shall have effect in relation to the said local authority as from the ordinary day of retirement of members of the said authority next following the election.

(6) Where a poll is countermanded under this article, all ballot papers issued to postal voters and special voters relating to the countermanded poll shall be disregarded and the returning officer shall destroy all ballot papers received for inclusion in the countermanded poll.

PART VII POSTAL VOTING

Voting by post.

29. The returning officer for a local electoral area shall, as soon as practicable after the adjournment of an election for the purpose of taking a poll, send to each elector whose name is on the postal voters list for the local electoral area a ballot paper and form of receipt and if the ballot paper duly marked by the said elector and accompanied by the said receipt duly signed by the elector is received by the returning officer before the close of the poll, it shall be counted by the returning officer and treated for all purposes in the same manner as a ballot paper placed in a ballot box in the ordinary way at the taking of the poll.

Voting by electors referred to in section 14 (c) of Act of 1992.

30. (1) The provisions of this Part shall apply to the issue of ballot papers to, and the return of such ballot papers by, electors whose names are entered in the postal voters list pursuant to section 14(c) of the Act of 1992 subject to the following modifications—

(a) an elector whose name is so entered in the postal voters list, in order to cast his or her vote, shall, in the presence of an authorised person and no other person, do the following things in the following order—

(i) produce to the authorised person a ballot paper (in relation to which the authorised person shall establish that it is unmarked) and a form of declaration of identity;

(ii) complete and sign the said declaration of identity;

(iii) hand the declaration of identity to the authorised person who shall, on being satisfied as to the identity of the person who has signed the declaration of identity, witness the signature;

(iv) mark, in secret, the ballot paper;

(v) place the marked ballot paper in the ballot paper envelope and effectually seal such envelope;

(vi) place the ballot paper envelope and the completed declaration of identity in the covering envelope and effectually seal that envelope;

(b) a reference to "receipt", in relation to documents appropriate to such electors, shall be construed as a reference to "declaration of identity"; and

(c) a reference to "receipt duly signed", in relation to such documents, shall be construed as a reference to "declaration of identity duly signed and witnessed".

(2) In this article "authorised person" means a person appointed by the Secretary of the Department of Foreign Affairs to be an authorised person for the purposes of this article.

Form of ballot paper and receipt.

31. (1) The ballot paper to be sent to postal voters shall be in the same form as, and indistinguishable from, the ballot papers delivered to other electors.

(2) The receipt sent with the ballot paper to postal voters shall have printed thereon the instructions to the voter.

Presence of agents.

32. The returning officer, the returning officer's assistants and clerks, members of the Garda Síochána on duty, the agents of the candidates appointed for this purpose under *article 26*, and no other person, except with the permission of the returning officer, may be present at the proceedings on the issue of ballot papers and on the opening of the postal voters ballot boxes and the envelopes contained therein.

Issue of ballot papers to postal voters.

33. (1) The returning officer shall give each candidate at least twenty four hours' notice in writing of the time and place at which, if the election is contested, the officer will issue the ballot papers to postal voters and of the number of persons each candidate may appoint to attend the said issue.

(2) Each ballot paper issued shall be marked with the official mark which shall be embossed or perforated so as to be visible on both sides of the paper, and the number (including polling district letter) and name of the elector as stated in the postal voters list shall be called out, and a mark shall be placed in a copy of the postal voters list opposite the number of the elector to denote that a ballot paper has been issued to the elector, but without showing the number of the ballot paper issued to the elector.

(3) The returning officer shall place in an envelope addressed to the postal voter —

- (a) the ballot paper,
- (b) the form of receipt,
- (c) an envelope (in this Part referred to as "a covering envelope") addressed to the returning officer, and
- (d) a smaller envelope marked (and in this Part referred to as a) "ballot paper envelope",

and shall effectually seal the first-mentioned envelope.

(4) All envelopes addressed to the postal voters shall be counted and forthwith delivered by the returning officer to the nearest head post office or such other office as may be arranged with the head postmaster; and the postmaster shall stamp with the date stamp of An Post a receipt to be presented to the postmaster by the returning officer stating the number of envelopes so delivered, and shall immediately forward such envelopes for delivery to the persons to whom they are addressed.

(5) Where an envelope containing a ballot paper and other documents referred to in this article is, before polling day, returned to the returning officer as not having been delivered to a postal voter, the returning officer may readdress the envelope and send it by post to that voter.

Provision of postal voters ballot boxes.

34. (1) The returning officer shall provide a ballot box or ballot boxes for the reception of the covering envelopes when returned by the postal voters.

(2) Every such ballot box referred to in *sub-article (1)* shall, at the time of the issue of ballot papers to postal voters, be shown open and empty to the agents, if any, present, and shall be sealed with the seal of the returning officer and the seals of such of the agents as desire to affix their seals, and shall be marked "Postal Voters Ballot Box", and with the name of the local authority and, where the returning officer considers it appropriate, the name of the local electoral area, and the returning officer shall make provision for the safe custody of such ballot box.

Envelopes to be placed in postal voters ballot boxes.

35. The returning officer shall, immediately on receipt of covering envelopes, place them unopened in the postal voters ballot box.

Envelopes to be treated as covering envelopes.

36. If the returning officer receives, before the close of the poll, an envelope other than a covering envelope and finds therein any document which it would have been appropriate to send to the officer in a covering envelope, the returning officer shall—

- (a) securely seal the envelope;
- (b) endorse thereon, and sign, a statement that the envelope has been sealed by the returning officer with the contents intact;
- (c) place the sealed envelope in a postal voters ballot box;
- (d) thereafter treat the envelope as a covering envelope;

and any reference in these Regulations to a covering envelope shall be construed as including a reference to an envelope which has been dealt with by the returning officer in accordance with this article.

Procedure at close of poll.

37. At the hour fixed for the closing of the poll the returning officer shall either—

- (a) seal each postal voters ballot box so that no further papers can be inserted therein, or
- (b) forthwith open each such box and extract and deal with the contents thereof in accordance with *article 38*.

Opening of postal voters ballot boxes.

38. (1) The postal voters ballot boxes shall be opened by the returning officer, in the presence of the agents, if any, before the time fixed for the counting of the votes.

(2) Not less than 4 days before the polling day, the returning officer shall give each candidate notice in writing of the time and place at which the said officer will proceed to open the postal voters ballot boxes, and the envelopes contained therein, and of the number of agents each candidate may appoint to be present at the opening. The returning officer shall give the said agents reasonable facilities for overseeing the proceedings at the opening of the boxes and all information with respect thereto which the returning officer can give them consistent with the orderly conduct of the proceedings and the performance of the officer's functions.

(3) When a postal voters ballot box has been opened, the returning officer shall extract the covering envelopes therefrom and count and note the number of envelopes so extracted, and shall then open each covering envelope separately and examine the receipt.

(4) Where the receipt is found to be duly signed, the returning officer shall place the receipt and the ballot paper envelope in separate receptacles or, if the ballot paper is not contained in a ballot paper envelope, the returning officer shall place the receipt in the appropriate receptacle and shall place the ballot paper, without unfolding it, in a ballot box in accordance with *article 40*.

(5) If the returning officer is not satisfied that the receipt has been duly signed, he or she shall endorse the receipt "rejected" and shall attach thereto the ballot paper envelope, without opening such envelope, or, if there is no such envelope, the ballot paper.

(6) Where a receipt does not appear to accompany the ballot paper envelope, the returning officer shall open the envelope and, if it is found to contain the receipt, shall deal with the receipt and ballot paper in accordance with this Part.

(7) Any receipt not accompanied by a ballot paper, and any ballot paper not accompanied by a receipt, shall be marked "rejected".

(8) Where a ballot paper and receipt are received together, the ballot paper shall not be rejected solely on the ground that the ballot paper and receipt were, or either of them was, not placed in the proper envelopes or envelope or that any such envelope was not sealed.

Rejected receipts.

39. (1) The returning officer shall on a request being made by the agent of a candidate show to the agent any receipt which the officer is rejecting on the ground that it has not been duly signed.

(2) The returning officer shall keep all rejected receipts with the attached envelopes or ballot papers, as the case may be, separate from all other documents.

Ballot papers to be placed in ballot boxes.

40. When the covering envelopes in relation to any local electoral area have been opened and their contents dealt with under the two preceding articles, the returning officer shall open each unopened ballot paper envelope (other than the ballot paper envelopes referred to in *article 38(5)*) and place the ballot paper, without unfolding it, in a ballot box previously shown open and empty to the agents, if any, present and sealed with the seal of the returning officer, which box shall be subsequently treated as a ballot box for the purposes of *article 76*.

Duties of returning officer in relation to documents relating to postal voters.

41. (1) As soon as may be practicable after the completion of the issue of the ballot papers to postal voters and in the presence of the agents of the candidates, if any, the returning officer shall seal up in separate packets the marked copy of the postal voters list and the counterfoils of the ballot papers issued to postal voters.

(2) Having completed the placing of the ballot papers in the ballot box mentioned in *article 40*, the returning officer shall, in respect of each local electoral area, seal up in separate packets—

- (a) the receipts which accompanied any ballot papers duly accepted;
- (b) any rejected receipts, with envelopes, if any, attached; and
- (c) any rejected ballot papers, with envelopes, if any, attached.

(3) Where covering envelopes are received by the returning officer after the close of the poll, or where any envelopes addressed to postal voters are returned as undelivered, the returning officer shall not open such envelopes and shall, subject to the power of readdressing such envelopes pursuant to *article 33(5)*, seal such envelopes up in separate packets.

(4) The returning officer shall endorse on each packet mentioned in *sub-articles (1), (2) and (3)* a description of its contents, the name of the local electoral area and the date of the polling day at the election to which such contents relate.

(5) The returning officer shall prepare a statement in respect of each local electoral area showing the number of ballot papers sent to postal voters and giving with respect to such papers the particulars required by the form.

PART VIII VOTING BY SPECIAL VOTERS

Interpretation (*Part VIII*).

42. In this Part—

"ballot paper envelope" has the meaning specified in *article 45(c)*;

"covering envelope" has the meaning specified in *article 45(d)*;

"special presiding officer" means a person appointed to be a special presiding officer pursuant to *article 44*.

Voting by special voters.

43. An elector whose name is, at the time of a local election, entered in the special voters list for a local electoral area shall be entitled to vote in that local electoral area at the poll at the election in accordance with the provisions of *article 46* and shall not be entitled to vote in any other manner.

Special presiding officers.

44. (1) The returning officer shall, as circumstances may require, for the purposes of this Part appoint one, or more than one, person to be a special presiding officer to carry out the functions conferred on a special presiding officer by this Part.

(2) The provisions of these Regulations relating to the powers, rights and duties of a presiding officer appointed for a polling station at an election shall apply to a special presiding officer appointed under this article as if that officer were a presiding officer so appointed and as if the place where the special voter is casting his or her vote were a polling station at an election.

(3) The returning officer may perform all or any of the functions of a special presiding officer appointed under this article and the provisions of *sub-article (2)* shall apply to the returning officer while so performing them.

(4) The provisions of *article 65* relating to the right of an elector to request that the elector's ballot paper be marked by a companion shall not apply in relation to a special voter.

Ballot paper etc. for special voters.

45. As soon as practicable after the adjournment of the election for the purpose of taking a poll the returning officer shall cause to be delivered pursuant to *article 46* to every special voter entitled to vote at that election, the following—

- (a) a ballot paper for the election;
- (b) a form of declaration of identity;
- (c) an envelope marked (and in this Part referred to as a) "ballot paper envelope"; and
- (d) an envelope addressed to the returning officer (in this Part referred to as a "covering envelope").

Method of voting by special voters.

46. (1) At an election, a special presiding officer shall, in the presence of a member of the Garda Síochána, deliver to the special voter the form of declaration of identity referred to in *article 45*.

(2) No person other than the special presiding officer and the member of the Garda Síochána shall be present when the special voter is voting pursuant to this article.

(3) The special voter shall complete the declaration of identity and shall sign it or, if the voter is unable to write, place his or her mark thereon and the said signature, or as the case may be mark, shall be witnessed by the special presiding officer.

(4) The special presiding officer shall, on being satisfied as to the identity of the special voter, mark a ballot paper with the official mark and deliver it to the special voter together with a ballot paper envelope.

(5) The special presiding officer shall, as soon as he or she has given the ballot paper and the ballot paper envelope to the special voter, place a mark against the name of the special voter concerned on a copy of the special voters list to denote that a ballot paper has been issued to such voter but without showing the number of the ballot paper so issued.

(6) The special voter shall thereupon record in secret his or her vote upon the ballot paper and shall then fold the ballot paper so that the vote is concealed and place the ballot paper, so folded, in the ballot paper envelope and seal the envelope and hand the ballot paper envelope to the special presiding officer.

(7) On receiving the ballot paper envelope, the special presiding officer shall place it together with the completed declaration of identify in a covering envelope which the special presiding officer shall thereupon seal and to which he or she shall affix a label signed by the officer and the member of the Garda Síochána.

Duties of special presiding officer in relation to covering envelopes and other documents.

47. (1) The special presiding officer shall, before the time fixed for the close of the poll at the election, deliver to the returning officer every covering envelope referred to in *article 46(7)*.

(2) On the completion of voting by special voters, each special presiding officer shall seal up, in separate packets—

- (a) the unused ballot papers and any spoilt ballot papers, placed together;
- (b) the counterfoils of the ballot papers;
- (c) the marked copy of the special voters list;
- (d) a ballot paper account completed by the special presiding officer;
- (e) the marking instrument, any unused stationery and any other documents or materials in the special presiding officer's possession which relate to voting by special voters at the election;

and shall deliver all such packets to the returning officer.

Duties of returning officer in relation to documents relating to special voters.

48. (1) The returning officer shall deal with the packets delivered by a special presiding officer pursuant to *article 47* in the same manner as the returning officer would, in accordance with the provisions of these Regulations, deal with other packets containing similar documents and materials relating to an election.

(2) The returning officer shall place the covering envelopes returned by the special presiding officer pursuant to *article 47*, in the postal voters ballot box referred to in *article 34* and the covering envelopes and the documents therein shall thereafter be treated as if they were envelopes and documents returned to the returning officer by postal voters and the provisions of *articles 38, 39, 40 and 41* shall apply to such envelopes and documents.

(3) In the application of the provisions of these Regulations relating to postal voters to special voters—

- (a) a reference to "receipt" shall, in relation to documents appropriate to special voters, be construed as a reference to "declaration of identity",
- (b) a reference to "receipt duly signed" in relation to such documents, shall be construed as a reference to "declaration of identity duly signed and witnessed", and
- (c) if the covering envelope does not have the label referred to in *article 46* attached thereto or if such label is not duly signed by the special presiding officer and the member of the Garda Síochána, the returning officer shall reject the covering envelope and deal with it as if it were a receipt which had not been duly signed.

PART IX POLLING ON ISLANDS

Polling on islands.

49. (1) Where a poll is to be taken at an election in a local electoral area and the returning officer is of opinion that, in the case of a polling station situate on an island, it may be impracticable owing to stress of weather or transport difficulties, either—

- (a) to take the poll on the polling day appointed by the Minister, or
- (b) if the poll were taken on that day, to deliver the ballot boxes to the place for the counting of the votes at or before the time fixed for the commencement of the count under *article 76*,

the returning officer shall give public notice in the polling district stating that the poll will be taken at the polling station on the island on a specified day, being a day earlier than the polling day appointed by the Minister and later than the sixth day before the said polling day.

(2) Where *sub-article (1)* applies, notwithstanding anything otherwise contained in these Regulations, the returning officer shall take the poll at the polling station on the island on the day specified in the notice or, where the returning officer is of opinion that, owing to stress of weather, the poll cannot be taken on that day, on the first day after that day on which, in the opinion of the returning officer, transport between the island and the mainland is reasonably safe.

(3) Where a poll is to be taken in a local electoral area, notwithstanding anything contained in these Regulations, the following provisions shall have effect in relation to a polling station on the island, whether the poll at such station is taken on the polling day appointed by the Minister or otherwise—

(a) where, owing to stress of weather or transport difficulties, the poll cannot begin at the hour fixed by the Minister for the commencement of the poll, it shall begin as soon as possible after that hour,

(b) where, after the poll has continued for not less than four hours, the presiding officer is of opinion that, if the poll were further continued, the ballot boxes could not reach the place for the counting of the votes at or before the time fixed for the commencement of the count under *article 76* the presiding officer may then close the poll.

(4) No alteration shall be made in the form or contents of the notice of poll under *article 50* by reason of an alteration under this article of the day and hours of poll.

PART X ARRANGEMENTS FOR THE POLL

Notice of the poll.

50. Where an election is adjourned for the purpose of taking a poll, the returning officer shall, as soon as practicable after the adjournment, publish a notice (in these Regulations referred to as "the notice of poll") stating—

(a) the day on which and the hours during which the poll will be taken,

(b) the names and descriptions of the candidates standing nominated at the election as entered in their nomination papers and of the proposers, if any, and

(c) the order in which the names of the said candidates will appear on the ballot papers.

Ballot papers.

51. (1) The ballot of a voter at an election shall consist of a paper (in these Regulations referred to as a "ballot paper") in the form specified in *Part III* of the *Schedule*.

(2) Ballot papers shall be prepared in accordance with the following provisions—

(a) a ballot paper shall contain the names and descriptions of the candidates standing nominated at the election, as shown in their respective nomination papers. The names shall be arranged alphabetically in the order of the surnames or, if there are 2 or more candidates bearing the same surname, in the alphabetical order of their other names or, if their surnames and other names are the same, in such order as shall be determined by lot by the returning officer,

(b) the surname of each candidate and the name of the candidate's political party, if any, or, if appropriate, the expression "Non-Party" shall be printed in large capitals, the candidate's surname and other name shall be printed in small capitals and the address and occupation of the candidate, if any, as appearing in the relevant nomination paper, shall be printed in ordinary characters,

(c) the list of candidates shall be arranged either in one continuous column or in 2 or more columns in such manner (without departing from the alphabetical order) as, in the opinion of the returning officer, is best for marking and counting, but subject to the restriction that the spaces

on the ballot paper within which the candidates' names and descriptions appear shall be the same for each of the candidates,

(*d*) the ballot papers shall be numbered consecutively on the back and the back of the counterfoil attached to each ballot paper shall bear the same number. The numbers on the ballot papers shall be printed in the smallest characters compatible with legibility and shall be printed on or about the centre of the paper,

(*e*) apart from anything permitted by the form specified in the Schedule, nothing shall appear on the ballot paper except in accordance with these provisions.

The official mark.

52. (1) A ballot paper shall at the time of issue be marked with an official mark (in these Regulations referred to as "the official mark"), which shall be either embossed or perforated so as to be visible on both sides of the paper and the returning officer shall provide a sufficient number of marking instruments for this purpose.

(2) The returning officer shall ensure that the official mark is kept secret before the taking of the poll and that no mark previously used at an election in a local electoral area shall be used at an election in that local electoral area before the expiry of the ten years next after such previous use.

Ballot boxes.

53. Every ballot box shall be so constructed that it can be securely locked and that while it is so locked a ballot paper can be inserted therein but cannot be extracted and that the box and the aperture for the insertion of ballot papers can be sealed.

Use of Dáil ballot boxes etc.

54. Any ballot boxes, fittings for polling stations and compartments provided for Dáil elections in a Dáil constituency in which a local electoral area is wholly or partly situate may be used for any local election in such local electoral area; and any damage, other than reasonable wear and tear, caused to any such ballot boxes, fittings and compartments by such user at a local election shall be paid as part of the expenses of the election.

Polling information cards.

55. (1) In this article "polling information card" means a card informing an elector of the elector's number (including polling district letter) on the register of electors and of the place at which the elector will be entitled to vote, and containing a statement in relation to the specified documents referred to in *article 73*.

(2) A local authority may decide that polling information cards shall be sent to electors at an election, if contested.

(3) A decision to issue polling information cards in accordance with this article shall be, in case the local authority is the council of a county, the corporation of a borough which is not a county borough, the council of an urban district or the commissioners of a town, a reserved function for the purposes of the County Management Acts, 1940 to 1994, and, in case the local authority is the corporation of a county borough, a reserved function for the purposes of the Acts relating to the management of the county borough.

(4) Where a local authority decides in accordance with *sub-article (2)* that polling information cards shall be sent to electors and where a poll is to be taken in a local electoral area at the election of members for such local authority, the returning officer shall send a polling information card to every elector whose name is on the register of electors for the local electoral area and is not on the postal voters list or the special voters list.

(5) A polling information card shall be addressed to the elector at the address in respect of which the elector is registered in the register of electors and shall be sent so as to be delivered at that address not later than the third day before the polling day.

(6) Where a borough, urban district or town is wholly or partly situate in a local electoral area of a county, the returning officer for the election of members to the corporation of the borough, the council of the urban district

or the commissioners of the town shall not send polling information cards in respect of that election to electors in the said local electoral area if—

- (a) the election of members of the county council for the local electoral area is contested;
- (b) the polling day for that election is the same as the polling day for the election of members of the borough corporation, urban district council or town commissioners; and
- (c) the county council has decided that polling cards shall be sent to electors at the election of members of the county council.

(7) No action or other proceeding shall lie against a returning officer in respect of any error or misstatement in a polling information card.

(8) Subject to *sub-article (6)*, polling information cards shall be sent to electors at a new election (if contested) within the meaning of Part IV of the Act of 1941.

Use of schools and public premises by returning officer.

56. (1) The returning officer may for the purpose of taking the poll and counting the votes at an election use, free of charge, any school or any room in a school and any premises (other than a dwelling house) owned or occupied by a local authority.

(2) The returning officer shall make good any damage to, and may defray any expenses incurred by the person having control over such school, room or premises by reason of its being used by the said returning officer at an election.

(3) The use of any unoccupied premises or any part thereof for the purpose of taking the poll and counting the votes at an election shall not make the premises thereby liable to be rated or render any person liable to pay any rate for the premises.

(4) A person having charge of a school adjoining or forming part of a church or other place of worship or a religious establishment may, within twenty-four hours after receiving notice from the returning officer of an intention to use such school or any part thereof at an election, object to such use by sending a statement of such objection to the returning officer. Any objection made under this paragraph may, on the application of the returning officer, be over-ruled by the Minister if the Minister thinks it right so to do, but unless and until such objection is so over-ruled, no part of the school referred to in such objection may be used under this article.

(5) In this article "school" means any school receiving a grant out of moneys provided by the Oireachtas and includes a national school and a secondary, vocational or other post-primary school.

Polling stations.

57. (1) At every polling place the returning officer shall provide a sufficient number of polling stations, conveniently distributed for the accommodation of the electors entitled to vote at the polling place. Where, by reason of any difficulty, a polling station or a sufficient number of polling stations cannot be provided at the appointed polling place, the returning officer may provide a polling station or polling stations at any other convenient place.

(2) The returning officer shall allot the electors to the polling stations in such manner as, in the returning officer's opinion, will be most convenient for the electors.

(3) The returning officer shall give public notice of the location of polling stations in each polling place and the description of electors allotted to vote at each such place.

(4) The returning officer shall make adequate provision for the heating, lighting and cleaning of each polling station.

(5) The returning officer shall provide at each polling station —

- (a) such number of compartments in which the voters can mark their ballot papers screened from observation, as the returning officer considers necessary,
- (b) such furniture as the returning officer considers necessary,
- (c) a sufficient number of ballot boxes,
- (d) such number of ballot papers as the returning officer considers necessary,
- (e) instruments for placing the official mark on ballot papers,
- (f) copies of the register or such part thereof as contains the names of the electors allotted to vote at the station,
- (g) such materials as the returning officer considers necessary to enable voters to mark their ballot papers,
- (h) such other documents, forms, stationery and other materials as the returning officer considers necessary.

(6) The returning officer shall keep a record of the numbers on the ballot papers provided at each polling station.

Presiding officers and poll clerks.

58. (1) The returning officer shall appoint a presiding officer to preside at each polling station and may also appoint a poll clerk or clerks to assist each presiding officer: any such appointment may be revoked at any time by the returning officer and where the appointment revoked is the appointment of a presiding officer the returning officer shall forthwith appoint a fresh presiding officer to preside at the relevant polling station.

(2) The returning officer shall, on request, permit a person in respect of whom the officer is satisfied that that person has a *bona fide* interest in the election either as a candidate or as a prospective candidate, to inspect the list of persons to whom the returning officer has offered, or proposes to offer, appointments as presiding officers or poll clerks.

(3) A presiding officer shall keep order at the polling station, regulate the number of electors to be admitted at a time and shall exclude all other persons except those authorised by *article 60* to be present in the station.

(4) The presiding officer may do, by a clerk appointed to assist him or her, any act which the presiding officer is required or authorised to do by these Regulations, except ordering the arrest, exclusion, or ejection from the polling station of any person.

(5) The returning officer or a person appointed by the returning officer under *sub-article (6)* may perform all or any of the functions of a presiding officer and while so doing shall be subject to the provisions of these Regulations in like manner as if the officer or person had been appointed a presiding officer.

(6) The returning officer may appoint a person to act as his or her representative in a polling place to carry out such duties as the returning officer may assign to that person.

PART XI THE POLL

Opening of the poll.

59. Immediately before the commencement of the poll the presiding officer at each polling station shall show each ballot box in his or her charge to such persons as are present in the station, so that they may see that it is empty, and shall then lock the box and seal it in such manner as to prevent its being opened without breaking the seal and shall place it in his or her view for the receipt of ballot papers, and keep it so locked, sealed and in view during the poll.

Admission to polling station.

60. No person shall be admitted to a polling station other than—

- (a) the returning officer and any deputy or representative of the returning officer,
- (b) the presiding officer and poll clerk for the station,
- (c) a candidate at the election for a local electoral area in respect of which the poll is being taken at the station,
- (d) the personation agents duly appointed in writing for the station by the candidates,
- (e) electors admitted for the purpose of voting at the polling station,
- (f) companions of electors whose sight is so impaired or who are otherwise so physically incapacitated that they are unable to vote without assistance, while such companions are assisting such electors,
- (g) members of the Garda Síochána on duty,
- (h) messengers sent by or on behalf of the returning officer, and
- (i) other persons authorised by the returning officer to be present in the station.

Voting by persons employed by returning officer.

61. Where an elector for a local electoral area is employed by the returning officer for any purpose in connection with an election and the circumstances of that elector's employment are, in the opinion of the returning officer, such as to prevent the elector from voting at the polling station at which that elector would otherwise be entitled to vote, the elector may, if so authorised in writing by the returning officer, vote at such polling station in the local electoral area as may be specified in the authorisation.

Authorisation of physically ill or physically disabled elector to vote at another polling station.

62. Where, not less than 7 days before the polling day at an election, an elector, whose name is not on the postal voters list or the special voters list, satisfies the returning officer that the elector is unable, by reason of that elector's physical illness or physical disability, to vote at the polling station at which the elector would otherwise be entitled to vote, and the returning officer is of opinion that it would be more convenient for the elector because of that physical illness or physical disability to vote at another polling station in the same local electoral area, the elector may, if so authorised in writing by the returning officer vote at such polling station in the same local electoral area as may be specified in the authorisation.

Procedure for voting.

63. (1) Subject to the provisions of *articles 10, 29, 43, 61, 62, 65, 66, 67 and 73*, the presiding officer shall deliver a ballot paper to an elector who applies therefor and declares his or her name and address.

(2) Immediately before a ballot paper is delivered to an elector—

- (a) the number (including polling district letter) and name of the elector as stated in the register shall be called out,
- (b) the ballot paper shall be marked with the official mark,
- (c) a mark shall be placed in the register against the number of the elector to denote that a ballot paper has been issued to that elector but without showing the number of the ballot paper so issued.

(3) An elector on receiving the ballot paper shall (subject to *article 65*) go alone into one of the compartments in the polling station and there shall secretly record his or her vote on the ballot paper and fold the paper so that the vote is concealed. The elector shall then return to the presiding officer's table, show the back of the folded paper to the presiding officer so as to disclose the official mark and then put the folded paper into the ballot box. The elector shall vote without undue delay and shall leave the polling station as soon as he or she has put the ballot paper into the ballot box.

Spoilt ballot papers.

64. A voter who has inadvertently spoilt his or her ballot paper shall, on returning it to the presiding officer and satisfying the presiding officer as to the inadvertence, be given another ballot paper. The presiding officer shall

immediately mark "spoilt" on the spoilt ballot paper and on the counterfoil thereof. The presiding officer shall retain the spoilt ballot paper and counterfoil and deal with them in accordance with *article 72*.

Voting by blind, incapacitated and illiterate electors.

65. (1) Where an elector applying for a ballot paper satisfies the presiding officer that the elector's sight is so impaired or that the elector is otherwise so physically incapacitated or is unable to read or write to such an extent that he or she is unable to vote without assistance, this article shall apply.

(2) For the purposes of *sub-article (1)* the presiding officer may, and if required by any personation agent present in the polling station shall, administer to the elector before delivery of the ballot paper an oath or (in the case of a person who objects to taking an oath on the ground that the person has no religious belief or that the taking of an oath is contrary to the person's religious belief) an affirmation in the following form:

"I swear by Almighty God (*or — do solemnly, sincerely and truly declare and affirm — as the case may be*) that my sight is so impaired (*or — that I am so physically incapacitated or — that I am unable to read or write to such an extent — as the case may be*) that I am unable to vote without assistance"

and if the elector refuses to take the oath or make the affirmation, this article shall not apply.

(3) Where this article applies in the case of an elector who satisfies the presiding officer that the elector's sight is so impaired or that the elector is otherwise so physically incapacitated that he or she is unable to vote without assistance, the elector may request that the ballot paper shall be marked by a companion and, subject to *sub-article (4)*, the companion may go with the elector into one of the compartments in the polling station and there shall mark the ballot paper for the elector and shall fold it and show the back of the folded paper to the presiding officer so as to disclose the official mark and forthwith place the paper in the ballot box.

(4) The presiding officer may, and if required by any personation agent present in the polling station shall, put to the companion before delivery of the ballot paper, the following questions or any one or more of them:

- (a) Have you attained the age of sixteen years?
- (b) Have you marked as a companion more than one ballot paper at this election?
- (c) Are you a candidate at this election?
- (d) Are you an agent of a candidate at this election?

and unless such of those questions as are put to the companion are answered, in the case of the first of those questions, in the affirmative and, in the case of any other of those questions, in the negative, the companion may not mark the ballot paper.

(5) Where this article applies and—

- (a) the elector is unable to read or write, or
- (b) the elector does not request that the ballot paper shall be marked by a companion, or
- (c) the elector having so requested, the marking of the ballot paper by the companion would be in contravention of *sub-article (4)*,

the presiding officer shall, in the presence of the elector and the personation agents and no other person, mark a ballot paper as instructed by the elector and shall then fold it and place it in the ballot box.

(6) A request made by an elector within two hours before the hour fixed by the Minister for the close of the poll to have the ballot paper marked for the elector under this article otherwise than by a companion may be refused by the presiding officer if, in the presiding officer's opinion, having regard to the number of electors then coming in to vote or likely to come in to vote before the close of the poll, acceding to such request would interfere with the proper discharge of the presiding officer's duties or would unduly obstruct the voting of other electors.

(7) Where a ballot paper is to be marked pursuant to *sub-article (5)* the presiding officer may assist the elector by reading out in full from the ballot paper the particulars stated in respect of each candidate, but the presiding officer shall not act on any written instruction.

(8) Where, pursuant to this article, a person has marked as a companion two ballot papers at an election, that person shall not, at that election, mark as a companion any other ballot paper.

(9) A person shall not mark as a companion a ballot paper at an election if that person has not reached the age of 16 years or is a candidate or agent of a candidate at that election.

Alleged personation.

66. (1) Where, at an election, a ballot paper has been issued to a person representing himself or herself to be a particular elector named on the register and another person representing himself or herself to be that elector applies for a ballot paper and duly produces a specified document having been so required by the presiding officer under *article 73* and answers such of the questions as may be put to the person or takes the oath or makes the affirmation under the said article, subject to the said *article 73*, that other person shall be entitled to receive a ballot paper and mark and place it in the ballot box in like manner as any other elector.

(2) The presiding officer shall make out a statement showing the total number of ballot papers issued pursuant to this article and the name and number (including polling district letter) on the register of each of the persons to whom such papers were issued.

Arrest of person committing personation.

67. (1) Where a presiding officer has reasonable cause to believe that any person who applies for or has applied for a ballot paper is committing or has committed personation the presiding officer may, before such person has left the polling station, direct a member of the Garda Síochána to arrest the person on the charge of having committed personation and the member of the Garda Síochána shall comply with such direction.

(2) If at the time a person applies for a ballot paper at an election, or after the person has applied for a ballot paper and before that person has left the polling station, a personation agent declares to the presiding officer that the agent believes and undertakes in writing to prove that the applicant has committed personation, the presiding officer may direct a member of the Garda Síochána to arrest the applicant on the charge of having committed personation and the member of the Garda Síochána shall comply with such direction.

(3) Any member of the Garda Síochána may, without any warrant, arrest any person who, the said member has reasonable cause to believe, is committing, or has committed, personation.

(4) Any arrest authorised by this article may be made at any place whether in a polling station or out of such a station.

(5) No action or other proceeding shall lie against a presiding officer in respect of the arrest on the officer's direction, without malice, of any person on a charge of having committed personation.

Maintenance of order in polling station.

68. (1) If any person misconducts himself or herself at a polling station or fails to obey the lawful orders of the presiding officer for that station, that person may immediately, by order of the said presiding officer, be removed from the polling station by any member of the Garda Síochána or by any other person authorised in writing by the presiding officer to remove the first-mentioned person. A person so removed shall not re-enter the polling station without the permission of the presiding officer.

(2) The presiding officer shall as far as practicable ensure that all material which advocates or opposes the candidature of a particular person or persons or of members of a political party is removed from the polling station.

(3) For the purpose of this article a polling station shall be deemed to include all parts of the building and any land within the curtilage of the building in which the polling station is situate.

Obstruction of the poll.

69. (1) Where the poll at any polling station is obstructed by violence, the presiding officer for that station may adjourn the said poll until the next following day (disregarding any excluded day) and on such day the said poll shall be resumed at a time corresponding to the time fixed for the commencement of the poll and shall continue until a time corresponding to the time fixed for the close of the poll on the polling day and references in these Regulations to the close of the poll shall be construed accordingly in relation to the said polling station.

(2) In the event of obstruction as aforesaid, only the poll at such polling stations as are actually affected by the obstruction may be adjourned and the poll at all other polling stations shall be continued without adjournment.

(3) Where a poll is adjourned under this article the presiding officer shall forthwith give notice of such adjournment to the returning officer who shall not open any of the ballot boxes used in the local electoral area until the adjourned poll has been completed.

(4) This article shall apply to any obstruction caused by persons being prevented by violence from going to any polling station and to obstruction caused in any other manner by violence.

Damage to polling station.

70. (1) Subject to *articles 24, 28, 49, 69 and 71*, where, for any reason, including damage to a polling station, the poll at any polling station cannot be taken or continued in accordance with section 21 of the Act of 1994 and these Regulations the following provisions shall have effect:

(a) the returning officer shall—

(i) forthwith give public notice to that effect; and

(ii) take all such steps and give all such directions as the returning officer thinks proper for the holding or completion of the poll at such station,

(b) a fresh poll shall be held, or the poll shall be continued, as the case may require, at such polling station on a day (not being later than seven days after the polling day) appointed for the purpose by the returning officer,

(c) the provisions of these Regulations shall apply in respect of such fresh poll or the continued poll in like manner as they apply to the original poll, and

(d) the returning officer shall not open any of the ballot boxes used in the local electoral area until the fresh poll or the continued poll has been completed.

Destruction etc. of ballot boxes or ballot papers.

71. If at an election any ballot boxes or ballot papers are, without lawful authority, taken out of the custody of the returning officer or of a presiding officer or are in any way tampered with or are destroyed or (in the case of ballot papers) are maliciously torn or defaced the following provisions shall have effect:

(a) the poll at every polling station at which any of the said ballot boxes or ballot papers were used shall be void,

(b) the returning officer shall forthwith take all such steps and give all such directions as the officer thinks proper for the taking of a fresh poll at every such polling station,

(c) a fresh poll shall be taken at every such polling station on a day (not being later than seven days after the polling day) appointed for the purpose by the returning officer,

(d) the provisions of these Regulations shall apply in respect of such fresh poll in like manner as they apply to the original poll,

(e) the returning officer shall not open any of the ballot boxes used in the local electoral area until the fresh poll has been completed.

Duties of presiding officer at close of poll.

72. (1) At the time fixed for the close of the poll the presiding officer shall take steps to ensure that no further electors are admitted to the polling station, but any elector on the premises at that time shall, subject to the provisions of these Regulations, be entitled to receive a ballot paper and to vote.

(2) As soon as practicable after the close of the poll, the presiding officer shall seal each ballot box in his or her charge so that no further ballot papers can be inserted therein and shall attach the key thereto and seal up, separately in respect of each poll, in separate packets—

- (a) the unused and spoilt ballot papers, placed together,
- (b) the marked copies of the register,
- (c) the counterfoils of the ballot papers,
- (d) a ballot paper account made out by the presiding officer and a statement prepared in accordance with *article 66(2)*,
- (e) any authorisations given by the returning officer under *article 61* or *62* authorising persons to vote at the polling station, and any undertakings by a personation agent to prove that a person has committed personation, and
- (f) the marking instruments, unused stationery and other documents and materials relating to the election,

and shall deliver all such ballot boxes and packets to the returning officer.

(3) The returning officer shall make adequate arrangements for the safe custody of the ballot boxes delivered pursuant to this article and of all documents connected with the poll.

Right to vote.

73. (1) (a) The returning officer or the presiding officer may of such officer's own volition, or if so required by a personation agent present in the polling station, request any person at the time of applying for a ballot paper, but not afterwards, to produce a specified document and, if the person fails to produce such a document, or if the returning officer or the presiding officer is not satisfied that the person is the person to whom the document relates, such person shall not be permitted to vote.

(b) For the purposes of this sub-article "specified document" means such document as may be specified in regulations for the time being in force under section 111(2) of the Act of 1992.

(2) The returning officer or presiding officer may, and if so required by a personation agent present in the polling station shall, put to any person when that person applies for a ballot paper, but not afterwards, the following questions, or any one or more of them:

- (a) Are you the same person as the person whose name appears as AB on the register of local government electors now in force for the local electoral area of.....?
- (b) Have you already voted at this election?
- (c) Had you attained the age of eighteen years on or before (*date of coming into force of the register*)?

and unless such of those questions as are put to the person are answered, in the case of the first and third of those questions, in the affirmative and, in the case of the second of them, in the negative, the person shall not be permitted to vote.

(3) The returning officer or presiding officer may, and if so required by a personation agent present in the polling station shall, administer to any person when that person applies for a ballot paper, but not afterwards, an oath or (in the case of any person who objects to taking an oath on the ground that the person has no religious belief or that the taking of an oath is contrary to that person's religious belief) an affirmation in the following form:

"I swear by Almighty God (*or — do solemnly, sincerely and truly declare and affirm — as the case may be*) that I am the same person as the person whose name appears as AB on the register of local government electors now in force for the local electoral area of and that I have not already voted

at this election and that I had attained the age of eighteen years on or before (*date of coming into force of the register*)";

and if such person refuses to take the oath or make the affirmation the person shall not be permitted to vote.

(4) Save as is provided by this article and *article 65*, no request to a voter to produce a document shall be made, and no question, oath, affirmation or objection shall be put or permitted at the time of the poll at an election as to the right of any person to vote, and no objection thereto shall be made or received by any returning officer or presiding officer.

PART XII ARRANGEMENTS FOR THE COUNTING OF THE VOTES

Time and place for the counting of the votes.

74. (1) The counting of the votes at the election for every local authority shall commence not later than the hour of 9 a.m. on the day next following the polling day.

(2) The returning officer shall appoint a place within the area of the local authority or convenient to the said area as the place at which the officer will count the votes and shall, at the place so appointed, provide suitable accommodation and all furniture and equipment necessary for counting the votes in accordance with *Part XIII* and shall make adequate arrangements for the safe custody of the ballot papers and other documents relating to the election.

Attendance at the counting of the votes.

75. (1) Not less than four days (disregarding any excluded day) before the polling day the returning officer shall give written notice to each candidate of the time and place at which he or she will proceed to count the votes and of the number of agents each candidate may appoint to be present at the counting of the votes.

(2) The returning officer, the assistants and clerks of the returning officer, members of the Garda Síochána on duty and the agents of the candidates duly appointed for the purpose under these Regulations may be present at the counting of the votes and no other person shall be present without the permission of the returning officer.

(3) The returning officer shall give the agents of the candidates all such reasonable facilities for overseeing the proceedings at the counting of the votes (including, in particular, facilities for satisfying themselves that the ballot papers have been correctly sorted) and all such information with respect thereto as the returning officer can give them consistent with the orderly conduct of the proceedings and the performance of the functions of the returning officer.

Preliminary proceedings.

76. (1) At the time fixed by the returning officer and at the place appointed under *article 74(2)*, the returning officer shall, in the presence of the agents of the candidates, open the ballot boxes and extract the ballot papers therefrom.

(2) Where the polls at the elections for two different local authorities have been taken on the same day in the same polling station and ballot papers for either election are found in the ballot box provided for the other election, the returning officer shall place such ballot papers, together with a statement signed by the said officer showing the number of papers enclosed and giving particulars of the ballot box in which they were found, in a packet which the said returning officer shall seal and forthwith transmit by hand to the appropriate returning officer.

(3) The ballot papers extracted by the returning officer from each ballot box shall be counted and their total number shall be compared with the number shown in the appropriate ballot paper account. The returning officer shall prepare a statement showing the result of this comparison in respect of all the ballot boxes and shall include particulars of the ballot papers, if any, transmitted to the said officer pursuant to *sub-article (2)* and the returning officer shall, on request, allow the agent of any candidate to copy the statement.

(4) Where the statement referred to in *sub-article (3)* is prepared by a deputy returning officer the statement shall be transmitted to the returning officer as soon as practicable.

(5) The returning officer shall mix together the whole of the ballot papers in respect of each local electoral area (including any ballot papers transmitted to the officer in pursuance of *sub-article (2)*) and shall proceed to count the votes in respect of each such area in accordance with *Part XIII*.

(6) The returning officer, while counting and recording the number of ballot papers, shall cause the said papers to be kept face upwards and shall take due precautions to prevent any person from seeing the numbers printed on the backs of the said papers.

Time for the counting of the votes.

77. The returning officer shall, so far as practicable, proceed continuously with the counting of the votes, except during time for necessary rest and refreshment.

Conduct of the counting of the votes.

78. The returning officer shall cause the ballot papers to be scrutinised for the purpose of discovering any papers liable to be rejected as invalid and shall, in accordance with *Part XIII*, ascertain and record the number of votes given to each candidate.

Handling of ballot papers by candidates or agents.

79. Candidates or their agents shall not handle ballot papers during the counting of votes.

PART XIII RULES FOR THE COUNTING OF THE VOTES

Interpretation (*Part XIII*).

80. (1) In this Part—

"continuing candidate" means any candidate not deemed to be elected and not excluded;

"count" means—

- (a) all the operations involved in the counting of the first preferences recorded for candidates;
- (b) all the operations involved in the transfer of the surplus of a candidate deemed to be elected;
- (c) all the operations involved in the transfer of the votes of an excluded candidate; or
- (d) all the operations involved in the transfer of the votes of two or more candidates excluded together;

"deemed to be elected" means deemed to be elected for the purpose of the counting of the votes but without prejudice to the declaration of the result of the poll;

"determine by lot" means determine in accordance with the following directions, namely, the names of the candidates concerned having been written on similar slips of paper, and the slips having been folded so as to prevent identification and mixed and drawn at random, the candidates shall in the case of election be determined to be elected in the order in which their names are drawn, the candidate or candidates shall in cases of exclusion be excluded in the order in which their names are drawn, and, in cases of surpluses, the surpluses shall be transferred in the order in which the names are drawn, and, in cases of equality of fractions, the fraction relating to the candidate whose name is first drawn shall be deemed to be the largest;

"non-transferable paper" means a ballot paper on which no second or subsequent preference is recorded for a continuing candidate; provided that a paper shall be deemed to have become a non-transferable paper whenever—

- (a) the names of two or more candidates (whether continuing candidates or not) are marked with marks which, in the opinion of the returning officer, indicate the same order of preference and are next in order of preference; or
- (b) the name of the candidate next in order of preference (whether a continuing candidate or not) is marked with a mark which, in the opinion of the returning officer, does not follow consecutively after some other mark on the ballot paper, or with two or more marks; or
- (c) it is void for uncertainty;

"original vote" in regard to any candidate means a vote derived from a ballot paper on which a first preference is recorded for that candidate;

"preference" shall be interpreted as follows—

- (a) "first preference" means any mark which, in the opinion of the returning officer, clearly indicates a first preference;
- "second preference" means any mark which, in the opinion of the returning officer, clearly indicates a second preference standing in succession to a first preference;
- "third preference" means any mark which, in the opinion of the returning officer, clearly indicates a third preference standing in succession to a second preference and so on;
- (b) "next available preference" means a preference which, in the opinion of the returning officer, is a second or subsequent preference recorded in consecutive order for a continuing candidate, the preferences next in order on the ballot paper for candidates already deemed to be elected or excluded being disregarded;

"surplus" means the number of votes by which the total number of the votes, original and transferred, credited to any candidate, exceeds the quota;

"transferable paper" means a ballot paper on which, following a first preference, a second or subsequent preference is recorded in consecutive numerical order for a continuing candidate;

"transferred vote" in regard to any candidate, means a vote derived from a ballot paper on which a second or subsequent preference is recorded for that candidate.

(2) Any ballot paper—

- (a) which does not bear the official mark; or
- (b) on which the figure 1 standing alone, or the word "one" or any other mark which, in the opinion of the returning officer, clearly indicates a first preference, is not placed at all or is not so placed as to indicate a first preference for some candidate; or
- (c) on which the figure 1 standing alone indicating a first preference, or the word "one" or any other mark which, in the opinion of the returning officer, clearly indicates a first preference, is set opposite the name of more than one candidate; or
- (d) on which anything is written or marked which, in the opinion of the returning officer, is calculated to identify the elector;

shall be invalid and not counted, but the ballot paper shall not be invalid by reason only of carrying the words "one", "two", "three" (and so on) or any other mark which, in the opinion of the returning officer, clearly indicates a preference or preferences.

(3) The returning officer shall endorse "rejected" on any ballot paper which under this article is not to be counted. The returning officer shall prepare a statement showing the number of ballot papers rejected under each of the *paragraphs (a), (b), (c) and (d) of sub-article (2)* and shall, on request, allow any candidate or agent of a candidate to copy such statement.

(4) Where the statement referred to in *sub-article (3)* is prepared by a deputy returning officer the statement shall be transmitted to the returning officer as soon as practicable.

(5) The returning officer may endorse on any ballot paper which the officer does not reject as invalid an indication of the officer's decision on it without, however, interfering with any mark placed by the elector on the ballot paper.

First count.

81. (1) After the ballot papers have been mixed in accordance with *article 76*, the returning officer shall, rejecting any that are invalid, arrange them in parcels according to the first preferences recorded for each candidate.

(2) The returning officer shall then count the number of papers in each parcel and credit each candidate with a number of votes equal to the number of valid papers on which a first preference has been recorded for such candidate and the returning officer shall ascertain the number of all valid papers.

The quota.

82. (1) The returning officer shall then divide the number of all valid papers by a number exceeding by one the number of members to be elected; the result increased by one, any fractional remainder being disregarded, shall be the number of votes sufficient to secure the election of a candidate and this number is referred to in these Regulations as "the quota".

(2) Where at the end of any count the number of votes credited to a candidate is equal to or greater than the quota, that candidate shall be deemed to be elected.

Transfer of surplus.

83. (1) Where at the end of any count the number of votes credited to a candidate is greater than the quota, the surplus shall be transferred in accordance with and subject to the provisions of this article to the continuing candidate or candidates indicated on the ballot papers in the parcel or sub-parcel of the candidate deemed to be elected according to the next available preferences recorded thereon.

(2) Where the votes credited to a candidate deemed to be elected whose surplus is to be transferred consist of original votes only, the returning officer shall examine all the papers in the parcel of that candidate and shall arrange the transferable papers in sub-parcels according to the next available preferences recorded thereon.

(3) Where the votes credited to a candidate deemed to be elected whose surplus is to be transferred consist of original and transferred votes, or of transferred votes only, the returning officer shall examine the papers contained in the sub-parcel last received by that candidate and shall arrange the transferable papers therein in further sub-parcels according to the next available preferences recorded thereon.

(4) In either of the cases referred to in *sub-articles (2) and (3)* the returning officer shall make a separate sub-parcel of the non-transferable papers and shall ascertain the number of papers in each sub-parcel of transferable papers and in the sub-parcel of non-transferable papers.

(5) Where—

(a) the surplus is equal to the total number of papers in the sub-parcels of transferable papers, the returning officer shall transfer each sub-parcel of transferable papers to the continuing candidate indicated thereon as the voters' next available preference,

(b) the surplus is greater than the total number of papers in the sub-parcels of transferable papers, the returning officer shall proceed as specified in *paragraph (a)* and shall in addition make a sub-parcel of a number of non-transferable papers equal to the difference between such total number and the surplus and set the papers therein aside as finally dealt with, such papers being, for the purposes of *article 90(3)*, described as non-transferable papers not effective, and the non-transferable papers or the remaining non-transferable papers, as the case may be, also arranged as a sub-parcel shall be placed with the papers of the candidate deemed to be elected.

(6) Where the surplus is less than the total number of transferable papers the following provisions shall apply:

(a) the returning officer shall transfer from each sub-parcel of transferable papers to the continuing candidate indicated thereon as the voters' next available preference that number of papers which bears the same proportion to the number of papers in the sub-parcel as the surplus bears to the total number of transferable papers,

(b) the number of papers to be transferred from each sub-parcel shall be ascertained by multiplying the number of papers in the sub-parcel by the surplus and dividing the result by the total number of transferable papers,

(c) a note shall be made of the fractions (which may be expressed in decimal form), if any, in each quotient ascertained in respect of each candidate in accordance with *paragraph (b)* and if, owing to the existence of such fractions, the number of papers to be transferred is less than the surplus, so many of these fractions taken in the order of their magnitude (beginning with the largest) as are necessary to make the total number of papers to be transferred equal to the surplus shall be reckoned as of the value of unity and the remaining fractions shall be disregarded,

(d) where two or more fractions are of equal magnitude, and it is not possible for the purposes of *paragraph (c)* to reckon all of the said fractions as of the value of unity, that fraction shall be deemed to be the largest which arises from the largest sub-parcel, and if such sub-parcels are equal in size, that fraction shall be deemed to be the largest which relates to the candidate credited with the largest number of original votes. Where the numbers of such original votes are equal, regard shall be had to the total number of votes credited to such candidates at the first count at which they were credited with an unequal number of votes, and the fraction relating to the candidate credited with the greatest number of votes at that count shall be deemed to be largest. Where the numbers of votes credited to such candidates were equal at all counts the returning officer shall determine by lot which fraction shall be deemed to be the largest.

(7) The papers to be transferred from each sub-parcel shall be those last filed in the sub-parcel, and each paper so transferred shall be marked to indicate the number of the count at which the transfer took place.

(8) The returning officer need not necessarily transfer the surplus of a candidate deemed to be elected whenever that surplus, together with any other surplus not transferred, is less than both the difference between the quota and the number of votes credited to the highest continuing candidate and the difference between the numbers of the votes credited to the two lowest continuing candidates and either—

(a) the number of votes credited to the lowest candidate is greater than one-quarter of the quota, or

(b) the sum of the number of votes credited to the lowest candidate together with that surplus and any other surplus not transferred is not greater than one quarter of the quota.

(9) Where at any time there are two or more surpluses which are to be transferred, the greater or greatest of such surpluses shall first be transferred and the remaining surplus or surpluses shall then, subject to *sub-article (8)*, be transferred in the order of their descending magnitude.

(10) Where two or more candidates have each an equal surplus arising from the same count regard shall be had to the number of original votes credited to each candidate and the surplus of the candidate credited with the largest number of original votes shall be first dealt with. Where the numbers of such original votes are equal regard shall be had to the total number of votes credited to such candidates at the first count at which they had an unequal number of votes and the surplus of the candidate with the greatest number of votes at that count shall be first dealt with. Where the numbers of votes credited to such candidates were equal at all counts the returning officer shall determine by lot which surplus shall be first dealt with.

(11) Subject to *sub-articles (8)* and *(9)*, where two or more candidates have a surplus arising from different counts, a surplus which arises at the end of any count shall be transferred before a surplus which arises at a subsequent count.

Exclusion of candidate.

84. (1) If at any time no candidate has a surplus (or when under *article 83(8)* an existing surplus is not transferred) and one or more vacancies remain unfilled, the returning officer shall —

- (a) exclude the candidate credited with the lowest number of votes and examine all the papers of that candidate;
- (b) arrange the transferable papers in sub-parcels according to the next available preferences recorded thereon for continuing candidates and transfer each sub-parcel to the candidate for whom the preference is recorded;
- (c) make a separate sub-parcel of the non-transferable papers and set them aside as finally dealt with, such papers being, for the purposes of *article 90(3)*, described as non-transferable papers not effective.

(2) Where the total of the votes of the two or more lowest candidates together with any surplus not transferred is less than the number of votes credited to the next highest candidate, the returning officer shall in one operation exclude such two or more lowest candidates provided that —

- (a) the number of votes credited to the second lowest candidate is greater than one quarter of the quota, or
- (b) where the number of votes credited to any one of such two or more lowest candidates does not exceed one quarter of the quota, it is clear that the exclusion of the candidates separately in accordance with *sub-article (1)* and the transfer of any untransferred surplus could not result in a number of votes exceeding one quarter of the quota being credited to any such candidate.

(3) If, when a candidate has to be excluded under this article, two or more candidates have each the same number of votes and are lowest, regard shall be had to the number of original votes credited to each of those candidates, and the candidate with the lowest number of original votes shall be excluded and where the numbers of the original votes are equal, regard shall be had to the total numbers of votes credited to those candidates at the first count at which they had an unequal number of votes and the candidate with the lowest number of votes at that count shall be excluded and, where the numbers of votes credited to those candidates were equal at all counts, the returning officer shall determine by lot which shall be excluded.

Transfer of votes.

85. (1) Where a transfer of votes is made under *article 83* or *84*, each sub-parcel of papers transferred shall be placed on top of the parcel, if any, of papers of the candidate to whom the transfer is made, and that candidate shall be credited with a number of votes equal to the number of papers transferred to him or her.

(2) If after any transfer a candidate has a surplus, that surplus shall be dealt with in accordance with and subject to the provisions of *article 83* before any other candidate is excluded.

Filling of last vacancies.

86. (1) When the number of continuing candidates is equal to the number of vacancies remaining unfilled, the continuing candidates shall thereupon be deemed to be elected.

(2) When only one vacancy remains unfilled, and the votes of some one continuing candidate exceed the total of all the votes of the other continuing candidates together with any surplus not transferred, that candidate shall thereupon be deemed to be elected.

(3) When the last vacancies can be filled under this article, no further transfer of votes shall be made unless any of the continuing candidates has not been credited with a number of votes exceeding one quarter of the quota and it is necessary for the purposes of *article 16(1)(f)* to make such transfer in order to establish whether such a number of votes could be credited to that candidate.

Recount.

87. (1) Any candidate or any agent of a candidate may, at the conclusion of any count, request the returning officer to re-examine and recount all or any of the papers dealt with during that count, and the returning officer shall re-examine and recount such papers accordingly without making any alterations in the arrangement of the papers in the various parcels, save where such alterations may be necessary in consequence of any error discovered in the recount. Nothing in this sub-article shall make it obligatory on the returning officer to re-examine or recount the same parcel of papers more than once.

(2) The returning officer may at his or her discretion recount papers either once or more often in any case in which the officer is not satisfied as to the accuracy of any count. The power under this sub-article of a returning officer to recount papers shall extend to papers dealt with at an earlier count than the immediately preceding one.

(3) (a) One request (and not more) may be made by each candidate for a complete re-examination and recount of all parcels of ballot papers and the returning officer shall re-examine and recount the parcels of ballot papers accordingly.

(b) In the re-examination and recount, the number or order of ballot papers in any parcel shall not be disturbed.

(c) Nothing in the provisions of this sub-article shall make it obligatory on the returning officer to re-examine or recount the same parcel of papers more than once, but if an error is discovered which is, in the opinion of the returning officer, a significant error likely to affect the result of the election, the returning officer shall count all the papers afresh from the point at which the error occurred.

(d) Nothing in this sub-article shall make it obligatory on the returning officer to comply with a request by a candidate which, in the opinion of the returning officer, is frivolous or vexatious.

(e) A request under this sub-article may be made only at the conclusion of a count.

(4) Where an error is discovered, the returning officer shall, where necessary, amend any results previously announced by the officer.

(5) Where a request made under *sub-article (3)* is withdrawn by the candidate as respects whom it is made, it shall be open to the returning officer not to proceed, or proceed further with the re-examination and recount.

Order of election of candidates.

88. (1) The order in which candidates credited with a number of votes equal to or greater than the quota shall be deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for *article 83(8)*. A candidate credited with a number of votes equal to and not greater than the quota shall, for the purposes of this article, be regarded as having had the smallest surplus at the count at which that candidate obtained the quota.

(2) Where the surpluses of two or more candidates are equal and need not be and are not transferred, the surplus of the candidate credited with the greatest number of original votes shall be deemed the largest. Where the numbers of such original votes are equal, regard shall be had to the total number of votes credited to such candidates at the first count at which they had an unequal number of votes and the surplus of the candidate credited with the greatest number of votes at that count shall be deemed to be the largest. Where the numbers of votes credited to such candidates were equal at all counts, the returning officer shall determine by lot the order in which such candidates shall be deemed to have been elected.

(3) The order in which candidates shall be deemed to have been elected under *article 86* shall be the order of magnitude of the numbers of votes credited to them, beginning with the largest, and where any such numbers are equal, the question shall be determined as between such candidates as if those numbers were surpluses.

Declaration of result of the poll.

89. On the completion of the counting of the votes the returning officer shall determine and declare the result of the poll and the candidates deemed to be elected shall thereupon stand elected in the order ascertained in accordance with *article 88*.

Return of persons elected.

90. (1) The returning officer shall make a return to the local authority of the persons elected to be members of that local authority.

(2) The return shall be made by a certificate of the names and descriptions of such persons signed by the returning officer, as soon as practicable after the result of the poll has been declared in accordance with *article 89* or, where there is no poll, when such persons have been declared elected in accordance with *article 25(1)(b)*.

(3) The returning officer shall give public notice of the names and descriptions of the candidates elected and, in the case of a contested election, of the total number of votes given for each candidate, whether elected or not, of any transfer of votes, of the total number of votes credited to each candidate at the end of the count at which such transfer took place, and the order in which the candidates were elected.

(4) The returning officer shall send a copy of the notice referred to in *sub-article (3)* to the Minister and to each person elected.

Decision of returning officer.

91. The decision of the returning officer, whether expressed or implied by his or her acts, on any question which arises in relation to the exclusion of any candidate under *article 84* or to any ballot paper or transfer of votes shall be final, subject only to reversal on a petition questioning the election.

PART XIV RETENTION, INSPECTION AND DISPOSAL OF DOCUMENTS

Retention and disposal of documents by returning officer.

92. (1) On the completion of the counting of the votes, the returning officer shall, in respect of each local electoral area, place in separate sealed packets—

- (a) the counted ballot papers,
- (b) the ballot papers rejected at the counting of the votes,
- (c) the unused and spoilt ballot papers, and
- (d) the counterfoils of ballot papers issued at polling stations,

and shall mark on each packet particulars of its contents, the date of the polling day at the election and the local electoral area to which they relate.

(2) The returning officer shall also, in respect of each local electoral area, place in separate sealed packets—

- (a) the marked copies of the register of electors,
- (b) the ballot paper accounts and the statement prepared in accordance with *article 76*,
- (c) the candidates' nomination papers, whether valid or invalid, and the certificates of political affiliation, and
- (d) the authorisations to electors to vote at other polling stations,

and shall mark on each packet particulars of its contents, the date of the polling day at the election and the local electoral area to which they relate.

(3) The returning officer shall retain the documents referred to in *sub-articles (1) and (2)* and *articles 41 and 47(2)* for 6 months from the date of the certificate of the return under *article 90* and shall then, unless otherwise directed by an order of a court having jurisdiction to decide petitions questioning the election or the returning officer has reason to believe that the documents may be required for a purpose referred to in *article 93(3)*, cause the documents to be destroyed.

Inspection of ballot papers, etc.

93. (1) No person shall be allowed to inspect any of the documents mentioned in *sub-article (2)* except under an order of a court having jurisdiction to decide petitions questioning the election.

(2) The documents referred to in *sub-article (1)* are—

- (a) the counterfoils of the ballot papers sent to postal voters under *article 33*;
- (b) the counterfoils of the ballot papers delivered to special voters under *article 46*;
- (c) the documents referred to in *sub-articles (2) and (3) of article 41*; and
- (d) the documents referred to in *sub-article (1) of article 92*.

(3) An order referred to in *sub-article (1)* shall not be made unless the court is satisfied that the inspection or production of such documents is required for the purposes of instituting or maintaining a prosecution for an offence under *Part XV* or for the purpose of a petition.

(4) An order referred to in *sub-article (1)* may be made subject to such conditions as to persons, time and place and mode of inspection or production as the court may think expedient and shall make provision to ensure that the manner in which any voter voted shall not be disclosed.

(5) Where an order is made for the production by the returning officer of any document relating to an election in the possession of that officer, the production by the returning officer of that document shall be sufficient to prove that the document relates to the specified election; and any endorsement appearing on any packet so produced shall be, until the contrary is shown, sufficient evidence that the contents of such packet are what they are stated to be in such endorsement.

Inspection of certain other documents.

94. All documents relating to an election retained by the returning officer in accordance with *article 92*, other than documents referred to in *article 93*, shall be open to public inspection at such time and under such conditions as may be specified by the returning officer. The returning officer shall supply copies of or extracts from the said documents to any person demanding the same, on payment of such fees not exceeding the reasonable cost of copying and subject to such conditions as may be determined by the local authority.

PART XV ELECTORAL OFFENCES

Personation.

95. (1) A person who—

- (a) at an election applies for a ballot paper in the name of some other person, whether that name be the name of a living person or of a dead person or of a fictitious person, or
- (b) having obtained a ballot paper once at an election applies at the same election for a ballot paper in that person's own name (otherwise than under *article 64*),

shall be guilty of the offence of personation.

(2) For the purposes of this article a person to whom a ballot paper has been issued pursuant to *article 33* shall be deemed to have obtained a ballot paper.

(3) A person who aids, abets, counsels or procures the commission of the offence of personation shall be guilty of an offence.

Bribery.

96. (1) A person shall not, in relation to an election—

- (a) give valuable consideration to induce a voter to vote, or to procure the election of any person or the vote of any voter, or on account of a voter having voted, or
- (b) procure, by means of, or in consequence of, valuable consideration, the election of any person or the vote of any voter, or
- (c) withdraw or refrain from withdrawing, in consequence of any valuable consideration, from being a candidate, or
- (d) induce, by means of, or in consequence of, valuable consideration, any person to withdraw or to refrain from withdrawing from being a candidate, or
- (e) receive, agree or contract to receive, valuable consideration for voting or agreeing to vote.

(2) A person who contravenes *sub-article (1)* shall be guilty of an offence.

(3) A person who aids, abets, counsels or procures the commission of an offence under this article shall be guilty of an offence.

(4) In this article—

"give", "induce" and "procure" include agreeing or promising or attempting to give, induce or procure, as the case may be, and whether directly or indirectly;

"valuable consideration" includes the giving, lending or agreeing to give or lend, or the offer or promise to procure or to attempt to procure, any money, money's worth or valuable security or any valuable consideration or any office, place or employment to or for any person;

"vote" includes voting in a particular way or refraining from voting.

Undue influence.

97. A person who, in relation to an election, directly or indirectly makes use of or threatens to make use of any force, violence or restraint against or inflicts or causes or threatens to inflict or cause any temporal or spiritual injury or loss on or to any person, or attempts by abduction, duress, or fraud—

- (a) to induce or compel any person to vote or refrain from voting, or to vote or refrain from voting for a particular person or in a particular way, or
 - (b) to induce or compel any person to withdraw, or to refrain from withdrawing, from being a candidate, or
 - (c) to induce or compel any person to be a candidate or to impede or prevent any person from being a candidate, or
 - (d) to impede or prevent the free exercise of the franchise by any elector,
- shall be guilty of an offence.

Breach of secrecy.

98. (1) A person who is present at the issue of ballot papers to postal voters or at voting by special voters or at the opening of postal ballot boxes shall be guilty of an offence if, except for some purpose authorised by law, the person—

- (a) communicates, before the poll is closed, to any person any information obtained at the said issue or the said voting as to the official mark, or
- (b) attempts to ascertain at the said issue or the said voting or the said opening the number on the back of any ballot paper or the candidate for whom any vote is given in any ballot paper, or communicates to any other person any information with respect thereto obtained at the said issue or the said voting or the said opening.

(2) A person admitted to a polling station in any capacity at an election shall be guilty of an offence if, before the poll is closed, the person communicates, except for some purpose authorised by law, to any other person any

information as to the name or the number on the register of any voter who has or has not applied for a ballot paper or voted at a polling station, or as to the official mark.

(3) A person who is present in any capacity at the counting of the votes at an election shall be guilty of an offence if, except for some purpose authorised by law, the person ascertains or attempts to ascertain at such counting the number on the back of any ballot paper or if at any time the person communicates any information obtained at such count as to the candidate for whom any vote is given on any ballot paper.

(4) A person shall be guilty of an offence if, at an election, except for some purpose authorised by law, the person—

(a) interferes with or attempts to interfere with a voter when marking a ballot paper, or obtains or attempts to obtain in a polling station information as to the candidate for whom any voter in the station is about to vote or has voted, or

(b) communicates at any time to any other person any information obtained in a polling station as to the candidate for whom a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper issued to a voter at that station, or

(c) directly or indirectly induces any voter to display a ballot paper after the voter has marked it so as to make known to any person the name of the candidate for whom the voter has or has not voted, or

(d) interferes with or attempts to interfere with the receipt, marking or return of a ballot paper by any postal voter or attempts to obtain information as to the candidate for whom any such voter has or has not voted.

Offences relating to ballot boxes, ballot papers, nomination papers, certificates of political affiliation, official marks etc.

99. A person shall be guilty of an offence if the person—

(a) wilfully and without lawful authority, takes, destroys, conceals, opens or otherwise interferes with any ballot box or packet of ballot papers, or any packet of papers or documents of any kind then in use or intended to be used for the purposes of an election, or any ballot paper account or marked copy of a register of electors prepared or used for the purposes of the election, or any unused ballot paper, or

(b) maliciously destroys, tears, or defaces a ballot paper, or

(c) forges or counterfeits a ballot paper or the official mark on a ballot paper, or

(d) without lawful authority, supplies a ballot paper to any person, or

(e) fraudulently puts into a ballot box any paper other than the ballot paper which the person is authorised by law to put in it, or

(f) without lawful authority, takes a ballot paper out of a polling station, or

(g) forges or fraudulently defaces or fraudulently destroys any nomination paper or any certificate of political affiliation or any authorisations under *article 61* or *62* or any official envelope or form of declaration of identity or form of receipt used in connection with special voting or voting by post, or any other form or document used at an election, or

(h) produces to the returning officer a nomination paper, knowing the same to be forged, or

(i) counterfeits the official mark, or

(j) without lawful authority, removes, destroys or damages any instrument for placing the official mark on ballot papers or makes or is in possession of any imitation or counterfeit of any such instrument.

Disorderly conduct at election meeting.

100. (1) A person shall be guilty of an offence if, between the date of publication of the notice of election and the date on which the return is made of persons elected to be members of a local authority under *article 90*, the person acts in a disorderly manner at a lawful public meeting held in connection with an election to the said local authority.

(2) A person who aids, abets, counsels or procures the commission of an offence under *sub-article (1)* shall be guilty of an offence.

Omission of name and address of printer and publisher from election documents.

101. (1) Every notice, bill, poster or similar document having reference to an election or distributed for the purpose of furthering the candidature of any candidate at an election shall bear upon its face the name and address of the printer and of the publisher thereof.

(2) A person shall be guilty of an offence if he or she prints, publishes, or posts, or causes to be printed, published or posted, any such notice, bill, poster or similar document as aforesaid which does not bear upon its face the name and address of the printer and of the publisher thereof.

(3) The provisions of *sub-articles (1)* and *(2)* shall not apply as respects any such notice, bill, poster or similar document printed, published or posted by a returning officer.

(4) For the purposes of this article "print" includes any process for producing copies of a notice, bill, poster or similar document, other than copying it by hand.

Nominating or withdrawing a candidate without consent.

102. (1) A person shall not—

- (a) nominate another person for election under these Regulations to a local authority, or
- (b) withdraw the candidature of another person for such election to a local authority,

save with the consent of that person.

(2) A person who contravenes *sub-article (1)* shall be guilty of an offence

Forged certificate of political affiliation.

103. A person who produces to a returning officer a certificate such as is referred to in *article 14(5)* which that person knows to be forged, shall be guilty of an offence.

False declaration on nomination paper.

104. (1) In case a person who, being a candidate or the proposer of a candidate at an election, makes a declaration on a nomination paper that the person has read the notes on the nomination paper and believes the candidate to be eligible for election then if the candidate is not eligible for election that person shall be guilty of an offence.

(2) In a prosecution for an offence under *sub-article (1)*, it shall be a good defence for the defendant to show that he or she had reasonable grounds for believing that the candidate was eligible for election.

Officer acting as agent of candidate or furthering a candidature.

105. A returning officer, deputy returning officer or any person employed by any such officer for any purpose relating to an election who acts as agent for any candidate at that election or who is actively associated in furthering the candidature of any candidate or promoting the interests of any political party at the election shall be guilty of an offence.

Obstruction of nomination or poll.

106. A person who at an election obstructs by violence the nomination of candidates or the poll shall be guilty of an offence.

Interference with or destruction of postal ballot papers.

107. (1) Any person who, at an election—

- (a) wilfully and without lawful authority takes, destroys, conceals, opens or otherwise interferes with any ballot paper or other document sent to a postal voter under these Regulations, or
- (b) without lawful authority knowingly supplies any such ballot paper or other document to a person other than the person lawfully entitled to receive it,

shall be guilty of an offence.

(2) A person who aids, abets, counsels or procures the commission of an offence under this article or who solicits or incites any other person to commit such an offence shall be guilty of an offence.

Obstruction of or interference with electors.

108. (1) A person shall not interfere with or obstruct or impede an elector going to or coming from or in the vicinity of or in a polling station.

(2) During the period commencing 30 minutes before the time appointed for the taking of a poll at an election, including a poll which has been adjourned under *article 69*, and ending 30 minutes after the close of the said poll, a person shall not, in or in the curtilage of a polling station or in any place within 100 metres of such station, for the purpose of promoting the interest of a political party or furthering the candidature of a candidate or candidates or soliciting votes for a candidate or candidates or for any contrary purpose, do any or all of the following things:

- (a) loiter or congregate with other persons;
- (b) attempt to induce, by any means whatsoever, an elector to vote for a candidate or candidates or vote in a particular way or refrain from voting;
- (c) display or distribute any notice, sign or poster (other than a notice, sign or poster displayed by the returning officer) or card, circular or other document relating to the election; or
- (d) use or cause to be used any loud-speaker or other public address mechanism to broadcast matter relating to the election.

(3) For the purpose of this article, a polling station shall be deemed to include all parts of the building and any land within the curtilage of the building in which the polling station is situate and the distance referred to in *sub-article (2)* shall be measured from any entrance to the polling station or to the curtilage thereof.

(4) A person who contravenes *sub-article (1)* or (2) shall be guilty of an offence.

Personation agent leaving polling station without permission.

109. (1) A personation agent shall not, during the hours fixed under section 21 of the Act of 1994 for the holding of the poll, leave the polling station to which the said agent is appointed without previously obtaining the permission of the presiding officer and depositing with the presiding officer all registers, books and documents in which the personation agent has made any note, writing or mark during the poll.

(2) A personation agent who contravenes *sub-article (1)* shall be guilty of an offence and in addition shall not, save with the permission of the presiding officer, return to the polling station in question.

Prohibition on voting by person registered as elector when not entitled to be so registered.

110. (1) A person—

- (a) who is registered in the register of local government electors for the time being in force for a local electoral area but is not entitled to be so registered, or

(b) who is not registered in that register,

shall not vote in that local electoral area.

(2) A person who contravenes *sub-article (1)* shall be guilty of an offence.

Unlawful marking of ballot papers by person acting as companion.

111. A person who contravenes *sub-article (8)* or *(9)* of *article 65* shall be guilty of an offence.

False statement of withdrawal or death of a candidate.

112. A person who, between the date of publication of the notice of election and the date on which the return is made of persons elected to be members of a local authority under *article 90*, knowingly publishes a false statement of the withdrawal or death of a candidate at the election shall be guilty of an offence.

Misleading statement as to process of voting.

113. Any person who, before or during an election, makes or publishes any statement which is likely to mislead voters as to the actual process of voting shall be guilty of an offence.

Handling of ballot papers by candidate or agent.

114. A candidate or an agent of a candidate who handles a ballot paper during the counting of the votes at an election shall be guilty of an offence.

Unauthorised inspection of documents.

115. Unauthorised inspection of any document which is a document mentioned in *article 93* shall be an offence.

Limitation of time for prosecution of offence.

116. Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, proceedings for an offence under these Regulations may be instituted within twelve months from the date of the offence or, if the offence was committed in relation to an election as respects which proceedings questioning the election are held before a court, may be commenced within twelve months from the date of the offence or within three months from the decision of the court, whichever period last expires, but proceedings for an offence under these Regulations shall not be commenced after the expiration of the period of two years beginning on the date of the offence.

Penalties.

117. (1) Where a person is guilty of an offence under these Regulations, other than an offence mentioned in *sub-article (2)*, such person shall be liable—

(a) on summary conviction to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a period not exceeding six months or to both such fine and such imprisonment, or

(b) on conviction on indictment to a fine not exceeding £2,500 or, at the discretion of the court, to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) Where a person is guilty of an offence under *articles 101, 109* or *114*, such person shall be liable on summary conviction to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

Compensation where certain charge is unjustly made or not prosecuted.

118. Where any person is arrested under *article 67* on a charge made by a personation agent that such person has committed the offence of personation and either such personation agent (or someone on the agent's behalf) fails to appear before the court and support the charge, or the court acquits the person of having committed the offence and finds that the charge was made by the personation agent without reasonable or just cause, the court may, at the request of the person so charged but not otherwise, order the personation agent to pay to the person such sum not exceeding £500 as the court shall think proper by way of damages, and such sum when duly paid shall be accepted by the person so charged in full satisfaction of all claims by that person in respect of damages arising from the said charge and arrest and detention thereon.

Certificate of returning officer to be *prima facie* evidence.

119. In any civil or criminal proceedings in relation to an alleged offence at an election, the certificate of the returning officer of the due holding of the election or that a particular person was a candidate thereat shall be *prima facie* evidence of the facts stated therein and it shall not be necessary to prove the signature of the returning officer or that the person was in fact such returning officer.

PART XVI MISCELLANEOUS

Minister to furnish attestation to certain persons

120. The Minister shall, if appropriate, on the request of a citizen of Ireland who proposes to stand as a candidate at a local election in a Member State, other than the State and the United Kingdom, in which the citizen resides, furnish to the citizen an attestation certifying that the citizen has not been deprived, through an individual civil law or criminal law decision, of the right to stand as a candidate at local elections in the State or that no such disqualification is known to the Minister.

Secrecy.

121. A person who is—

- (a) present at the issue of ballot papers to postal voters, or
- (b) present while a special voter is voting, or
- (c) present at the opening of postal ballot boxes, or
- (d) admitted to a polling station in any capacity, or
- (e) present in any capacity at the counting of the votes,

shall maintain and aid in maintaining the secrecy of the ballot.

Prohibition of disclosure of vote.

122. A person who has voted at an election shall not in any legal proceedings be required to state how or for whom that person voted.

Publication of notices.

123. Any public notice required by these Regulations to be given by a returning officer may be given by any method which the returning officer thinks necessary or desirable for the purpose of bringing to the attention of the public the matter so required to be notified.

Person elected for more than one local electoral area.

124. (1) Where, at an election, a person is elected as a member of the same local authority for two or more local electoral areas, the person shall, within the period of three days after the return is made of persons elected to be members of the local authority, by writing signed by the person and delivered to the clerk or secretary of such local authority, declare which one of those areas the person chooses to represent, and if such declaration is not so delivered within the said period, the person shall, at the end of the said period, be deemed to have chosen to

represent the local electoral area in respect of which the person received the greatest number of first preference votes.

(2) Where, in pursuance of this article, a person chooses, or is deemed to have chosen, to represent a particular local electoral area of a local authority the person shall be deemed not to have been elected for any other local electoral area of the said local authority and the consequential vacancy or vacancies in the membership of the local authority shall be regarded as casual vacancies occurring on the day on which the newly-elected members come into office under section 9 of the Act of 1994 and shall be filled accordingly.

Aldermen and councillors.

125. (1) At an election for a local electoral area in a county or other borough in which a poll is taken, the first and every other candidate successively elected for the area until the number of aldermen for the area is completed shall be an alderman and the remaining candidates elected for the area shall be councillors.

(2) At an election for a local electoral area in a county or other borough in which no poll is taken the number of aldermen for the local electoral area shall be the same number as if a poll had been taken and the council of the county or other borough shall, at the meeting of the council held next after such election, determine by lot which of the members elected for the local electoral area shall be aldermen.

(3) The determination under *sub-article (2)* of which members shall be aldermen shall be a reserved function.

(4) There shall be four aldermen for every borough which is not a county borough.

(5) Nothing in this article shall be construed as restricting the power of the Minister to vary the number of aldermen for a borough on any alteration of the local electoral areas in such borough and where the Minister so varies the number of aldermen this article shall be deemed to be amended accordingly as respects the said borough.

SCHEDULE

PART I

Form of Nomination Paper

No.

(To be inserted by returning officer)

Local Authority
.....

1. I nominate the person named under as a candidate for election to the above-mentioned local authority (for the * local electoral area).

(*This space must be completed where the area of the local authority is divided into separate local electoral areas)

2. I have read the notes on this form and declare that —

- (a) I believe the person named as candidate to be eligible for election, and
- (b) the person has consented to the nomination.

Description

Surname of Candidate	Other Names	Address	Occupation	Name of Political Party, if any
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Please use BLOCK LETTERS

3. Name and address of person to whom deposit is to be returned

.....
.....

.....
.....

Signature:

.....

Address:

.....

.....

Date:

Proposer's number and polling district letter(s) on Register of Electors for the local authority concerned

.....
.....

(To be inserted if this form is signed by a person other than the candidate)

I have decided that this nomination paper is valid (or is invalid because

.....
.....).

.....

RETURNING OFFICER.

Date:

To be handed or sent to the candidate

I have decided that the nomination paper No. of

.....

(*insert name of candidate*) is valid (*or is invalid because*

.....)

.....

RETURNING OFFICER.

Address:

.....

Date:

NOTES

These notes are for guidance only and do not purport to be a definitive statement of the law.

Nomination

1. A candidate may nominate himself or herself or may, with his or her consent, be nominated by a proposer. A proposer must be registered as a local government elector in the area of the local authority for which he or she proposes to nominate the candidate (*Article 14 of Local Elections Regulations, 1995*).

Deposit

2. A candidature will be deemed to have been withdrawn if the appropriate deposit is not lodged with the returning officer before 12 noon on the last day for receiving nominations. The deposit should be in legal tender or, with the consent of the returning officer, by bank draft or otherwise. The deposit in the case of an election to a council of a county or county borough is IR£50; in the case of an election to a borough council, an urban district council or a town commission the deposit is IR£25. (*Article 15 of Local Elections Regulations, 1995*).

Return of Deposit

3. The deposit will be returned where the candidate—

- (a) withdraws his or her candidature before 12 noon on the day after the last day for receiving nominations, or if his or her candidature is deemed to be withdrawn,
- (b) dies before the poll is closed,
- (c) has not, before the expiration of the time for the receipt of nominations, been validly nominated as a candidate,
- (d) is elected, or
- (e) is not elected but the greatest number of votes credited to the candidate at any stage of the counting of the votes exceeds one quarter of the quota.

If a candidate is nominated for more than one local electoral area of the same local authority, a separate deposit must be lodged for each nomination. Not more than one such deposit will be returned.

The deposit will be returned to the person making it and the name and address of that person should be entered at 3 of the nomination paper (*Article 16 of Local Elections Regulations, 1995*).

Certificate of Political Affiliation

- 4. (a) If a candidate represents a registered political party a completed Certificate of Political Affiliation should be lodged with the nomination paper and the name of the party inserted in the appropriate column of the nomination paper.
- (b) If the candidate does not represent a registered political party the column may be left blank or the words "Non-Party" may be entered in it (*Article 14 of Local Elections Regulations, 1995*).

Delivery of Nomination Paper

5. The completed nomination paper should be handed to the returning officer *in person* by the candidate or proposer before 12 noon on the last day for receiving nominations (*Article 18 of Local Elections Regulations, 1995*).

Validity of Nomination Paper

6. The returning officer will rule on the validity of the nomination paper within one hour of its delivery to him or her. The returning officer is required to object to the name of a candidate if such name—

- (a) is not the name by which the candidate is commonly known, or

- (b) is misleading and likely to cause confusion, or
- (c) is unduly long, or
- (d) contains a political reference.

The returning officer is also required to object to a description of a candidate which is, in his or her opinion, incorrect, insufficient to identify the candidate or unnecessarily long or which contains a political reference other than, where appropriate, a reference to a public or elected office held, or formerly held, by the candidate or an entry made pursuant to *article 14(5) or (6) of the Local Elections Regulations, 1995*. Without the permission of the returning officer, no person except the candidate and proposer, if any, and one other person designated by the candidate (or proposer) may attend the ruling (*Article 20 of Local Elections Regulations, 1995*).

Eligibility for Election to Local Authority

7. (*Particulars of current provisions regarding eligibility should be inserted here*)

.....

.....

.....

.....

.....

.....

.....

Penalties

8. There are severe penalties for—

- (a) producing a forged:
 - (i) nomination paper, or
 - (ii) certificate of political affiliation,

to the returning officer (*Articles 99 and 103 of Local Elections Regulations, 1995*);

- (b) without the consent of the person concerned:
 - (i) nominating a person as a candidate, or
 - (ii) withdrawing the candidature of such person (*Article 102 of Local Elections Regulations, 1995*); and
- (c) making a false declaration with respect to the eligibility of candidates for election (*Article 104 of Local Elections Regulations, 1995*).

PART II

Certificate of Political Affiliation

I/We hereby authenticate the candidature of

.....

.....

.....

on behalf of the

.....

Party at the election of members of
.....

(name of local authority) for the local electoral area of
.....

.....

Signature

Authorised Officer(s)

See Instructions on this Form

The Irish or English version of the certificate may be used.

The name, address and occupation of the candidate in this certificate should be the same as they will be in the nomination paper.

The certificate should be signed by the officer or officers of the Party whose name or names appear in the Register of Political Parties as being authorised to sign certificates authenticating the candidature of the candidates of the Party.

PART III

Form of Ballot Paper

(Front of Paper)

Local Authority
.....

Local Electoral Area
.....

Mark order of preference in
spaces below.

DOYLE — LIBERAL SOCIALISTS

(MARY DOYLE, of 10 High Street,
Knockmore, Nurse.)

LYNCH — URBAN PARTY

(JANE ELLEN LYNCH, of 12 Main Street,
Ardstown, Shopkeeper.)

MURPHY

(PATRICK MURPHY, of 12 Main Street,
Ballyduff, Carpenter.)

Ó BRIAIN — CUMANN NA SAORÁNACH

(SEAMUS Ó BRIAIN, as 10 An tSráid Ard,
Carn Mór, Oide Scoile.)

O'BRIEN — NON-PARTY

(EAMON O'BRIEN, of 22 Wellclose Place,
Knockbeg, Barrister.)

O'BRIEN — THE INDEPENDENT PARTY

(ORLA O'BRIEN, of 103 Eaton Brae,
Cahermore, Solicitor.)

O'CONNOR — NATIONAL LEAGUE

(CAROLINE O'CONNOR, of 7 Green Street,
Carnmore, Engineer.)

THOMPSON — RURAL PARTY

(WILLIAM H. THOMPSON, of Dereen,
Ballyglass, Farmer.)

INSTRUCTIONS

I. Write 1 beside the name of the candidate of your first choice, 2 beside your second choice, and so on.

II. Fold the paper to conceal your vote. Show the *back of the paper* to the presiding officer and put it in the ballot box.

(Back of Paper)

No.
.....
Local authority
.....
Local electoral area
.....

(Back of Counterfoil)

Counterfoil No.
.....

GIVEN under the Official Seal of the Minister for the Environment, this 13th

day of November, 1995.

BRENDAN HOWLIN,

Minister for the Environment.

EXPLANATORY NOTE.

These Regulations set out the procedure governing the holding of elections of members of county councils, county borough and borough corporations, urban district councils and town commissions, and specify electoral offences and provide for penalties in respect of such offences. The Regulations provide for the incorporation into law of the detailed arrangements laid down in Directive 94/80/EC for the exercise of the right to vote and stand as a candidate in local elections for citizens of the European Union residing in a Member State of which they are not nationals.