



CANDIDATES AND AGENTS HANDBOOK



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THE CONSTITUTION AND ELECTION LAW

The Statutory instrument covering the General Election is contained in The Virgin Islands Constitution Order, 2007 and The Virgin Islands Elections Act, 1994 and Amendments.

A Candidate is a person qualified for elected membership of the House of Assembly in accordance with the provisions of the Virgin Islands Constitution Order, 2007 and nominated under The Virgin Islands Elections Act, 1994 and Amendments.

Part V of the Elections Act, 1994 and Amendments deal with Election offences, illegal practices, penalties and secrecy of voting. Again, all persons involved in Elections should be familiar with these provisions so that they neither unwittingly nor unknowingly commit an offence.

Candidates and their agents are encouraged to familiarize themselves with the provision of the Virgin Islands Constitution Order, 2007 and the Elections Act, 1994 and Amendments and to secure legal advice on doubtful issues.

RETURNING OFFICERS

Returning Officers, appointed by the Governor on the recommendations of the Supervisor of Elections, are responsible for the organization and conduct of Elections in their respective districts. Their duties include:

1. Receipt of Writs for holding of Nomination and Polling days
2. The receipt of candidates nomination papers on Nomination Day
3. Preparation of Polling Stations
4. Holding of Elections in accordance with Writ
5. Declaration of the result of each Election

The names of the Returning Officers are available from the Elections Office.

WRITS FOR ELECTION

A Writ for an election is the document issued by the Governor of the Virgin Islands, instructing the Returning Officers to conduct an election, (Sect. 24)

The Writs signal the commencement of the “Election Period” which expires when the elections returns are served on the Supervisor of Elections on the day after elections.

The Governor’s Writs are issued for General Elections, which follow the dissolution of the House of Assembly. Writs are also issued in the case of a By-Election in an Electoral District or Territorial District.

The Writ set out:

- the date and time of nominations
- the date for Polling
- the date and time for the close of the polls
- the date for the return of the Writ to the Governor

Polling Day must be set no later than two months and no earlier than 21 days after the dissolution of the House of Assembly.

QUALIFICATIONS AND DISQUALIFICATIONS FOR ELECTED MEMBERSHIP

(The Virgin Islands Constitution Order 2007, Section 65 & 66)

Qualifications for elected membership

- 65.** (1) Subject to this section and section 66, a person shall be qualified to be elected as a member of the House of Assembly if, and shall not be qualified to be so elected unless, he or she—
- (a) was so qualified immediately before the commencement of this Constitution; or
 - (b) is a person who—
 - (i) is a Virgin Islander of the age of twenty-one years or upwards; and
 - (ii) is otherwise qualified as a voter under section 68.
- (2) Subject to subsections (3) and (4), for the purposes of subsection (1)(b)(i) a “Virgin Islander” is a person who belongs to the Virgin Islands by birth or descent who was—

- (a) born in the Virgin Islands of a father or mother who at the time of the birth was a British overseas territories citizen (or a British Dependent Territories citizen) by virtue of birth in the Virgin Islands or by virtue of descent from a father or mother who was born in the Virgin Islands;
 - (b) born in the Virgin Islands of a father or mother who at the time of the birth belonged to the Virgin Islands by birth or descent; or
 - (c) born outside the Virgin Islands of a father or mother who at the time of the birth belonged to the Virgin Islands by birth or descent.
- (3) A person born outside the Virgin Islands who belongs to the Virgin Islands by descent shall not be qualified to be elected as a member of the House of Assembly unless one of his or her grandparents belonged to the Virgin Islands by birth.
- (4) A person, whether born in or outside the Virgin Islands, who would otherwise be qualified to be elected as an elected member of the House of Assembly by virtue of subsection (1)(b) shall not be so qualified unless—
- (a) where that person has never been domiciled in the Virgin Islands, he or she has resided in the Virgin Islands for at least five years immediately before the date of his or her nomination for election; or
 - (b) where that person was formerly domiciled in the Virgin Islands but has lived outside the Virgin Islands for a continuous period of at least ten years (excluding periods related to medical or educational purposes), he or she has resided in the Virgin Islands for at least three years immediately before the date of his or her nomination for election and is domiciled in the Virgin Islands at that date.

Disqualifications for elected membership

- 66.** (1) No person shall be qualified to be elected as a member of the House of Assembly who—
- (a) holds, or is acting in, any public office;
 - (b) has been adjudged or otherwise declared bankrupt under any law in force in any country and has not been discharged;
 - (c) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in any country;
 - (d) at the date of election, is under sentence of death imposed on him or her by a court of law in any country, or is serving or has at any time within the period of five years immediately preceding that date been serving any part of a sentence of imprisonment (by whatever name called) of at least twelve months imposed on him or her by such a court or substituted by competent authority for some other sentence imposed on him or her by such a court; or is under such a sentence of imprisonment the execution of which has been suspended;
 - (e) is disqualified for membership of the House of Assembly by or under any law in force in the Virgin Islands relating to offences connected with elections; or
 - (f) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government of the Virgin Islands for or on account of the public service, and has not, within fourteen days before his or her nomination as a candidate for election, published in the *Gazette* or in a newspaper circulating in the Virgin Islands a notice setting out the nature of such contract and his or her interest, or the interest of such firm or company, in it.
- (2) For the purposes of subsection (1) (d)—

(a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence; and

(b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

NOMINATION

(Elections Act No. 16 of 1994, Section 25, 26 & 27)

- 25.(1)** On receiving such writ, every returning officer shall publish a notice in **Form No. 11** of the day and place fixed for the nomination of candidates.
- (2) Such notice shall be published at least seven clear days before the day fixed for such nomination.
- (3) Nomination papers shall be provided by the returning officer and shall be in **Form No. 12**.
- (4) On the day and at the place so fixed for the nomination of candidates every returning officer shall attend between the hours of 10:00 a.m. and 1:00 p.m. and between the hours of 2:00 p.m. and 4:00 p.m. and receive the nomination papers.

- (5) Every candidate for election shall be nominated on one nomination paper by at least two registered voters of the electoral district for which such candidate seeks election and his consent to nomination shall be given on such nomination paper and attested by one witness; and such candidate shall swear the affidavit in **Form No. 13** that he is, to the best of his knowledge, not disqualified under the provisions of the Constitution from contesting and being elected as a member of the Council:

Provided that no candidate shall be deemed not to have been validly nominated by reason only of the fact that, subsequent to nomination day, any person by whom his nomination paper was signed is struck off the Register of Voters for the relevant electoral district.

- (6) If at four o'clock on the day fixed for nomination of candidates -
- (a) in a local electoral district, only one candidate has been nominated for the seat to be filled, the returning officer shall declare the candidate elected;
 - (b) in the Territorial electoral district, the number of candidates nominated equals or is less than the number of seats to be filled, the returning officer shall declare those candidates elected;

and the returning officer shall immediately certify by endorsement on the writ in **Form No. 14** the return of such candidate or candidates and shall return the writ so endorsed to the Supervisor of Elections for transmission to the Governor within

the time specified for that purpose in the writ. Where the numbers of candidates so elected in the Territorial electoral district is less than the number of seats to be filled, the returning officer shall, after communication with the Supervisor of Elections, adjourn the election of the remainder.

- (7) Any candidate duly nominated may, not less than three clear days before the day fixed for taking the poll, withdraw from his candidature by giving notice to the effect, signed by him, to the returning officer, provided that on such withdrawal there remain -
 - (a) in an election in a local electoral district, no fewer than one duly nominated candidate;
 - (b) in an election in the Territorial electoral district, no fewer candidates than the number of seats to be filled in that election.
- (8) Subject to subsection (9), where a candidate has withdrawn after the ballots are printed, the returning officer shall advise each presiding officer of his constituency of the withdrawal and, when time permits, shall distribute to each presiding officer a printed notice of the withdrawal. On polling day each presiding officer shall post up a copy of the printed notice of withdrawal in a conspicuous place in his polling station. If time does not permit of the printing and distribution of such notice, the presiding officer, upon being advised by the returning officer of the withdrawal of any candidate, shall himself prepare by hand a notice to that effect and post it up in a conspicuous place in his polling station. In either case, the presiding officer shall,

when delivering a ballot to a voter, inform the voter of the withdrawal of the candidate.

(9) If, after a withdrawal -

- (a) in a local electoral district, there remains only one candidate;
- (b) in the Territorial electoral district, there remain no more candidates than the number of seats to be filled at the election,

the returning officer shall return as duly elected the candidate or candidates so remaining without waiting for the day fixed for the taking of the poll.

(10) Whenever before the closing of the poll, the returning officer becomes aware that any candidate has died since the close of nomination, he shall, after consulting the Supervisor of Elections, adjourn the election in that electoral district.

(11) Whenever-

- (a) the election in an electoral district is adjourned on account of the death of a candidate;
- (b) the election in the Territorial electoral district is adjourned in the circumstances set out in subsection (6),

the period of adjournment shall not exceed one month and the Governor shall by Proclamation amend the writ already issued to alter the day for the nomination of candidates, the day for the holding of the poll, if a polling day is necessary, and the day on which the name of the elected member or members shall be certified to him. In the case referred to in paragraph (b), such Proclamation shall also state the number of seats remaining to be filled.

- 26.(1)** A candidate for election, or someone on his behalf, shall deposit with the returning officer, on or before the day of his nomination, the sum of five hundred dollars, and, if he fails to do so, the nomination of such candidate shall be deemed to be withdrawn.
- (2) The deposit may be made in legal tender or, with the consent of the returning officer, in any other manner, and a receipt there for shall be given by the returning officer.
- (3) The full amount of every deposit under subsection (1) shall forthwith after its receipt be transmitted by the returning officer to the Accountant General.
- 27.(1)** If a candidate who has made such deposit is not elected, and the number of votes polled by him –
- (a) in an election in a local electoral district does not exceed one-eighth of the total number of votes polled in the election in that district;

(b) in an election in the Territorial electoral district does not exceed such proportion of the number of votes polled in that election as is determined by the application of the formula:

1

8 x the number of seats to be filled at that election

the amount deposited shall be forfeited to the Crown; in any other case the deposit shall be returned by the Accountant General as soon as practicable after the result of the election is declared, to the candidate, his legal personal representative, or the person by whom the deposit was made, as the case may be.

(2) For the purposes of this section, the number of votes polled shall be deemed to be the number of ballot papers (other than rejected ballot papers) counted.

PROCEEDINGS AT THE POLL

(Elections Act No. 16 of 1994, Section 41)

41. (1) At the hour fixed for opening the poll the presiding officer and the poll clerk shall, in the presence of such of the candidates, their agents and voters as are present, open the ballot box and ascertain that there are no ballot papers or other papers therein, after which the box shall be locked, and the presiding officer shall keep the key thereof; the

box shall be placed on a table in full view of all present and shall be maintained there until the close of the poll.

- (2) Immediately after the ballot box is so locked, the presiding officer shall call on the voters to vote.
- (3) The presiding officer shall secure the admittance of every voter in the polling station and shall see that they are not impeded or molested at or about the polling station.
- (4) Every voter, upon entering the polling station, shall declare his name, address and occupation. The poll clerk shall then ascertain if the name of the voter appears on the official list of voters used at the polling station. When it has been ascertained that the applicant voter is qualified to vote at the polling station, his name, address and occupation shall be entered in the poll book to be kept by the poll clerk in **Form No. 20**, a number corresponding to the consecutive number allotted to the voter on the official list of voters being prefixed to the voter's name in the appropriate column of the poll book, and the voter shall be immediately allowed to vote, unless an election officer or any agent of a candidate present at the polling station desires that he be first sworn.

(5) The poll clerk shall -

- (a) make such entries in the poll book opposite the name of each voter as the presiding officer pursuant to the provisions of this Act directs;
 - (b) enter in the poll book opposite the name of each voter as soon as the voter's ballot paper has been deposited in the ballot box, the word "voted";
 - (c) enter in the poll book the word "Sworn" or "Affirmed" opposite the name of each voter, to whom any oath or affirmation has been administered indicating the nature of the oath or affirmation; and
 - (d) enter in the poll book the words "Refused to be sworn" or "Refused to affirm" or "Refused to answer" opposite the name of each voter who has refused to take an oath or affirm, when he has been legally required so to do, or has refused to answer questions which he has been legally required to answer.
- (6) In a general election, and on any other occasion when the same polling station is used for an election both for the Territorial electoral district and for a local electoral district -
- (a) the presiding officer shall follow the procedure prescribed in subsection (1) of this section in respect of the ballot box provided for each election;

- (b) separate poll books shall be provided and completed in accordance with this Act for each such election;

ADMISSION TO POLLING STATIONS

(Elections Act No. 16 of 1994, Sections 43 & 50)

43. (1) The presiding officer shall keep order at his polling station and shall regulate the number of voters to be admitted at a time, and shall exclude all other persons except:

- the Supervisor of Elections,
- the Deputy Supervisor of Elections
- the returning officer of the electoral district,
- the poll clerk,
- the candidates,
- two agents for each candidate appointed by such candidate in accordance with section 34 and
- the police officers on duty.

(2) The agents aforesaid shall be posted in such a place that they can see each person who presents himself as a voter and hear his name as given in by him, but so that they cannot see how any voter votes. They shall not interfere in the proceedings save in so far as they may be allowed by this Act.

- (3) If any person persists, after being warned, in disobeying the directions of the presiding officer or in acting in contravention of this section, it shall be lawful for the presiding officer to cause him to be removed from the polling station.

50.(1) In addition to the presiding officer and any poll clerk, the Supervisor of Elections, the Deputy Supervisor of Elections, the returning officer of the electoral district, the candidates and one of the agents for each candidate in each polling station, the police officers on duty, and no others, shall be permitted to remain in the polling station during the time the poll remains open:

Provided that no candidate and his agent shall be in the same polling station at the same time for more than five consecutive minutes.

- (2) The agent of each candidate, on being first admitted to any polling station, shall take an oath in **Form No. 28** to keep secret the name of the candidate for whom any of the voters has marked his ballot paper in his presence.
- (3) Agents of candidates may, with the permission of the presiding officer, absent themselves from and return to the polling station at any time before one hour prior to the close of the poll.

MAINTENANCE OF ORDER AT POLLING STATION

(Elections Act No. 16 of 1994, Section 53)

- 53.** (1) Subject to subsection (2), during the hours when the poll is open upon polling day, no person shall assemble or congregate within one hundred yards of any building in which is situate any polling station.
- (2) This section shall not apply-
- (a) to any voters who are waiting to poll their votes at such polling station and who obey any instructions which may be given by the presiding officer or poll clerk or any police officer for the purpose of forming a queue with other voters also waiting; or
- (b) to any person who may under the provisions of this Act lawfully enter or remain in such polling station.
- (3) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine of two hundred and fifty dollars and imprisonment for three months.

INFLUENCING OF VOTERS TO VOTE FOR ANY CANDIDATE

(Elections Act No. 16 of 1994, Section 54)

- 54.** (1) During the hours that the poll is open upon polling day no person shall upon any public road or in any public place within one hundred yards of any building in which a polling station is situate seek to influence any voter to vote for any candidate or to ascertain for what candidate any voter intends to vote or has voted.
- 2) Every person who contravenes any of the provisions of subsection (1) shall be liable on summary conviction to a fine of two hundred and fifty dollars and to imprisonment for three months.

PROCEEDINGS AFTER THE POLLS ARE CLOSED

(Elections Act No. 16 of 1994, Section 51 (1))

- 51.** (1) Forthwith upon the close of the poll the presiding officer shall act in the following order -
- (a) seal the ballot boxes;
- (b) count the number of voters whose names appear in the poll book as having voted and make an entry thereof on the line immediately below the name of the voter, who voted last, thus: "The number of voters who voted at this election in this polling station

is....." (stating the number in words), and sign his name thereto;

- (c) count the spoiled ballot papers, if any, place them in the special envelope supplied for that purpose and indicate thereon in words the number of such spoiled ballot papers and seal it up;
- (d) count the unused ballot papers, place them with all the counterfoils of all used ballot papers in the special envelope supplied for that purpose and indicate thereon in words the number of such unused ballot papers; and
- (e) check the number of ballot papers supplied by the returning officer against the number of spoiled ballot papers, if any, the number of unused ballot papers and the number of voters whose names appear in the poll book as having voted, in order to ascertain that all ballot papers are accounted for.

COUNTING OF VOTES

(Elections Act No. 16 of 1994, Section 52)

- 52.** (1) Each returning officer, upon receipt by him of each of the ballot boxes, shall take every precaution for its safe keeping and for preventing any person other than himself from having access thereto, sealing it under his own seal so that it cannot be opened without the

seal being broken but without effacing or covering any other seals thereto affixed.

- (2) After all the ballot boxes have been received they shall be opened for the count of votes and in the presence of such of the candidates or their agents, and if the candidates or any of them are absent, then in the presence of such as are present, and of at least two voters if none of the candidates is represented, by the returning officer, and the returning officer shall -
 - (a) record and count the number of votes given to each candidate (allowing the candidates and their agents full opportunity to see such votes). A poll clerk and not less than two witnesses shall be supplied with tally sheets upon which they may keep their own score as each vote is called out by the returning officer;
 - (b) reject all ballot papers -
 - (i) which have not been marked for any candidate;
 - (ii) on which votes have been given for more than the number of candidates to be selected for the electoral district;
 - (iii) on which more than one vote has been cast for any one candidate; or
 - (iv) upon which there is any writing or mark by which the voter could be identified,

but no ballot paper shall be rejected on account of any writing, number or mark placed thereon by any presiding officer.

- (2A) Notwithstanding subsection (2), the Supervisor of Elections may, for the purposes of an election in the Territorial district, appoint such other persons as he thinks fit to assist the returning officer with the counting of votes in accordance with the provisions of this section.
- (3) If in the course of counting the votes any ballot paper is found with the counterfoil still attached thereto, the returning officer shall (carefully concealing the numbers on the counterfoil thereon from all persons present and without examining them himself) remove such counterfoil. He shall not reject the ballot paper merely by reason of the failure of the presiding officer to remove the counterfoil.
- (4) If in the course of counting the votes the returning officer discovers that the presiding officer has omitted to affix his initials to any ballot paper as provided by section 43 (1), he shall in the presence of a poll clerk and such of the candidates or their counting agents as are present, affix his initials to such ballot paper and shall count such ballot paper as if it had been initialled by the presiding officer in the first place, provided that he is satisfied that the ballot paper is one that has been supplied to such presiding officer and also that every ballot paper supplied to such presiding officer has been accounted for as provided by section 51(1)(e).

- (5) The returning officer shall keep a record on the special form printed in the poll book of every objection made by any candidate or his counting agent or any voter present to any ballot paper found in a ballot box, and shall decide every question arising out of the objection. The decision of the returning officer shall be final, subject to reversal on petition questioning the election or return; and every such objection shall be numbered, and a corresponding number placed on the back of the ballot paper and initialled by the returning officer.
- (6) All the ballot papers not rejected by the returning officer shall be counted and a list shall be kept of the number of votes given to each candidate and of the number of rejected ballot papers. The ballot papers which respectively indicate the votes given for each candidate shall be put into separate envelopes; all rejected ballot papers shall be put into a special envelope and all such envelopes shall be sealed by the returning officer and by such agents or witnesses present as may desire to seal them or to sign their names thereon in addition or instead.
- (7) Immediately after the counting of the votes pursuant to this section has terminated, a candidate or his counting agent present at the count may, by completing Form No. 30, demand a recount and thereupon, unless the returning officer considers the demand to be unreasonable having regard to the result of the first count, he shall proceed to recount the votes to ascertain the result of the poll.

- (8) The candidate on the completion of the count or recount, as the case may be, who is found to have the largest number of votes shall then be declared by the returning officer to be elected as the member for the electoral district.
- (9) On the completion of the count or recount, as the case may be,
 - (a) in an election in an electoral district to return one member to the Council, the candidate with the largest number of votes shall be declared by the returning officer to be elected as a member for the electoral district;
 - (b) in an election in an electoral district to return more than one member to the Council, the number of candidates equal to the members to be returned with the largest numbers of votes shall be declared by the returning officer to be elected as members for the electoral district.
- (10) Whenever after the count of votes (including any recount) is completed, an equality of votes is found to exist between any candidates and the addition of one vote would entitle any of those candidates to be elected -
 - (a) in the case of a local electoral district, a new writ shall be issued in respect of that electoral district and all proceedings for an election of a member for that electoral district shall commence afresh;

- (b) in the case of the Territorial electoral district, the returning officer shall declare elected any candidate or candidates who received a larger number of votes than the number so found equal and a new writ shall be issued and all proceedings shall be commenced afresh for the election of a member or members to fill the remaining vacancy or vacancies.

DEFINITION AND ROLE OF AN AGENT OF A CANDIDATE

An agent is a person appointed by a Candidate or Candidates to act on his/her behalf, for the purpose of observing the proceedings in the interest of the particular Candidate(s); however, an agent may not play any part in the conduct of the Election other than as provided by the Elections Act.

APPOINTMENT OF AGENTS

(Elections (Amendment) Act 2007 - No. 1 of 2007, Section 34 (1)

Section 34 of the principal Act is amended by repealing subsection (1) and substituting the following subsection:

“(1) Each candidate may, before the commencement of the poll, appoint

- (a) not more than two polling agents to attend at a polling station, but only one of those polling agents shall remain in the polling station at any given time, provided that this shall not be construed as preventing a polling agent from handing over his duties to another polling agent

in the polling station within such period and in such manner as may be directed by the Supervisor of Elections; and

- (b) not more than two counting agents to attend at the counting of the votes.”

An agent may be appointed on behalf of more than one Candidate.

Every appointment of an agent shall be in writing and shall state the name and address of the person appointed and shall be duly signed by the Candidate, to the Presiding Officer or the Returning Officer as the case may be.

ADMISSION TO POLLING STATIONS

(Elections Act No. 16 of 1994, Section 43 (2) (3))

- 43.** (2) The agents aforesaid shall be posted in such a place that they can see each person who presents himself as a voter and hear his name as given in by him, but so that they cannot see how any voter votes. They shall not interfere in the proceedings save in so far as they may be allowed by this Act.
- (3) If any person persists, after being warned, in disobeying the directions of the presiding officer or in acting in contravention of this

section, it shall be lawful for the presiding officer to cause him to be removed from the polling station.

MODE OF TAKING BALLOT IN SPECIAL CASES

(Elections Act No. 16 of 1994, Sections 46 (3); 50 (2) (3)

46. (3) The presiding officer, on the application of any voter who is incapacitated from any physical cause other than blindness or by reason of illiteracy from voting in the manner prescribed by this Act, shall require the voter making such application to make oath in **Form No. 22** of the incapacity to vote without assistance, and shall thereafter assist such voter by marking his ballot paper in the manner directed by such voter in the presence of the poll clerk and of the sworn agents of the candidates and of no other person, and shall place such ballot in the ballot box.

Sect 50 (2) (3)

50 (2) The agent of each candidate, on being first admitted to any polling station, shall take an oath in **Form No. 28** to keep secret the name of the candidate for whom any of the voters has marked his ballot paper in his presence.

(3) Agents of candidates may, with the permission of the presiding officer, absent themselves from and return to the

polling station at any time before one hour prior to the close of the poll.

No Candidate and his agent shall be in the same Polling Station at the same polling station at the same time for more than five consecutive minutes.

An agent for a candidate should be a registered voter in the district in which he is acting as an agent.

ELECTION OFFENCES

Candidates and agents are reminded of Election offences as set out in the Elections Act No. 16 of 1994 and Amendments.

(Elections Act No. 16 of 1994, Sections 64, 66, 67, 68, 69, 70, 71, 72, 73, 74, 76 &77)

Intoxicating liquor not to be sold or given on Polling Day

64. (1) No intoxicating liquor shall be sold, offered for sale, or given away at any premises situate in any electoral district in which an election is being held to which a licence issued under the Liquor Licences Ordinance applies, at any time between the opening and the closing of the poll on polling day.

- (2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars and to imprisonment for six months.

Offences by Election Officers

66. Every election officer who -

- (a) makes, in any record, return or other document which he is required to keep or make under this Act, any entry which he knows or has reasonable cause to believe to be false, or does not believe to be true;
- (b) permits any person whom he knows or has reasonable cause to believe not to be a blind person, an illiterate person or an incapacitated person to vote in the manner provided for blind persons, illiterate persons or incapacitated persons, as the case may be;
- (c) refuses to permit any person whom he knows or has reasonable cause to believe to be a blind person, an illiterate person or an incapacitated person to vote in the manner provided for blind persons, illiterate persons or incapacitated persons, as the case may be;
- (d) wilfully prevents any person from voting at the polling station at which he knows or has reasonable cause to believe such person is entitled to vote;
- (e) wilfully rejects or refuses to count any ballot paper which he knows or has reasonable cause to believe is validly cast for any candidate in

accordance with the provisions of this Act; or

- (f) wilfully counts any ballot paper as being cast for any candidate, which he knows or has reasonable cause to believe was not validly cast for such candidate,

shall be guilty of an offence against this section and liable on conviction on indictment, to a fine of three thousand dollars or to imprisonment for two years.

Acts prohibited on Polling Day

67. (1) No person shall furnish or supply any loudspeaker, bunting, ensign, banner, standard or set of colours, or any other flag, to any person with intent that it shall be carried, worn or used on motor cars, trucks or other vehicles, as political propaganda, on polling day, and no person shall, with any such intent, carry, wear or use, on motor cars, trucks or other vehicles, any such loudspeaker, bunting, ensign, banner, standard or set of colours, or any other flag, on polling day.

(2) No person shall furnish or supply any flag, ribbon, label or like favour to or for any person with intent that it be worn or used by any person within any electoral district on polling day as a party badge to distinguish the wearer as the supporter of any candidate, or of the political or other opinions entertained or supposed to be entertained by such candidate, and no person shall use or wear any flag, ribbon, label or other favour, as such badge, within any electoral district on polling day.

- (3) Nothing contained in subsection (1) or (2) shall be deemed to extend to the furnishing or supplying of any banner bearing only the name of any candidate or only such name preceded by the words "Vote for" or of any rosette or to the use of any such banner on any vehicle or of any such rosette.
- (4) No person shall broadcast any item on polling day on any television or wireless transmitting station which would tend to promote or procure the election of any candidate or of any political party.
- (5) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for twelve months.

Definition of Bribery

68. (1) Any person who -

- (a) directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election;

- (b) directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or to procure, or offers, promises to procure or to endeavour to procure, any office, place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election;
- (c) directly or indirectly by himself or by any other person on his behalf, makes any such gift, loan, offer promise, procurement or agreement as aforesaid to or for any person, in order to induce such person to procure, or endeavour to procure, the return of any person as an elected member of the Council, or the vote of any voter at any 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 an elected member of the Council or the vote of any voter at any election;
- (e) advances or pays or causes to be paid, any 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 any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election;

- (f) before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place, or employment for himself or for any other person, voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election; or
- (g) after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrain from voting at any such election,

shall be guilty of the offence of bribery.

- (2) The provisions of subsection (1) shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election.
- (3) For the purposes of this section "legal expenses" includes -
 - (a) the payment of the agents, clerks, canvassers and messengers of candidates;
 - (b) payments made for the purpose of hiring vehicles for the conveyance of voters to or from a polling station;
 - (c) payments made for the use of any premises for a public meeting in

furtherance of the candidature of any person or for the use of any committee room or office for the purpose of promoting or procuring the election of a candidate; and

- (d) payments made in respect of postage, stationery, printing, advertising, the distribution of advertising material and the use of any public address system.

Definition of Treating

69. The following persons shall be guilty of the offence of treating -

- (a) any 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 expenses of giving or providing any food, drink, entertainment or provision to or for any person for the purpose of corruptly influencing that person, or any other person, to vote or to refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election; or

Definition of Undue Influence

70. Any person who, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person, in order to induce or compel such person to vote or refrain from voting or on account of

such person having voted or refrained from voting at any election, or who by abduction, duress or any fraudulent contrivance, impedes or prevents the free exercise of the franchise of any voter, or thereby compels, induces or prevails upon any voter either to give or refrain from giving his vote at any election, shall be guilty of the offence of undue influence.

Nothing in this section applies to a person who, when an election takes place at the same time and in the same polling station at which he is entitled to vote for a member to represent a local electoral district and a member or members to represent the Territorial electoral district, makes a request in such polling station for a ballot paper in his own name once for each such election.

Definition of Personation

- 71.** Every person who at an election applies for a ballot paper in the name of another person, whether that name be the name of a person living or dead, or of a fictitious person, or who, having voted once at any election, applies at the same election for a ballot paper in his own name, shall be guilty of the offence of personation, provided that nothing in this section applies to a person who, when an election takes place at the same time and in the same polling station at which he is entitled to vote for a member to represent a local electoral district and a member or members to represent the Territorial electoral district, makes a request in such polling station for a ballot paper in his own name once for each such election.

Penalty for Bribery, etc

72. Any person guilty of bribery, treating or undue influence shall liable on summary conviction, if he is an election officer, to a fine of ten thousand dollars and to imprisonment for six months, and if he is any other person, to a fine of five hundred dollars and to imprisonment for six months.

Penalty for Personation

73. Any person guilty of personation, or of aiding, abetting, counselling or procuring the commission of the offence of personation, shall, on conviction on indictment, be liable to a fine of three thousand dollars or to imprisonment for two years,

Disqualification for Bribery, etc.

74. Any person who is convicted of bribery, treating, undue influence, or personation, or of aiding, counselling or procuring the commission of the offence of personation shall (in addition to any other punishment) be incapable during a period of seven years from the date of conviction -

(a) of being registered as a voter, or of voting at any election;

(b) of being elected a member of the Council or, if elected before his conviction, of retaining his seat as such member.

Offences in respect of Ballot Papers

76. (1) Any person who -

(a) forges or counterfeits, or fraudulently defaces or destroys;

- (b) without due authority supplies a ballot paper to any person;
- (c) fraudulently puts into any ballot box paper other than the ballot paper which he is authorised by law to put in;
- (d) fraudulently takes out of the polling station any ballot paper;
- (e) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purpose of any election; or
- (f) not being duly registered as a voter, votes at an election,

shall be guilty of an offence and liable on summary conviction, if he is an election officer, to a fine of one thousand dollars and to imprisonment for six months, and if he is any other person, to a fine of two hundred and fifty dollars and to imprisonment for three months.

- (2) In any information or prosecution for an offence in relation to the ballot boxes, ballot papers, and other things in use at an election, the property in such ballot boxes, ballot papers, or things may be stated to be in the returning officer at such election.

Infringement of Secrecy

77. (1) Each election officer and agent appointed under section 34 in

attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate except for some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the list of voters of any voter who has or has not applied for a ballot paper or voted at that polling station, and no person shall interfere with or attempt to interfere with a voter when marking his vote or otherwise attempt to obtain in the polling station any information as to any candidate for whom any voter in such station is about to vote or has voted.

- (2) Each election officer and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting and shall not attempt to communicate any information obtained at such counting as to a candidate for whom any vote is given in any particular ballot paper.
- (3) No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked it so as to make known to any person the name of a candidate for whom or against whose name he has so marked his vote.
- (4) Any person who acts in contravention of this section shall be liable, on summary conviction, to a fine of five hundred dollars and to imprisonment for three months.
