

PUBLIC ELECTIONS REGULATIONS, 1996

[C.I. 15]

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PUBLIC ELECTIONS REGULATIONS, 1996

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[(Article 51) (4th July, 1996)]

PART ONE

*General Provisions***1. Appointment of returning officer**

(1) For the purposes of holding a public election, the Electoral Commission shall appoint

- (a) a returning officer for each constituency in which the election is to be held; and
- (b) the assistant to the returning officer as determined by the Commission.

(2) A returning officer or the assistant shall discharge the duties of office under the general supervision of the district electoral officer of the Commission.

(3) A person appointed as a returning officer or assistant shall take an oath in the presence of a Justice or a judicial officer to faithfully and impartially discharge the duties of office and shall abide by the laws governing the conduct of elections.

2. Writ of election

(1) The writ shall be in the form determined by the Commission and shall specify

- (a) the period and place for the nomination of candidates; and
- (b) the day on which the poll is to be taken,
 - (i) which shall not be less than thirty days and not more than ninety days after the last day appointed for the nomination of candidates, in the case of a general election; and
 - (ii) which shall not be less than ten days and not more than fourteen days after the nomination of candidates, in the case of a by-election;

(3) As soon as a writ is issued, the Commission shall publish a notice in the *Gazette* stating that the writ has been issued and specifying the constituency to which it relates, the day and place for the nomination of candidates and the day on which the poll is to be taken.

3. Notice of election

(1) On receipt of a writ of an election, the returning officer shall publish notice of the election throughout the constituency in the manner directed by the Commission.

(2) A notice of an election under these regulations shall be in the form directed by the Commission and shall specify the day, the place and the time for the nomination of candidates and the day when the poll is to be taken.

4. Nomination of candidates for parliamentary election

(1) A candidate for election to Parliament shall be nominated by a separate nomination paper in the form determined by the Commission.

(2) The nomination paper shall be delivered in quadruplicate by the candidate personally or the person who proposes or seconds the nomination to the returning officer of the constituency for which the candidate seeks election on the day and at the place specified in the writ between the hours of nine in the morning and twelve noon and the hours of two and five in the afternoon.

(3) The nomination paper for each candidate in an election to Parliament shall be,

- (a) witnessed by the signature or mark of two registered voters as proposer and seconder and supported by eighteen other registered voters as assenting to the nomination; and
- (b) endorsed with the candidates' consent to the nomination.

- (4) A candidate shall not be nominated,
- (a) in the case of a general election to Parliament, for more than one constituency; or
 - (b) in the case of a by-election to Parliament, if the candidate is a member of Parliament.
- (5) A person shall not nominate more than one candidate for election to Parliament.

5. Nomination of candidates in presidential election

- (1) A candidate for election as President shall be nominated by a separate nomination paper in the form determined by the Commission.
- (2) The nomination paper for each candidate in an election for President
- (a) shall be signed by the candidate;
 - (b) shall be signed by not less than two registered voters resident in the area of authority of each District Assembly;
 - (c) shall designate a person to serve as Vice-President; and
 - (d) shall be delivered to the Commission on or before the day appointed as nomination day.
- (3) The nomination form shall be quadrupled and shall be delivered by the presidential candidate personally or the person who proposes or seconds the nomination between the hours of nine in the morning and twelve noon and the hours of two and five in the afternoon on or before the nomination day.
- (4) A person shall not nominate more than one candidate in a presidential election.
- (5) The chairman of the Commission shall be the returning officer for the purposes of the election of the President.

6. Statutory declaration and deposit by candidates

- (1) A candidate for President or Parliament shall, at the time of the nomination,
- (a) deliver or cause to be delivered to the returning officer a statutory declaration in the form determined by the Commission stating that the candidate is qualified to be and is not disqualified from being elected President or a member of Parliament;
 - (b) deposit or cause to be deposited a sum of money determined by the Commission; and
 - (c) deliver or cause to be delivered to the returning officer two post card size copies of the recent photograph of the candidate.
- (2) The statutory declaration shall be made before a Justice, a judicial officer, notary public, commissioner of oaths, or a person authorised by law to administer an oath who shall certify the statutory declaration.
- (3) The statutory declaration provided for under paragraph (a) of subregulation (1) shall also be made by a person designated as Vice-President for the election.

7. Nominated candidate

(1) When the nomination paper and the statutory declaration of a candidate are delivered and the deposit is paid in accordance with these regulations, the candidate stands nominated, unless proof is given to the satisfaction of the returning officer of the candidate's death, withdrawal or disqualification.

(2) The returning officer shall inform a candidate that the nomination is invalid where

- (a) the particulars of the candidate or the persons subscribing to the nomination paper are not as required by law; or
- (b) the nomination paper is not subscribed to as required by law,

and shall allow the candidate an opportunity to make an amendment or alteration that the candidate considers necessary.

(3) Where the returning officer decides that a nomination paper is invalid, after complying with subregulation (2), the returning officer shall endorse and sign on the nomination paper the fact and the reasons for the decision, and inform the Commission accordingly and the Commission shall refer the matter with its observations on it to the Attorney-General.

(4) This regulation does not prevent the validity of a nomination being questioned on an election petition.

(5) Before the close of nominations on the nomination day, the returning officer, the candidate, if present, or any of the persons who nominated the candidate and who are present shall sign a declaration to the effect that, at the close of nominations, the nomination of the candidate was presented and received by the returning officer, who shall state in the declaration the time at which each nomination was received and the time at which the returning officer accepted the nomination.

8. Withdrawal of nomination and exhibition of names of candidates

(1) Nomination of candidates shall be submitted and concluded by the close of the last day for nominations and a list of the nominated candidates as at the close of nomination day shall be prepared and signed by the returning officer.

(2) On the next day following the last day for nominations, the returning officer shall post at the constituency centre, and at the other places directed by the Commission, a notice providing the names of the candidates nominated and a list of the persons who have sponsored each candidate.

(3) Subject to subregulation (2) of regulation 11, a duly nominated candidate may withdraw at any time prior to the day before election day, but where a duly nominated candidate whose name appears on the nominated list exhibited under this regulation withdraws after the printing of the ballot papers and related election notices, the ballot papers and related notices may continue to include the name and any other particulars of that candidate.

(4) The deposit paid by that candidate shall not be refunded.

9. Absence of nomination

(1) Where at the expiration of the time allowed for the delivery of nomination papers a candidate is not nominated, the returning officer shall certify the fact by endorsing that on the writ and forwarding the writ to the Commission.

(2) Within thirty days after the receipt by the Commission of a writ endorsed as provided under subregulation (1) in respect of a constituency, a fresh writ shall be issued for an election in that constituency.

10. Unopposed candidate

Where at the expiration of the time allowed for the delivery of nomination papers and on the day before the election only one candidate is nominated, that candidate shall be declared elected.

11. Contested election and death of a candidate

(1) Where at the expiration of the time allowed for the delivery of nomination papers and on the day before the election two or more candidates are nominated, a poll shall be taken in the manner provided by these Regulations and in accordance with the existing applicable law.

(2) Where for the purpose of a public election two or more candidates are duly nominated at the close of the nominations but before the day of the election only one candidate stands nominated, a further period of ten days shall be allowed for the nomination of other candidates, and a person nominated within that period of ten days shall not withdraw that nomination.

(3) Where at the close of nominations and after the expiry of the further period of ten days under subregulation (2) only one candidate stands nominated, the election shall not be held and that candidate shall be declared elected.

(4) Where at the close of nominations, but before the election, one of the candidates dies, a further period of ten days shall be allowed for nominations, and where the death occurs at any time within twenty-five days before the election, the election in that constituency shall be postponed for not less than twenty-one days.

12. Allocation of symbols and colours

(1) Where an election is contested, the Commission shall, as soon as practicable after the nomination day,

- (a) allocate to each candidate the party's symbol, in the case of a candidate sponsored by a registered political party; or
- (b) allocate to a candidate who is not sponsored by a political party a symbol or colour chosen by the candidate; or
- (c) in any other case, allocate the symbols or colours that the Commission considers appropriate.

(2) A symbol or colour shall be chosen or assigned for the purposes of this regulation from among symbols and colours approved by the Commission for the purposes of election.

(3) A person shall not be allocated a symbol which is connected with or is attached to the name, status or dignity of a chief or a symbol or a colour which is connected with a religious or racial association within the meaning of the Avoidance of Discrimination Act, 1957 (No. 38).

13. Notice of poll

(1) Where an election is to be held, the Commission shall, as soon as practicable after the allocation of symbols or colours, publish a notice of the election in the *Gazette* and in the places in a constituency that it may direct.

(2) The notice shall,

- (a) state the day on which and the time at which the poll is to be taken; and
- (b) contain the full names and photographs or symbols or colours of the candidates nominated for the election.

14. Adjournment of poll

(1) The Commission may, at any time between the issue of a writ and the day specified in the writ as polling day, by notice in the *Gazette* adjourn the taking of the poll to a day not more than thirty days after the day specified earlier.

(2) Where a notice in the *Gazette* is issued under subregulation (1), the writ for the constituency to which the notice relates shall be considered as amended by the substitution of the day to which the taking of the poll is adjourned for the day specified in the writ as polling day.

15. Death of a candidate

(1) Where before an election is held proof of the death of a candidate is given to the returning officer before the poll is commenced, the returning officer shall inform the Commission and the proceedings in relation to the election shall, subject to subregulation (2), be started afresh.

(2) Where proceedings are started afresh, the Commission shall appoint

- (a) a fresh nomination day, which shall not be less than fourteen days and not more than twenty-one days after the day on which proof of the candidate's death was given to the returning officer; and
- (b) a fresh polling day, which shall not be more than fourteen days after the nomination day appointed under paragraph (a) of this subregulation.

16. Provision of polling stations

(1) For the purposes of taking the poll the existing polling stations specified by the Commission shall be used as polling stations.

(2) The Commission may direct a returning officer to establish additional polling stations for a polling division.

(3) A convenient building, except a dwelling-house or a building or class of buildings exempted by the Commission, may be established by the returning officer as a polling station and used without charge for that purpose.

(4) The Government shall repair out of public funds the damage done to a building as a result of its being used as a polling station.

(5) Where two or more polling stations are established for a polling division, the returning officer shall,

- (a) assign to each of the stations that number of the voters registered in the division which the Commission considers appropriate; and
- (b) give notice in the polling division, in the manner directed by the Commission, of the polling stations to which the voters registered in the division have been assigned.

17. Presiding officers and polling assistants

(1) The Commission shall appoint a presiding officer to preside at each polling station and the number of polling assistants that it considers necessary to assist the presiding officer.

(2) A polling assistant may act as the presiding officer of a polling station during the absence or incapacity of the presiding officer.

(3) A person appointed as a presiding officer or polling assistant shall swear, before a member or senior officer of the Commission, on penalty of perjury, to abide by the laws governing the conduct of elections and to faithfully carry out the duties of a presiding officer or polling assistant in a fair and an impartial manner.

18. Equipment for polling stations

(1) The returning officer shall provide each presiding officer with the number of ballot boxes and ballot papers that the Commission may direct.

(2) A ballot box shall be so constructed that a ballot paper can be put into it by the person voting but cannot be withdrawn by the voter.

(3) The returning officer shall provide each polling station with

- (a) the materials for voting;
- (b) the instruments for perforating or stamping the ballot papers with the official mark;
- (c) the instruments for marking the means of identification of the voter in accordance with subregulations (1) and (2) of regulation 31; and
- (d) a copy of the divisional register, the transferred voters list, the proxy voters list, the election officers list and the absent voters list relating to the polling station.

(4) A notice giving directions for the guidance of the voters in the voting shall be exhibited in each polling division in as many languages as the Commission may direct for the benefit of the voters.

19. Polling agents

(1) A candidate may appoint one polling agent to attend at each polling station in the constituency for which the candidate is seeking election or, in the case of a candidate for

President, at every polling station nationwide, for the purpose of detecting impersonation and multiple voting and certifying that the poll was conducted in accordance with the laws governing the conduct of elections.

(2) A candidate shall submit in duplicate to the returning officer in charge of the constituency in which the candidate seeks election letters of appointment stating the name and address of each polling agent and the polling station to which each is to be assigned.

(3) On a date set by the returning officer, the polling agent shall appear before the returning officer to be sworn, on penalty of perjury, to abide by the laws governing the conduct of elections.

(4) On the taking of the oath by the polling agent, the returning officer shall sign the original and the duplicate copies of the appointment letter and issue to the polling agent the duplicate copy which shall be presented to the presiding officer of the polling station to which the agent is assigned on the day of the poll.

(5) Where a polling agent dies or becomes incapacitated from acting, the candidate who appointed that polling agent may, in accordance with subregulations (2) and (3), appoint another polling agent.

20. Transferred voters list

(1) A registered voter who at any time before a general election is resident for not less than two months in a constituency other than that in which the voter is registered, may apply to the returning officer of the constituency where the registered voter is resident for the voter's name to be entered on the transferred voters list of the constituency.

(2) An application under subregulation (1) shall be made

- (a) not less than twenty-one days before the last day of nomination to the constituency where the applicant is resident, where the application relates to a nomination; or
- (b) not less than twenty-one days before election day to the constituency where the applicant is resident, where the application relates to voting.

(3) A returning officer to whom an application is made under this regulation shall enter the applicant's name in the transferred voters list for the assigned polling station in the constituency if the returning officer is satisfied that the applicant has met the residency requirements established in subregulation (1) and is registered in another constituency.

(4) On entering the name of a person on the transferred voters list, the returning officer shall

- (a) assign that person to a polling station in the constituency; and
- (b) send a copy of the entry to the returning officer of the constituency where the person whose name has been entered is registered.

(5) A person whose name is entered on the transferred voters list is entitled to vote in the election at the polling station to which that person is assigned as if it were the polling station where that person is registered, and regulation 31 shall have effect accordingly.

21. Special voters list

(1) A voter who, because of duties on polling day, will be unable to be present at the polling station where the voter is registered, may apply to the returning officer of the constituency in which the voter is registered to be entered as a special voter.

(2) An application under subregulation (1) shall be made not later than seven days before the polling day in the constituency of the applicant and, except in the case of an applicant who is a returning officer, shall be accompanied by a certificate from the applicant's superior stating

- (a) that the applicant is registered at a polling station in the constituency of the returning officer to whom the application is made; and
- (b) that the duties of the applicant will prevent the applicant from being present on polling day at the polling station where the applicant is registered.

(3) A returning officer to whom an application is made under subregulation (2) shall, where the applicant is a person whose duties are related to the elections, ascertain from the applicant where the applicant will be working on election day and

- (a) if the applicant will be working in the same constituency where the applicant is registered but at a polling station other than where the applicant is registered,
 - (i) enter the name and voter identification number of the applicant on the election officers list for the polling station;
 - (ii) issue the applicant a certificate that entitles the applicant to vote on election day in the polling station at which the applicant is working; and
 - (iii) enter the name and voter identification number of the applicant on the absent voters list of the polling station in which the applicant is registered;
- (b) if the applicant will be working in a constituency other than where the applicant is registered,
 - (i) issue the applicant with a certificate that entitles the applicant to vote on a day set aside for special voters;
 - (ii) enter the name and voter identification number of the applicant on the special voters list;
 - (iii) enter the name and identification number of the applicant on the absent voters list of the polling station in which the applicant is registered; and
 - (iv) inform the applicant of the date and time set aside for special voting.

(4) Where an application is made to a returning officer under subregulation (1), and the applicant is a person other than an election officer, the returning officer shall,

- (a) enter the name and voter identification number of the applicant on the special voters list for the constituency;

- (b) enter the name and voter identification number of the applicant on the absent voters list of the polling station at which the applicant is registered; and
- (c) inform the applicant of the date and time set aside for special voting.

(5) A person whose name is entered on the special voters list is entitled to vote at a polling station specified by the Commission and on a day which is not more than seven days before the polling day appointed by the returning officer and advertised in the manner directed by the Commission.

(6) A person who is entitled to vote as a special voter shall not be entitled to vote otherwise at the election.

(7) A person shall not vote at a polling station as a special voter unless that person's name is on the special voters list for that polling station.

(8) Subject to subregulation (9), voting at a polling station for special voters shall be conducted in the same manner as voting on polling day.

(9) The returning officer shall, in relation to special voting,

- (a) cause the ballot boxes to be kept in safe custody after the poll has closed and the boxes have been sealed; and
- (b) arrange for the ballot boxes to be opened at the time of the counting of the votes cast on the polling day and the ballot papers shall be counted in the same manner as those contained in the ballot boxes used on polling day.

22. Absent voters list

(1) A returning officer shall, before polling day, prepare for the returning officer's constituency, and for each polling station in the constituency,

- (a) an absent voters list containing the names of the persons registered in the station whose names have been entered on the transferred voters list for another constituency;
- (b) the election officers list; and
- (c) the special voters list.

(2) A person whose name is entered on the absent voters list for a polling station shall not be entitled to vote at that station and regulation 31 shall have effect accordingly.

23. Voting by proxy

(1) A registered voter who, because of ill-health or absence from the constituency, will be unable to personally vote on polling day may, not less than fourteen days before the poll in the constituency where that voter is registered, apply to the returning officer of the constituency where that voter is registered, or to a representative of the Commission for that voter's name to be entered on the proxy list.

(2) The applicant shall complete a proxy form in the manner directed by the Commission.

(3) The application form shall be endorsed by the returning officer of the constituency of the applicant or the representative of the Commission to whom the application was made and distributed as regards

- (a) the original, to the returning officer of the constituency where the applicant wishes the proxy to vote;
- (b) the duplicate copy, to the Commission;
- (c) the triplicate copy, to the person appointed as proxy; and
- (d) the quadruplicate copy to the applicant.

(4) The returning officer or the representative of the Commission to whom the application is made shall, if satisfied that the proxy is qualified to be registered as a voter and that the applicant is a registered voter, enter the names and the particulars of the applicant and of the proxy on the proxy list, and,

- (a) assign the proxy to a polling station in the constituency;
- (b) indicate on the proxy list the polling station to which the proxy is assigned; and
- (c) forward a copy of the list to the presiding officer of the polling station to which the proxy is assigned.

(5) A person appointed as a proxy may vote in the elections at the polling station where that proxy is assigned to vote and the voting procedure under these Regulations shall have effect accordingly.

(6) A person is not entitled to have more than one proxy at a time to vote at the election.

(7) A person whose application to vote by proxy is accepted and endorsed by the returning officer of the constituency, or the Commission, shall not vote at the election in respect of which the application was granted.

(8) The appointment of a proxy shall be cancelled by the returning officer or the Commission where an application is made for cancellation by the person who made the application for the appointment of the proxy.

(9) An application for the cancellation of a proxy shall be made not less than seven days before the election to which the application relates and shall be made in the form determined by the Commission.

(10) A proxy whose appointment is cancelled shall cease to have the right to vote for the applicant whether or not the proxy is aware of the cancellation.

PART TWO

The Poll

24. Number of votes and place of voting

- (1) A voter shall not cast more than one vote when a poll is taken.

(2) Subject to the provisions relating to transferred voters list, special voters list, election officers list, and absent voters list under regulations 20, 21 and 22 respectively, a voter shall vote only at the polling station allotted to the voter.

25. Poll to be taken by ballot

(1) The votes at the poll shall be given by ballot and the result shall be ascertained by counting the votes cast for each candidate.

(2) The candidate who receives the most valid votes cast shall be declared elected in the case of a parliamentary election.

26. Ballot papers

(1) The ballot of a voter shall consist of a ballot paper.

(2) A ballot paper shall,

- (a) contain the names and photographs or symbols or colours of the candidates contesting the election in the constituency;
- (b) be capable of being folded up;
- (c) have a number printed on it; and
- (d) have attached to it a counterfoil with the same number printed on it.

(3) Despite subregulation (2), a ballot paper is not void because it does not bear a number if it is certified by the Commission that it is a ballot paper issued by the Commission.

27. Polling hours and admission to polling station

(1) The poll shall be taken between the hours of seven in the morning and five in the afternoon.

(2) The presiding officer shall regulate the number of voters to be admitted to the polling station at each time, and shall exclude any other persons except

- (a) the candidates, their spouses and their polling or counting agent;
- (b) the election officers;
- (c) the security officers on duty;
- (d) persons authorised by the Commission; and
- (e) persons accompanying voters who are blind or otherwise physically incapacitated.

28. Order at polling station

(1) The presiding officer shall keep order at the polling station.

(2) A person whose behaviour constitutes a misconduct in a polling station or who fails to obey the lawful orders of the presiding officer, may by order of the presiding officer, be removed immediately from the polling station by a security officer, and a person so removed shall not, without the permission of the presiding officer, again enter the polling station on the polling day.

(3) A person removed under subregulation (2) may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody for an offence without a warrant by a police officer.

(4) The powers conferred by this regulation shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having the opportunity of voting at that station.

29. Sealing of ballot boxes

(1) Immediately before the commencement of the poll, the presiding officer shall show the empty ballot boxes to the persons present in the polling station so that they can see that the ballot boxes are empty, and shall then

- (a) close the ballot boxes and place the seal on them in the manner that will prevent their being opened without breaking the seal; and
- (b) place them in view of the public for the receipt of ballot papers.

(2) Polling agents of candidates may affix their seals on the ballot boxes after the Commission's seals have been affixed.

30. Identification of voters

(1) A presiding officer may, before delivering a ballot paper to a person applying to vote at the election, require that person

- (a) to produce the voter identification card or to furnish any other evidence determined by the Commission to establish that the person applying to vote is the registered voter whose name and voter identification number and particulars appear in the register; and
- (b) to make a declaration in the prescribed form that the person applying to vote has not already voted anywhere else at the election.

31. Voting procedure

(1) A voter desiring to vote shall do so at the allotted polling station and the presiding officer or a polling assistant, after being satisfied that the voter is registered and has not already voted, and that any other means of identification determined by the Commission in the possession of the voter is valid, shall deliver the ballot paper to the voter.

(2) Immediately before the ballot paper is delivered,

- (a) the ballot paper shall be perforated or stamped with an official mark of the Commission;
- (b) a mark shall be placed in the copy of the register against the number of the voter to indicate that the ballot paper has been received; and
- (c) a mark, which shall, as far as possible, be permanent shall be made on the voter.

(3) The voter on receiving the ballot paper shall immediately proceed to one of the places set aside in the polling station for the marking of the ballot paper, and shall secretly make on the ballot paper an imprint of that voter's thumb in the box and column

provided for that purpose directly against the name and symbol of the candidate for whom the voter wishes to vote.

(4) The voter shall then fold up the ballot paper and in the presence of the presiding officer and the polling agents and in full view of the general public cast the vote by putting the folded ballot paper into the ballot box.

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

(6) This regulation shall apply subject to the regulations relating to the transferred voters list, the special voters list, the election officers list and the absent voters list.

32. Assistance in voting

(1) The presiding officer, on the application of a voter who is incapacitated because of blindness or any other physical cause from voting in the manner directed in these Regulations, shall permit the voter to be assisted by a person of the voter's own choice.

(2) On acceding to the request of a voter under subregulation (1), the presiding officer shall record in the register opposite the name of the voter the fact that the voter was assisted and the reason for the assistance.

33. Tendered ballot papers

(1) Where a person who claims to be a particular voter named in the register applies for a ballot paper after another person has voted as that person, the applicant is entitled to vote, on making a declaration in the prescribed form, and subject to this regulation, using a tendered ballot paper.

(2) A tendered ballot paper shall,

(a) be of a different colour from the ballot paper; and

(b) instead of being put into the ballot box,

(i) be given to the presiding officer and endorsed by the presiding officer with the name and number of the voter in the register; and

(ii) be set aside by the presiding officer in a separate packet.

(3) The name of a person voting under this regulation and the number in the register of that person shall be entered by the presiding officer on the tendered ballot papers list.

34. Spoilt ballot papers

A voter who has inadvertently dealt with the ballot paper in a manner that the ballot paper cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to the satisfaction of the presiding officer the fact of the inadvertence, obtain another ballot paper in place of the ballot paper delivered, and the spoilt ballot paper shall be immediately cancelled and the counterfoil marked accordingly.

35. Adjournment of poll by presiding officer

(1) Where the proceedings at a polling station are interrupted or obstructed by riot, open violence, storm, flood, or any other natural catastrophe, the presiding officer shall

adjourn the proceedings to the following day and shall immediately file notice to the returning officer.

(2) Where the returning officer is satisfied that, because of an interruption or obstruction of the kind mentioned in subregulation (1), it is or will be impossible or impracticable for proceedings which have been adjourned to be continued on the day to which they have been adjourned, the presiding officer may, with the concurrence of the Commission, further adjourn the proceedings for not more than seven days.

(3) Where the poll is adjourned under this regulation, the hours of polling on the day to which it is adjourned shall be the same as on the original polling day.

PART THREE

After the Poll

36. Counting of votes

(1) Each candidate may appoint one counting agent to attend at the counting of votes at each polling station in the constituency for which the candidate is seeking election or, in the case of a candidate for President, in every polling station nationwide.

(2) Each candidate shall submit in duplicate to the returning officer in charge of the polling station to which the candidate intends to assign the counting agent, a letter of appointment stating the name and address of the counting agent and the polling station to which that agent is to be assigned.

(3) On a date set by the returning officer, the counting agent shall appear before the returning officer to be sworn by the returning officer, on penalty of perjury, that the agent,

(a) shall abide by the laws governing the conduct of elections; and

(b) shall sign the declaration of results following the count of the ballots, or state in writing to the presiding officer the reason for failing to sign the declaration.

(4) On the taking of the oath by the counting agent, the returning officer shall sign both the original and duplicate copies of the appointment letter and issue to the counting agent the duplicate copy.

(5) Unless otherwise directed by the candidate, the polling agent appointed by a candidate shall act as a counting agent at the counting of the votes at the assigned polling station.

(6) The returning officer shall make arrangements for counting the votes at each polling station in the constituency in the presence of the counting agents as soon as practicable after the close of the poll, and shall take the steps that the returning officer considers reasonable to give the counting agents notice of the time at which the counting of the votes will commence.

37. Result of election

(1) Immediately after the close of the poll, the presiding officer shall, in the presence of the candidates or their representatives and counting agents

- (a) open each ballot box, take out all the ballot papers in the box;
- (b) proceed to count the ballot papers at the polling station; and
- (c) record the total number of votes cast in favour of each candidate.

(2) The presiding officer, the candidates, their representatives or their counting agents shall then sign a declaration stating

- (a) the name of the polling station;
- (b) the total number of persons entitled to vote at that polling station; and
- (c) the number of votes cast in favour of each candidate,

and the presiding officer shall there and then announce the results of the voting at that polling station before declaring the results to the returning officer and shall provide each candidate, representative or counting agent with a copy of the declaration of the results.

(3) A candidate or counting agent may, if present when the counting of the votes is completed, require the presiding officer to have the votes recounted or again recounted, but the presiding officer may refuse to perform the second recount if, in the opinion of the presiding officer the request is unreasonable, and report the request to the returning officer who shall recount the ballots for that polling station only at the constituency centre.

(4) As soon as practicable after the announcement of the results of the voting at the polling station, the presiding officer,

- (a) shall, in the presence of the candidates and their counting agents who are present, make up into separate packets sealed with the seal of the presiding officer and the seals of the counting agents who desire to affix their seals,
 - (i) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers;
 - (ii) the unused and spoilt ballot papers placed together;
 - (iii) the tendered ballot papers, the tendered list and any declarations made under subregulation (1) of regulation 33 and of subregulation (2) of regulation 37;
 - (iv) the marked copies of the register and the counterfoils of the used ballot papers; and
- (b) shall deliver the packets and the ballot boxes to the returning officer.

(5) The packets mentioned in subregulation (4) shall be accompanied by a statement made by the presiding officer showing the number of ballot papers entrusted to the presiding officer and accounting for them under the heads of ballot papers in the ballot box and unused, spoilt, and tendered ballot papers.

38. Rejected ballot papers

(1) A ballot paper is void and, subject to subregulation (2), shall not be counted, if the ballot paper

- (a) does not bear the official mark of the Commission;
- (b) is not marked by the voter so as to clearly identify the candidate for whom the vote was cast;
- (c) is not marked at all; or
- (d) has on it writing or a mark by which the voter could easily be identified.

(2) Before rejecting a ballot paper as void, the presiding officer shall, taking the proper precautions to prevent any other person from seeing the number printed on it, show the paper to each candidate or the counting agent, if present, and give the candidate or counting agent an opportunity to express an opinion on the matter.

(3) The presiding officer shall endorse the word "rejected" on a ballot paper which, under this regulation, is not to be counted and shall add to the endorsement the words "rejection objected to" if an objection is made by a candidate or counting agent to the endorsement.

(4) The presiding officer shall draw up a statement showing the number of ballot papers rejected under the several heads of

- (a) want of an official mark;
- (b) voting for more than one candidate;
- (c) writing or mark by which a voter could easily be identified;
- (d) unmarked; and
- (e) choice of voter could not be ascertained

(5) A candidate or counting agent may copy the statement drawn up under subregulation (4).

39. Decision on ballot papers

The decision of the returning officer on a question arising in respect of a ballot paper is subject to adjudication or review on an election petition to the High Court.

40. Equality of votes in parliamentary election

(1) Where after the completion of the counting of the votes including a recount in a parliamentary election, an equality of votes is found to exist between the candidates and the addition of a vote would entitle any one of those candidates to be declared elected, the returning officer shall certify that fact by endorsing the writ and forwarding the writ so endorsed to the Commission.

(2) Within thirty days after receipt by the Commission of a writ endorsed in the manner provided by subregulation (1) in respect of a constituency, a second election shall be held.

(3) The candidates for election under subregulation (2) shall be the candidates who obtained the equality of votes at the previous election and the candidate who obtains the most valid votes shall be declared elected.

41. Declaration and publication of contested election results

(1) Subject to regulation 40, immediately after the results of the poll for all the stations in the constituency have been given, the returning officer shall, in the presence of the candidates or their representatives or not more than two counting agents appointed by each candidate,

- (a) assemble the results from the polling stations without recounting the ballots in the ballot boxes, except where there is a challenge by a candidate or counting agent in respect of a specific ballot box;
- (b) give public notice of the total number of votes cast for each candidate;
- (c) publicly declare to be elected in a parliamentary election the candidate in respect of whom most votes have been cast;
- (d) endorse on the writ the name of the person elected; and
- (e) forward to the Commission the endorsed writ and a note of the total number of votes cast for each candidate.

(2) On receipt of a writ endorsed in accordance with this regulation, the Commission shall,

- (a) in a parliamentary election, publish in the *Gazette* a notice stating the name of the person elected and the total number of votes cast for each candidate; and
- (b) inform the Clerk to Parliament soon after that of the name of the candidate elected.

42. Special provisions relating to presidential election

(1) In a presidential election, the candidate who receives more than fifty percent of the valid votes cast shall be declared elected as President.

(2) Where at a presidential election there are more than two candidates and none of the candidates obtains the percentage of votes specified in subregulation (1), a second election shall be held within twenty-one days after the previous election.

(3) The candidates for a presidential election held under subregulation (2) shall be the two candidates who obtained the two highest number of votes at the previous election.

(4) Where at a presidential election three or more candidates obtain the two highest number of votes they shall, subject to any withdrawals, be the candidates in the subsequent election and the same process shall be continued until a President is elected.

(5) A presidential candidate under subregulation (3) or (4) may, by writing under the hand of the candidate, withdraw the candidature at any time before the election.

(6) If after a second presidential election held under subregulation (2) the two candidates obtained an equality of votes, despite a withdrawal, an election shall be held within

twenty-one days after the election, at which the two candidates shall be the only candidates and the same process shall, subject to a withdrawal, be continued until a President is elected.

(7) An instrument which

- (a) is signed personally by the chairman of the Commission and under the seal of the Commission; and
- (b) states that the person named in the instrument was declared elected as the President of the Republic of Ghana at the election,

is prima facie evidence that the person named was elected.

PART FOUR

Miscellaneous Provisions

43. Disposal of deposit

(1) Subject to this regulation and regulation 8 (4), the deposit made under regulation 6 (1) (b) shall, as soon as practicable after the result of the election is declared, be returned to the person making it or to the personal representative of that person or be forfeited to the State.

(2) Where a candidate is not shown as standing nominated in the notice mentioned in regulation 13, or if the poll is made inapplicable by reason of the death of that candidate, the deposit shall be returned as soon as practicable after the publication of the notice or after the death, to the person making it or to the personal representative of the candidate.

(3) Where a poll is taken and after the completion of the counting of the votes, including a recount, the number of votes cast in favour of a candidate is not

- (a) in a parliamentary election, more than twelve and a half percent of the total valid votes cast within the constituency; or
- (b) in a presidential election, more than twenty-five percent of the total valid votes cast in the election,

the deposit shall be forfeited and paid into the Consolidated Fund.

44. Disposal of documents

(1) On the completion of the counting at an election, the returning officer shall seal up in separate packets the counted and rejected ballot papers in respect of each candidate and shall then forward to the Commission

- (a) the sealed packets of counted and rejected ballot papers;
- (b) the ballot papers account and the statement of rejected ballot papers;
- (c) the tendered voters list and the declarations made under subregulation (1) of regulation 33 and subregulation (2) of regulation 37;
- (d) the packets of ballot paper counterfoils; and

(e) the packets containing marked copies of the register, and endorse on each packet a description of its contents, the date of the election to which they relate and the name of the constituency for which the election was held and prepare a statement in respect of the documents which may be copied by a candidate or a counting agent.

(2) Subject to these Regulations, the Commission shall retain for a year the documents forwarded to it under this regulation and shall then, unless otherwise directed by a court, cause them to be destroyed.

(3) Documents relating to an election in respect of which legal proceedings have been started shall not be destroyed until the proceedings have been finally disposed of.

(4) A Court trying an offence relating to an election or the High Court hearing an election petition may make an order that a document retained by the Commission under this regulation shall be inspected, copied or produced at a time and place and subject to the conditions specified by the Court.

(5) An order shall not be made under subregulation (4) unless the Court is satisfied that the inspection, copying or production is required for the purposes of instituting, maintaining, defending, or otherwise for the purpose of prosecuting an election petition in respect of the election to which the document relates.

(6) Except as otherwise provided in subregulation (4), a person may not inspect or copy a document retained by the Commission under this regulation.

45. Absence of candidate or agent

Where in these Regulations expressions are used requiring, authorising, or implying that an act or a thing is to be done in the presence of the candidates or their polling agents, or counting agents, those expressions shall be regarded as references to the presence of the candidates or agents who are authorised to attend and have in fact attended at the time and place where the act or thing is being done, and the non-attendance of an candidate or an agent at that time and place shall not, if an act or a thing is otherwise done, invalidate that act or thing.

46. Public notice in the *Gazette*

Where a matter is required by these Regulations to be published in the *Gazette*, it may, in lieu of or in addition to the publication in the *Gazette*, be published through radio, television, the national newspapers or any other medium of mass communication.

47. Application of Regulations

These Regulations shall apply to presidential and parliamentary elections and, with the necessary modifications, to any other public elections as the Commission may, by constitutional instrument, prescribe.

48. Interpretation

(1) In these Regulations, unless the context otherwise requires,

“absent voters list” means the absent voters list prepared under regulation 22;

“allotted station” means, in relation to the voter, the polling station of the polling division in which the voter is registered or, in the case of a polling division for which two or more stations have been established, the station to which the voter is assigned;

“close of the poll” means the close of the poll in all polling divisions of the constituency including a polling division where the poll has been adjourned;

“Commission” means the Electoral Commission;

“Court” means a court of competent jurisdiction;

“election officer” means a member of the office of the Commission or any other person authorised by the Commission to be present at a polling station in an official capacity;

“judicial officer” means a District Magistrate, the Judicial Secretary or the Registrar of a superior court of record;

“oath” includes an affirmation;

“polling division” means a constituency or an electoral area;

“special voter” means a person registered as a voter who is,

- (a) a security officer;
- (b) an election officer; or
- (c) certified as a special voter by the Commission;

“special voters list” means the special voters list provided for under regulation 21;

“spoilt ballot paper” means a ballot paper inadvertently dealt with in a manner that the ballot paper cannot be conveniently used as a ballot paper;

“superior officer” means a person designated as superior officer, by the Commission and, in relation to,

- (a) a member of the Police Service, a police officer of that service not below the rank of superintendent;
- (b) a member of the Armed Forces, the adjutant of the battalion or an officer holding a comparable appointment;
- (c) an election officer, who is not a returning officer, the returning officer of the constituency in which the election officer will be on duty;

“tendered ballot paper” means a ballot paper marked in accordance with regulation 33;

“transferred voters list” means the transferred voters list provided for under regulation 20;

“voter” means a person whose name appears at the time of a candidate’s nomination, in the divisional register of one of the polling divisions of the constituency for which the candidate seeks election.

(2) A reference in these Regulations to a contested election or to an election being contested shall be construed as a reference to an election in which a poll is taken.

49. Revocation

Omitted.²

[Date of *Gazette* notification: *5th July, 1996*]

2. The regulation revoked the Public Elections (Parliament) Regulations, 1992 (L.I. 1537) and the Public Elections (Parliament) (Amendment) Regulations, 1992 (L.I. 1544).