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Electoral Act, 1971

Act 4 of 1971

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Electoral Act, 1971

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Electoral Act, 1971

Act 4 of 1971

Assented to on 13 May 1971

Commenced on 21 May 1971

[This is the version of this document at 1 December 1998.]

An Act to provide for the registration of voters for the purpose of the election of elected members of the House of Assembly and for the holding of such an election.

Part I – Preliminary

1. Short title

This Act may be cited as the Electoral Act, 1971.

2. Interpretation

In this Act unless the context otherwise requires—

"**application**" means an application for registration;

"**approved form**" means the approved form listed and numbered in the First Schedule;

"**candidate**" means a person who is nominated for election as a member;

"**chief electoral officer**" or "deputy chief electoral officer" means the officer designated as such under [section 3](#);

"**competent witness**" means—

- (a) a person who, within Swaziland, holds the office of, or appointment as, a district assistant, registration officer, returning officer, or a town clerk of a municipality or a chairman or secretary of a town council or town board or police officer of or above the rank of sub-inspector; or
- (b) an Ambassador or High Commissioner of Swaziland or a member of his staff outside Swaziland who has been appointed by him as a competent witness;
- (c) the Ambassador for the United Kingdom in the Republic of South Africa, or a British consular officer in the Republic of South Africa, or a person appointed by him to be a competent witness;
- (d) a person who, within or without Swaziland, is, or holds the office of, or appointment as, an advocate, attorney, magistrate, bank manager, consular officer of a country or territory of the Commonwealth, commissioner of oaths, justice of the peace, or compound or assistant compound manager of a mine in the Republic of South Africa affiliated to the Transvaal and Orange Free State Chamber of Mines;

but does not include candidate for election or election agent;

"**constituency**" means a constituency established under section 55 of the Constitution;

"**corrupt practice**" means a corrupt practice as described in Part IV;

"**counting officer**" means an officer appointed as such under [section 26\(2\)](#);

"**election**" means an election of an elected member to the House of Assembly;

"**election agent**" means an election agent appointed under [section 40\(1\)](#) by or on behalf of a candidate or his agent for an election, and includes, where the candidate has appointed himself as his election agent, the candidate acting in his capacity as election agent;

"**electoral officer**" means an electoral officer designated under [section 3](#);

"**election petition**" means a petition referred to in the Parliament (Petitions) Act, [No. 16 of 1968](#);

"**general register of voters**" means the register of voters prepared in accordance with [section 4](#) and printed in accordance with [section 20](#), and includes any supplementary register of voters incorporated into it in terms of [section 11\(3\)](#);

"**illegal practice**" means an illegal practice as defined by [section 92\(4\)](#);

"**intoxicating liquor**" has the same meaning as is assigned to "liquor" or "intoxicating liquor" under the law relating to liquor licences;

"**magistrate**" means a person appointed as magistrate under section 4(2) of the Subordinate Courts Proclamation (Cap. 20);

"**magistrates court**" means a court presided over by a magistrate;

"**member**" means an elected member of the House of Assembly;

"**Minister**" means the Minister for Local Administration;

"**nomination day**" means the day specified under [section 27\(2\)](#) as nomination day;

"**nomination paper**" means the approved form No. 12;

"**official mark**" means a mark decided in accordance with [section 43\(1\)](#);

"**official seal**" means a mark or seal approved under [section 101\(2\)](#);

"**payment**" means any pecuniary or other reward;

"**pecuniary reward**" or "money" includes any office, place of employment, valuable security or other equivalent of money, and any valuable consideration, and any expressions referring to money shall be construed accordingly;

"**polling agent**" means a polling agent appointed under [section 40\(1\)](#);

"**polling day**" means the day or days specified under [section 27](#) as polling day;

"**polling division**" means a polling division specified under [section 35\(1\)](#);

"**polling officer**" means a polling officer appointed under [section 26\(2\)](#);

"**polling station**" means a polling station specified under [section 35](#);

"**presiding officer**" means a presiding officer appointed under [section 26\(2\)](#);

"**printing**" includes typewriting, roneoing, lithography, photography, and all other modes of representing or reproducing words in visible form;

"**public meeting**" means a meeting consisting of ten or more persons held in a public place;

"**public place**" means a place to which for the time being the public, or any section of the public, is entitled or permitted to have access, whether on payment or otherwise;

"**register of voters**" means the register of voters for a constituency, and where applicable includes a supplementary register of voters, and "registration" and its grammatical variations shall be construed accordingly;

"**registered voter**" means a voter whose name appears on the register of voters;

"**returning officer**" means a returning officer appointed under [section 26\(1\)](#);

"**speaking apparatus**" means an apparatus adapted or constructed for the amplification or reproduction of the human voice;

"**special constable**" has the same meaning as is assigned to it in section 1 of the Police Proclamation (Cap. 93);

"**supplementary register of voters**" means any register of voters compiled after a general register of voters is printed in accordance with [section 20](#) and before such supplementary register is incorporated into the general register in terms of [section 11\(3\)](#);

"**supporter**" means a person referred to in [section 28\(2\)](#) other than a candidate;

"**symbol**" means a symbol allotted under [section 30](#) to a candidate or any reproduction thereof;

"**tendered ballot paper**" means a ballot paper referred to in [section 57\(2\)](#);

"**valuable consideration**" includes any office, place of employment, valuable security or other equivalent for money or pecuniary reward;

"**voter**" means a person whose name is on a register of voters.

Part II – Registration of voters

3. Appointment and general duties of certain officers

- (1) The Minister may designate a public officer to each of the following offices—
 - (a) chief electoral officer;
 - (b) deputy chief electoral officer; and
 - (c) electoral officer.
- (2) The chief electoral officer may designate a public officer to be a registration officer.
- (3) The functions of each of the officers referred to in this section shall be those prescribed in respect of such officer.

4. Preparation of register of voters

- (1) As soon as may be practicable after a delimitation commission has, in terms of section 55(4) of the Constitution, carried out a review of the boundaries of the constituencies into which Swaziland is divided and have fixed such boundaries, every electoral officer shall, in accordance with this Act, prepare for each constituency in the area for which he has been appointed, a register of persons who are entitled to vote.
- (2) As from a date to be fixed by the Minister by notice in the *Gazette*, the register of voters so prepared and amended from time to time in accordance with this Act, shall be the register of voters for the respective constituencies.

5. Holding of public meetings for registration of voters

- (1) Within two months after a delimitation commission has carried out a review referred to in [section 4\(1\)](#) the chief electoral officer shall publish a notice in the *Gazette* calling upon every person qualified to have his name entered in a register of voters to apply for registration to the electoral officer of the constituency in which he is entitled to have his name registered, on or before a date to be specified in such notice.
- (2) The chief electoral officer shall arrange for the further publication of the notice in such manner as he thinks necessary and shall publish the dates, times and places of public meetings at which persons qualified to be registered may attend.

- (3) Such public meetings shall be held in each polling division, and the electoral officer or registration officer for such division shall publicly and orally receive all applications for registration.
- (4) If the electoral officer or registration officer, as the case may be, is satisfied that an applicant is entitled to be registered as a voter he shall enter his name on the approved form No. 1 and hand the applicant a copy thereof, which shall be printed on coloured paper, signifying that the applicant is entitled to have his name entered in the register of voters, and shall thereafter enter or cause his name to be entered in the appropriate register of voters.
- (5) If the electoral officer or the registration officer, as the case may be, is not satisfied that an applicant is entitled to registration he shall reject the application at the public meeting at which it is made, and the applicant may in the presence of such electoral officer or registration officer complete and sign the approved application form No. 2, including the declarations set forth therein.
- (6) Whenever an electoral officer or registration officer has come to a decision referred to in sub-section (5) he shall, in the approved form No. 3 inform the applicant of the decision and of the reason therefor.

6. Application for registration not made at public meetings

- (1) A person who does not make application to be registered at a public meeting may make such application to the electoral officer of the constituency in which he wishes to be registered in the manner provided for in [section 7](#).
- (2) Every person who is qualified to be registered as a voter under section 51 of the Constitution and who on the date referred to in [section 4\(2\)](#) was under the age of twenty-one years or unborn or, not being the said age becomes a citizen of Swaziland after that date shall, within a period of two months after the date on which he attains the age of twenty-one years or becomes a citizen of Swaziland, as the case may be, apply for registration in the manner provided for in [section 7](#).

7. Form of application and how to be completed

- (1) An application for registration made under [section 6](#) shall be furnished to the appropriate electoral officer not later than six weeks prior to nomination day and shall be in the approved form No. 2, shall be completed so as to show all the prescribed particulars required for the purpose of establishing the applicant's identity, his right to vote, and the constituency in which he is to be registered as a voter and shall, subject to sub-sections (2) and (3), be signed by the applicant personally in the presence of a competent witness, and shall contain a declaration signed by the said witness that he is a competent witness and that the applicant personally signed the application in his presence.
- (2) If any person is unable, by reason of physical infirmity or any other reason, including inability to sign his name, to sign an application, the application may, subject to sub-section (3), be signed by any other adult person on his behalf:

Provided that the applicant shall where possible place his right thumb print upon such application.
- (3) Any such application shall be completed and signed in the presence of the applicant and at least one of the following: a magistrate, an electoral officer, a registration officer, a justice of the peace, a commissioner of oaths, a police officer of a rank not below that of a sub-inspector, or a police officer in charge of a police post or his deputy, and shall have endorsed thereon—
 - (a) a statement by the person signing it on behalf of the applicant, setting forth the nature of the physical infirmity in question and that he has been authorized by the applicant to sign on his behalf; and
 - (b) a statement by the magistrate, electoral officer, registration officer, justice of the peace, commissioner of oaths, or police officer or his deputy, as the case may be, that the application has been completed and has been signed on behalf of the applicant in the presence of the applicant and himself.

8. Application transmitted free of charge

Notwithstanding anything in any law, all applications or any documents related thereto if marked "election documents" shall be transmitted by post free of charge.

9. In which constituency voter to be registered

- (1) Subject to this section, no person shall be registered in any constituency—
 - (a) unless he actually resided in that constituency for a continuous period of at least three months immediately preceding the date of completion of his application; or
 - (b) if he did not so reside, unless he retained his home in that constituency for such period.
- (2) If the nature of the occupation of any person is such that he is required to change his place of residence often and he does not retain a home in any one constituency and if he is otherwise qualified for registration, he shall be entitled to be registered in the constituency in which his principal place of business is situated; or, if he is in employment, in which the principal place of business of his employer, or the office or branch business of his employer from which his remuneration is paid, is situated.
- (3) Any person who is domiciled in Swaziland and who is in the service of the Government for the performance of any function outside Swaziland (or the wife or adult child of such person) shall be registered in the constituency where he had resided or had his home, as the case may be, in terms of sub-section (1) immediately prior to taking up his position outside Swaziland.
- (4) If applications for registration in more than one constituency are received from any person, the electoral officer shall not include his name in the register of voters for any constituency other than that in which he last qualified by residence for registration.

10. Consideration of application not made at public meeting

- (1) If an electoral officer who has received an application under [section 7](#), or a registration officer acting on his behalf, is satisfied that the applicant is—
 - (a) qualified, by residence for registration in any constituency within the area for which he has been appointed, and for registration in other respects, he shall include his name on the register of voters, or if the application is made under [section 6\(2\)](#), on the supplementary register of voters, for that constituency and notify the applicant accordingly;
 - (b) in any respect not qualified for registration, he shall reject the application;
 - (c) qualified for registration in a constituency outside the area for which he has been appointed, he shall forward the application to the electoral officer for the area in which that constituency is situated, and on receipt of the application by the latter officer, it shall be deemed to be an application for registration in that constituency.
- (2) Whenever an electoral officer or registration officer has come to any decision referred to in sub-section (1) he shall, in the approved form No. 1 or 3, as the case may be, inform the applicant of the decision and, in the case of a decision referred to in sub-section (1)(b) or (c), of the reason therefor.

11. Particulars shown in register of voters

- (1) A register of voters shall show, in respect of all persons included therein—
 - (a) their serial numbers, in numerical order if so prescribed;
 - (b) if so prescribed, their surnames in alphabetical order, and immediately thereafter their other names, and if their surnames are identical, their other names in alphabetical order; and
 - (c) their residential addresses.

- (2) If a constituency is divided into polling divisions under [section 35](#), the register of voters for that constituency shall be compiled and printed so as to show—
 - (a) the serial numbers and names of voters in each polling division in the manner referred to in sub-section (1); and
 - (b) in which polling division every voter is, subject to this Act, required to vote, and a separate register of voters may be compiled and printed for each polling division or, subject to [section 35\(4\)](#), for two or more polling stations in each polling division.
- (3) A supplementary register of voters shall be drawn up so as to comply with sub-sections (1) and (2) as a separate register:—

Provided that—

 - (i) the supplementary register of voters prepared after any general registration of voters shall contain in alphabetical order the names of all voters registered since the last general registration of voters under [section 4\(2\)](#); and
 - (ii) whenever the register of voters is printed in terms of this section any supplementary register may be incorporated with the register of voters framed in the course of a general registration.
- (4) At the end of every register of voters a certificate that the register has been checked and is correct shall be signed and dated by the electoral officer responsible for the compilation of the register.

12. Alteration of name or registration as result of permanent change of residence

- (1) Whenever there has been change in the name of a voter or a permanent change in the place of residence, home, place of business, office or branch business with reference to which a voter who has been registered in any constituency becomes qualified by his residence he may, immediately after there has been such change, notify the electoral officer, in the approved form No. 4, for the constituency in which he is registered of the change.
- (2) Sections [7](#) to [10](#) inclusive shall *mutatis mutandis* apply in respect of any such notification.
- (3) On receipt of any such notification the electoral officer shall, if he is satisfied that there has been a permanent change as described in sub-section (1) and that the voter would, if his name is removed from the register of voters, not be qualified by residence for registration in the same constituency had the notification been an application for registration, remove his name from the register of voters for the constituency in question, or cause it to be removed, and thereupon the notification shall be deemed to be an application for registration in the appropriate constituency received by the electoral officer, and shall be dealt with in accordance with [section 10](#):

Provided that if on investigation it is found that the person forwarding such notification is not registered as a voter at the address stated by him in the said notification, unless the prescribed form of application to be registered as a voter duly completed has been annexed to the said notification, the electoral officer shall, in terms of [section 23](#), require such person to complete and forward to him the prescribed form of application to be registered as a voter, which shall be dealt with in accordance with [section 10](#).

13. Returns by registrars of births and deaths

- (1) The registrar of births and deaths shall, not later than the tenth day of every month, transmit to the electoral officer for the area in which the death has taken place, a return in the prescribed form containing the prescribed particulars concerning every adult person whose death was registered by him during the preceding month; and the electoral officer shall transmit to the chief electoral officer a return of all such persons whose names do not appear upon a register of voters for any constituency in the area for which the electoral officer has been appointed.

- (2) The registrar or clerk of any court which—
- (a) imposes on any person over the age of twenty-one years a sentence or makes an order which would render any such person unqualified for registration or disqualified for continuance of registration or incapable of voting at any election; or
 - (b) declares any person incapable during any period of being registered or of voting at any election; or
 - (c) declares any person to be mentally disordered or defective,
- shall, not later than the tenth day of the month following the month in which the sentence was imposed or the order was issued or the declaration was made, or if the conviction, sentence, order or declaration is brought under review or is appealed against, not later than the tenth day of the month following the month in which it is confirmed on review or appeal, as the case may be, transmit to the chief electoral officer a return in the prescribed form containing the prescribed particulars concerning that person.
- (3) The superintendent of every institution as defined in section 2 of the Mental Disorders Proclamation, No. 48 of 1963, shall, not later than the tenth day of every month, transmit to the chief electoral officer a return in the prescribed form containing the prescribed particulars concerning every adult person who had been detained in the institution under an order of court declaring such person to be mentally disordered or defective and was discharged during the previous month as a patient who had recovered.
- (4) Upon receipt of a return under sub-section (1), (2) or (3), the chief electoral officer shall immediately forward copies thereof to every electoral officer except, in the case of a return transmitted under sub-section (1), the electoral officer by whom that return was transmitted.

14. Amendment of register of voters by electoral officer

- (1) Subject to sub-sections (2), (3) and (4), the electoral officer shall, if he is satisfied as to the relevant facts, amend the register of voters for any constituency in the area for which he has been appointed, by—
- (a) correcting any mistake, supplying any omission, or recording any change in the particulars of the registration of any person;
 - (b) after ascertaining by virtue of subsection (1)(a), that a person has ceased to be permanently resident in the constituency in which he is registered, transferring subject to [section 9\(1\)\(b\)](#), his name to the supplementary register in respect of the constituency to which he has moved, or, in the case of a person who has left Swaziland with the intention of not returning thereto, removing his name from the register;
 - (c) removing the name of any person who, according to a return or notification under [section 13\(1\)](#) or (4), is dead or disqualified for continuance of registration;
 - (d) restoring the name of any person referred to in paragraph (c) who has ceased to be disqualified;
 - (e) removing any superfluous entry where the name of the same person appears more than once in the register of voters for more than one constituency;
 - (f) removing the name of any person who is not a citizen of Swaziland or who is under the age of twenty-one years, or who would otherwise not be qualified to be registered, should he complete an application for registration on the date of the removal;
 - (g) removing the name of any person in respect of whom an objection has been lodged under [section 17](#) and which has been upheld; or
 - (h) adding the name of any person which was wrongly omitted in the course of any registration in terms of [section 4](#).

- (2) An electoral officer shall not amend the register of voters concerned in terms of sub-section (1) from nomination day until polling day, both days inclusive:

Provided that if an electoral officer is satisfied that the name of any person has inadvertently been omitted or removed from a register of voters, or has been inserted in the register of voters for a constituency other than that in which it should have been inserted and in which the said person is entitled to be registered, such electoral officer shall make the proper amendment to the register of voters in relation to such omission or removal or incorrect insertion, at any time up to four o'clock in the afternoon on the day seven days before polling day.

- (3) Before removing the name of any person from the register of voters, or restoring or adding it thereto, the electoral officer shall, by such means as are practicable, satisfy himself that the name relates to the person concerned.
- (4) If under sub-section (1) the electoral officer removes a name from a register of voters which is not the name of a fictitious person or of a person who has died, he shall inform the person concerned by a notice in the approved form No. 5 directed to the address of that person as shown on the register of voters.
- (5) If the electoral officer has, in terms of sub-section (1)(b), transferred the name of a voter to the register in respect of the constituency to which he has moved, he shall inform the person concerned of the transfer by notice in the prescribed form No. 6 directed to the address to which he has moved.

15. How register of voters amended

Whenever the electoral officer has decided to remove the name of any person from, or to restore or add the name of any person to, any register of votes, or to correct any mistake or supply any omission therein, he shall make the requisite alteration in ink in his official copy of the register and, in the case of a removal, restoration or addition, shall clearly indicate the same and state the reason for the alteration opposite to the name removed, restored or added.

16. Copy of register of voters to be kept for inspection

- (1) A copy of the register of voters for a constituency shall be kept for inspection by the public at the office of the District Commissioner and District Officer of every district wherein that constituency or any portion thereof is situated, and at the office of the electoral officer for the area in which that constituency is situated.
- (2) Any person desiring to inspect or make copies of, or take extracts from, such register shall be entitled to do so without payment during office hours.

17. Objection

- (1) The inclusion or retention of any name in, the restoration or addition of any name to, and the removal of any name from, a register of voters may be objected to by any voter at any time by lodging with the electoral officer for the constituency concerned an objection in the approved form No. 7 with a twenty-five cent revenue stamp affixed thereto.
- (2) When an objection is lodged under sub-section (1) against the inclusion or retention of any name in, or the restoration or addition of any name to, a register of voters, the electoral officer shall (unless he is satisfied that the ground of objection is not a ground on which a name could be removed or excluded from a register of voters) by registered post forthwith notify the person whose registration is objected to of the nature of the objection, and that he may make representations to the electoral officer in regard thereto, within a period of twenty-one days after the date of the notice.
- (3) When an objection has been lodged under sub-section (1) the electoral officer shall, upon expiry of the period referred to in sub-section (2), if that sub-section applies, determine the objection.

18. Appeals

- (1) If any person—
 - (a) whose application has been disallowed; or
 - (b) who has objected to the removal of his name from a register of voters; or
 - (c) the inclusion or retention of whose name in, or the restoration or addition of whose name to, a register of voters has been objected to; or
 - (d) who has objected to the inclusion or retention of the name of any other person in, its restoration or addition to, or its removal from, a register of voters,

is not satisfied with the decision of the electoral officer he may, within fourteen days of being notified of the decision, appeal to a magistrate, who shall decide the matter on the evidence on which the decision of the electoral officer is based, and on such further evidence as may be obtained by or submitted to him.

- (2) Subject to [section 19](#), the decision of the magistrate shall be final.

19. Statement of case for decision by judge

- (1) The magistrate shall, at the request of any person who has appealed under [section 18\(1\)](#) and is not satisfied with his decision, transmit a statement of the case to the registrar of the High Court to be submitted to a judge in chambers.
- (2) A statement referred to in sub-section (1) shall be signed by the magistrate and by the party at whose request it is submitted.
- (3) The judge to whom the statement is submitted may, on application by the chief electoral officer, before considering the statement, order the party at whose request it is submitted to furnish security for any costs allowed against him, and if he fails to furnish such security, the statement shall be deemed to have been withdrawn from the decision of the judge.
- (4) The said judge may, if the statement appears to him to be defective, call for further information and may give such decision and make such order as to costs as he may think fit.
- (5) The registrar of the court shall forward to the magistrate, to the electoral officer, and to the party at whose request the statement has been submitted, a certified copy of the decision of the court.
- (6) There shall be an appeal to the Court of Appeal from any order or decision given by a judge under this section, but only with leave of the Court of Appeal.

20. When register of voters to be printed

The register of voters as prepared and amended from time to time in accordance with this Act, shall be printed not later than one month before every election held in accordance with section 61 of the Constitution:

Provided that in the case of an election under sub-section (2) of that section it shall only be necessary to print a register of the constituency concerned.

21. Copies of printed register

As soon as a register of voters for any constituency has been printed, any person shall be entitled to obtain a reasonable number of copies of that register on payment of such charges and subject to such conditions as may be prescribed.

22. Comparison of register of voters by chief electoral officer

- (1) The chief electoral officer may cause the several registers of voters to be compared for the purpose of ensuring that no person shall be registered more than once in the same constituency or in more than one constituency and if, after due enquiry, he is satisfied that any person is registered more than once in the same constituency or in more than one constituency, he shall cause the name of that person to be removed from every register in which it should not appear.
- (2) [Section 14](#)(3) and (4) shall *mutatis mutandis* apply in connexion with the removal of a name under sub-section (1).

23. Powers of electoral officer

An electoral officer may by notice in writing at any time require any person whether registered or not, to furnish on the prescribed form or otherwise, and in the manner and within the period (not being less than ten days) specified in that notice, such particulars as may be prescribed or as the electoral officer may specify in the notice as to the identity, age, nationality, qualification by residence, or any other matter relevant to the registration of such person or of any other person.

24. Register of voters not invalidated by reason of error

If through accident, inadvertence, or oversight, anything required by law to be done in the preparation of any register of voters is erroneously done or omitted to be done, the register of voters shall not be invalidated thereby, and the chief electoral officer may take or cause to be taken such steps as are necessary to rectify the error or omission.

25. Offences and penalties

Any person who—

- (a) being an officer having any duty under this Act in connexion with the registration of voters, wilfully or with gross negligence fails to perform that duty; or
- (b) wilfully makes any false statement in any application referred to in [section 7](#); or
- (c) under the name of any other person (whether living, dead or fictitious) signs an application for the registration of that person otherwise than in accordance with [section 7](#), or signs as a witness in respect of an application which has been so signed; or
- (d) procures the registration of himself or any other person (whether living, dead or fictitious) in any division, knowing that he or such other person is not entitled to registration in that division or is already registered therein; or
- (e) procures the removal from a register of voters of the name of any person, in the case where such person is entitled to have his name included in that register, unless such person is able to prove that such removal was not procured as a result of information furnished by him negligently,

shall be guilty of an offence and liable on conviction to a fine of four hundred rand or, in default of payment thereof, imprisonment for one year, or both.

Part III – Elections

26 Appointment of returning and other election officers

- (1) The Minister shall designate a public officer to be a returning officer for each constituency.

- (2) The returning officer shall appoint a presiding officer to preside at each polling station and such other officers including polling officers and counting officers as may be necessary for taking the poll and counting the votes.
- (3) The returning officer shall issue to a presiding officer and a polling officer appointed by him an appointment in accordance with the approved form No. 8, duly completed and signed, and to a counting officer appointed by him an appointment in accordance with the approved form No. 9, duly completed and signed.
- (4) No person who has been or is being employed by any other person in or about the election shall be appointed presiding officer, polling officer, or counting officer.

27. Writ of election

- (1) For the purposes of a general election of members of the House of Assembly or of a bye-election to fill a vacancy caused by death, resignation or otherwise of a member of such House, the King shall issue a writ addressed to the returning officer of each constituency for which members are to be returned, which writ shall be forwarded to the chief electoral officer for transmission to the returning officer to whom it is addressed.
- (2) Subject to sub-section (3), a writ shall be in the approved form No. 10 and shall specify the day for nomination of candidates, the times and place of the nomination, and the day or days on which the poll shall be taken if necessary.
- (3) If he considers it necessary, the returning officer may adjourn the taking of the poll to a day or days not less than seven days subsequent to the day or days so specified.
- (4) So soon as any writ or writs have been issued, under sub-section (1), the chief electoral officer shall publish a notice in the *Gazette* as to the day, times and place specified under sub-section (2) for the nomination of candidates in respect of the constituencies concerned, the day or days on which, if necessary, but subject to sub-section (3), the poll shall be taken in the constituencies concerned or, if the poll is to be taken on different days in different polling divisions, the day on which polling shall take place in each polling division.
- (5) Upon receipt of a writ issued under sub-section (1) the returning officer shall proceed to hold an election in the manner provided in this Act, and shall give and publish notice thereof throughout the constituency in such manner as he thinks fit and shall cause a notice to be posted in the approved form No. 11 in such places as he considers desirable.
- (6) The returning officer shall, from nine o'clock in the morning until four o'clock in the afternoon, receive at the place of nomination, nomination papers and declarations made under [section 28](#).

28. Nomination of candidate and deposit

- (1) On the day and at the times and place specified under [section 27\(2\)](#) for the nomination of candidates in respect of a constituency, the returning officer shall attend to receive nominations of candidates for the seats to be filled.
- (2) The nomination of a candidate for election shall be endorsed with the consent of the candidate to nomination and supported by not less than ten persons who are registered voters in the constituency.
- (3) The fact that the name of a supporter of a candidate is struck off the register of voters for the constituency subsequent to nomination shall not invalidate the nomination of the candidate.
- (4) The nomination of a candidate shall be made on the approved form No. 12 which shall be delivered to the returning officer.
- (5) A candidate shall at the time of his nomination deliver to the returning officer a declaration on oath made and subscribed before a magistrate in the approved form No. 13 as to his qualifications to be elected as a member and also that he is not disqualified from being so elected.

- (6) Where a declaration is not so delivered, the nomination of the candidate shall be deemed to be void.
- (7) A candidate shall at the time of his nomination deposit or cause to be deposited the sum of R100 in cash with the returning officer and, if he fails to do so, the nomination of the candidate shall be void.
- (8) No candidate may be nominated for election—
 - (a) for more than one seat in a constituency, or
 - (b) in more than one constituency, or
 - (c) whilst he is a member of the House of Assembly.

29. Decision as to validity of nomination paper

- (1) Where, in accordance with this Act, a nomination paper endorsed with the consent of the candidate and his declaration on oath are delivered to the returning officer and a deposit is made, the candidate shall be deemed to stand nominated unless and until the returning officer decides, in accordance with this section, that the nomination paper is invalid, or proof is given to the satisfaction of the returning officer of the withdrawal or death of the candidate.
- (2) The returning officer is entitled to decide that a nomination paper is invalid if—
 - (a) the qualifications of the candidate or of the persons subscribing to the paper are not as required by law; or
 - (b) the nomination paper is not completed and subscribed as required by this Act.
- (3) If the returning officer decides that a nomination paper is invalid, he shall endorse and sign this fact and the reasons for his decision on such paper.
- (4) Subject to sub-section (6), the decision of the returning officer that a nomination paper is valid or invalid shall be final and shall not be questioned in any proceeding whatsoever.
- (5) Subject to sub-section (6), a returning officer shall not, except with the consent of the candidate, disclose the names of the supporters of that candidate.
- (6) Nothing in this section shall prevent the validity of a nomination being questioned on an election petition.

30. Use of symbols for identification purposes

- (1) For the purpose of assisting persons to identify candidates when voting, a candidate shall be entitled to associate himself, while electioneering, with such symbol as the returning officer shall allot to him.
- (2) The returning officer shall allot a symbol which does not contravene [section 101\(3\)\(a\) to \(d\)](#) to a candidate as soon as convenient after he has been nominated under [section 28](#).
- (3) No candidate shall associate himself with a symbol and no other person shall associate a candidate with a symbol while electioneering, unless the symbol has been sanctioned by the returning officer for that purpose.
- (4) Any person who contravenes sub-section (3) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or imprisonment for six months, or both.
- (5) Nothing in this section shall prevent the use of a symbol registered under [section 101](#) as the symbol of a political party.

31. Withdrawal of candidature

- (1) A candidate may, before four o'clock of the afternoon of nomination day, and not afterwards, withdraw his candidature by giving notice to that effect to the returning officer signed by himself.
- (2) The returning officer shall forthwith cause notice of the withdrawal to be posted in a conspicuous position outside the place of nomination and shall return the deposit made by him under [section 28\(7\)](#) to the candidate.

32. Disposal of deposit

- (1) The full amount of a deposit made under [section 28\(7\)](#) shall be paid into the Consolidated Fund forthwith and an official receipt issued therefor.
- (2) The full amount of the deposit so made shall be returned by the Accountant-General to the person who made the deposit, or his personal representative, as the case may be, upon production by him within one month of the conclusion of the election in respect of which the deposit was made of a certificate from the returning officer that the candidate was elected or polled not less than one-eighth of the total number of votes counted at the election in the constituency in which he was a candidate, divided by the number of members to be elected in that constituency, or that the returning officer has decided, under [section 29](#), that his nomination paper was invalid, or that the candidate died before the close of the poll.
- (3) For the purposes of this section, the number of votes polled shall be deemed to be the number of votes shown on ballot papers counted, other than such ballot papers as are rejected or are set aside as spoilt in accordance with this Act.

33. Uncontested elections

- (1) In the case of an election if at four o'clock in the afternoon of nomination day, the number of candidates duly nominated does not exceed the number of seats to be filled, the returning officer shall as soon as possible publicly declare the candidates to be elected and shall immediately thereafter by endorsement of the writ, certify the return of those candidates and forward the endorsed writ to the chief electoral officer.
- (2) Where the Minister has specified a nomination day for any constituency and the number of candidates duly nominated is less than the number of seats to be filled, the Minister shall issue a fresh writ under [section 27](#) for the constituency concerned for the election of the number of members required to fill the seats for which candidates have not been returned under sub-section (1).

34. Contested elections

- (1) If the number of candidates duly nominated in a constituency exceeds the number of seats to be filled the returning officer shall adjourn the election for the holding of a poll, and a poll shall be taken in the manner hereinafter provided.
- (2) The returning officer shall as soon as practicable after adjourning the election, give notice in the *Gazette* and in such other manner in each polling division as the chief electoral officer shall direct, of the—
 - (a) day or days on which and the time or times at which the poll will be taken;
 - (b) situation of the polling station;
 - (c) voters (by serial number or otherwise) assigned to each polling station in a polling division where there is more than one polling station; and

- (d) full names, addresses, occupations and representative symbols, if any, of the candidates nominated for election.

35. Polling divisions and polling stations

- (1) Any constituency may be sub-divided by the electoral officer by notice in the *Gazette* into as many polling divisions as may be necessary for the purpose of conveniently taking a poll of the registered voters of the constituency.
- (2) For this purpose and in like manner the number of polling divisions in any constituency may be increased or decreased or the boundaries thereof may be altered.
- (3) Any sub-division of a constituency into polling divisions shall remain in force until altered under this section.
- (4) For this purpose there shall be one polling station at such convenient place within the constituency as determined by the returning officer or, if the constituency is divided into polling divisions, there shall be one polling station within each such polling division:

Provided that if the chief electoral officer is of opinion that the conduct of an election will be facilitated thereby, he may direct the returning officer, before he has given the notice referred to in [section 34](#), to establish more than one polling station in the constituency or in any polling division therein for voters whose names appear on the register of voters opposite serial numbers specified by him in respect of each such polling station, or to establish one polling station in respect of two or more polling divisions.

- (5) In addition to the polling stations referred to in the preceding provisions of this section the office of each Ambassador and High Commissioner for Swaziland abroad shall be a polling station at which registered voters residing in the country to which such Ambassador or High Commissioner, as the case may be, is accredited, may cast their votes in respect of any contested election held under this Act, and the Ambassador or High Commissioner, as the case may be, or a person deputed thereto by him, shall be the presiding officer for such polling station.

36. Power to adjourn polling day in event of emergency

- (1) If at any time between the issue of a writ under [section 27](#) and the day appointed by the writ for the taking of the poll at an election, the Minister is satisfied that it is expedient in the public interest to do so, he may by notice in the *Gazette* adjourn the taking of the poll to some other day or days specified in the notice, not being more than thirty days after the day specified in the writ or writs issued under [section 27](#).
- (2) A notice made under sub-section (1) may be expressed to apply only to such constituencies as are specified in it, in which event the poll shall be taken in every constituency for which the writ has been issued, and which is not so specified, upon the day or days appointed for the taking of the poll.
- (3) Where a notice is given under sub-section (1), the writs for all constituencies to which it applies shall be deemed to have been amended by the substitution for the day or days specified in the writs as being the day or days for the holding of the poll of the day so specified in the notice.
- (4) Where a notice under sub-section (1) is published before the day which would have constituted the nomination day if the notice had not been given, the nomination day shall be deemed to have been adjourned to the twenty-third day next before the day to which the holding of the poll is adjourned by the notice:

Provided that if the twenty-third day is a Sunday or a public holiday, the nomination day shall be deemed to have been adjourned to the first day, not being a Sunday or a public holiday, after the twenty-third day.

37. Death of candidate

- (1) If, after the polling day has been fixed for an election in any constituency, any duly nominated candidate thereat dies before the poll has commenced, the Minister shall, upon being satisfied of the fact of the death, withdraw so far as it concerns the constituency, the notice fixing the polling day, and all proceedings relating to that election shall be commenced afresh in precisely the same manner as if a vacancy had occurred:

Provided that no fresh nomination shall be necessary in the case of a candidate who was duly nominated at the time when such notice was withdrawn.

38. Printing of ordinary and tendered ballot papers

- (1) On the expiry of the time allowed by [section 31](#) after the withdrawal by a candidate of his candidature, the returning officer shall, in the case of candidates in respect of whom a poll is to be taken, cause to be printed in the approved form No. 14 a sufficient number of ordinary ballot papers on white paper and a sufficient number of tendered ballot papers on coloured paper.
- (2) A ballot paper shall contain the names of the candidates in alphabetical order of their surnames and, if there are two or more candidates of the same surname, in alphabetical order of their other names:

Provided that a political party may, before nomination day, apply through its leader or secretary to the chief electoral officer for the names of candidates of that political party to be listed together as members of that party, and, if such an application is made, the names of the candidates whose nomination papers indicate that they belong to that political party shall be so listed in alphabetical order below the names of the other candidates for each constituency:

Provided further that, if application is made under this sub-section by more than one political party, the order of the lists of candidates of such political parties shall be determined by lot by whatever system the chief electoral officer considers most suitable.

- (3) Both ordinary ballot papers and tendered ballot papers shall be numbered consecutively commencing with number one on the back thereof, each having a counterfoil with the corresponding number on the face thereof:

Provided that a symbol shall be printed opposite the name of the candidate to whom it is allotted.

39. Requisition of building for polling station

- (1) The returning officer may require that any convenient building (other than a dwelling house) be used for the purpose of taking a poll:

Provided that if so required he shall make adequate compensation to the owner or occupier, as the case may be, of such building for such use or any damage thereto as a result of the poll being taken therein.

40. Candidate's agents and messenger

- (1) A candidate at any election may appoint—
 - (a) one election agent; and
 - (b) one polling agent and one messenger in respect of each polling station in the constituency, and shall, at least seven clear days before the date of the election, advise the returning officer, in accordance with the approved form No.15, of the names of his agents and messenger, if any, to attend at each polling station, and of the name of his election agent, if any, to be present at the counting of votes.

- (2) If an agent becomes incapable of acting or dies, the candidate may appoint another agent in his place and shall forthwith give the returning officer notice in writing of the name and address of the agent so appointed.
- (3) The returning officer shall notify each presiding officer of the names of the agents of the candidates and their messengers who will attend at his polling station.

41. Furniture for polling stations

The returning officer shall ensure that the following furniture is provided at each polling station before the day of the poll—

- (a) sufficient tables and chairs for the presiding officer, polling officers and the agents of the candidates; and
- (b) a sufficient number of screened polling booths.

42. Forms, stationery and equipment for polling stations

- (1) The chief electoral officer shall, before the day of the poll, supply each presiding officer through the returning officer with the following forms, stationery and equipment for use at the polling station of such presiding officer—
 - (a) a list of the candidates;
 - (b) a sufficient number of copies of the register of voters or portion thereof containing the names of the voters entitled to vote at that polling station;
 - (c) a copy of this Act;
 - (d) a supply of ordinary ballot papers and tendered ballot papers;
 - (e) a supply of approved forms Nos. 16 to 33 inclusive, and No. 40, and of the form contained in the Second Schedule;
 - (f) a sufficient number of instruments for placing the official mark on ballot papers;
 - (g) a sufficient number of instruments for marking ballot papers;
 - (h) one official seal;
 - (i) a supply of pencils, sealing wax, matches, brown paper, tape, string, paste and drawing pins; and
 - (j) a sufficient number of ballot boxes;

and the chief electoral officer shall do such other acts and things as may be necessary for effectually conducting the election in the manner provided by this Act.

- (2) A returning officer shall give a receipt for the things supplied to him by the chief electoral officer and shall, in turn, receive a receipt from the presiding officer for the things supplied to the presiding officer.

43. Official mark and instrument

- (1) The chief electoral officer shall decide on the official mark to be placed on the ballot papers and shall not communicate any particulars of that mark to any person other than the returning officer.
- (2) Before handing the instrument for placing the official mark on ballot papers to a presiding officer, the returning officer shall insert each such instrument in a separate envelope in the approved form No. 30 and seal it with sealing wax impressed with his official seal.

- (3) At the hour of commencement of the poll, and not before, the presiding officer shall open only as many instruments as may be necessary for the purposes of the poll.

44. Ballot boxes

A ballot box, which shall be provided with a lock or other device for securing it when closed, shall be so constructed that ballot papers cannot be removed therefrom without opening the lid which shall be attached by hinges and have an aperture of sufficient size to permit of the introduction of ballot papers into the ballot box.

45. Declaration of secrecy

- (1) The returning officer and every presiding officer, polling officer, counting officer, candidate, agent and messenger of a candidate authorized to be present in a polling station or at the counting of votes shall make and sign a declaration of secrecy as set out in the approved form No. 16 before a commissioner of oaths or a justice of the peace.
- (2) Every police officer or special constable authorized to be present in a polling station shall make and sign a declaration of secrecy in the approved form No. 16 before the presiding officer.
- (3) The declaration of secrecy of—
 - (a) a presiding officer shall be handed to the returning officer before the returning officer supplies the things set out in [section 42](#) to the presiding officer;
 - (b) every other person authorized to be present in a polling station shall, before the commencement of the poll, be handed to the presiding officer at the polling station, except the declaration of a candidate which shall be retained by the candidate for production at polling stations and be handed to the returning officer before the commencement of the counting of votes; and
 - (c) all persons authorized to be present at the counting of votes shall be handed to the returning officer before the commencement of the counting of votes unless already handed in under paragraphs (a) or (b).

46. Notices at polling station

- (1) Before the hour fixed for the commencement of the poll, the presiding officer shall, subject to [section 38](#), place a notice showing the full names (in alphabetical order of surnames), addresses, occupations, and representative symbols, if any, of the candidates for election in a conspicuous position outside the polling station.
- (2) All notices, both within and outside the polling station, shall be in the English and siSwati languages.

47. Admission to polling stations

- (1) No person shall be admitted to vote at a polling station—
 - (a) except at the one in the polling division in respect of which his name appears on the register of voters; and
 - (b) where there is more than one polling station in that polling division, except at the one assigned to him in accordance with [section 34\(2\)](#):

Provided that where a voter is employed by the returning officer for a purpose in connexion with an election and the circumstances of the employment are, in the opinion of the returning officer, such as to prevent the voter from voting at the polling station at which he would otherwise be entitled to vote, the returning officer may in writing authorize the voter to vote at any other polling station in

the constituency, and that polling station shall be deemed to be the polling station allotted to such voter.

- (2) The presiding officer shall regulate the number of voters to be admitted to the polling station at the same time.
- (3) No other person, except the chief electoral officer, the returning officer, the presiding officer, the polling officers, the candidates, the polling agents and district officers and police officers or special constables on duty shall enter the polling station.

48. Right to enter polling booth

Subject to sections [50\(3\)](#) and [58](#) no person other than a voter desirous of voting shall enter a polling booth during the hours of polling, and in no case shall more than one voter be in a polling booth at the same time.

49. Presiding officer's duties

- (1) The presiding officer shall take such steps and give such directions to the persons inside the polling station as may be necessary to ensure compliance with this Act and to keep order at the polling station.
- (2) Save as is provided in [section 47\(2\)](#) and (3), the presiding officer may require any person (other than a person actually recording his vote) who misconducts himself or fails to obey the lawful directions of the presiding officer, to leave the polling station.
- (3) The presiding officer may authorize a polling officer to perform the functions, under this Act, of the presiding officer—
 - (a) during the temporary absence of the presiding officer from the polling station, or
 - (b) in other special circumstances,and references in sub-sections (1) and (2) to the presiding officer shall be construed accordingly.
- (4) A person who fails to leave the polling station when so required may be arrested by a police officer without warrant on the order of the presiding officer and shall be guilty of an offence and liable on conviction to a fine of one hundred rand or, in default of payment thereof, imprisonment for three months.
- (5) The functions conferred by this section shall not be exercised so as to prevent any voter who is otherwise entitled to vote at any polling station from having an opportunity of voting at that polling station.

50. Polling booth

- (1) A polling booth shall be provided with a writing-flap, desk or table, and shall be so arranged that no person can enter or leave it without being seen by the presiding officer or a polling officer.
- (2) Before the commencement of the poll, the presiding officer shall affix inside each polling booth, in such a position as to face the voter, a copy of the directions for the guidance of voters as set out in the approved form No. 17, and shall provide in each polling booth for use by voters an instrument, to be supplied by the chief electoral officer, which shall be attached by string to the writing-flap, desk or table.
- (3) The presiding officer shall, throughout the hours of polling, from time to time inspect or cause to be inspected every polling booth when not occupied by a voter, with a view to ensuring that the writing-flap, desk or table has an instrument attached to it, that a copy of the directions for the guidance of voters is still in position and has not been tampered with, and that no other notice or paper is contained therein.

51. Sealing of ballot boxes before commencement of poll

- (1) Before the commencement of the poll, the presiding officer shall show those present inside the polling station that the ballot box is empty.
- (2) Thereafter, he shall close and secure the lid of the ballot box and, with sealing wax impressed with his official seal and the seals of such candidates or their agents as may desire to affix their seals, seal the lock or device in such a way that the lid cannot be opened without the seals or fastenings being broken or damaged.
- (3) The ballot box so secured and sealed shall not be opened except as provided in this Act and shall not be removed from the polling station for the duration of the poll.
- (4) The presiding officer shall place and keep each ballot box in a position where it will be within his view for the duration of the poll.

52. Assistance to voters by election officer

Except as provided in this Act the presiding officer or polling officers shall not give any assistance or explanation to a voter beyond—

- (a) directing him to a polling booth where he may mark his ballot paper;
- (b) informing him that directions for his guidance are posted inside the polling booth; or
- (c) if he is illiterate, explaining to him the directions so posted; and
- (d) instructing him as to how his ballot paper should be folded and disposed of after he has marked it.

53. Interference with voter

- (1) Except as provided in this Act no person shall approach, interfere with, speak to, or assist a voter from the time he has received his ballot paper to the time he has, in the case of an ordinary ballot paper, deposited it in the ballot box or, in the case of a tendered ballot paper, handed it to the presiding officer.
- (2) A person who contravenes sub-section (1) shall be guilty of an offence and liable on conviction to a fine of two hundred rand or imprisonment for six months, or both.

54. Questions to voter

- (1) No enquiry shall be made at a poll as to the right of any person to vote, except that when a person applies for a ballot paper the presiding officer may, and if so requested by any candidate or his polling agent shall, before allowing any person to vote, put to him any or all the questions set out in the form contained in the Second Schedule, and the presiding officer may record the answers of the applicant on that form and require him to make and sign the declaration set out therein.
- (2) A person who does not answer the first question distinctly and absolutely in the affirmative and the second and third questions distinctly and absolutely in the negative, or who, when so required by the presiding officer, fails or refuses to complete and sign the declaration set out in the form contained in the Second Schedule shall not be permitted to vote.
- (3) Any person who makes a false answer to any of those questions shall be guilty of an offence and liable on conviction to a fine of four hundred rand or, in default of payment thereof, to imprisonment for two years, or both.

55. Circumstances under which ballot paper may be refused by presiding officer

- (1) If any candidate or his election agent or the polling agent of any candidate or any voter makes a declaration on oath in the approved form No. 40 before the presiding officer stating that a person

enrolled on the register of voters is dead or is so incapacitated by sickness, absence, or otherwise, that it is impossible for such person to be present at the polling station to record his vote at the election then being held, the presiding officer shall refuse to hand a ballot paper to any person who applies for it in the name of the person the subject of the declaration, unless the person so applying proves his identity to the satisfaction of the presiding officer or makes a declaration on oath before the presiding officer that he is the person whose name appears on the register of voters for the constituency and that the statements made in the first-mentioned declaration (which shall be read over to him) are false.

- (2) The presiding officer is hereby authorized and required to administer any oath described in sub-section (1).
- (3) Any person who makes a false statement in any declaration mentioned in subsection (1), knowing the statement to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.
- (4) More than one person may be referred to in any declaration on oath made under sub-section (1), but the reason why each of the persons referred to is unable to attend at a polling station shall be clearly connected with the person to whom the declaration relates.

56. Issue of ordinary ballot papers

- (1) A polling officer to whom application is made for a ballot paper shall, after satisfying himself that the applicant is enrolled as a voter and that there is no evidence that a ballot paper has already been issued under the name in which the applicant claims to be entitled to vote or, when so instructed by the presiding officer, issue to the applicant an ordinary ballot paper in the following manner, that is to say, he shall—
 - (a) call out the number and name of the voter as stated in the register of voters;
 - (b) enter that number in the space provided on the counterfoil of the ballot paper to be issued to the applicant;
 - (c) tear out the ballot paper and mark it with the official mark on the back in the space provided;
 - (d) fold the ballot paper in four lengthwise and crosswise, so that the face thereof is on the inside and the official mark on the outside, then unfold it and hand it to the applicant; and
 - (e) draw a line in pencil through the number and name of the voter in the register of voters as evidence that a ballot paper has been issued.
- (2) If, for any reason, the presiding officer or a polling officer has any doubt as to a ballot paper held by a voter being the ballot paper issued to him, he may for the purpose of comparison with the number printed on the counterfoil require a voter, before dropping the ballot paper in the ballot box, to show him the number and official mark on the back of the ballot paper.

57. Issue of tendered ballot papers

- (1) If an applicant for a ballot paper states that a particular name in the register of voters refers to him and there is evidence that a ballot paper has already been issued in respect of that name, the polling officer shall not issue an ordinary ballot paper to the applicant but shall refer the matter to the presiding officer who shall ask the applicant the questions set out in the form contained in the Second Schedule, record the answers and require him to make and sign the declaration set out therein.
- (2) If the applicant answers the first of those questions distinctly and absolutely in the affirmative and the second and third questions distinctly and absolutely in the negative, and makes and signs such a declaration, the presiding officer shall issue to him a ballot paper, called a tendered ballot paper, in like manner to that provided by [section 56](#):

Provided that a note "tendered ballot paper issued" shall be made in the register of voters against the name concerned.

58. Marking of ballot paper

- (1) A person to whom a ballot paper has been issued shall immediately take it to an unoccupied polling booth and there without delay secretly signify with the instrument provided the candidate or candidates for whom he desires to vote by making a hole thereon in the—
 - (a) square directly opposite the name and representative or party symbol, if any, or
 - (b) space provided for the name or for the representative or party symbol, if any.
- (2) Having so marked the ballot paper, the voter shall then fold it in four lengthwise and crosswise so that the face thereof is on the inside and the official mark on the outside.

59. Disposal of marked ballot paper

- (1) After compliance with [section 58](#) the voter shall, in the case of an ordinary ballot paper, show the official mark to the presiding officer or a polling officer and put it in the ballot box provided or, in the case of a tendered ballot paper, hand it to the presiding officer and thereafter quit the polling station.
- (2) No voter shall remove a ballot paper from the polling station.
- (3) If through inadvertence the official mark has not been placed on an ordinary ballot paper about to be put into the ballot box or on a tendered ballot paper handed to the presiding officer, the presiding officer may cause the mark to be placed on the ballot paper.
- (4) The number and name of the voter as shown in the register of voters shall be endorsed by the presiding officer on the back of the tendered ballot paper and entered on the tendered votes register in the approved form No. 18 duly completed.
- (5) The presiding officer shall set aside the tendered ballot paper in a separate envelope in the approved form No. 19 duly completed.

60. Marking of ballot paper by presiding officer

- (1) On application by a voter who, owing to inability to read or on account of blindness or other physical infirmity, is unable to vote in the manner provided by [section 58](#), the presiding officer shall take the voter aside and shall ascertain from him, no other person being present or within hearing, the name of the candidate or candidates for whom he wishes to vote.
- (2) The presiding officer shall then immediately go into the polling booth with the voter and mark the ballot paper of the voter in the manner directed by the voter, and the presiding officer shall thereupon fold the ballot paper as required by this Act and, in the case of an ordinary ballot paper put it in the ballot box or, in the case of a tendered ballot paper, retain it to be dealt with as provided by [section 59](#)(4) and (5).
- (3) The presiding officer shall enter the number and name as shown on the register of voters of any voter whose ballot paper has been marked by him in terms of sub-section (1) on a list in accordance with the approved form No. 20 duly completed.

61. Spoilt ballot paper

- (1) If a voter has inadvertently spoilt a ballot paper he may return it to the presiding officer who shall, if he is satisfied of the inadvertence, issue him with a fresh ballot paper in which event the presiding officer shall—
 - (a) retain and immediately cancel the spoilt ballot paper, and note the fact of the cancellation on the counterfoil;
 - (b) note on the counterfoil of the spoilt ballot paper the number of the fresh ballot paper issued thus – "see also counterfoil No. "; and
 - (c) note on the counterfoil of the fresh ballot paper issued the number of the spoilt ballot paper thus – "see also counterfoil No. ".
- (2) The presiding officer shall set aside the spoilt ballot papers in a separate envelope in the approved form No. 21, duly completed.

62. Close of poll and making up of election material

- (1) No ballot paper shall be delivered to a person after the hour fixed for closing the poll but, if at that hour there is in the polling station a voter to whom a ballot paper has been delivered, that voter shall be allowed to record his vote.
- (2) After the voters inside the polling station entitled to vote have voted, the presiding officer shall close the poll and shall immediately close the aperture of the lid of every ballot box and seal it with sealing wax impressed with his official seal and the seals of such candidates or their agents as may desire to affix their seals.
- (3) The presiding officer shall then sign the "Tendered votes register" in the approved form No. 18 and the Register of voters whose ballot papers have been marked by the presiding officer in the approved form No. 20, and complete and sign the "Ballot paper account", in duplicate, in the approved form No. 22.
- (4) The presiding officer shall then in the presence of the persons lawfully present inside the polling station, enclose the following envelopes, and seal each envelope with sealing wax impressed with his official seal and the seals of such candidates or their agents as may desire to affix their seals—
 - (a) the appointments of the presiding officer and the polling officers, and the declarations of secrecy handed to him in terms of [section 45\(3\)\(b\)](#) in an envelope in the approved form No. 23 duly completed;
 - (b) the completed approved forms No. 40 "Declarations on oath made in terms of [section 55\(1\)](#)" and the declarations made under the Second Schedule in an envelope in the approved form No. 24 duly completed;
 - (c) used tendered ballot papers and tendered votes register in the approved form No. 18 in an envelope in the approved form No. 19 duly completed;
 - (d) register of voters whose ballot papers have been marked by the presiding officer in the approved form No. 20 in an envelope in the approved form No. 25 duly completed;
 - (e) the spoilt ballot papers in an envelope in the approved form No. 21 duly completed;
 - (f) the ballot paper account in duplicate in approved form No. 22 in an envelope in the approved form No. 26 duly completed;
 - (g) the counterfoils of the used ballot papers in an envelope in the approved form No. 27 duly completed;
 - (h) the marked copies of the register of voters in an envelope in the approved form No. 28 duly completed;

- (i) the unused ballot papers, in an envelope in the approved form No. 29 duly completed;
- (j) the instruments for marking ballot papers with the official marks, in an envelope in the approved form No. 30 duly completed:

Provided that if the chief electoral officer has approved, in accordance with [section 101\(2\)](#), the official mark as an official seal, the instrument for marking ballot papers with the official mark shall be enclosed in the manner provided by sub-section (7); and

- (k) all other election material except such as may be necessary for the purposes of sub-sections (6) and (7) in an envelope in the approved form No. 31 duly completed.
- (5) For the purpose of separating the counterfoils of used ballot papers from the unused ballot papers, a partly used ballot paper book shall be divided into two.
- (6) The envelopes referred to in sub-section (4) shall, after being sealed as required and signed by the presiding officer, be made up into one parcel with a label signed by the presiding officer in accordance with the approved form No. 32 and duly completed and sealed with sealing wax impressed with his official seal and the seals of those candidates or their agents who may desire to affix their seals.
- (7) The presiding officer shall then enclose the official seal in an envelope in the approved form No. 33 duly completed and signed by him.

63. Procedure if poll on more than one day

- (1) If in terms of [section 27](#) the writ of election specifies that the poll shall be taken on more than one day, the presiding officer shall, for the purposes of closing the poll on each day that it continues, observe [section 62\(1\)](#), (2), (4), (6) and (7), save the requirements of [section 62\(4\)](#) relating to the completion and sealing of each envelope with sealing wax impressed with his official seal and the seals of the candidates or their agents, and shall adjourn the poll to the following day on which the hours of polling shall be the same as for the first day.
- (2) Before re-opening the poll on the following day, the presiding officer shall permit those candidates or their agents who may be present to examine the seals on the ballot box and all packages sealed on the previous day, and any seal which has been broken or tampered with shall be noted and the fact reported to the returning officer forthwith.

64. Adjournment of poll in case of riot

- (1) If the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings till the following day and forthwith give notice thereof to the returning officer.
- (2) If the poll is adjourned at any polling station the procedure shall be the same as provided in [section 63](#).

65. Delivery of election material to returning officer

The ballot boxes, the envelope in the approved form No. 33 containing the official seal and the parcel under label in the approved form No. 32 containing the other election material shall be delivered to the returning officer personally or by a person deputed for the purpose by the presiding officer:

Provided that it shall be sufficient for a presiding officer referred to in [section 35\(5\)](#) to forward such ballot boxes, envelope and parcel forthwith by diplomatic bag to the returning officer.

66. Receipt of election material by returning officer

The returning officer shall receive into his custody the ballot boxes and other election material mentioned in [section 65](#) and shall, as soon as practicable after he has received all the ballot boxes and other election

material, make arrangements for counting the votes given at the election and for that purpose shall give notice in writing to each candidate or his election agent of the time when and the place where those votes will be counted.

67. Persons allowed inside place of counting

The returning officer shall be in charge of the place where the counting of votes takes place and no person shall be admitted thereto by him, except the chief electoral officer, the electoral officers, the counting officers, the candidates and one election agent for each candidate:

Provided that the presiding officers or their deputies shall be admitted for the purpose of delivering the ballot boxes and other election material.

68. Requisites at counting

The returning officer shall take with him into the place where the counting of votes is to take place—

- (a) a copy of this Act;
- (b) the official seal used by him for the purposes of the election;
- (c) a sufficient supply of approved forms Nos. 19, 21, 23, 24, 25, 26, 27, 29, and 34 to 40 inclusive, and of sealing wax, matches, brown paper, string and paste.

69. Checking of election material

- (1) The returning officer shall deal with the election material received from each polling station separately, as follows, that is to say, he shall—
 - (a) open the envelope in the approved form No. 33 containing the official seal used by the presiding officer;
 - (b) with such candidates or their agents as may desire to do so, examine the ballot boxes and parcel labelled in the approved form No. 32, in particular the seals thereon and the fastening thereof, in order to ascertain whether they have been tampered with;
 - (c) open the parcel labelled in the approved form No. 32 and, with such candidates or their agents as may desire to do so, examine the different packets therein, in particular the seals of each packet, in order to ascertain whether they have been tampered with;
 - (d) open the envelope in the approved form No. 26 containing the ballot paper account;
 - (e) open each ballot box and take out, count and return to the ballot box, the total number of ordinary ballot papers therein;
 - (f) open the envelopes in the approved forms Nos. 19, 21, 27 and 29, and verify the ballot paper account (in the approved form No. 22) with the—
 - (i) number of ordinary ballot papers in the ballot boxes;
 - (ii) number of tendered ballot papers according to the tendered register of voters (approved form No. 18);
 - (iii) spoiled ballot papers;
 - (iv) counterfoils of ballot papers issued; and
 - (v) number of unused ballot papers;
 - (g) record on the ballot paper account any errors which he may find and permit such candidates or their agents, who may desire to do so, to make a copy of the account and his remarks thereon; and

- (h) replace the tendered votes register, the spoiled ballot papers, the ballot paper account, the counterfoils of used ballot papers, and the unused ballot papers in their respective envelopes, and reseal those envelopes with his official seal.
- (2) The returning officer shall make a record of the seals and fastening of any ballot box or packet which appears to have been tampered with.

70. Counting of votes

- (1) After complying with [section 69](#) and whether or not the ballot paper accounts have been found correct, the ordinary ballot papers contained in all ballot boxes for each constituency shall be mixed together.
- (2) The ballot papers shall then be unfolded with their backs upwards, and the official marks checked.
- (3) A ballot paper which does not bear the official mark shall be put aside for the decision of the returning officer.
- (4) Thereafter those ballot papers shall be turned over face upwards and the votes given for each candidate counted.
- (5) The ballot papers shall be kept face upwards and no person shall be permitted to look at the back thereof.

71. Dealing with doubtful ballot papers

The counting officer shall put aside for the decision of the returning officer all ballot papers—

- (a) which apparently do not bear the official mark; or
- (b) on which apparently the votes are given for more candidates than the voter is entitled to vote for; or
- (c) on which anything is apparently written or marked by which the voter could be identified, except the printed number on the back; or
- (d) which are unmarked or appear to be void for uncertainty.

72. Returning officer's decision on doubtful ballot paper

Subject to [section 73](#), the returning officer shall, with such candidates or their agents as may desire to do so, scrutinize a ballot paper put aside for his decision, and shall, after considering any objections or arguments put forward in connexion therewith by any candidate or his agent, decide—

- (a) whether he will reject it, or
- (b) having accepted it, for which candidate or candidates the vote is given.

73. Rejection or acceptance of ballot papers

- (1) The returning officer shall reject and not count a ballot paper—
 - (a) which does not bear the official mark; or
 - (b) on which votes are given for more candidates than the number to be returned; or
 - (c) which is unmarked; or
 - (d) which bears writing or mark by which the voter could be identified except the printed number on the back; or
 - (e) which is so marked that he cannot determine for which candidate or candidates a vote was intended to be given.

- (2) The returning officer shall enter the word "rejected" on a ballot paper which he rejects and, if objection to his decision is made by or on behalf of a candidate, he shall add the words "rejection objected to".
- (3) If objection to the acceptance of a ballot paper is made by or on behalf of a candidate, the returning officer shall enter thereon the words "acceptance objected to".
- (4) A candidate or his election agent may, if present when the counting or any recount of votes is completed, require the returning officer to have the votes recounted or again recounted but the returning officer may refuse to do so if, in his opinion, the request is unreasonable.
- (5) No step shall be taken on the completion of the counting or any recount of votes until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-section (4).

74. Declaration of result

- (1) After having finally counted the votes, and ascertained the number of votes given for each candidate, the returning officer shall determine the successful candidates, that is to say—
 - (a) where there is one seat to be filled, the candidate for that seat who has received more votes than any other candidate for that seat; or
 - (b) where there are two or three seats to be filled, the two or three candidates for those seats, as the case may be, who, individually among the candidates for those seats, have received the greatest number of votes:

Provided that, in the event of the number of votes for two or more candidates being equal, the returning officer shall by lot or by whatever system he considers most suitable, determine which of those candidates shall be elected.

- (2) The returning officer shall then complete and sign the approved form No. 34 and shall forthwith—
 - (a) declare the result of the poll by reading the completed form aloud outside the place of counting and displaying a copy thereof at that place;
 - (b) endorse the writ with the name of each successful candidate; and
 - (c) forward to the chief electoral officer the endorsed writ and a copy of the completed approved form No. 34.

75. Publication of name of successful candidate

As soon as the chief electoral officer has received an endorsed writ in accordance with [section 33\(1\)](#) and [section 74\(2\)](#) he shall forward it to the Minister and shall publish in the *Gazette* the result of the election and the names of the members so elected.

76. Opening of envelopes and other action by returning officer

As soon as possible after the declaration of the result of the poll, the returning officer shall—

- (a) open the envelope in the approved form No. 23 containing the appointments of presiding and polling officers and declarations of secrecy;
- (b) open the envelope in the approved form No. 24 containing the approved form No. 40 "Declarations on oath made in terms of [section 55\(1\)](#)" and declarations made under the Second Schedule;
- (c) open the envelope in the approved form No. 25 containing the register of votes marked by the presiding officer in the approved form No. 20, ascertain the number of votes marked by the presiding officer, reseal that envelope with his official seal and affix his signature to the back of that envelope; and

- (d) open the envelope in the approved form No. 26 containing the ballot paper account in duplicate in the approved form No. 22, remove from the envelope the duplicate copy of that account, reseal the envelope with his official seal and affix his signature to the back of the envelope.

77. Disposal of election papers

- (1) The returning officer shall then make up into separate packets, sealed with sealing wax impressed with his official seal, the—
- (a) appointments of presiding officers, polling officers and counting officers in the approved forms Nos. 8 and 9, the advices of appointments of candidates' election agents and messengers in the approved form No. 15, and the declarations of secrecy in the approved form No. 16, placed together in an envelope in the approved form No. 23, duly completed;
 - (b) completed approved form No. 40 "Declarations on oath made in terms of [section 55\(1\)](#)" and the declarations made under the Second Schedule, placed together in an envelope in the approved form No. 24, duly completed;
 - (c) sealed envelopes in the approved form No. 19 containing tendered ballot papers and tendered votes register placed together in another envelope of the appropriate colour in the approved form No. 19, duly completed;
 - (d) sealed envelopes in the approved form No. 25 containing the registers of votes marked by the presiding officers placed together in another envelope of the appropriate colour in the approved form No. 25, duly completed;
 - (c) sealed envelopes in the approved form No. 21 containing spoilt ballot papers, placed together in another envelope of the appropriate colour in the approved form No. 21, duly completed;
- [Please note: numbering as in original.]*
- (f) sealed envelopes in the approved form No. 26 containing ballot paper accounts placed together in another envelope of the appropriate colour in the approved form No. 26, duly completed;
 - (g) sealed envelopes in the approved form No. 27 containing counterfoils of used ballot papers, placed together in another envelope of the appropriate colour in the approved form No. 27, duly completed;
 - (h) sealed envelopes in the approved form No. 29 containing unused ballot papers, placed together in another envelope of the appropriate colour in the approved form No. 29, duly completed;
 - (i) counted ordinary ballot papers, with a label in the approved form No. 35, duly completed and affixed;
 - (j) rejected ordinary ballot papers placed together in an envelope in the approved form No. 36 duly completed;
 - (k) all nomination papers and withdrawal forms of candidates placed together in an envelope in the approved form No. 37 duly completed.
- (2) The returning officer shall make up into a packet sealed with sealing wax impressed with his official seal, the sealed envelope in the approved form No. 28 and affix thereto the label No. 38 in the approved form, duly completed.
- (3) The returning officer shall place the packets referred to in sub-sections (1) and (2) in a bag or box, seal it with sealing wax impressed with his official seal, and affix thereto the label No. 39 in the approved form, duly completed.

- (4) The returning officer shall deliver the sealed bag or box to the chief electoral officer who shall be responsible for the safe custody of all election documents and shall retain those documents for a period of one year from the date of the election after which they shall, unless the High Court directs otherwise, be destroyed.

78. Opening or inspection of election papers

- (1) The sealed bag or box referred to in [section 77\(3\)](#) or any packet therein shall not be opened, nor shall any person be allowed to inspect any election document, except under the order of the High Court for the production by the chief electoral officer of the document, on its being satisfied by evidence on oath that the inspection or production is required for the purpose of instituting or maintaining a prosecution for an offence under this Act or for the purpose of proceedings questioning an election or a return, and such an order may be made subject to such conditions as to person, time, place and mode of inspection or production as such court may deem expedient:

Provided that in making and carrying out such order, care shall be taken that it is not discovered for which candidate a particular voter has voted until he has been proved to have voted and his vote has been declared by a competent court to be invalid.

- (2) Where such an order has been made for the production by the chief electoral officer of any document or packet in his custody relating to a specified election—
 - (a) the production by him of such document or packet, in the manner directed by the order or in accordance with a rule of court, shall be conclusive evidence that the document or packet relates to the election;
 - (b) any entry appearing on a packet produced by him shall be evidence of the contents of the packet being what they are stated to be by the entry; and
 - (c) the production by him of a ballot paper, purporting to have been used at the election and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be *prima facie* evidence that the person who voted by such ballot paper was the person opposite whose name in the register of voters there appeared at the election the same number as that written on the counterfoil.
- (3) Any power given to the court by this section may be exercised by a judge thereof in chambers.

79. Disqualification as polling agent

No returning officer or other officer appointed under this Act or a partner or clerk of such officer shall be or act as a polling agent.

80. Disqualification as officer

No person shall be appointed to be or to act as an officer for the purposes of this Act in connexion with an election who has been employed by or on behalf of a candidate in or about the election.

81. Candidate's powers

- (1) A candidate may himself do any act or thing which an agent of his, if appointed, would have been authorized or required to do or may assist his agent in doing any such act or thing.
- (2) Where a candidate has no agent, any notice to be given shall be given to the candidate.

82. Non-attendance of agent

Where in this Act an act or thing is required or authorized to be done in the presence of an agent of a candidate the non-attendance of any agent at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

83. Secrecy of voting

No person shall, in any proceedings relating to an election, be required to disclose for whom he has voted.

84. Impartiality of election officers

The electoral officers, returning officers, presiding officers, polling officers and counting officers shall maintain the strictest impartiality in the discharge of their duties, and shall not, by anything in their speech or manner, give cause for imputing or suspecting the contrary.

85. Penalty for interference with election proceedings

A person who wilfully interrupts, obstructs, disturbs, or interferes with any proceedings relating to the conduct of a poll or the counting of votes shall be guilty of an offence and liable on conviction to a fine of one hundred rand or, in default of payment thereof, imprisonment for three months.

86. Penalty for infringement of secrecy

- (1) Every person authorized to be present in a polling station or at the counting of votes, shall maintain, and aid in maintaining, the secrecy of voting.
- (2) A person who—
 - (a) wilfully attempts to obtain or directly or indirectly aids in obtaining information as to the supporters of a candidate, the candidate for whom a voter intended to vote or has voted, or the number on the back of a ballot paper issued to a voter;
 - (b) directly or indirectly induces a voter to display his ballot paper after he has marked it, in such a manner as to disclose any candidate for whom the voter has voted;
 - (c) unlawfully places on a ballot paper, other than the ballot paper issued to him, a mark or writing whereby the person who records the vote thereon may be identified;
 - (d) except in reply to a question lawfully put to him in the course of proceedings in a competent court, discloses or communicates any information he may have obtained as to any candidate for whom a voter intended to vote, has voted or for whom a vote is given on any particular ballot paper or as to the number on the back of a ballot paper issued to a particular voter; or
 - (e) unlawfully breaks the seal or fastening of a box, envelope or packet referred to in [section 62](#);shall be guilty of an offence and liable on conviction to a fine of two hundred rand or imprisonment for six months, or both.

87. Offences relating to ballot papers and other documents

- (1) A person who—
 - (a) forges or fraudulently defaces or fraudulently destroys a nomination paper or delivers to the returning officer a nomination paper knowing the nomination paper to be forged;
 - (b) forges or counterfeits or fraudulently defaces or fraudulently destroys a ballot paper, or the official mark on a ballot paper;
 - (c) without due authority, supplies a ballot paper to any person;
 - (d) sells or offers to sell a ballot paper to any person or purchases or offers to purchase a ballot paper from any person;
 - (e) not being a person entitled under this Act to be in possession of a ballot paper which has been marked with the official mark in accordance with this Act, has such ballot paper in his possession;

- (f) puts into a ballot box anything other than the ballot paper which he is authorized by law to put in;
- (g) without due authority, takes a ballot paper out of the polling station or is found in possession of a ballot paper outside a polling station;
- (h) without due authority, destroys, takes, opens, or otherwise interferes with, a ballot box or packet or ballot papers in use or intended to be used for the purposes of an election;
- (i) without due authority, prints a ballot paper or what purports to be a ballot paper or is capable of being used as a ballot paper at an election; or
- (j) manufactures, constructs, imports, has in his possession, supplies or uses for the purposes of an election, or causes to be manufactured, constructed, imported, supplied or used for the purposes of an election, any appliance, device or mechanism by which a ballot paper may be extracted or manipulated after having been deposited in a ballot box during the polling at any election;

shall be guilty of an offence and liable on conviction to a fine of six hundred rand or, in default of payment thereof to imprisonment for two years, or both, and shall become disqualified for a period of seven years from the date of his conviction from being registered as a voter or from voting at an election under this Act or of being elected a member and, if at that date, he has been elected as a member, his election shall be void as from the date of the conviction.

- (2) A person who attempts to commit an offence specified in this section shall be liable to the punishment prescribed for that offence.
- (3) In the prosecution for an offence in relation to a nomination paper, ballot box, ballot paper or marking instrument at an election, the property in the nomination paper, ballot box, ballot paper or marking instrument, as well as the property in the counterfoil of a ballot paper, may be stated to be in the returning officer at that election.
- (4) A prosecution for an offence under this section shall not be instituted without the written consent of the Attorney-General:

Provided that a person charged with such offence may be arrested, or a warrant for his arrest may be issued and executed, and he may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the institution of a prosecution for the offence has not been obtained, but no further proceedings shall be taken unless that consent is obtained.

Part IV – Corrupt practices and other offences

88. Treating

- (1) A person who corruptly by himself or by any other person, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any food, drink, entertainment, lodging or provisions to or for a person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at the election, shall be guilty of the offence of treating.
- (2) A voter who corruptly accepts or takes any such food, drink, entertainment, lodging or provisions shall be guilty of the offence of treating.
- (3) Any person contravening sub-section (1) or (2) shall be liable on conviction to a fine of four hundred rand or to imprisonment for twelve months, or both.

89. Undue influence

- (1) A person shall be guilty of the offence of undue influence who, directly or indirectly, by himself or by any other person—
 - (a) makes use of or threatens to make use of any force, violence, or restraint upon or against a person;
 - (b) inflicts or threatens to inflict by himself or by any other person, or by any supernatural or non-natural means or pretended supernatural or non-natural means, any temporal or spiritual injury, damage, harm or loss upon or against any person; or
 - (c) does or threatens to do anything to the disadvantage of any person;
in order to induce or compel such person to—
 - (i) sign a nomination paper or refrain from signing a nomination paper;
 - (ii) vote or refrain from voting; or
 - (iii) refrain from claiming registration as a voter or from offering himself as a candidate for election;
or on account of such person having—
 - (iv) signed or refrained from signing a nomination paper;
 - (v) voted or refrained from voting at an election;
 - (vi) refrained from claiming registration as a voter; or
 - (vii) refrained from offering himself as a candidate.
- (2) A person shall also be guilty of the offence of undue influence who, by abduction, duress, or fraudulent device or contrivance impedes or prevents the free exercise of his vote by a voter or thereby compels, induces, or prevails upon a voter either to give or to refrain from giving his vote at an election.
- (3) Any person convicted of an offence under sub-section (1) or (2) shall be liable on conviction to a fine of six hundred rand or to imprisonment for two years, or both.

90. Bribery

- (1) A person shall be guilty of the offence of bribery who, directly or indirectly, by himself or by any other person on his behalf—
 - (a) gives, lends or agrees to give or lend, or offers, promises or promises to procure, any money or other valuable consideration to or for a voter, or to or for any other person, in order to induce a voter to vote or refrain from voting, or corruptly does such act on account of a voter having voted or refrained from voting at an election;
 - (b) gives or procures or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure any office, place, or employment to or for a voter or to or for any person on behalf of a voter, or to or for any other person, in order to induce the voter to vote or refrain from voting, or corruptly does such act on account of a voter having voted or refrained from voting at an election;
 - (c) makes any such gift, loan, offer, promise, procurement or agreement to or for a person in order to procure or endeavour to procure the return of any person as a member, or the vote of a voter at an election;

- (d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure, the return of any person as a member or the vote of a voter at an election;
 - (e) advances or pays or causes to be paid money to or to the use of any other person with the intent that such money or any part thereof shall be expended in bribery at an election or who knowingly pays money or causes it to be paid to any person in discharge or repayment of money wholly or in part expended in bribery at an election;
 - (f) before or during an election, receives, agrees or contracts for any money, gift, loan or other valuable consideration, office, place, or employment for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at an election;
 - (g) after an election, receives money or other valuable consideration on account of a person having voted or refrained from voting or having induced any other person to vote or refrain from voting at an election;
 - (h) on account of and as payment for voting or for having voted or for agreeing or having agreed to vote for a candidate at an election, or on account of and as payment for his having assisted or agreed to assist a candidate at an election, applies to that candidate or to his agent for the gift or loan of money or other valuable consideration or for any office, place or employment, or for the promise of any office, place or employment; or
 - (i) in order to induce any other person to agree to be nominated as a candidate or to refrain from becoming a candidate or to withdraw if he has become a candidate, gives or procures any office, place or employment or agrees to give or procure or offers or promises to procure or to endeavour to procure any office, place or employment to or for that other person, or gives or lends or agrees to give or lend, or offers or promises to procure or to endeavour to procure money or other valuable consideration to or for any person or to or for that other person, or to or for any person on behalf of that other person.
- (2) This section shall not be construed as applying to money paid, or agreed to be paid, for or on account of lawful expenses *bona fide* incurred at or in connexion with an election.
- (3) Any person who contravenes sub-section (1) shall be liable on conviction to a fine of six hundred rand or to imprisonment for two years, or both.

91. Personation

- (1) A person shall be guilty of the offence of personation who—
- (a) at an election, applies for a ballot paper in the name of any other person whether that name be that of a person living or dead, or of a fictitious person; or
 - (b) having voted once at an election, applies again at the same election for a ballot paper.
- (2) A police officer may arrest without warrant a person suspected of the offence of personation.
- (3) Any person who contravenes sub-section (1) shall be liable on conviction to a fine of six hundred rand or to imprisonment for two years, or both.

92. Penalties for corrupt and illegal practices

- (1) A person who—
- (a) is guilty of the offence of treating or undue influence or bribery, or the offence of personation or who aids, abets, counsels or procures the commission of the offence of personation; or
 - (b) makes or publishes, before or during an election, for the purpose of effecting the return of a candidate, a false statement of fact in relation to the personal character of any other

candidate at an election, or for the purpose of promoting or procuring the election of a candidate, a false statement of the withdrawal of any other candidate at an election,

shall also be guilty of a corrupt practice and liable on conviction in the cases mentioned in paragraph (a) to a fine of four hundred rand or to imprisonment for twelve months, or both, and in the cases mentioned in paragraph (b) to a fine of two hundred rand or to imprisonment for six months, or both.

- (2) A person who is convicted of a corrupt practice is thereby disqualified for a period of seven years from the date of his conviction from being registered as a voter or from voting at an election or from being elected a member and, if at that date he has been elected a member, his election shall be deemed void as from the date of the conviction.

- (3) A prosecution for a corrupt practice, other than one defined in sub-section (1)(b) shall not be instituted without the written consent of the Attorney-General:

Provided that a person charged with such offence may be arrested, or a warrant for his arrest may be issued and executed, and he may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken unless that consent is obtained.

- (4) A person who prints, publishes, distributes or posts up or causes to be printed, published, distributed or posted up any advertisement, handbill, placard or poster, which refers to an election and which does not bear upon its face the names and addresses of its printer and publisher, shall be guilty of an illegal practice and liable on conviction to a fine of one hundred rand or to imprisonment for six months, or both.

93. Meetings on premises where liquor usually sold

- (1) Any person who hires or uses premises or a part of premises where intoxicating liquor is sold or where it is supplied under a licence granted under the Liquor Licences Proclamation, No. 30 of 1964, as a committee room or for any meeting of voters for the purpose of promoting or procuring the election of a candidate at an election or in connexion with arrangements made by any person in reference to an election shall be guilty of an offence.
- (2) Any person who lets such premises or part thereof or permits the use thereof for any of the purposes mentioned in sub-section (1) knowing that it is, or is intended to be used for such purposes shall be guilty of an offence.
- (3) Any person contravening sub-section (1) or (2) shall be liable on conviction to a fine of two hundred rand or to imprisonment for six months, or both.

94. Penalty in respect of certain employment

- (1) No person shall engage or employ any person in any capacity whatsoever for payment or promise of payment for the purpose of promoting or procuring the election of himself or of a candidate at an election except—
- (a) not more than one election agent;
 - (b) not more than one polling agent and one messenger in respect of each polling station in the constituency; and
 - (c) a reasonable number of clerks, having regard to the size of the constituency and the number of voters for the constituency.
- (2) A person who contravenes sub-section (1) shall be guilty of an offence and liable on conviction to a fine of two hundred rand or to imprisonment for six months.

95. Penalty for employer not allowing employee reasonable period for voting

- (1) An employer shall allow every voter in his employ a reasonable period for voting on polling day, and no employer shall make a deduction from the pay or other remuneration of that voter or impose upon or extract from him a penalty by reason of his absence during that period.
- (2) An employer who directly or indirectly refuses to grant, or by intimidation, undue influence, or in any other manner interferes with the granting to a voter in his employ of a reasonable period for voting as provided for in this section, or who makes a deduction from the pay or other remuneration of such voter or extracts a penalty from him by reason of his absence during that period, shall be guilty of an offence and liable on conviction to a fine of two hundred rand or to imprisonment for six months, or both.

96. Prohibition of flags, speaking apparatus and sale of intoxicating liquor

- (1) No person shall in a polling division furnish or supply any person with speaking apparatus with intent that on polling day it will be carried or used in a polling division on any motor car, truck or other vehicle or in any other manner.
- (2) On polling day no person shall carry or use speaking apparatus on any motor car, truck, or other vehicle, or in any other manner.
- (3) Sub-sections (1) and (2) shall not apply to police officers or to such persons as the returning officer may authorize to use speaking apparatus for the orderly conduct of the election on polling day.
- (4) During the hours when a polling station is open on polling day, no person shall sell, supply or consume intoxicating liquor within a mile of the polling station.
- (5) No person shall, in connexion with any election on nomination day or polling day, use or display any flag:

Provided that nothing in this sub-section shall prevent any person from using the national flag of Swaziland on any such day with the written authorization of the Minister.
- (6) A person contravening this section shall be guilty of an offence and liable on conviction to a fine of one hundred rand or, in default of payment thereof, to imprisonment for three months.

Part V – General**97. Inaccurate description of person or place**

No misnomer or inaccurate description of a person or place named or described in a register of voters, notice or other document prepared or issued under or for the purposes of this Act, shall in any way affect the operation of this Act in relation to that person or place if such person or place is so designated in the register, notice or document as to be identifiable.

98. Defacement of notice

A person who without lawful authority destroys, mutilates, defaces or removes a notice which is exhibited under the authority of this Act, or a document which is made available for inspection in accordance with this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand or, in default of payment thereof, to imprisonment for six weeks.

99. Variation of period

- (1) Any period within which an act is required to be done under this Act may be varied by the chief electoral officer with the approval of the Minister by notice in the *Gazette*.

- (2) Such notice shall be published in the constituency which will be affected by the change in such manner as the chief electoral officer shall direct.

100. Approval of forms, and official seal (First Schedule)

- (1) The forms mentioned in the First Schedule shall be in a form approved by the chief electoral officer, used for the purposes indicated, and completed in accordance with the requirements of this Act, those forms and the instructions, if any, contained thereon.
- (2) The chief electoral officer may approve a mark or seal as an official seal.

101. Registration of symbols

- (1) The chief electoral officer shall keep a register of symbols for use at elections.
- (2) A political party may, not later than four o'clock in the afternoon of the third day after notification in the *Gazette* of the issue of a writ of election, apply through its leader or secretary for registration of a symbol to be used by it at such election and subsequent elections.
- (3) If the chief electoral officer is satisfied that—
 - (a) the symbol is of an inanimate object and does not depict the Swaziland Flag or Coat-of-Arms or any object depicted thereon or any weapon;
 - (b) no other symbol of the same design is registered;
 - (c) the symbol is distinctive from any symbol already registered; and
 - (d) the use of such symbol will not be offensive or otherwise objectionable,he shall register such symbol as the symbol of that party.

102. Amendment of Act [No. 16 of 1968](#)

The Parliament (Petitions) Act, [No. 16 of 1968](#), is hereby amended by replacing—

- (a) "paragraph (2) of regulation 79 of the Assembly Regulations" in section 7(2)(b) thereof by "section 92(3) of the Electoral Act, No. of 1971";
- (b) "the provisions of regulation 62 of the Assembly Regulations" in section 9(1) thereof by "section 73 of the Electoral Act, No. of 1971";
- (c) "regulation 74" in section 10(2)(a) thereof by "[section 87](#)";
- (d) "sub-paragraphs (a) and (b) of paragraph (1) of regulation 79" in section 10(2)(b) thereof by "[section 92\(1\)\(a\) and \(b\)](#)";
- (e) "the provisions of paragraph (1) of regulation 23 of the Assembly Regulations" in section 11(1) thereof by "section 47(1) of the Electoral Act, No. of 1971";
- (f) "sub-paragraph (b) of paragraph (2) of regulation 61 of the Assembly Regulations" in section 19(3)(a) thereof by "section 74(2)(b) of the Electoral Act, No. of 1971";
- (g) "Assembly Regulations" wherever else they appear therein (except in sections 2(1) and 27 thereof) by "Electoral Act, No. of 1971".

103. Repeal

The Electoral Provisions Regulations, 1966, published under [Legal Notice No. 56 of 1966](#), and the House of Assembly (Elections) Regulations, 1967, published under [Legal Notice No. 11 of 1967](#), are hereby repealed.

First Schedule

Under section No.	Forms and envelopes	Particulars
(4)	1	Certificate of registration of voter.
5(5) and 7(1)	2	Application for registration as a voter.
5(6) and 10(2)	3	Notification of rejection of application to register as a voter.
12(1)	4	Notification of change of voter's name or residence.
14(4)	5	Notification of removal of voter's name from register.
14(5)	6	Notification of transfer of voter's name to another register.
17(1)	7	Form of objection.
26(3) and 77(1)(a)	8	Appointment of presiding/polling officer.
26(3) and 77(1)(a)	9	Appointment of counting officer.
27(2)	10	Writ of election.
27(5)	11	Notice of election of member(s) of the House of Assembly.
28(4)	12	Nomination paper.
28(5)	13	Declaration on oath of person nominated as candidate for election.
38(1)	14	Ballot paper.

40(1)	15	Advice of appointment of candidates' agents and messengers.
42(1), 45, and 77(1)(a)	16	Declaration of secrecy.
42(1) and 50(1)	17	Directions for guidance of voters.
42(1), 59(4), 62(3) and 69(1)(f)	18	Tendered votes register.
42(1), 59(5), 62(4)(c), 69(1)(f) and 77(1)(c)	19	Envelope for tendered ballot papers and tendered votes list.
42(1), 60(3), 62(4)(d) and 76(c)	20	Register of voters whose ballot papers have been marked by presiding officer.
42(1), 61(2), 62(4)(e), 69(1)(f) and 77(1)(e)	21	Envelope for spoilt ballot papers.
42(1), 62(3), 62(4)(f), 69(1)(f) and 76(d)	22	Ballot paper account.
42(1), 62(4)(a), 76(a) and 77(1)(a)	23	Envelope for appointment of presiding and polling officers and declaration of secrecy.
42(1), 62(4)(b), 76(b) and 77(1)(b)	24	Envelope for declarations by voter, under form No. 40 and the Second Schedule.
42(1), 62(4)(d), 76(c) and 77(1)(d)	25	Envelope for register of voters whose ballot papers have been marked by presiding officer.
42(1), 62(4)(f), 69(1)(d), 76(d) and 77(1)(f)	26	Envelope for ballot paper account.
42(1), 62(4)(g), 69(1)(f) and 77(1)(g)	27	Envelope for counterfoils of used ballot papers.
42(1) and 62(4)(h)	28	Envelope for marked copies of register of voters under section No. 40 and the Second Schedule.

42(1), 62(4)(i), 69(1)(f) and 77(1)(h)	29	Envelope for unused ballot papers.
42(1), 43(2) and 62(4)(j)	30	Envelope for official marking instruments.
42(1) and 62(4)(k)	31	Envelope for unused forms and stationery and other election material.
42(1), 62(6), 65 and 69(1)(b) and (c)	32	Label for all election material, excluding ballot boxes and official seal.
42(1), 62(7), 65 and 69(1)(a)	33	Envelope for official seal.
68(c) and 74(2)	34	Declaration of result.
68(c) and 77(1)(i)	35	Label for counted ordinary ballot papers.
68(c) and 77(1)(j)	36	Envelope for rejected ordinary ballot papers.
68(c) and 77(1)(k)	37	Envelope for nomination papers and withdrawal forms of candidates.
68(c) and 77(2)	38	Label for marked registers of voters.
68(c) and 77(3)	39	Label for all election documents.
55(1), 62(4)(b), 76(b) and 77(1)(b)	40	Declarations on oath made in terms of section 55(1) .

The envelopes used by returning officers during the counting of votes shall be in a colour approved by the chief electoral officer. Subject to [section 5\(4\)](#) and all other forms, envelopes and labels shall be white:

Second Schedule (Sections 42(1)(e), 54(1) and (2), 57(1))

The Electoral Act, 1971

Constituency: _____

Polling Division: _____

Date of Poll: _____

Declaration by a person applying to vote – questions which shall be put

1. Are you the person whose name appears opposite
No _____ as _____ (Name) in the register of voters of this polling division?
Answer: _____
2. Have you already voted at this poll at this or any other polling station?
Answer: _____
3. Are you disqualified from voting on any of the grounds set out in section 52 of the Constitution?
Answer: _____

I solemnly declare that the provisions of section 52 of the Constitution have been explained to me and that my answers recorded above are true and correct.

Signature/Thumb Mark.

Witness to thumb mark: _____

The above declaration was made and signed before me at _____ this _____ day of _____ 19

Presiding Officer.