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## PART XV

### ELECTIONS

324. (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution <sup>1\*\*\*</sup> shall be vested in a Commission (referred to in this Constitution as the Election Commission).

Superintendence, direction and control of elections to be vested in an Election Commission.

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

(3) When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.

(4) Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).

(5) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

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<sup>1</sup>The words "including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States" omitted by the Constitution (Nineteenth Amendment) Act, 1966, s. 2.

*(Part XV.—Elections.—Arts. 324—326.)*

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

(6) The President, or the Governor <sup>1\*\*\*</sup> of a State, shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).

No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.

**325.** There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.

**326.** The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than <sup>2</sup>[eighteen years] of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

<sup>1</sup>The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

<sup>2</sup>Subs. by the Constitution (Sixty-first Amendment) Act, 1988, s. 2, for "twenty-one years".

*(Part XV.—Elections.—Arts. 327—329A.)*

**327.** Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses.

Power of Parliament to make provision with respect to elections to Legislatures.

**328.** Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make provision with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses.

Power of Legislature of a State to make provision with respect to elections to such Legislature.

**329.** <sup>1</sup>[Notwithstanding anything in this Constitution <sup>2\*\*\*</sup>—]

Bar to interference by courts in electoral matters.

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

**<sup>3</sup>329A.** [*Special provision as to elections to Parliament in the case of Prime Minister and Speaker.*] Rep. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 36 (w.e.f. 20-6-1979).

<sup>1</sup>Subs. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 3, for certain words.

<sup>2</sup>The words, figures and letters "but subject to the provisions of article 329A" omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 35 (w.e.f. 20-6-1979).

<sup>3</sup>Ins. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 4.

*(Part V.—The Union.—Arts. 78—80.)*

(c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

## CHAPTER II.—PARLIAMENT

*General*

Constitution of Parliament.

**79.** There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People.

Composition of the Council of States.

**80.** (1) <sup>1</sup>[<sup>2\*\*\*</sup> The Council of States] shall consist of—

(a) twelve members to be nominated by the President in accordance with the provisions of clause (3); and

(b) not more than two hundred and thirty-eight representatives of the States <sup>3</sup>[and of the Union territories.]

(2) The allocation of seats in the Council of States to be filled by representatives of the States <sup>3</sup>[and of the Union territories] shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.

(3) The members to be nominated by the President under sub-clause (a) of clause (1) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:-

Literature, science, art and social service.

(4) The representatives of each State <sup>4\*\*\*</sup> in the Council of States shall be elected by the elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.

(5) The representatives of the <sup>5</sup>[Union territories] in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

<sup>1</sup>Subs. by the Constitution (Thirty-fifth Amendment) Act, 1974, s. 3, for "The Council of States" (w.e.f. 1-3-1975).

<sup>2</sup>The words "subject to the provisions of paragraph 4 of the Tenth Schedule" omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).

<sup>3</sup>Added by the Constitution (Seventh Amendment) Act, 1956, s. 3.

<sup>4</sup>The words and letters "specified in Part A or Part B of the First Schedule" omitted by s. 3, *ibid.*

<sup>5</sup>Subs. by s. 3, *ibid.*, for "States specified in Part C of the First Schedule".

*(Part V.—The Union.—Art. 81.)*

<sup>1</sup>[81. (1) <sup>2</sup>[Subject to the provisions of article 331 <sup>3\*\*\*</sup>], the House of the People shall consist of—

Composition of the House of the People.

(a) not more than <sup>4</sup>[five hundred and thirty members] chosen by direct election from territorial constituencies in the States, and

(b) not more than <sup>5</sup>[twenty members] to represent the Union territories, chosen in such manner as Parliament may by law provide.

(2) For the purposes of sub-clause (a) of clause (1),—

(a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and

(b) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State:

<sup>6</sup>[Provided that the provisions of sub-clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions.]

(3) In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published:

<sup>7</sup>[Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year <sup>8</sup>[2026] have been published, <sup>9</sup>[be construed,—

<sup>1</sup>Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 4, for arts. 81 and 82.

<sup>2</sup>Subs. by the Constitution (Thirty-fifth Amendment) Act, 1974 s. 4, for “Subject to the provisions of article 331” (w.e.f. 1-3-1975).

<sup>3</sup>The words and figure “and paragraph 4 of the Tenth Schedule” omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).

<sup>4</sup>Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 63, for “five hundred and twenty-five members” (w.e.f. 30-5-1987).

<sup>5</sup>Subs. by the Constitution (Thirty-first Amendment) Act, 1973, s. 2, for “twenty-five members”.

<sup>6</sup>Ins. by s. 2, *ibid.*

<sup>7</sup>Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 15 (w.e.f. 3-1-1977).

<sup>8</sup>Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 3, for “2000”.

<sup>9</sup>Subs. by s. 3, *ibid.*, for certain words.

*(Part V.—The Union.—Arts. 81—83.)*

(i) for the purposes of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and

(ii) for the purposes of sub-clause (b) of clause (2) as a reference to the <sup>1</sup>[2001] census.]]

Readjustment after each census.

**82.** Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House:

<sup>2</sup>[Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the House may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year <sup>3</sup>[2026] have been published, it shall not be necessary to <sup>4</sup>[readjust—

(i) the allocation of seats in the House of People to the States as readjusted on the basis of the 1971 census; and

(ii) the division of each State into territorial constituencies as may be readjusted on the basis of the <sup>5</sup>[2001] census,

under this article.]]

Duration of Houses of Parliament.

**83.** (1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

<sup>1</sup>Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 2, for "1991".

<sup>2</sup>Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 16 (w.e.f. 3-1-1977).

<sup>3</sup>Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 4, for "2000".

<sup>4</sup>Subs. by s. 4, *ibid.*, for certain words.

<sup>5</sup>Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 3, for "1991".

*(Part V.—The Union.—Arts. 83—86.)*

(2) The House of the People, unless sooner dissolved, shall continue for <sup>1</sup>[five years] from the date appointed for its first meeting and no longer and the expiration of the said period of <sup>1</sup>[five years] shall operate as a dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

84. A person shall not be qualified to be chosen to fill a seat in Parliament unless he—

Qualification for membership of Parliament.

<sup>2</sup>[(a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;]

(b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

<sup>3</sup>[85. (1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

Sessions of Parliament, prorogation and dissolution.

(2) The President may from time to time—

(a) prorogue the Houses or either House;

(b) dissolve the House of the People.]

86. (1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

Right of President to address and send messages to Houses.

<sup>1</sup>Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 13, for "six years" (w.e.f. 20-6-1979). The words "six years" were subs. for the original words "five years" by the Constitution (Forty-second Amendment) Act, 1976, s. 17 (w.e.f. 3-1-1977).

<sup>2</sup>Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 3, for cl. (a).

<sup>3</sup>Subs. by the Constitution (First Amendment) Act, 1951, s. 6, for art. 85.

# THE REPRESENTATION OF THE PEOPLE ACT, 1950

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## ARRANGEMENT OF SECTIONS

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THE REPRESENTATION OF THE PEOPLE ACT, 1950  
(43 OF 1950)

[12th May, 1950.]

An Act to provide the allocation of seats in, and the delimitation of constituencies for the purpose of election to, the House of the People and the Legislatures of States, the qualifications of voters at such elections, the preparation of electoral rolls, <sup>1</sup>[the manner of filling seats in the Council of States to be filled by representatives of <sup>2</sup>[Union territories]], and matters connected therewith.

BE it enacted by Parliament as follows:—

PART I  
PRELIMINARY

**1. Short title.**—This Act may be called the Representation of the People Act, 1950.

**2. Definitions.**—<sup>3</sup>\* \* \* In this Act, unless the context otherwise requires,—

(a) "article" means an article of the Constitution;

(b) "Assembly constituency" means a constituency provided <sup>4</sup>[by law] for the purpose of elections to the Legislative Assembly of a State;

(c) "Council constituency" means a constituency provided <sup>5</sup>[by law] for the purpose of elections to the Legislative Council of a State;

<sup>6</sup>\* \* \* \* \*

(d) "Election Commission" means the Election Commission appointed by the President under article 324;

(e) "order" means an order published in the Official Gazette;

(f) "Parliamentary constituency" means a constituency provided <sup>7</sup>[by law] for the purpose of elections to the House of the People;

<sup>8</sup>\* \* \* \* \*

(g) "person" does not include a body of persons;

(h) "prescribed" means prescribed by rules made under this Act;

<sup>9</sup>[(i) "State" includes a Union territory;]

(j) "State Government", in relation to a Union territory, means the administrator thereof.

<sup>10</sup>\* \* \* \* \*

1. Ins. by Act 73 of 1950, s. 2.

2. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C States".

3. The brackets and figure "(1)" omitted by Act 103 of 1956, s. 65.

4. Subs. by Act 2 of 1956, s. 2, for "by order made under section 9".

5. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "by order made under section 11".

6. Cl. (cc) ins. by Act 73 of 1950, s. 3 and omitted by Act 103 of 1956, s. 65.

7. Subs. by Act 2 of 1956, s. 2, for "by section 6 or by order made thereunder".

8. Cl. (ff) ins. by Act 67 of 1951, s. 2 was omitted by the North-Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974, s. 3 and Sch. (w.e.f. 21-1-1972).

9. Subs. by s. 3 and Sch., *ibid.*, for the former cl. (i) (w.e.f. 21-1-1972).

10. Sub-section (2) omitted by the Adaptation of Laws (No. 2) Order, 1956.

*Representation of the People Act, 1950*  
(PART II.—Acts of Parliament)

**PART II**  
ALLOCATION OF SEATS AND DELIMITATION OF CONSTITUENCIES  
*The House of the People*

<sup>1</sup>**3. Allocation of seats in the House of the People.**—The allocation of seats to the States in the House of the People and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of each State shall be as shown in the First Schedule.

**4. Filling of seats in the House of the People and parliamentary constituencies.**—<sup>2</sup>\* \* \* \*

<sup>3</sup>[(2) All the seats in the House of the People allotted to the States under section 3 shall be seats to be filled by persons chosen by direct election from parliamentary constituencies in the States.]

(3) Every parliamentary constituency referred to in sub-section (2) shall be a single-member constituency.

(4) Every State to which only one seat is allotted under section 3 shall form one parliamentary constituency.

<sup>4</sup>[(5) Save as provided in sub-section (4), the extent of all parliamentary constituencies except the parliamentary constituencies in the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland shall be as determined by the orders of the Delimitation Commission made under the provisions of the Delimitation Act, 2002 (33 of 2002) and the extent of the parliamentary constituencies in the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland shall be as provided for in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 having regard to the provisions of sections 10A and 10B of the Delimitation Act, 2002.]

5. [Parliamentary constituencies.] Rep. by the Representation of the People (Amendment) Act, 1956 (2 of 1956), s. 4.

6. [Delimitation of parliamentary constituencies.] Rep. by the Adaptation of Laws (No. 2) Order, 1956.

*The State Legislative Assemblies*

<sup>5</sup>**7. Total number of seats in Legislative Assemblies and Assembly Constituencies.**—(1) <sup>6</sup>[Subject to the provisions of <sup>7</sup>[sub-sections (IA), (IB) and (IC)], the total number of seats] in the Legislative Assembly of each State specified in the Second Schedule, to be filled by persons chosen by direct election from Assembly Constituencies, and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State, shall be as shown in that Schedule:

Provided that for the period referred to in clause (2) of article 371A, the total number of seats allotted to the Legislative Assembly of the State of Nagaland shall be <sup>8</sup>[fifty-two], of which—

(a) <sup>9</sup>[twelve seats] shall be allocated to the Tuensang district and shall be filled by persons chosen by the members of the regional council, referred to in that article, from amongst themselves in such manner as the Governor, after consulting that Council may, by notification in the Official Gazette, specify, and

1. Subs. by Act 47 of 1966, s. 2, for ss. 3 and 4 (w.e.f. 14-12-1966).

2. Sub-section (1) omitted by Act 29 of 1975, s. 11 (w.e.f. 15-8-1975).

3. Subs. by s. 11, *ibid.*, for sub-section (2) (w.e.f. 15-8-1975).

4. Subs. by Act 10 of 2008, s. 2, for sub-section (5) (w.e.f. 16-4-2008).

5. Subs. by Act 47 of 1966, s. 4, for s. 7 (w.e.f. 14-12-1966). Original ss. 8 and 9 were rep. by Act 2 of 1956, s. 5 and the Adaptation of Laws (No. 2) Order, 1956, respectively.

6. Subs. by Act 8 of 1980, s. 2, for certain words (w.e.f. 1-9-1979).

7. Subs. by Act 38 of 1992, s. 2, for "sub-sections (IA) and (IB)" (w.e.f. 5-12-1992).

8. Subs. by Act 61 of 1968, s. 4, for "forty-six".

9. Subs. by s. 4, *ibid.*, for "six seats".

*Representation of the People Act, 1950*  
(PART II.— Acts of Parliament)

(b) the remaining forty seats shall be filled by persons chosen by direct election from assembly constituencies in the rest of the State.

<sup>1</sup>[(IA) Notwithstanding anything contained in sub-section (1), the total number of seats in the Legislative Assembly of the State of Sikkim, to be constituted at any time after the commencement of the Representation of the People (Amendment) Act, 1980 (8 of 1980), to be filled by persons chosen by direct election from assembly constituencies shall be thirty-two, of which—

- (a) twelve seats shall be reserved for Sikkimese of Bhutia-Lepcha origin;
- (b) two seats shall be reserved for the Scheduled Castes of that State; and
- (c) one seat shall be reserved for the Sanghas referred to in section 25A.

*Explanation.*—In this sub-section "Bhutia" includes Chumbipa, Dophapa, Dukpa, Kagatey, Sherpa, Tibetan, Trompa and Yolmo.]

<sup>2</sup>[(IB) Notwithstanding anything contained in sub-section (1), in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, to be constituted at any time after the commencement of the Representation of the People (Third Amendment) Act, 1987 (40 of 1987), —

- (a) <sup>3</sup>[fifty-nine seats] shall be reserved for the <sup>3</sup>Scheduled Tribes in the Legislative Assembly of the State of Arunachal Pradesh;
- (b) fifty-five seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Meghalaya;
- (c) thirty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Mizoram; and
- (d) fifty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Nagaland.]

<sup>4</sup>[(IC) Notwithstanding anything contained in sub-section (1), twenty seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Tripura to be constituted at any time after the commencement of the Representation of the People (Amendment) Act, 1992 (38 of 1992).]

(2) Every assembly constituency referred to <sup>5</sup>[in sub-section (1) or sub-section (IA)] shall be a single-member constituency.

<sup>6</sup>[(3) The extent of each assembly constituency in all the States and Union Territories except the assembly constituencies in the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland shall be as determined by the orders of the Delimitation Commission made under the provisions of the Delimitation Act, 2002 (33 of 2002) and the extent of each assembly constituency in the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland shall be as provided for in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 having regard to the provisions of sections 10A and 10B of the Delimitation Act, 2002 (33 of 2002).]

<sup>7</sup>[7A. **Total number of seats in the Legislative Assembly of Sikkim and Assembly constituencies.**—(1) Notwithstanding anything contained in section 7, in the Legislative Assembly of the State of Sikkim [deemed under the Constitution (Thirty-sixth Amendment) Act, 1975 to be the Legislative Assembly of that State duly constituted], the total number of seats to be filled by persons chosen by direct election from Assembly constituencies shall be 32.

1. Ins. by Act 8 of 1980, s. 2 (w.e.f. 1-9-1979).

2. Ins. by Act 40 of 1987, s. 2 (w.e.f. 22-9-1987).

3. Subs. by Act 10 of 2008, s. 3, for "thirty-nine seats" (w.e.f. 16-4-2008).

4. Ins. by Act 38 of 1992, s. 2 (w.e.f. 5-12-1992).

5. Subs. by Act 8 of 1980, s. 2, for "in sub-section (1)" (w.e.f. 1-9-1979).

6. Subs. by Act 10 of 2008, s. 3, for sub-section (3).

7. Ins. by Act 10 of 1976, s. 2 and Sch. (w.e.f. 9-9-1975).

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(2) Every Assembly constituency referred to in sub-section (1) shall be a single-member constituency.

(3) In the Legislative Assembly so deemed to be duly constituted, the extent of each constituency and the reservation of seats shall be as provided for immediately before the commencement of the Constitution (Thirty-sixth Amendment) Act, 1975.]

*The Delimitation of Parliamentary and Assembly Constituencies Order*

**8. Consolidation of delimitation orders.**—<sup>1</sup>[(1) Having regard to all the orders referred to in sub-section (5) of section 4 and sub-section (3) of section 7 relating to the delimitation of parliamentary and assembly constituencies in all States and Union Territories, except the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland, made by the Delimitation Commission and published in the Official Gazette, the Election Commission shall—

(a) after making such amendments as appear to it to be necessary for bringing up-to-date the description of the extent of the parliamentary and assembly constituencies as given in such orders, without, however, altering the extent of any such constituency;

(b) after taking into account the provisions of the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, as made applicable pursuant to the orders made by the President under section 10A of the Delimitation Act, 2002 (33 of 2002) relating to delimitation of parliamentary and assembly constituencies in the States of Arunachal Pradesh, Assam, Manipur and Nagaland, and the provisions of section 10B of the said Act relating to delimitation of parliamentary and assembly constituencies in the State of Jharkhand,

consolidate all such orders into one single order to be known as the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 and shall send authentic copies of that Order to the Central Government and to the Government of each State having a Legislative Assembly; and thereupon that Order shall supersede all the orders referred to in sub-section (5) of section 4 and sub-section (3) of section 7 and shall have the force of law and shall not be called in question in any court.]

(2) As soon as may be, after the said Order is received by the Central Government or by the Government of a State, that Government shall cause it to be laid before the House of the People or, as the case may be, the Legislative Assembly of the State.

<sup>2</sup>[(3) The consolidation under sub-section (1) of the orders referred to in sub-section (5) of section 4, or as the case may be, sub-section (3) of section 7 shall not, <sup>3</sup>[as provided in sub-section (5) of section 10 of the Delimitation Act, 2002 (33 of 2002)], affect the representation in, and the territorial constituencies of, the House of the People or the Legislative Assembly of the State existing on the date of publication in the Gazette of India of any such order or orders as may be relevant.]

<sup>4</sup>[**8A. Delimitation of Parliamentary and Assembly Constituencies in the States of Arunachal Pradesh, Assam, Manipur or Nagaland.**— (1) If the President is satisfied that the situation and the conditions prevailing in the States of Arunachal Pradesh, Assam, Manipur or Nagaland are conducive for the conduct of delimitation exercise, he may, by order, rescind the deferment order issued under the provisions of section 10A of the Delimitation Act, 2002 (33 of 2002) in relation to that State, and provide for the conduct of delimitation exercise in the State by the Election Commission.

(2) As soon as may be after the deferment order in respect of a State is rescinded under sub-section (1), the Election Commission may, by order, determine—

(a) the parliamentary constituencies into which such State to which more than one seat is allotted in the First Schedule shall be divided;

(b) the extent of each constituency; and

(c) the number of seats, if any, reserved for the Scheduled Castes or the Scheduled Tribes.

1. Subs. by Act 10 of 2008, s. 4. for sub-section (1) (w.e.f. 16-4-2008).

2. Ins. by Act 88 of 1976, s. 4.

3. Subs. by Act 10 of 2008, s. 4, for certain words.

4. Ins. by s. 5, *ibid.*

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(3) As soon as may be after the deferment order in respect of a State is rescinded under sub-section (1), the Election Commission may, by order, determine—

(a) the assembly constituencies into which such State shall be divided for the purpose of elections to the Legislative Assembly of that State;

(b) the extent of each constituency; and

(c) the number of seats, if any, reserved for the Scheduled Castes or the Scheduled Tribes.

(4) Subject to the provisions of sub-section (1), the Election Commission shall, having regard to the provisions of the Constitution and the principles specified in clauses (c) and (d) of sub-section (1) of section 9 of the Delimitation Act, 2002 (33 of 2002) determine the parliamentary and assembly constituencies in the States of Arunachal Pradesh, Assam, Manipur and Nagaland in which seats shall be reserved, if any, for the Scheduled Castes and the Scheduled Tribes.

(5) The Election Commission shall,-

(a) publish its proposals under sub-sections (2), (3) and (4) with respect to any State in the Official Gazette and also in such other manner as it thinks fit;

(b) specify a date on or after which the proposals will be further considered by it;

(c) consider all objections and suggestions which may have been received by it before the date so specified;

(d) hold, for the purpose of such consideration, if it thinks fit so to do, one or more public sittings at such place or places in such State as it thinks fit;

(e) after considering all objections and suggestions which may have been received by it before the date so specified, determine, by order, the delimitation of parliamentary and assembly constituencies in the State and also the constituency or constituencies in which seats shall be reserved, if any, for the Scheduled Castes and the Scheduled Tribes and cause such order to be published in the Official Gazette; and, upon such publication, the order shall have the force of law and shall not be called in question in any court and the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 shall be deemed to have been amended accordingly.

(6) Every order made under sub-sections (1) and (2) and clause (e) of sub-section (5) shall be laid before each House of Parliament.

(7) Every order made under sub-sections (1) and (3) and clause (e) of sub-section (5) shall, as soon as may be after it is published under that sub-section, be laid before the Legislative Assembly of the State concerned.]

**9. Power of Election Commission to maintain Delimitation Order up-to-date.**— (1) The Election Commission may, from time to time, by notification published in the Gazette of India and in the Official Gazette of the State concerned, —

<sup>1</sup>[(a) correct any printing mistake in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 or any error arising therein from inadvertent slip or omission;

(aa) make such amendments in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 as appear to it to be necessary or expedient for consolidating with that Order any notification or order relating to delimitation of Parliamentary or assembly constituencies (including reservation of seats for the Scheduled Castes or the Scheduled Tribes in such constituencies) issued under section 8A of this Act or any other Central Act;]

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1. Subs. by Act 10 of 2008, s. 6.

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(b) where the boundaries or name of any district or any territorial division mentioned in the Order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the Order up-to-date.

(2) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.]

1 \* \* \* \*

*The State Legislative Councils*

**10. Allocation of seats in the Legislative Councils.**—(1) The allocation of seats in the Legislative Councils of the States having such Councils shall be as shown in the Third Schedule.

(2) In the Legislative Council of each State specified in the first column of the Third Schedule, there shall be the number of seats specified in the second column thereof opposite to that State, and of those seats,—

(a) the numbers specified in the third, fourth and fifth columns shall be the number of seats to be filled by persons elected, respectively, by the electorates referred to in sub-clauses (a), (b) and (c) of clause (3) of article 171;

(b) the number specified in the sixth column shall be the number of seats to be filled by persons elected by the members of the Legislative Assembly of the State from amongst persons who are not members of that Assembly; and

(c) the number specified in the seventh column shall be the number of seats to be filled by persons nominated by the Governor<sup>2</sup> \* \* \* of the State in accordance with the provisions of clause (5) of article 171.

3\* \* \* \*

**11. Delimitation of Council Constituencies.**—As soon as may be after the commencement of this Act, the President shall, by order, determine—

(a) the constituencies into which each State having a Legislative Council shall be divided for the purpose of elections to that Council under each of the sub-clauses (a), (b) and (c) of clause (3) of article 171;

(b) the extent of each constituency; and

(c) the number of seats allotted to each constituency.

*Provisions as to orders delimiting constituencies*

**12. Power to alter or amend orders.**—<sup>4</sup>[(1)] The President may, from time to time, after consulting the Election Commission, by order, alter or amend any order made by him under<sup>5</sup> \* \* \* section 11.

<sup>6</sup>[(2) An order under sub-section (1) may contain provisions for the allocation of any member representing any council constituency immediately before the making of the order to any constituency delimited a new or ltered by

1. Sections 9A and 9B omitted by the Act 10 of 2008, s. 7 (w.e.f. 16-4-2008).

2. The words "or Rajpramukh, as the case may be" omitted by the Adaptation of Laws (No. 2) Order, 1956.

3. Sub-section (3) ins. by the Adaptation of Laws (No. 2) Order, 1956 and omitted by Act 37 of 1957, s. 12.

4. S. 12 re-numbered as sub-section (1) of that section by Act 20 of 1960, s. 2.

5. The words and figures "section 6, section 9, or" omitted by Act 2 of 1956, s. 7.

6. Ins. by Act 20 of 1960, s. 2.

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the order and for such other incidental and consequential matters as the President may deem necessary.]

**13. Procedure as to orders delimiting constituencies.**—<sup>1</sup>\* \* \* \* \*

(3) Every order made under <sup>2</sup>\* \* \* section 11 or section 12 shall be laid before Parliament as soon as may be after it is made, and shall be subject to such modifications as Parliament may make on a motion made within twenty days from the date on which the order is so laid.

<sup>3</sup>[PART IIA  
OFFICERS

**13A. Chief electoral officers.**—(1) There shall be for each State a chief electoral officer who shall be such officer of Government as the Election Commission may, in consultation with that Government, designate or nominate in this behalf.

(2) Subject to the superintendence, direction and control of the Election Commission, the chief electoral officer shall supervise the preparation, revision and correction of all electoral rolls in the State under this Act.

<sup>4</sup>[**13AA. District election officers.**—(1) For each district in a State, <sup>5</sup>\*\*\*, the Election Commission shall, in consultation with the Government of the State, designate or nominate a district election officer who shall be an officer of Government:

Provided that the Election Commission may designate or nominate more than one such officer for a district if the Election Commission is satisfied that the functions of the office cannot be performed satisfactorily by one officer.

(2) Where more than one district election officer are designated or nominated for a district under the proviso to sub-section (1), the Election Commission shall in the order designating or nominating the district election officers also specify the area in respect of which each such officer shall exercise jurisdiction.

(3) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall coordinate and supervise all work in the district or in the area within his jurisdiction in connection with the preparation and revision of the electoral rolls for all parliamentary, assembly and council constituencies within the district.

(4) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer.]

**13B. Electoral registration officers.**—(1) The electoral roll <sup>6</sup>[<sup>7</sup>[for each parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly], each assembly constituency and each Council constituency] shall be prepared and revised by an electoral registration officer who shall be such officer of Government or of a local authority as the Election Commission may, in consultation with the Government of the State in which the constituency is situated, designate or nominate in this behalf.

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1. Sub-sections (1) and (2) omitted by Act 2 of 1956, s. 8.

2. The words and figures "section 6, section 9," omitted by s. 8, *ibid*.

3. Ins. by s. 9, *ibid*.

4. Ins. by Act 47 of 1966, s. 5 (w.e.f. 14-12-1966).

5. The words "other than a Union territory," omitted by Act 2 of 2004, s. 2.

6. Subs. by Act 103 of 1956, s. 65, for certain words.

7. Subs. by Act 47 of 1966, s. 6, for certain words (w.e.f.14-12-1966).

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(2) An electoral registration officer may, subject to any prescribed restrictions, employ such persons as he thinks fit for the preparation and revision of the electoral roll for the constituency.

**13C. Assistant electoral registration officers.**—(1) The Election Commission may appoint one or more persons as assistant electoral registration officers to assist any electoral registration officer in the performance of his functions.

(2) Every assistant electoral registration officer shall, subject to the control of the electoral registration officer, be competent to perform all or any of the functions of the electoral registration officer.

<sup>1</sup>[**13CC. Chief Electoral Officers, District Election Officers, etc., deemed to be on deputation to Election Commission.**—The officers referred to in this Part and any other officer or staff employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of, all elections shall be deemed to be on deputation to the Election Commission for the period during which they are so employed and such officers and staff shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.]

PART IIB  
ELECTORAL ROLLS FOR PARLIAMENTARY CONSTITUENCIES

<sup>2</sup>[**13D. Electoral rolls for parliamentary constituencies.**— (1) The electoral roll for every parliamentary constituency, other than a parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly, shall consist of the electoral rolls for all the assembly constituencies comprised within that parliamentary constituency; and it shall not be necessary to prepare or revise separately the electoral roll for any such parliamentary constituency:

Provided that for the period referred to in clause (2) of article 371A, it shall be necessary to prepare and revise separately the electoral roll for that part of the parliamentary constituency of Nagaland which comprises the Tuensang district and the provisions of Part III shall apply in relation to the preparation and revision of the electoral roll of the said part as they apply in relation to an assembly constituency.

(2) The provisions of Part III shall apply in relation to every parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly as they apply in relation to an assembly constituency.]

PART III  
<sup>3</sup>[ELECTORAL ROLLS FOR ASSEMBLY <sup>4</sup>\* \* \* CONSTITUENCIES]

<sup>5</sup>[**14. Definitions.**—In this Part, unless the context otherwise requires,—

(a) "constituency" means an Assembly constituency <sup>4</sup>\* \* \* ;

(b) "qualifying date", in relation to the preparation or revision of every electoral roll under this Part, means <sup>6</sup> [the 1st day of January] of the year in which it is so prepared or revised:]

1. Ins. by Act 1 of 1989, s. 2 (w.e.f. 15-3-1989).

2. Subs. by Act 47 of 1966, s. 7, for s. 13D (w.e.f. 14-12-1966).

3. Subs. by Act 2 of 1956, s. 10, for the heading "REGISTRATION OF PARLIAMENTARY ELECTORS".

4. Certain words omitted by Act 103 of 1956, s. 65.

5. Subs. by Act 2 of 1956, s. 11, for s. 14.

6. Subs. by Act 58 of 1958, s. 5, for "the 1st day of March" (w.e.f. 1-1-1959).

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<sup>1</sup>[Provided that "qualifying date", in relation to the preparation or revision of every electoral roll under this Part in the year 1989, shall be the 1st day of April, 1989.]

**15. Electoral roll for every constituency.**—For every constituency there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act under the superintendence, direction and control of the Election Commission.

**16. Disqualifications for registration in an electoral roll.**—(1) A person shall be disqualified for registration in an electoral roll if he—

(a) is not a citizen of India; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) is for the time being disqualified from voting under the provisions of any law relating to corrupt<sup>2</sup>\* \* \* practices and other offences in connection with elections.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included:

<sup>3</sup>[Provided that the name of any person struck off the electoral roll of a constituency by reason of a disqualification under clause (c) of sub-section (1) shall forthwith be re-instated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorising such removal.]

**17. No person to be registered in more than one constituency.**—No person shall be entitled to be registered in the electoral roll for more than one constituency<sup>4</sup>\* \* \*.

**18. No Person to be registered more than once in any constituency.**—No person shall be entitled to be registered in the electoral roll for any constituency more than once.

<sup>5</sup>[**19. Conditions of registration.**— Subject to the foregoing provisions of this Part, every person who —

(a) is not less than <sup>6</sup>[eighteen years] of age on the qualifying date, and

(b) is ordinarily resident in a constituency,

shall be entitled to be registered in the electoral roll for that constituency.]

**20. Meaning of "ordinarily resident".**—<sup>7</sup>[(1) A person shall not be deemed to be ordinarily resident in a constituency on the ground only that he owns, or is in possession of, a dwelling house therein.

(1A) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

1. Ins. by Act 21 of 1989, s. 3 (w.e.f. 28-3-1989).

2. The words "and illegal" ins. by Act 73 of 1950, s. 4 and omitted by Act 58 of 1960, s. 3 and Sch. II.

3. Ins. by Act 73 of 1950, s. 4.

4. The words "in the same State" ins. by Act 2 of 1956, s. 12 and omitted by Act 58 of 1958, s. 6.

5. Subs. by Act 58 of 1958, s. 7, for s. 19.

6. Subs. by Act 21 of 1989, s. 4, for "twenty-one years" (w.e.f. 28-3-1989).

7. Subs. by Act 58 of 1958, s. 8, for sub-section (1).

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(1B) A member of Parliament or of the Legislature of a State shall not during the term of his office cease to be ordinarily resident in the constituency in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason of his absence from that constituency in connection with his duties as such member.]

(2) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness, or who is detained in prison or other legal custody at any place, shall not by reason thereof be deemed to be ordinarily resident therein.

<sup>1</sup>[(3) Any person having a service qualification shall be deemed to be ordinarily resident on any date in the constituency in which, but for his having such service qualification, he would have been ordinarily resident on that date.]

(4) Any person holding any office in India declared<sup>2</sup> by the President in consultation with the Election Commission to be an office to which the provisions of this sub-section apply,<sup>3</sup> \* \* \* shall be deemed to be ordinarily resident<sup>4</sup> \* \* \* on any date in the constituency in which, but for the holding of any such office<sup>5</sup> \* \* \*, he would have been ordinarily resident<sup>6</sup> \* \* \* on that date.

(5) The statement of any such person as is referred to in sub-section (3) or sub-section (4) made in the prescribed form and verified in the prescribed manner, that<sup>7</sup> [but for his having the service qualification] or but for his holding any such office<sup>8</sup> \* \* \* as is referred to in sub-section (4) he would have been ordinarily resident in a specified place<sup>9</sup> \* \* \* on any date, shall, in the absence of evidence to the contrary, be<sup>7</sup> [accepted as correct].

(6) The wife of any such person as is referred to in sub-section (3) or sub-section (4) shall if she be ordinarily residing with such person<sup>10</sup> \* \* \* be deemed to be ordinarily resident on<sup>11</sup> \* \* \* in the constituency specified by such person under sub-section (5).

<sup>12</sup>[(7) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined with reference to all the facts of the case and to such rules as may be made in this behalf by the Central Government in consultation with the Election Commission.]

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1. Subs. by Act 47 of 1966, s. 8, for sub-section (3) (w.e.f. 14-12-1966).

2. The following offices have been declared by the President by Notification No. S.O. 959, dated the 18th April, 1960: —

1. The President of India.
2. The Vice-President of India.
3. Governors of States.
4. Cabinet Ministers of the Union or of any State.
5. The Deputy Chairman and Members of the Planning Commission.
6. The Ministers of State of the Union or of any State.
7. Deputy Ministers of the Union or of any State.
8. The Speaker of the House of the People or of any Legislative Assembly.
9. The Chairman of any State Legislative Council.
10. Lieutenant Governors of Union territories.
11. The Deputy Speaker of the House of the People or of any State Legislative Assembly.
12. The Deputy Chairman of the Council of States or of any State Legislative Council.
13. Parliamentary Secretaries of the Union or of any State.

3. Certain words omitted by Act 47 of 1966, s. 8 (w.e.f. 14-12-1966).

4. The words "during any period or" omitted by Act 2 of 1956, s. 14.

5. The words "or employment" omitted by Act 47 of 1966, s. 8 (w.e.f. 14-12-1966).

6. The words "during that period or" omitted by Act 2 of 1956, s. 14.

7. Subs. by Act 47 of 1966, s. 8, for certain words (w.e.f. 14-12-1966).

8. Certain words omitted by s. 8, *ibid.* (w.e.f. 14-12-1966).

9. The words "during any period or" omitted by Act 2 of 1956, s. 14.

10. The words "during any period" omitted by s. 14, *ibid.*

11. The words "during that period" omitted by s. 14, *ibid.*

12. Sub-section (7) omitted by Act 2 of 1956, s. 14 and ins. by Act 47 of 1966, s. 8 (w.e.f. 14-12-1966).

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(8) In sub-sections (3) and (5) "service qualification" means—

- (a) being a member of the armed forces of the Union; or
- (b) being a member of a force to which the provisions of the Army Act, 1950 (46 of 1950), have been made applicable whether with or without modifications; or
- (c) being a member of an armed police force of a State, who is serving outside that State; or
- (d) being a person who is employed under the Government of India, in a post outside India.

<sup>1</sup>[**20A. Special provisions for citizens of India residing outside India.** — (1) Notwithstanding anything contained in this Act, every citizen of India—

- (a) whose name is not included in the electoral roll;
- (b) who has not acquired the citizenship of any other country; and
- (c) who is absenting from his place of ordinary residence in India owing to his employment, education or otherwise outside India (whether temporarily or not),

shall be entitled to have his name registered in the electoral roll in the constituency in which his place of residence in India as mentioned in his passport is located.

(2) The time within which the name of persons referred to in sub-section (1) shall be registered in the electoral roll and the manner and procedure for registering of a person in the electoral roll under sub-section (1) shall be such as may be prescribed.

(3) Every person registered under this section shall, if otherwise eligible to exercise his franchise, be allowed to vote at an election in the constituency.]

<sup>2</sup>[**21. Preparation and revision of electoral rolls.** — (1) The electoral roll for each constituency shall be prepared in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

<sup>3</sup>(2) The said electoral roll—

- (a) shall, unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date—
  - (i) before each general election to the House of the People or to the Legislative Assembly of a State; and
  - (ii) before each bye-election to fill a casual vacancy in a seat allotted to the constituency; and
- (b) shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the Election Commission:

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.]

(3) Notwithstanding anything contained in sub-section (2), the Election Commission may at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit:

Provided that subject to the other provisions of this Act, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

<sup>4</sup>[**22. Correction of entries in electoral rolls.**—If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency—

- (a) is erroneous or defective in any particular,

1. Ins. by Act 36 of 2010, s. 2 (w.e.f. 10-2-2011).

2. Subs. by Act 2 of 1956, s. 15, for ss. 21 to 25.

3. Subs. by Act 47 of 1966, s. 9, for sub-section (2) (w.e.f. 14-12-1966).

4. Subs. by Act 58 of 1958, s. 9, for s. 22.

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(b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or

(c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll,

the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry <sup>1</sup>[after proper verification of facts in such manner as may be prescribed]:

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him <sup>1</sup>[after proper verification of facts in such manner as may be prescribed].]

<sup>2</sup>**[23. Inclusion of names in electoral rolls.**— (1) Any person whose name is not included in the electoral roll of a constituency may apply to the electoral registration officer for the inclusion of his name in that roll.

(2) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein <sup>3</sup>[after proper verification of facts in such manner as may be prescribed]:

Provided that if the applicant is registered in the electoral roll of any other constituency, the electoral registration officer shall inform the electoral registration officer of that other constituency and that officer shall, on receipt of the information, strike off the applicant's name from that roll <sup>3</sup>[after proper verification of facts in such manner as may be prescribed].

(3) No amendment, transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for making nominations for an election in that constituency or in the parliamentary constituency within which that constituency is comprised and before the completion of that election.]

<sup>4</sup>**[24. Appeals.**—An appeal shall lie within such time and in such manner as may be prescribed—

(a) to the <sup>5</sup>[district magistrate or additional district magistrate or executive magistrate or district collector or an officer of equivalent rank], from any order of the electoral registration officer under section 22 or section 23 <sup>6</sup>\*\*\*.

<sup>7</sup>[(b) to the chief electoral officer, from any order of the district magistrate or the additional district magistrate under clause (a)]

**25. Fee for applications and appeals.**— Every applications under section 22 or section 23 and every appeal under section 24 shall be accompanied by the prescribed fee which shall, in no case, be refunded.]

<sup>8</sup>**[25A. Conditions of registration as elector in Sangha constituency in Sikkim.**—Notwithstanding anything contained in sections 15 and 19, for the Sangha constituency in the State of Sikkim, only the Sanghas belonging to monasteries, recognised for the purpose of the elections held in Sikkim in April, 1974, for forming the Assembly for Sikkim, shall be entitled to be registered in the electoral roll, and the said electoral roll shall, subject to the provisions of sections 21 to 25, be prepared or revised in such manner as may be directed by the Election Commission, in consultation with the Government of Sikkim.]

1. Ins. by Act 36 of 2010, s. 3 (w.e.f. 10-2-2011).

2. Subs. by Act 47 of 1966, s. 10, for s. 23 (w.e.f. 14-12-1966).

3. Ins. by Act 36 of 2010, s. 4 (w.e.f. 10-2-2011).

4. Ins. by Act 40 of 1961, s. 3 (w.e.f. 20-9-1961). S. 24 ins. by Act 60 of 1956, s. 2 and was omitted by Act 58 of 1958, s. 10.

5. Subs. by Act 41 of 2009, s. 2, for certain words (w.e.f. 1-2-2010).

6. The word "and" omitted by Act 47 of 1966, s. 11 (w.e.f. 14-12-1966).

7. Cl.(b) omitted by Act 47 of 1966, s. 11 (w.e.f. 14-12-1966) and Ins. by Act 41 of 2009, s. 2 (w.e.f. 1-2-2010).

8. Ins. by Act 10 of 1976, s. 2 and Sch. (w.e.f. 9-9-1975).

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PART IV

<sup>1</sup>[ELECTORAL ROLLS FOR COUNCIL CONSTITUENCIES]

**26.** [*Preparation of electoral rolls for Assembly constituencies.*] *Rep. by the Representation of the People (Amendment) Act, 1956 (2 of 1956), s. 17.*

**27. Preparation of electoral roll for Council constituencies.** — (1) In this section, "local authorities' constituency", "graduates' constituency" and "teachers' constituency" mean a constituency for the purpose of elections to a Legislative Council under sub-clause (a), sub-clause (b) and sub-clause (c), respectively, of clause (3) of article 171.

<sup>2</sup>(2) For the purpose of elections to the Legislative Council of a State in any local authorities' constituency—

(a) the electorate shall consist of members of such local authorities exercising jurisdiction in any place or area within the limits of that constituency as are specified in relation to that State in the Fourth Schedule;

(b) every member of each such local authority within a local authorities' constituency shall be entitled to be registered in the electoral roll for that constituency;

(c) the electoral registration officer for every local authorities' constituency shall maintain in his office in the prescribed manner and form the electoral roll for that constituency corrected up-to-date;

(d) in order to enable the electoral registration officer to maintain the electoral roll corrected up-to-date, the chief executive officer of every local authority (by whatever designation such officer may be known) shall immediately inform the electoral registration officer about every change in the membership of that local authority; and the electoral registration officer shall, on receipt of the information, strike off from the electoral roll the names of persons who have ceased to be, and include therein the names of persons who have become, members of that local authority; and

(e) the provisions of sections 15, 16, 18, 22 and 23 shall apply in relation to local authorities' constituencies as they apply in relation to assembly constituencies.]

(3) For the purpose of elections to the Legislative Council of a State in the graduates' constituencies and the teachers' constituencies, the State Government concerned may, with the concurrence of the Election Commission, by notification in the Official Gazette, specify—

(a) the qualifications which shall be deemed to be equivalent to that of a graduate of a university in the territory of India, and

(b) the educational institutions within the State not lower in standard than that of a secondary school.

<sup>3</sup>[(4) The provisions of sections 15, 16, 18, 21, 22 and 23 shall apply in relation to graduates' constituencies and teachers' constituencies as they apply in relation to assembly constituencies.]

(5) Subject to the foregoing provisions of this section, —

<sup>4</sup>\*

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<sup>5</sup>[(a)] every person who <sup>6</sup>[is] ordinarily resident in a graduates' constituency and has, for at least three years <sup>7</sup>[before the qualifying date], been either a graduate of a University in the territory of India or in possession of any of the qualifications specified under clause (a) of sub-section (3) by the State Government concerned, shall be entitled to be registered in the electoral roll for that constituency; and

1. Subs. by Act 2 of 1956, s. 16, for the former heading.

2. Subs. by s. 18, *ibid.*, for sub-section (2).

3. Subs. by Act 2 of 1956, s. 18, for sub-section (4).

4. Cl. (a) omitted by s. 18, *ibid.*

5. Cl. (b) re-lettered as cl. (a) by s. 18, *ibid.*

6. Subs. by Act 40 of 1961, s. 4, for "on the qualifying date was" (w.e.f. 20-9-1961).

7. Subs. by s. 4, *ibid.*, for "before that date" (w.e.f. 20-9-1961).

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<sup>1</sup>[(b)] every person who <sup>2</sup>[is] ordinarily resident in a teachers' constituency, and has, within the six years immediately <sup>3</sup>[before the qualifying date] for a total period of at least three years, been engaged in teaching in any of the educational institutions specified under clause (b) of sub-section (3) by the State Government concerned shall be entitled to be registered in the electoral roll for that constituency.

<sup>4</sup>[(6) For the purposes of sub-sections (4) and (5) the qualifying date shall be the 1st day of November of the year in which the preparation or revision of the electoral roll is commenced.]

<sup>5</sup>[PART IVA  
MANNER OF FILLING SEATES IN THE COUNCIL OF STATES TO BE FILLED BY  
REPRESENTATIVES OF <sup>6</sup>[UNION TERRITORIES]

**27A. Constitution of electoral colleges for the filling of seats in the Council of States allotted to Union territories.** — (1) <sup>7</sup>[For the purpose of filling any seat] or seats in the Council of States allotted to any <sup>6</sup>[Union territory] <sup>8</sup>\* \* \* in the Fourth Schedule to the Constitution there shall be an electoral college for <sup>9</sup>[each such territory] <sup>10</sup>\* \* \*.

<sup>11</sup> *	*	*	*	*
<sup>12</sup> *	*	*	*	*

<sup>13</sup>[(3) The electoral college for the Union territory of Delhi shall consist of the elected members of the Legislative Assembly constituted for that territory under the Government of National Capital Territory of Delhi Act, 1991 (1 of 1992).]

<sup>14</sup>[(4) <sup>15</sup>[The electoral college for the Union territory of <sup>16</sup>\* \* \* Pondicherry] shall consist of the elected members of the Legislative Assembly constituted for that territory under the Government of Union Territories Act, 1963 (20 of 1963).]

<sup>17</sup> *	*	*	*	*
<sup>18</sup> *	*	*	*	*

**27B.** [*Electoral College constituencies.*] *Rep. by the Territorial Councils Act, 1956 (103 of 1956), s. 65.*

**27C.** [*Delimitation of Electoral College constituencies.*] *Rep. by s. 65, ibid.*

**27D.** [*Power to alter or amend orders.*] *Rep. by s. 65, ibid.*

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1. Cl. (c) re-lettered as cl. (b) by Act 2 of 1956, s. 18.  
2. Subs. by Act 40 of 1961, s. 4, for "on the qualifying date was" (w.e.f. 20-9-1961).  
3. Subs. by s. 4, *ibid.*, for "before that date" (w.e.f. 20-9-1961).  
4. Subs. by Act 40 of 1960, s. 4, *ibid.*, for sub-section (6) (w.e.f. 20-9-1961).  
5. Part IVA ins. by Act 73 of 1950, s. 8.  
6. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C States".  
7. Subs. by Act 29 of 1975, s. 11 (w.e.f. 15-8-1975).  
8. The words "or group of such States" omitted by the Adaptation of Laws (No. 2) Order, 1956.  
9. Subs., *ibid.*, for "each such State".  
10. The words "or group of States" and proviso omitted by Act 2 of 1956, s. 19.  
11. Proviso omitted by s.19, *ibid.*  
12. Sub-section (2) omitted by Act 20 of 1963, s. 57 and Sch. II (w.e.f. 1-7-1963).  
13. Subs. by Act 1 of 1992, s. 55, for sub-section (3) (w.e.f. 2-10-1993).  
14. Subs. by Act 20 of 1963, s. 57 and Sch. II, for sub-section (4).  
15 Subs. by Act 69 of 1986, s. 7, for certain words (w.e.f. 20-2-1987).  
16. The word "Mizoram" omitted by Act 34 of 1986, s. 7 (w.e.f. 20-2-1987).  
17. Sub-section (5) omitted by Act 29 of 1975, s. 11 (w.e.f. 15-8-1975).  
18. Sub-section (6) omitted by Act 32 of 1954, s. 7.

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**27E.** [*Procedure as to orders delimiting constituencies.*] *Rep. by the Representation of the People (Amendment) Act, 1956 (2 of 1956), s. 21.*

**27F.** [*Electoral rolls for Council of States constituencies.*] *Rep. by s. 22, ibid.*

**27G. Termination of membership of electoral college for certain disqualifications.**—If a person who is a member of an electoral college becomes subject to any disqualification for membership of Parliament under the provisions of any law relating to corrupt and illegal practices and other offences in connection with elections to Parliament, he shall thereupon cease to be such member of the electoral college.

**27H. Manner of filling of seats in the Council of States allotted to Union territories.**—<sup>1</sup>\* \* \* The seat or seats in the Council of States allotted to any <sup>2</sup>[Union territory] <sup>3</sup>\* \* \* in the Fourth Schedule to the Constitution shall be filled by a person or persons elected by the members of the electoral college for <sup>4</sup>[that territory] <sup>5</sup>\* \* \* in accordance with the system of proportional representation by means of the single transferable vote:

<sup>6</sup>[Provided that the person who immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, is filling the seat allotted to the Part C States of Manipur and Tripura shall, as from such commencement, be deemed to have been duly elected to fill the seat allotted to the Union territory of Tripura.]

**27-I.** [*Special provisions for the filling of the seats in the Council of States allotted to the States of Ajmer and Coorg and the States of Manipur and Tripura.*] *Rep. by the Adaptation of Laws (No. 2) Order, 1956.*

**27J. Powers of electoral colleges to elect notwithstanding vacancies therein.**—No election by the members of an electoral college <sup>7</sup>\* \* \* under this Act shall be called in question on the ground merely of the existence of any vacancy in the membership of such college <sup>7</sup>\* \* \*.

**27K.** [*Electoral colleges for certain States for which Legislative Assemblies have been constituted.*] *Rep. by the Adaptation of Laws (No. 2) Order, 1956.]*

**PART V**  
GENERAL

**28. Power to make rules.**—(1) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules<sup>8</sup> for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

<sup>9</sup>[(a) the determination of ordinary residence under sub-section (7) of section 20;

(aa) the particulars to be entered in the electoral rolls;]

(b) the preliminary publication of electoral rolls <sup>10</sup>\* \* \*;

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1. Certain words omitted by the Adaptation of Laws (No. 2) Order, 1956.

2. Subs., *ibid.*, for "Part C State".

3. The words "or group of such States" omitted, *ibid.*

4. Subs., *ibid.*, for "such State".

5. The words "or group of States" omitted by Act 2 of 1956, s. 23.

6. Ins. by the Adaptation of Laws (No. 2) Order, 1956.

7. Certain words omitted by Act 49 of 1951, s. 44 and Sch. V.

8. See the Registration of Electors Rules, 1960, in Vol. II, *infra*.

9. Subs. by Act 47 of 1966, s. 12, for cl. (a) (w.e.f. 14-12-1966).

10. Certain words omitted by Act 73 of 1950, s. 9.



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any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable cause, guilty of any act or omission in breach of such official duty, he shall be punishable <sup>1</sup>[with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine].

(2) No suit or other legal proceeding shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(3) No court shall take cognizance of any offence punishable under sub-section (1) unless there is a complaint made by order of, or under authority from, the Election Commission or the Chief Electoral Officer of the State concerned.]

<sup>2</sup>[THE FIRST SCHEDULE

(See section 3)

*Allocation of Seats in the House of the People*

Name of the State/Union territory	Number of seats in the House as constituted in 2004 on the basis of the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 as amended from time to time			Number of seats in the House as subsequently constituted as per the Delimitation of Parliamentary and Assembly Constituencies Order, 2008		
	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes
1	2	3	4	5	6	7
<b>I. STATES</b>						
1. Andhra Pradesh	42	6	2	42	7	3
2. Arunachal Pradesh	2	-	-	2	-	-
3. Assam	14	1	2	14	1	2
4. Bihar	40	7	-	40	6	-
5. Chhattisgarh	11	2	4	11	1	4
6. Goa	2	-	-	2	-	-
7. Gujarat	26	2	4	26	2	4
8. Haryana	10	2	-	10	2	-
9. Himachal Pradesh	4	1	-	4	1	-
10. Jammu and Kashmir	6	-	-	6	-	-
11. Jharkhand	14	1	5	14	1	5
12. Karnataka	28	4	-	28	5	2
13. Kerala	20	2	-	20	2	-
14. Madhya Pradesh	29	4	5	29	4	6
15. Maharashtra	48	3	4	48	5	4
16. Manipur	2	-	1	2	-	1
17. Meghalaya	2	-	-	2	-	2
18. Mizoram	1	-	1	1	-	1
19. Nagaland	1	-	-	1	-	-
20. Orissa	21	3	5	21	3	5
21. Punjab	13	3	-	13	4	-
22. Rajasthan	25	4	3	25	4	3
23. Sikkim	1	-	-	1	-	-
24. Tamilnadu	39	7	-	39	7	-
25. Tripura	2	-	1	2	-	1
26. Uttarakhand	5	-	-	5	1	-
27. Uttar Pradesh	80	18	-	80	17	-
28. West Bengal	42	8	2	42	10	2

1. Subs. by Act 21 of 1996, s. 2, for certain words (w.e.f. 1-8-1996).

2. Subs. by Act 10 of 2008, s. 8, for Schedules I & II.

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	1	2	3	4	5	6	7
<b>II. UNION TERRITORIES:</b>							
1.	Andaman and Nicobar Islands	1	-	-	1	-	-
2.	Chandigarh	1	-	-	1	-	-
3.	Dadra and Nagar Haveli	1	-	1	1	-	1
4.	Delhi	7	1	-	7	1	-
5.	Daman and Diu	1	-	-	1	-	-
6.	Lakshadweep	1	-	1	1	-	1
7.	Puducherry	1	-	-	1	-	-
		<b>543</b>	<b>79</b>	<b>41</b>	<b>543</b>	<b>84</b>	<b>47</b>

**THE SECOND SCHEDULE**  
(See sections 7 and 7A)  
Total number of Seats in the Legislative Assemblies

Name of the State/Union territory	Number of seats in the House as constituted on the basis of the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 as amended from time to time			Number of seats in the House as subsequently constituted as per the Delimitation of Parliamentary and Assembly Constituencies Order, 2008			
	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	
1	2	3	4	5	6	7	
<b>I. STATES</b>							
1.	Andhra Pradesh	294	39	15	294	48	19
2.	Arunachal Pradesh	60	-	59	60	-	59
3.	Assam	126	8	16	126	8	16
4.	Bihar	243	39	-	243	38	2
5.	Chhattisgarh	90	10	34	90	10	29
6.	Goa	40	1	-	40	1	-
7.	Gujarat	182	13	26	182	13	27
8.	Haryana	90	17	-	90	17	-
9.	Himachal Pradesh	68	16	3	68	17	3
10.	Jammu and Kashmir*	76	6	-			
11.	Jharkhand	81	9	28	81	9	28
12.	Karnataka	224	33	2	224	36	15
13.	Kerala	140	13	1	140	14	2
14.	Madhya Pradesh	230	34	41	230	35	47
15.	Maharashtra	288	18	22	288	29	25
16.	Manipur	60	1	19	60	1	19
17.	Meghalaya	60	-	55	60	-	55
18.	Mizoram	40	-	39	40	-	<sup>1</sup> [39]
19.	Nagaland	60	-	59	60	-	59
20.	Orrisa	147	22	34	147	24	33
21.	Punjab	117	29	-	117	34	-
22.	Rajasthan	200	33	24	200	34	25
23.	Sikkim	32	2	12**	32	2	12**
24.	Tamilnadu	234	42	3	234	44	2
25.	Tripura	60	7	20	60	10	20
26.	Uttarakhand	70	12	3	70	13	2
27.	Uttar Pradesh	403	89	-	403	85	-
28.	West Bengal	294	59	17	294	68	16

1. Subs. by Act 41 of 2009, s. 3, for "38" (w.e.f. 1-2-2010).

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	1	2	3	4	5	6	7
II. UNION TERRITORIES:•							
1.	Delhi	70	13	-	70	12	-
2.	Puducherry	30	5	-	30	5	-]

\*Under the Constitution of Jammu and Kashmir, the number of seats in the Legislative Assembly of that State excluding the 24 seats earmarked for Pakistan occupied territory is 87 out of which 7 seats have been reserved for the Scheduled Castes in pursuance of the Jammu and Kashmir Representation of the People Act, 1957.

\*\*Reserved 1 seat for Sanghas and 12 seats for the Sikkimese of Bhutia Lepcha origin

<sup>1</sup>[THE THIRD SCHEDULE  
(See section 10)  
*Allocation of Seats in the Legislative Councils*

Name of State	Total number of seats	Number to be elected or nominated under article 171(3)				
		Sub-clause	Sub-clause	Sub-clause	Sub-clause	Sub-clause
		(a)	(b)	(c)	(d)	(e)
1	2	3	4	5	6	7
<sup>2</sup> [ <sup>3</sup> 1. Andhra Pradesh	90	31	8	8	31	12]
<sup>4</sup> [2. Bihar	75	24	6	6	27	12]
<sup>5*</sup>	*		*	*		*
<sup>6</sup> [3.] Madhya Pradesh	90	31	8	8	31	12
<sup>7*</sup>	*		*	*		*
<sup>8</sup> [5. Maharashtra	78	22	7	7	30	12]
<sup>9</sup> <sup>1</sup> [ <sup>6.</sup> <sup>10</sup> [Karnataka]	75	25	7	7	25	11]
<sup>11*</sup>	*		*	*		*
<sup>12</sup> [7. Tamil Nadu	78	26	7	7	26	12]
<sup>13</sup> [8. Uttar Pradesh	<sup>14</sup> [100]	36	8	8	<sup>14</sup> [38]	10]
<sup>15*</sup>	*		*	*		*

1. Subs. by Act 37 of 1957, s. 12, for the Third Schedule.

2. Entry relating to Andhra Pradesh omitted by Act 34 of 1985, s. 5 (w.e.f. 1-6-1985).

3. Ins. by Act 1 of 2006, s. 4.

4. Subs. by Act 30 of 2000, s.17, for entry "2" (w.e.f. 15-11-2000).

5. Entry relating to Bombay omitted by Act 11 of 1960, s. 21 (w.e.f. 1-5-1960).

6. Renumbered by s. 21, *ibid.* (w.e.f. 1-5-1960).

7. Entry relating to Tamil Nadu omitted by Act 40 of 1986, s. 5 (w.e.f. 1-11-1986).

8. Ins. by Act 11 of 1960, s. 21 (w.e.f. 1-5-1960).

9. Subs. by Act 31 of 1987, s. 2.

10. Subs. by the Mysore State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1974, s. 3 and Sch., for "Mysore" (w.e.f. 1-11-1973).

11. Entry relating to Punjab omitted by Act 46 of 1969, s. 5 (w.e.f. 7-1-1970).

12. Ins. by Act 16 of 2010, s. 4 (date yet to be notified).

13. Subs. by Act 29 of 2000, s.18 (w.e.f. 9-11-2000).

14. Subs. by Act 7 of 2004, s. 2, for "99" and "37", respectively.

15. Entry relating to West Bengal omitted by Act 20 of 1969, s. 5 (w.e.f. 1-8-1969).

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THE FOURTH SCHEDULE  
[See section 27 (2)]  
*Local authorities for purposes of elections to Legislative Councils*

1*	*	*	*
<sup>2</sup> [ANDHRA PRADESH			
1. Municipal Corporations.			
2. Municipalities.			
3. Nagar Panchayats.			
4. Cantonment Boards.			
5. Zila Praja Parishads.			
6. Mandal Praja Parishads.]			
<sup>3</sup> [BIHAR			
1. Nagar Parishads.			
2. Cantonment Boards.			
3. Nagar Panchayats.			
4. Zila Parishads.			
5. Panchayat Samitis.			
6. Nagar Nigams (Corporations).			
7. Gram Panchayats.]			
4*	*	*	*
<sup>5</sup> [MADHYA PRADESH			
<sup>6</sup> [1. Municipalities.			
2. Janapada Sabhas.			
3. Mandal Panchayats.			
4. Cantonment Boards.			
5. Notified Area Committees.			
6. Town Area Committees.]]			
7*	*	*	*
<sup>8</sup> [MAHARASHTRA			
<sup>9</sup> [1. Municipalities.			
2. Contonment Boards.			
10*	*	*	*
4. Zilla Parishad.]]			

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1. The heading "Andhra Pradesh" and the entries relating thereto omitted by Act 34 of 1985, s. 5 (w.e.f. 1-6-1985).  
2. Ins. by Act 1 of 2006, s. 4.  
3. Subs. by Act 6 of 2003, s. 2., "for "BIHAR" (w.e.f. 6-1-2003).  
4. The heading "Bombay" (that is, Maharashtra) and the entries relating thereto omitted by Act 40 of 1961, s. 6 (w.e.f. 20-9-1961).  
5. Ins. by the Adaptation of Laws (No. 2) Order, 1956.  
6. Subs. by Act 37 of 1957, s. 12, for the former entries.  
7. The heading "Tamil Nadu" and the entries relating thereto omitted by the Tamil Nadu Legislative Council (Abolition) Act, 1986, s. 5 (w.e.f. 1-11-1986).  
8. Ins. by Act 40 of 1961, s. 6 (w.e.f. 20-9-1961).  
9. Subs. by Act 2 of 1963, s. 2, for the former entries.  
10. Entry "3. Town Committees." omitted by Act 21 of 1989, s. 5.

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<sup>1</sup>[KARNATAKA]

- <sup>2</sup>[1. City Municipal Corporations.  
2. City Municipal Councils.  
3. Town Municipal Councils.  
4. Town Panchayats.  
5. Zilla Panchayats.  
6. Taluk Panchayats.  
7. Grama Panchayats.  
8. Cantonment Boards.]]

<sup>3</sup>\*

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<sup>4</sup>[TAMIL NADU]

1. Municipalities as referred to in article 243Q of the Constitution.  
2. Panchayat Union Councils.  
3. Cantonment Board.  
4. District Panchayats referred to in the Tamil Nadu Panchayat Act, 1994 (Tamil Nadu Act 21 of 1994)]

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1. Subs. by the Mysore State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1974, s. 3 and Sch., for "Mysore" (w.e.f. 1-11-1973).

2. Subs. by Act 29 of 1996, s. 2, for "the entries 1 to 5".

3. Entry relating to Punjab omitted by Act 46 of 1969, s. 5 (w.e.f. 7-1-1970).

4. Ins. by Act 16 of 2010, s. 4 (date yet to be notified).

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1. Municipal Corporations.
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4. Nagar Panchayats.
5. Kshetra Panchayats.
6. Cantonment Boards.]

2*	*	*	*	*
3*	*	*	*	*

[*THE FIFTH SCHEDULE.*] *Rep. by the Government of Union Territories Act, 1963 (20 of 1963), s. 57 and the Second Schedule.*

[*THE SIXTH SCHEDULE.*] *Rep. by the Representation of the People (Amendment) Act, 1956 (2 of 1956), s. 27.*

[*THE SEVENTH SCHEDULE.*] *Rep. by s. 27, ibid.*

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1. Subs. by Act 29 of 1996, s.2, for the entries 1 to 6.

2. The heading "West Bangal" and the entries relating thereto omitted by Act 20 of 1969, s.5 (w.e.f. 1-8-1969).

3. The heading "Mysore" and the entries relating thereto omitted by the Adaptation of Laws (No. 2) Order, 1956.

THE REPRESENTATION OF THE PEOPLE ACT, 1951

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## THE REPRESENTATION OF THE PEOPLE ACT, 1951

## ACT NO. 43 OF 1951

[17th July, 1951.]

An Act to provide for the conduct of elections of the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt <sup>1</sup>\* \* \* practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

BE it enacted by Parliament as follows:—

PART I  
PRELIMINARY

**1. Short title.**—This Act may be called the Representation of the People Act, 1951.

**2. Interpretation.**—(1) In this Act, unless the context otherwise requires,—

(a) each of the expressions defined in section 2 or sub-section (1) of section 27 of the Representation of the People Act 1950 (43 of 1950), but not defined in this Act, shall have the same meaning as in that Act;

(b) "appropriate authority" means, in relation to an election to the House of the People or the Council of States <sup>2</sup>\* \* \*, the Central Government, and in relation to an election to the Legislative Assembly or the Legislative Council of a State, the State Government;

<sup>3</sup>[(bb) "chief electoral officer" means the officer appointed under section 13A of the Representation of the People Act, 1950 (43 of 1950);]

(c) "corrupt practice" means any of the practices specified in section 123 <sup>4</sup>\* \* \*;

<sup>5</sup>[(cc) "district election officer" means the officer designated or nominated under section 13AA of the Representation of the People Act, 1950 (43 of 1950);]

(d) "election" means an election to fill a seat or seats in either House of Parliament or in the House or either House of the Legislature of a State other than the State of Jammu and Kashmir <sup>6</sup>\* \* \*;

<sup>7</sup>[(e) "elector" in relation to a constituency means a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950 (43 of 1950);]

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1. The words "and illegal" omitted by Act 27 of 1956, s. 2.

2. Certain words omitted by Act 103 of 1956, s. 66.

3. Ins. by Act 27 of 1956, s. 3.

4. The words and figures "or section 124" omitted by s. 3, *ibid.*

5. Ins. by Act 47 of 1966, s. 15 (w.e.f. 14-12-1966).

6. Certain words omitted by Act 58 of 1958, s. 14.

7. Subs. by Act 27 of 1956, s. 3, for cl. (e).



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<sup>1</sup>\* \* \* \* \*

<sup>2</sup>[(5) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.]

<sup>1</sup>\* \* \* \* \*

PART II

<sup>3</sup>[QUALIFICATIONS AND DISQUALIFICATIONS]

CHAPTER I.—*Qualifications for Membership of Parliament.*

<sup>4</sup>[**3. Qualification for membership of the Council of States.**—A person shall not be qualified to be chosen as a representative of any State <sup>5</sup>\* \* \* or Union territory in the Council of States unless he is an elector for a Parliamentary constituency <sup>6</sup>[in India].]

**4. Qualifications for membership of the House of the People.**—A person shall not be qualified to be chosen to fill a seat in the House of the People <sup>7</sup>\* \* \*, unless—

(a) in the case of a seat reserved for the Scheduled Castes in any State, he is a member of any of the Scheduled Castes, whether of that State or of any other State, and is an elector for any Parliamentary constituency;

(b) in the case of a seat reserved for the Scheduled Tribes in any State (other than those in the autonomous districts of Assam), he is a member of any of the Scheduled Tribes, whether of that State or of any other State (excluding the tribal areas of Assam), and is an elector for any Parliamentary constituency;

(c) in the case of a seat reserved for the Scheduled Tribes in the autonomous districts of Assam, he is a member of any of those Scheduled Tribes and is an elector for the Parliamentary constituency in which such seat is reserved or for any other Parliamentary constituency comprising any such autonomous district; <sup>8</sup>\* \* \*

<sup>9</sup>[(cc) in the case of the seat reserved for the Scheduled Tribes in the Union territory of <sup>10</sup>[Lakshadweep], he is a member of any of those Scheduled Tribes and is an elector for the Parliamentary constituency of that Union territory; <sup>11</sup>\* \* \*]

<sup>12</sup>[(ccc) in the case of the seat allotted to the State of Sikkim, he is an elector for the Parliamentary constituency for Sikkim;]

(d) in the case of any other seat, he is an elector for any Parliamentary constituency.

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1. Sub-sections (5) and (7) omitted and sub-section (6) renumbered as sub-section (5) by Act 27 of 1956, s. 3.

2. Subs. by Act 47 of 1966, s. 15, for sub-section (5).

3. Subs. by s. 16, *ibid.*, for the previous heading (w.e.f. 14-12-1966).

4. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for s. 3.

5. Certain words omitted by Act 47 of 1966, s. 17 (w.e.f. 14-12-1966).

6. Subs. by Act 40 of 2003, s. 2.

7. Certain words omitted by Act 29 of 1975, s. 12 (w.e.f. 15-8-1975).

8. The word "and" omitted by Act 47 of 1966, s. 18 (w.e.f. 14-12-1966).

9. Ins. by s. 18, *ibid.* (w.e.f. 14-12-1966).

10. Subs. by the Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Adaptation of Laws Order, 1974 (w.e.f. 1-11-1973).

11. The word "and" omitted by Act 10 of 1976, s. 2 and Sch. (w.e.f. 9-9-1975).

12. Ins. by s. 2 and Sch., *ibid.* (w.e.f. 9-9-1975).

*Representation of the People Act, 1951*  
(PART II. —Acts of Parliament)  
CHAPTER II. —*Qualifications for Membership of State Legislatures*

**5. Qualifications for membership of a Legislative Assembly.**—A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of a State unless—

(a) in the case of a seat reserved for the Scheduled Castes or for the Scheduled Tribes of that State, he is a member of any of those castes or of those tribes, as the case may be, and is an elector for any Assembly constituency in that State;

(b) in the case of a seat reserved for an autonomous district of Assam, <sup>1</sup>\* \* \* he is a member of a <sup>2</sup>[Scheduled Tribe of any autonomous district] and is an elector for the Assembly constituency in which such seat or any other seat is reserved for that district; and

(c) in the case of any other seat, he is an elector for any Assembly constituency in that State:

<sup>3</sup>[Provided that for the period referred to in clause (2) of article 371A, a person shall not be qualified to be chosen to fill any seat allocated to the Tuensang district in the Legislative Assembly of Nagaland unless he is a member of the regional council referred to in that article.]

<sup>4</sup>[**5A. Qualifications for membership of Legislative Assembly of Sikkim.** —<sup>5</sup>(1)] Notwithstanding anything contained in section 5, a person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of Sikkim (deemed to be the Legislative Assembly of that State duly constituted under the Constitution) unless—

(a) in the case of a seat reserved for Sikkimese of Bhutia-Lepcha origin, he is a person either of Bhutia or Lepcha origin and is an elector for any Assembly constituency in the State other than the constituency reserved for the Sanghas;

(b) in the case of a seat reserved for Sikkimese of Nepal origin, he is a person of Nepali origin and is an elector for any Assembly constituency in the State;

(c) in the case of a seat reserved for Scheduled Castes, he is a member of any of the castes specified in the Representation of Sikkim Subjects Act, 1974 and is an elector for any Assembly constituency in the State; and

(d) in the case of a seat reserved for Sanghas, he is an elector of the Sangha constituency.]

<sup>6</sup>(2) Notwithstanding anything contained in section 5, a person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of the State of Sikkim, to be constituted at any time after the commencement of the Representation of the People (Amendment) Act, 1980 (8 of 1980), unless—

(a) in the case of a seat reserved for Sikkimese of Bhutia-Lepcha origin, he is a person either of Bhutia or Lepcha origin and is an elector for any assembly constituency in the State other than the constituency reserved for the Sanghas;

(b) in the case of a seat reserved for the Scheduled Castes, he is a member of any of those castes in the State of Sikkim and is an elector for any assembly constituency in the State;

(c) in the case of a seat reserved for Sanghas, he is an elector of the Sangha constituency; and

(d) in the case of any other seat, he is an elector for any assembly constituency in the State.

1. Certain words omitted by the North-Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974 (w.e.f. 21-1-1972).

2. Subs. by Act 47 of 1966, s. 19, for "Scheduled Tribe of that district" (w.e.f. 14-12-1966).

3. Ins. by Act 27 of 1962, s. 11.

4. Ins. by Act 10 of 1976, s. 2 and Sch. (w.e.f. 9-9-1975).

5. S. 5A renumbered as sub-section (1) of that section by Act 8 of 1980, s. 3 (w.e.f. 1-9-1979).

6. Ins. by s. 3, *ibid.* (w.e.f. 1-9-1979).

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*Explanation.*—In this sub-section "Bhutia" includes Chumbipa, Dophthapa, Dukpa, Kagatey, Sherpa, Tibetan, Tromopa and Yolmo.]

**6. Qualification for membership of a Legislative Council.**—<sup>(1)</sup> A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by election unless he is an elector for any Assembly constituency in that State.

<sup>(2)</sup> A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by nomination by the Governor <sup>1</sup>\* \* \* unless he is ordinarily resident in the State.

<sup>2</sup>[CHAPTER III. —*Disqualifications for membership of Parliament and State Legislatures*

**7. Definition.**—In this Chapter,—

(a) "appropriate Government" means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Central Government, and in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State, the State Government;

(b) "disqualified" means disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State.

**8. Disqualification on conviction for certain offences.**—<sup>3</sup>(1) A person convicted of an offence punishable under—

(a) section 153A (offence of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or section 171E (offence of bribery) or section 171F (offence of undue influence or personation at an election) or sub-section (1) or sub-section (2) of section 376 or section 376A or section 376B or section 376C or section 376D (offences relating to rape) or section 498A (offence of cruelty towards a woman by husband or relative of a husband) or sub-section (2) or sub-section (3) of section 505 (offence of making statement creating or promoting enmity, hatred or ill-will between classes or offence relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies) of the Indian Penal Code (45 of 1860); or

(b) the Protection of Civil Rights Act, 1955 (22 of 1955) which provides for punishment for the preaching and practice of "untouchability", and for the enforcement of any disability arising therefrom; or

(c) section 11 (offence of importing or exporting prohibited goods) of the Customs Act, 1962 (52 of 1962); or

(d) sections 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association or offence relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967); or

(e) the Foreign Exchange (Regulation) Act, 1973 (46 of 1973); or

(f) the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or

(g) section 3 (offence of committing terrorist acts) or section 4 (offence of committing disruptive activities) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or

1. The words "or the Rajpramukh, as the case may be" omitted by the Adaptation of Laws (No. 2) Order, 1956.

2. Subs. by Act 47 of 1966, s. 20, for Chapter III (w.e.f. 14-12-1966). Previous Chapter IV (ss. 10 and 11) was rep. by Act 103 of 1956, s. 66.

3. Subs. by Act 1 of 1989, s. 4, for sub-sections (1) and (2) (w.e.f. 15-3-1989).

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(h) section 7 (offence of contravention of the provisions of sections 3 to 6) of the Religious Institutions (Prevention of Misuse) Act, 1988 (41 of 1988); or

(i) section 125 (offence of promoting enmity between classes in connection with the election) or section 135 (offence of removal of ballot papers from polling stations) or section 135A (offence of booth capturing) of clause (a) of sub-section (2) of section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of this Act; <sup>1</sup>[or]

<sup>1</sup>[(j) section 6 (offence of conversion of a place of worship) of the Places of Worship (Special Provisions) Act, 1991;]  
<sup>2</sup>[or]

<sup>3</sup>[(k) section 2 (offence of insulting the Indian National Flag or the Constitution of India) or section 3 (offence of preventing singing of National Anthem) of the Prevention of Insults to National Honour Act, 1971 (69 of 1971),]<sup>4</sup> [; or]

<sup>4</sup>[(l) the Commission of Sati (Prevention) Act, 1987 (3 of 1988); or

(m) the Prevention of Corruption Act, 1988 (49 of 1988); or

(n) the Prevention of Terrorism Act, 2002 (15 of 2002),]

<sup>5</sup>[shall be disqualified, where the convicted person is sentenced to—

(i) only fine, for a period of six years from the date of such conviction;

(ii) imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.]

(2) A person convicted for the contravention of—

(a) any law providing for the prevention of hoarding or profiteering; or

(b) any law relating to the adulteration of food or drugs; or

(c) any provisions of the Dowry Prohibition Act, 1961 (28 of 1961);<sup>6\*\*\*</sup>

<sup>6</sup>\*

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\*

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\*

(3) A person convicted of any offence and sentenced to imprisonment for not less than two years [other than any offence referred to in sub-section (1) or sub-section (2)] shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.]

<sup>7</sup>[(4)] Notwithstanding anything <sup>8</sup>[in sub-section (1), sub-section (2) or sub-section (3)] a disqualification under either sub-section shall not, in the case of a person who on the date of the conviction is a member of Parliament or the Legislature of a State, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court.

1. Ins. by Act 42 of 1991, s. 8 (w.e.f. 18-9-1991).

2. Added by Act 21 of 1996, s. 3 (w.e.f. 1-8-1996).

3. Ins. by s. 3, *ibid.* (w.e.f. 1-8-1996).

4. Ins. by Act 9 of 2003, s. 2 (w.e.f. 7-1-2003).

5. Subs. by s. 2, *ibid.* (w.e.f. 7-1-2003).

6. Cl. (d) omitted by s. 2, *ibid.* (w.e.f. 7-1-2003).

7. Sub-section (3) renumbered as sub-section (4) by Act 1 of 1989, s. 4 (w.e.f. 15-3-1989).

8. Subs. by s. 4, *ibid.*, for certain words (w.e.f. 15-3-1989).

*Representation of the People Act, 1951*  
(PART II.—Acts of Parliament)

**Explanation.**—In this section,—

(a) "law providing for the prevention of hoarding or profiteering" means any law, or any order, rule or notification having the force of law, providing for—

- (i) the regulation of production or manufacture of any essential commodity;
- (ii) the control of price at which any essential commodity may be bought or sold;
- (iii) the regulation of acquisition, possession, storage, transport, distribution, disposal, use or consumption of any essential commodity;
- (iv) the prohibition of the withholding from sale of any essential commodity ordinarily kept for sale;

(b) "drug" has the meaning assigned to it in the Drugs and Cosmetics Act, 1940 (23 of 1940);

(c) "essential commodity" has the meaning assigned to it in the Essential Commodity Act, 1955 (10 of 1955);

(d) "food" has the meaning assigned to it in the Prevention of Food Adulteration Act, 1954 (37 of 1954).

**<sup>1</sup>[8A. Disqualification on ground of corrupt practices.**—(1) The case of every person found guilty of a corrupt practice by an order under section 99 shall be submitted, <sup>2</sup>[as soon as may be, within a period of three months from the date such order takes effect], by such authority as the Central Government may specify in this behalf, to the President for determination of the question as to whether such person shall be disqualified and if so, for what period:

Provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years from the date on which the order made in relation to him under section 99 takes effect.

(2) Any person who stands disqualified under section 8A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975 (40 of 1975), may, if the period of such disqualification has not expired, submit a petition to the President for the removal of such disqualification for the unexpired portion of the said period.

(3) Before giving his decision on any question mentioned in sub-section (1) or on any petition submitted under sub-section (2), the President shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion.]

**9. Disqualification for dismissal for corruption or disloyalty.**—(1) A person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or for disloyalty to the State shall be disqualified for a period of five years from the date of such dismissal.

(2) For the purposes of sub-section (1), a certificate issued by the Election Commission to the effect that a person having held office under the Government of India or under the Government of a State, has or has not been dismissed for corruption or for disloyalty to the State shall be conclusive proof of the fact:

Provided that no certificate to the effect that a person has been dismissed for corruption or for disloyalty to the State shall be issued unless an opportunity of being heard has been given to the said person.

**9A. Disqualification for Government contracts, etc.**—A person shall be disqualified if, and for so long as, there subsists a contract entered into by him in the course of his trade or business with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government.

*Explanation.*—For the purposes of this section, where a contract has been fully performed by the person by whom it has been entered into with the appropriate Government, the contract shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part.

**10. Disqualification for office under Government company.**—A person shall be disqualified if, and for so long as, he is a managing agent, manager or secretary of any company or corporation (other than a cooperative society) in the capital of which the appropriate Government has not less than twenty-five per cent. share.

1. Subs. by Act 40 of 1975, s. 2, for s. 8A.

2. Subs. by Act 41 of 2009, s. 4 for certain words (w.e.f. 1-2-2010).

*Representation of the People Act, 1951*  
(PART II.—Acts of Parliament)

<sup>1</sup>**10A. Disqualification for failure to lodge account of election expenses.**—If the Election Commission is satisfied that a person—

- (a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act; and  
(b) has no good reason or justification for the failure,

the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

**11. Removal or reduction of period of disqualification.**—The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter <sup>2</sup>[(except under section 8A)] or reduce the period of any such disqualification.

CHAPTER IV.—*Disqualifications for Voting*

<sup>1</sup>**11A. Disqualification arising out of conviction and corrupt practices.**—<sup>3</sup>[(I)] If any person, after the commencement of this Act,—

<sup>4</sup>\* \* \* is convicted of an offence punishable under section 171E or section 171F of the Indian Penal Code (45 of 1860), or under section 125 or section 135 or clause (a) of sub-section (2) of section 136 of this Act, <sup>5</sup>\* \* \*

<sup>6</sup>\* \* \* \* \*

he shall, for a period of six years from the date of the conviction or from the date on which the order takes effect, be disqualified for voting at any election.

<sup>7</sup>[(2) Any person disqualified by a decision of the President under sub-section (I) of section 8A for any period shall be disqualified for the same period for voting at any election.

(3) The decision of the President on a petition submitted by any person under sub-section (2) of section 8A in respect of any disqualification for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State shall, so far as may be, apply in respect of the disqualification for voting at any election incurred by him under clause (b) of sub-section (I) of section 11A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975 (40 of 1975), as if such decision were a decision in respect of the said disqualification for voting also.]

<sup>1</sup>**11B. Removal of Disqualifications.**—The Election Commission may, for reasons to be recorded, remove <sup>8</sup>[any disqualification under sub-section (I) of section 11A].

<sup>9</sup>[PART III

NOTIFICATION OF GENERAL ELECTIONS

**12. Notification for biennial election to the Council of States.**—For the purpose of filling the seats of members of the Council of States retiring on the expiration of their term of office the President shall, by one or more notifications published in the Gazette of India on such date or dates as may be recommended by the Election Commission, call upon the elected members of the Legislative Assembly or, as the case may be, the members of the electoral college, of each State concerned to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder :

Provided that no notification under this section shall be issued more than three months prior to the date on which the term of office of the retiring members is due to expire.

1. Ins. by Act 47 of 1966, s. 20 (w.e.f. 14-12-1966).

2. Ins. by Act 40 of 1975, s. 3.

3. S. 11A re-numbered as sub-section (I) thereof by s. 4, *ibid.*

4. The brackets and letter "(a)" omitted by Act 38 of 1978, s. 3 and the Second Sch.

5. The word "or" omitted by s. 3 and the Second Sch. *ibid.*

6. Cl.(b) omitted by Act 40 of 1975, s. 4.

7. Ins. by s. 4, *ibid.*

8. Subs. by s. 5, *ibid.*, for certain words.

9. Subs. by Act 27 of 1956, s. 7, for Part III (ss. 12 to 18).

*Representation of the People Act, 1951*  
(PART II.—Acts of Parliament)

<sup>1</sup>[12A. **Notification for election to fill the seat allotted to the State of Sikkim in the Council of States.**—For the purpose of filling for the first time the seat allotted to the State of Sikkim by the Constitution (Thirty-sixth Amendment) Act, 1975 in the Council of States, the President shall, by a notification published in the Gazette of India, on such date as may be recommended by Election Commission, call upon the elected members of the Legislative Assembly of the State of Sikkim to elect a member in accordance with the provisions of this Act and of the rules and orders made thereunder and the election so held shall for all purposes and intent be deemed to have been held under section 12.]

13. [Notification for reconstitution of electoral colleges for certain Union territories.] *Rep. by the Territorial Councils Act, 1956 (103 of 1956), s. 66.*

14. **Notification for general election to the House of the People.**—(1) A general election shall be held for the purpose of constituting a new House of the People on the expiration of the duration of the existing House or on its dissolution.

(2) For the said purpose the President shall, by one or more notifications published in the Gazette of India on such date or dates as may be recommended by the Election Commission, call upon all parliamentary constituencies to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder:

Provided that where a general election is held otherwise than on the dissolution of the existing House of the People, no such notification shall be issued at any time earlier than six months prior to the date on which the duration of that House would expire under the provisions of clause (2) of article 83.

<sup>1</sup>[14A. **Notification for electing the representative of the State of Sikkim to the existing House of the People.**—For the purpose of electing a representative of the State of Sikkim to the House of the People, specified in clause (e) of article 371F of the Constitution, the Election Commission shall call upon the members of the Legislative Assembly of the State of Sikkim to elect the representative in accordance with such of the provisions of this Act, and the rules and orders made thereunder, as are applicable to the election of the members of the Council of States.]

15. **Notification for general election to a State Legislative Assembly.**—(1) A general election shall be held for the purpose of constituting a new Legislative Assembly on the expiration of the duration of the existing Assembly or on its dissolution.

(2) For the said purpose, <sup>2</sup>[the Governor or Administrator, as the case may be], <sup>3</sup>\* \* \* shall by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission, call upon all Assembly constituencies in the State to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder:

Provided that where a general election is held otherwise than on the dissolution of the existing Legislative Assembly, no such notification shall be issued at any time earlier than six months prior to the date on which the duration of that Assembly would expire under the provisions of clause (1), of article 172 <sup>3</sup>\* \* \* <sup>4</sup>[or under the provisions of section 5 of the Government of Union Territories Act, 1963 (20 of 1963), as the case may be.]

<sup>5</sup>[15A. **Notification for certain elections to Legislative Councils.**—For the purpose of constituting the Legislative Council of the State of Madhya Pradesh under the States Reorganisation Act, 1956 (37 of 1956), and constituting the Legislative Council of the State of Andhra Pradesh <sup>6</sup>[under the Andhra Pradesh Legislative Council Act, 2005 (1 of 2006)], <sup>7</sup>[and constituting the Legislative Council of the State of Tamil Nadu under the Tamil Nadu Legislative Council Act, 2010 (16 of 2010)] the Governor of each of the aforesaid States shall, by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission, call upon the members of the Legislative Assembly of the State and all the Council constituencies to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder.]

1. Ins. by Act 10 of 1976, s. 2 and Sch. (w.e.f. 9-9-1975).

2. Subs. by Act 20 of 1963, s. 57 and the Second Sch., for "the Governor".

3. The words "Rajpramukh, Lieutenant-Governor or Chief Commissioner, as the case may be, omitted by the Adaptation of Laws (No. 2) Order, 1956.

4. Ins. by Act 20 of 1963, s. 57 and the Second Sch.

5. Ins. by Act 37 of 1957. s. 13.

6. Subs. by Act 1 of 2006, s. 5. (w.e.f. 11-1-2006).

7. Ins. by Act 16 of 2010. s. 5 (date yet to be notified).

*Representation of the People Act, 1951*  
(PART II.—Acts of Parliament)

**16. Notification for biennial election to a State Legislative Council.**—For the purpose of filling the seats of members of the Legislative Council of a State retiring on the expiration of their term of office, the Governor<sup>1</sup> \* \* \* shall, by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission call upon the members of the Legislative Assembly of the State and all the Council constituencies concerned to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder:

Provided that no notification under this section shall be issued more than three months prior to the date on which the term of office of the retiring members is due to expire.]

PART IV  
ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS

**19. Definition.**—In this Part and in Part V, unless the context otherwise requires, "constituency" means<sup>2</sup> \* \* \* a Parliamentary constituency or an Assembly constituency or a Council constituency.

<sup>3</sup>[**19A. Delegation of functions of Election Commission.**—The functions of the Election Commission under the Constitution, the Representation of the People Act, 1950 (43 of 1950), and this Act or under the rules made thereunder may, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, be performed also by a Deputy Election Commissioner or by the Secretary to the Election Commission.]

<sup>4</sup>[**20. General duties of chief electoral officers.**—Subject to the superintendence, direction and control of the Election Commission, the chief electoral officer of each State shall supervise the conduct of all elections in the State under this Act.

<sup>5</sup>[**20A. General duties of district election officer.**—(1) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall coordinate and supervise all work in the district or in the area within his jurisdiction in connection with the conduct of all elections to Parliament and the Legislature of the State.

(2) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer.]

<sup>6</sup>[**20B. Observers.**—(1) The Election Commission may nominate an Observer who shall be an officer of Government to watch the conduct of election or elections in a constituency or a group of constituencies and to perform such other functions as may be entrusted to him by the Election Commission.

(2) The Observer nominated under sub-section (1) shall have the power to direct the returning officer for the constituency or for any of the constituencies for which he has been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare the result if in the opinion of the Observer booth capturing has taken place at a large number of polling stations or at places fixed for the poll or counting of votes or any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be ascertained.

(3) Where an Observer has directed the returning officer under this section to stop counting of votes or not to declare the result, the Observer shall forthwith report the matter to the Election Commission and thereupon the Election Commission shall, after taking all material circumstances into account, issue appropriate directions under section 58A or section 64A or section 66.

1. The words "or Rajpramukh, as the case may be," omitted by the Adaptation of Laws (No. 2) Order, 1956.

2. Certain words omitted by Act 103 of 1956, s. 66.

3. Ins. by Act 47 of 1966, s. 21 (w.e.f. 14-12-1966).

4. Subs. by Act 27 of 1956, s. 9, for ss. 20 and 21.

5. Ins. by Act 47 of 1966, s. 22 (w.e.f. 14-12-1966).

6. Ins. by Act 21 of 1996, s. 4 (w.e.f. 1-8-1996).

*Representation of the People Act, 1951*

## (PART II.—Acts of Parliament)

*Explanation.*—For the purposes of sub-section (2) and sub-section (3), "Observer" shall include a Regional Commissioner or any such officer of the Election Commission as has been assigned under this section the duty of watching the conduct of election or elections in a constituency or group of constituencies by the Commission.]

**21. Returning officers.**—For every constituency, for every election to fill a seat or seats in the Council of States and for every election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State, the Election Commission shall, in consultation with the Government of the State, designate or nominate a returning officer who shall be <sup>1</sup>[an officer of Government or of a local authority:

Provided that nothing in this section shall prevent the Election Commission from designating or nominating the same person to be the returning officer for more than one constituency.]

**22. Assistant returning officers.**—(1) The Election Commission may appoint one or more persons to assist any returning officer in the performance of his functions:

Provided that every such person shall be <sup>1</sup>[an officer of Government or of a local authority].

(2) Every assistant returning officer shall, subject to the control of the returning officer, be competent to perform all or any of the functions of the returning officer:

Provided that no assistant returning officer shall perform any of the functions of the returning officer which relate <sup>2</sup>\* \* \* to the scrutiny of nominations <sup>3</sup>\* \* \* unless the returning officer is unavoidably prevented from performing the said function.

**23. Returning officer to include assistant returning officers performing the functions of the returning officer.**—References in this Act to the returning officer shall, unless the context otherwise requires, be deemed to include an assistant returning officer performing any function which he is authorised to perform under sub-section (2) of section 22.

**24. General duty of the returning officer.**—It shall be the general duty of the returning officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and rules or orders made thereunder.

<sup>4</sup>[**25. Provision of polling stations for constituencies.**—The district election officer shall, with the previous approval of the Election Commission, provide a sufficient number of polling stations for every constituency the whole or greater part of which lies within his jurisdiction, and shall publish, in such manner as the Election Commission may direct, a list showing the polling stations so provided and the polling areas or groups of voters for which they have respectively been provided.]

**26. Appointment of presiding officers for polling stations.**—(1) The <sup>5</sup>[district election officer] shall appoint a presiding officer for each polling station and such polling officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election:

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the <sup>5</sup>[district election officer] accordingly:

<sup>6</sup>[Provided further that nothing in this sub-section shall prevent the <sup>5</sup>[district election officer] from appointing the same person to be the presiding officer for more than one polling station in the same premises.]

(2) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under this Act or any rules or orders made thereunder.

1. Subs. by Act 47 of 1966, s. 23, for "an officer of Government".

2. Certain words omitted by Act 27 of 1956, s.10.

3. The words "or to the counting of votes" omitted by s. 10, *ibid.*

4. Subs. by Act 47 of 1966, s. 25, for s. 25 (w.e.f. 14-12-1966).

5. Subs. by s. 26, *ibid.*, for "returning officer" (w.e.f. 14-12-1966).

6. Ins. by Act 27 of 1956, s.12.

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(PART II.—Acts of Parliament)

(3) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorised by the <sup>1</sup>[district election officer] to perform such functions during any such absence.

(4) References in this Act to the presiding officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorised to perform under sub-section (2) or sub-section (3), as the case may be.

<sup>2</sup>\* \* \* \* \*

**27. General duty of the presiding officer.**—It shall be the general duty of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken.

**28. Duties of a polling officer.**—It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.

<sup>3</sup>[**28A. Returning officer, presiding officer, etc., deemed to be on deputation to Election Commission.**—The returning officer, assistant returning officer, presiding officer, polling officer, and any other officer appointed under this Part, and any police officer designated for the time being by the State Government, for the conduct of any election shall be deemed to be on deputation to the Election Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of the results of such election and accordingly, such officers shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.

**29. Special provisions in the case of certain elections.**—(1) The returning officer for an election <sup>4</sup>\* \* \* to fill a seat or seats in the Council of States or for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State shall, with the previous approval of the Election Commission, fix the place at which the poll will be taken for such election and shall notify the place so fixed in such manner as the Election Commission may direct.

(2) The returning officer shall preside over such election at the place so fixed and shall appoint such polling officer or officers to assist him as he thinks necessary but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election.

<sup>5</sup>[PART IVA

REGISTRATION OF POLITICAL PARTIES

**29A. Registration with the Election Commission of associations and bodies as political parties.**—(1) Any association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of this Part shall make an application to the Election Commission for its registration as a political party for the purposes of this Act.

(2) Every such application shall be made,—

(a) if the association or body is in existence at the commencement of the Representation of the People (Amendment) Act, 1988 (1 of 1989), within sixty days next following such commencement;

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1. Subs. by Act 47 of 1966, s. 26, for "returning officer" (w.e.f. 14-12-1966.)  
 2. Sub-section (5) ins. by s. 12, *ibid.* (w.e.f. 14-12-1966) and omitted by Act 2 of 2004, s.3.  
 3. Ins. by Act 1 of 1989, s. 5 (w.e.f. 15-3-1989.)  
 4. The words and brackets "(other than a primary election)" omitted by Act 27 of 1956, s. 13.  
 5. Ins. by Act 1 of 1989, s. 6 (w.e.f. 15-6-1989).

*Representation of the People Act, 1951*  
(PART II.—Acts of Parliament)

(b) if the association or body is formed after such commencement, within thirty days next following the date of its formation.

(3) Every application under sub-section (1) shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation) and presented to the Secretary to the Commission or sent to such Secretary by registered post.

(4) Every such application shall contain the following particulars, namely:—

(a) the name of the association or body;

(b) the State in which its head office is situate;

(c) the address to which letters and other communications meant for it should be sent;

(d) the names of its president, secretary, treasurer and other office-bearers;

(e) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;

(f) whether it has any local units; if so, at what levels;

(g) whether it is represented by any member or members in either House of Parliament or of any State Legislature; if so, the number of such member or members.

(5) The application under sub-section (1) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India.

(6) The Commission may call for such other particulars as it may deem fit from the association or body.

(7) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving the representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the association or body as a political party for the purposes of this Part, or not so to register it; and the Commission shall communicate its decision to the association or body:

Provided that no association or body shall be registered as a political party under this sub-section unless the memorandum or rules and regulations of such association or body conform to the provisions of sub-section (5).

(8) The decision of the Commission shall be final.

(9) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay.]

<sup>1</sup>[**29B. Political parties entitled to accept contribution.**—Subject to the provisions of the Companies Act, 1956 (1 of 1956), every political party may accept any amount of contribution voluntarily offered to it by any person or company other than a Government company:

Provided that no political party shall be eligible to accept any contribution from any foreign source defined under clause (e) of section 2 of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976).

*Representation of the People Act, 1951*  
(PART II.—Acts of Parliament)

*Explanation.*—For the purposes of this section and section 29C,—

- (a) “company” means a company as defined in section 3;
- (b) “Government company” means a company within the meaning of section 617; and
- (c) “contribution” has the meaning assigned to it under section 293A,

of the Companies Act, 1956 (1 of 1956) and includes any donation or subscription offered by any person to a political party; and

(d) “person” has the meaning assigned to it under clause (31) of section 2 of the Income-tax Act, 1961 (43 of 1961), but does not include Government company, local authority and every artificial juridical person wholly or partially funded by the Government.

**29C. Declaration of donation received by the political parties.**—(1) The treasurer of a political party or any other person authorised by the political party in this behalf shall, in each financial year, prepare a report in respect of the following, namely:—

- (a) the contribution in excess of twenty thousand rupees received by such political party from any person in that financial year;
- (b) the contribution in excess of twenty thousand rupees received by such political party from companies other than Government companies in that financial year.

(2) The report under sub-section (1) shall be in such form as may be prescribed.

(3) The report for a financial year under sub-section (1) shall be submitted by the treasurer of a political party or any other person authorised by the political party in this behalf before the due date for furnishing a return of its income of that financial year under section 139 of the Income-tax Act, 1961 (43 of 1961), to the Election Commission.

(4) Where the treasurer of any political party or any other person authorised by the political party in this behalf fails to submit a report under sub-section (3) then, notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961), such political party shall not be entitled to any tax relief under that Act.]

PART V  
CONDUCT OF ELECTIONS

CHAPTER I.—*Nomination of Candidates*

<sup>1</sup>[**30. Appointment of dates for nominations, etc.**—As soon as the notification calling upon a constituency to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint —

- (a) the last date for making nominations, which shall be the <sup>2</sup>[seventh day] after the date of publication of the first-mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday;

1. Subs. by Act 27 of 1956, s. 14, for s. 30.

2. Subs. by Act 40 of 1961, s. 7, for "tenth day" (w.e.f. 20-9-1961).



*Representation of the People Act, 1951*  
(PART II.—Acts of Parliament)

<sup>1</sup>[(1A) Notwithstanding anything contained in sub-section (1) for election to the Legislative Assembly of Sikkim (deemed to be the Legislative Assembly of that State duly constituted under the Constitution), the nomination paper to be delivered to the returning officer shall be in such form and manner as may be prescribed :

Provided that the said nomination paper shall be subscribed by the candidate as assenting to the nomination, and—

(a) in the case of a seat reserved for Sikkimese of Bhutia-Lepcha origin, also by at least twenty electors of the constituency as proposers and twenty electors of the constituency as seconders;

(b) in the case of a seat reserved for Sanghas, also by at least twenty electors of the constituency as proposers and at least twenty electors of the constituency as seconders;

(c) in the case of a seat reserved for Sikkimese of Nepali origin, by an elector of the constituency as proposer:

Provided further that no nomination paper shall be delivered to the returning officer on a day which is a public holiday.]

(2) In a constituency where any seat is reserved, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is a member and the area in relation to which that caste or tribe is a Scheduled Caste or, as the case may be, a Scheduled Tribe of the State.

(3) Where the candidate is a person who, having held any office referred to in <sup>2</sup>[section 9] has been dismissed and a period of five years has not elapsed since the dismissal, such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued in the prescribed manner by the Election Commission to the effect that he has not been dismissed for corruption or disloyalty to the State.

(4) On the presentation of a nomination paper, the returning officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls :

<sup>3</sup>[Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the returning officer shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and where necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked.]

(5) Where the candidate is an elector of a different constituency, a copy of the electoral roll of that constituency or of the relevant part thereof or a certified copy of the relevant entries in such roll shall, unless it has been filed along with the nomination paper, be produced before the returning officer at the time of scrutiny.

<sup>4</sup>[(6) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper:

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer for election in the same constituency.]

<sup>5</sup>[(7) Notwithstanding anything contained in sub-section (6) or in any other provisions of this Act, a person shall not be nominated as a candidate for election,—

(a) in the case of a general election to the House of the People (whether or not held simultaneously from all Parliamentary constituencies), from more than two Parliamentary constituencies;

1. Ins. by Act 10 of 1976, s. 2 and Sch. (w.e.f. 9-9-1975).

2. Subs. by Act 38 of 1978, s. 3 and the Second Sch., for "clause (f) of section 7".

3. Subs. by Act 47 of 1966, s. 29, for the proviso (w.e.f. 14-12-1966).

4. Subs. by Act 40 of 1961, s. 8, for sub-section (6) (w.e.f. 20-9-1961).

5. Ins. by Act 21 of 1996, s. 6 (w.e.f. 1-8-1996).

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(b) in the case of a general election to the Legislative Assembly of a State (whether or not held simultaneously from all Assembly constituencies), from more than two Assembly constituencies in that State;

(c) in the case of a biennial election to the Legislative Council of a State having such Council, from more than two Council constituencies in the State;

(d) in the case of a biennial election to the Council of States for filling two or more seats allotted to a State, for filling more than two such seats;

(e) in the case of bye-elections to the House of the People from two or more Parliamentary constituencies which are held simultaneously, from more than two such Parliamentary constituencies;

(f) in the case of bye-elections to the Legislative Assembly of a State from two or more Assembly constituencies which are held simultaneously, from more than two such Assembly constituencies;

(g) in the case of bye-elections to the Council of States for filling two or more seats allotted to a State, which are held simultaneously, for filling more than two such seats;

(h) in the case of bye-elections to the Legislative Council of a State having such Council from two or more Council constituencies which are held simultaneously, from more than two such Council constituencies.

*Explanation.*— For the purposes of this sub-section, two or more bye-elections shall be deemed to be held simultaneously where the notification calling such bye-elections are issued by the Election Commission under section 147, section 149, section 150 or, as the case may be, section 151 on the same date.]

<sup>1</sup>[**33A. Right to information.**—(1) A candidate shall, apart from any information which he is required to furnish, under this Act or the rules made thereunder, in his nomination paper delivered under sub-section (1) or section 33, also furnish the information as to whether –

(i) he is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction;

(ii) he has been convicted of an offence [other than any offence referred to in sub-section (1) or sub-section (2), or covered in sub-section (3), of section 8] and sentenced to imprisonment for one year or more.

(2) The candidate of his proposer, as the case may be, shall, at the time of delivering to the returning officer the nomination paper under sub-section (1) of section 33, also deliver to him an affidavit sworn by the candidate in a prescribed form very fine the information specified in sub-section (1).

(3) The returning officer shall, as soon as may be after the furnishing of information to him under sub-section (1), display the aforesaid information by affixing a copy of the affidavit, delivered under sub-section (2), at a conspicuous place at his office for the information of the electors relating to a constituency for which the nomination paper is delivered.]

<sup>2</sup>[**33B. Candidate to furnish information only under the Act and the rules.**—Notwithstanding anything contained in any judgment, decree or order of any court or any direction, order or any other instruction issued by the Election Commission, no candidate shall be liable to disclose or furnish any such information, in respect of his election which is not required to be disclosed or furnished under this Act or the rules made thereunder.]

**34. Deposits.**—<sup>3</sup>[(1) A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited,—

(a) in the case of an election from a Parliamentary constituency, <sup>4</sup>[a sum of twenty-five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of twelve thousand five hundred rupees]; and

1. Ins. by Act 72 of 2002, s. 2 (w.e.f. 24-8-2002).

2. Subs. by s. 3, *ibid.* (w.e.f. 2-5-2002).

3. Subs. by Act 21 of 1996, s. 7, for sub-section (1) (w.e.f. 1-8-1996).

4. Subs. by Act 41 of 2009, s.5, for certain words (w.e.f. 1-2-2010).

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(b) in the case of an election from an Assembly or Council constituency, <sup>1</sup>[a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees] :

Provided that where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him under this sub-section.]

(2) Any sum required to be deposited under sub-section (1) shall not be deemed to have been deposited under that sub-section unless at the time of delivery of the nomination paper <sup>2</sup>[under sub-section (1) or, as the case may be, sub-section (1A) of section 33] the candidate has either deposited or caused to be deposited that sum with the returning officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the Reserve Bank of India or in a Government Treasury.

**35. Notice of nominations and the time and place for their scrutiny.**—The returning officer shall, on receiving the nomination paper <sup>2</sup>[under sub-section (1) or, as the case may be, sub-section (1A) of section 33], inform the person or persons delivering the same of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions similar to those contained in the nomination paper, both of the candidate and of <sup>3</sup>[the proposer].

**36. Scrutiny of nominations.**—(1) On the date fixed for the scrutiny of nominations under section 30, the candidates, their election agents, one proposer <sup>4</sup>\* \* \* of each candidate, and one other person duly authorised in writing by each candidate, but no other person, may attend at such time and place as the returning officer may appoint; and the returning officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in section 33.

(2) The returning officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, <sup>5</sup>[reject] any nomination on any of the following grounds:—

<sup>6</sup>[(a) <sup>7</sup>[that on the date fixed for the scrutiny of nominations the candidate] either is not qualified or is disqualified for being chosen to fill the seat under any of the following provisions that may be applicable, namely:—

Articles 84, 102, 173 and 191, <sup>8</sup>\* \* \*

<sup>9</sup>[Part II of this Act, and sections 4 and 14 of the Government of Union Territories Act, 1963 (20 of 1963)] <sup>10</sup>\* \* \*; or

(b) that there has been a failure to comply with any of the provisions of section 33 or section 34 ; or

(c) that the signature of the candidate or the proposer on the nomination paper is not genuine.

(3) Nothing contained in <sup>11</sup>[clause (b) or clause (c)] of sub-section (2) shall be deemed to authorise the <sup>12</sup>[rejection] of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

1. Subs. by Act 41 of 2009, s. 6, for certain words (w.e.f. 1-2-2010).

2. Subs. by Act 10 of 1976, s. 2 and Sch., for certain words (w.e.f. 9-9-1975).

3. Subs. by Act 27 of 1956, s. 18, for certain words.

4. The words "and one seconder" omitted by s. 19, *ibid.*

5. Subs. by s. 19, *ibid.*, for "refuse".

6. Subs. by s. 19, *ibid.*, for cls. (a) to (e).

7. Subs. by Act 40 of 1961, s. 9, for "that the candidate" (w.e.f. 20-9-1961).

8. The word "and" ins. by the Adaptation of Laws (No. 2) Order, 1956 and omitted by Act 20 of 1963, s. 57 and the Second Sch.

9. Subs. by Act 20 of 1963, s. 57 and the Second Sch. for certain words.

10. Certain words omitted by the Adaptation of Laws (No. 2) Order, 1956.

11. Subs. by Act 27 of 1956, s. 19, for "clause (c), clause (d) or clause (e)".

12. Subs. by s. 19, *ibid.*, for "refusal".





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<sup>1</sup><sup>2</sup>[(*ab*)] in the case of an election to the Legislative Council of a State by the members of the Legislative Assembly of that State, clause (*a*) of sub-section (2) of section 36 shall be construed as including a reference to sub-clause (*d*) of clause (3) of article 171;]

(*b*) any reference in the said provisions to section 30 shall be construed as references to sub-section (*I*) of this section; and

(*c*) at the time of presenting the nomination paper, the returning officer may require the person presenting the same to produce either a copy of the electoral roll, or part of the electoral roll, in which the name of the candidate is included or a certified copy of the relevant entries in such roll.]

<sup>3</sup>[**39A. Allocation of equitable sharing of time.**—(*I*) Notwithstanding anything contained in any other law for the time being in force, the Election Commission shall, on the basis of the past performance of a recognised political party, during elections, allocate equitable sharing of time on the cable television network and other electronic media in such manner as may be prescribed to display or propagate any election matter or to address public in connection with an election.

(2) The allocation of equitable sharing of time under sub-section (*I*), in respect of an election, shall be made after the publication of list of contesting candidates under section 38 for the election and shall be valid till forty-eight hours before the hour fixed for poll for such election.

(3) The allocation of equitable sharing of time under sub-section (*I*) shall be binding on all political parties concerned.

(4) The Election commission may, for the purpose of this section, make code of conduct for cable operators and electronic media and the cable operators and every person managing or responsible for the management of the electronic media shall abide by such code of conduct.

*Explanation.*—For the purposes of this section,—

(*a*) “electronic media” includes radio and any other broadcasting media notified by the Central Government in the Official gazette;

(*b*) “cable television network” and “cable operator” have the meanings respectively assigned to them under the cable Television Networks (Regulation) Act, 1995 (7 of 1995).

CHAPTER II.—*Candidates and their agents*

<sup>4</sup>[**40. Election agents.**—A candidate at an election may appoint in the prescribed manner any one person other than himself to be his election agent and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the returning officer.]

<sup>5</sup>[**41. Disqualification for being an election agent.**—Any person who is for the time being disqualified under the Constitution or under this Act for being a member of either House of Parliament or the House or either House of the Legislature of a State or for voting at elections, shall, so long as the disqualification subsists, also be disqualified for being an election agent at any election.]

1. Ins. by Act 47 of 1966, s. 30 (w.e.f. 14-12-1966).

2. Cl.(*aa*) relettered as cl. (*ab*) by Act 1 of 1989, s. 8 (w.e.f. 1-4-1989).

3. Ins. by Act 46 of 2003, s. 3 (w.e.f. 24-9-2003).

4. Subs. by Act 27 of 1956, s. 23, for s. 40.

5. Subs. by Act 47 of 1966, s. 31, for s. 41 (w.e.f. 14-12-1966).

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**42. Revocation of the appointment, or death, of an election agent.**—(1) Any revocation of the appointment of an election agent,<sup>1\*\*\*</sup> shall be signed by the candidate, and shall operate from the date on which it is lodged with the returning officer.

<sup>2</sup>[(2) In the event of such a revocation or of the death of an election agent whether that event occurs before or during the election, or after the election but before the account of the candidate's election expenses has been lodged in accordance with the provisions of section 78, the candidate may appoint in the prescribed manner another person to be his election agent and when such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.]

**43.** [Effect of default in appointment of election agent under section 42.] *Rep. by the Representation of the People (Second Amendment) Act, 1956 (27 of 1956), s. 25.*

**44.** [Duty of the election agent to keep accounts.] *Rep. by s. 25, ibid.*

<sup>3</sup>[**45. Functions of election agents.**—An election agent may perform such functions in connection with the election as are authorised by or under this Act to be performed by an election agent.]

<sup>4</sup>[**46. Appointment of polling agents.**—A contesting candidate or his election agent may appoint in the prescribed manner such number of agents and relief agents as may be prescribed to act as polling agents of such candidate at each polling station provided under section 25 or at the place fixed under sub-section (1) of section 29 for the poll.]

<sup>5</sup>[**47. Appointment of counting agents.**—A contesting candidate or his election agent may appoint in the prescribed manner one or more persons, but not exceeding such number as may be prescribed, to be present as his counting agent or agents at the counting of votes, and when any such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.]

**48. Revocation of the appointment or death of a polling agent or counting agent.**—(1) Any revocation of the appointment of a polling agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with such officer as may be prescribed, and in the event of such a revocation or of the death of a polling agent before the close of the poll, the candidate or his election agent may appoint in the prescribed manner another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment in the prescribed manner to such officer as may be prescribed.

(2) Any revocation of the appointment of a counting agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with the returning officer, and in the event of such a revocation or of the death of a counting agent before the commencement of the counting of votes, the candidate or his election agent may appoint in the prescribed manner another counting agent at any time before the counting of votes is commenced and shall forthwith give notice of such appointment in the prescribed manner to the returning officer.

**49. Functions of polling agents and counting agents.**—(1) A polling agent may perform such functions in connection with the poll as are authorised by or under this Act to be performed by a polling agent.

(2) A counting agent may perform such functions in connection with the counting of votes as are authorised by or under this Act to be performed by a counting agent.

**50. Attendance of contesting candidate or his election agent at polling stations, and performance by him of the functions of a polling agent or counting agent.**— (1) At every election where a poll is taken, each <sup>6</sup>[contesting candidate] at such election and his election agent shall have a right to be present at any polling station provided under section 25 for the taking of the poll or at the place fixed under sub-section (1) of section 29 for the poll.

1. The words "whether he be the candidate himself or not" omitted by Act 27 of 1956, s. 24.

2. Subs. by s. 24, *ibid.*, for sub-section (2).

3. Subs. by s. 26, *ibid.*, for s. 45.

4. Subs. by s. 27, *ibid.*, for s. 46.

5. Subs. by s. 28, *ibid.*, for s. 47.

6. Subs. by Act 58 of 1958, s. 20, for "candidate".

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(2) A <sup>1</sup>[contesting candidate] or his election agent may himself do any act or thing which any polling agent or the counting agent of such <sup>6</sup>[contesting candidate] if appointed, would have been authorised by or under this Act to do, or may assist any polling agent or the counting agent of such <sup>2</sup>[contesting candidate] in doing any such act or thing.

**51. Non-attendance of polling or counting agents.**— Where any act or thing is required or authorised by or under this Act to be done in the presence of the polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

CHAPTER III.—*General Procedure at Elections*

<sup>2</sup>[**52. Death of candidate of reorganised political party before poll.**— (1) If a candidate, set up by a recognised political party,—

(a) dies at any time after 11 A.M. on the last date for making nomination and his nomination is found valid on scrutiny under section 36; or

(b) whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37 dies;

and in either case, a report of his death is received at any time before the publication of the list of contesting candidate under section 38; or

(c) dies as a contesting candidate and a report of his death is received before the commencement of the poll,

the returning officer shall, upon being satisfied about the fact of the death of the candidate, by order announce an adjournment of the poll to a date to be notified later and report the fact to the Election Commission and also to the appropriate authority:

Provided that no order for adjourning a poll should be made in a case referred to in clause (a) except after the scrutiny of all the nominations including the nomination of the deceased candidate:

(2) The Election Commission shall, on receipt of a report from the returning officer under sub-section (1), call upon the recognised political party, whose candidate has died, to nominate another candidate for the said poll within seven days of issue of such notice to such recognised political party and the provisions of sections 30 to 37 shall, so far as may be, apply in relation to such nomination as they would apply to other nominations:

Provided that no person who has given a notice of withdrawal of his candidature under sub-section (1) of section 37 before the adjournment of the poll shall be ineligible for being nominated as a candidate for election after such adjournment.

(3) Where a list of contesting candidates had been published under section 38 before the adjournment of the poll under sub-section (1), the returning officer shall again prepare and publish a fresh list of contesting candidates under that section so as to include the name of the candidate who has been validly nominated under sub-section (2).

*Explanation.*—For the purposes of this section, sections 33 and 38, "recognised political party" means a political party reorganised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968.]

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1. Subs. by Act 58 of 1958, s. 20, for "candidate".

2. Subs. by Act 2 of 1992, s. 2, for s. 52 and again subs. by Act 21 of 1996, s. 9 (w.e.f.1-8-1996).

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**53. Procedure in contested and uncontested elections.**—<sup>1</sup>[(1) If the number of contesting candidates is more than the number of seats to be filled, a poll shall be taken.]

(2) If the number of such candidates is equal to the number of seats to be filled, the returning officer shall forthwith declare all such candidates to be duly elected to fill those seats.

(3) If the number of such candidates is less than the number of seats to be filled, the returning officer shall forthwith declare all such candidates to be elected and the <sup>2</sup>[Election Commission] shall, by notification in the Official Gazette, call upon the constituency or the elected members or the members of the State Legislative Assembly or the members of the electoral college concerned <sup>3\*\*\*\*</sup>, as the case may be, to elect a person or persons to fill the remaining seat or seats <sup>4\*\*\*\*</sup> :

Provided that where the constituency or the elected members or the members of the State Legislative Assembly or the members of the electoral college <sup>3\*\*\*\*</sup> having already been called upon under this sub-section, has or have failed to elect a person or the requisite number of persons, as the case may be, to fill the vacancy or vacancies, the <sup>2</sup>[Election Commission] shall not be bound to call again upon the constituency, or such members to elect a person or persons <sup>5</sup>[until it is satisfied that if called upon again, there will be no such failure on the part of the constituency or such members].

**54.** [*Special procedure at elections in constituencies where seats are reserved for Scheduled Castes or Scheduled Tribes.*] *Rep. by the Representation of the People (Amendment) Act, 1961 (40 of 1961), s. 12 (w.e.f. 20-9-1961).*

**55. Eligibility of members of Scheduled Castes or Scheduled Tribes to hold seats not reserved for those castes or tribes.**—For the avoidance of doubt it is hereby declared that a member of the Scheduled Castes or of the Scheduled Tribes shall not be disqualified to hold a seat not reserved for members of those castes or tribes, if he is otherwise qualified to hold such seats under the Constitution and this Act <sup>6</sup>[or under the Government of Union Territories Act, 1963 (20 of 1963), as the case may be.]

<sup>7</sup>[**55A.** [*Retirement from contest at elections in Parliamentary and Assembly constituencies.*] *Rep. by the Representation of the People (Amendment) Act, 1958 (58 of 1958), s. 22.*

CHAPTER IV.— *The Poll*

**56. Fixing time for poll.**—The <sup>8</sup>[Election Commission] shall fix the hours during which the poll will be taken; and the hours so fixed shall be published in such manner as may be prescribed:

Provided that the total period allotted on any one day for polling at an election in <sup>9</sup>[a Parliamentary or Assembly constituency] shall not be less than eight hours.

**57. Adjournment of poll in emergencies.**—(1) If at an election the proceedings at any polling station provided under section 25 or at the place fixed under sub-section (1) of section 29 for the poll are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity, or any other sufficient cause, the presiding officer for such polling station or the returning officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later, and where the poll is so adjourned by a presiding officer, he shall forthwith inform the returning officer concerned.

1. Subs. by Act 27 of 1956, s. 30, for sub-section (1).

2. Subs. by s. 30, *ibid.*, for "appropriate authority".

3. The words "or the elected members of the Coorg Legislative Council" omitted by Act 49 of 1951, s. 44 and the Fifth Sch.

4. The words "before such date as may be appointed in this behalf by the Election Commission and specified in the notification" omitted by Act 27 of 1956, s. 30.

5. Subs. by s. 30, *ibid.*, for "until such date as the Election Commission may specify in this behalf".

6. Ins. by Act 20 of 1963, s. 57 and the Second Schedule. The words "or under the Government of Part C States Act, 1951 (49 of 1951), as the case may be" ins. by Act 27 of 1956, s. 32, and omitted by the Adaptation of Laws (No. 2) Order, 1956.

7. Ins. by Act 27 of 1956, s. 33.

8. Subs. by s. 34, *ibid.*, for "appropriate authority".

9. Subs. by Act 58 of 1958, s. 23, for "a constituency".

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(2) Whenever a poll is adjourned under sub-section (1), the returning officer shall immediately report the circumstances to the appropriate authority and the Election Commission, and shall, as soon as may be, with the previous approval of the Election Commission, appoint the day on which the poll shall recommence, and fix the polling station or place at which and the hours during which the poll will be taken and shall not count the votes cast at such election until such adjourned poll shall have been completed.

(3) In every such case as aforesaid; the returning officer shall notify in such manner as the Election Commission may direct the date, place and hours of polling fixed under sub-section (2).

<sup>1</sup>**[58. Fresh poll in the case of destruction, etc., of ballot boxes.—**(1) If at any election,—

(a) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained; or

<sup>2</sup>[(aa) any voting machine develops a mechanical failure during the course of the recording of votes; or]

(b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll,

the returning officer shall forthwith report the matter to the Election Commission.

(2) Thereupon the Election Commission shall, after taking all material circumstances into account; either—

(a) declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or

(b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or that <sup>5</sup>[the mechanical failure of the voting machine or] the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

(3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.]

<sup>3</sup>**[58A. Adjournment of poll or countermanding of election on the ground of booth capturing.—**(1) If at any election,—

(a) booth capturing has taken place at a polling station or at a place fixed for the poll (hereafter in this section referred to as a place) in such a manner that the result of the poll at that polling station or place cannot be ascertained; or

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1. Subs. by Act 40 of 1961, s. 13, for s. 58 (w.e.f. 20-9-1961).

2. Ins. by Act 1 of 1989, s. 9 (w.e.f. 15-3-1989).

3. Ins. by s. 10, *ibid.* (w.e.f. 15-3-1989).

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(b) booth capturing takes place in any place for counting of votes in such a manner that the result of the counting at that place cannot be ascertained,

the returning officer shall forthwith report the matter to the Election Commission.

(2) The Election Commission shall, on the receipt of a report from the returning officer under sub-section (1) and after taking all material circumstances into account, either—

(a) declare that the poll at that polling station or place be void, appoint a day, and fix the hours, for taking fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit; or

(b) if satisfied that in view of the large number of polling stations or places involved in booth capturing the result of the election is likely to be affected, or that booth capturing had affected counting of votes in such a manner as to affect the result of the election, countermand the election in that constituency.

*Explanation.*—In this section, "booth capturing" shall have the same meaning as in section 135A.]

**59. Manner of voting at elections.**—At every election where a poll is taken votes shall be given by ballot in such manner as may be prescribed, <sup>1</sup>[and, save as expressly provided by this Act, no votes shall be received by proxy:]

<sup>2</sup>[ Provided that the votes at every election to fill a seat or seats in the Council of States shall be given by open ballot.]

<sup>3</sup>[**60. Special procedure for voting by certain classes of persons.**—Without prejudice to the generality of the provisions contained in section 59, provision may be made, by rules made under this Act, for enabling,—

(a) any of the persons as is referred to in clause (a) or clause (b) of sub-section (8) of section 20 of the Representation of the People Act, 1950 (43 of 1950), (hereinafter in this section referred to as the 1950-Act) to give his vote either in person or by postal ballot or by proxy, and not in any other manner, at an election in a constituency where poll is taken;

(b) any of the following persons to give his vote either in person or by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken, namely:—

(i) any person as is referred to in clause (c) or clause (d) of sub-section (8) of section 20 of the 1950-Act;

(ii) the wife of any such person to whom the provisions of sub-section (3) of section 20 of the 1950-Act apply and such wife being ordinarily residing with that person in terms of sub-section (6) of that section;

(c) any person belonging to a class of persons notified by the Election Commission in consultation with the Government to give his vote by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken subject to the fulfilment of such requirement as may be specified in those rules.

(d) any person subjected to preventive detention under any law for the time being in force to give his vote by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken, subject to the fulfilment of such requirements as may be specified in those rules.]

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1. Subs. by Act 24 of 2003, s. 2 (w.e.f. 22-9-2003).

2. Ins. by Act 40 of 2003, s. 3.

3. Subs. by Act 24 of 2003, s. 3, (w.e.f. 22-9-2003).

<sup>1</sup>[**61. Special procedure for preventing personation of electors.**—With a view to preventing personation of electors provision may be made by rules made under this Act:—

(a) for the marking with indelible ink of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper or papers to him;

(b) for the production before the presiding officer or a polling officer of a polling station by every such elector as aforesaid of his identity card before the delivery of a ballot paper or ballot papers to him if under rules made in that behalf under the Representation of the People Act, 1950 (43 of 1950), electors of the constituency in which the polling station is situated have been supplied with identity cards with or without their respective photographs attached thereto; and

(c) for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper he has already such a mark on his thumb or any other finger or does not produce on demand his identity card before the presiding officer or a polling officer of the polling station.]

<sup>2</sup>[**61A. Voting machines at elections.**—Notwithstanding anything contained in this Act or the rules made thereunder, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such constituency or constituencies as the Election Commission may, having regard to the circumstances of each case, specify.

*Explanation.*—For the purpose of this section, "voting machine" means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.]

**62. Right to vote.**—(1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of by any constituency shall be entitled to vote in that constituency.

(2) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in section 16 of the Representation of the People Act, 1950 (43 of 1950).

(3) No person shall vote at a general election in more than one constituency of the same class, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.

(4) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

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1. Subs. by Act 58 of 1958, s. 25, for s. 61.

2. Ins. by Act 1 of 1989, s. 11 (w.e.f. 15-3-1989).

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(5) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

<sup>1</sup>[(6) Nothing contained in sub-sections (3) and (4) shall apply to a person who has been authorised to vote as proxy for an elector under this Act in so far as he votes as a proxy for such elector.].

**63.** [*Method of voting.*] *Rep. by the Representation of the People (Amendment) Act, 1961 (40 of 1961), s. 14 (w.e.f. 20-9-1961).*

CHAPTER V.—*Counting of Votes*

**64. Counting of votes.**—At every election where a poll is taken, votes shall be counted by, or under the <sup>2</sup>[supervision and direction] of, the returning officer, and each <sup>3</sup>[contesting candidate], his election agent and his <sup>4</sup>[counting agents], shall have a right to be present at the time of counting.

<sup>5</sup>[**64A. Destruction, loss, etc., of ballot papers at the time of counting.**—(1) If at any time before the counting of votes is completed any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with, to such an extent that the result of the poll at that polling station or place cannot be ascertained, the returning officer shall forthwith report the matter to the Election Commission.

(2) Thereupon, the Election Commission shall, after taking all material circumstances into account, either—

(a) direct that the counting of votes shall be stopped, declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit, or

(b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election, issue such directions to the returning officer as it may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted.

(3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.]

**65. Equality of votes.**—If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

**66. Declaration of results.**—When the counting of the votes has been completed, the returning officer <sup>6</sup>[shall, in the absence of any direction by the Election Commission to the contrary, forthwith declare] the result of the election in the manner provided by this Act or the rules made thereunder.

**67. Report of the result.**—As soon as may be after the result of an election has been declared, the returning officer shall report the result to the appropriate authority and the Election Commission, and in the case of an election to a

1. Ins. by Act 24 of 2003, s. 4 (w.e.f. 22-9-2003).

2. Subs. by Act 27 of 1956, s. 36, for "supervision".

3. Subs. by Act 58 of 1958, s. 26, for "candidate".

4. Subs. by Act 27 of 1956, s. 36, for "counting agent".

5. Ins. by Act 47 of 1966, s. 34 (w.e.f. 14-12-1966).

6. Subs. by s. 35, *ibid.*, for "shall forthwith declare" (w.e.f. 14-12-1966).

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House of Parliament or of the Legislature of a State also to the Secretary of that House, and the appropriate authority shall cause to be published in the Official Gazette the declarations containing the names of the elected candidates.

<sup>1</sup>[**67A. Date of election of candidate.**—For the purposes of this Act, the date on which a candidate is declared by the returning officer under the provisions of section 53, <sup>2\*\*\*</sup>, <sup>3\*\*\*</sup> or section 66, to be elected to a House of Parliament or of the Legislature of a State <sup>4\*\*\*</sup> shall be the date of election of that candidate.]

CHAPTER VI.—*Multiple Elections*

**68. Vacation of seats when elected to both Houses of Parliament.**—(1) Any person who is chosen a member of both the Houses of the People and the Council of States and who has not taken his seat in either House may, by notice in writing signed by him and delivered to the Secretary to the Election Commission <sup>5</sup>[within ten days from the date, or the later of the dates, on which he is so chosen, intimate] in which of the Houses he wishes to serve, and thereupon, his seat in the House in which he does not wish to serve shall become vacant.

(2) In default of such intimation within the aforesaid period, his seat in the Council of States shall, at the expiration of that period, become vacant.

(3) Any intimation given under sub-section (1) shall be final and irrevocable.

<sup>6</sup>[(4) For the purposes of this section and of section 69, the date on which a person is chosen to be a member of either House of Parliament shall be in the case of an elected member, the date of his election and in the case of a nominated member, the date of first publication in the Gazette of India of his nomination.]

**69. Vacation of seats by persons already members of one House on election to other House of Parliament.**—(1) If a person who is already a member of the House of the People and has taken his seat in such House is chosen a member of the Council of States, his seat in the House of the People shall, <sup>7</sup>[on the date on which he is so chosen], become vacant.

(2) If a person who is already a member of the Council of States and has taken his seat in such Council is chosen a member of the House of the People, his seat in the Council of States shall, <sup>7</sup>[on the date on which he is so chosen], become vacant.

**\*70. Election to more than one seat in either House of Parliament or in the House or either House of the legislature of a State.**—If a person is elected to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State, then, unless within the prescribed time he resigns all but one of the seats <sup>8</sup>[by writing under his hand addressed to the Speaker or Chairman, as the case may be, or to such other authority or officer as may be prescribed], all the seats shall become vacant.

CHAPTER VII.—*Publication of election Results and Nominations*

<sup>9</sup>[**71. Publication of results of elections to the Council of States and of names of persons nominated by the President.**—After the elections held in any year in pursuance of the notifications issued under section 12, there shall be notified by the appropriate authority in the Official Gazette the names of members elected by the elected members of the

1. Ins. by Act 27 of 1956, s. 37.

2. The word and figures "section 54" omitted by Act 40 of 1961, s. 15 (w.e.f. 20-9-1961).

3. The word, figures and letter " section 55A " omitted by Act 58 of 1958, s. 27.

4. Certain words omitted by Act 103 of 1956, s. 66.

5. Subs. by Act 27 of 1956, s. 38, for certain words.

6. Ins. by s. 38, *ibid.*

7. Subs. by s. 39, *ibid.*, for "on the publication in the Gazette of India of the declaration that he has been so chosen".

8. Ins. by s. 40, *ibid.*

9. Subs. by s. 41, *ibid.*, for ss. 71 to 75.

\* See rule 91 of the Conduct of Election Rules, 1961 (page 76 of Vol. II). In relation to Prohibition relating to membership both of Parliament and of a House of the Legislature of a State, see also the Prohibition of Simultaneous Membership Rules, 1950 published under articles 101(2) and 190(2) of the Constitution *vide* Notification No.F.46/50—C, dated 26th January, 1950, in the Gazette of India, Extraordinary, page 678 (Pages 140 of Vol. I).

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Legislative Assemblies of the States and by the members of the electoral colleges for the various<sup>1</sup>[Union territories] at the said elections together with the names of any persons nominated by the President of the Council of States under sub-clause (a) of clause (1) of article 80 or under any other provisions.

**72.** [*Publication of results of elections for the reconstitution of electoral colleges for certain Union territories.*] *Rep. by the Territorial Councils Act, 1956 (103 of 1956), s. 66.*

**73. Publication of results of general elections to the House of the People and the State Legislative Assemblies.—**Where a general election is held for the purpose of constituting a new House of the People or a new State Legislative Assembly, there shall be notified by<sup>2</sup>[the Election Commission] in the Official Gazette, as soon as may be after<sup>3</sup>[the results of the elections in all the constituencies] [other than those in which the poll could not be taken for any reason on the date originally fixed under clause (d) of section 30 or for which the time for completion of the election has been extended under the provisions of section 153] have been declared by the returning officer under the provisions of section 53 or, as the case may be, section 66, the names of the members elected for those constituencies<sup>4</sup>\* \* \* and upon the issue of such notification that House or Assembly shall be deemed to be duly constituted:

Provided that the issue of such notification shall not be deemed—

<sup>5</sup>[(a) to preclude—

(i) the taking of the poll and the completion of the election in any Parliamentary or Assembly constituency or constituencies in which the poll could not be taken for any reason on the date originally fixed under clause (d) of section 30; or

(ii) the completion of the election in any Parliamentary or Assembly constituency or constituencies for which time has been extended under the provisions of section 153; or]

(b) to affect the duration of the House of the People or the State Legislative Assembly, if any, functioning immediately before the issue of the said notification.

<sup>6</sup>[**73A. Special provisions as to certain elections.**—Notwithstanding anything contained in section 73 or in any other provision of this Act, with respect to the general election for the purpose of constituting a new House of the People upon dissolution of the Ninth House of the People,—

(a) the notification under section 73 may be issued without taking into account the Parliamentary constituencies in the State of Jammu and Kashmir; and

(b) the Election Commission may take the steps in relation to elections from the Parliamentary constituencies in the State of Jammu and Kashmir separately and in such manner and no such date or dates as it may deem appropriate.]

**74. Publication of results of elections to the State Legislative Councils and of names of persons nominated to such Councils.**—After the elections held<sup>7</sup>[in pursuance of the notifications issued under section 15A or] in any year in pursuance of the notifications issued under section 16, there shall be notified by the appropriate authority in the Official Gazette the names of the members elected for the various Council constituencies and by the members of the Legislative Assembly of the State at the said elections together with the names of any persons nominated by the Governor<sup>8</sup>\* \* \* under sub-clause (e) of clause (3) of article 171.]

1. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C States".

2. Subs. by Act 40 of 1961, s. 16, for "the appropriate authority" (w.e.f. 20-9-1961).

3. Subs. by Act 10 of 1967, s. 2, for certain words.

4. Certain words omitted by Act 40 of 1961, s. 16 (w.e.f. 20-9-1961).

5. Subs. by Act 10 of 1967, s. 2, for cl. (a).

6. Subs. by Act 31 of 1991, s. 2, for ss 73A and 73AA (w.e.f. 18-4-1991).

7. Ins. by Act 37 of 1957, s. 13.

8. The words " or Rajpramukh, as the case may be" omitted by the Adaptation of Laws (No. 2) Order, 1956.

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<sup>1</sup>[CHAPTER VIIA.—DECLARATION OF ASSETS AND LIABILITIES

**75A. Declaration of assets and liabilities.**—(1) Every elected candidate for a House of Parliament shall, within ninety days from the date on which he makes and subscribes an oath or affirmation, according to the form set out for the purpose in the Third Schedule to the Constitution, for taking his seat in either House of Parliament, furnish the information, relating to—

- (i) the movable and immovable property of which he, his spouse and his dependant children are jointly or severally owners or beneficiaries;
- (ii) his liabilities to any public financial institution; and
- (iii) his liabilities to the Central Government or the State Government,

to the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(2) The information under sub-section (1) shall be furnished in such form and in such manner as may be prescribed in the rules made under sub-section (3).

(3) The Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may make rules for the purposes of sub-section (2).

(4) The rules made by the Chairman of the Council of States or the Speaker of the House of the People, under sub-section (3) shall be laid, as soon as may be after they are made, before the Council of States or the House of the People, as the case may be, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the Council of States or the House of the People and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(5) The Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may direct that any wilful contravention of the rules made under sub-section (3) by an elected candidate for a House of Parliament referred to in sub-section (1) may be dealt with in the same manner as a breach of privilege of the Council of States or the House of the People, as the case may be.

*Explanation.*—For the purposes of this section,—

- (i) “immovable property” means the land and includes any building or other structure attached to the land or permanently fastened to anything which is attached to the land;
- (ii) “movable property” means any other property which is not the immovable property and includes corporeal and incorporeal property of every description;
- (iii) “public financial institution” means a public financial institution within the meaning of section 4A of the Companies Act, 1956 (1 of 1956), and includes bank;
- (iv) “bank” referred to in clause (iii) means—

- (a) State Bank of India constituted under section 3 of the State Bank of India Act, 1955 (23 of 1955);
- (b) subsidiary bank having the meaning assigned to it in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);
- (c) Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976);
- (d) corresponding new bank having the meaning assigned to it in clause (da) of section 5 of the Banking Regulation Act, 1949 (10 of 1949); and
- (e) co-operative bank having the meaning assigned to it in clause (cci) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) as modified by sub-clause (i) of clause (c) of section 56 of that Act; and

(v) “dependant children” means sons and daughters who have no separate means of earning and are wholly dependant on the elected candidate referred to in sub-section (1) for their livelihood.]

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CHAPTER VIII.—*Election Expenses*

<sup>1</sup>**76. Application of Chapter.**—This Chapter shall apply only to the elections to the House of the People and to the Legislative Assembly of a State.

**77. Account of election expenses and maximum thereof.**—(1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between <sup>2</sup>[the date on which he has been nominated] and the date of declaration of the result thereof, both dates inclusive.

<sup>3</sup>[*Explanation 1.*—For the removal of doubts, it is hereby declared that—

(a) the expenditure incurred by leaders of a political party on account of travel by air or by any other means of transport for propagating programme of the political party shall not be deemed to be the expenditure in connection with the election incurred or authorised by a candidate of that political party or his election agent for the purposes of this sub-section.

(b) any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (7) of section 123 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorised by a candidate or by his election agent for the purposes of this sub-section.

*Explanation 2.*—For the purposes of clause (a) of *Explanation 1*, the expression “leaders of a political party”, in respect of any election, means,—

(i) where such political party is a recognised political party, such persons not exceeding forty in number, and

(ii) where such political party is other than a recognised political party, such persons not exceeding twenty in number,

whose names have been communicated to the Election Commission and the Chief Electoral Officers of the States by the political party to be leaders for the purposes of such election, within a period of seven days from the date of the notification for such election published in the Gazette of India or Official Gazette of the State, as the case may be, under this Act:

Provided that a political party may, in the case where any of the persons referred to in clause (i) or, as the case may be, in clause (ii) dies or ceases to be a member of such political party, by further communication to the Election Commission and the Chief Electoral Officers of the States, substitute new name, during the period ending immediately before forty-eight hours ending with the hour fixed for the conclusion of the last poll for such election, for the name of such person died or ceased to be a member, for the purposes of designating the new leader in his place.]

(2) The account shall contain such particulars, as may be prescribed.

(3) The total of the said expenditure shall not exceed such amount as may be prescribed.

**78. Lodging of account with the district election officer.**—<sup>4</sup>[(1)] Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates, lodge with the <sup>5</sup>[district election officer] an account of his election expenses which shall be a true copy of the account kept by him or by his election agent under section 77.]

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1. Subs. by Act 27 of 1956, s. 42, for ss. 76 to 78.

2. Subs. by Act 40 of 1975, s. 6, for certain words (retrospectively).

3. Subs. by Act 46 of 2003, s. 4, for the *Explanation*.

4. S. 78 re-numbered as sub-section (1) of that section by Act 47 of 1966, s. 36.

5. Subs. by Act 47 of 1966, s. 36, for "returning officer".

6. Ins. by s. 36, *ibid.* (w.e.f. 14-12-1966) and omitted by Act 2 of 2004, s. 3(b).

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<sup>1</sup>[PART VA

FREE SUPPLY OF CERTAIN MATERIAL TO CANDIDATES OF RECOGNISED POLITICAL PARTIES

**78A. Free supply of copies of electoral rolls.**—(1) The Government shall, at any election to be held for the purposes of constituting the House of the People or the Legislative Assembly of a State, supply, free of cost, to the candidates of recognised political parties such number of copies of the electoral roll, as finally published under the Representation of the People Act, 1950 (43 of 1950) and such other material as may be prescribed.

(2) The material referred to in sub-section (1) shall be supplied,—

(i) subject to such conditions as may be imposed by the Central Government in consultation with the Election Commission with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77; and

(ii) through such officers as may be specified by the Election Commission who shall act in accordance with such general or special directions as may be given by the Election Commission.

**78B. Supply of certain items to candidates, etc.**—(1) The Election Commission shall, at any time between the date of publication of the notification calling the election for the purposes of constituting the House of the People or the Legislative Assembly of a State and the date on which the poll is to be taken, supply or cause to be supplied, such items as the Central Government may, by order, determine in consultation with the Election Commission, to the electors in the constituencies concerned or to the candidates set up by the recognised political parties.

(2) Where the Election Commission supplies the items to the candidates under sub-section (1), the Central Government may, in consultation with the Election Commission, impose conditions with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77.

*Explanation.*—For the purposes of section 39A, this Chapter and clause (hh) of sub-section (2) of section 169, the expression “recognised political party”, has the meaning assigned to it in the Election Symbols (Reservation and Allotment) Order, 1968.]

PART VI  
DISPUTES REGARDING ELECTIONS  
CHAPTER I.—*Interpretation*

**79. Definitions.**—In this Part and in <sup>2</sup>[Part VII] unless the context otherwise requires,—

<sup>3</sup>[(a) any reference to a High Court or to the Chief Justice or Judge of a High Court shall, in relation to a Union territory having a Court of the Judicial Commissioner, be construed as a reference to the said Court of the Judicial Commissioner or to the Judicial Commissioner or any Additional Judicial Commissioner, as the case may be;]

<sup>4</sup>[(b) "candidate" means a person who has been or claims to have been duly nominated as a candidate at any election;]

(c) "costs" means all costs, charges and expenses of, or incidental to, a trial of an election petition;

(d) "electoral right" means the right of a person to stand or not to stand as, or <sup>5</sup>[to withdraw or not to withdraw] from being, a candidate, or to vote or refrain from voting at an election;

<sup>6</sup>[(e) "High Court" means the High Court within the local limits of whose jurisdiction the election to which the election petition relates has been held;]

(f) "returned candidate" means a candidate whose name has been published under section 67 as duly elected.

1. Ins. by Act 46 of 2003, s. 5.

2. Subs. by Act 47 of 1966, s. 37, for Parts VII and VIII.

3. Ins. by s. 37, *ibid.*, Original cl. (a) was omitted by Act 27 of 1956, s. 43.

4. Subs. by Act 40 of 1975, s. 7, for cl. (b) (retrospectively).

5. Subs. by Act 47 of 1966, s. 37, for "to withdraw" (w.e.f. 14-12-1966).

6. Subs. by s. 37, *ibid.*, for cl. (e) (w.e.f. 14-12-1966).



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(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

<sup>1</sup>[Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.]

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.]

<sup>2</sup>[**84. Relief that may be claimed by the petitioner.**—A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.]

**85.** [*Procedure on receiving petition.*] *Rep. by the Representation of the People (Amendment) Act, 1966 (47 of 1966), s. 40.*

CHAPTER III.—*Trial of Election Petitions*

<sup>3</sup>[**86. Trial of election petitions.**—(1) The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117.

*Explanation.*—An order of the High Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of section 98.

(2) As soon as may be after an election petition has been presented to the High Court, it shall be referred to the Judge or one of the Judges who has or have been assigned by the Chief Justice for the trial of election petitions under sub-section (2) of section 80A.

(3) Where more election petitions than one are presented to the High Court in respect of the same election, all of them shall be referred for trial to the same Judge who may, in his discretion, try them separately or in one or more groups.

(4) Any candidate not already a respondent shall, upon application made by him to the High Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the High Court, be entitled to be joined as a respondent.

*Explanation.*—For the purposes of this sub-section and of section 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the High Court and answer the claim or claims made in the petition.

(5) The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(6) The trial of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(7) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.

1. Ins. by Act 40 of 1961, s. 18 (w.e.f. 20-9-1961).

2. Subs. by Act 27 of 1956, s. 47, for s. 84.

3. Subs. by Act 47 of 1966, s. 41, for ss. 86 to 92 (w.e.f. 14-12-1966).

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**87. Procedure before the High Court.**—(1) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (5 of 1908) to the trial of suits:

Provided that the High Court shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872 (1 of 1972), shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.]

**93. Documentary evidence.**—Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

**94. Secrecy of voting not to be infringed.**—No witness or other person shall be required to state for whom he has voted at an election:

<sup>1</sup>[Provided that this section shall not apply to such witness or other person where he has voted by open ballot.].

**95. Answering of criminating questions and certificate of indemnity.**—(1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture:

Provided that—

(a) a witness, who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from <sup>2</sup>[the High Court]; and

(b) an answer given by a witness to a question put by or before <sup>1</sup>[the High Court] shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IXA of the Indian Penal Code, 1860 (45 of 1860), or Part VII of this Act arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

**96. Expenses of witnesses.**—The reasonable expenses incurred by any person in attending to give evidence may be allowed by <sup>2</sup>[the High Court] to such person and shall, unless <sup>2</sup>[the High Court] otherwise directs, be deemed to be part of the costs.

**97. Recrimination when seat claimed.**—(1) When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election:

Provided that the returned candidate or such other party, as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of <sup>3</sup>[commencement of the trial], given notice to <sup>2</sup>[the High Court] of his intention to do so and has also given the security and the further security referred to in sections 117 and 118 respectively.

(2) Every notice referred to in sub-section (1) shall be accompanied by the statement and <sup>4</sup>\* \* \* particulars required by section 83 in the case of an election petition and shall be signed and verified in like manner.

**98. Decision of the High Court.**—At the conclusion of the trial of an election petition <sup>2</sup>[the High Court] shall make an order—

(a) dismissing the election petition; or

1. Ins. by Act 40 of 2003, s. 4.

2. Subs. by Act 47 of 1966, s. 42, for "the Tribunal" (w.e.f. 14-12-1966).

3. Subs. by Act 27 of 1956, s. 52, for "the publication of the election petition under section 90".

4. The words "list of" omitted by s. 52, *ibid.*

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(b) declaring the election of <sup>1</sup>[all or any of the returned candidates] to be void; or

(c) declaring the election, of <sup>1</sup>[all or any of the returned candidates] to be void and the petitioner or any other candidate to have been duly elected. <sup>2</sup>\* \* \*

<sup>2</sup>\* \* \* \* \*

**99. Other orders to be made by the High Court.**—(1) At the time of making an order under section 98 <sup>3</sup>[the High Court] shall also make an order—

<sup>4</sup>[(a) where any charge is made in the petition of any corrupt practice having been committed at the election, recording—

(i) a finding whether any corrupt practice has or has not been proved to have been committed <sup>5</sup>\*\*\* at the election, and the nature of that corrupt practice; and

(ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and]

(b) fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid:

Provided that <sup>6</sup>[a person who is not a party to the petition shall not be named] in the order under sub-clause (ii) of clause (a) unless—

(a) he has been given notice to appear before <sup>3</sup>[the High Court] and to show cause why he should not be so named; and

(b) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness who has already been examined by <sup>3</sup>[the High Court] and has given evidence against him, of calling evidence in his defence and of being heard.

<sup>7</sup>[(2) In this section and in section 100, the expression "agent" has the same meaning as in section 123.]

**100. Grounds for declaring election to be void.**—<sup>8</sup>[(1) Subject to the provisions of sub-section (2) if <sup>3</sup>[the High Court] is of opinion—

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act <sup>9</sup>[or the Government of Union Territories Act, 1963 (20 of 1963)]; or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

1. Subs. by Act 27 of 1956, s. 53, for "the returned candidate".

2. The word "or" and clause (d) omitted by s. 53, *ibid.*

3. Subs. by Act 47 of 1966, s. 42, for "the Tribunal" (w.e.f. 14-12-1966).

4. Subs. by Act 27 of 1956, s. 54, for cl. (a).

5. Certain words omitted by Act 58 of 1958, s. 29.

6. Subs. by Act 27 of 1956, s. 54, for "no person shall be named".

7. Subs. by s. 54, *ibid.*, for sub-section (2).

8. Subs. by s. 55, *ibid.*, for sub-sections (1) and (2).

9. Ins. by Act 20 of 1963, s. 57 and the Second Sch. the words "or the Government of Part C States Act, 1951 (49 of 1951)" were omitted by the Adaptation of Laws (No. 2) Order, 1956.



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(a) any decision made by the returning officer under the provisions of this Act shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and

(b) in so far as that question is not determined by such a decision <sup>1</sup>[the High Court] shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

<sup>2</sup>**103. Communication of orders of the High Court.**—The High Court shall, as soon as may be after the conclusion of the trial of an election petition, intimate the substance of the decision to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned and, as soon as may be thereafter, shall send to the Election Commission an authenticated copy of the decision.]

**104.** [*Difference of opinion among the members of the Tribunal.*] *Rep. by the Representation of the People (Second Amendment) Act, 1956 (27 of 1956), s. 57.*

**105.** [*Orders of the Tribunal to be final and conclusive.*] *Rep. by s. 58, ibid.*

**106. Transmission of order to the appropriate authority, etc., and its publication.**—As soon as may be after the receipt of any order made by <sup>3</sup>[the High Court] under section 98 or section 99, the Election Commission shall forward copies of the order to the appropriate authority and, in the case where such order relates to an election <sup>4</sup>\*\*\* to a House of Parliament or to an election to the House or a House of the Legislature of a State, also to the Speaker or Chairman, as the case may be, of the House concerned and <sup>5</sup>[shall cause the order to be published—

(a) where the order relates to an election to a House of Parliament, in the Gazette of India as well as in the Official Gazette of the State concerned; and

(b) where the order relates to an election to the House or a House of the Legislature of the State, in the Official Gazette of the State.]

<sup>6</sup>**107. Effect of orders of the High Court.**—<sup>7</sup>[(1) Subject to the provisions contained in Chapter IVA relating to the stay of operation of an order of the High Court under section 98 or section 99, every such order shall take effect as soon as it is pronounced by the High Court.]

(2) Where by an order under section 98 the election of a returned candidate is declared to be void, acts and proceedings in which that returned candidate has, before the date thereof, participated as a member of Parliament or as a member of the Legislature of a State shall not be invalidated by reason of that order, nor shall such candidate be subjected to any liability or penalty on the ground of such participation.]

CHAPTER IV.—*Withdrawal and Abatement of Election Petitions*

**108.** [*Withdrawal of petitions before appointment of Tribunal.*] *Rep. by the Representation of the People (Amendment) Act, 1966 (47 of 1966), s. 45.*

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1. Subs. by Act 47 of 1966, s. 42, for "the Tribunal" (w.e.f. 14-12-1966).  
 2. Subs. by s. 43, *ibid.*, for s. 103 (w.e.f. 14-12-1966).  
 3. Subs. by s. 44, *ibid.*, for "the Tribunal" (w.e.f. 14-12-1966).  
 4. The words and brackets "(other than a primary election)" omitted by Act 27 of 1956, s. 59.  
 5. Subs. by s. 59, *ibid.*, for certain words.  
 6. Subs. by s. 60, *ibid.*, for s. 107.  
 7. Subs. by Act 47 of 1966, s. 44, for sub-section (1) (w.e.f. 14-12-1966).

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<sup>1</sup>[**109. Withdrawal of election petitions.**—(1) An election petition may be withdrawn only by leave of the High Court.

(2) Where an application for withdrawal is made under sub-section (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Official Gazette.

**110. Procedure for withdrawal of election petitions.**—(1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(2) No application for withdrawal shall be granted if, in the opinion of the High Court, such application has been induced by any bargain or consideration which ought not to be allowed.

(3) If the application is granted—

(a) the petitioner shall be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the High Court may think fit;

(b) the High Court shall direct that the notice of withdrawal shall be published in the Official Gazette and in such other manner as it may specify and thereupon the notice shall be published accordingly;

(c) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the High Court may deem fit.]

**111. Report of withdrawal by the High Court to the Election Commission.**—When an application for withdrawal is granted by <sup>2</sup>[the High Court] and no person has been substituted as petitioner under clause (c) of sub-section (3) of section 110, in place of the party withdrawing, <sup>2</sup>[the High Court] shall report the fact to the Election Commission <sup>3</sup>[and thereupon the Election Commission shall publish the report in the Official Gazette].

<sup>4</sup>[**112. Abatement of election petitions.**—(1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

(2) Where an election petition abates under sub-section (1), the High Court shall cause the fact to be published in such manner as it may deem fit.

(3) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the High Court may deem fit.]

**116. Abatement or substitution on death of respondent.**—If before the conclusion of the trial of an election petition, the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondents dies or gives such notice and there is no other respondent who is opposing the petition, <sup>5</sup>[the High Court] shall cause notice of such event to be published in the Official Gazette, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as <sup>5</sup>[the High Court] may think fit.

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1. Subs. by Act 47 of 1966, s. 46, for ss. 109 and 110 (w.e.f. 14-12-1966).

2. Subs. by s. 47, *ibid.*, for "the Tribunal" (w.e.f. 14-12-1966).

3. Ins. by Act 27 of 1956, s. 61.

4. Subs. by Act 47 of 1966, s. 48, for ss. 112 to 115 (w.e.f. 14-12-1966).

5. Subs. by s. 49, *ibid.*, for "the Tribunal" (w.e.f. 14-12-1966).

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<sup>1</sup>[CHAPTER IVA.—*Appeals*

<sup>2</sup>**116A. Appeals to Supreme Court.**—(1) Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie to the Supreme Court on any question (whether of law or fact) from every order made by a High Court under section 98 or section 99.

(2) Every appeal under this Chapter shall be preferred within a period of thirty days from the date of the order of the High Court under section 98 or section 99:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

**116B. Stay of operation of order of High Court.**—(1) An application may be made to the High Court for stay of operation of an order made by the High Court under section 98 or section 99 before the expiration of the time allowed for appealing therefrom and the High Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order; but no application for stay shall be made to the High Court after an appeal has been preferred to the Supreme Court.

(2) Where an appeal has been preferred against an order made under section 98 or section 99, the Supreme Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order appealed from.

(3) When the operation of an order is stayed by the High Court or, as the case may be, the Supreme Court, the order shall be deemed never to have taken effect under sub-section (1) of section 107; and a copy of the stay order shall immediately be sent by the High Court or, as the case may be, the Supreme Court, to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned.

**116C. Procedure in appeal.**—(1) Subject to the provisions of this Act and of the rules, if any, made thereunder, every appeal shall be heard and determined by the Supreme Court as nearly as may be in accordance with the procedure applicable to the hearing and determination of an appeal from any final order passed by a High Court in the exercise of its original civil jurisdiction; and all the provisions of the Code of Civil Procedure, 1908 (5 of 1908), and the Rules of the Court (including provisions as to the furnishing of security and the execution of any order of the Court) shall, so far as may be, apply in relation to such appeal.

(2) As soon as an appeal is decided, the Supreme Court shall intimate the substance of the decision to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned and as soon as may be thereafter shall send to the Election Commission an authenticated copy of the decision; and upon its receipt, the Election Commission shall—

(a) forward copies thereof to the authorities to which copies of the order of the High Court were forwarded under section 160; and

(b) cause the decision to be published in the Gazette or Gazettes in which that order was published under the said section.]]

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1. Ins. by Act 27 of 1956, s. 62.

2. Subs. by Act 47 of 1966, s. 50, for ss. 116A and 116B (w.e.f. 14-12-1966).

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CHAPTER V.—*Cost and Security for Costs*

<sup>1</sup>[117. **Security for costs.**—(1) At the time of presenting an election petition, the petitioner shall deposit in the High Court in accordance with the rules of the High Court a sum of two thousand rupees as security for the costs of the petition.

(2) During the course of the trial of an election petition, the High Court may, at any time, call upon the petitioner to give such further security for costs as it may direct.

**118. Security for costs from a respondent.**—No person shall be entitled to be joined as a respondent under sub-section (4) of section 86 unless he has given such security for costs as the High Court may direct.

**119. Costs.**—Costs shall be in the discretion of the High Court:

Provided that where a petition is dismissed under clause (a) of section 98, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the High Court shall make an order for costs in favour of the returned candidate.]

**121. Payment of costs out of security deposits and return of such deposits.**—(1) If in any order as to costs under the provisions of this Part there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible, out of the security deposit and the further security deposit, if any, made by such party under this Part on an application made in writing in that behalf <sup>2</sup>[within a period of one year, from the date of such order] to <sup>3</sup>[the High Court] by the person in whose favour the costs have been awarded.

(2) If there is any balance left of any of the said security deposits after payment under sub-section (1) of the costs referred to in that sub-section, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of <sup>4</sup>[one year] the whole of the said security deposits may, on an application made in that behalf in writing to <sup>3</sup>[the High Court] by the person by whom the deposits have been made, or if such person dies after making such deposits, by the legal representative of such person, be returned to the said person or to his legal representative, as the case may be.

**122. Execution of orders as to costs.**—Any order as to costs under the provisions of this Part may be produced before the principal civil court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, or where such place is within a presidency-town, before the court of small causes having jurisdiction there, and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof may be recovered by an application made under sub-section (1) of section 121, no application shall lie under this section <sup>5</sup>[within a period of one year from the date of such order] unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under that sub-section owing to the insufficiency of the amount of the security deposits referred to in that sub-section.

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1. Subs. by Act 47 of 1966, s. 51, for ss. 117, 118, 119, 119A and 120 (w.e.f. 14-12-1966).

2. Subs. by Act 58 of 1958, s. 34, for certain words.

3. Subs. by Act 47 of 1966, s. 52, for "the Election Commission" (w.e.f. 14-12-1966).

4. Subs. by Act 58 of 1958, s. 34, for "six months".

5. Subs. by s. 35, *ibid.*, for certain words.

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PART VII

<sup>1</sup>[CORRUPT PRACTICES AND ELECTORAL OFFENCES]

<sup>2</sup>[CHAPTER I.—*Corrupt Practice*]

**123. Corrupt practices.**—The following shall be deemed to be corrupt practices for the purposes of this Act:—

<sup>3</sup>[(*I*) "Bribery", that is to say—

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing—

(a) a person to stand or not to stand as, or <sup>4</sup>[to withdraw or not to withdraw] from being a candidate at an election, or

(b) an elector to vote or refrain from voting at an election, or as a reward to—

(i) a person for having so stood or not stood, or for <sup>5</sup>[having withdrawn or not having withdrawn] his candidature; or

(ii) an elector for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(a) by a person for standing or not standing as, or for <sup>6</sup>[withdrawing or not withdrawing] from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate <sup>4</sup>[to withdraw or not to withdraw] his candidature.

*Explanation.*—For the purposes of this clause the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 78.]

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person <sup>7</sup>[with the consent of the candidate or his election agent], with the free exercise of any electoral right:

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1. Subs. by Act 27 of 1956, s. 65, for the heading "CORRUPT AND ILLEGAL PRACTICES AND ELECTORAL OFFENCES".

2. Subs. by s. 66, *ibid.*, for Chapters I and II (ss. 123 to 125).

3. Subs. by Act 58 of 1958, s. 36, for cl. (*I*).

4. Subs. by Act 47 of 1966, s. 53, for "to withdraw" (w.e.f. 14-12-1966).

5. Subs. by s. 53, *ibid.*, for "having withdrawn" (w.e.f. 14-12-1966).

6. Subs. by s. 53, *ibid.*, for "withdrawing" (w.e.f. 14-12-1966).

7. Ins. by Act 58 of 1958, s. 36.

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Provided that—

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

<sup>1</sup>[(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:

<sup>2</sup>[Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.]

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.]

<sup>3</sup>[(3B) The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

*Explanation.*—For the purposes of this clause, "sati" and "glorification" in relation to sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987 (3 of 1988).]

(4) The publication by a candidate or his agent or by any other person <sup>4</sup>[with the consent of a candidate or his election agent], of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, <sup>5</sup>\* \* \* of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person <sup>4</sup>[with the consent of a candidate or his election agent], <sup>6</sup>[or the use of such vehicle or vessel for the free conveyance] of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 25 or a place fixed under sub-section (1) of section 29 for the poll:

1. Subs. by Act 40 of 1961, s. 23, for cl. (3) (w.e.f. 20-9-1961).

2. Ins. by Act 40 of 1975, s. 8 (retrospectively).

3. Ins. by Act 3 of 1988, s. 19 (retrospectively).

4. Ins. by Act 58 of 1958, s. 36.

5. The words "or retirement from contest" omitted by s. 36, *ibid*.

6. Subs. by Act 47 of 1966, s. 53, for "for the conveyance" (w.e.f. 14-12-1966).

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Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

*Explanation.*—In this clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(6) The incurring or authorizing of expenditure in contravention of section 77.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person <sup>1</sup>[with the consent of a candidate or his election agent], any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, <sup>2</sup>[from any person whether or not in the service of the Government] and belonging to any of the following classes, namely:—

(a) gazetted officers;

(b) stipendiary judges and magistrates;

(c) members of the armed forces of the Union;

(d) members of the police forces;

(e) excise officers;

<sup>3</sup>[(f) revenue officers other than village revenue officers known as lambardars, malguzars, patels, deshmukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and]

(g) such other class of persons in the service of the Government as may be prescribed:

<sup>4</sup>[Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of /the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election;]

<sup>5</sup>[(h) class of persons in the service of a local authority, university, government company or institution or concern or undertaking appointed or deputed by the Election Commission in connection with the conduct of elections.]

<sup>6</sup>[(8) booth capturing by a candidate or his agent or other person.]

*Explanation.*—(1) In this section, the expression "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

1 Ins. by Act 58 of 1958, s. 36.

2 Subs. by Act 41 of 2009, s. 6, for certain words (w.e.f. 1-2-2010).

3 Subs. by Act 56 of 1958, s. 36, for cl. (f).

4 Ins. by Act 40 of 1975, s. 8 (retrospectively).

5 Ins. by Act 41 of 2009, s. 6 (w.e.f. 1-2-2010).

6 Ins. by Act 1 of 1989, s. 13 (w.e.f. 15-3-1989).

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(2) For the purposes of clause (7), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent<sup>1</sup> \* \* \* of that candidate.]

<sup>2</sup>[(3) For the purposes of clause (7), notwithstanding anything contained in any other law, the publication in the Official Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Central Government (including a person serving in connection with the administration of a Union territory) or of a State Government shall be conclusive proof—

(i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and

(ii) where the date of taking effect of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service, such person ceased to be in such service with effect from the said date.]

<sup>3</sup>[(4) For the purposes of clause (8), "booth capturing" shall have the same meaning as in section 135A.]

CHAPTER III.—*Electoral offences*

<sup>4</sup>[125. **Promoting enmity between classes in connection with election.**—Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable, with imprisonment for a term which may extend to three years, or with fine, or with both.]

<sup>5</sup>[125A. **Penalty for filing false affidavit, etc.**—A candidate who himself or through his proposer, with intent to be elected in an election,—

(i) fails to furnish information relating to sub-section (1) of section 33A; or

(ii) give false information which he knows or has reason to believe to be false; or

(iii) conceals any information,

in his nomination paper delivered under sub-section (1) of section 33 or in his affidavit which is required to be delivered under sub-section (2) of section 33A, as the case may be, shall, notwithstanding anything contained in any other law for the time being in force, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.]

<sup>6</sup>[126. **Prohibition of public meetings during period of forty-eight hours ending with hour fixed for conclusion of poll.**—(1) No person shall—

(a) convene, hold or attend, join or address any public meeting or procession in connection with an election; or

(b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or

(c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto,

in any polling area during the period of forty-eight hours ending with the fixed for the conclusion of the poll for any election in the polling area.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(3) In this section, the expression "election matter" means any matter intended or calculated to influence or affect the result of an election.].

1. The words "or a polling agent or a counting agent" omitted by Act 47 of 1966, s. 53 (w.e.f. 14-12-1966).

2. Added by Act 40 of 1975, s. 8 (retrospectively).

3. Ins. by Act 1 of 1989, s.13 (w.e.f. 15-3-1989).

4. Ins. by Act 40 of 1961, s. 24 (w.e.f. 20-9-1961).

5. Ins. by Act 72 of 2002, s.5 (w.e.f. 24-8-2002).

6. Subs. by Act 21 of 1996, s. 10, for s. 126 (w.e.f. 1-8-1969).

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<sup>1</sup>[**126A. Restriction on publication and dissemination of result of exit polls, etc.**—(1) No person shall conduct any exit poll and publish or publicise by means of the print or electronic media or disseminate in any other manner, whatsoever, the result of any exit poll during such period, as may be notified by the Election Commission in this regard.

(2) For the purposes of sub-section (1), the Election Commission shall, by a general order, notify the date and time having due regard to the following, namely:—

(a) in case of a general election, the period may commence from the beginning of the hours fixed for poll on the first day of poll and continue till half an hour after closing of the poll in all the States and Union territories;

(b) in case of a bye-election or a number of bye-election held together, the period may commence from the beginning of the hours fixed for poll on and from the first day of poll and continue till half an hour after closing of the poll :

Provided that in case of a number of bye-elections held together on different days, the period may commence from the beginning of the hours fixed for poll on the first day of poll and continue till half an hour after closing of the last poll.

(3) Any person who contravenes the provisions of this section shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

*Explanation.*— For the purposes of this section, —

(a) "exit poll" means an opinion survey respecting how electors have voted at an election or respecting how all the electors have performed with regard to the identification of a political party or candidate in an election;

(b) "electronic media" includes internet, radio and television including Internet Protocol Television, satellite, terrestrial or cable channels, mobile and such other media either owned by the Government or private person or by both;

(c) "print media" includes any newspaper, magazine or periodical, poster, placard, handbill or any other document;

(d) "dissemination" includes publication in any "print media" or broadcast or display on any electronic media.

**126B. Offences by companies.**—(1) Where an offence under sub-section (2) of section 126A has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided the noting contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*— For the purpose of this section, —

(a) "company" means any body corporate, and includes a firm or other association of individuals ; and

(b) "director" in relation to a firm, means a partner in the firm.]

**127. Disturbances at election meetings.**—(1) Any person who at a public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, <sup>2</sup>[shall be punishable with imprisonment for a term which may extend to <sup>3</sup>[six months or with fine which may extend to two thousand rupees] or with both.]

<sup>4</sup>[(1A) An offence punishable under sub-section (1) shall be cognizable.]

1. Ins. by Act 41 of 2009, s.7 (w.e.f. 1-2-2010).

2. Subs. by Act 1 of 1989, s. 14, for certain words ( w.e.f. 15-3-1989).

3. Subs. by Act 21 of 1996, s. 11, for certain words (w.e.f. 1-8-1996).

4. Ins. by s. 11, *ibid.* (w.e.f. 1-8-1996).

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(2) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member or members and the date on which such election is held.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

<sup>1</sup>[**127A. Restrictions on the printing of pamphlets, posters, etc.**—(1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster—

(a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document,—

(i) where it is printed in the capital of the State, to the Chief Electoral Officer; and

(ii) in any other case, to the district magistrate of the district in which it is printed.

(3) For the purposes of this section,—

(a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be construed accordingly; and

(b) "election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand-bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.]

**128. Maintenance of Secrecy of voting.**—(1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy:

<sup>2</sup>[Provided that the provisions of this sub-section shall not apply to such officer, clerk, agent or other person who performs any such duty at an election to fill a seat or seats in the Council of States.]

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

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1. Ins. by Act 40 of 1961, s. 26 (w.e.f. 20-9-1961).

2. Ins. by Act 40 of 2003, s. 5.

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**129. Officers, etc., at elections not to act for candidates or to influence voting.**—(1) No person who is <sup>1</sup>[a district election officer or a returning officer], or an assistant returning officer, or a presiding or polling officer at an election, or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour—

- (a) to persuade any person to give his vote at an election, or
- (b) to dissuade any person from giving his vote at an election, or
- (c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to six months or with fine or with both.

<sup>2</sup>[(4) An offence punishable under sub-section (3) shall be cognizable.]

**130. Prohibition of canvassing in or near polling station.**—(1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of <sup>3</sup>[one hundred metres] of the polling station, namely:—

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular candidate; or
- (d) persuading any elector not to vote at the election; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under this section shall be cognizable.

**131. Penalty for disorderly conduct in or near polling stations.**—(1) No person shall, on the date or dates on which a poll is taken at any polling station,—

- (a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or
- (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

1. Subs. by Act 47 of 1966, s. 55, for "a returning officer" (w.e.f. 14-12-1966).

2. Ins. by s. 55, *ibid.* (w.e.f. 14-12-1966).

3. Subs. by s. 56, *ibid.*, for "one hundred yards" (w.e.f. 14-12-1966).

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**132. Penalty for misconduct at the polling station.**—(1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

<sup>1</sup>[**132A. Penalty for failure to observe procedure for voting.**—If any elector to whom a ballot paper has been issued, refused to observe the procedure prescribed for voting the ballot paper issued to him shall be liable for cancellation.]

<sup>2</sup>[**133. Penalty for illegal hiring or procuring of conveyance at elections.**—If any person is guilty of any such corrupt practice as is specified in clause (5) of section 123 at or in connection with an election, he shall be punishable with imprisonment which may extend to three months and with fine.]

**134. Breaches of official duty in connection with election.**—(1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

<sup>3</sup>[(1A) An offence punishable under sub-section (1) shall be cognizable.]

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the <sup>4\*\*\*</sup> <sup>5</sup>[district election officers, returning officers], assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with <sup>6\* \* \*</sup> the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act <sup>4\*\*\*</sup>.

<sup>7</sup>[**134A. Penalty for Government servants for acting as election agent, polling agent or counting agent.**—If any person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.]

<sup>8</sup>[**134B. Prohibition of going armed to or near a polling station.**— (1) No person, other than the returning officer, the presiding officer, any police officer and any other person appointed to maintain peace and order, at a polling station who is on duty at the polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959 (54 of 1959), of any kind within the neighbourhood of a polling station.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(3) Notwithstanding anything contained in the Arms Act, 1959 (54 of 1959), where a person is convicted of an offence under this section, the arms as defined in the said Act found in his possession shall be liable to confiscation and the licence granted in relation to such arms shall be deemed to have been revoked under section 17 of that Act.

1. Ins. by Act 4 of 1986, s. 2 and Sch. (w.e.f. 15-5-1986).

2. Subs. by Act 21 of 1996, s. 12, for s. 133 (w.e.f. 1-8-1996).

3. Ins. by Act 47 of 1966, s. 58 (w.e.f. 14-12-1966).

4. Certain words omitted by Act 58 of 1958, s. 37.

5. Subs. by Act 47 of 1966, s. 58, for "returning officers" (w.e.f. 14-12-1966).

6. The words "the preparation of an electoral roll" omitted by Act 58 of 1958, s. 37.

7. Ins. by Act 47 of 1966, s. 59 (w.e.f. 14-12-1966).

8. Ins. by Act 21 of 1996, s. 13 (w.e.f. 1-8-1996).

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(4) An offence punishable under sub-section (2) shall be cognizable.]

**135. Removal of ballot papers from polling station to be an offence.**—(1) Any person who at any election <sup>1</sup>[unauthorisedly] takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over the safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

<sup>2</sup>[**135A. Offence of booth capturing.**—<sup>3</sup>[(1)] Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which <sup>4</sup>[shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine].

*Explanation.*— For the purposes of <sup>5</sup>[this sub-section and section 20B], "booth capturing" includes, among other things, all or any of the following activities, namely:—

(a) seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;

(b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and <sup>4</sup>[prevent others from free exercise of their right to vote];

(c) <sup>6</sup>[coercing or intimidating or threatening directly or indirectly] any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;

(d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;

(e) doing by any person in the service of Government, of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.]

<sup>7</sup>[(2) An offence punishable under sub-section (1) shall be cognizable.]

<sup>8</sup>[**135B. Grant of paid holiday to employees on the day of poll.**— (1) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at an election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, be granted a holiday.

1. Subs. by Act 21 of 1996, s. 14, for "fraudulently" (w.e.f. 1-8-1996).

2. Ins. by Act 1 of 1989, s. 15 (w.e.f. 15-3-1989).

3. S. 135A renumbered as sub-section (1) thereof by Act 21 of 1996, s. 15 (w.e.f. 1-8-1996).

4. Subs. by s. 15, *ibid.*, for certain words (w.e.f. 1-8-1996).

5. Subs. by s. 15, *ibid.*, for "this section" (w.e.f. 1-8-1996).

6. Subs. by s. 15, *ibid.*, for "threatening" (w.e.f. 1-8-1996).

7. Ins. by s. 15, *ibid.* (w.e.f. 1-8-1996).

8. Ins. by s. 16, *ibid.* (w.e.f. 1-8-1996).

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(2) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section (1) and if such person is employed on the basis that he would not ordinarily receive wages for such a day, he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.

(3) If an employer contravenes the provisions of sub-section (1) or sub-section (2), then such employer shall be punishable with fine which may extend to five hundred rupees.

(4) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

**135C. Liquor not to be sold, given or distributed on polling day.**—(1) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) Any person who contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to two thousand rupees, or with both.

(3) Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed of in such manner as may be prescribed.]

**136. Other offences and penalties therefor.**—(1) A person shall be guilty of an electoral offence if at any election he—

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelop used in connection with voting by postal ballot; or

(d) without due authority supplies any ballot paper to any person<sup>1</sup> [or receives any ballot paper from any person or is in possession of any ballot paper]; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral offence under this section shall,—

(a) if he is a returning officer or an assistant returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;

(b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act<sup>2</sup> \* \* \*.

<sup>3</sup>[(4) An offence punishable under sub-section (2) shall be cognizable.]

**137.** [Prosecution regarding certain offences.] *Rep. by the Representation of the People (Amendment) Act, 1966 (47 of 1966), s. 61.*

**138.** [Amendment of Act 5 of 1898.] *Rep. by the Repealing and Amending Act, 1957 (36 of 1957), s. 2 and the First Schedule.*

PART VIII  
DISQUALIFICATIONS

**139—145.** [Chapters I to III.] *Rep. by the Representation of the People (Amendment) Act, 1966 (47 of 1966), s. 62.*

1. Ins. by Act 27 of 1956, s. 70.

2. The words and figures "or by or under the Representation of the People Act, 1950" omitted by Act 58 of 1958, s. 38.

3. Subs. by Act 47 of 1966, s. 60, for sub-section (4) (w.e.f. 14-12-1966).

<sup>1</sup>[CHAPTER IV.—*Powers of Election Commission in connection with Inquiries as to Disqualifications of Members*

**146. Powers of Election Commission.**—(1) Where in connection with the tendering of any opinion to the President under article 103 or, as the case may be, under sub-section (4) of section 14 of the Government of Union Territories Act, 1963 (20 of 1963), or to the Governor under article 192, the Election Commission considers it necessary or proper to make an inquiry, and the Commission is satisfied that on the basis of the affidavits filed and the documents produced in such inquiry by the parties concerned of their own accord, it cannot come to a decisive opinion on the matter which is being inquired into, the Commission shall have, for the purposes of such inquiry, the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of any document or other material object producible as evidence;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or a copy thereof from any court or office ;
- (e) issuing commissions for the examination of witnesses or documents.

(2) The Commission shall also have the power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, the subject-matter of the inquiry.

(3) The Commission shall be deemed to be a civil court and when any such offence, as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (45 of 1860), is committed in the view or presence of the Commission, the Commission may after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898<sup>2</sup> (5 of 1898), forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 482 of the Code of Criminal Procedure, 1898<sup>2</sup> (5 of 1898).

(4) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).

**146A. Statements made by persons to the Election Commission.**—No statement made by a person in the course of giving evidence before the Election Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement—

- (a) is made in reply to a question which he is required by the Commission to answer, or
- (b) is relevant to the subject-matter of the inquiry.

**146B. Procedure to be followed by the Election Commission.**—The Election Commission shall have the power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private).

1. Ins. by Act 17 of 1965, s. 2.

2. See now the corresponding provision of the Code of Criminal Procedure, 1973 (2 of 1974).

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**146C. Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Commission or any person acting under the direction of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of the foregoing provisions of this Chapter or of any order made thereunder or in respect of the tendering of any opinion by the Commission to the President or, as the case may be, to the Governor or in respect of the publication, by or under the authority of the Commission of any such opinion, paper or proceedings.]

PART IX

BYE-ELECTIONS

**147. Casual vacancies in the Council of States.**—<sup>1</sup>[(1)] When before the expiration of the term of office of a member elected to the Council of States, his seat becomes vacant or is declared vacant or his election to the Council of States is declared void, the Election Commission shall by a notification in the Gazette of India call upon the elected members of the Legislative Assembly or the members of the electoral college concerned <sup>2</sup>\* \* \*, as the case may be, to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

<sup>3</sup>[(2) As soon as may be after the date of commencement of the Constitution (Seventh Amendment) Act, 1956, bye-elections shall be held to fill the vacancies existing on that date in the seats allotted to the States of Assam, Orissa and Uttar Pradesh and the Union territories of Delhi, Himachal Pradesh\* and Manipur\*.]

**148.** [*Casual vacancies in the electoral colleges for certain Union territories.*] *Rep. by the Territorial Councils Act, 1956 (103 of 1956), s. 66.*

**149. Casual vacancies in the House of the People.**—(1) When the seat of a member elected to the House of the People becomes vacant or is declared vacant or his election to the House of the People is declared void, the Election Commission shall, subject to the provisions of sub-section (2), by a notification in the Gazette of India, call upon the parliamentary constituency concerned to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

(2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the Scheduled Castes or for any Scheduled Tribes, the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the Scheduled Castes or to such Scheduled Tribes, as the case may be.

**150. Casual vacancies in the State Legislative Assemblies.**—(1) When the seat of a member elected to the Legislative Assembly of a State becomes vacant or is declared vacant or his election to the Legislative Assembly is declared void, the Election Commission shall, subject to the provisions of sub-section (2), by a notification in the Official Gazette, call upon the assembly constituency concerned to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

1. S. 147 re-numbered as sub-section (1) of that section by the Adaptation of Laws (No. 2) Order, 1956.

2. The words "or the elected members of the Coorg Legislative Council" omitted by Act 49 of 1951, s. 44 and the Fifth Schedule.

3. Ins. by the Adaptation of Laws (No. 2) Order, 1956.

\* Now it has become State.

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(2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the Scheduled Castes or for any Scheduled Tribes, the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the Scheduled Castes or to such Scheduled Tribes, as the case may be.

**151. Casual vacancies in the State Legislative Councils.**—When before the expiration of the term of office of a member elected to the Legislative Council of a State, his seat becomes vacant or is declared vacant or his election to the Legislative Council is declared void, the Election Commission shall, by a notification in the Official Gazette, call upon the council constituency concerned or the members of the Legislative Assembly of the State, as the case may be, to elect a person for the purpose of filling the vacancy so caused, before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

<sup>1</sup>**151A. Time limit for filling vacancies referred to in sections 147, 149, 150 and 151.**—Notwithstanding anything contained in section 147, section 149, section 150 and section 151, a bye-election for filling any vacancy referred to in any of the said sections shall be held within a period of six months from the date of the occurrence of the vacancy:

Provided that nothing contained in this section shall apply if—

- (a) the remainder of the term of a member in relation to a vacancy is less than one year; or
- (b) the Election Commission in consultation with the Central Government certifies that it is difficult to hold the bye-election within the said period.

PART X  
MISCELLANEOUS

**152. List of members of the State Legislative Assemblies and electoral colleges to be maintained by the returning officers concerned.**—(1) The returning officer for an election by the elected members of the Legislative Assembly of a State to fill a seat or seats in the Council of States or for an election, by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State shall, for the purposes of such election maintain in his office in the prescribed manner and form a list of elected members or a list of members, as the case may be, of that Legislative Assembly.

(2) The returning officer for an election by the members of the electoral college for a<sup>2</sup>[Union territory]<sup>3</sup>\* \* \*<sup>4</sup>\* \* \* to fill a seat or seats in the Council of States shall, for the purposes of such election, maintain in his office in the prescribed manner and form a list of members of the electoral college<sup>4</sup>\* \* \*.

(3) Copies of the lists referred to in sub-sections (1) and (2) shall be made available for sale.

<sup>5</sup>**153. Extension of time for completion of election.**—It shall be competent for the Election Commission for reasons which it considers sufficient, to extend the time for the completion of any election by making necessary amendments in the notification issued by it under section 30 or sub-section (1) of section 39.]

**154. Term of office of members of the Council of States.**—<sup>6</sup>[(1) Subject to the provisions of sub-sections (2) and (2A), the term of office of a member of the Council of States, other than a member chosen to fill a casual vacancy, shall be six years.]

(2) <sup>7</sup>\* \* \* Upon the first constitution of the Council of States the President shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter.

<sup>8</sup>[(2A) In order that, as nearly as may be, one-third of the members may retire on the second day of April, 1958, and on the expiration of every second year thereafter, the President shall, as soon as may be after the commencement of the Constitution (Seventh Amendment) Act, 1956, after consultation with the Election Commission, make by order such provisions as he thinks fit in regard to the terms of office of the members elected under sub-section (2) of section 147.]

1. Ins. by Act 21 of 1996, s. 17 (w.e.f. 1-8-1996).

2. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C State".

3. The words "or group of such States" omitted by Act 27 of 1956, s. 77.

4. Certain words omitted by Act 49 of 1951, s. 44 and the Fifth Schedule.

5. Subs. by Act 27 of 1956, s. 78, for s. 153.

6. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for sub-section (1).

7. Certain words omitted, *ibid.*

8. Ins., *ibid.*

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(3) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

**155. Commencement of the term of office of members of the Council of States.**— (1) The term of office of a member of the Council of States whose name is required to be notified in the Official Gazette under section 71 shall begin on the date of such notification.

(2) The term of office of a member of the Council of States whose name is not required to be notified under section 71 shall begin on the date of publication in the Official Gazette of the declaration containing the name of such person as elected under section 67 or of the notification issued under sub-clause (a) of clause (1) of article 80 or under any other provision announcing the nomination of such person to the Council of States, as the case may be.

**156. Term of office of members of State Legislative Councils.**—(1) The term of office of a member of the Legislative Council of a State, other than a member chosen to fill a casual vacancy, shall be six years, but upon the first constitution of the Council the Governor<sup>1</sup> \* \* \* shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter.

(2) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

**157. Commencement of the term of office of members of the Legislative Councils.**—(1) The term of office of a member of the Legislative Council of a State whose name is required to be notified in the Official Gazette under<sup>2</sup>[section 74] shall begin on the date of such notification.

(2) The term of office of a member of the Legislative Council of a State whose name is not required to be notified under<sup>2</sup>[section 74] shall begin on the date of publication in the Official Gazette of the declaration containing the name of such person as elected under section 67 or of the notification issued under sub-clause (e) of clause (3) of article 171, announcing the nomination of such person to the Council, as the case may be.

<sup>3</sup>[**158. Return of forfeiture of candidate's deposit.**— (1) The deposit made under section 34 or under that section read with sub-section (2) of section 39 shall either be returned to the person making it or his legal representative or be forfeited to the appropriate authority in accordance with the provisions of this section.

(2) Except in cases hereafter mentioned in this section, the deposit shall be returned as soon as practicable after the result of the election is declared.

(3) If the candidate is not shown in the list of contesting candidates, or if he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death, as the case may be.

(4) Subject to the provisions of sub-section (3), the deposit shall be forfeited if at an election where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one-sixth of the total number of valid votes polled by all the candidates or in the case of election of more than one member at the election, one-sixth of the total number of valid votes so polled divided by the number of members to be elected:

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1. The words "or the Rajpramukh, as the case may be" omitted by the Adaptation of Laws (No. 2) Order, 1956.

2. Subs. by Act 27 of 1956, s. 79, for "section 75".

3. Subs. by Act 58 of 1958, s. 39, for s. 158.

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Provided that where at an election held in, accordance with the system of proportional representation by means of the single transferable vote, a candidate is not elected, the deposit made by him shall be forfeited if he does not get more than one-sixth of the number of votes prescribed in this behalf as sufficient to secure the return of a candidate.

(5) Notwithstanding anything in sub-sections (2), (3) and (4),—

(a) if at a general election, the candidate is a contesting candidate in more than one parliamentary constituency or in more than one assembly constituency, not more than one of the deposits shall be returned, and the others shall be forfeited.

(b) if the candidate is a contesting candidate at an election in more than one council constituency or at an election in a council constituency and at an election by the members of the State Legislative Assembly to fill seats in the Legislative Council, not more than one of the deposits shall be returned, and the others shall be forfeited.]

<sup>1</sup>[159. **Staff of certain authorities to be made available for election work.**—(1) The authorities specified in sub-section (2) shall, when so requested by a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State, make available to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

(2) The following shall be the authorities for the purpose of sub-section (1), namely:—

- (i) every local authority;
- (ii) every university established or incorporated by or under a Central, Provincial or State Act;
- (iii) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);
- (iv) any other institution, concern or undertaking which is established by or under a Central, Provincial or State Act or which is controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.]

**160. Requisitioning of premises, vehicles, etc., for election purposes.**—(1) If it appears to the State Government that in connection with an election held within the State—

(a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or

(b) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election,

that Government may by order in writing requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the State Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

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(4) In this section,—

(a) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(b) "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

**161. Payment of compensation.**—(1) Whenever in pursuance of section 160 the State Government requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

(i) the rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if any consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the State Government to an arbitrator appointed in this behalf by that Government for determination, and shall be determined in accordance with the decision of such arbitrator.

*Explanation.*—In this sub-section, the expression "person interested" means the person who was in actual possession of the premises requisitioned under section 160 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 160 the State Government requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof compensation the amount of which shall be determined by the State Government on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the State Government in this behalf may decide.

**162. Power to obtain information.**—The State Government may with a view to requisitioning any property under section 160 or determining the compensation payable under section 161, by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

**163. Powers of entry into and inspection of premises, etc.**—(1) Any person authorised in this behalf by the State Government may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so in what manner, an order under section 160 should be made in relation to such premises, vehicle, vessel or animal, or with a view to securing compliance with any order made under that section.

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(2) In this section, the expressions "premises" and "vehicle" have the same meanings as in section 160.

**164. Eviction from requisitioned premises.**—(1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 160 may be summarily evicted from the premises by any officer empowered by the State Government in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

**165. Release of premises from requisition.**—(1) When any premises requisitioned under section 160 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such person, to the person deemed by the State Government to be the owner of such premises, and such delivery of possession shall be a full discharge of the State Government from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 160 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the State Government shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the State Government shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

**166. Delegation of functions of the State Government with regard to requisitioning.**—The State Government may, by notification in the Official Gazette, direct that any powers conferred or any duty imposed on that Government by any of the provisions of sections 160 to 165 shall, under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer or class of officers as may be so specified.

**167. Penalty for contravention of any order regarding requisitioning.**— If any person contravenes any order made under section 160 or section 162, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

**168.** [*Special provisions with respect to Rulers of former Indian States.*] *Rep. by the Rulers of Indian States (Abolition of Privileges) Act, 1972 (54 of 1972), s. 4 (w.e.f. 9-9-1972).*

PART XI

GENERAL

**169. Power to make rules.**—(1) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules<sup>1</sup> for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

<sup>2</sup>[(a) the form of affidavit under sub-section (2) of section 33A;]

<sup>3</sup>[(aa)] the duties of presiding officers and polling officers at polling stations;

<sup>4</sup>[(aaa) the form of contribution report;]

1. See the Conduct of Election Rules, 1961, in Vol. II.

2. Ins. by Act 72 of 2002, s. 6 (w.e.f. 24-8-2002).

3. Renumbered by s. 6, *ibid.* (w.e.f. 24-8-2002).

4. Ins. by Act 46 of 2003, s. 6.

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(b) the checking of voters by reference to the electoral roll;

<sup>1</sup>[(bb) the manner of allocation of equitable sharing of time on the cable television network and other electronic media;]

(c) the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability;

(d) the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote;

(e) the procedure to be followed in respect of the tender of vote by a person representing himself to be an elector after another person has voted as such elector;

<sup>2</sup>[(ee) the manner of giving and recording of votes by means of voting machines and the procedure as to voting to be followed at polling stations where such machines are used;]

(f) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation by means of the single transferable vote;

(g) the scrutiny and counting of votes including cases in which a recount of the votes may be made before the declaration of the result of the election;

<sup>2</sup>[(gg) the procedure as to counting of votes recorded by means of voting machines;]

(h) the safe custody of <sup>3</sup>[ballot boxes, voting machines], ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;

<sup>1</sup>[(hh) the material to be supplied by the Government to the candidates of recognised political parties at any election to be held for the purposes of constituting the House of the People or the Legislative Assembly of a State;]

(i) any other matter required to be prescribed by this Act.

<sup>4</sup>[(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or <sup>5</sup>[in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made.] the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

**170. Jurisdiction of civil courts barred.**— No civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the returning officer or by any other person appointed under this Act in connection with an election.

**171.** [Repeal of Act 39 of 1920.] *Rep. by the Repealing and Amending Act, 1957 (36 of 1957), s. 2 and Sch. I.*

1. Ins. by Act 46 of 2003, s. 6.

2. Ins. by Act 1 of 1989, s. 16 (w.e.f. 15-3-1989).

3. Subs. by s. 16, *ibid.*, for "ballot boxes" (w.e.f. 15-3-1989).

4. Subs. by Act 40 of 1961, s. 29, for sub-section (3) (w.e.f. 20-9-1961), which was ins. by Act 27 of 1956, s. 82.

5. Subs. by Act 4 of 1986, s. 2 and Sch. (w.e.f. 15-5-1986).

\*THE CONDUCT OF ELECTIONS RULES, 1961<sup>1</sup>PART I  
*Preliminary*

**1. Short title and commencement.**—(1) These rules may be called the Conduct of Elections Rules, 1961.

(2) They shall come into force on the 25th day of April, 1961:

Provided that these rules shall not apply to or in relation to any election called but not completed before that date and the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, shall continue to apply to or in relation to any such election as if these rules had not been made.

**2. Interpretation.**—(1) In these rules, unless the context otherwise requires,—

(a) "Act" means the Representation of the People Act, 1951 (43 of 1951);

(b) "ballot box" includes any box, bag or other receptacle used for the insertion of ballot paper by voters;

<sup>2</sup>[(ba) "counterfoil" means the counterfoil attached to a ballot paper printed under the provisions of these rules;]

<sup>3</sup>\* \* \* \* \*

(c) "election by assembly members" means an election to the Council of States by the elected members of the Legislative Assembly of a State by the members of the electoral college of a Union territory, or an election to the Legislative Council of a State by the members of the Legislative Assembly of that State;

(d) "elector", in relation to an election by assembly members, means any person entitled to vote at that election;

(e) "electoral roll", in relation to an election by assembly members, means the list maintained under section 152 by the returning officer for that election;

(f) "electoral roll number" of a person means—

(i) the serial number of the entry in the electoral roll in respect of that person;

(ii) the serial number of the part of the electoral roll in which such entry occurs; and

(iii) the name of the constituency to which the electoral roll relates;

<sup>4</sup>[(g) "Form" means a Form appended to these rules and in respect of any election in a State, includes a translation thereof in any of the languages used for official purposes of the State;

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\* Rules recently amended *vide* Notifn. No. S.O. 272(E), dated the 27<sup>th</sup> February, 2004.

1. Published with the Ministry of Law Notifn. No. S.O. 859, dated the 15th April, 1961, *see* Gazette of India, Extraordinary, Part II, Section 3(ii), Page 419.

2. Ins. by Notifn. No. S.O. 5573, dated the 23rd December, 1971.

3. Ins. by Notifn. No. S.O. 3875, dated the 15th December, 1966 and omitted by Notifn. No. S.O. 1294(E), dated the 11th November, 2003.

4. Subs. by Notifn. No. S.O. 3450, dated the 9th November, 1966, for cl. (g).

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<sup>1</sup>[(gg) "marked copy of the electoral roll" means the copy of the electoral roll set apart for the purpose of marking the names of electors to whom ballot papers are issued at an election;]

(h) "polling station", in relation to an election by assembly members, means the place fixed under section 29 for taking the poll at that election;

(i) "presiding officer" includes—

(i) any polling officer performing any of the functions of a presiding officer under sub-section (2) or sub-section (3) of section 26; and

(ii) any returning officer while presiding over an election under sub-section (2) of section 29;

(j) "returning officer" includes any assistant returning officer performing any function he is authorised to perform under sub-section (2) of section 22;

(k) "section" means a section of the Act.

(2) For the purposes of the Act or these rules, a person who is unable to write his name shall, unless otherwise expressly provided in these rules, be deemed to have signed an instrument or other paper if—

(a) he has placed a mark on such instrument or other paper in the presence of the returning officer or the presiding officer or such other officer as may be specified in this behalf by the Election Commission, and

(b) such officer on being satisfied as to his identity has attested the mark as being the mark of that person.

(3) Any requirement under these rules that a notification, order, declaration, notice or list issued or made by any authority shall be published in the Official Gazette shall, unless otherwise expressly provided in these rules, be construed as a requirement that it shall be published in the Gazette of India if it relates to an election to, or membership of, either House of Parliament or an electoral college, and in the Official Gazette of the State, if it relates to an election to, or membership of, the House or either House of the State Legislature.

(4) The General Clauses Act, 1897 (10 of 1897) shall apply for the interpretation of these rules as it applies for the interpretation of an Act of Parliament.

PART II

*General provisions*

**3. Public notice of intended election.**—The public notice of an intended election referred to in section 31 shall be in Form 1 and shall, subject to any directions of the Election Commission, be published in such manner as the returning officer thinks fit.

**4. Nomination paper.**—Every nomination paper presented under sub-section (1) of section 33 shall be completed in such one of the Forms 2A to 2E as may be appropriate:

Provided that a failure to complete or defect in completing, the declaration as to symbols in a nomination paper in Form 2A or Form 2B shall not be deemed to be a defect of a substantial character within the meaning of sub-section (4) of section 36.

<sup>2</sup>**[4A. Form of affidavit to be filed at the time of delivering nomination paper.**—The candidate or his proposer, as the case may be, shall, at the time of delivering to the returning officer the nomination paper under sub-section (1) of section 33 of the Act, also deliver to him an affidavit sworn by the candidate before a Magistrate of the first class or a Notary in Form 26.]

1. Subs. by Notifn. No. S.O. 5573, dated the 23rd December, 1971, for cl.(gg).

2. Ins. by Notifn. No. S.O. 935 (E), dated the 8th September, 2002.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

**5. Symbols for elections in parliamentary and assembly constituencies.**—(1) The Election Commission shall, by notification in the Gazette of India, and in the Official Gazette of each State, specify the symbols that may be chosen by candidates at elections in parliamentary or assembly constituencies and the restrictions to which their choice shall be subject.

(2) <sup>1</sup>[Subject to any general or special direction issued by the Election Commission either under sub-rule (4) or sub-rule (5) of rule 10, where at any such election], more nomination papers than one are delivered by or on behalf of a candidate, the declaration as to symbols made in the nomination paper first delivered, and no other declaration as to symbols, shall be taken into consideration under rule 10 even if that nomination paper has been rejected.

**6. Authentication of certificates issued by the Election Commission.**—A certificate issued by the Election Commission under <sup>2</sup>[sub-section (2) of section 9] or under sub-section (3) of section 33 shall be signed by the Secretary to the Election Commission and shall bear its official seal.

**7. Notice of nominations.**—The notice of nominations under section 35 shall be in such one of the Forms 3A to 3C as may be appropriate.

<sup>3</sup>**8. List of validly nominated candidates.**—(1) The list of validly nominated candidates referred to in sub-section (8) of section 36 shall be in Form 4.

(2) The name of every such candidate shall be shown in said list as it appears in his nomination paper:

Provided that if a candidate considers that his name is incorrectly spelt or is otherwise incorrectly shown in his nomination paper or is different from the name by which he is popularly known, he may, at any time before the list of contesting candidates is prepared furnish in writing to the returning officer the proper form and spelling of his name and the returning officer shall, on being satisfied as to the genuineness of the request, make the necessary correction or alteration in the list in Form 4 and adopt that form and spelling in the list of contesting candidates.]

**9. Notice of withdrawal of candidature.**—(1) A notice of withdrawal of candidature under sub-section (1) of section 37 shall be in Form 5 and shall contain the particulars set out therein; and on receipt of such notice, the returning officer shall note thereon the date and time at which it was delivered.

(2) The notice under sub-section (3) of section 37 shall be in Form 6.

**10. Preparation of list of contesting candidates.**—(1) The list of contesting candidates referred to in sub-section (1) of section 38 shall be in Form 7A or Form 7B as may be appropriate and shall contain the particulars set out therein and shall be prepared in such language or languages as the Election Commission may direct.

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(3) If the list is prepared in more languages than one, the names of candidates therein shall be arranged alphabetically according to the script of such one of those languages as the Election Commission may direct.

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1. Subs. by Notifn. No. S.O. 5573, dated the 23rd December, 1971, for certain words.

2. Subs. by Notifn. No. S.O. 1542, dated the 25th April, 1967, for certain words.

3. Subs. by Notifn. No. S.O. 3450, dated the 9th November, 1966, for rule 8.

4. Sub-rule (2) omitted by Notifn. No. S.O. 3662, dated the 12th October, 1964.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

(4) At an election in a parliamentary or assembly constituency, where a poll becomes necessary, the returning officer shall consider the choice of symbols expressed by the contesting candidates in their nomination papers and shall, subject to any general or special direction issued in this behalf by the Election Commission,—

(a) allot a different symbol to each contesting candidate in conformity, as far as practicable, with his choice; and

(b) if more contesting candidates than one have indicated their preference for the same symbol decide by lot to which of such candidates the symbol will be allotted.

(5) The allotment by the returning officer of any symbol to a candidate shall be final except where it is inconsistent with any directions issued by the Election Commission in this behalf in which case the Election Commission may revise the allotment in such manner as it thinks fit.

(6) Every candidate or his election agent shall forthwith be informed of the symbol allotted to the candidate and be supplied with a specimen thereof by the returning officer.

<sup>1</sup>**[11. Publication of list of contesting candidates and declaration of result in uncontested election.—**(1) The returning officer shall, immediately after its preparation, cause a copy of the list of contesting candidates to be affixed in some conspicuous place in his office and where the number of contesting candidates is equal to, or less than, the number of seats to be filled, he shall, immediately after such affixation, declare under sub-section (2) or as the case may be, sub-section (3) of section 53 the result of the election in such one of the Forms 21 to 21B as may be appropriate and send signed copies of the declaration to the appropriate authority, the Election Commission and the chief electoral officer.

(2) If a poll becomes necessary under sub-section (1) of section 53, the returning officer shall supply a copy of the list of contesting candidates to each such candidate or his election agent, and then shall also publish the list in the Official Gazette.]

**12. Appointment of election agent.—**<sup>2</sup>(1) Any appointment of an election agent under section 40 shall be made in Form 8 and the notice of such appointment shall be given by forwarding the same in duplicate to the returning officer who shall return one copy thereof to the election agent after affixing thereon his seal and signature in token of his approval of the appointment.]

(2) The revocation of the appointment of an election agent under sub-section (1) of section 42 shall be made in Form 9.

**13. Appointment of polling agents.—**(1) The number of polling agents that may be appointed under section 46 shall be one agent and two relief agents.

(2) Every such appointment shall be made in Form 10 and shall be made over to the polling agent for production at the polling station or the place fixed for the poll, as the case may be.

(3) No polling agent shall be admitted into the polling station or the place fixed for the poll unless he has delivered to the presiding officer the instrument of his appointment under sub-rule (2) after duly completing and signing before the presiding officer the declaration contained therein.

**14. Revocation of the appointment of a polling agent.—**(1) The revocation of the appointment of a polling agent under sub-section (1) of section 48 shall be made in Form 11 and lodged with the presiding officer.

(2) In the event of any such revocation the candidate or his election agent may, at any time before the poll is closed, make a fresh appointment in the manner specified in rule 13 and the provisions of that rule shall apply to every such agent.

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1. Subs. by Notifn. No. S.O. 4542, dated the 20th December, 1968 (w.e.f. 1-1-1969) for rule 11.

2. Subs. by Notifn. No. S.O. 3450, dated the 9th November, 1966, for sub-rule (1).

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

**15. Publication of the hours fixed for polling.**—The hours fixed for polling under section 56 shall be published by notification in the Official Gazette.

**16. Voting normally to be in person.**—Save as hereinafter provided, all electors voting at an election shall do so in person at the polling station provided for them under section 25 or, as the case may be, at the place of polling fixed under section 29.

PART III

*Postal ballot*

**17. Definitions.**—In this Part,—

<sup>1</sup>[(a) “service voter” means any person specified in clause (a) or clause (b) of section 60, but does not include “classified service voter” defined in rule 27M;]

(b) “special voter” means any person holding an office to which the provisions of sub-section (4) of section 20 of the Representation of the People Act, 1950 (43 of 1950) are declared to apply or the wife of such person, if he or she has been registered as an elector by virtue of a statement made under sub-section (5) of the said section;

(c) “voter on election duty” means any polling agent, any polling officer, presiding officer or other public servant, who is an elector in the constituency and is by reason of his being on election duty unable to vote as the polling station where he is entitled to vote.

**18. Persons entitled to vote by post.**—The following persons shall, subject to their fulfilling the requirements hereinafter specified, be entitled to vote by post, namely:—

(a) at an election in a parliamentary or assembly constituency—

- (i) special voters;
- (ii) service voters;
- (iii) voters on election duty; and
- (iv) electors subjected to preventive detention;

(b) at an election in a council constituency—

- (i) voters on election duty;
- (ii) electors subjected to preventive detention; and
- (iii) electors in the whole or any specified parts, of the constituency if directed by the Election Commission in this behalf under clause (b) of rule 68;

(c) at an election by a assembly members—

- (i) electors subjected to preventive detention; and
- (ii) all electors if directed by the Election Commission in this behalf under clause (a) of rule 68.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

**19. Intimation by special voters.**—A special voter who wishes to vote by post at an election shall send an intimation in Form 12 to the returning officer so as to reach him at least ten days before the date of poll; and on receipt of the intimation the returning officer shall issue a postal ballot paper to him.

**20. Intimation by voters on election duty.**—<sup>1</sup>[(1)] A voter on election duty who wishes to vote by post at an election shall send an application in Form 12 to the returning officer so as to reach him at least seven days or such shorter period as the returning officer may allow before the date of poll; and if the returning officer is satisfied that the applicant is a voter on election duty, he shall issue a postal ballot paper to him.

<sup>2</sup>(2) Where such voter, being a polling officer, presiding officer or other public servant on election duty in the constituency of which he is an elector, wishes to vote in person at an election <sup>3</sup>[in a parliamentary or assembly constituency] and not by post, he shall send an application in Form 12A to the returning officer so as to reach him at least four days, or such shorter period as the returning officer may allow, before the date of poll; and if the returning officer is satisfied that the applicant is such public servant and voter on election duty in the constituency, he shall—

(a) issue to the applicant an election duty certificate in Form 12B,

(b) mark 'EDC' against his name in the marked copy of the electoral roll to indicate that an election duty certificate has been issued to him, and

(c) ensure that he is not allowed to vote at the polling station where he would otherwise have been entitled to vote.]

**21. Electors under preventive detention.**—(1) The appropriate Government shall, within fifteen days of the calling of an election, ascertain and intimate to the returning officer the names of the electors, if any, subjected to preventive detention together with their addresses and electoral roll numbers and the particulars about their places of detention.

(2) Any elector subjected to preventive detention may, within fifteen days of the calling of an election, send an intimation to the returning officer that he wishes to vote by post, specifying his name, address, electoral roll number and place of detention.

(3) The returning officer shall issue a postal ballot paper to every elector subjected to preventive detention whose name has been intimated to him under sub-rule (1) or under sub-rule (2).

**22. Form of ballot paper.**—<sup>4</sup>[(1)] Every postal ballot paper shall have a counterfoil attached thereto, and the said ballot paper and the counterfoil shall be in such form, and the particulars therein shall be in such language or languages, as the Election Commission may direct.]

(2) The names of the candidates shall be arranged <sup>5</sup>[on the postal ballot paper] in the order in which they appear in the list of contesting candidates.

(3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

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1. Rule 20 renumbered as sub-rule (1) of that rule by Notifn. No. S.O. 3662, dated the 12th October, 1964.

2. Ins., *ibid.*

3. Ins. by Notifn. No. S.O. 3450, dated the 9th November, 1966.

4. Subs. by Notifn. No. S.O. 5573, dated the 23rd December, 1971, for sub-rule (1).

5. Ins., *ibid.*

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

**23. Issue of ballot paper.**—(1) A postal ballot paper shall be sent by post under certificate of posting to the elector together with—

- (a) a declaration in Form 13A;
- (b) a cover in Form 13B;
- (c) a large cover addressed to the returning officer in Form 13C; and
- (d) instructions for the guidance of the elector in Form 13D:

Provided that the returning officer may, in the case of a special voter or a voter on election duty, deliver the ballot paper and Forms, or cause them to be delivered, to such voter personally.

<sup>1</sup>[(2) The returning officer shall at the same time—

- (a) record on the counterfoil of the ballot paper the electoral roll number of the elector as entered in the marked copy of the electoral roll;
- (b) mark the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him, without however recording therein the serial number of the ballot paper issued to that elector; and
- (c) ensure that that elector is not allowed to vote at a polling station.]

(3) Before any ballot paper is issued to an elector at an election in a local authorities' constituency or by assembly members, the serial number of the ballot paper shall be effectively concealed in such manner as the Election Commission may direct.

(4) Every officer under whose care or through whom a postal ballot paper is sent shall ensure its delivery to the addressee without delay.

(5) After ballot papers have been issued to all the electors entitled to vote by post, the returning officer shall—

- (a) at an election in a parliamentary or assembly constituency, <sup>2</sup>[subject to the provisions of rule 27P, seal up in a packet] that part of the marked copy of the electoral roll which relates to service voters and record on the packet a brief description of its contents and the date on which it was sealed and send the other relevant parts of the marked copy to the several presiding officers <sup>3</sup>[or marking the names of electors to whom ballot papers are issued at the polling stations without however recording therein the serial numbers of the ballot papers issued to the electors]; and
- (b) at any other election, seal up in a packet the marked copy of the electoral roll and record on the packet a brief description of its contents and the date on which it is sealed.

<sup>4</sup>[(6) The returning officer shall also seal up in a separate packet the counterfoils of the ballot papers issued to electors entitled to vote by post and record on the packet a brief description of its contents and the date on which it was sealed.]

**24. Recording of Vote.**—(1) An elector who has received a postal ballot paper and desires to vote shall record his vote on the ballot paper in accordance with the directions contained in Part I of Form 13D and then enclose it in the cover in Form 13B.

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1. Subs. by Notifn. No. S.O. 5573, dated the 23rd December, 1971, for sub-rule (2).

2. Subs. by Notifn. No. 903(E), dated the 5th August, 2003, for "seal up in a packet".

3. Subs., by Notifn. No. S.O. 5573, dated the 23<sup>rd</sup> December, 1971, for certain words.

4. Ins., *ibid.*

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

(2) The elector shall sign the declaration in Form 13A in the presence of, and have the signature attested by, a stipendiary magistrate or such other officer specified below, as may be appropriate, to whom he is personally known or to whose satisfaction he has been identified—

(a) in the case of a service voter, such officer as may be appointed in this behalf by the Commanding Officer of the unit, ship or establishment in which the voter or her husband, as the case may be, is employed or such officer as may be appointed in this behalf by the diplomatic or consular representative of India in the country in which such voter is resident;

(b) in the case of a special voter, an officer not below the rank of a Deputy Secretary to Government;

(c) in the case of a voter on election duty, any gazetted officer <sup>1</sup>[or the presiding officer of the polling station at which he is on election duty];

(d) in the case of an elector under preventive detention, the Superintendent of the Jail or the Commandant of the detention camp in which the elector is under detention; and

(e) in any other case, such officer as may be notified in this behalf by the Election Commission.

**25. Assistance to illiterate or infirm voters.**—(1) If an elector is unable through illiteracy, blindness or other physical infirmity to record his vote on a postal ballot paper and sign the declaration, he shall take the ballot paper, together with declaration and the covers received by him to an officer competent to attest his signature under sub-rule (2) of rule 24 and request the officer to record his vote and sign his declaration on his behalf.

(2) Such officer shall thereupon mark the ballot paper in accordance with the wishes of the elector in his presence, sign the declaration on his behalf and complete the appropriate certificate contained in Form 13A.

**26. Re-issue of ballot paper.**—(1) When a postal ballot paper and other papers sent under rule 23 are for any reason returned undelivered, the returning officer may re-issue them by post under certificate of posting or deliver them or cause them to be delivered to the elector personally on a request being made by him.

(2) If any elector has inadvertently dealt with the ballot paper or any of the other papers sent to him under rule 23 in such a manner that they cannot conveniently be used, a second set of the papers shall be issued to him after he has returned the spoiled papers and satisfied the returning officer of the inadvertence.

(3) The returning officer shall cancel the spoiled papers so returned and keep them in a separate packet after noting thereon the particulars of the election and the serial numbers of the cancelled ballot papers.

**27. Return of ballot paper.**—(1) After an elector has recorded his vote and made his declaration under rule 24 or rule 25, he shall return the ballot paper and declaration to the returning officer in accordance with the instructions communicated to him in Part II of Form 13D so as to reach the returning officer before <sup>2</sup>[the hour fixed for the commencement of counting of votes].

(2) If any cover containing a postal ballot paper is received by the returning officer after the expiry of the time fixed in sub-rule (1), he shall note thereon the date and time of its receipt and shall keep all such covers together in a separate packet.

(3) The returning officer shall keep in safe custody until the commencement of the counting of votes all covers containing postal ballot papers received by him.

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1. Ins. by Notifn. No. S.O. 3450, dated the 9th November, 1966.

2. Subs. by Notifn. No. S.O. 479A, dated the 27th January, 1971, for certain words.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[PART IIIA

*Procedure for voting by the notified class of electors*

**27A. Definitions.**—In this Part, unless the context otherwise requires,—

(a) "Assistant Returning Officer", for the notified class of electors, means the Assistant Returning Officer notified by the Election Commission for the purposes of this Part;

(b) "notified elector" means an elector who belongs to a class of persons notified by the Election Commission under clause (c) of section 60 of the Act.

**27B. Special provisions for voting by the notified class of electors.**—Notwithstanding anything contained in Part III, the provisions of this Part shall apply to a notified elector who wishes to vote by post at an election.

**27C. Intimation by a notified elector.**—A notified elector, who wishes to vote by post at an election shall send an application in Form 12C to the Assistant Returning Officer for the notified class of electors so as to reach him at least ten days before the date of the poll and on receipt of the intimation such Assistant Returning Officer shall issue a postal ballot paper to him:

Provided that an application which does not furnish complete particulars as required in Form 12C may be rejected if such Assistant Returning Officer, despite making reasonable efforts, is not in a position to ascertain the requisite information:

Provided further that an application in Form 12C without a certificate from the authorised officer as required under Part II of Form 12C shall be rejected.

**27D. Form of ballot paper.**—(1) Every postal ballot paper shall have a counterfoil attached thereto and the said ballot paper and the counterfoil shall be in such form and the particulars therein shall be in such language or languages as the Election Commission may direct.

(2) The names of the candidates shall be arranged on the postal ballot paper in the order in which they appear in the list of contesting candidates.

(3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

**27E. Issue of ballot paper.**—A postal ballot paper shall be sent by post under certificate of posting to the notified elector together with—

(a) a declaration in Form 13A;

(b) a cover in Form 13B;

(c) a large cover addressed to the Returning Officer in Form 13C; and

(d) instructions for the guidance of the elector in Form 13E:

Provided that the Assistant Returning Officer of the notified class of electors may deliver, or cause to be delivered, the ballot paper and the Forms to the notified elector personnel".

(2) The Assistant Returning Officer for the notified class of electors shall at the same time—

(a) record on the counterfoil of the ballot paper the electoral roll number of the elector as entered in the marked copy of the electoral roll;

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1. Part IIIA ins. by Notifn. No. S.O. 32(E), dated the 1st May, 1996 and Subs. by Notifn. No. S.O. 92(E), dated the 27th January, 1998.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

(b) mark the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him without, however, recording therein the serial number of the ballot paper issued to that elector;

(c) ensure that the elector is not allowed to vote at a polling station.

(3) Every officer under whose care or through whom a postal ballot paper is sent shall ensure its delivery to the addressee without delay.

(4) The Assistant Returning Officer for the notified class of electors shall ensure that ballot papers are issued to all such electors whose intimation has been received in accordance with rule 27C and who are entitled to vote by post before eight days from the date of poll in the constituency and shall on expiry of the said period of eight days keep the marked copies of the electoral rolls in sealed envelopes and record on the envelopes a brief description of its contents and the date on which it was sealed and send the sealed envelopes to the Returning Officer concerned.

(5) The Assistant Returning Officer for the notified class of electors shall also seal in a separate packet the counterfoils of the ballot papers issued to electors entitled to vote by post and record on the packet a brief description of its contents and the date on which it was sealed and send the sealed packet to the Returning Officer concerned.

**27F. Recording of vote.**—(1) A notified elector who has received a postal ballot paper and desires to vote shall record his vote on the ballot paper in accordance with the instructions contained in Form 13E and then enclose it in the cover in Form 13B.

(2) The notified elector shall sign the declaration in Form 13A in the presence of, and have the signature attested by, an officer authorised under sub-rule (2) of rule 27J.

**27G. Assistance to illiterate or infirm electors.**—(1) If a notified elector is unable through illiteracy, blindness or other physical infirmity to record his vote on a postal ballot paper and sign the declaration, he shall take the ballot paper together with the declaration and the covers received by him to an officer authorised under sub-rule (2) of rule 27J and request the officer to record his vote and sign his declaration on his behalf.

(2) Such officer shall thereupon mark the ballot paper in accordance with the wishes of the elector in his presence, sign the declaration on his behalf and complete all the requirements to be made in this behalf.

**27H. Re-issue of ballot paper.**—(1) When a postal ballot paper and other papers sent under rule 27E are for any reason returned undelivered, the Assistant Returning Officer for the notified class of electors may re-issue them by post under certificate of posting or deliver them or cause them to be delivered to the elector personally either on a request being made by him or of his own.

(2) If any notified elector has inadvertently dealt with the ballot paper or any of the other papers sent to him under rule 27E in such a manner that they cannot conveniently be used, a second set of the papers shall be issued to him after he has returned the spoiled papers and satisfied the Assistant Returning Officer for the notified class of electors of the inadvertence.

(3) The Assistant Returning Officer for the notified class of electors shall cancel the spoiled papers so returned and keep them in a separate packet after noting thereon the particulars of the election and the serial numbers of the cancelled ballot papers.

**27-I. Return of ballot paper.**—(1) After a notified elector has recorded his vote and made his declaration under rule 27F or rule 27G, he shall return the ballot paper and the declaration to the Returning Officer concerned before the hour fixed for the commencement of counting of votes.

(2) If any cover containing a postal ballot paper is received by the Returning Officer after the expiry of the time fixed in sub-rule (1), he shall note thereon the date and time of its receipt and shall keep all such covers together in a separate packet.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

(3) The Returning Officer shall keep in safe custody until the commencement of the counting of votes all covers containing postal ballot papers received by him.

**27J. Officers authorised to perform certain functions under this Part.**—(1) The officers mentioned in sub-rule (2) shall be the authorised officers for the purpose of—

- (a) sub-rule (2) of rule 27G;
- (b) issuing certificate in Part II of Form 12C.

(2) Any of the following officers shall be the authorised officers for the purpose of sub-rule (1) —

- (a) an officer incharge of a migrant camp/area;
- (b) an officer incharge of an office from where the migrant elector draws his salary as a migrant employee;
- (c) an officer incharge of a treasury/bank from where the migrant elector draws his pension as a pensioner;
- (d) any gazetted officer.

**27K. Marked copy of the electoral roll.**—The Returning Officer shall ensure that the marked copy of the electoral roll received by him from the Assistant Returning Officer for the notified class of electors is used during the poll in the constituency so that such electors who have been supplied with a postal ballot paper do not cast the vote again.

**27L.** Notwithstanding anything contained in rule 54A, the Election Commission may direct, by notification in the Official Gazette, that the postal ballot papers may be mixed with the ordinary ballot papers at the time of mixing of ordinary ballot papers under rule 59A and, in that case, the Election Commission may also prescribe, by directions to the Returning Officers, the manner in which the mixing of postal ballot papers shall be done with the ordinary ballot papers in the constituency.]

<sup>1</sup>[PART IIIB

*Voting by classified service voters through proxy*

**27M. Definitions.**—In this Part, unless the context otherwise requires,—

- (a) “classified service voter” means any person specified in clause (a) of section 60, who opts to give his vote by proxy;
- (b) “proxy” means the person appointed by a classified service voter as his proxy under rule 27N to give vote on his behalf and in his name;
- (c) “service voter” means any person specified in clause (a) of section 60 and registered as an elector in the last part of the electoral roll for the constituency.

**27N. Appointment of proxy by a classified service voter.**—(1) A service voter may opt to give his vote by proxy appointed in the manner provided in sub-rules (2) to (4).

(2) Any service voter opting to vote by proxy may appoint any person as his proxy to give vote on his behalf and in his name at an election in a parliamentary or assembly constituency:

Provided that such proxy shall be an ordinary resident in the constituency concerned and of not less than 18 years of age and shall not be disqualified for registration as an elector in an electoral roll under section 16 of the Representation of the People Act, 1950 (43 of 1950).

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1. Ins. by Notifn. No. S.O. 903(E), dated the 5th August, 2003.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

(3) The appointment of proxy under sub-rule (2) shall be made by the classified service voter in Form 13F.

(4) Any appointment of proxy made under sub-rule (3) shall be deemed to be valid so long as the person making it continues to be a service voter or till the date he revokes such appointment, or dies, whichever is earlier:

Provided that any revocation of appointment shall be made in Form 13G and shall be effective from the date on which it is received by the returning officer:

Provided further that where he revokes such appointment, or the proxy appointed by him dies, while he remains a service voter, he may appoint another person as proxy under these rules, as a substitute proxy in Form 13G and the substitute proxy so appointed shall be the proxy appointed by such classified service voter under sub-rule (3) from the date of receipt of the Form 13G by the returning officer.

**27-O. Intimation of name of proxy by the classified service voter.**—(1) The name of the proxy appointed by a classified service voter under sub-rule (3), or, as the case may be, under the second proviso to sub-rule (4), of rule 27N shall be intimated by him to the returning office as soon as may be after such appointment is made, and such intimation must reach the returning officer not later than the last date for making nominations for the earliest election in the constituency after such appointment.

(2) Notwithstanding anything contained in sub-rule (1), if any intimation under that sub-rule reaches the returning officer after the last date for making nominations in the constituency, such intimation shall not be valid for the election then in progress, but shall, subject to the provisions of sub-rule (4) of rule 27N, be valid for any future election in the constituency.

**27P. Action by returning officer on intimation of name of proxy.**—(1) On receipt of intimation under rule 27-O from a classified service voter in regard to his proxy, the returning officer shall mark “CSV” against the name of such voter in the last part of the electoral roll containing the names of all service voters so as to indicate that the said voter has appointed his proxy, and the returning officer shall—

(a) If it is an intimation received the last date for making nominations in the constituency, ensure that no postal ballot paper is issued to such classified service voter; and

(b) if it is an intimation received after the said last date, ensure that a postal ballot paper is issued to such classified service voter for the election then in progress, in accordance with the provisions contained in Part III of these rules.

(2) The returning officer shall also prepare, and maintain up-to date, a separate list of all classified service voters who have given intimation of their proxies under rule 27-O, and also of all such proxies with their complete addresses, in such form and such manner as the Election Commission may specify from time to time.

(3) As soon as may be after the last date for making nominations in the constituency, the returning officer shall, on the basis of the list maintained under sub-rule (2) and subject to such further direction as the Election Commission may give in this behalf, prepare or cause to be prepared polling station-wise sub-lists of all classified service voters and their proxies having regard to the residential address of each such classified service voter as given in the electoral roll.

(4) Each sub-list prepared under sub-rule (3) shall thereafter be caused to be added by the returning officer at the end to the relevant part of the electoral roll pertaining to each polling station concerned, and such relevant part of the electoral roll together with the said sub-list shall be deemed to be the copy of the electoral roll to be used as the marked copy of the electoral roll under rule 33A or, as the case may be, under rule 49F during the poll at the polling station concerned.

**27Q. Recording of votes of proxy.**—(1) A person voting as proxy for a classified service voter shall do so in person at the polling station concerned in the electoral roll of which the name of such classified service voter is added under sub-rule (4) of rule 27P.

(2) The person voting as proxy shall record the vote on behalf of the classified service voter at the said polling station, in the same manner as any other elector assigned to that polling station and the provisions of rules 34, 35 and 36 to 43 or, as the case may be, rules 49G, 49H, 49J to 49R shall apply in relation to the recording of vote by such proxy as they apply to any other elector at the polling station:

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Provided that any reference to left forefinger of elector in rule 37 or, as the case may be, rule 49K shall be construed as reference to left middle finger of the person voting as a proxy under this rule.]

PART IV  
*Voting in Parliamentary and Assembly Constituencies*

<sup>1</sup>[CHAPTER I  
VOTING BY BALLOT]

**28. Definitions.**—<sup>2</sup>[In this Chapter and Chapter II], unless the context otherwise requires,—

(a) "candidate" means a contesting candidate;

(b) "constituency" means a parliamentary or assembly constituency; and

(c) "polling agent", in relation to a polling station, means a polling agent of a candidate duly appointed under section 46 for the polling station and includes a candidate and the election agent of a candidate when present at the polling station.

**29. Design of ballot boxes.**—Every ballot box shall be of such design as may be approved by the Election Commission.

**30. Form of ballot papers.**—<sup>3</sup>[(1) Every ballot paper shall have a counterfoil attached thereto, and the said ballot paper and the counterfoil shall be in such form, and the particulars therein shall be in such language or languages, as the Election Commission may direct.]

(2) The names of the candidates shall be arranged on the ballot paper in the same order in which they appear in the list of contesting candidates.

(3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

**31. Arrangements at polling stations.**—(1) Outside each polling station there shall be displayed prominently—

(a) a notice specifying the polling area the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled; and

(b) a copy of the list of contesting candidates.

(2) At each polling station, there shall be set up <sup>4</sup>[one or more voting compartments] in which electors can record their votes screened from observation.

(3) The returning officer shall provide at each polling station a sufficient number of ballot boxes, copies of the relevant part of the electoral roll, ballot papers, instruments for stamping the distinguishing mark on ballot papers and articles, necessary for electors to mark the ballot papers.

**32. Admission to polling stations.**—The presiding officer shall regulate the number of electors, to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than—

(a) polling officers;

(b) public servants on duty in connection with the election;

(c) persons authorised by the Election Commission;

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1. Ins. by Notifn. No. S.O. 230(E), dated the 24th March, 1992.

2. Subs., *ibid.*, for certain words.

3. Subs. by Notifn. No. S.O. 5573, dated the 23rd December, 1971, for sub-rule (1).

4. Subs., *ibid.*, for certain words.

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(d) candidates, their election agents and subject to the provisions of rule 13, one polling agent of each candidate;

(e) a child in arms accompanying an elector;

(f) a person accompanying a blind or infirm elector who cannot move without help; and

(g) such other persons as the returning officer or the presiding officer may employ under sub-rule (2) of rule 34 or sub-rule (1) of rule 35.

**33. Preparation of ballot boxes for poll.**—(1) Where a paper seal is used for securing a ballot box, the presiding officer shall affix his own signature on the paper seal and obtain thereon the signatures of such of the polling agents present as are desirous of affixing the same.

(2) The presiding officer shall thereafter fix the paper seal so signed in the space meant therefor in the ballot box and shall then secure and seal the box in such manner that the slit for the insertion of ballot paper thereinto remains open.

(3) The seals used for securing a ballot box shall be affixed in such manner that after the box has been closed it is not possible to open it without breaking the seals.

(4) Where it is not necessary to use paper seals for securing the ballot boxes, the presiding officer shall secure and seal the ballot box in such manner that the slit for the insertion of ballot papers remains open and shall allow the polling agents present to affix, if they so desire, their seals.

(5) Every ballot box used at a polling station shall bear labels, both inside and outside, marked with—

(a) the serial number, if any, and name of the constituency;

(b) the serial number and name of the polling station;

(c) the serial number of the ballot box (to be filled in at the end of the poll on the label outside the ballot box only); and

(d) the date of poll.

(6) Immediately before the commencement of the poll, the presiding officer shall demonstrate to the polling agents and other persons present that the ballot box is empty and bears the labels referred to in sub-rule (5).

(7) The ballot box shall then be closed, sealed and secured and placed in full view of the presiding officer and the polling agents.

<sup>1</sup>**[33A. Marked copy of electoral roll.**—Immediately before the commencement of the poll the presiding officer shall also demonstrate to the polling agents and others present that the marked copy of the electoral roll to be used during the poll does not contain—

<sup>2</sup>[(a) any entry other than those made in pursuance of clause (b) of sub-rule (2) of rule 20 or clause (b) of sub-rule (2) of rule 27E; and]

<sup>3</sup>[(b) any mark other than the mark made in pursuance of clause (b) of sub-rule (2) of rule 23 or clause (b) of sub-rule (2) of rule 27E.]]

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1. Subs. by Notifn. No. S.O. 5573, dated the 23rd December, 1971, for rule 33A.

2. Subs. by Notifn. No. S.O. 321(E), dated the 1st May, 1996, for cl. (a).

3. Subs. by Notifn. No. S.O. 628(E), dated the 4<sup>th</sup> August, 1999, for cl. (b).

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**34. Facilities for women electors.**—(1) Where a polling station is for both men and women electors, the presiding officer may direct that they shall be admitted into the polling station alternately in separate batches.

(2) The returning officer or the presiding officer may appoint a woman to serve as an attendant at any polling station to assist women electors and also to assist the presiding officer generally in taking the poll in respect of women electors, and, in particular, to help in searching any women elector in case it becomes necessary.

**35. Identification of electors.**—(1) The presiding officer may employ at the polling station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.

(2) As each elector enters the polling station, the presiding officer or the polling officer authorised by him in this behalf shall check the elector's name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.

(3) Where the polling station is situated in a constituency, electors of which have been supplied with identity cards under the provisions of the Registration of Electors Rules, 1960, the elector shall produce his identity card before the presiding officer or the polling officer authorised by him in this behalf.

(4) In deciding the right of a person to obtain a ballot paper, the presiding officer or the polling officer, as the case may be, shall overlook merely clerical or printing errors in an entry in the electoral roll, if he is satisfied that such person is identical with the elector to whom such entry relates.

<sup>1</sup>[**35A. Facilities for public servants on election duty.**—(1) The provisions of rule 35 shall not apply to any person who produces at the polling station an election duty certificate in Form 12B and asks for the issue of a ballot paper to him although the polling station is different from the one where he is entitled to vote.

(2) On production of such certificate the presiding officer shall—

(a) obtain thereon the signature of the person producing it;

(b) have the person's name and electoral roll number as mentioned in the certificate entered at the end of the marked copy of the electoral roll; and

(c) issue to him a ballot paper, and permit him to vote, in the same manner as for an elector entitled to vote at that polling station.]

**36. Challenging of identity.**—(1) Any polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of two rupees in cash with the presiding officer for each such challenge.

(2) On such deposit being made, the presiding officer shall—

(a) warn the person challenged of the penalty for personation;

(b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;

(c) enter his name and address in the list of challenged votes in Form 14; and

(d) require him to affix his signature in the said list.

(3) The presiding officer shall thereafter hold a summary inquiry into the challenge and may for that purpose—

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;

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1. Ins. by Notfin. No. S.O. 3662, dated the 12th October, 1964.

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(b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and

(c) administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the inquiry, the presiding officer considers that the challenge has not been established he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

(5) If the presiding officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to Government, and in any other case, he shall return to the challenger at the conclusion of the inquiry.

**37. Safeguards against personation.**—(1) Every elector about whose identity the presiding officer or the polling officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the presiding officer or polling officer and an indelible ink mark to be put on it.

(2) If any elector—

(a) refuses to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, or

(b) fails or refuses to produce his identity card as required by sub-rule (3) of rule 35,

he shall not be supplied with any ballot paper or allowed to vote.

(3) Where a poll is taken simultaneously in a parliamentary constituency and an assembly constituency, an elector whose left forefinger has been marked with indelible ink or who has produced his identity card at one such election shall, notwithstanding anything contained in sub-rules (1) and (2), be supplied with a ballot paper for the other election.

(4) Any reference in this rule to the left forefinger of an elector shall, in the case where the elector has his left forefinger missing, be construed as a reference to any other finger of his left hand, and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger or any other finger of his right hand, and shall in the case where all his fingers of both the hands are missing be construed as a reference to such extremity of his left or right arm as he possesses.

<sup>1</sup>[**38. Issue of ballot papers to electors.**—(1) Every ballot paper before it is issued to an elector, and the counterfoil attached thereto shall be stamped on the back with such distinguishing mark as the Election Commission may direct, and every ballot paper, before it is issued, shall be signed in full on its back by the presiding officer.

(2) At the time of issuing a ballot paper to an elector, the polling officer shall—

(a) record on its counterfoil the electoral roll number of the elector as entered in the marked copy of the electoral roll;

<sup>2</sup>[(b) obtain the signature or thumb impression of that elector on the said counterfoil; and]

(c) mark the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him, without however recording therein the serial number of the ballot paper issued to that elector:

<sup>2</sup>[Provided that no ballot paper shall be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper.

1. Subs. by Notifn. No. S.O. 5573, dated the 23rd December, 1971, for rule 38.

2. Ins. by Notifn. No. S.O. 518(E), dated the 7th September, 1979.

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(3) Notwithstanding anything contained in sub-rule (2) of rule 2, it shall not be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the elector on the counterfoil.]

(4) No person in the polling station shall note down the serial numbers of the ballot papers issued to particular electors.]

<sup>1</sup>**[39. Maintenance of secrecy of voting by electors within polling station and voting procedure.**—(1) Every elector to whom a ballot paper has been issued under rule 38 or under any other provision of these rules, shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) The elector on receiving the ballot paper shall forthwith—

(a) proceed to one of the voting compartments;

(b) there make a mark on the ballot paper with the instrument supplied for the purpose on or near the symbol of the candidate for whom he intends to vote;

(c) fold the ballot paper so as to conceal his vote;

(d) if required, show to the presiding officer the distinguishing mark on the ballot paper;

(e) insert the folded ballot paper into the ballot box; and

(f) quit the polling station.

(3) Every elector shall vote without undue delay.

(4) No elector shall be allowed to enter a voting compartment when another elector is inside it.

(5) If an elector to whom a ballot paper has been issued, refuses, after warning given by the presiding officer, to observe the procedure as laid down in sub-rule (2), the ballot paper issued to him shall, whether he has recorded his vote thereon or not, be taken back from him by the presiding officer or a polling officer under the direction of the presiding officer.

(6) After the ballot paper has been taken back, the presiding officer shall record on its back the words "Cancelled: voting procedure violated" and put his signature below those words.

(7) All the ballot papers on which the words "Cancelled: voting procedure violated" are recorded, shall be kept in a separate cover which shall bear on its face the words "Ballot papers: voting procedure violated".

(8) Without prejudice to any other penalty to which an elector, from whom a ballot paper has been taken back under sub-rule (5), may be liable, the vote, if any, recorded on such ballot paper shall not be counted.]

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<sup>1</sup>**[40. Recording of votes of blind or infirm electors.—**(1) If the presiding officer is satisfied that owing to blindness or other physical infirmity an elector is unable to recognise the symbols on the ballot paper or to make a mark thereon without assistance, the presiding officer shall permit the elector to take with him a companion of not less than <sup>2</sup>[eighteen] years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and, if necessary, for folding the ballot paper so as to conceal the vote and inserting it into the ballot box:

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day:

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule, the person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any polling station on that day.

(2) The presiding officer shall keep a record in Form 14A of all cases under this rule.]

**41. Spoilt and returned ballot papers.—**(1) An elector who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on returning it to the presiding officer and on satisfying him of the inadvertence, be given another ballot paper, and <sup>3</sup>[the ballot paper so returned and the counterfoil of such ballot paper] shall be marked "Spoilt: cancelled" by the presiding officer.

(2) If an elector after obtaining a ballot paper decides not to use it, he shall return it to the presiding officer, and <sup>3</sup>[the ballot paper so returned and the counterfoil of such ballot paper] shall be marked as "Returned: cancelled" by the presiding officer.

(3) All ballot papers cancelled under sub-rule (1) or sub-rule (2) shall be kept in a separate packet.

**42. Tendered votes.—**(1) If a person representing himself to be a particular elector applies for a ballot paper after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the presiding officer may ask, be entitled, subject to the following provisions of this rule, to mark a ballot paper (hereinafter in these rules referred to as a "tendered ballot paper") in the same manner as any other elector.

(2) Every such person shall, before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in Form 15.

<sup>4</sup>[(3) A tendered ballot paper shall be the same as the other ballot papers used at the polling except that—

(a) such tendered ballot paper shall be serially the last in the bundle of ballot papers issued for use at the polling station; and

(b) such tendered ballot paper and its counterfoil shall be endorsed on the back with the words "tendered ballot paper" by the presiding officer in his own hand and signed by him.]

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1. Subs. by Notifn. No. S.O. 3662, dated the 12th October, 1964, for rule 40.

2. Subs. by Notifn. No. S.O. 542(E), dated the 13th September, 1989, for "twenty-one".

3. Subs. by Notifn. No. S.O. 5573, dated the 23rd December, 1971, for certain words.

4. Subs., *ibid.*, for sub-rule (3).

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(4) The elector, after marking a tendered ballot paper in the voting compartment and folding it, shall, instead of putting it into the ballot box, give it to the presiding officer, who shall place it in a cover specially kept for the purpose :

<sup>1</sup>[Provided that where such elector is a member of a political party in an election to fill a seat or seats in the Council of States, the presiding officer shall, before placing the tendered ballot paper in the said cover, allow the authorised agent of that political party to verify as to which candidate the elector has cast his vote.

*Explanation.* —For the purposes of this rule, “authorised agent”, in respect of a political party, means an authorised agent appointed, under sub-rule (2) of rule 39AA as made applicable, by clause (ii) of rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of rule 68, by that political party.]

**43. Closing of poll.**—(1) The presiding officer shall close a polling station at the hour fixed in that behalf under section 56 and shall not thereafter admit any elector into the polling station:

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether an elector was present at the polling station before it was closed, it shall be decided by the presiding officer and his decision shall be final.

**44. Sealing of ballot boxes after poll.**—(1) As soon as practicable after the closing of the poll, the presiding officer shall close the slit of the ballot box, and where the box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any polling agent present to affix his seal.

(2) The ballot box shall thereafter be sealed and secured.

(3) Where it becomes necessary to use a second ballot box by reason of the first ballot box getting full, the first box shall be closed, sealed and secured as provided in sub-rules (1) and (2) before another ballot box is put into use.

(4) The foregoing provisions of this rule shall not apply at a polling station to the presiding officer of which the Election Commission has issued a direction asking him to proceed in accordance with sub-rule (5).

(5) At any such polling station, as soon as practicable after the close of poll, the presiding officer shall—

(a) transfer all the ballot papers contained in the ballot box or boxes used at that polling station, without examining or counting them and with due regard to the secrecy of the ballot, into a cloth bag or cloth-lined cover after demonstrating to the polling agents present that the bag or cover is empty;

(b) allow the polling agents present to inspect each ballot box and demonstrate to them that it has been emptied;

(c) record on the bag or cover the name of the constituency, the name of the polling station and the date of the poll; and

(d) seal the bag or cover and allow any polling agent present to affix his seal thereon.

**45. Account of ballot papers.**—<sup>2</sup>[(1)] The presiding officer shall at the close of the poll prepare a ballot paper account in Form 16 and enclose it in a separate cover with the words “Ballot Paper Account” superscribed thereon.

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1. Ins. by Notifn. No. S.O. 272(E), dated the 27th February, 2004.

2. Rule 45 renumbered as sub-rule (1) of that rule by Notifn. No. S.O. 3875, dated the 15th December, 1966.

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<sup>1</sup>[(2) The presiding officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in the ballot paper account after obtaining a receipt from the said polling agent therefor and shall also attest it as a true copy.]

**46. Sealing of other packets.**—(1) The presiding officer shall then make into separate packets—

(a) the marked copy of the electoral roll;

<sup>2</sup>[(aa) the counterfoils of the used ballot paper;]

<sup>3</sup>[(b) the ballot papers signed in full by the presiding officer under sub-rule (1) of rule 38 but not issued to the voters;

(bb) any other ballot papers not issued to the voters;

(c) the ballot papers cancelled for violation of voting procedure under rule 39;

(cc) any other cancelled ballot papers;]

(d) the cover containing the tendered ballot papers and the list in Form 15;

(e) the list of challenged votes; and

(f) any other papers directed by the Election Commission to be kept in a sealed packet.

<sup>3</sup>[(2) Each such packet shall be sealed with the seals of the presiding officer and with the seals either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seals thereon.]

**47. Transmission of ballot boxes, etc., to the returning officer.**—(1) The presiding officer shall then deliver or cause to be delivered to the returning officer at such place as the returning officer may direct—

(a) the ballot boxes or, as the case may be, the bags or covers referred to in rule 44;

(b) the ballot paper account;

(c) the sealed packets referred to in rule 46; and

(d) all other papers used at the poll.

(2) The returning officer shall make adequate arrangements for the safe transport of all ballot boxes, packets and other papers and for their safe custody until the commencement of the counting of votes.

**48. Procedure on adjournment of poll.**—(1) If the poll at any polling station is adjourned under sub-section (1) of section 57, the provisions of rules 44 to 47 shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under section 56.

(2) When an adjourned poll is recommenced under sub-section (2) of section 57, the electors who have already voted at the poll so adjourned shall not be allowed to vote again.

(3) The returning officer shall provide the presiding officer of the polling station at which such adjourned poll is held, with the sealed packet containing the marked copy of the electoral roll and a new ballot box.

(4) The presiding officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the electoral roll <sup>4</sup>[for marking the names of the electors to whom the ballot papers are issued at the adjourned poll, without however recording therein the serial number thereof].

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1. Subs. by Notifn. No. S.O. 229(E), dated the 26th May, 1975, for sub-rule (2).

2. Ins. by Notifn. No. S.O. 5573, dated the 23rd December, 1971.

3. Subs. by Notifn. No. S.O. 4542, dated the 20th December, 1968, for sub-rule (2) (w.e.f. 1-1-1969).

4. Subs. by Notifn. No. S.O. 5573, dated the 23rd December, 1971, for certain words.

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(5) The provisions of rules 28 to 47 shall apply in relation to the conduct of an adjourned poll as they apply in relation to the poll before it was so adjourned.

**49. Voting by ballot at notified polling stations.**—(1) Notwithstanding anything contained in the preceding provisions of this Part, the Election Commission may, by notification published in the Official Gazette at least 15 days before the date, or the first of the dates, of poll appointed for an election, direct that the method of voting by ballot shall be followed in that election at such polling stations as may be specified in the notification.

(2) Every such polling station is hereafter in these rules referred to as a "notified polling station".

(3) The provisions of rules 28 to 48 shall apply in relation to every notified polling station subject to the following modifications, namely:—

(a) in lieu of rule 30, the following rule shall apply:—

"30A. *Form of ballot paper.*—Every ballot paper shall be of such design as the Election Commission may decide.";

(b) in lieu of sub-rules (2) and (3) of rule 31, the following sub-rules shall apply:—

"(2) At each notified polling station there shall be set up one voting compartment in which the ballot boxes, one for each candidate, shall be placed for the reception of ballot papers during the poll and which shall be so designed that an elector can insert a ballot paper in any of the ballot boxes without being observed by any person outside the compartment.

(3) The returning officer shall provide at each notified polling station a sufficient number of ballot boxes, copies of the relevant part of the electoral roll, ballot papers and such other election materials as may be required for taking the poll.";

(c) in lieu of sub-rules (5), (6) and (7) of rule 33, the following sub-rules shall apply:—

"(5) The symbol allotted to each candidate under rule 10 shall be printed on labels which shall be affixed both inside and outside the ballot box and such ballot box shall thereafter be deemed to have been allotted to that candidate.

(6) Each ballot box shall also be marked with such other distinguishing marks as the Election Commission may direct.

(7) Immediately before the commencement of the poll, the presiding officer shall allow inspection of each ballot box by the polling agents present and demonstrate to them that (a) it is empty, (b) proper labels have been affixed both inside and outside the box, and (c) the ballot box is marked in accordance with sub-rule (6).

(8) After all the ballot boxes have been labelled, secured and sealed, they shall be placed in the voting compartment side by side in the same order in which the names of the candidates to whom they have respectively been allotted appear in the list of contesting candidates.";

<sup>1</sup>[cc) in lieu of rule 38, the following rule shall apply:—

"38B. *Issue of ballot papers to electors.*—(1) Every ballot paper shall before issue to an elector be—

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- (a) stamped with such distinguishing mark as the Election Commission may direct; and
- (b) signed in full on its back by the presiding officer.

(2) At the time of issuing a ballot paper to an elector, the polling officer shall record the serial number thereof against the entry relating to the elector in the marked copy of the electoral roll.

(3) Save as provided in sub-rule (2), no person in the polling station shall note down the serial numbers of the ballot papers issued to particular electors.";

(d) in lieu of <sup>1</sup>[sub-rule (2) of rule 39], the following sub-rule shall apply:—

"(1) On receiving the ballot paper, the elector shall forthwith go into the voting compartment and insert the ballot paper through the slit into the ballot box allotted to the candidate for whom he wishes to vote.";

<sup>2</sup>[(e) in lieu of sub-rule (1) of rule 40, the following sub-rule shall apply:—

"(1) If the presiding officer is satisfied that owing to blindness or other physical infirmity an elector is unable to recognise the symbols on the ballot boxes or to insert the ballot paper into a ballot box, the presiding officer shall permit the elector to take with him a companion of not less than <sup>3</sup>[eighteen] years of age to the voting compartment for ascertaining from him the name of the candidate for whom he wishes to vote and for inserting the ballot paper into the ballot box of such candidate in accordance with the wishes of such elector:

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day:

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule, the person shall be required to declare that he will keep secret the name of the candidate for whom the elector has voted and that he has not already acted as the companion of any other elector at any polling station on that day.";

(f) in lieu of rule 42, the following rules shall apply:—

'42A. *Tendered votes.*—(1) If a person representing himself to be a particular elector applies for a ballot paper after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the presiding officer may ask, be supplied with a ballot paper in Form 17 (hereafter in these rules referred to as a "tendered ballot paper").

(2) Every such person shall, before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in Form 15.

(3) Such person shall thereafter record on the tendered ballot paper the name of the candidate for whom he wishes to vote; but if owing to illiteracy, blindness, physical infirmity or any other reason he is unable to make such record, the presiding officer shall do so in accordance with his wishes.

(4) The procedure laid down in sub-rule (3) shall be followed with due regard to secrecy.

(5) Every such tendered ballot paper shall forthwith be placed in a cover specially kept for the purpose.

<sup>4</sup>[Provided that where the person referred to in sub-rule (3) is a member of a political party in an election to fill a seat or seats in the Council of States, the presiding officer, notwithstanding anything

1. Subs. by Notifn. No. S.O. 1433, dated the 19th April, 1968.

2. Subs. by Notifn. No. S.O. 3662, dated the 12th October, 1964, for cl. (e).

3. Subs by Notifn. No. S.O. 542(E), dated the 13th July, 1989.

4. Ins. by Notifn. No. S.O. 272(E), dated the 27<sup>th</sup> February, 2004.



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<sup>1</sup>[CHAPTER II

VOTING BY ELECTRONIC VOTING MACHINES

**49A. Design of Electronic Voting Machines.**—Every electronic voting machine (hereinafter referred to as the voting machine) shall have a control unit and a balloting unit and shall be of such designs as may be approved by the Election Commission.

**49B. Preparation of voting machine by the returning Officer.**—(1) The balloting unit of the voting machine shall contain such particulars and in such language or languages as the Election Commission may specify.

(2) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.

(3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

(4) Subject to the foregoing provisions of this rule, the returning officer shall—

(a) fix the label containing the names and symbol of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;

(b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

**49C. Arrangements at the polling stations.**—(1) Outside each polling station there shall be displayed prominently—

(a) a notice specifying the polling area, the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled; and

(b) a copy of the list of contesting candidates.

(2) At each polling station there shall be set up one or more voting compartments in which the electors can record their votes free from observation.

(3) The returning officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.

(4) Without prejudice to the provisions of sub-rule (3), the returning officer may, with the previous approval of the Election Commission, provide one common voting machine for two or more polling stations located in the same premises.

**49D. Admission to polling stations.**—The presiding officer shall regulate the number of electors, to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than—

(a) polling officers;

(b) public servants on duty in connection with the election;

(c) persons authorised by the Election Commission;

(d) candidates, their election agents and subject to the provisions of rule 13, one polling agent of each candidate;

(e) a child in arms accompanying an elector;

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1. Ins. by Notifn. No. S.O. 230(E), dated the 24th March, 1992.

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(f) a person accompanying a blind or infirm elector who cannot move without help; and

(g) such other person as the returning officer or the presiding officer may employ under sub-rule (2) of rule 49G or sub-rule (1) of rule 49H.

**49E. Preparation of voting machine for poll.**—(1) The control unit and balloting unit of every voting machine used at polling station shall bear a label marked with—

(a) the serial number, if any, and the name of the constituency;

(b) the serial number and name of the polling station or stations as the case may be;

(c) the serial number of the unit; and

(d) the date of poll.

(2) Immediately before the commencement of the poll, the presiding officer shall demonstrate to the polling agents and other persons present that no voter has been already recorded in the voting machine and it bears the label referred to in sub-rule (4).

(3) A paper seal shall be used for securing the control unit of the voting machine, and the presiding officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the polling agents present as the desirous of affixing the same.

(4) The presiding officer shall thereafter fix the paper seal so signed in the space meant therefor in the control unit of the voting machine and shall secure and seal the same.

(5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed, it is not possible to press the “result button” without breaking the seal.

(6) The control unit shall be closed and secured and placed in full view of the presiding officer and the polling agents and the balloting unit placed in the voting compartment.

**49F. Marked copy of electoral roll.**—Immediately before the commencement of the poll, the presiding officer shall also demonstrate to the polling agents and others present that the marked copy of the electoral roll to be used during the poll does not contain—

(a) any entry other than that made in pursuance of clause (b) of sub-rule (2) of rule 20; and

(b) any mark other than the mark made in pursuance of clause (b) of sub-rule (2) of rule 23.

**49G. Facilities for women electors.**—(1) Where a polling station is for both men and women electors, the presiding officer may direct that they shall be admitted into the polling station alternately in separate batches.

(2) The returning officer or the presiding officer may appoint a woman to serve as an attendant at any polling station to assist women electors and also to assist the presiding officer generally in taking the poll in respect of women electors, and in particular, to help frisking any woman elector in case it becomes necessary.

**49H. Identification of electors.**—(1) The presiding officer may employ at the polling station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.

(2) As each elector enters the polling station, the presiding officer or the polling officer authorised by him in this behalf shall check the elector's name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.

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(3) Where the polling station is situated in a constituency electors of which have been supplied with identity cards under the provisions of the Registration of Electors Rules, 1960, the elector shall produce his identity card before the presiding officer or the polling officer authorised by him in this behalf.

(4) In deciding the right of a person to cast his vote, the presiding officer or the polling officer, as the case may be, shall over-look the clerical or printing errors in an entry in the electoral roll if he is satisfied that such person is identical with the elector to whom such entry relates.

**49-I. Facilities for public servants on election duty.**—(1) The provisions of rule 49H shall not apply to any person who produces at the polling station an election duty certificate in Form 12B and seeks permission to cast his vote at that polling station although it is different from the one where he is entitled to vote.

(2) On production of such certificate, the presiding officer shall—

(a) obtain thereon, the signature of the person producing it;

(b) have the person's name and electoral roll number as mentioned in the certificate entered at the end of the marked copy of the electoral roll; and

(c) permit him to cast his vote in the same manner as for an elector entitled to vote at that polling station.

**49J. Challenging of identity.**—(1) Any polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of two rupees in cash with the presiding officer for each such challenge.

(2) On such deposit being made, the presiding officer shall—

(a) warn the person challenged of the penalty for personation;

(b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;

(c) enter his name and address in the list of challenged votes in Form 14; and

(d) require him to affix his signature in the said list.

(3) The presiding officer shall thereafter hold a summary inquiry into the challenge and may for that purpose—

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence of proof of his identity;

(b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and

(c) administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the inquiry, the presiding officer considers that the challenge has not been established he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

(5) If the presiding officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to Government and in any other case, returned to the challenger at the conclusion of the inquiry.

**49K. Safeguards against personation.**—(1) Every elector about whose identity the presiding officer or the polling officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the presiding officer or polling officer and an indelible ink mark to be put on it.

(2) If any elector—

(a) refuse to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, or

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(b) fails or refuses to produce his identity card as required by sub-rule (3) of rule 49H he shall not be allowed to vote.

(3) Where a poll is taken simultaneously in a Parliamentary constituency and an assembly constituency, an elector whose left forefinger has been marked with indelible ink or who has produced his identity card at one such election, shall notwithstanding anything contained in sub-rules (1) and (2) be permitted to cast his vote for the other election.

(4) Any reference in this rule to the left forefinger of an elector shall, in the case where the elector has his left forefinger missing, be construed as a reference to any other finger to his left hand, and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger or any other finger of his right hand, and shall in the case where all his fingers of both the hands are missing be construed as a reference to such extremity of his left or right arm as he possesses.

**49L. Procedure for voting by voting machines.**—(1) Before permitting an elector to vote, the polling officer shall—

(a) record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a register of voters in Form 17A.

(b) obtain the signature or the thumb impression of the elector on the said register of votes; and

(c) mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote:

<sup>1</sup>[(d) give details of the document produced by the elector in proof of his/her identification.]

Provided that no elector shall be allowed to vote unless he has his signature or thumb impression on the register of voters.

(2) Notwithstanding anything contained in sub-rule (2) of rule 2, it shall be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the elector on the register of voters.

**49M. Maintenance of secrecy of voting by electors within the polling station and voting procedures.**—(1) Every elector who has been permitted to vote under rule 49L shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) Immediately on being permitted to vote the elector shall proceed to the presiding officer or the polling officer in charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit; for recording of elector's vote.

(3) The elector shall thereafter forthwith—

(a) proceed to the voting compartment;

(b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and

(c) come out of the voting compartment and leave the polling station.

(4) Every elector shall vote without undue delay.

(5) No elector shall be allowed to enter the voting compartment when another elector is inside it.

(6) If an elector who has been permitted to vote under rule 49L or rule 49P refuses after warning given by the presiding officer to observe the procedure laid down in sub-rule (3) of the said rules, the presiding officer or a polling officer under the direction of the presiding officer shall not allow such elector to vote.

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1. Ins. by Notifn. No. S.O. 728 (E), dated the 8<sup>th</sup> May, 2007.

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(7) Where an elector is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated shall be made against the elector's name in the register of voters in Form 17A by the presiding officer under his signature.

**49N. Recording of votes of blind or infirm electors.**—(1) If the presiding officer is satisfied that owing to blindness or other physical infirmities an elector is unable to recognise the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance the presiding officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes:

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day:

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day.

(2) The presiding officer shall keep a record in Form 14A of all cases under this rule.

**49-O. Elector deciding not to vote.**—If an elector, after his electoral roll number has been duly entered in the register of voters in Form 17A and has put his signature or thumb impression thereon as required under sub-rule (1) of rule 49L, decided not to record his vote, a remark to this effect shall be made against the said entry in Form 17A by the presiding officer and the signature or thumb impression of the elector shall be obtained against such remark.

**49P. Tendered votes.**—(1) If a person representing himself to be a particular elector seeks to vote after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the presiding officer may ask, be, instead of being allowed to vote through the balloting unit, supplied with a tendered ballot paper which shall be of such design, and the particulars of which shall be in such language or languages as the Election Commission may specify.

(2) Every such elector shall before being supplied with tendered ballot paper write his name against the entry relating to him in Form 17B.

(3) On receiving the ballot paper he shall forthwith—

(a) proceed to the voting compartment;

(b) record there his vote on the ballot paper by placing a cross mark 'X' with the instrument or article supplied for the purpose on or near the symbol of the candidate for whom he intends to vote;

(c) fold the ballot paper so as to conceal his vote;

(d) show to the presiding officer, if required, the distinguishing mark on the ballot paper;

(e) give it to the presiding officer who shall place it in a cover specially kept for the purpose; and

(f) leave the polling station.

(4) If owing to blindness or physical infirmities, such elector is unable to record his vote without assistance; the presiding officer shall permit him to take with him a companion, subject to the same conditions and after following the same procedure as laid down in rule 49N for recording the vote in accordance with his wishes.

**49Q. Presiding Officer's entry in the voting compartment during poll.**—(1) The presiding officer may whenever he considers it necessary so to do, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.

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(2) If the presiding officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.

(3) Whenever the presiding officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

**49R. Closing of poll.**—(1) The presiding officer shall close a polling station at the hour fixed in that behalf under section 56 and shall not thereafter admit any elector into the polling station:

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the presiding officer and his decision shall be final.

**49S. Account of votes recorded.**—(1) The presiding officer shall at the close of the poll prepare an account of votes recorded in Form 17C and enclose it in a separate cover with the words 'Account of Votes Recorded' superscribed thereon.

(2) The presiding officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form 17C after obtaining a receipt from the said polling agent therefor and shall attest it as a true copy.

**49T. Sealing of voting machine after poll.**—(1) As soon as practicable after the closing of the poll, the presiding officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.

(2) The control unit and the balloting unit shall thereafter be sealed, and secured separately in such manner as the Election Commission may direct and the seal used for securing them shall be so affixed that it will not be possible to open the units without breaking the seals.

(3) The polling agents present at the polling station, who desire to affix their seals, shall also be permitted to do so.

**49U. Sealing of other packets.**—(1) The presiding officer shall then make into separate packet,—

- (a) the marked copy of the electoral roll;
- (b) the register of voters in Form 17A;
- (c) the cover containing the tendered ballot papers and the list in Form 17B;
- (d) the list of challenged votes; and
- (e) any other papers directed by the Election Commission to be kept in a sealed packet.

(2) Each packet shall be sealed with the seal of the presiding officer and with the seal either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seal thereon.

**49V. Transmission of voting machines, etc., to the returning officer.**—(1) The presiding officer shall then deliver or cause to be delivered to the returning officer at such place as the returning officer may direct,—

- (a) the voting machine;
- (b) the account of votes recorded in Form 17C;
- (c) the sealed packets referred to in rule 49U; and
- (d) all other papers used at the poll.

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(2) The returning officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers for their safe custody until the commencement of the counting of votes.

**49W. Procedure on adjournment of poll.**—(1) If the poll at any polling station is adjourned under sub-section (1) of section 57, the provision of rules 49S to 49V shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under section 56.

(2) When an adjourned poll is recommended under sub-section (2) of section 57, the electors who have already voted at the poll so adjourned shall not be allowed to vote again.

(3) The returning officer shall provide the presiding officer of the polling station at which such adjourned poll is held, with the sealed packet containing the marked copy of the electoral roll, register of voters in Form 17A and a new voting machine.

(4) The presiding officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the electoral roll for marking the names of the electors who are allowed to vote at the adjourned poll.

(5) The provisions of rule 28 and rules 49A to 49V shall apply in relation to the conduct of an adjourned poll before it was so adjourned.

**49X. Closing of voting machine in case of booth capturing.**—Where the presiding officer is of opinion that booth capturing is taking place at a polling station or at a place fixed for the poll, he shall immediately close the control unit of the voting machine to ensure that no further votes can be recorded and shall detach the balloting that from the control unit.]

PART V

*Counting of votes in Parliamentary and Assembly Constituencies*

**50. Definitions.**—In this Part, unless the context otherwise requires,—

(a) "candidate" means a contesting candidate;

(b) "constituency" means a parliamentary or assembly constituency;

(c) "counting agent" means a counting agent duly appointed under section 47 and includes a candidate and the election agent of a candidate when present at the counting;

(d) "notified polling station" means a polling station notified under rule 49;

(e) "polling station" means a polling station provided under section 25 other than a notified polling station.

**51. Time and place for counting of votes.**—The returning officer shall, at least one week before the date, or the first of the dates, fixed for the poll, appoint the place or places where the counting of votes will be done and the date and time at which the counting will commence and shall give notice of the same in writing to each candidate or his election agent:

Provided that if for any reason the returning officer finds it necessary so to do, he may alter the date, time and place or places so fixed, or any of them, after giving notice of the same in writing to each candidate or his election agent.

**52. Appointment of counting agents and revocation of such appointments.**—(1) The number of counting agents that a candidate may appoint under section 47 shall, subject to such general or special direction as the Election Commission may issue in this behalf, not exceed sixteen at the place or each of the places, fixed for counting under rule 51.

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(2) Every such appointment shall be made in Form 18 in duplicate, one copy of which shall be forwarded to the returning officer while the other copy shall be made over to the counting agent for production before the returning officer<sup>1</sup>[not later than one hour before the time fixed] for counting under rule 51.

(3) No counting agent shall be admitted into the place fixed for counting unless he has delivered to the returning officer the second copy of his appointment under sub-rule (2) after duly completing and signing the declaration contained therein and receiving from the returning officer an authority for entry into the place fixed for counting.

(4) The revocation of appointment of a counting agent under sub-section (2) of section 48 shall be made in Form 19 and lodged with the returning officer.

(5) In the event of any such revocation before the commencement of the counting of votes, the candidate or his election agent may make a fresh appointment in accordance with sub-rule (2).

**53. Admission to the place fixed for counting.**—(1) The returning officer shall exclude from the place fixed for counting of votes all persons except—

- (a)<sup>2</sup>[such persons (to be known as counting supervisors and counting assistants)] as he may appoint to assist him in the counting;
- (b) persons authorised by the Election Commission;
- (c) public servants on duty in connection with the election; and
- (d) candidates, their election agents and counting agents.

(2) No person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election shall be appointed under clause (a) of sub-rule (1).

(3) The returning officer shall decide which counting agent or agents shall watch the counting at any particular counting table or group of counting tables.

(4) Any person who during the counting of votes misconducts himself or fails to obey the lawful directions of the returning officer may be removed from the place where the votes are being counted by the returning officer or by any police officer on duty or by any person authorised in this behalf by the returning officer.

**54. Maintenance of secrecy of voting.**—The returning officer shall, before he commences the counting, read out the provisions of section 128 to such persons as may be present.

<sup>3</sup>**54A. Counting of votes received by post.**—(1) The returning officer shall first deal with the postal ballot papers in the manner hereinafter provided.

(2) No cover in Form 13C received by the returning officer after the expiry of the time fixed in that behalf shall be opened and no vote contained in any such cover shall be counted.

(3) The other covers shall be opened one after another and as each cover is opened, the returning officer shall first scrutinise the declaration in Form 13A contained therein.

(4) If the said declaration is not found, or has not been duly signed and attested, or is otherwise substantially defective, or if the serial number of the ballot paper as entered in it differs from the serial number endorsed on the cover in Form 13B, that cover shall not be opened, and after making an appropriate endorsement thereon, the returning officer shall reject the ballot paper therein contained.

(5) Each cover so endorsed and the declaration received with it shall be replaced in the cover in Form 13C and all such covers in Form 13C shall be kept in a separate packet which shall be sealed and on which shall be recorded the name of the constituency, the date of counting and a brief description of its content.

1. Subs. by Notifn. No. S.O. 3662, dated the 12th October, 1964, for certain words.

2. Subs. by Notifn. No. S.O. 4542, dated the 20th December, 1968 (w.e.f 1-1-1969), for certain words.

3. Ins. by Notifn. No. S.O. 3662, dated the 12th October, 1964.

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(6) The returning officer shall then place all the declarations in Form 13A which he has found to be in order in a separate packet which shall be sealed before any cover in Form 13B is opened and on which shall be recorded the particulars referred to in sub-rule (5).

(7) The covers in Form 13B not already dealt with under the foregoing provisions of this rule shall then be opened one after another and the returning officer shall scrutinise each ballot paper and decide the validity of the vote recorded thereon.

(8) A postal ballot paper shall be rejected—

<sup>1</sup>[(a) if it bears any mark (other than the mark to record the vote) or writing by which the elector can be identified; or]

<sup>2</sup>[(aa) if no vote is recorded thereon; or

(b) if noted are given on it in favour of more candidates than one; or

(c) if it is a spurious ballot paper; or

(d) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or

(e) if it is not returned in the cover sent along with it to the elector by the returning officer.

(9) A vote recorded on a postal ballot paper shall be rejected if the mark indicating the vote is placed on the ballot paper in such manner as to make it doubtful to which candidate the vote has been given.

(10) A vote recorded on a postal ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(11) The returning officer shall count all the valid votes given by postal ballot in favour of each candidates, record the total thereof in the result sheet in Form 20 and announce the same.

(12) Thereafter, all the valid ballot papers and all the rejected ballot papers shall be separately bundled and kept together in a packet which shall be sealed with the seals of the returning officer and of such of the candidates, their election agent or counting agents as may desire to affix their seals thereon and on the packet so sealed shall be recorded the name of the constituency, the date of counting and a brief description of its contents.]

**55. Scrutiny and opening of ballot boxes.**—<sup>3</sup>[(1) The returning officer may have the ballot box or boxes used at more than one polling station opened and the ballot papers found in such box or boxes counted simultaneously.]

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(2) Before any ballot box is opened at a counting table, the counting agents present at that table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon and to satisfy themselves that it is intact.

(3) The returning officer shall satisfy himself that none of the ballot boxes has in fact been tampered with.

(4) If the returning officer is satisfied that any ballot box has in fact been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in section 58 in respect of that polling station.

1. Ins. by Notifn. No. S.O. 5573, dated the 23rd December, 1971.

2. cl. (a) relettered as c1. (aa), *ibid.*

3. Subs. by Notifn. No. S.O. 518(E), dated the 7th September, 1979, for sub-rule (1).

4. Sub-rule (1A) omitted, *ibid.*

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**56. <sup>1</sup>[Counting of Votes].—<sup>2</sup>[(1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinized.]**

(2) The returning officer shall reject a ballot paper—

(a) if it bears any mark or writing by which the elector can be identified, or

<sup>3</sup>[(b) if it bears no mark at all or, to indicate the vote, it bears a mark elsewhere than on or near the symbol of one of the candidates on the face of the ballot paper or, it bears a mark made otherwise than with the instrument supplied for the purpose, or]

(c) if votes are given on it in favour of more than one candidates, or

(d) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given, or

(e) if it is a spurious ballot paper, or

(f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established, or

(g) if it bears a serial number, or is of a design, different from the serial numbers, or, as the case may be, design, of the ballot papers authorised for use at the particular polling station, or

(h) if it does not bear <sup>4</sup>[both the mark and the signature] which it should have borne under the provisions of sub-rule (1) of rule 38:

Provided that where the returning officer is satisfied that any such defect as is mentioned in clause (g) or clause (h) has been caused by any mistake or failure on the part of a presiding officer or polling officer, the ballot paper shall not be rejected merely on the ground of such defect:

Provided further that a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(3) Before rejecting any ballot paper under sub-rule (2), the returning officer shall allow each counting agent present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.

<sup>5</sup>[(4) The returning officer shall endorse on every ballot paper which he rejects the word "Rejected" and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp and shall initial such endorsement.]

(5) All ballot papers rejected under this rule shall be bundled together.

<sup>6</sup>[(6) Every ballot paper which is not rejected under this rule shall be counted as one valid vote:

Provided that no cover containing tendered ballot papers shall be opened and no such paper shall be counted.

<sup>7</sup>[(7) After the counting of all ballot papers contained in all the ballot boxes used at a polling station has been completed,—

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1. Subs. by Notifn. No. S.O. 3662, dated the 12th October, 1964, for the former marginal heading.

2. Subs. by Notifn. No. S.O. 518(E), dated the 7th September, 1979, for sub-rule (1).

3. Subs. by Notifn. No. S.O. 505(E), dated the 18th September, 1973, for cl. (b).

4. Subs. by Notifn. No. S.O. 4542, dated the 20th December, 1968 (w.e.f. 1-1-1969).

5. Subs. by Notifn. No. S.O. 479A, dated the 27th January, 1971, for sub-rule (4).

6. Ins. by Notifn. No. S.O. 3662, dated the 12th October, 1964, for rule 57.

7. Subs. by Notifn. No. S.O. 518(E), dated the 7th September, 1979, for sub-rule (7).



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with the provisions of sub-rule (6) of rule 33 as modified by clause (c) of sub-rule (3) of rule 49.

(7) If any question arises as to the candidate to whom a particular ballot box was allotted at the poll, the returning officer shall decide such question by a reference to the symbol inside the box:

Provided that—

(a) if there is no symbol inside the box, or

(b) if the symbol inside the box has been damaged or mutilated beyond recognition, or

(c) if the same symbol is found on two or more boxes used at the same polling station, the returning officer, shall, wherever possible, decide the question by reference to all relevant circumstances including the distinguishing marks on the ballot box, and where he does not consider it possible to decide the question, he shall immediately refer it to the Election Commission for its decision.

56A. <sup>1</sup>[*Counting of votes*].— (1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinised.

(2) The returning officer shall reject a ballot paper—

(a) if it bears any mark or writing by which the elector can be identified; or

(b) if it is a spurious ballot paper; or

(c) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or

(d) if it bears a serial number, or is of design, different from the serial numbers or, as the case may be, design, of the ballot papers authorised for use at the particular polling station; or

(e) if it does not bear <sup>2</sup>[both the mark and the signature] which it should have borne under the provisions of sub-rule (1) of rule 38:

Provided that where the returning officer is satisfied that any such defect as is mentioned in clause (d) or clause (e) has been caused by any mistake or failure on the part of a presiding officer or polling officer, the ballot paper shall not be rejected merely on the ground of such defect.

(3) Before rejecting any ballot paper under sub-rule (2), the returning officer shall allow the counting agents present a reasonable opportunity to inspect the ballot paper but shall not allow them to handle it or any other ballot paper.

(4) The returning officer shall record on every ballot paper which he rejects the letter 'R' and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp.

(5) All ballot papers taken out of any one ballot box and rejected under this rule shall be made into a separate bundle.

<sup>3</sup>[(6) Every ballot paper which is not rejected under this rule shall be counted as one valid vote:

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1. Subs. by Notifn. No. S.O. 3662, dated the 12th October, 1964, for the former marginal heading.

2. Subs. by Notifn. No. S.O. 4542, dated the 20th December, 1968 (w.e.f 1-1-1969).

3. Ins. by Notifn. No. S.O. 3662, dated the 12th October, 1964.

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Provided that no cover containing tendered ballot papers shall be opened and no such ballot paper shall be counted.]

<sup>1</sup>[(7) After the counting of all ballot papers contained in all the ballot boxes used at a polling station has been completed,—

(a) the counting supervisor shall fill in and sign Part II—Result of Counting in <sup>2</sup>[Form 16] which shall also be signed by the returning officer; and

(b) the returning officer shall make the entries in a result sheet in Form 20 and announce the particulars.]

<sup>3</sup>[57A. *Sealing of used ballot papers.*—(1) The valid ballot papers found in each ballot box, shall thereafter be bundled together and kept along with the bundle of rejected ballot papers, if any found in that box in a separate packet which shall be sealed with the seals of the returning officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereon and on the packet so sealed there shall be recorded the following particulars, namely:—

(a) the name of the constituency,

(b) the particulars of the polling station where the ballot papers have been used,

(c) the name of the candidate to whom the ballot box was allotted, and

(d) the date of counting.

(2) The returning officer shall then place together all the packets made up under sub-rule (1) in respect of each candidate in a separate container which shall be sealed with the seals of the returning officer and of such of the candidates, their election agents or their counting agents as may desire to affix their seals thereon and on the container so sealed shall be recorded the following particulars, namely:—

(a) the name of the constituency,

(b) the names of the candidates, and

(c) the date of counting.]”.

<sup>4</sup>[59A. <sup>5</sup>[**Counting of votes in specified constituencies.**—Where the Election Commission apprehends intimidation and victimisation of electors in any constituency and it is of the opinion that it is absolutely necessary that the ballot papers taken out of all boxes used in that constituency should be mixed before counting, it may, by notification in the Official Gazette, specify such constituency and for counting of such ballot papers, in lieu of rules 55, 56, 57 and 59, the following rules shall apply], namely:—

‘55B. *Scrutiny and opening of ballot boxes.*—(1) The returning officer shall open, or cause to be opened, simultaneously the ballot box or boxes used at more than one polling station and shall have the total number of ballot papers found in such box or boxes counted and recorded in Part II of Form 16:

1. Subs. by Notifn. No. S.O. 4542, dated the 20th December, 1968 (w.e.f 1-1-1969).

2. Subs. by Notifn. No. S.O. 518 (E), dated the 7th September, 1979, for certain words.

3. Subs. by Notifn. No. S.O. 3662, dated the 12th October, 1964, for rule 57A.

4. Ins. by Notifn. No. S.O. 958(E), dated the 17th November, 1989, for rule 59A.

5. Subs. by Notifn. No. S.O. 105(E), dated the 15th February, 1993, for certain words.

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Provided that discrepancy, if any, between the total number of such ballot papers recorded as aforesaid and the total number of ballot papers shown against item No. 5 of Part I shall also be recorded in Part II of Form 16.

(2) Before any ballot box is opened at a counting table, the counting agents present at that table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon and to satisfy themselves that it is intact.

(3) The returning officer shall satisfy himself that none of the ballot boxes has in fact been tampered with.

(4) If the returning officer is satisfied that any ballot box has in fact been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in section 58 in respect of that polling station.

56B. *Counting of votes.*—(1) Subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, the ballot papers taken out of all boxes <sup>1</sup>[used at more than one polling station in a constituency,] shall be mixed together and then arranged in convenient bundles and scrutinised.

(2) The returning officer shall reject a ballot paper—

(a) if it bears any mark or writing by which the elector can be identified, or

(b) if it bears no mark at all or, to indicate the vote, it bears a mark elsewhere than on or near the symbol of one of the candidates on the face of the ballot paper or, it bears a mark made otherwise than with the instrument supplied for the purpose, or

(c) if votes are given on it in favour of more than one candidate, or

(d) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given, or

(e) if it is a spurious ballot paper, or

(f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established, or

(g) if it bears a serial number, or is of a design, different from the serial numbers, or, as the case may be, design, of the ballot papers authorised for use at the particular polling station, or

(h) if it does not bear both the mark and the signature which it should have borne under the provisions of sub-rule (1) of rule 38:

Provided that where the returning officer is satisfied that any such defect as is mentioned in clause (g) or clause (h) has been caused by any mistake or failure on the part of a presiding officer or polling officer, the ballot paper shall not be rejected merely on the ground of such defect:

Provided further that a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

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1. Subs. by Notifn. No. S.O. 105(E), dated the 15th February, 1993, for certain words.



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(3) On such an application being made the returning officer shall decide the matter and may allow the application in whole or in part or may reject it *in toto* if it appears to him to be frivolous or unreasonable.

(4) Every decision of the returning officer under sub-rule (3) shall be in writing and contain the reasons therefor.

<sup>1</sup>[(5) If the returning officer decides under sub-rule (3) to allow a re-count of the votes either wholly or in part, he shall—

(a) do the re-counting in accordance with <sup>2</sup>[rule 54A,] rule 56 or rule 56A, as the case may be;

(b) amend the result sheet in Form 20 to the extent necessary after such re-count; and

(c) announce the amendments so made by him.]

(6) After the total number of votes polled by each candidate has been announced under sub-rule (1) or sub-rule (5), the returning officer shall complete and sign the result sheet in Form 20 and no application for a re-count shall be entertained thereafter:

Provided that no step under this sub-rule shall be taken on the completion of the counting until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-rule (2).

<sup>3</sup>**64. Declaration of result of election and return of election.**—The returning officer shall, subject to the provisions of section 65 if and so far as they apply to any particular case, then—

(a) declare in Form 21C or Form 21D, as may be appropriate, the candidate to whom the largest number of valid votes have been given, to be elected under section 66 and send signed copies thereof to the appropriate authority, the Election Commission and the chief electoral officer; and

(b) Complete and certify the return of election in Form 21E, and send signed copies thereof to the Election Commission and the chief electoral officer.]

**65. Counting at two or more places.**—If ballot papers are counted at more places than one, the provisions of <sup>4</sup>[rules 53, 54 and 55 to 60] shall apply to the counting at each such place, but the provisions of <sup>5</sup>[rules 54A, 63 and 64] shall apply only to the counting at the last of such places.

**66. Grant of certificate of election to returned candidate.**—As soon as may be after a candidate has been declared by the returning officer under the provisions of section 53, or section 66, to be elected, the returning officer shall grant to such candidate a certificate of election in Form 22 and obtain from the candidate an acknowledgment of its receipt duly signed by him and immediately send the acknowledgment by registered post to the Secretary of the House of the People or, as the case may be, the Secretary of the Legislative Assembly.

<sup>6</sup>**66A. Counting of votes where electronic voting machines have been used.**—In relation to the counting of votes at a polling station, where voting machine has been used,—

(i) the provisions of rules 50 to 54 and in lieu of rules 55, 56 and 57, the following rules shall respectively apply, namely:—

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1. Subs. by Notifn. No. S.O. 3662, dated the 12th October, 1964, for sub-rule (2).

2. Ins. by Notifn. No. S.O. 3450, dated the 9th November, 1966.

3. Subs. by Notifn. No. S.O. 4542, dated the 20th December, 1968 (w.e.f 1-1-1969), for rule 64.

4. Subs. by Notifn. No. S.O. 3450, dated the 9th November, 1966, for "rules 53 to 60".

5. Subs., *ibid.*, for "rules 62 to 64".

6. Ins. by Notifn. No. S.O. 230(E), dated the 24th March, 1992.

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‘55C. *Scrutiny and inspection of voting machines.*—(1) The returning officer may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.

(2) Before the votes recorded in any control unit of voting machine are counted under sub-rule (1), the candidate or his election agent or his counting agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.

(3) The returning officer shall satisfy himself that none of the voting machines has in fact been tampered with.

(4) If the returning officer is satisfied that any voting machine has in fact been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in section 58, or section 58A or section 64A, as may be applicable in respect of the polling station or stations where that machine was used.

56C. *Counting of votes.*—(1) After the returning officer is satisfied that a voting machine has in fact not been tampered with, he shall have the votes recorded therein counted by pressing the appropriate button marked "Result" provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit.

(2) As the votes polled by each candidate are displayed on the control unit, the returning officer shall have,—

(a) the number of such votes recorded separately in respect of each candidate in Part II on Form 17C;

(b) Part II of Form 17C completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and

(c) corresponding entries made in a result sheet in Form 20 and the particulars so entered in the result sheet announced.

57C. *Sealing of voting machines.*—(1) After the result of voting recorded in a control unit has been ascertained candidate-wise and entered in Part II of Form 17C and Form 20 under rule 56C, the returning officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix the seals thereon so however that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result.

(2) The control unit so sealed shall be kept in specially prepared boxes on which the returning officer shall record the following particulars, namely:—

(a) the name of the constituency;

(b) the particulars of polling station or stations where the control unit has been used;

(c) serial number of the control unit;

(d) date of poll; and

(e) date of counting.’;

(ii) the provisions of rules 60 to 66 shall, so far as may be, apply in relation to voting by voting machines and any reference in those rules to,—

(a) ballot paper shall be construed as including a reference to such voting machine;

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(b) any rule shall be construed as a reference to the corresponding rule in Chapter II of Part IV or, as the case may be, to rule 55C or 56C or 57C].

PART VI

*Voting at elections by assembly members and in council constituencies*

<sup>1</sup>[67. **Definition.**-- Unless the context otherwise requires, in this Part—

(a) and in rule 84, “authorised agent”, in respect of a political party, means an authorised agent appointed, under sub-rule (2) of rule 39AA as made applicable, by clause (ii) of rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of rule 68, by that political party;

(b) “election” means an election by assembly members or an election in a council constituency.]

**68. Notification as to postal ballot.**—The Election Commission may, by notification published in the Official Gazette at any time before the last date for the withdrawal of candidatures at an election, direct that the method of voting by postal ballot shall be followed:—

(a) at that election, if it is an election by assembly members; or

(b) in the whole or any specified parts of the constituency, if it is an election in a council constituency.

<sup>2</sup>[69. **Notice to electors at election by assembly members.**—At an election by assembly members where a poll becomes necessary, the returning officer for such election shall, as soon as may be after the last date for the withdrawal of candidatures, send to each elector a notice informing him of the date, time and place fixed for polling.]

**70. Rules for conduct of poll.**—The provisions of <sup>3</sup>[rules 28 to 35 and 36 to 48] shall apply—

(a) to every election by assembly members in respect of which no direction has been issued under clause (a) of rule 68, and

(b) to every election in a council constituency unless voting by postal ballot has been directed in the whole of that constituency under clause (b) of rule 68,

subject to the following modifications, namely:—

(i) clause (a) of sub-rule (1) of rule 31 shall not apply to an election by assembly members;

(ii) <sup>4</sup>[in lieu of rules 37 to 40], the following rules shall apply:—

"37A. *Method of voting.*—(1) Every elector has only one vote at an election irrespective of the number of seats to be filled.

<sup>5</sup>[(1A) The provisions of sub-rules (1), (2) and (4) of rule 37 shall apply in relation to electors in the graduates' constituencies and teachers' constituencies as they apply in relation to electors in the Parliamentary constituencies and Assembly constituencies.]

(2) An elector in giving his vote—

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1. Subs. by Notifn. No. S.O. 272(E), dated the 27th February, 2004.  
 2. Subs. by Notifn. No. S.O. 3662, dated the 12th October, 1964, for rule 69.  
 3. Subs. by Notifn. No. S.O. 3450, dated the 9th November, 1966, for "rules 28 to 48".  
 4. Subs. by Notifn. No. S.O. 1520, dated the 25th April, 1968, for certain words.  
 5. Ins. by Notifn. No. S.O. 335(E), dated the 23rd April, 1990.

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(a) shall place on his ballot paper the figure 1 in the Space opposite the name of the candidate for whom he wishes to vote in the first instance; and

(b) may, in addition, place on his ballot paper the figure 2 or the figures 2 and 3, or the figures 2, 3 and 4 and so on, in the space opposite the names of the other candidates in the order of his preference.

<sup>1</sup>[*Explanation.*—The figures referred to in clauses (a) and (b) of this sub-rule may be marked in the international form of Indian numerals or in the Roman form or in the form used in any Indian language but shall not be indicated in words.]

<sup>2</sup>[38A. *Issue of ballot papers to electors.*—(1) Every ballot paper, before it is issued to an elector, and the counterfoil attached thereto shall be stamped on the back with such distinguishing mark as the Election Commission may direct, and every ballot paper, before it is issued, shall be signed in full on its back by the presiding officer.

(2) At the time of issuing a ballot paper to an elector, the polling officer shall—

(a) record on its counterfoil the electoral roll number of the elector as entered in the marked copy of the electoral roll;

(b) obtain the signature or thumb impression of that elector on the said counterfoil; and

<sup>3</sup>[(c) mark the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him, —

(i) and record in the marked copy of the electoral roll, the serial number of the ballot paper issued to that elector, in the case of an election to fill a seat or seats in the Council of States;

(ii) without recording therein the serial number of the ballot paper issued to that elector, in the case of an election to fill a seat or seats in the Legislative Council of a State<sup>2</sup>;

<sup>3</sup>[Provided that no ballot paper shall be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper.]

(3) Notwithstanding anything contained in sub-rule (2) of rule 2, it shall not be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the elector on the counterfoil.

(4) <sup>3</sup>[Subject to rule 39AA., no person] in the polling station shall note down the serial numbers of the ballot papers issued to particular electors.

<sup>3</sup>[(5) Before any ballot paper is delivered to an elector at an election to fill a seat or seats in the Legislative Council of a State by assembly members or in a local authorities' constituency, the serial number of the ballot papers shall be effectively concealed in such manner as the Election Commission may direct.]

<sup>4</sup>[39A. *Maintenance of secrecy of voting by electors within polling station and voting procedure.*—(1) Every elector, to whom a ballot paper has been issued under rule 38A or under any

1. Ins. by Notifn. No. S.O. 3875, dated the 15th December, 1966.

2. Subs. by Notifn. No. S.O. 5573, dated the 23rd December, 1971, for rule 38A.

3. Subs. by Notifn. No. S.O.272(E), dated the 27th February, 2004

4. Subs. by Notifn. No. S.O.286(E), dated the 8th May, 1974, for rule 39A.

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other provision of these rules, shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) The elector on receiving the ballot paper shall forthwith—

(a) proceed to one of the voting compartments;

(b) record his vote in accordance with sub-rule (2) of rule 37A with the article supplied for the purpose;

(c) fold the ballot paper so as to conceal his vote;

<sup>1</sup>[(d) if required, show to the presiding officer, the distinguishing mark on the ballot paper;]

<sup>2</sup>[(e)] insert the folded paper into the ballot box; and

<sup>2</sup>[(f)] quit the polling station.

(3) Every elector shall vote without undue delay.

(4) No elector shall be allowed to enter a voting compartment when another elector is inside it.

(5) If an elector to whom a ballot paper has been issued, refuses, after warning given by the presiding officer to observe the procedure as laid down in sub-rule (2), the ballot paper issued to him shall, whether he has recorded his vote thereon or not, be taken back from him by the presiding officer or a polling officer under the direction of the presiding officer.

(6) After the ballot paper has been taken back, the presiding officer shall record on its back the words "Cancelled: voting procedure violated" and put his signature below those words.

(7) All the ballot papers on which the words "Cancelled: voting procedure violated" are recorded, shall be kept in a separate cover which shall bear on its face the words "Ballot papers: voting procedure violated".

(8) Without prejudice to any other penalty to which an elector, from whom a ballot paper has been taken back under sub-rule (5), may be liable, vote, if any, recorded on such ballot paper shall not be counted.]

<sup>3</sup>**[39AA. Information regarding casting of votes.** — (1) Notwithstanding anything contained in rule 39A, the presiding officer shall, between the period when an elector being a member of a political party records his vote on a ballot paper and before such elector inserts that ballot paper into the ballot box, allow the authorised agent of that political party to verify as to whom such elector has cast his vote:

Provided that if such elector refuses to show his marked ballot paper to the authorised agent of his political party, the ballot paper issued to him shall be taken back by the presiding officer or a polling officer under the direction of the presiding officer and the ballot paper so taken back shall then be further dealt with in the manner specified in sub-rules (6) to (8) of rule 39A as if such ballot paper had been taken back under sub-rule (5) of that rule.

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1. Ins. by Notifn. No. S.O. 340(E), dated the 4th June, 1986.

2. Cls. (d) and (e) relettered as cls. (e) and (f), respectively, *ibid.*

3. Ins. by Notifn. No. S.O. 272(E), dated the 27th February, 2004.

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(2) Every political party, whose member as an elector casts a vote at a polling station, shall, for the purposes of sub-rule (1), appoint, in Form 22A, two authorised agents.

(3) An authorised agent appointed under sub-rule (2) shall be present throughout the polling hours at the polling station and the other shall relieve him when he goes out of the polling station or *vice versa*.]

<sup>1</sup>[40A. *Recording of votes of illiterate, blind or infirm electors.*— (1) If an elector is unable to read the ballot paper or to record his vote thereon in accordance with rule 37A by reason of illiteracy, blindness or other infirmity, the presiding officer shall, on being satisfied about such illiteracy, blindness or infirmity, permit the elector to take with him a companion of not less than <sup>2</sup>[eighteen] years of age who is able to read the ballot paper and record the vote thereon on behalf of, and in accordance with the wishes of, the elector and, if necessary, to fold the ballot paper so as to conceal the vote and insert it into the ballot box:

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day:

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule, the person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any polling station on that day:

<sup>3</sup>[Provided also that at an election by assembly members no such companion shall be an elector at that election.]

(2) The presiding officer shall keep a record in Form 14A of all the cases under this rule.

(3) The presiding officer shall, when he is so requested by the companion of an elector, explain to him the instructions for the recording of votes.];

(iii) in lieu of rule 44, the following rule shall apply:—

"44B. *Sealing of ballot box after poll.*—As soon as practicable after the close of the poll, the <sup>4</sup>[presiding officer] shall, in the presence of any polling agents who may be present, close the slit for insertion of ballot papers of each ballot box or where the box does not contain any mechanical device for closing the slit, seal up the slit and secure the ballot box:

Provided that it shall not be necessary to seal the slit or secure the ballot box if the counting of votes is to begin immediately after the close of the poll.";

<sup>5</sup>[(iv) in rule 46, in sub-rule (1), in lieu of clauses (b) and (c), the following clauses shall apply:—

"(b) the ballot papers signed in full by the presiding officer under sub-rule (1) of rule 38A but not issued to the voters;

(c) the ballot papers cancelled for violation of voting procedure under rule 39A."].

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1. Ins. by Notifn. No. S.O. 1520, dated the 25th April, 1968.

2. Subs. by Notifn. No. S.O. 542 (E), dated the 13th July, 1989.

3. Added by Notifn. No. S.O. 5573, dated the 23rd December, 1971.

4. Subs. by Notifn. No. S.O. 2912, dated the 21st August, 1964.

5. Subs. by Notifn. No. S.O. 286(E), dated the 8th May, 1974, for cl. (iv).

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PART VII

*Counting of votes at Elections by Assembly Members or in Council Constituencies*

**71. Definitions.**—In this Part,—

(1) "continuing candidate" means any candidate not elected and not excluded from the poll at any given time;

(2) "count" means—

- (a) all the operations involved in the counting of the first preferences recorded for candidates; or
- (b) all the operations involved in the transfer of the surplus of an elected candidate; or
- (c) all the operations involved, in the transfer of the total value of votes of an excluded candidate;

(3) "exhausted paper" means a ballot paper on which no further preference is recorded for a continuing candidate, provided that a paper shall also be deemed to have become exhausted whenever—

(a) the names of two or more candidates, whether continuing or not, are marked with the same figure and are next in order of preference; or

(b) the name of the candidate next in order of preference, whether continuing or not, is marked by a figure not following consecutively after some other figure on the ballot paper or by two or more figures;

(4) "first preference" means the figure 1 set opposite the name of a candidate; "second preference" means the figure 2 set opposite the name of a candidate; "third preference" means the figure 3 set opposite the name of a candidate, and so on;

(5) "original vote", in relation to any candidate, means a vote derived from a ballot paper on which a first preference is recorded, for such candidate;

(6) "surplus" means the number by which the value of the votes, original and transferred, of any candidate exceeds the quota;

(7) "transferred vote", in relation to any candidate, means a vote the value or the part of the value of which is credited to such candidate and which is derived from a ballot paper on which a second or a subsequent preference is recorded for such candidate; and

(8) "unexhausted paper" means a ballot paper on which a further preference is recorded for a continuing candidate.

**72. Application of certain rules.**—The provisions of rules 51 to 54 shall apply to the counting of votes at any election by assembly members or in a council constituency as they apply to the counting of votes at an election in a parliamentary or assembly constituency.

**73. Scrutiny and opening of ballot boxes and the packets of postal ballot papers.**—(1) The returning officer shall—

<sup>1</sup>[(a) first deal with the covers containing the postal ballot papers, if any, in the manner provided in sub-rules (2) to (7) of rule 54A;

(b) then open the ballot boxes, take out from each box and count the ballot papers contained therein, and record their number in a statement;]

(c) scrutinise the ballot papers taken out of the ballot boxes as well as the postal ballot papers taken out from the covers; and

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1. Subs. by Notifn. No. S.O. 3662, dated the 12th October, 1964, for cls. (a) and (b).

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(d) separate the ballot papers which he deems valid from those which he rejects endorsing on each of the latter the word "Rejected" and the ground of rejection.

(2) <sup>1</sup>[Subject to rule 38A as made applicable, by clause (ii) of rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of rule 68, a ballot paper shall] be invalid on which—

(a) the figure 1 is not marked; or

(b) the figure 1 is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply; or

(c) the figure 1 and some other figures are set opposite the name of the same candidate; or

(d) there is any mark or writing by which the elector can be identified; <sup>2</sup>[or]

<sup>3</sup>[(e) there is any figure marked otherwise than with the article supplied for the purpose:

Provided that this clause shall not apply to a postal ballot paper:

Provided further that where the returning officer is satisfied that any such defect as is mentioned in this clause has been caused by any mistake or failure on the part of a presiding officer or polling officer, the ballot paper shall not be rejected, merely on the ground of such defect.]

<sup>4</sup>[*Explanation.*—The figures referred to in clauses (a), (b) and (c) of this sub-rule may be marked in the international form of Indian numerals or in the Roman form or in the form used in any Indian language, but shall not be indicated in words.]

**74. Arrangement of valid ballot papers in parcels.**—After rejecting the ballot papers which are invalid, the returning officer shall—

(a) arrange the remaining ballot papers in parcels according to the first preference recorded for each candidate;

(b) count and record the number of papers in each parcel and the total number; and

(c) credit to each candidate the value of the papers in his parcel.

**75. Counting of votes where only one seat is to be filled.**—(1) At any election where only one seat is to be filled, every valid ballot paper shall be deemed to be of the value of 1 at each count, and the quota sufficient to secure the return of a candidate at the election shall be determined as follows:—

(a) add the values credited to all the candidates under clause (c) of rule 74;

(b) divide the total by 2; and

(c) add 1 to the quotient ignoring the remainder, if any, and the resulting number is the quota.

(2) If, at the end of the first or any subsequent count, the total value of the ballot papers credited to any candidate is equal to, or greater than, the quota or there is only one continuing candidate, that candidate shall be declared elected.

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1. Subs. by Notifn. No. S.O. 272(E), dated the 27th February, 2004.

2. Ins. by Notifn. No. S.O. 286(E), dated the 8th May, 1974.

3. Subs. by Notifn. No. S.O. 795(E), dated the 14th December, 1976, for cl. (e).

4. Ins. by Notifn. No. S.O. 3662, dated the 12th October, 1964.

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(3) If, at the end of any count, no candidate can be declared elected, the returning officer shall—

(a) exclude from the poll the candidate who up to that stage has been credited with the lowest value;

(b) examine all the ballot papers in his parcels and sub-parcels, arrange the unexhausted papers in sub-parcels according to the next available preferences recorded thereon for the continuing candidates, count the number of papers in each such sub-parcel and credit it to the candidate for whom such preference is recorded, transfer the sub-parcel to that candidate, and make a separate sub-parcel of all the exhausted papers; and

(c) see whether any of the continuing candidates has, after such transfer and credit, secured the quota.

(4) If, when a candidate has to be excluded under clause (a) of sub-rule (3), two or more candidates have been credited with the same value and stand lowest on the poll, the candidate for whom the lowest number of original votes are recorded shall be excluded, and if this number also is the same in the case of two or more candidates, the returning officer shall decide by lot which of them shall be excluded.

*Counting of votes when more than one seat is to be filled*

**76. Ascertainment of quota.**—At any election where more than one seat is to be filled, every valid ballot paper shall be deemed to be of the value of 100, and the quota sufficient to secure the return of a candidate at the election shall be determined as follows:—

(a) add the values credited to all the candidates under clause (c) of rule 74;

(b) divide the total by a number which exceeds by 1 the number of vacancies to be filled; and

(c) add 1 to the quotient ignoring the remainder, if any, and the resulting number is the quota.

**77. General instruction.**—In carrying out the provisions of rules 78 to 82, the returning officer shall disregard all fractions and ignore all preferences recorded for candidates already elected or excluded from the poll.

**78. Candidates with quota elected.**—If at the end of any count or at the end of the transfer of any parcel or sub-parcel of an excluded candidate the value of ballot papers credited to a candidate is equal to, or greater than the quota, that candidate shall be declared elected.

**79. Transfer of surplus.**—(1) If at the end of any count the value of the ballot papers credited to a candidate is greater than the quota, the surplus shall be transferred, in accordance with the provisions of this rule, to the continuing candidates indicated on the ballot papers of that candidate as being next in order of the elector's preference.

(2) If more than one candidate have a surplus, the largest surplus shall be dealt with first and the others in order of magnitude:

Provided that every surplus arising on the first count shall be dealt with before those arising on the second count and so on.

(3) Where there are more surpluses than one to distribute and two or more surpluses are equal, regard shall be had to the original votes of each candidate and the candidate for whom most original votes are recorded shall have his surplus first distributed; and if the values of their original votes are equal, the returning officer shall decide by lot which candidate shall have his surplus first distributed.

(4) (a) If the surplus of any candidate to be transferred arises from original votes only, the returning officer shall examine all the papers in the parcel belonging to that candidate, divide the unexhausted papers into sub-parcels

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according to the next preferences recorded thereon and make a separate sub-parcel of the exhausted papers.

(b) He shall ascertain the value of the papers in each sub-parcel and of all the unexhausted papers.

(c) If the value of the unexhausted papers is equal to or less than the surplus, he shall transfer all the unexhausted papers at the value at which they were received by the candidate whose surplus is being transferred.

(d) If the value of the unexhausted papers is greater than the surplus, he shall transfer the sub-parcels of unexhausted papers and the value at which each paper shall be transferred shall be ascertained by dividing the surplus by the total number of unexhausted papers.

(5) If the surplus of any candidate to be transferred arises from transferred as well as original votes, the returning officer shall re-examine all the papers in the sub-parcel last transferred to the candidate, divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon, and then deal with the sub-parcels in the same manner as is provided in the case of sub-parcels referred to in sub-rule (4).

(6) The papers transferred to each candidate shall be added in the form of a sub-parcel to the papers already belonging to such candidate.

(7) All papers in the parcel or sub-parcel of an elected candidate not transferred under this rule shall be set apart as finally dealt with.

**80. Exclusion of candidates lowest on the poll.**—(1) If after all surpluses have been transferred as hereinbefore provided, the number of candidates elected is less than the required number, the returning officer shall exclude from the poll the candidate lowest on the poll and shall distribute his unexhausted papers among the continuing candidates according to the next preferences recorded thereon; and any exhausted papers shall be set apart as finally dealt with.

(2) The papers containing original votes of an excluded candidate shall first be transferred, the transfer value of each paper being one hundred.

(3) The papers containing transferred votes of an excluded candidate shall then be transferred in the order of the transfers in which, and at the value at which, he obtained them.

(4) Each of such transfers shall be deemed to be a separate transfer but not a separate count.

(5) If, as a result of the transfer of papers, the value of votes obtained by candidate is equal to or greater than the quota, the count then proceeding shall be completed but no further papers shall be transferred to him.

(6) The process directed by this rule shall be repeated on the successive exclusions one after another of the candidates lowest on the poll until such vacancy is filled either by the election of a candidate with the quota or as hereinafter provided.

(7) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of votes and are the lowest on the poll, regard shall be had to the original votes of each candidate and the candidate for whom fewest original votes are recorded shall be excluded; and if the values of their original votes are equal the candidates with the smallest value at the earliest count at which these candidates had unequal values shall be excluded.

(8) If two or more candidates are lowest on the poll and each has the same value of votes at all counts the returning officer shall decide by lot which candidate shall be excluded.

**81. Filling the last vacancies.**—(1) When at the end of any count the number of continuing candidates is reduced to the number of vacancies remaining unfilled, the continuing candidates shall be declared elected.

(2) When at the end of any count only one vacancy remains unfilled and the value of the papers of some one candidate exceeds the total value of the papers of all the other continuing candidates together with any surplus not transferred, that candidate shall be declared elected.

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(3) When at the end of any count only one vacancy remains unfilled and there are only two continuing candidates and each of them has the same value of votes and no surplus remains capable of transfer, the returning officer shall decide by lot which of them shall be excluded; and after excluding him in the manner aforesaid, declare the other candidate to be elected.

**82. Provision for re-counts.**—(1) Any candidate or, in his absence, his election agent or counting agent may, at any time during the counting of the votes either before the commencement or after the completion of any transfer of votes (whether surplus or otherwise) request the returning officer to re-examine and re-count the papers of all or any candidates (not being papers set aside at any previous transfer as finally dealt with), and the returning officer shall forthwith re-examine and re-count the same accordingly.

(2) The returning officer may in his discretion re-count the votes either once or more than once in any case in which he is not satisfied as to the accuracy of any previous count:

Provided that nothing in this sub-rule shall make it obligatory on the returning officer to re-count the same votes more than once.

**83. Illustration of the procedure as to the counting of votes under rules 76 to 81.**—An illustration of the procedure as to the counting of votes in accordance with the provisions of <sup>1</sup>[rules 76 to 81] is given in the Schedule to these rules.

<sup>2</sup>**84. Declaration of result and return by returning officers.**—(1) Upon the completion of counting, the returning officer shall, subject to the provisions of sub-rule (3) of rule 81,—

(a) declare the result under section 66 in Form 23 or Form 23A as may be appropriate, and send signed copies thereof to the appropriate authority, the Election Commission and the chief electoral officer;

(b) prepare and certify a return of the election in Form 23B and after reporting the result of the election under section 67, send signed copies of the said Form to the Election Commission and the chief electoral officer; and

(c) permit any candidate or his election agent or counting agent to take a copy of, or extract from, such return in Form 23B.]

<sup>1</sup>[(2) The returning officer shall thereafter—

(a) place the valid ballot papers in one packet and the rejected ballot papers in another;

(b) seal with the seals of the returning officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals, each of the packets referred to in clause (a) and the packet containing the declarations by electors and attestations of their signatures; and

(c) record on each of the sealed packets the descriptions of its contents and the date of election.]

<sup>3</sup>[Provided that where such counting relates to an election to fill a seat or seats in the Council of States, the returning officer shall, before sealing the packets under clause (b), allow the authorised agent of a political party to verify as to whom the electors being members of that political party have cast their votes.]

1. Subs. by Notifn. No. S.O. 3662, dated the 12th October, 1964, for sub-rule (2).

2. Subs. by Notifn. No. S.O. 4542, dated the 20th December, 1968, for rule 84, (w.e.f. 1-1-1969).

3. Ins. by Notifn. No. S.O.272(E), dated the 27th February, 2004.

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**85. Grant of certificate of election to returned candidate.**—As soon as may be after a candidate has been declared to be elected the returning officer shall grant to such candidate a certificate of election in Form 24 and obtain from the candidate an acknowledgment of its receipt duly signed by him and immediately send the acknowledgment by registered post to the Secretary of the Council of States or, as the case may be, the Secretary of the Legislative Council.

<sup>2</sup>[PART VIIA

*Contributions report, equitable sharing of time on electronic media and material to be supplied to recognised political parties*

**85A. Definitions.**—In this Part, unless the context otherwise requires,—

(a) “cable television network” and “cable operator” have the meanings respectively assigned to them in clause (b) of *Explanation* to section 39A;

(b) “electronic media” has the meaning assigned to it in clause (a) of *Explanation* to section 39A;

(c) “political party” has the meaning assigned to it in clause (f) of sub-section (1) of section 2;

(d) “recognised political party” has the meaning assigned to it in the Election Symbols (Reservation and Allotment) Order, 1968.

**85B. Form of contributions report.**—The report for a financial year under sub-section (1) of section 29C shall be submitted in form 24A by the treasurer of a political party or any other person authorised by the political party in this behalf, before the due date for furnishing a return of its income of that financial year under section 139 of the Income-tax Act, 1961 (43 of 1961), to the Election Commission.

**85C. Allocation of equitable sharing of time on electronic media.**—(1) The Election Commission shall, for the purposes of allocating equitable sharing of time on the cable television network and other electronic media under sub-section (1) of section 39A, categories the cable television networks and electronic media into the two separate categories that is to say one category which is owned or controlled or financed wholly or substantially by funds provided to them by the Central Government and the other which is not owned or controlled or financed wholly or substantially by funds provided to them by the Central Government.

(2) For allocating equitable sharing of time on the cable television network and other electronic media owned or controlled or financed wholly or substantially by funds provided to them by the Central Government referred to in sub-rule (1), the Election Commission shall determine, in consultation with the Ministry of the Government of India dealing with the concerned subject, the maximum time period available on such cable television network and other electronic media and allocate such time period proportionately among the recognised political parties contesting the election on the basis of their past performances for the purposes of displaying or propagating any election matter or to address public in connection with the election under sub-section (1) of section 39A.

(3) For the purposes of this rule, “past performance of a recognised political party” shall be calculated,—

(i) in relation to the election to fill a seat or seats in the House of the People, on the basis of the percentage of votes cast in the last preceding general election in favour of that recognised political party with reference to the total votes cast in that general election, to fill the seats in that House;

(ii) in relation to the election to fill a seat or seats in the Legislative Assembly of a State (except the State of Jammu and Kashmir), on the basis of the percentage of the votes cast in the last preceding general election in favour of that recognised political party with reference to the total votes cast in that general election, to fill the seats in that Assembly.

1. Sub-rule (3) omitted by Notifn. No. S.O. 4542, dated the 10th December, 1968 (w.e.f. 1-1-1969).

2. Ins. by Notifn. No. S.O. 1283(E), dated the 10th November, 2003.

**85D. Supply of material by the Government.**—The Central Government shall, at the time of any general election to be held for the purposes of constituting the house of the People or the Legislative Assembly of a State provide to the Election Commission such number of copies of electoral roll, as finally published under the representation of the People Act, 1950 (43 of 1950), as the Election Commission may require for supplying the same free of cost to the candidate of recognised political parties through such officers as may be specified by the Election Commission and such officer shall act in accordance with such general or special directions as may be issued by the Election Commission in this behalf.

PART VIII  
*Election Expenses*

**86. Particulars of account of election expenses.**—(1) The account of election expenses to be kept by a candidate or his election agent under section 77 shall contain the following particulars in respect of each item of expenditure from day to day, namely: —

- (a) the date on which the expenditure was incurred or authorised;
- (b) the nature of the expenditure (as for example, travelling, postage or printing and the like);
- (c) the amount of the expenditure—
  - (i) the amount paid;
  - (ii) the amount outstanding;
- (d) the date of payment;
- (e) the name and address of the payee;
- (f) the serial number of vouchers, in case of amount paid;
- (g) the serial number of bills, if any, in case of amount outstanding;
- (h) the name and address of the person to whom the amount outstanding is payable.

(2) A voucher shall be obtained for every item of expenditure unless from the nature of the case, such as postage, travel by rail and the like, it is not practicable to obtain a voucher.

(3) All vouchers shall be lodged along with the account of election expenses, arranged according to the date of payment and serially numbered by the candidate or his election agent and such serial numbers shall be entered in the account under item (f) of sub-rule (1).

(4) It shall not be necessary to give the particulars mentioned in item (e) of sub-rule (1) in regard to items of expenditure for which vouchers have not been obtained under sub-rule (2).

**87. Notice by <sup>1</sup>[district election officer] for inspection of accounts.**—The <sup>1</sup>[district election officer] shall, within two days from the date on which the account of election expenses has been lodged by a candidate under section 78, cause a notice to be affixed to his notice board, specifying—

- (a) the date on which the account has been lodged;
- (b) the name of the candidate; and

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1. Subs. by Notifn. No. S.O. 3875, dated the 15th December, 1966, for "returning officer".

(c) the time and place at which such account can be inspected.

**88. Inspection of account and the obtaining of copies thereof.**—Any person shall on payment of a fee of one rupee be entitled to inspect any such account and on payment of such fee as may be fixed by the Election Commission in this behalf be entitled to obtain attested copies of such account or of any part thereof.

**89. Report by the <sup>1</sup>[district election officer] as to the lodging of the account of election expenses and the decision of the Election Commission thereon.**—(1) As soon as may be after the expiration of the time specified in section 78 for the lodging of the accounts of election expenses at any election, the <sup>1</sup>[district election officer] shall report to the Election Commission—

(a) the name of each contesting candidate;

(b) whether such candidate has lodged his account of election expenses and if so, the date on which such account has been lodged; and

(c) whether in his opinion such account has been lodged within the time and in the manner required by the Act and these rules.

(2) Where the <sup>1</sup>[district election officer] is of the opinion that the account of election expenses of any candidate has not been lodged in the manner required by the Act and these rules, he shall with every such report forward to the Election Commission the account of election expenses of that candidate and the vouchers lodged along with it.

(3) Immediately after the submission of the report referred to in sub-rule (1) the <sup>1</sup>[district election officer] shall publish a copy thereof affixing the same to his notice board.

(4) As soon as may be after the receipt of the report referred to in sub-rule (1) the Election Commission shall consider the same and decide whether any contesting candidate has failed to lodge the account of election expenses within the time and in the manner required by the Act and these rules.

<sup>2</sup>(5) Where the Election Commission decides that a contesting candidate has failed to lodge his account of election expenses within the time and in the manner required by the Act and these rules it shall by notice in writing call upon the candidate to show cause why he should not be disqualified under section 10A for the failure.

(6) Any contesting candidate who has been called upon to show cause under sub-rule (5) may within twenty days of the receipt of such notice submit in respect of the matter a representation in writing to the Election Commission, and shall at the same time send to district election officer a copy of his representation together with a complete account of his election expenses if he had not already furnished such an account.

(7) The district election officer shall, within five days of the receipt thereof, forward to the Election Commission the copy of the representation and the account (if any) with such comments as he wishes to make thereon.

(8) If, after considering the representation submitted by the candidate and the comments made by the district election officer and after such inquiry as it thinks fit, the Election Commission is satisfied that the candidate has no good reason or justification for the failure to lodge his account, it shall declare him to be disqualified under section 10A for a period of three years from the date of the order, and cause the order to be published in the Official Gazette.]

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1. Subs. by Notifn. No. S.O.3875, dated 15th December, 1966, for "returning officer".

2. Subs., *ibid.*, for sub-rules (5) to (9).

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<sup>1</sup>**90. Maximum election expenses.**—The total of the expenditure of which account is to be kept under section 77 and which is incurred or authorized in connection with an election in a State or Union territory mentioned in column 1 of the Table below shall not exceed—

(a) in any one parliamentary constituency of that State or Union territory, the amount specified in the corresponding column 2 of the said Table; and

(b) in any one assembly constituency, if any, of the State or Union territory, the amount specified in the corresponding column 3 of the said Table—

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<sup>1</sup>[TABLE

Sl. No.	Name of State or Union territory	Maximum limit of election expenses in any one	
		Parliamentary constituency	Assembly constituency
1	2	3	4
<b>I. STATES</b>			
1.	Andhra Pradesh	40,00,000	16,00,000
2.	Arunachal Pradesh	27,00,000	10,00,000
3.	Assam	40,00,000	16,00,000
4.	Bihar	40,00,000	16,00,000
5.	Goa	22,00,000	8,00,000
6.	Gujarat	40,00,000	16,00,000
7.	Haryana	40,00,000	16,00,000
8.	Himachal Pradesh	40,00,000	11,00,000
9.	Jammu amd Kashmir	40,00,000	-----
10.	Karnataka	40,00,000	16,00,000
11.	Kerala	40,00,000	16,00,000
12.	Madhya Pradesh	40,00,000	16,00,000
13.	Maharashtra	40,00,000	16,00,000
14.	Manipur	35,00,000	8,00,000
15.	Meghalaya	35,00,000	8,00,000
16.	Mizoram	32,00,000	8,00,000
17.	Nagaland	40,00,000	8,00,000
18.	Orissa	40,00,000	16,00,000
19.	Punjab	40,00,000	16,00,000
20.	Rajasthan	40,00,000	16,00,000
21.	Sikkim	27,00,000	8,00,000
22.	Tamil Nadu	40,00,000	16,00,000
23.	Tripura	40,00,000	8,00,000
24.	Uttar Pradesh	40,00,000	16,00,000
25.	West Bengal	40,00,000	16,00,000
26.	Chhattisgarh	40,00,000	16,00,000
27.	Uttarakhand	40,00,000	11,00,000
28.	Jharkhand	40,00,000	16,00,000
<b>II. UNION TERRITORIES</b>			
1.	Andaman and Nicobar Islands	27,00,000	--
2.	Chandigarh	22,00,000	--
3.	Dadra and Nagar Haveli	16,00,000	--
4.	Daman and Diu	16,00,000	--
5.	Delhi	40,00,000	14,00,000
6.	Lakshadweep	16,00,000	--
7.	Puducherry	32,00,000	8,00,000]

1. Subs. by Notifn. No. S.O. 425 (E), dated the 23rd February, 2011.

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PART IX  
*Miscellaneous*

**91. Resignation of seats in case of election to more seats than one in a House.**—(1) The time within which a person may resign all but one of the seats in either House of Parliament or in the House or either House of the Legislature of a State, to which he has been elected shall be—

(a) fourteen days from the date of his election under section 67A; or

(b) where the dates of his election are different in respect of different seats, fourteen days from the last of those dates.

(2) Such resignation shall be addressed—

(a) to the Speaker or the Chairman of the House concerned; or

(b) whether the office of the Speaker or Chairman is for the time being vacant or is, or is deemed to be, in abeyance, to the Deputy Speaker or the Deputy Chairman of the House concerned; or

(c) where the post of the Deputy Speaker or Deputy Chairman is also for the time being vacant or is, deemed to be, in abeyance, to the Election Commission.

(3) Where the resignation has been addressed to the Election Commission under sub-rule (2) the Election Commission shall, as soon as may be after the receipt of the resignation, send a copy thereof to the Secretary of the House concerned.

**92. Custody of ballot boxes and papers relating to election.** —(1) All ballot boxes used at an election shall be kept in such custody as the chief electoral officer may direct.

<sup>1</sup>[(1A) All voting machines used at an election shall be kept in the custody of the concerned district election officer.]

<sup>2</sup>[(2) The district election officer shall keep in safe custody—

(a) the packets of unused ballot papers with counterfoils attached thereto;

(b) the packets of used ballot papers whether valid, tendered or rejected;

(c) the packets of the counterfoils of used ballot papers;

(d) the packets of the marked copy of the electoral roll or, as the case may be, the list maintained under sub-section (1) or sub-section (2) of section 152;

<sup>1</sup>[(dd) the packets containing registers of voters in Form-17A;]

(e) the packets of the declarations by electors and the attestation of their signatures; and

(f) all other papers relating to the election:

Provided that in the case of an election in an assembly constituency or a parliamentary constituency or a council constituency which extends over more districts than one, the said papers shall be kept in the custody of such one of the district election officers having jurisdiction over the constituency as the Election Commission may direct:

Provided further that in the case of an election by assembly members the said papers shall be kept in the custody of the returning officer.]

1. Ins. by Notifn. No. S.O. 230 (E), dated the 24th March, 1992.

2. Subs. by Notifn. No. S.O. 5573, dated the 23rd December, 1971, for sub-rule (2).

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<sup>1</sup>**[93. Production and inspection of election papers.**— (I) While in the custody of the district election officer or, as the case may be, the returning officer—

(a) the packets of unused ballot papers with counterfoils attached thereto;

(b) the packets of used ballot papers whether valid, tendered or rejected;

(c) the packets of the counterfoils of used ballot papers;

(d) the packets of the marked copy of the electoral roll or, as the case may be, the list maintained under sub-section (I) or sub-section (2) of section 152; and

<sup>2</sup>[(dd) the packets containing registers of voters in form 17-A;]

(e) the packets of the declarations by electors and the attestation of their signatures;

shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of a competent court.

<sup>2</sup>[IA) The control units sealed under the provisions of rule 57C and kept in the custody of the district election officer shall not be opened and shall not be inspected by, or produced before, any person or authority except under the orders of a competent court.]

(2) Subject to such conditions and to the payment of such fee as the Election Commission may direct, —

(a) all other papers relating to the election shall be open to public inspection; and

(b) copies thereof shall on application be furnished.

(3) copies of the returns by the returning officer forwarded under rule 64, or as the case may be, under clause (b) of sub-rule (I) of rule 84 shall be furnished by the returning officer, district election officer, chief electoral officer or the Election Commission on payment of a fee of two rupees for each copy.]

**94. Disposal of election papers.**—Subject to any direction to the contrary given by the Election Commission or by a competent court or tribunal—

<sup>1</sup>[(a) the packets of unused ballot papers shall be retained for a period of six months and shall thereafter be destroyed in such manner as the Election Commission may direct;]

<sup>2</sup>[(aa) the voting machines kept in the custody of the district election officer under sub-rule (IA) of rule 92 shall be retained intact for such period as the Election Commission may direct and shall not be used at any subsequent election without the previous approval of the Election Commission;]

(b) the other packets referred to in sub-rule (I) of rule 93 shall be retained for a period of one year and shall thereafter be destroyed:

<sup>3</sup>[Provided that packets containing the counterfoils of used ballot papers shall not be destroyed except with the previous approval of the Election Commission;]

(c) all other papers relating to the election shall be retained for such period as the Election Commission may direct.

1. Subs. by Notifn. No. S.O. 5573, dated the 23rd December, 1971, for rule 93.

2. Ins. by Notifn. No. S.O. 230(E), dated the 24th March, 1992.

3. Added by Notifn. No. S.O. 5573, dated the 23rd December, 1971.

<sup>1</sup>**[94A. Form of affidavit to be filed with election petition.**—The affidavit referred to in the proviso to sub-section (1) of section 83 shall be sworn before a magistrate of the first class or a notary or a commissioner of oaths and shall be in Form 25.]

<sup>2</sup>**[95. Power of the Election Commission to issue directions.**—Subject to the other provisions of these rules, the Election Commission may issue such directions as it may consider necessary to facilitate the proper use and operation of the voting machines.]

**96. List of Members of State Assemblies and electoral colleges.**—(1) The returning officer for an election by the members of the Legislative Assembly of a State, to fill a seat or seats in the Council of States or in the Legislative Council of a State, shall maintain a list of members of that Assembly with their addresses corrected up-to-date in such form as the Election Commission may direct.

*Explanation.*—In this sub-rule any reference to the members of the Legislative Assembly of a State shall, in relation to an election to the Council of States, be construed as a reference to the elected members of that Legislative Assembly.

(2) The returning officer for an election by the members of the electoral college of a Union territory to fill a seat or seats in the Council of States shall maintain a list of members of that electoral college with their addresses corrected up-to-date in such form as the Election Commission may direct.

**97. Number of votes sufficient to secure the return of a candidate in relation to return of forfeiture of deposits in certain cases.**—For the purpose of the proviso to sub-section (4) of section 158—

(a) a candidate who is not elected shall be deemed to get, —

(i) if he is a continuing candidate, the votes obtained by him at the end of the final count, and

(ii) if he is a candidate excluded from the poll, the votes obtained by him at the end of the count immediately preceding his exclusion;

(b) the quota referred to in rule 75 or rule 76 shall be deemed to be the number of votes sufficient to secure the return of a candidate.

**98. Manner of serving the order of requisition of premises, vehicles, etc.**—An order of requisition under section 160 shall be served—

(a) where the person to whom such order is addressed is a corporation or firm in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 of Order XXX, as the case may be, in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908); and

(b) where the person to whom such order is addressed is an individual—

(i) personally by delivering or tendering the order, or

(ii) by registered post, or

(iii) if the person cannot be found, by leaving an authentic copy of the order with any adult member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain.

**99. Time for application for reference to arbitration under section 161.**—The time within which any person interested who is aggrieved by the amount of compensation determined under sub-section (1) of section 168 or within which the owner of a vehicle, vessel or animal who is aggrieved by the amount of compensation determined under sub-section (2) of that section may make an application for referring the matter to arbitration shall be fourteen days from the date of determination of the amount of such compensation or where the amount of such compensation has been determined in the absence of the person interested or, as the case may be, the owner, fourteen days from the date on which the intimation of such determination is sent to that person or owner.

1. Ins. by Notifn. No. S.O. 597, dated the 27th February, 1962.

2. Ins. by Notifn. No. S.O. 230(E), dated the 24th March, 1992.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 1

(See rule 3)

NOTICE OF ELECTION

Notice is hereby given that:—

(1) an election is to be held of a member to the House of the People/.....Legislative Assembly/.....Legislative Council in the.....constituency;

OR

(1) an election is to be held of a member(s) to the Council of States/.....legislative Council/.....by the elected members of the..... Legislative Assembly;

(2) nomination papers may be delivered by a candidate or by any of his proposers to the Returning Officer or to ..... Assistant Returning Officer, at..... between 11 A.M. and 3 P.M. on any day (other than public holiday) not later than the .....

(3) forms of nomination paper may be obtained at the place and time aforesaid;

(4) the nomination papers will be taken up for scrutiny at .....on.....at.....

(5) notice of withdrawal of candidature may be delivered either by a candidate or by any of his proposers or by his election agent who has been authorised in writing by the candidate to deliver it to either of the officers specified in paragraph (2) above at his office before 3 P.M. on the.....;

(6) in the event of the election being contested, the poll will be taken on .....between the hours of..... and.....

Place.....  
Date.....

Returning Officer.]

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 2A  
(See rule 4)

NOMINATION PAPER

*Election to the House of the People*

STRIKE OFF PART I OR PART II BELOW WHICHEVER IS NOT APPLICABLE

**PART I**

(To be used by candidate set up by recognised political party)

I nominate as a candidate for election to the House of the People from the.....Parliamentary constituency.

Candidate's name.....Father's/mother's/husband's name.....His postal address  
.....His name is entered at S. No.....in Part No..... of the electoral roll for  
.....\*(Assembly constituency comprised within)..... Parliamentary constituency.

My name is.....and it is entered at S.No.....in Part No.....of the electoral roll for .....\*(Assembly constituency comprised within).....Parliamentary constituency.

Date .....

(Signature of Proposer).

**PART II**

(To be used by candidate NOT set up by recognised political party)

We hereby nominate as candidate for election to the House of the People from the..... Parliamentary Constituency.

Candidate's name.....Father's/mother's/husband's name.....His postal address.....His name is entered at S.No..... in Part No.....of the electoral roll for .....\*(Assembly constituency comprised within) .....Parliamentary constituency.

We declare that we are electors of the above Parliamentary Constituency and our names are entered in the electoral roll for that Parliamentary Constituency as indicated below and we append our signatures below in token of subscribing to this nomination:—

**Particulars of the proposers and their signatures**

Sl. No.	Name of Component Assembly Constituency	Elector roll No. of proposer		Full Name	Signature	Date
		Part No. of Electoral Roll	S. No. in that Part			
1	2	3	4	5	6	7

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

N.B.:—There should be ten electors of the constituency as proposers.

1. Subs. by Notifn. No. S.O. 558(E), dated the 9th August, 1996, for Forms 2A to 2C.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

**PART III**

I, the candidate mentioned in Part I/Part II (Strike out which is not applicable) assent to this nomination and hereby declare—

(a) that I have completed.....years of age;

[STRIKE OUT b(i) or b(ii) BELOW WHICHEVER IS NOT APPLICABLE]

(b) (i) that I am set up this election by the.....party, which is recognised National Party/State Party in this State and that the symbol reserved for the above party be allotted to me.

OR

(b) (ii) that I am set up at this election by the .....party, which is a registered-unrecognised political party/that I am contesting this election as an independent candidate. (Strike out which is not applicable) and that the symbols I have chosen, in order of preference, are:—

(i)..... (ii).....(iii).....

(c) that my name and my father's/mother's/husband's name have been correctly spelt out above in..... (name of the language);

(d) that to the best of my knowledge and belief, I am qualified and not also disqualified for being chosen to fill the seat in the House of the People.

\*I further declare that I am a member of the.....

\*\*Caste/tribe which is a scheduled

\*\*\*caste/tribe of the State of.....in relation to.....(area) in that State.

I also declare that I have not been, and shall not be.

\*\*\*\*nominated as a candidate at the present general election/the bye-elections being held simultaneously, to the House of the People from more than two Parliamentary Constituencies.

Date.....

(Signature of Candidate).

\*Score out the words "assembly constituency comprised within" in the case of Jammu and Kashmir, Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu and Lakshadweep.

\*\*Score out this paragraph, if not applicable.

\*\*\*Score out the words not applicable.

\*\*\*\*Not applicable in the case of Jammu and Kashmir, Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu and Lakshadweep.

N.B.—A "recognised political party" means a political party recognised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968 in the State concerned.

<sup>1</sup>**[PART IIIA**

(To be filled by the candidate)

Whether the candidate—

(i) has been convicted—

(a) of any offence(s) under sub-section (1); or

(b) for contravention of any law specified in sub-section (2), of section 8 of the Representation of the People Act, 1951 (43 of 1951); or

Yes/No.

1. Ins. by Notifn. No. S.O. 935(E), dated the 3rd September, 2002.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

(ii) has been convicted for any other offence(s) for which he has been sentenced to imprisonment for two years or more.

If the answer is "Yes", the candidate shall furnish the following information:

- (i) Case/first information report No./Nos.....
- (ii) Police station(s).....District(s).....State(s).....
- (iii) Section(s) of the concerned Act(s) and brief description of the offence(s) for which he has been convicted.....
- (iv) Date(s) of conviction(s).....
- (v) Court(s) which convicted the candidate.....
- (vi) Punishment(s) imposed [indicate period of imprisonment(s) and/or quantum of fine(s)].....
- (vii) Date(s) of release from prison.....
- (viii) Was/were any appeal(s)/revision(s) filed against above conviction(s).....Yes/No
- (ix) Date and particulars of appeal(s)/application(s) for revision filed.....
- (x) Name of the court(s) before which the appeal(s)/application(s) for revision filed.....
- (xi) Whether the said appeal(s)/application(s) for revision has/have been disposed of or is/are pending.....
- (xii) If the said appeal(s)/application(s) for revision has/have been disposed of—
  - (a) Date(s) of disposal.....
  - (b) Nature of order(s) passed.....

Place:

(Signature of Candidate)].

Date:

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**PART IV**

(To be filled by the Returning Officer)

Serial No. of nomination paper.....

This nomination was delivered to me at my office at.....(hour) on.....(date) by the \*candidate/proposer.

Date.....

Returning Officer.

---

**PART V**

**Decision of Returning Officer Accepting or Rejecting the Nomination Paper**

I have examined this nomination paper in accordance with section 36 of the Representation of the People Act, 1951(43 of 1951) and decide as follows:—

Date.....

Returning Officer.

(Perforation).....

---

\* Score out the word not applicable.

---

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

**PART VI**

**Receipt for Nomination Paper and Notice of Scrutiny**

(To be handed over to the person presenting the Nomination Paper)

Serial No. of nomination paper.....

The nomination paper of.....a candidate for election from the.....  
Parliamentary constituency was delivered to me at my office at.....(hour) on.....(date) by the  
\*candidate/proposer. All nomination papers will be taken up for scrutiny at.....(hour) on.....(date)  
at.....(Place).

Date.....

Returning Officer.

---

\*Score out the word not applicable.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 2B  
(See rule 4)  
NOMINATION PAPER

Election to the Legislative Assembly of.....(State)

STRIKE OFF PART I OR PART II BELOW WHICHEVER IS NOT APPLICABLE

PART I

(To be used by candidate set up by recognised political party)

I nominate as a candidate for election to the Legislative Assembly from the.....Assembly Constituency. Candidate's name..... Father's/mother's/husband's name.....His postal address..... His name is entered at Sl. No.....in Part No.....of the electoral roll for .....Assembly constituency. My name is .....and it is entered at Sl. No. ....in Part No.....of the electoral roll for the.....Assembly constituency.

Date .....

(Signature of the Proposer).

PART II

We hereby nominate as candidate for election to the Legislative Assembly from the.....Assembly Constituency.

Candidate's name.....Father's/mother's/husband's name.....His postal address.....

His name is entered at Sl. No.....in Part No.....of the electoral roll for.....Assembly constituency.

We declare that we are electors of this Assembly constituency and our names are entered in the electoral roll for this Assembly constituency as indicated below and we append our signatures below in token of subscribing to this nomination:-

**Particulars of the proposers and their signatures**

Sl. No.	Electoral Roll No. of proposer		Full name	Signature	Date
	Part No. of electoral roll constituency	Sl. No. in that part			
1	2	3	4	5	6
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

N.B.: -There should be ten electors of the constituency as proposers.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

PART III

I, the candidate mentioned in Part I/Part II (Strike out which is not applicable) assent to this nomination and hereby declare—

(a) that I have completed.....years of age;

[STRIKE OUT b(I) OR b(II) BELOW WHICHEVER IS NOT APPLICABLE]

(b) (i) that I am set up at this election by the .....party, which is recognised National Party/State Party in this State and that the symbol reserved for the above party be allotted to me.

(ii) that I am set up at this election by the.....party, which is a registered unrecognised political party/that I am contesting this election as an independent candidate. (Strike out which is not applicable) and that the symbols I have chosen, in order of preference, are: —

(i)..... (ii)..... (iii).....

(c) that my name and my father's/mother's/husband's name have been correctly spelt out above in..... (name of the language);

(d) That to the best of my knowledge and belief, I am qualified and not also disqualified for being chosen to fill the seat in the Legislative Assembly of this State.

! I further declare that I am a member of the.....\*\*Caste/tribe which is a scheduled \*\*\*caste/tribe of the State of.....in relation to.....(area) in that State.

I also declare that I have not been, and shall not be.....

\*\*\*\*nominated as a candidate at the present general election/the bye-elections being held simultaneously, to the Legislative Assembly ..... of (State) from more than two Assembly constituencies.

Date.....

(Signature of Candidate).

!Score out this paragraph, if not applicable.

N.B.—A "recognised political party" means a political party recognised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968 in the State concerned.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[PART IIIA  
(To be filled by the candidate)

Whether the candidate—

(i) has been convicted—

(a) of any offence(s) under sub-section (1); or Yes/No

(b) for contravention of any law specified in sub-section (2) of section 8 of the Representation of the People Act, 1951 (43 of 1951); or

(ii) has been convicted for any other offence(s) for which he has been sentenced to imprisonment for two years or more.

If the answer is “Yes”, the candidate shall furnish the following information:

(i) Case/First information report No./Nos. ....

(ii) Police station(s).....District(s).....State(s).....

(iii) Section(s) of the concerned Act(s) and brief description of the offence(s) for which he has been convicted .....

(iv) Date(s) of conviction(s).....

(v) Court(s) which convicted the candidate.....

(vi) Punishment(s) imposed [indicate period of imprisonment(s) and/or quantum of fine(s)].....

(vii) Date(s) of release from prison.....

(viii) Was/were any appeal(s)/revision(s) filed against above conviction(s).....Yes/No

(ix) Name of the court(s) before which the appeal(s)/application(s) for revision filed.....

(x) Name of the court(s) before which the appeal(s)/application(s) for revision filed.....

(xi) Whether the said appeal(s)/application(s) for revision has/have been disposed of or is/are pending.....

(xii) If the said appeal(s)/application(s) for revision has/have been disposed of—

(a) Date(s) of disposal.....

(b) Nature of order(s) passed.....

Place:

Date:

(Signature of the candidate)]

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1. Ins by Notifn. No. S.O. 935(E), dated the 3rd September, 2002.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

PART IV

(To be filled by the Returning Officer)

Serial No. of nomination paper .....

This nomination was delivered to me at my office at .....(hour) on.....(date) by the \*candidate/proposer.

Date.....

Returning Officer.

\*Score out the word not applicable.

---

PART V

Decision of Returning Officer Accepting or Rejecting the Nomination Paper

I have examined this nomination paper in accordance with section 36 of the Representation of the People Act, 1951 and decide as follows: —

Date.....

Returning Officer.

(Perforation).....

---

PART VI

Receipt for Nomination Paper and Notice of Scrutiny

(To be handed over to the person presenting the Nomination Paper)

Serial No. of nomination paper.....

The nomination paper of.....a candidate for election from the.....Assembly constituency was delivered to me at my office at.....(hour) on.....(date) by the \*candidate/proposer. All nomination papers will be taken up for scrutiny at .....(hour) on.....(date) at.....(Place).

Date.....

Returning Officer.

---

\*Score out the word not applicable.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

FORM 2C  
(See rule 4)

NOMINATION PAPER  
*Election to the Council of States*  
<sup>1</sup>[PART I]

We hereby nominate as a candidate for election to the Council of States:

Candidate's Name..... [father's/mother's/husband's name] .....His postal address.....

His name is entered at S.No.....in Part No.....of the electoral roll for the .....assembly/\*Parliamentary constituency.

We declare that we are elected members of the Legislative Assembly of..... electoral college for..... and our names are entered as indicated below in the list maintained under section 152 and we append our signatures below in token of subscribing to his nomination:

**Particulars of the proposers and their signatures**

Sl.	Sl.No. as entered in the list maintained under sec. 152	Full Name	Signature	Date
1	2	3	4	5
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.**				

\* For Jammu and Kashmir only.

\*\*There should be ten per cent. of the elected members of the Legislative Assembly or ten per cent. of the members of the electoral college or ten members concerned, whichever is less, as proposers.

I, the above-mentioned candidate, assent to this nomination and hereby declare—

(a) that I have completed .....years of age;

(b) that I am set up at this election by the .....party;

(c) that my name and my [father's/mother's/husband's name] have been correct spelt out above in.....(name of the language); and

(d) that to the best of my knowledge and belief, I am qualified and not also disqualified for being chosen to fill the seat in the Council of States.

I also declare that I have not been, and shall not be, nominated as a candidate at the present biennial election/by-elections being held simultaneously, to the Council of States for more than two seats.

Date .....

(Signature of the candidate)

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[PART II  
(To be filled by the candidate)

Whether the candidate—

(i) has been convicted—

(a) of any offence(s) under sub-section (1); or Yes/No

(b) for contravention of any law specified in sub-section (2), of section 8 of the Representation of the People Act, 1951 (43 of 1951); or

(ii) has been convicted for any other offence(s) for which he has been sentenced to imprisonment for two years or more.

If the answer is “Yes”, the candidate shall furnish the following information:

(i) Case/First information report No./Nos. ....

(ii) Police station(s).....District(s).....State(s).....

(iii) Section(s) of the concerned Act(s) and brief description of the offence(s) for which he has been convicted .....

(iv) Date(s) of conviction(s).....

(v) Court(s) which convicted the candidate.....

(vi) Punishment(s) imposed [indicate period of imprisonment(s) and/or quantum of fine(s)].....

(vii) Date(s) of release from prison.....

(viii) Was/were any appeal(s)/revision(s) filed against above conviction(s).....Yes/No

(ix) Date and particulars of appeal(s)/application(s) for revision filed.....

(x) Name of the court(s) before which the appeal(s)/application(s) for revision filed.....

(xi) Whether the said appeal(s)/application(s) for revision has/have been disposed of or is/are pending.....

(xii) If the said appeal(s)/application(s) for revision has/have been disposed of—

(a) Date(s) of disposal.....

(b) Nature of order(s) passed.....

Place:

Date:

(Signature of the candidate)]

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[PART III]  
(To be filled by the Returning Officer)

Serial No. of Nomination Paper.....

This nomination was delivered to me at my office at.....(hours) on.....(date) by the candidates/proposer.....(Name).

Date.....

Returning Officer.

NOTE.—Wherever alternative is provided score out the word(s) not applicable.

<sup>1</sup>[PART IV]

Decision of Returning Officer accepting or rejecting the Nomination Paper.

I have examined this nomination paper in accordance with section 36 of the Representation of the People Act, 1951(43 of 1951) and, decide as follows:—

Date.....

Returning Officer.

Perforation.....

<sup>1</sup>[PART V]

**Receipt of Nomination Paper and Notice of Scrutiny**  
(To be handed over to the person presenting the nomination paper)

Serial No. of Nomination Paper.....

The nomination paper of .....a candidate for election to the Council of States by the elected members of the Legislative Assembly of..... (State)/Members of the Electoral College of.....(State)/was delivered to me at my office at.....(hour) on.....(date) by the candidate/proposer.....(Name). All nomination papers will be taken up for scrutiny at.....(hour) on .....(date) at.....(place).

Date.....

Returning Officer(s).]

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

FORM 2D  
(See rule 4)  
NOMINATION PAPERS

Election to the Legislative Council of.....(State) by the Members of the Legislative Assembly.

<sup>1</sup>[PART I]

We hereby nominate as a candidate for the above election.

Candidate's name..... <sup>2</sup>[father's/ mother's/ husband's name].....  
His postal address.....

.....  
.....  
.....

His name is entered at S.No.....in Part No.....of the electoral roll for the .....assembly constituency.

We declare that we are members of Legislative Assembly of.....and our names are entered as indicated below in the list maintained under section 152 and we append our signatures below in token of subscribing to his nomination.

**Particulars of the proposers and their signatures**

Sl.	Sl.No. as indicated in the list maintained under sec. 152	Full Name	Signature	Date
1	2	3	4	5
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.*				

\*There should be ten per cent. of the members of the Legislative Assembly or ten members concerned, whichever is less, as proposers.

I, the above-mentioned candidate, assent to this nomination and hereby declare:—

(a) that I have completed.....years of age;

(b) that I am set up at this election by the .....party;

(c) that my name and my <sup>2</sup>[father's/mother's /husband's name] have been correctly spelt out above in.....(name of the language); and

(d) that to the best of my knowledge and belief, I am qualified and not also disqualified for being chosen to fill the seat in the Legislative Council of....(State) by the members of the Legislative Assembly.

Date.....

(Signature of the candidate)

1. Ins. by Notifn. No. S.O. 935(E), dated the 3rd September, 2002.  
2. Subs. by Notifn. No. S.O.124(E), dated the 24th February, 1993, for certain words.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[PART II  
(To be filled by the Candidate)

Whether the candidate—

(i) has been convicted—

(a) of any offence(s) under sub-section (1); or Yes/No

(b) for contravention of any law specified in sub-section (2), of section 8 of the Representation of the People Act, 1951 (43 of 1951); or

(ii) has been convicted for any other offence(s) for which he has been sentenced to imprisonment for two years or more.

If the answer is “Yes”, the candidate shall furnish the following information:

(i) Case/First information report No./Nos. ....

(ii) Police station(s).....District(s).....State(s).....

(iii) Section(s) of the concerned Act(s) and brief description of the offence(s) for which he has been convicted .....

(iv) Date(s) of conviction(s).....

(v) Court(s) which convicted the candidate.....

(vi) Punishment(s) imposed [indicate period of imprisonment(s) and/or quantum of fine(s)].....

(vii) Date(s) of release from prison.....

(viii) Was/were any appeal(s)/revision(s) filed against above conviction(s).....Yes/No

(ix) Date and particulars of appeal(s)/application(s) for revision filed.....

(x) Name of the court(s) before which the appeal(s)/application(s) for revision filed.....

(xi) Whether the said appeal(s)/application(s) for revision has/have been disposed of or is/are pending.....

(xii) If the said appeal(s)/application(s) for revision has/have been disposed of—

(a) Date(s) of disposal.....

(b) Nature of order(s) passed.....

Place:

Date:

(Signature of the candidate)].

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[PART III]

*(To be filled by the Returning Officer)*

Serial No. of Nomination Paper.....

This nomination was delivered to me at my office at.....(hour) on.....(date) by the candidate/proposer.....(Name).

Date.....

Returning Officer.

<sup>1</sup>[PART IV]

Decision of Returning Officer accepting or rejecting the Nomination Paper

I have examined this nomination paper in accordance with section 36 of the Representation of the People Act, 1951, and decide as follows:—

Date.....

Returning Officer.

\_\_\_\_\_  
(perforation).....

<sup>1</sup>[PART V]

*Receipt for Nomination Paper and Notice of Scrutiny*

*(To be handed over to the person presenting the nomination paper)*

Serial No. nomination paper.....

The nomination paper of.....a candidate for election to the Legislative Council of.....(State) by the Members of Legislative Assembly was delivered to me at my office at.....(hour) on.....(date) by the candidate/proposer.....(Name). All nomination papers will be taken up for scrutiny at .....(hour) on.....(date) at.....(place).

Date.....

Returning Officer.

\_\_\_\_\_  
Note:—Wherever alternative is provided score out the word(s) not applicable.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 2E  
(See rule 4)  
NOMINATION PAPER

Election to the Legislative Council of .....(State) from a Council constituency.....

<sup>2</sup>[PART I]

We hereby nominate as a candidate for election to the Legislative Council of.....(State) from the constituency. Candidate's name.....(Father's/Mother's/Husband's name).....His Postal address.....His name is entered at Sl. No.....in Part No. ....of the electoral roll for .....Assembly Constituency.

We declare that we are electorals and our name entered in the electoral roll for.....(Council) constituency as indicated below and we append our signatures below in token of subscribing to this nomination:--

Particulars of the proposers and their signatures.

Sl.No.	Electoral Roll No. of proposer		Full Name	Signature	Date
	Part No. of electoral roll	Sl. No. in that Part			
1	2	3	4	5	6

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- \*10.

\*There should be ten per cent. of the electors of the constituency or ten such electors whichever is less, as proposers.

I, the above-mentioned candidate, assent to this a nomination and hereby declare:—

- (a) that I have completed .....years of age;
- (b) that I am set up at this election by the .....party;
- (c) that my name and my (father's/mother's/husband's name) has been correctly spelt out above in .....(name of the language);
- (d) that to the best of my knowledge and belief, I am qualified and not also disqualified for being chosen to fill the seat in the Legislative Council of.....(State) from .....Council constituency.

I also declare that I have not been and shall not be, nominated as a candidate at the present biennial election/bye-elections being held simultaneously, to the Legislative Council of .....(State) from more than two Council constituencies in the State.

Date.....

(Signature of the Candidate).

\*Score out the words not applicable

1. Subs. by Notifn. No. S.O. 558(E), dated the 9th August, 1996.  
2. Ins. by Notifn. No. S.O. 935(E), dated the 3rd September, 2002.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[PART II  
(To be filled by the candidate)

Whether the candidate—

(i) has been convicted—

(a) of any offence(s) under sub-section (1); or Yes/No

(b) for contravention of any law specified in sub-section (2), of section 8 of the Representation of the People Act, 1951 (43 of 1951); or

(ii) has been convicted for any other offence(s) for which he has been sentenced to imprisonment for two years or more.

If the answer is “Yes”, the candidate shall furnish the following information:

(i) Case/First information report No./Nos. ....

(ii) Police station(s).....District(s).....State(s).....

(iii) section(s) of the concerned Act(s) and brief description of the offence(s) for which he has been convicted .....

(iv) date(s) of conviction(s).....

(v) Court(s) which convicted the candidate.....

(vi) Punishment(s) imposed [indicate period of imprisonment(s) and/or quantum of fine(s)].....

(vii) Date(s) of release from prison.....

(viii) Was/were any appeal(s)/revision(s) filed against above conviction(s).....Yes/No

(ix) Date and particulars of appeal(s)/application(s) for revision filed.....

(x) Name of the court(s) before which the appeal(s)/application(s) for revision filed.....

(xi) Whether the said appeal(s)/application(s) for revision has/have been disposed of or is/are pending.....

(xii) If the said appeal(s)/application(s) for revision has/have been disposed of—

(a) Date(s) of disposal.....

(b) Nature of order(s) passed.....

Place:

Date:

(Signature of the candidate)].

---

1. Ins. by Notifn. No. S.O. 935(E), dated the 3rd September, 2002.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[PART III]

(To be filled by the Returning Officer)

Serial No. of Nomination Paper .....

This nomination was delivered to me at my office at ..... (hour) on ..... (date) by the candidate/proposer .....(Name).

Date.....

Returning Officer.

<sup>1</sup>[PART IV]

Decision of Returning Officer accepting or rejecting the Nomination Paper

I have examined this nomination paper in accordance with section 36 of the Representation of the People Act, 1951 and decide as follows:—

Date.....

Returning Officer.

<sup>1</sup>[PART V]

**Receipt for Nomination Paper and Notice of Scrutiny**  
(To be handed over to the person presenting the nomination paper)

Serial No. of nomination paper .....

The nomination paper of .....a candidate for election to the Legislative Council of .....(State) from the.....Graduates'/(Teachers'/Local Authorities') constituency was delivered to me at my office at .....(hour) on..... (date) by the candidate/proposer..... (Name). All nomination papers will be taken up for scrutiny at .....(hour) on .....(date) at .....(Place).

Date.....

Returning Officer.

Note:—Wherever alternative is provided score out the word(s) not applicable.

1. Ins. by Notifn. No. S.O. 935(E), dated the 3rd September, 2002.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 3A

(See rule 7)

NOTICE OF NOMINATIONS

Election to the \*House of the People/Legislative Assembly from the ..... constituency.

Notice is hereby given that the following nominations in respect of the above election have been received up to 3 P.M. today:—

Sl. No. of Nomination paper	Name of candidate	Name of Father/mother/husband	Age of candidate	Address
1	2	3	4	5

Party affiliation	Particulars of castes, or tribes for candidates belonging to scheduled castes or scheduled tribes	Electoral roll of number of candidate	Names of proposers	Electoral roll No. of proposers
6	7	8	9	10

Place:.....

Date:.....

Returning Officer]

---

\*Strike off the inappropriate alternative.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 3B  
(See rule 7)

NOTICE OF NOMINATION

Election to the the Council of States/Legislative Council by the elected members of the Legislative Assembly/Electoral College of.

Notice is hereby given that the following nominations in respect of the above election have been received up to 3 P.M. today: —

Serial Number of nomination paper	Name of candidate	Name of <sup>2</sup> [father/mother husband]	Age of candidate	Address	Party Affiliation
1	2	3	4	5	6

Electoral roll number of candidate	Names of proposers	Serial numbers of proposers in the list maintained under section 152
7	8	9

Place  
Date

Returning Officer.

Note:—Wherever alternative is provided score out the word(s) not applicable.

1. Subs. by Notifn. No. S.O. 364(E), dated the 18th May, 1989, for Forms 3B and 3C.  
2. Subs. by Notifn. No. S.O.124(E), dated the 24th February, 1993, for certain words.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

FORM 3C  
(See rule 7)

NOTICE OF NOMINATION

Election to the Legislative Council of .....(State) from the.....constituency.

Notice is hereby given that the following nominations in respect of the above election have been received up to 3 P.M. today: —

Serial Number of nomination paper	Name of candidate	Name of <sup>1</sup> [father/mother/husband]	Age of candidate	Address	Party Affiliation
1	2	3	4	5	6

Electoral roll numbers of candidate in assembly constituency	Names of proposers	Electrol roll numbers of proposers in the council constituency
7	8	9

Place.....  
Date.....

Returning Officer.]

Note:—Wherever alternative is provided score out the word(s) not applicable.

1. Subs. by Notifn. No. S.O.124(E), dated the 24th February, 1993, for certain words.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 4  
(See rule 8)]

LIST OF VALIDLY NOMINATED CANDIDATES

*Election to the\** .....

Sl. No.	Name of candidate	Name of **Father/mother/husband	Address of candidates	@Party affiliation
1	2	3	4	5

- 
- (i) Candidates of recognised National and State Political Parties.
  - (ii) Candidates of registered political parties (other than recognised National and State Political Parties).
  - (iii) Other candidates.
- 

Place.....  
Date .....

Returning Officer.]

---

\*Appropriate particulars of the election to be inserted here.  
 \*\*Strike off the inappropriate alternative.  
 @Applicable in the case of candidates mentioned under categories (i) and (ii) above.

N.B.—Under Col. 1 above, the serial numbers of candidates of all the three categories shall be given consecutively and not separately for each category.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 5  
[See rule 9(I)]

NOTICE OF WITHDRAWAL OF CANDIDATURE

Election to the\* .....

The Returning Officer,

I,....., a <sup>1</sup>[candidate validly nominated] at the above election do hereby give notice that I withdraw my candidature.

Place .....

Date .....

Signature of <sup>1</sup>[validly nominated candidate].

This notice was delivered to me at my office at .....(hour) on.....

(date) by.....(name), the+.....

Date.....

Returning Officer.

Receipt for Notice of Withdrawal

(To be handed over to the person delivering the notice)

The notice of withdrawal of candidature by .....a <sup>1</sup>[validly nominated candidate] at the election to the\*.....was delivered to me by the+.....at my office at.....(hour) on ..... (date).

Returning Officer.

\*Here insert one of the following alternatives as may be appropriate:—

- (1) House of the People from the ..... constituency.
- (2) Legislative Assembly from the.....constituency.
- (3) Council of States by the elected members of the Legislative Assembly of.....(State).
- (4) Council of States by the members of the electoral college of..... (Union territory).
- (5) Legislative Council by the members of the Legislative Assembly.
- (6) Legislative Council from the..... constituency.

+Here insert one of the following alternatives as may be appropriate:—

- (1) Candidate.
- (2) Candidate's proposer who has been authorised in writing by the candidate to deliver it.
- (3) Candidate's election agent who has been authorized in writing by the candidate to deliver it.

1. Subs. by Notifn. No. S.O. 565(E), dated the 4th August, 1984.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 6  
[See rule 9(2)]

NOTICE OF WITHDRAWAL OF CANDIDATURES

Election to the\* .....

Notice is hereby given that the following <sup>1</sup>[validly nominated +candidate]/candidates at the above election withdraw +his candidature/their candidatures today.

Name of <sup>1</sup> [validly nominated candidate]	Address of <sup>1</sup> [validly nominated candidate]	Remarks
1.		
2.		
3.		
etc.		

Date.....

Returning Officer.

\*Appropriate particulars of the election to be inserted here.  
+Strike off the inappropriate alternative.

1. Subs. by Notifn. No. S.O. 565(E), dated the 4th August, 1984.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 7A  
[See rule 10(1)]  
LIST OF CONTESTING CANDIDATES

*Election to the House of the People/Legislative Assembly from the ..... constituency.*

Sl. No.	Name of candidate	Address of candidate	*Party affiliation	Symbol allotted
1	2	3	4	5

- 
- (i) Candidates of recognised National and State Political Parties.
  - (ii) Candidates of registered political parties (other than recognised National and State Political Parties).
  - (iii) Other candidates.

Place .....

Date .....

Returning Officer.]

---

\*Applicable in the case of candidates mentioned under categories (i) and (ii) above.

**N.B.**—Under Col. 1 above, the serial numbers of candidates of all the three categories shall be given consecutively and not separately for each category.]

---

1. Subs. by Notifn. No. S.O. 558(E), dated the 9th August, 1996, for Form 7A.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 7B

[See rule 10(1)]

LIST OF CONTESTING CANDIDATES

*Election to the\**.....

Sl. No	Name of candidate	Address of candidate	**Party affiliation
1	2	3	4

(i) Candidates of recognised National and State Political Parties.

(ii) Candidates of registered political parties (other than recognised National and State Political Parties).

(iii) Other candidates.

Place.....

Date.....

Returning Officer.]

\*Here insert one of the following alternatives as may be appropriate:—

- (1) Council of States by the elected members of the Legislative Assembly of.....(State).
- (2) Council of States by the members of the electoral college.....(Union Territory).
- (3) Legislative Council of.....(State), by the members of the Legislative Assembly.
- (4) Legislative Council of.....(State), from the.....Constituency.

\*\*Applicable in the case of candidates mentioned under categories (i) and (ii) above.

N.B.—Under Col. 1 above, the serial numbers of candidates of all the three categories shall be given consecutively and not separately for each category.]

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 8

[See rule 12(1)]

APPOINTMENT OF ELECTION AGENT

(To be filled by the Returning Officer)

Election to the\* .....

To

The Returning Officer,

I,.....,of..... a candidate at the above election do hereby appoint.....of.....as my election agent from this day at the above election.

Place.....

Signature of candidate.

Date.....

I accept the above appointment.

Place.....

Signature of election agent

Date.....

<sup>1</sup>[Approved.

Signature and Seal of the Returning officer.]

\*Here insert one of the following alternatives as may be appropriate:—

- (1) House of the People from the.....constituency.
- (2) Legislative Assembly from the.....constituency.
- (3) Council of States by the elected members of the Legislative Assembly of.....(State).
- (4) Council of States by the members of the electoral college of.....(Union territory).
- (5) Legislative Council by the members of the Legislative Assembly.
- (6) Legislative Council from the .....constituency.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

FORM 9  
[See rule 12(2)]

REVOCATION OF APPOINTMENT OF ELECTION AGENT

*Election to the\** .....

To

The Returning Officer,

I....., a candidate at the above election, hereby revoke the appointment of ..... my election agent.

Place.....

Date .....

Signature of candidate.

---

\*Here insert one of the following alternatives as may be appropriate:—

- (1) House of the People from the..... constituency.
- (2) Legislative Assembly from the..... constituency.
- (3) Council of States by the elected members of the Legislative Assembly of ..... (State).
- (4) Council of States by the members of the electoral college of..... (Union territory).
- (5) Legislative Council by the members of the Legislative Assembly.
- (6) Legislative Council from the ..... constituency.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 10  
[See rule 13(2)]

\*APPOINTMENT OF ELECTION AGENT

Election to the\*\* .....

I, ..... † a candidate/the election agent of .....who is a candidate at the above election do hereby <sup>1</sup>[appoint.....(Name and address)].....as a polling agent to attend † polling station No..... at/place fixed for the poll..... at.....

Place .....  
Date.....

Signature of †candidate/election agent.

I agree to act as such polling agent.

Place.....  
Date .....

Signature of polling agent.

Declaration of polling agent to be signed before Presiding Officer

I hereby declare that at the above election I will not do anything forbidden by section 128†† of the Representation of the People Act, 1951, which † I have read/has been read over to me.

Date .....

Signature of polling agent.

Signed before me.

Date.....

Presiding Officer.

\*To be handed over to the polling agent for production at the polling station or at the place fixed for the poll.

\*\*Here insert one of the following alternatives as may be appropriate:—

- (1) House of the People from the .....constituency.
- (2) Legislative Assembly from the.....constituency.
- (3) Council of States by the elected members of the Legislative Assembly of .....(State).
- (4) Council of States by the members of the electoral college of..... (Union territory).
- (5) Legislative Council by the members of the Legislative Assembly.
- (6) Legislative Council from the .....constituency.

†Strike off the inappropriate alternative.

††Section 128 of the Representation of the People Act, 1951:—

"128. Maintenance of secrecy of voting.—(1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both."

1. Subs. by Notifn. No. S.O. 565(E), dated the 4th August, 1984.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 11

[See rule 14(1)]

REVOCATION OF APPOINTMENT OF POLLING AGENT

Election to the\* .....

To

The Presiding Officer,

I, .....[the election agent of.....] a candidate at the above election, hereby revoke the appointment of..... my/his polling agent.

Place .....

Date .....

Signature of person revoking.

\*Here insert one of the following alternatives as may be appropriate:—

- (1) House of the People from the..... constituency.
- (2) Legislative Assembly from the..... constituency.
- (3) Council of States by the elected members of the Legislative Assembly of .....(State).
- (4) Council of States by the elected members of the electoral college of..... (Union territory).
- (5) Legislative Council by the members of the Legislative Assembly.
- (6) Legislative Council from the..... constituency.

N.B.-Omit the words marked [ ] as necessary.

<sup>1</sup>[FORM 12

(See rules 19 and 20)

LETTER OF INTIMATION TO RETURNING OFFICER

To

The Returning Officer for  
Assembly/Parliamentary constituency.

Sir,

I intend to cast my vote by post at the ensuing election to the Legislative Assembly/House of the People from the .....Assembly/Parliamentary constituency.

My name is entered at S.No.....in Part No..... of the electoral role for ..... assembly constituency comprised within.....Parliamentary constituency.

The ballot paper may be sent to me at the following address:—

.....  
.....  
.....

Place .....

Date .....

Yours faithfully,  
.....]

1. Subs. by Notifn. No. S.O. 3662, dated the 12th October, 1964, for Form 12.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 12A  
[See rule 20(2)]]

APPLICATION FOR ELECTION DUTY CERTIFICATE

To  
The Returning Officer,  
.....Assembly/Parliamentary constituency.

Sir,

I intend to cast my vote in person at the ensuing election to the Legislative Assembly/House of the People from the .....constituency.

I have been posted on election duty within the constituency at ..... (No. and name of the polling station) but my name is entered at Serial No..... Part No. .... of the electoral rolls for..... assembly constituency comprised within..... Parliamentary constituency.

I request that an Election Duty Certificate in Form 12B may be issued to enable me to vote at the polling station where I may be on duty on the polling day. It may be sent to me at the following address:—

.....  
.....  
.....  
.....  
.....  
.....

Place .....  
Date .....

Yours faithfully,  
.....].

FORM 12B

[See rules 20(2) and 35A]

ELECTION DUTY CERTIFICATE

Certified that.....is an elector in the.....Assembly/Parliamentary constituency, his electoral roll number being .....that by reason of his being on election duty he is unable to vote at the polling station where he is entitled to vote and that he is therefore hereby authorised to vote at any polling station <sup>2</sup>[in the said constituency where] he may be on duty on the date of poll.

Place.....  
Date .....

Signature.....

SEAL

Returning Officer.

1. Subs. by Notifn. No. S.O. 565(E), dated the 4th August, 1984.  
2. Ins., *ibid.*

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 12C  
[See rule 27-C]

PART I

*Letter of intimation to Assistant Returning Officer for notified class of electors:*

To

The Assistant Returning Officer,  
(for the notified class of electors)

..... Parliamentary/Assembly constituency ..... (designation & address of ARO)

Sir,

I,.....son/daughter/wife of.....resident of....of.....village/Mohalla...of Town/city/tehsil.....District.....of.....(State) belong to the class of notified electors and wish to cast my vote by post at the election to the House of the People/Legislative Assembly from the.....Parliamentary/Assembly constituency.

My complete present postal address is as under:—

House/dwelling unit/tent number.....  
Camp/mohalla/village.....  
ward/town/tehsil.....  
district.....  
State.....PIN CODE.....

My name is entered at serial number.....in Part No.....of the electoral roll for.....Parliamentary/Assembly constituency.

\*I am registered as a migrant with.....(designation of officer) Government of.....under registration no.....as a head/member of the family of self/Shri/Shrimati.....

\*I am not registered as a migrant.

\*I am the head of my family is serving as a Government employee as (designation).....in the office of..... (full address).

\*I am/the head of my family is a pensioner and drawing pension under account No.....from Government Treasury/Branch of Bank, located at.....(full address).

Yours faithfully,

PART II

Certificate by the officer incharge of the migrant camp/office/area or by head of the office where the applicant is serving as a migrant employee or by a treasury officer/bank manager from where the migrant is drawing his pension as a pensioner or by any gazetted officer.

It is hereby certified that the particulars given by the applicant in Part I are correct as per our record/to the best of my knowledge and understanding.

.....(full signature of the attesting Officer)  
.....(Name)  
.....(address)  
.....(rubber stamp).

\* Strike off whichever is not applicable and tick the relevant statement.

1. Subs. by Notifn. No. S.O. 628(E), dated 4th August, 1999.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 13A  
[See rule 23(1)(a)]

DECLARATION BY ELECTOR

*Election to the\*.....  
(This side is to be used only when the elector signs the declaration himself)*

I hereby declare that I am the elector to whom the postal ballot paper bearing serial number.....has been issued at the above election.

Date.....

Signature of elector.  
Address.....

\_\_\_\_\_  
*Attestation of signature*

The above has been signed in my presence by.....(elector) who\*\* is personally known to me/has been identified to my satisfaction by.....(identifier) who is personally known to me.

Signature of Attesting Officer.

Signature of identifier, if any.....

Designation.....

Address.....

Address.....

Date.....

*(This side is to be used when the elector cannot sign himself)*

I hereby declare that I am the elector to whom the postal ballot paper bearing serial number.....has been issued at the above election.

Date.....

Signature of Attesting Officer on behalf of elector.  
Address of Elector.....

\_\_\_\_\_  
CERTIFICATE

I hereby certify that—

- (1) the above named elector\*\* is personally known to me/has been identified to my satisfaction by.....(identifier) who is personally known to me;
- (2) I am satisfied that the elector\*\* is illiterate/suffers from.....(infirmary) and is unable to record his vote himself or sign his declaration;
- (3) I was requested by him to mark the ballot paper and to sign the above declaration on his behalf; and
- (4) the ballot paper was marked and the declaration signed by me on his behalf in his presence and in accordance with his wishes.

Signature of Attesting Officer.....

Signature of identifier, if any.....

Designation.....

Address.....

Address.....

Date.....

\*Here insert one of the following alternatives as may be appropriate:—

- (1) House of the People from the..... constituency.
- (2) Legislative Assembly from the..... constituency.
- (3) Council of States by the elected members of the Legislative Assembly of .....(State).
- (4) Council of States by the members of the electoral college of..... (Union territory).
- (5) Legislative Council by the members of the Legislative Assembly.
- (6) Legislative Council from the..... constituency.

\*\*Strike off the inappropriate alternative.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

FORM 13B  
[See rule 23(1)(b)]  
<sup>1</sup>[Cover A]

COVER 'A'	<p>NOT TO BE OPENED BEFORE COUNTING ELECTION</p> <p>to the* .....</p> <p>POSTAL BALLOT PAPER</p> <p>Serial number of ballot paper</p>
--------------	---

\*Appropriate particulars of the election to be inserted here.

FORM 13C  
[See rule 23(1)(c)]  
<sup>1</sup>[Cover B]

*(To be used at an election to the House of People for the Legislative Assembly of a State)*

COVER 'B'	<p>["Every officer under whose care or through whom a postal ballot paper is sent shall ensure its delivery to the addressee without delay—Rule 23(4) of the conduct of Elections Rules, 1961"]</p> <p style="text-align: center;">ELECTION-IMMEDIATE</p> <hr style="width: 20%; margin: auto;"/> <p style="text-align: center;">POSTAL BALLOT PAPER</p> <p style="text-align: center;">For* ..... Constituency</p> <p style="text-align: center;">(NOT TO BE OPENED BEFORE COUNTING)</p> <p>To</p> <p style="text-align: center;">The Returning Officer Signature** ..... of sender .....</p>	<p><sup>2</sup>[***SERVICE UNPAID]</p>
--------------	--	--

\*Returning Officer to insert here the name of the appropriate Parliamentary/Assembly Constituency.

\*\*Returning Officer to mention here his full postal address.

<sup>2</sup>[\*\*\*Strike off in the case of an elector who is employed under the Government of India in a post outside India.]

1. Subs. by Notifn. No. S.O. 565(E), dated the 4th August, 1984.

2. Subs. by Notifn. No. S.O. 2362 (E), dated the 3rd July, 1970.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 13C  
[See rule 23(I)(c)]  
<sup>1</sup>[Cover B]

(TO BE USED AT AN ELECTION TO THE COUNCIL OF STATES OR TO THE LEGISLATIVE  
COUNCIL OF A STATE)

COVER 'B''	NOT TO BE OPENED BEFORE COUNTING
ELECTION—IMMEDIATE _____	* .....
POSTAL BALLOT PAPER	
The Returning Officer ** .....	.....

\*Insert here Council of States or name of the Legislative Council or the appropriate Electoral College.

\*\*Full postal address of the Returning Officer to be inserted here.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 13D]  
[See rule 23(1)(d)]  
INSTRUCTIONS FOR GUIDANCE OF ELECTORS

*(To be used at an election to the House of the People or to the Legislative Assembly of a State)*

Election to the\*.....from the.....

The persons whose names are printed on the ballot paper sent herewith are candidates at the above election. Record your vote by placing clearly a mark opposite the name of the candidate to whom you wish to give your vote. The mark should be so placed as to indicate clearly and beyond doubt to which candidate you are giving your vote. If the mark is so placed as to make it doubtful to which candidate you have given your vote, your vote will be invalid.

The number of members to be elected is one. Please remember that you have only one vote. Accordingly you should not vote for more than one candidate. If you do so, your ballot paper will be rejected.

Do not put your signature or write any word or mark any mark, sign or writing whatsoever on the ballot paper other than the mark required to record your vote.

After you have recorded your vote on the ballot paper, place the ballot paper in the smaller cover marked 'A' sent herewith. Close the cover and secure it by seal or otherwise.

(1) You may then sign the declaration in Form 13A also sent herewith in the presence of a stipendiary magistrate and obtain the attestation of your signature by such stipendiary magistrate.

(2) If you are a member of the armed forces of the Union or of an armed police force of a State but is serving outside that State, the attestation may be obtained by such officer as may be appointed in this behalf by the Commanding Officer of the Unit, ship or establishment in which you or your husband, as the case may be, are employed.

(3) If you are employed under the Government of India in a post outside India the attestation may be obtained by such officer as may be appointed in this behalf by the diplomatic or consular representative of India in the country in which you are resident.

(4) If you hold an office like the office of the (i) President, (ii) Vice-President, (iii) Governors of States, (iv) Cabinet Ministers of the Union or of any State, (v) The Deputy Chairman and Members of the Planning Commission, (vi) The Ministers of State of the Union or of any State, (vii) Deputy Minister of the Union of any State, (viii) The Speaker of the House of the People or of any State Legislative Assembly, (ix) The Chairman of any State Legislative Council, (x) Lieutenant Governors of Union territories, (xi) The Deputy Speaker of the House of the People or of any State Legislative Assembly, (xii) The Deputy Chairman of the Council of States or of any State Legislative Council, (xiii) Parliamentary Secretaries of the Union or of any State, the attestation may be obtained by an officer not below the rank of a Deputy Secretary to the Government of the Union or the State, as the case may be.

(5) If you are on an election duty, attestation may be obtained by any gazetted officer or by the Presiding Officer of the polling station in which you are on election duty.

(6) If you are under preventive detention, the attestation may be obtained by the Superintendent of the jail or the Commandant of the detention camp in which you are under detention.

In all the above cases you may take the declaration to the authorised officer and sign it in his presence after he has satisfied himself about your identity. The officer will attest your signature and return the declaration to you. You must not show your ballot paper to the attesting officer nor tell him how you have voted.

If you are unable to mark the ballot paper and sign the declaration yourself in the manner indicated above by reason of illiteracy, blindness or other infirmity, you are entitled to have your vote marked and declaration signed on your behalf by any of the authorised officer mentioned above. Such an officer will, at your request mark the ballot paper in your presence and in accordance with your wishes. He will also complete the necessary certificate in this behalf.

After your declaration has been signed and your signature has been attested, place the declaration in Form 13A as also the smaller cover marked 'A' containing the ballot paper in the larger cover marked 'B'. After closing the larger cover, send it to the returning officer by post or by messenger. You have to give full signature in the space provided on the cover marked 'B'.

\* Appropriate particulars of the election, to be inserted here.

---

1. Subs. by Notifn. No. S.O. 961 (E), dated the 29th December, 1986, for Form 13D.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

No postage stamp need be affixed by you, if the cover is posted in India. If, however, you are an elector employed under the Government of India in a post outside India, you should return the cover to the returning officer concerned direct by air mail service after the requisite postage stamp is duly affixed thereon by the office in which you are serving except where it is sent by diplomatic bag.

You must ensure that the cover reaches the Returning Officer before\*\* .....\*\*on.....

Please note that :—

(i) if you fail to get your declaration attested or certified in the manner indicated above, your ballot paper will be rejected; and

(ii) if the cover reaches the returning officer after\*\*.....on the\*\*.....  
.....your vote will not be counted.

\*\* (Here specify the hour and date fixed for the commencement of counting of votes).

FORM 13D  
[See rule 23(1) (d)]  
INSTRUCTIONS FOR GUIDANCE OF ELECTORS

*(To be used at an election to the Council of States or to the Legislative Council of a State)*

Election to the Council of States .....Legislative Council.

The persons whose names are printed on the ballot paper sent herewith are candidates at the above election. Record your vote by placing the figure 1 in the space opposite the name of the candidate to whom you want to vote. Place the figure 1 opposite the name of one candidate only \*(although there are more members than one to be elected). You may indicate your relative preference for the other candidates by placing in the spaces opposite their names the figures 2, 3, 4, etc., in order of such preference. Do not place more than one figure opposite the name of any candidate and do not place the same figure opposite the names of more candidates than one.

The number of members to be elected is .....

After you have recorded your vote on the ballot paper, place the ballot paper in the smaller cover marked 'A' sent herewith. Close the cover and secure it by seal or otherwise.

You have then to sign the declaration in Form 13A also sent herewith in the presence of an officer competent to attest your signature. If you are under preventive detention the attestation of your signature on the declaration in Form 13A shall be obtained by the Superintendent of the jail or the Commandant of the detention camp in which you are under such detention. If you are not under preventive detention, the attestation may be obtained by a stipendiary magistrate to whom you are personally known or to whose satisfaction you have been identified, or in the case of an election to a Council Constituency by any of the following categories of officers who have been notified in this behalf by the Election Commission, namely:—

.....  
.....

Take the declaration to any such officer and sign it in his presence after he has been satisfied about your identity. The officer will attest your signature and return the declaration to you. You must not show your ballot paper to the attesting officer nor tell him how you have voted.

If you are unable to mark the ballot paper and sign the declaration yourself in the manner indicated above by reason of illiteracy, blindness or other infirmity, you are entitled to have your vote marked and the declaration signed on your behalf by an officer competent to attest your signature. Such an officer will, at your request, mark the ballot paper in your presence and in accordance with your wishes. He will also complete the necessary certificate in this behalf.

After the declaration has been signed and your signature has been attested, place the declaration in Form 13A as also the smaller cover marked 'A' containing the ballot paper in the larger cover marked 'B'. After closing the larger cover, send it to the Returning Officer by registered post or by messenger.

\* To be deleted when only one member is to be elected.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

You must ensure that the cover reaches the returning officer before\*\*.....on the.....\*\*.

Please note that—

(i) If you fail to get your declaration attested or certified in the manner indicated above your ballot paper will be rejected; and

(ii) if the cover reaches the returning officer after\*\* .....on the.....\*\*your vote will not be counted.

Any ballot paper on which the figure 1 is not marked or on which the figure 1 is set opposite the name of more than one candidate, or is so placed as to render it doubtful to which candidate it is intended to apply, or on which the figure 1 and some other figures are set opposite the name of the same candidate or on which the same figure is set opposite the name of more candidates than one or on which the signature of the elector is not duly attested or the number of which does not agree with the number of the ballot paper entered on the cover in which it is placed, will be rejected.]

---

\*\*Here specify the hour and date fixed for the commencement of counting of votes.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 13E

(See rule 27F)

INSTRUCTIONS FOR GUIDANCE OF NOTIFIED CLASS OF ELECTORS

(To be used at an election to the House of the People/State Legislative Assembly)

Election to the House of the People/Legislative Assembly of..... from the.....

The persons whose names are printed on the ballot paper sent herewith are candidates at the above election. Record your vote by placing clearly a mark opposite the name of the candidate to whom you wish to give your vote. The mark should be so placed as to indicate clearly and beyond doubt to which candidate you are giving your vote. If the mark is so placed as to make it doubtful to which candidate you have given your vote, your vote will be invalid.

The number of members to be elected is one. Accordingly, you should not vote for more than one candidate, if you do so, your ballot paper will be rejected.

Do not put your signature or write any word or mark any mark, sign or writing whatsoever on the ballot paper other than the mark required to record your vote.

After you have recorded your vote on the ballot paper, place the ballot paper in the smaller cover marked A sent herewith. Close the cover and secure it by seal or otherwise.

You may then sign the declaration in Form 13A which is sent herewith in the presence of the officer (as defined in Rule 27J) of the Conduct of Elections Rules, 1961 and obtain the attestation of your signature by such authorised officer. Extracts of Rule 27J of the Conduct of Elections Rules, 1961 are enclosed herewith.

If you are unable to mark the ballot paper and sign the declaration yourself in the manner indicated above by reason of illiteracy, blindness or other infirmity, you are entitled to have your vote marked and declaration signed on your behalf by any of the authorised officers as mentioned above. Such an Officer will, at your request mark the ballot paper in your presence and in accordance with your wishes. He will also complete the necessary certificate in this behalf.

After your declaration has been signed and your signature has been attested, place the declaration in Form 13A as also the smaller cover marked A containing the ballot paper in the larger cover marked B. After closing the larger cover, send it to the Returning Officer by post or by messenger. You have to give your full signature in the space provided on the cover marked B. No postage stamp need be affixed by you if the cover is posted in India. If, however, you are an elector employed under the Government of India on a post outside India, you should return the cover to the Returning Officer concerned direct by air mail service after the requisite postage stamp is fully affixed thereon by the office in which you are serving except where it is sent by diplomatic bag. You must ensure that the cover reaches the Returning Officer before.....(hour) on.....(date).

Please note that:—

(i) if you fail to get your declaration attested or certified in the manner indicated above, your ballot paper will be rejected; and

(ii) if the cover reaches the Returning Officer after.....(hour) on .....(date) your vote will not be counted.]

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1. Form 13E, which was ins. by Notifn. No. S.O. 321 (E), dated the 1<sup>st</sup> May, 1996, subs. by Notifn. No. S.O. 628(E), dated 4th August, 1999.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 13F  
[See rule 27N(3)]

Serial No.....

*Appointment of proxy by classified service voter to give vote.*

I.....(name of the classified service voter) aged about.....s/o, d/o, w/o  
.....r/o.....presently working as.....and posted at.....am entitled to appoint proxy  
under sub-rule (2) of rule 27N of the Conduct of Election Rules, 1961. I hereby appoint.....(name of the  
proxy) aged about.....s/o, d/o, w/o.....r/o.....as my proxy to give vote on my  
behalf and in my name in.....Assembly constituency and/or.....Parliamentary constituency of the  
State/Union territory of.....in which I am entitled to give vote under the Representation of the People Act, 1951  
(43 of 1951) and the rules made thereunder.

.....  
(Signature of proxy)

.....  
(Signature of classified service voter)

Serial number of his name  
and part no. of electoral roll of the  
concerned constituency.....

Serial number of his name in the last  
part of electoral roll of the concerned  
constituency.....  
Service Identity Card No.....  
Name of the Force to which he  
belongs.....

Note: (1) The person to be appointed as proxy shall be an ordinary resident in the constituency concerned and of not less than eighteen years of age and shall not be a person disqualified for registration as an elector in an electoral roll under section 16 of the Representation of the People Act, 1950 (43 of 1950).

(2) The signature of the classified service voter and the proxy shall be made before a First Class Magistrate or Notary or the Commanding Officer of the Unit concerned who shall verify the signatures under his hand and seal. In case of First Class Magistrate or Notary verifying the signature, he shall personally check the service identity card of the classified service voter to authenticate veracity of the classified service voter.

(3) Score out the word (s) which are not applicable.

---

Receipt of Form 13F for the appointment of proxy by classified service voter

(To be handed over to the person depositing the said form)

Serial No.....

Received Form 13F of Shri/Smt./Kum.....

Date.....

.....  
Returning Officer

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 13G  
[See rule 27N(4)]

Serial No.....

*Revocation of appointment of proxy or revocation of appointment of proxy and appointment of substitute proxy by  
classified service voter to give vote*

I.....(name of the classified service voter) aged about.....s/o, d/o, w/o  
.....r/o.....presently working as.....and posted at.....had  
appointed.....(name of the proxy) aged about.....s/o, d/o,  
w/o.....r/o.....as my proxy to give vote on my behalf and in my name  
in.....Assembly constituency and/or.....Parliamentary constituency of the State/Union territory  
of.....

2. I hereby revoke the appointment of my said proxy and do not wish to appoint any substitute proxy.

OR

Whereas such proxy has died/I hereby revoke appointment of the said proxy and being entitled to appoint  
substitute proxy under sub-rule (4) of rule 27N of the Conduct of Election Rules, 1961, hereby  
appoint.....(name of the substitute proxy) aged about.....s/o, d/o,  
w/o.....r/o.....as substitute proxy who shall hereafter give vote on my behalf and in my  
name in.....Assembly constituency and/or.....Parliamentary constituency.....of the  
State/Union territory of.....in which I am entitled to give vote under the Representation of the  
People Act, 1951 (43 of 1951) and the rules made thereunder.

.....  
(Signature of proxy)

.....  
(Signature of classified service voter)

Serial number of his name  
and part no. of electoral roll of the  
concerned constituency.....

Serial number of his name in the last  
part of electoral roll of the concerned  
constituency.....  
Service Identity Card No.....  
Name of the Force to which he  
belongs.....

Note: (1) The person to be appointed as proxy shall be an ordinary resident in the constituency concerned and of  
not less than eighteen years of age and shall not be a person disqualified for registration as an elector in an  
electoral roll under section 16 of the Representation of the People Act, 1950 (43 of 1950).

(2) The signature of the classified service voter and the proxy shall be made before a First Class Magistrate or  
Notary or the Commanding Officer of the Unit concerned who shall verify the signatures under his hand and  
seal. In case of First Class Magistrate or Notary verifying the signature, he shall personally check the service  
identity card of the classified service voter to authenticate veracity of the classified service voter.

(3) Score out the word (s) which are not applicable.

---

Receipt of Form 13G for revocation of appointment of proxy or revocation of appointment of proxy and  
appointment of substitute proxy by classified service voter to give vote.

(To be handed over to the person depositing the said form)

Serial No.....

Received Form 13G of Shri/Smt./Kum.....

Date.....

.....

Signature and Seal  
Returning Officer.]

---

*Conduct /of Elections Rules, 1961*  
(Statutory Rules and Order)

FORM 14

[See rule 36(2)(c)]

LIST OF CHALLENGED VOTES

*Election to the\*.....from the.....constituency.*

<sup>1</sup>[Polling Station Number and Name of Polling Station.....in.....Assembly constituency/Name of place of poll .....]

Serial number of entry	Name of electoral	Part of roll	Elector's name in that part	Signature or thumb impression of the person challenged
1	2	3	4	5
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
Address of the person challenged	Name of identifier, if any	Name of challenger	Order of Presiding Officer	Signature of challenger on receiving refund of deposit
6	7	8	9	10

Date.....

.....  
Signature of Presiding Officer.

\*Appropriate particulars of the election to be inserted here.

1. Subs. by Notifn. No. S.O. 565(E), dated the 4th August, 1984.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 14A

[See rules 40(2) and 40A(2)]

LIST OF †ILLITERATE, BLIND AND INFIRM VOTERS

Election to the .....\*\*.....\*from the.....constituency\*/by the elected members\*\*/members of the Legislative Assembly of .....(State).

<sup>2</sup>[Number and Name of Polling Station.....in.....Assembly constituency/Name of place of poll.....]

Part No. & Sl.No. of elector	Full name of elector	Full name of companion	Address of companion	Signature of companion
------------------------------	----------------------	------------------------	----------------------	------------------------

Date.....

Signature of Presiding Officer.]

†The word "illiterate" not applicable in the case of election from Assembly/Parliamentary constituency.

\*Strike off whichever is inapplicable.

\*\* Strike off whichever is inapplicable.]

1. Subs. by Notifn. No. S.O. 2362, dated the 3rd July, 1970, for Form 14A.  
2. Subs. by Notifn. No. S.O. 563(E), dated the 4th August, 1984, for certain words.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 15

[See rule 42(2)]

LIST OF TENDERED VOTES

Election in the\* .....from the.....constituency.

<sup>1</sup>[Number and Name of Polling Station.....in.....Assembly Constituency/ Name of place of poll.....]

Part number, serial number and name of elector	Address of elector	Serial number of tendered ballot paper	Serial number of ballot paper issued to the person who has already voted	Signature or thumb impression of person tendering vote
1	2	3	4	5

Date.....

Signature of Presiding Officer.

\*Appropriate particulars of the election to be inserted here.

1. Subs. by Notifn. No. S.O. 565(E), dated the 4th August, 1984, for certain words.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 16

[See rules 45, 56(7) and 56A(7)]

PART I.—Ballot Paper Account

Election to the.....from the.....constituency.

Name of Assembly Segment.....  
(in the case of election from a Parliamentary constituency)

No. and Name of Polling Station.....

	Serial Nos.		Total No.
	From	To	

- 1. Ballot papers received .....
- 2. Ballot papers unused (*i.e.* not issued to voters)—
  - (a) With the signature of Presiding Officer
  - (b) Without the signature of Presiding Officer .....

\*Total : (a+b) .....
- 3. \*Ballot papers used at the Polling Station .....  
(1—2=3) .....
- 4. \*Ballot papers used at the polling station but NOT INSERTED INTO  
THE BALLOT BOX:
  - (a) Ballot papers cancelled for violation of voting procedure under  
rule 39 ..... . . .
  - (b) Ballot papers cancelled for other reasons.
  - (c) Ballot papers used as tendered ballot papers .....

\*Total: (a+b+c) .....
- 5. \*Ballot papers to be found in the ballot box  
(3—4—5)

\*(Serial numbers need not be given)

Date .....

Signature of the Presiding Officer.

1. Form 16 ins. by Notifn. No. S.O. 470A, dated the 27th January, 1971 and subs. by Notifn. No. S.O. 518(E), dated the 7th September, 1979.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

PART II.—Result of Counting

---

I.	Name of candidate	Number of valid votes cast
1.		
2.		
3.		
4.		
5.		
etc.		

---

II. Rejected Ballot Papers

III. TOTAL

Whether the total number of ballot papers shown against item No. III  
above tallies with the total shown against item No. 5 of Part I or  
any discrepancy notice between these two totals.

Place.....  
Date.....

Signature of the Counting Supervisor

Place.....  
Date.....

Signature of the returning Officer.]

---

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 16A  
[See rules 45 and 55B(I)]  
(To be used in constituencies specified under rule 59A)

Election to the.....from the.....constituency.  
Name of Assembly Segment..... (in the case of election from a Parliamentary constituency) No. and Name of  
Polling Station .....

	Serial Nos.		Total No.
	From	To	

- 1. Ballot papers received .....
- 2. Ballot papers unused (*i.e.* not issued to voters)—
  - (a) With the signature of Presiding Officer
  - (b) Without the signature of Presiding Officer \_\_\_\_\_

\*Total : (a+b) \_\_\_\_\_

3. \*Ballot papers used at the Polling Station \_\_\_\_\_  
(1—2=3) .....

- 4. \*Ballot papers used at the polling station but NOT  
INSERTED INTO THE BALLOT BOX :
  - (a) Ballot papers cancelled for violation of voting  
procedure under rule 39.
  - (b) Ballot papers cancelled for other reason.
  - (c) Ballot papers used as tendered ballot papers

\*Total : (a+b+c)

5. \*Ballot papers to be found in the ballot box  
(3—4=5)  
  
\*(Serial numbers need not be given)

Date..... Signature of the Presiding Officer.

PART II—Result of Initial counting

- 1. Total number of ballot papers found in the ballot box(es) used at the polling station.....
- 2. Discrepancy, if any, between the total number as shown against item 1 in this Part and the total number of ballot  
papers to be found in the ballot box(es) shown in item 5 of Part I.....

Date..... Signature of Counting Supervisor  
  
Signature of the Returning Officer.]

1. Original Form 16, which was renumbered as Form 16A by Notifn. No. S.O. 479 A, dated the 27<sup>th</sup> January, 1971, omitted by Notifn. No. 518(E), dated the 7th September, 1979 and again ins. by Notifn. No. S.O. 958(E), dated the 17th November, 1989.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

FORM 17  
[See rule 49(3)(f)]

*Tendered Ballot Paper*

Election to the\* .....from the.....constituency

.....Serial number of Ballot paper.....

Polling Station .....

Name of Elector.....

Serial number of elector ..... in Part number.....of the electoral roll.

Address of elector.....

Name of candidate in whose favour vote is tendered.....

Date .....

---

\*Appropriate particulars of the election to be inserted here.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 17A  
(See rule 49L)

*Register of Voters*

Election to the House of the People/Legislative Assembly of the State/Union territory .....  
from ..... Constituency No. and Name of Polling Station..... Part No. of  
Electoral Roll.....

Sl. No	Sl. No. of elector in the electoral roll	Details of the document produced by the elector in proof of his/her identification	Signature/Thumb impression of elector	Remarks
(1)	(2)	(3)	(4)	(5)
1.				
2.				
3.				
4.				

etc.

Signature of the Presiding Officer.

FORM 17B  
(See rule 49P)  
*List of Tendered Votes*

Election to the House of the People/Legislative Assembly of the State/Union territory.....from.....Constituency.

No. and Name of Polling Station.....  
Part No. of Electoral Roll.....

Sl. No.	Name of elector	Sl.No. of elector in electoral roll	Sl. No. in Register of voters (Form 17A) of persons who has already voted in place of elector	Signature/Thumb impression of elector
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Date.....

Signature of the Presiding Officer.

1.Subs. by Notifn. No. S.O. 728(E), dated the 8th May, 2007.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 17C  
[See rules 49S and 56C(2)]

PART I.—ACCOUNT OF VOTES RECORDED

Election to House of the People/Legislative Assembly of the State/Union territory.....from.....Constituency.

No. and Name of Polling Station.....  
Identification No. of Voting Control Unit.....

Machine used at the Polling Station balloting Unit:—

1. Total No. of electors assigned to the Polling Station
2. Total No. of voters as entered in the Register for Voters (Form 17A)
3. No. of voters deciding not to record votes under rule 49-O
4. No. of voters not allowed to vote under rule 49M
5. Total No. of votes recorded as per voting machine
6. Whether the total No. of votes as shown against item 5 tallies with the total No. of voters as shown against item 2 *minus* Nos. of voters deciding not to record votes as against item 3 *minus* No. of Voters as against item 4 (2-3-4) or any discrepancy noticed.
7. No. of voters to whom tendered ballot papers were issued under rule 49P.
8. No. of tendered ballot papers.

	Sl. No. From	To
(a) received for use _____		
(b) issued to electors _____		
(c) not used and returned _____		

9. Account of papers seals  
Sl. Nos.

From	To	Signature of polling agents.
1. Serial Numbers of paper seals supplied		1 _____.
From .....to .....		2 _____
2. Total Numbers supplied		3 _____
3. Number of paper seals used		4 _____
4. Number of unused paper seals returned to Returning Officer (Deduct item 3 from item 2)		5 _____
		6 _____
5. Serial number of damaged paper seal, if any		

Date.....  
Place.....

Signature of Presiding Officer  
Polling Station No .....

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

PART II.—RESULT OF COUNTING

---

Sl. No.	Name of Candidate	No. of Votes recorded
1.		
2.		
3.		
4.		
5.		
6.		

---

Total

Whether the total nos. of votes shown above tallies with the total No. of votes shown against item 5 of Part I or any discrepancy noticed between the two totals.

Place.....  
Date.....

Signature of Counting Supervisor  
Name of candidate/election agent/counting agent  
Full signature

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

Place .....  
Date.....

Signature of Returning Officer.]

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 18  
[See rule 52(2)]

Appointment of Counting Agents

Election to the.....from the.....constituency.

To

The Returning Officer,

I,.....\*a candidate/the election agent of.....who is a candidate at the above election, do hereby appoint the following persons as my counting agents to attend the counting of votes at.....:

Name of the Counting agent

Address of the counting agent.

- 1.
- 2.
- 3.
- etc.

We agree to act as such counting agents

Signature of \*candidate/election agent.

- 1.
- 2.
- 3.
- etc.

Place.....  
Date.....

Signature of counting agents.

DECLARATION OF COUNTING AGENTS  
(To be signed before the Returning Officer)

We hereby declare that at the above election we will not do anything forbidden by section 128§ of the Representation of the People Act, 1951 (43 of 1951), which \*we have read/has been read over to us.

- 1.....
- 2.....
- 3.....
- etc.

Date.....

Signature of counting agents.

Signed before me.

Date.....

Returning Officer.

---

\*Strike off the inappropriate alternative.  
§Section 128 of the Representation of the People Act, 1951:—

"128. Maintenance of secrecy of voting.—(1) Every Officer, clerk, agent or other persons who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both."

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 19

[See rule 52(4)]

Revocation of Appointment of counting Agents

Election of the\*.....

To

The Returning Officer,

I,.....[the election agent of..... a candidate at the above election hereby revoke the appointment of..... my/his counting agent.

Place.....

Date.....

Signature of person revoking.

---

\*Here insert one of the following alternatives as may be appropriate:—

- (1) House of the People from the.....constituency.
- (2) Legislative Assembly from the.....constituency.
- (3) Council of States by the elected members of the Legislative Assembly of.....(State).
- (4) Council of States by the members of the electoral college of..... (Union territory).
- (5) Legislative Council by the members of the Legislative Assembly.
- (6) Legislative Council from the.....constituency.

N.B.—Omit the Words[ ] as necessary.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 20

[See rule 56(7)]

*Final Result Sheet*

*(To be used for recording the result of voting at polling stations other than notified polling stations)*

Election to the.....from the.....constituency.

PART I

*(To be used both for Parliamentary and Assembly elections)*

Name of the Assembly segment (in the case of election from  
a Parliamentary constituency).....

Total No. of  
electors in Assembly  
constituency/segment.....

Serial No. of Polling Station	No. of valid votes cast in favour of			Total of valid Votes	No. of rejected votes	Total No. of tendered votes
	A	B	C			
(1)						
(2)						
(3)						
etc.						

TOTAL No. of votes recorded at Polling Stations.

No. of votes recorded on postal ballot papers.

(To be filled in the case of election from an Assembly constituency.)

TOTAL votes polled.

Place.....  
Date.....

Returning Officer.

1. Subs. by Notifn. No. S.O. 518(E), dated the 7th September, 1979.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

PART II

*(To be used for a Parliamentary election only)*

Name of Assembly segment	No. of valid votes cast in favour of A    B    C	Total of valid Votes	No. of rejected votes	Total No. of tendered votes
(1)				
(2)				
(3)				
etc.				
<hr/>				
TOTAL				
<hr/>				
No. of votes recorded on postal ballot papers.				
<hr/>				
GRAND TOTAL				
<hr/>				

Place.....  
Date.....

Returning Officer.



Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 20A  
[See rule 56B (7)]  
Final Result Sheet

(To be used for recording the result of voting at polling stations in constituencies specified under Rule 59A)

Election to the.....  
from the.....constituency.

Polling Station No.	Total votes found in the ballot box(es)	No. of tendered votes
(1)	.....	.....
(2)	.....	.....
(3)	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

TOTAL

1. Total number of valid votes recorded for candidates and of rejected ballot papers	Candidate's valid votes				Valid votes Total	Number of rejected ballot papers	Valid and rejected votes Total
	A	B	C	D			
1st round.....	....	....	....	....	....	....	....
2nd round.....	....	....	....	....	....	....	....
3rd round.....	....	....	....	....	....	....	....
4th round.....	....	....	....	....	....	....	....
5th round.....	....	....	....	....	....	....	....
.....							
.....							
.....							

TOTAL

2. Total number of valid votes recorded on postal ballot papers for candidates and of rejected postal ballot papers	.....	.....	.....	.....	.....	.....	.....
---	-------	-------	-------	-------	-------	-------	-------

GRAND TOTAL

Place..... Returning Officer  
Date.....

Name of assembly constituency	(For Parliamentary elections only) Candidate's valid votes				Valid votes Total	Number of rejected ballot papers	Valid and rejected votes Total
	A	B	C	D			
I.1.....	....	....	....	....	....	....	....
2.....	....	....	....	....	....	....	....
3.....	....	....	....	....	....	....	....
etc.							

TOTAL

1. Ins. by Notifn. No. S.O. 958(E), dated the 17th November, 1989.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

II. Total number of valid votes  
recorded on postal ballot papers  
for candidates and of rejected postal  
ballot papers.....

---

GRAND TOTAL

---

Place.....  
Date.....

Returning Officer.]

---

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 21

(See rule 11(1)]

(For use in General Election when seat is uncontested)

Declaration of the result of Election under sub-section (2)\* / sub-section (3)\* of section 53 of the Representation of the People Act, 1951.

Election to the†.....

In pursuance of the provisions contained in sub-section (2)\* / sub-section (3)\* of section 53 of the Representation of the People Act, 1951, read with sub-rule (1) of rule 11 of the Conduct of Elections Rules, 1961, I declare that—

.....(Name) <sup>2</sup>[sponsored by.....  
.....(Address) (name of the recognised/registered political party)]

has been duly elected to fill the seat in that House from the above constituency.

Place..... Signature.....

Date..... Returning Officer.]

\*Score out, if inappropriate.

†Here insert one of the following alternatives as may be appropriate:—

- (1) House of the People from the.....Parliamentary constituency in the State/Union territory of.....
- (2) Legislative Assembly of the State/Union territory of.....from the.....Assembly constituency.
- (3) Metropolitan Council of the Union territory of Delhi from the.....Metropolitan Council constituency.

---

1. Ins. by Notifn. No. S.O. 4542, dated the 20th December, 1968 (w.e.f. 1-1-1969).  
2. Ins. by Notifn. No. S.O. 565(E), dated the 4th August, 1984.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 21A

[See rule 11(1)]

(For use in General Election when seat is uncontested)

Declaration of the result of Election under sub-section (2)\* / sub-section (3)\* of section 53 of the Representation of the People Act, 1951.

Election to the!.....

In pursuance of the provisions contained in sub-section (2)\* / sub-section (3)\* of section 53 of the Representation of the People Act, 1951, read with sub-rule (1) of rule 11 of the Conduct of Elections Rules, 1961, I declare that—

.....(Name)	<sup>1</sup> [sponsored by..... (name of the
.....(Address)	recognised/registered political party)]
.....(Name)	<sup>1</sup> [Sponsored by .....(name of the
.....(Address)	recognised/registered political party)]

has been/have been duly elected to fill the seat(s) in that House of.....\*\*.....member(s) retiring on.....(date, month and year) on the expiration of their term of office.

Place.....  
Date.....

Signature.....  
Returning Officer.

---

\*Score out, if inappropriate.

!Here insert one of the following alternatives as may be appropriate:—

- (1) Council of States by the elected members of the Legislative Assembly of.....(State).
- (2) Council of States by the members of the electoral college of.....(Union territory).
- (3) Legislative Council of.....(State) by the members of the Legislative Assembly.
- (4) Legislative Council of.....(State) from the .....(Local Authorities'/Graduates'/Teachers') constituency.

\*\*Fill up the number of members retiring.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 21B

[See rule 11(1)]

(For use in Election to fill a casual vacancy when seat is uncontested)

Declaration of the result of Election under sub-section (2)\*/sub-section (3)\* of section 53 of the Representation of the People Act, 1951.

Election to the†.....

In pursuance of the provisions contained in sub-section (2)\*/sub-section (3)\* of section 53 of the Representation of the People Act, 1951, read with sub-rule (1) of rule 11 of the Conduct of Elections Rules, 1961, I declare that—

.....(Name)  
.....(Address) <sup>1</sup>[sponsored by.....(name of the recognised/ registered political party)] has been/have been duly elected to fill the vacancy caused in that House by the

\*resignation of.....  
\*death of.....  
\*election of.....having been declared void.

\*seat of.....  
\*having become  
.....vacant.  
\*having been declared

Place..... Signature.....  
Date..... Returning Officer.

\*Score out, if inappropriate.

†Here insert one of the following alternatives as may be appropriate:—

- (1) House of the People from the..... Parliamentary constituency in the State/Union territory of.....
- (2) Legislative Assembly of the State/Union territory of..... from the.....Assembly constituency.
- (3) Metropolitan Council of Delhi from the.....Metropolitan Council constituency.
- (4) Council of States by the elected members of the Legislative Assembly.....(State).
- (5) Council of States by the members of the electoral college of.....(Union territory).
- (6) Legislative Council of.....(State) by the members of the Legislative Assembly.
- (7) Legislative Council of.....(State) from the.....(Local Authorities'/Graduates'/Teachers') constituency.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 21C

(See rule 64)

(For use in General Election when seat is contested)

Declaration of the result of Election under section 66 of the Representation of the People Act, 1951.

\*Election to the House of the People from the.....Parliamentary constituency in.....(State/Union territory).

\*Election to the Legislative Assembly of.....(State/Union territory) from.....Assembly constituency.

\*Election to the Metropolitan Council of Delhi from.....Metropolitan Council constituency.

In pursuance of the provisions contained in section 66 of the Representation of the People Act, 1951, read with rule 64 of the Conduct of Elections Rules, 1961, I declare that—

.....(Name)

.....(Address) <sup>1</sup>[sponsored by.....(name of the recognised/registered political party)] has been duly elected to fill the seat in that House from the above constituency.

Place.....  
Date.....

Signature .....  
Returning Officer.

\*Score out, if inappropriate.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

FORM 21D

(See rule 64)

(For use in Election to fill a casual vacancy when seat is contested)

Declaration of the result of Election under section 66 of the Representation of the People Act, 1951.

\*Election to the House of the People from the..... Parliamentary constituency in..... (State/Union territory).

.....  
\*Election to the Legislative Assembly of..... (State/Union territory) from.....Assembly constituency.

.....  
\*Election to the Metropolitan Council of Delhi from.....Metropolitan Council constituency. In pursuance of the provisions contained in section 66 of the Representation of the People Act, 1951, read with rule 64 of the Conduct of Elections Rules, 1961, I declare that—

.....(Name)

.....(Address) <sup>1</sup>[Sponsored by.....(name of the recognised/registered political party)] has been duly elected to fill the vacancy caused in that House by the

\*resignation of .....

\*death of.....

\*election of.....having been declared void.

\*seat of ..... having become.

..... having been declared vacant.

Place.....  
Date.....

Signature .....  
Returning Officer.

\*Score out, if inappropriate.

1. Ins. by Notifn. No. S.O. 565(E), dated the 4th August, 1984.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 21E]

(See rule 64)

*Return of Election*

Election to the.....from the.....constituency

Return of Election

<sup>2</sup> [Serial No.	Name of candidate	Party affiliation	Number of votes polled]
--------------------------	-------------------	-------------------	-------------------------


<sup>3</sup>[Total number of electors.....]

Total number of valid votes polled.....

Total number of rejected votes.....

Total number of tendered votes.....

I declare that—

.....(Name)  
of..... (address)

has been duly elected to fill the seat.

Place .....

Date .....

Returning Officer.

---

1. Renumbered by Notifn. No. S.O. 4542, dated the 20th December, 1968 (w.e.f. 1-1-1969).  
2. Subs. by Notifn. No. S.O. 565(E), dated the 4th August, 1984, for certain words.  
3. Ins., *ibid.*

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)



FORM 22

(See rule 66)

*Certificate of Election*

I, Returning Officer for the.....Parliamentary/Assembly constituency in the State of.....hereby certify that I have on the.....day of ..... 20..... declared Shri..... of.....<sup>1</sup>[sponsored by.....(name of the recognised/registered political party)] to have been duly elected by the said constituency <sup>2</sup>[in the General Election/Bye-election] to be a member of the House of the People/Legislative Assembly and that in token thereof I have granted to him this certificate of election.

Place .....

Date .....

Returning Officer,  
for the.....Parliamentary  
Assembly constituency.

SEAL  
FORM 22A  
[See rule 39AA(2)]

Appointment letter

Election of the -----

I.....\*President/General Secretary of.....Party do hereby appoint the following persons as the authorised agents of the Party to verify under rule \*39AA/ rule 42/ rule 42A/ rule 84 as to whom the electors who are the members of the said political party have cast their votes. Photographs of the aforesaid authorised agents are pasted hereunder and is attested under my hand and seal.

Name of the authorised agents

Address of the authorised agents

1.....

2.....

Signature of \* President/  
General Secretary of the Party)

(Seal)

We agree to act as such authorised agents

Signature of the authorised agents

1.....

2.....

Space for the photographs

\*Strike off the inappropriate alternative.]

1. Ins. by Notifn. No. S. O. 961(E), dated the 29th December, 1986.

2. Ins. by Notifn. No. S. O. 565(E), dated the 4th August, 1984.

3. Ins. by Notifn. No. S. O. 272 (E), dated the 27 th February, 2004.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 23

[See rule 84(1)(a)]

(For use in Biennial Election when seat is contested)

Declaration of the result of Election under section 66 of the Representation of the People Act, 1951.

Election to the\*.....

In pursuance of the provisions contained in section 66 of the Representation of the People Act, 1951, read with clause (a) of sub-rule (1) of rule 84 of the Conduct of Elections Rules, 1961, I declare that—

.....(Name) <sup>2</sup>[sponsored by..... (name of the recognised/registered  
.....(Address) political party)]

.....(Name) <sup>2</sup>[sponsored by..... (name of the recognised/registered  
.....(Address) political party)]

\*\*has been/\*\*have been, duly elected to fill the seat(s) in that House of a .....!member(s)  
retiring on..... (date, month and year) on the expiration of their term of office.

Place.....

Signature.....

Date.....

Returning Officer.]

\* Here insert one of the following alternatives as may be appropriate:—

- (1) Council of States by the elected members of the Legislative Assembly of.....(State).
- (2) Council of States by the members of the electoral college of.....(Union territory).
- (3) Legislative Council of..... (State) by the members of the Legislative Assembly.
- (4) Legislative Council of.....(State) from the.....  
(Local Authorities'/Graduates'/Teachers') constituency.

\*\* Score out, if inappropriate.  
!Fill up the number of members retiring.

---

1. Ins. by Notifn. No. S. O. 4542, dated the 20th December, 1968 (w.e.f. 1-1-1969).  
2. Ins. by Notifn. No. S. O. 565(E), dated the 4th August, 1984.



Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 23B]

<sup>2</sup>[See rule 84(1)(b)]

Return of Election

Election to the Council of States

Election to the Legislative Council by Members of Assembly/..... constituency.

The result of the poll and of the transfer of votes is as follows:—

Number of valid votes.....

Number of members to be elected.....

Quota (number of votes sufficient to secure the election of a candidate).....

Names of candidates	First Count	Second Count		Third Count		Fourth Count		Name of elected candidates and order of election
	Votes polled by each candidate	Transfer of	Result	Transfer of	Result	Transfer of	Result	
Non-transferable papers								
Loss due to fractions								
Total								

I declare that—

(1) (Name).....

(Address).....

<sup>3</sup>[Sponsored by.....(name of the recognised/registered political party)]

(2) (Name).....

(Address).....

etc.....has/have been duly elected.

(Signature)

Returning Officer.

Dated the.....day of.....20 .

1. Renumbered by Notifn. No. S.O. 4542, dated the 20th December, 1968 (w.e.f. 1-1-1969).

2. Subs., *ibid.*

3. Ins. by Notifn. No. S. O. 961(E), dated the 29th December, 1986.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)



FORM 24

(See rule 85)

*Certificate of Election*

I, Returning Officer for the election to the.....Council of States/Legislative Council by the elected members of the.....Legislative Assembly.....Local Authorities'/Graduates'/Teachers' constituency/members of the.....Legislative Assembly hereby certify that I have on the.....day of.....19.....declared Shri.....<sup>1</sup>[sponsored by.....(name of the recognised/registered political party)] to have been duly elected to be a member of the Council of States/Legislative Council and that in token thereof I have granted to him this certificate of election.

Place.....

Date.....

.....  
Returning Officer.

for the election to the Council of States/Legislative Council.

SEAL

---

1. Ins. by Notifn. No. S. O. 961(E), dated the 29th December, 1986.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 24A  
(See rule 85B)]

[This form should be filed with the Election Commission before the due date for furnishing a return of the Political Party's income of the concerned financial year under section 139 of the Income-tax Act, 1961 (43 of 1961) and a certificate to this effect should be attached with the Income-tax return to claim exemption under the Income-tax Act, 1961 (43 of 1961).]

1. Name of Political Party:
2. Status of the Political Party:  
(recognised/unrecognised)
3. Address of the headquarters of the Political Party:
4. Date of registration of Political Party with Election Commission:
5. Permanent Account Number (PAN) and Income-tax Ward/Circle where return of the political party is filed: \_\_\_\_\_
6. Details of the contributions received, in excess of rupees twenty thousand, during the Financial Year: 20 - . -20 .

Serial number	Name and complete address of the contributing person/company	PAN (if any_ and Income-Tax Ward/Circle	Amount of contribution (Rs.)	Mode of contribution *(cheque/demand draft/cash)	Remarks

\*In case of payment by cheque/demand draft, indicate name of the bank and branch of the bank on which the cheque/demand draft has been drawn.

7. In case the contributor is a company, whether the conditions laid down under section 293A of the Companies Act, 1956 (1 of 1956) have been complied with (A copy of the certificate to this obtained from the company should be attached).

Verification

**I, \_\_\_\_\_ (full name in Block letters), son/daughter of \_\_\_\_\_ solemnly declare that to the best of my knowledge and belief, the information given in this Form is correct, complete and truly stated.**

**I further declare that I am verifying this form in my capacity as \_\_\_\_\_ on behalf of the Political Party above named and I am also competent to do so.**

**(Signature and name of the Treasurer/Authorised person)]**

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 25

(See rule 94A)

*Affidavit*

I, .....,the petitioner in the accompanying election petition calling in question the election of Shri/Shrimati.....(respondent No.....in the said petition) make solemn affirmation/oath and say—

(a) that the statements made in paragraphs.....of the accompanying election petition about the commission of the corrupt practice of\*.....and the particulars of such corrupt practice mentioned in paragraphs.....of the same petition and in paragraphs.....of the Schedule annexed thereto are true to my knowledge;

(b) that the statements made in paragraphs.....of the said petition about the commission of the corrupt practice of\*.....and the particulars of such corrupt practice given in paragraphs.....of the said petition and in paragraphs.....of the Schedule annexed thereto are true to my information;

(c)

(d)

etc.

Signature of deponent.

Solemnly affirmed/sworn by Shri/Shrimati.....at.....this.....day of.....19 .

Before me,  
Magistrate of the first class/Notary/  
Commissioner of Oaths.]

---

\* Here specify the name of the corrupt practice.

Conduct of Elections Rules, 1961  
(Statutory Rules and Order)

<sup>1</sup>[FORM 26  
(See rule 4A)

Affidavit to be furnished by the candidate before the returning officer for election to .....(name of the House) from.....constituency (name of the constituency)

I, ....., son/daughter/wife of .....aged about.....years, resident of .....candidate at the above election, do hereby solemnly affirm/state on oath as under:—

1. I am/am not accused of any offence(s) punishable with imprisonment for two years or more in a pending case(s) in which a charge(s) has/have been framed by the court(s) of competent jurisdiction.

If the deponent is accused of any such offence(s) he shall furnish the following information:—

- (i) Case/First information report No./Nos. ....
- (ii) Police station(s).....District(s).....State(s).....
- (iii) Section(s) of the concerned Act(s) and short description of the offence(s) for which the candidate has been charged.....
- (iv) Court(s) which framed the charge(s).....
- (v) Date(s) on which the charge(s) was/were framed.....
- (vi) Whether all or any of the proceeding(s) have been stayed by any court(s) of competent jurisdiction.....

2. I have been/have not been convicted of an offence(s) [other than any offence(s) referred to in sub-section (1) or sub-section (2), or covered in sub-section (3), of section 8 of the Representation of the People Act, 1951 (43 of 1951)] and sentenced to imprisonment for one year or more.

If the deponent is convicted and punished as aforesaid, he shall furnish the following information:

- (i) Case/First information report No./Nos. ....
- (ii) Court(s) which punished.....
- (iii) Police station(s).....District(s).....State(s).....
- (iv) Section(s) of the concerned Act(s) and short description of the offence(s) for which the candidate has ever been charged.....
- (v) Date(s) on which the sentence(s) was/were pronounced.....
- (vi) Whether the sentence(s) has/have been stayed by any court(s) of competent jurisdiction.....

Place:

Date:

Signature of deponent

**VERIFICATION**

I, the above-named deponent, do hereby verify and declare that the contents of the affidavit are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therein.

Verified at .....this.....day of....., 20.....

Signature of deponent

Note: The columns in this Form which are not applicable to the deponent may be struck off.]

1. Ins. by Notifn. No. S.O. 935(E), dated the 3rd September, 2002.

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

SCHEDULE  
(See rule 83)

<sup>1</sup>[Illustration of the procedure as to the counting of votes at an election on the single transferable vote system when more than one seat is to be filled.]

Assume that there are seven members to be elected, sixteen candidates, and one hundred and forty electors.

The valid ballot papers are arranged in separate parcels according to the first preference recorded for each candidate, and the papers in each parcel counted. —

Let it be assumed that the result is as follows:—

A.....	12
B.....	8
C.....	6
D.....	9
E.....	10
F.....	7
G.....	4
H.....	19
I.....	13
J.....	5
K.....	14
L.....	8
M.....	10
N.....	6
O.....	4
P.....	5
TOTAL <span style="border-top: 1px solid black; border-bottom: 1px solid black;">140</span>	

Each valid ballot paper is deemed to be of the value of one hundred and the values of the votes obtained by the respective candidates are as shown in the first column of the result sheet.

The values of all papers are added together and the total 14,000 is divided by eight (*i.e.* the number which exceeds by one the number of vacancies to be filled) and 1,751 (*i.e.* quotient 1,750 increased by one) is the number sufficient to secure the return of a member and is called the quota.

The operation may be shown thus:—

$$\text{Quota} \times \frac{14,000}{8} + 1 - 1,750 + 1 = 1,751$$

The candidate H, the value of whose votes exceeds the quota, is declared elected.

As the value of the papers in H's parcel exceeds the quota, his surplus must be transferred. His surplus is 149, *i.e.*, 1,900 less 1,751.

The surplus arises from original votes, and therefore, the whole, of H's papers are divided into sub-parcels according to the next preferences recorded thereon, a separate parcel of the exhausted papers being also made.

---

1. Subs. by Notifn. No.S.O. 3662, dated the 12th October, 1964.

*sConduct of Elections Rules, 1961*  
(Statutory Rules and Order)

Let it be assumed that the result is as follows:—

	Papers
B is marked as next available preference on .....	7
D is marked as next available preference on .....	4
E is marked as next available preference on .....	4
F is marked as next available preference on .....	3
Total of the unexhausted papers.....	18
No. of exhausted papers.....	1
Total of papers.....	19

The values of the papers in the sub-parcels are as follows:—

B .....	700
D .....	400
E .....	400
F .....	300
Total values of unexhausted papers	1,800
Value of exhausted papers	100
TOTAL VALUE	1,900

The value of the unexhausted papers is 1,800 and is greater than the surplus. This surplus is, therefore, transferred as follows:—

All the unexhausted papers are transferred, but at a reduced value, which is ascertained by dividing the surplus by the number of unexhausted papers.

The reduced value of all the papers, when added together, with the addition of any value lost as the result of the neglect of fractions, equals the surplus. In this case the new value of each paper transferred is

$$\frac{149 \text{ (the surplus)}}{18 \text{ (the number of unexhausted papers)}}$$

the residue of the value of each paper (100-8=92), being required by H for the purpose of constituting his quota, *i.e.*, one exhausted paper value (100) plus the value (1,656) of 18 unexhausted papers.

These values of the sub-parcels transferred are:—

- B=56 (*i.e.*, seven papers at the value of 8);
- D=32 (*i.e.*, four papers at the value of 8);
- E=32 (*i.e.*, four papers at the value of 8);
- F=24 (*i.e.*, three papers at the value of 8).

These operation can be shown on a transfer sheet as follows:

*Transfer Sheet*

Value of surplus (H's) to be transferred .....	149
Number of papers in H's parcel . . . . .	19
Value of each paper in parcel . . . . .	100
Number of unexhausted papers . . . . .	18
Value of unexhausted papers . . . . .	1,800
New value of each paper transferred =	$\frac{\text{Surplus } 149}{\text{number of unexhausted papers } 18} = 8$

*Conduct of Elections Rules, 1961*  
(Statutory Rules and Order)

Names of candidates marked as the next available preference	Number of papers to be transferred	Value of sub-parcels to be transferred
B. ....	7	56
D. ....	4	32
E. ....	4	32
F. ....	3	24
TOTAL	18	144
Number of exhausted papers.....	1	..
Loss of value owing to neglect of fractions .....	..	5
TOTAL	19	149

The values of the sub-parcels are added to the values of the votes already credited to the candidates B,D,E and F. This operation is shown on the result sheet.

There being no further surplus the candidate lowest on the poll has now to be excluded. G and O both have 400.

The returning officer casts lots and G is chosen to be excluded.

Being original votes, G's papers are transferred at the value of 100 each. A who was marked as next preference on two papers receives 200, while D and E were each next preference on one paper and receiving 100 each. O now being lowest is next excluded and his 400 is similarly transferred to I, B and K, I receiving 200 and B and K 100 each.

This leaves J and P lowest with 500 each and J is chosen by lot for exclusion first. His papers are transferred at the value of 100 each to A, B, D and I, the three first named receiving 100 each, and I who had the next preference on two papers receiving 200. P is then excluded and his papers are transferred to E, L and K, the two first named receiving 100 each, and K, who had the next preference on three papers, receiving 300.

K now exceeds the quota and is declared elected.

Prior to further exclusion, K's surplus of 49 has to be distributed.

The sub-parcel last transferred to K consisted of 3 votes transferred at the value of 100 each. This sub-parcel is examined; there are no exhausted papers and B, F, and I are each next preference on one paper and one paper is transferred to each of them at a reduced value determined by dividing the surplus (49) by the number of unexhausted papers (3), B, F and I accordingly receive 16 each.

The process of exclusion is now proceeded with.

C and N have 600 each, and C is chosen by lot for exclusion first. He has 6 original votes; B, D and E are each next preference on two papers, and each receives 200. N is then excluded, A is next preference on 3 of his papers, and receives 300; F, I and L are each next preference on one paper and receive 100 each.

This brings A and I above the quota and they are declared elected. Their surplus have now to be distributed and I's surplus which is the larger, 65, is dealt with first.

The last sub-parcel transferred to I consisted of one paper transferred at the value of 100, D is next preference on this paper, and receives the whole surplus of 65.

A's surplus of 49 is then dealt with. The last sub-parcel transferred to him consisted of 3 papers transferred at the value of 100 each. B was next preference two of these papers and E on one, and the papers are transferred accordingly. The value to be transferred is 16 per paper, *i.e.*, the surplus (49), divided by the number of the unexhausted (3). B accordingly receives 32 and E 16.

No other candidate having reached the quota, the process of exclusions is proceeded with, and F who is now lowest with 840, is excluded.

His seven original votes are transferred first B, D and E are next preference on three, two and two papers, respectively, and receive respectively 300, 200 and 200.

The transferred votes are next transferred in the order of their transfers to F. The 3 votes received at the value of eight each at the distribution of H's surplus are transferred at the same value to L who was next preference on all 3 papers.

The vote valued at sixteen received by F at the distribution of K's surplus, goes at the same value to M, who was next preference on that paper. The vote transferred at the value of 100 on the exclusion of N is then transferred at the same value to D, who thus received a total of 300.

No continuing candidate having reached the surplus, N, who is now lowest with 1016 is excluded.

His ten original votes are transferred first. B and D are first preference on three papers each and E and L on two each. B and D accordingly receive 300 each, and E and L 200 each. This brings B, D and E above the quota and they are declared elected. The requisite number of candidates having now been elected, the election is at an end, and it is unnecessary to proceed to the transfer of M's transferred votes.

Full details are shown in the result sheet.

Value of votes:14,000

## RESULT SHEET

Quota= $\frac{14,000}{8}$  +1=1751

Name of Candidates	Value of Votes at First Count	Distribution of H.S. surplus	Result	Distribution of Votes of G and O	Result	Distribution of votes of J and P	Result	Distribution of K's surplus
1	2	3	4	5	6	7	8	9
A.....	1,200	----	1,200	+200	1,400	+100	1,500	----
B.....	800	+56	856	+100	956	+100	1,056	+16
C.....	600	----	600	----	600	----	600	----
D.....	900	+32	932	+100	1,032	+100	1,132	----
E.....	1,000	+32	1,032	+100	1,132	+100	1,232	----
F.....	700	+24	724	----	724	----	724	+16
G.....	400	----	400	-400	----	----	----	----
H.....	1,900	-149	1,751	----	1,751	----	1,751	----
I.....	1,300	----	1,300	+200	1,500	+200	1,700	+16
J.....	500	----	500	----	-500	500	----	----
K.....	1,400	----	1,400	+100	1,500	+300	1,800	-49
L.....	800	----	800	----	800	+100	900	----
M.....	1,000	----	1,000	----	1,000	----	1,000	----
N.....	600	----	600	----	600	----	600	----
O.....	400	----	400	-400	----	----	----	----
P.....	500	----	500	----	-500	500	----	----
Loss of value by neglect of fraction	----	+5	5	----	5	----	5	+1
Total	14,000	----	14,000	----	14,000	----	14,000	----

Result	Distribution of votes of C and N	Result	Distribution of surplus of I and A	Result	Distribution of F's votes	Result	Distribution of M's votes	Result	Result of Election
10	11	12	13	14	15	16	17	18	19
1,500	+300	1,800	+49	1,751	----	1,751	----	1,751	Elected
1,072	+200	1,272	+32	1,304	+300	1,604	+300	1,904	Elected
600	-600	----	----	----	----	----	----	----	Not Elected
1,132	+200	1,332	+65	1,397	+300	1,697	+300	1,997	Elected
1,232	+200	1,432	+16	1,448	+200	1,648	+200	1,848	Elected
740	+100	840	----	840	-840	----	----	----	Not Elected
----	----	----	----	----	----	----	----	----	Not Elected
1,751	----	1,751	----	1,751	----	1,751	----	1,751	Elected
1,716	+100	1,816	-65	1,751	----	1,751	----	1,751	Elected
----	----	----	----	----	----	----	----	----	Not Elected
1,751	----	1,751	----	1,751	----	1,751	----	1,751	Elected
900	+100	1,000	----	1,000	+24	1,024	+200	1,224	Not Elected
1,000	----	1,000	----	1,000	+16	1,016	1,000	+16	Not Elected
600	-600	----	----	----	----	----	----	----	Not Elected
----	----	----	----	----	----	----	----	----	Not Elected
----	----	----	----	----	----	----	----	----	Not Elected
6	----	6	+1	7	----	7	----	7	
14,000	----	14,000	----	14,000	----	14,000	----	14,000	----

**MODEL CODE OF CONDUCT FOR THE GUIDANCE OF  
POLITICAL PARTIES AND CANDIDATES**



*भारत निर्वाचन आयोग*  
*Election Commission of India*

**Nirvachan Sadan  
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# **ELECTION COMMISSION OF INDIA**

## **MODEL CODE OF CONDUCT FOR THE GUIDANCE OF POLITICAL PARTIES AND CANDIDATES**

### **1. General Conduct**

(1) No party or candidate shall include in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic.

(2) Criticism of other political parties, when made, shall be confined to their policies and programme, past record and work. Parties and Candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of other parties. Criticism of other parties or their workers based on unverified allegations or distortion shall be avoided.

(3) There shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda.

(4) All parties and candidates shall avoid scrupulously all activities which are “corrupt practices” and offences under the election law, such as bribing of voters, intimidation of voters, impersonation of voters, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.

(5) The right of every individual for peaceful and undisturbed home-life shall be respected, however much the political parties or candidates may resent his political opinions or activities. Organising demonstrations or picketing before the houses of individuals by way of protesting against their opinions or activities shall not be resorted to under any circumstances.

(6) No political party or candidate shall permit its or his followers to make use of

any individual's land, building, compound wall etc., without his permission for erecting flag-staffs, suspending banners, pasting notices, writing slogans etc.

(7) Political parties and candidates shall ensure that their supporters do not create obstructions in or break up meetings and processions organised by other parties. Workers or sympathisers of one political party shall not create disturbances at public meetings organised by another political party by putting questions orally or in writing or by distributing leaflets of their own party. Processions shall not be taken out by one party along places at which meetings are held by another party. Posters issued by one party shall not be removed by workers of another party.

## **II. Meetings**

(1) The party or candidate shall inform the local police authorities of the venue and time any proposed meeting well in time so as to enable the police to make necessary arrangements for controlling traffic and maintaining peace and order.

(2) A Party or candidate shall ascertain in advance if there is any restrictive or prohibitory order in force in the place proposed for the meeting if such orders exist, they shall be followed strictly. If any exemption is required from such orders, it shall be applied for and obtained well in time.

(3) If permission or license is to be obtained for the use of loudspeakers or any other facility in connection with any proposed meeting, the party or candidate shall apply to the authority concerned well in advance and obtain such permission or license.

(4) Organisers of a meeting shall invariably seek the assistance of the police on duty for dealing with persons disturbing a meeting or otherwise attempting to create disorder. Organisers themselves shall not take action against such persons.

## **III Procession**

(1) A Party or candidate organizing a procession shall decide before hand the time and place of the starting of the procession, the route to be followed and the time and place at which the procession will terminate. There shall ordinary be on deviation from the programme.

(2) The organisers shall give advance intimation to the local police authorities of the programme so as to enable the letter to make necessary arrangement.

(3) The organisers shall ascertain if any restrictive orders are in force in the localities through which the procession has to pass, and shall comply with the restrictions unless exempted specially by the competent authority. Any traffic regulations or restrictions shall also be carefully adhered to.

(4) The organisers shall take steps in advance to arrange for passage of the procession so that there is no block or hindrance to traffic. If the procession is very long, it shall be organised in segments of suitable lengths, so that at convenient intervals, especially at points where the procession has to pass road junctions, the passage of held up traffic could be allowed by stages thus avoiding heavy traffic congestion.

(5) Processions shall be so regulated as to keep as much to the right of the road as possible and the direction and advice of the police on duty shall be strictly complied with.

(6) If two or more political parties or candidates propose to take processions over the same route or parts thereof at about the same time, the organisers shall establish contact well in advance and decide upon the measures to be taken to see that the processions do not clash or cause hindrance to traffic. The assistance of the local police shall be availed of for arriving at a satisfactory arrangement. For this purpose the parties shall contact the police at the earliest opportunity.

(7) The political parties or candidates shall exercise control to the maximum extent possible in the matter of processionists carrying articles which may be put to misuse by undesirable elements especially in moments of excitement.

(8) The carrying of effigies purporting to represent member of other political parties or their leaders, burning such effigies in public and such other forms demonstration shall not be countenanced by any political party or candidate.

#### **IV. Polling Day**

All Political parties and candidates shall –

(i) co-operate with the officers on election duty to ensure peaceful and orderly polling and complete freedom to the voters to exercise their franchise without being subjected to any annoyance or obstruction.

(ii) supply to their authorized workers suitable badges or identity cards.

(iii) agree that the identity slip supplied by them to voters shall be on plain (white) paper and shall not contain any symbol, name of the candidate or the name of the

party;

(iv) refrain from serving or distributing liquor on polling day and during the forty eight hours preceding it

(v) not allow unnecessary crowd to be collected near the camps set up by the political parties and candidates near the polling booths so as to avoid Confrontation and tension among workers and sympathizers of the parties and the candidate.

(vi) ensure that the candidate's camps shall be simple .The shall not display any posters, flags, symbols or any other propaganda material. No eatable shall be served or crowd allowed at the camps and

(vii) co-operate with the authorities in complying with the restrictions to be imposed on the plying of vehicles on the polling day and obtain permits for them which should be displayed prominently on those vehicles.

## **V. Polling Booth**

Excepting the voters, no one without a valid pass from the Election Commission shall enter the polling booths.

## **VI. Observers**

The Election Commission is appointing Observers. If the candidates or their agents have any specific complaint or problem regarding the conduct of elections they may bring the same to the notice of the Observer.

## **VII. Party in Power**

The party in power whether at the Centre or in the State or States concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign and in particular –

(i) (a) The Ministers shall not combine their official visit with electioneering work and shall not also make use of official machinery or personnel during the electioneering work.

(b) Government transport including official air-crafts, vehicles, machinery and personnel shall not be used for furtherance of the interest of the party in power;

(ii) Public places such as maidans etc., for holding election meetings, and use of

helipads for air-flights in connection with elections shall not be monopolized by itself. Other parties and candidates shall be allowed the use of such places and facilities on the same terms and conditions on which they are used by the party in power;

(iii) Rest houses, dark bungalows or other Government accommodation shall not be monopolized by the party in power or its candidates and such accommodation shall be allowed to be used by other parties and candidates in a fair manner but no party or candidate shall use or be allowed to use such accommodation (including premises appertaining thereto) as a campaign office or for holding any public meeting for the purposes of election propaganda;

(iv) Issue of advertisement at the cost of public exchequer in the newspapers and other media and the misuse of official mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided.

(v) Ministers and other authorities shall not sanction grants/payments out of discretionary funds from the time elections are announced by the Commission; and

(vi) From the time elections are announced by Commission, Ministers and other authorities shall not –

(a) announce any financial grants in any form or promises thereof; or

(b) (except civil servants) lay foundation stones etc. of projects or schemes of any kind; or

(c) make any promise of construction of roads, provision of drinking water facilities etc.; or

(d) make any ad-hoc appointments in Government, Public Undertakings etc. which may have the effect of influencing the voters in favour of the party in power.

Note : The Commission shall announce the date of any election which shall be a date ordinarily not more than three weeks prior to the date on which the notification is likely to be issued in respect of such elections.

(vii) Ministers of Central or State Government shall not enter any polling station or place of counting except in their capacity as a candidate or voter or authorised agent.

# FREQUENTLY ASKED QUESTIONS (FAQs)

## MODEL CODE OF CONDUCT

- Q. 1. What is the Model Code of Conduct?**  
**Ans.** The Model Code of Conduct for guidance of political parties and candidates is a set of norms which has been evolved with the consensus of political parties who have consented to abide by the principles embodied in the said code and also binds them to respect and observe it in its letter and spirit.
- Q. 2. What is the role of Election Commission in the matter?**  
**Ans.** The Election Commission ensures its observance by political party(ies) in power, including ruling parties at the Centre and in the States and contesting candidates in the discharge of its constitutional duties for conducting the free, fair and peaceful elections to the Parliament and the State Legislatures under Article 324 of the Constitution of India. It is also ensured that official machinery for the electoral purposes is not misused. Further, it is also ensured that electoral offences, malpractices and corrupt practices such as impersonation, bribing and inducement of voters, threat and intimidation to the voters are prevented by all means. In case of violation, appropriate measures are taken.
- Q. 3. From which date the Model Code of Conduct is enforced and operational upto which date?**  
**Ans.** The Model Code of Conduct is enforced from the date of announcement of election schedule by the Election Commission and is operational till the process of elections are completed.
- Q. 4. What is applicability of code during general elections and bye-elections?**  
**Ans.**
- a. During general elections to House of People (Lok Sabha), the code is applicable throughout the country.
  - b. During general elections to the Legislative Assembly (Vidhan Sabha), the code is applicable in the entire State.
  - c. During bye-elections, the code is applicable in the entire district or districts in which the constituency falls.

- Q. 5. What are the salient features of the Model Code of Conduct?**  
**Ans.** The salient features of the Model Code of Conduct lay down how political parties, contesting candidates and party(s) in power should conduct themselves during the process of elections i.e. on their general conduct during electioneering, holding meetings and processions, poll day activities and functioning of the party in power etc.

#### **ON OFFICIAL MACHINERY**

- Q. 6. Whether a Minister can combine his official visit with electioneering work?**  
**Ans.** No  
The Ministers shall not combine their official visit with electioneering work and shall not also make use of official machinery or personnel during the electioneering work.
- Q. 7. Whether Govt. transport can be used for electioneering work?**  
**Ans.** No  
No transport including official air-crafts, vehicles etc. shall be used for furtherance of the interest of any party or a candidate.
- Q. 8. Whether Govt. can make transfers and postings of officials who are related to election work?**  
**Ans.** There shall be a total ban on the transfer and posting of all officers/officials directly or indirectly connected with the conduct of the election. If any transfer or posting of an officer is considered necessary, prior approval of the Commission shall be obtained.
- Q. 9. Suppose an officer related to election work has been transferred by the Govt. before enforcement of model code of conduct and has not taken over charge at new place. Can such officer take over charge of office at new place after announcement of the code?**  
**Ans.** No  
Status-quo-ante shall be maintained.

**Q. 10. Whether a Minister of Union or State can summon any election related officer of the constituency or the State for any official discussion during the period of elections?**

**Ans.** No Minister, whether of Union or State, can summon any election related officer of the constituency or the State for any official discussions anywhere.

If Union Minister is traveling out of Delhi on purely official business, which cannot be avoided in public interest, then a letter certifying to this effect should be sent from the concerned Secretary of the Ministry/Department to the Chief Secretary of the concerned State, with a copy to the Election Commission.

**Q. 11. Can an official meet the minister on his private visit to the Constituency where elections are being held?**

**Ans.** No

Any official who meets the Minister on his private visit to the constituency shall be guilty of misconduct under the relevant service rules; and if he happens to be an official mentioned in Section 129 (1) of the Representation of People Act, 1951, he shall also be additionally considered to have violated the statutory provisions of that Section and liable to penal action provided thereunder.

**Q. 12. Whether Ministers are entitled for official vehicle during the election?**

**Ans.** Ministers are entitled to use their official vehicles only for commuting from their official residence to their office for official work provided that such commuting is not combined with any electioneering or any political activity.

**Q. 13. Whether Ministers or any other political functionaries can use pilot car with beacon lights affixed with siren?**

**Ans.** Minister or any other political functionary is not allowed during election period, to use pilot car or car with beacon lights of any colour or car affixed with sirens of any kind whether on private or official visit, even if the State administration has granted him a security cover requiring presence of armed guards to accompany him on such visit. This prohibition is applicable whether the vehicle is government owned or private owned.

**Q. 14. Suppose there is a visit of President / Vice President at any place in the State. Is a Minister allowed to use VIP Car with other protocol?**

**Ans.** Yes

The Minister may leave with VIP car and other protocol from his headquarters to the place of visit of President/ Vice President and return to his headquarters without attending any other function/meeting with any other political functionary. This restriction shall be applicable from the time he leaves the Headquarters and till he reaches back the headquarters.

**Q. 15. Suppose a vehicle has been provided to Minister by the State and the Minister is given an allowance for maintenance of such vehicle. Can it be used by the Minister for election purposes?**

**Ans.** Where a vehicle is provided by the State or the Minister is given an allowance for maintenance of the vehicle, he cannot use such vehicle for election.

**Q. 16. Whether facility of official vehicles can be withdrawn from those ministers who violate the provisions of Model Code of conduct?**

**Ans.** Yes

The Chief Electoral Officer shall also recover the cost of propulsion from the ministers who may misuse their official position.

**Q. 17. Whether there is any restriction or visits of members of National Commission for Schedule Castes or any other similar National/State Commissions?**

**Ans.** It is advised that all official visits of Members of such Commissions shall be deferred, unless any such visit becomes unavoidable in an emergent situation, till the completion of election exercise to avoid any misunderstanding that may arise in any quarters.

**Q. 18. Whether members of Finance Commission of Govt. of India can visit State(s)?**

**Ans.** Yes

Provided neither the press briefings nor press notes would be issued, highlighting the achievements of the State or otherwise.

**Q. 19. Whether Chief Minister and other Ministers can attend New Year Day function (of the State), which is a State function?**

**Ans.** No

Only Chief Secretary and other officials may participate and no political person including Chief Minister or Minister may participate in such function where Govt. funds are used.

**Q. 20. Whether a Chief Minister/Minister/Speaker can attend a "State Day" function of a State?**

**Ans.** There is no objection provided that he does not make any political speech on the occasion and the function is to be conducted only by Govt. officials. No advertisement depicting the photograph of Chief Minister/Minister/Speaker shall be released.

**Q. 21. Whether Governor/Chief Minister/Ministers can participate and address the Convocation function of University or Institute?**

**Ans.** Governor may participate and address the Convocation. Chief Minister or Ministers may be advised not to participate and address the Convocation.

**Q. 22. Whether "Iftar Party" or any other similar party can be hosted at the residence of political functionaries, the expenses of which will be borne by State exchequer?**

**Ans.** No

However any individual is free by to host any such party in his personal capacity and at his personal expense.

**Q. 23. Is there any restriction on address of Governor in the Assembly Session (budget)?**

**Ans.** No

#### **ON WELFARE SCHEMES, GOVERNMENT WORKS ETC.**

**Q. 24. Is there any restriction on issue of advertisement at the cost of public exchequer regarding achievements with a view to furthering the prospects of the party in power?**

**Ans.** Yes

The advertisement regarding achievements of the party at the cost of public exchequer in the print and electronic media and the misuse of official mass media during the period of election is prohibited.

**Q. 25. Whether hoardings/advertisements etc. depicting the achievements of the party(s) in power at Centre/State Governments at the cost of public exchequer can be continued?**

**Ans.** No

All such hoardings, advertisements etc. on display shall be removed forthwith by the concerned authorities. Further, no advertisements should be issued in the newspapers and other media including electronic media at the cost of public exchequer.

**Q. 26. Whether a Minister or any other authority can sanction grants/ payments out of discretionary funds?**

**Ans.** No

Ministers and other authorities shall not sanction grants/payments out of discretionary funds from the time elections are announced.

**Q. 27. Whether money can be withdrawn from treasury against the sanctioned amount from the discretionary funds of Ministers to prepare draft in the names of beneficiaries which may be disbursed after process of election is completed?**

**Ans.** The funds may either be kept in "Personal Ledger Account" of the concerned Department or the release may be deferred till the completion of elections.

**Q. 28. Suppose work order has been issued in respect of a scheme or a programme. Can it be started after announcement of election programme?**

**Ans.** Work shall not be started in respect of which work order has been issued before announcement of election but the work has actually not started in the field. If a work has actually started in the field that can be continued.

**Q. 29. Whether fresh release of funds under MPs/MLAs/MLCs Local Area Development Fund of any scheme can be made?**

**Ans.** No

Fresh release of funds under MPs/MLAs/MLCs Local Area Development Fund of any scheme shall not be made in any area where election is in progress, till the completion of the election process.

**Q. 30. There are various rural development programmes/ schemes of Central government like Indira Awas Yojana, Sampoorna Grameen Rozgar Yojana, Swarnajayanti Gram Swarozgar Yojana, National Food for Work programme, National Rural Employment Guarantee Act. Are there any guidelines for implementation of these schemes/programmes?**

**Ans.** Yes

Following guidelines shall be followed in respect of each scheme/programme as enumerated below:-

**a) Indira Awas Yojana (IAY)**

Beneficiaries, who have been sanctioned housing scheme under IAY and have started work, will be assisted as per norms. No new constructions will be taken up or fresh beneficiaries sanctioned assistance till the elections are over.

**(b) Sampoorna Grameen Rozgar Yojana (SGRY)**

Continuing works in progress may be continued and funds earmarked for such works can be released. In case of any Panchayat where all ongoing works have been completed and there is a requirement for taking up new wage employment works and where funds released directly to the Panchayats from the Ministry of Rural Development are available, new works can be started from approved annual action plan for the current year with the prior consent of the District Election Officer. From other funds, no new works shall be started.

**c) Swarnajayanti Gram Swarozgar Yojana (SGSY)**

Only those help groups which have received part of their subsidy/grant will be provided the balance installments. No fresh individual beneficiaries or SHGs will be given financial assistance till the elections are over.

**(d) National Food for Work Programme(NFWP)**

There is no objection for continuance of old works and sanction of new works in those districts where no elections have been announced. In those districts where elections have been announced and are in progress, only those works may be undertaken that have already started physically on ground, provided outstanding advance given for implementation of such works at a given time shall not exceed the amount equivalent to work for 45 days.

**e) National Employment Rural Guarantee Act (NERGA)**

The Ministry of Rural Development shall not increase the number of districts in which it is being implemented after announcement of elections. The job card holders will be provided employment in the ongoing work, if they demand work, after announcement of elections. In case no employment can be provided in ongoing works, the competent authority may start new work(s) from the shelf of projects that has been approved and inform the fact to concerned District Election Officer (DEO). No new work shall be started by the competent authority till such time employment can be given in ongoing works. In case no shelf of project is available or all works available on shelf have been exhausted, then the concerned competent authority shall make a reference to the Commission for approval through the concerned DEO. The competent authority shall also furnish a certificate to DEO to the effect that the new work has been sanctioned as no employment can be given to the job card holder in the ongoing work.

**Q. 31. Whether a Minister or any other authority can announce any financial grants in any form or promises thereof or lay foundation stones etc. of projects or schemes of any kinds etc.?**

**Ans.** No  
Ministers and other authorities shall not announce any financial grants in any form or promises thereof; or (except civil servants) lay foundation stones etc. of projects or schemes of any kind; or make any promise of construction of roads, provision of drinking water facilities etc. or make any ad-hoc appointments in Government, Public Undertakings etc.

In such case, senior Govt. Officer may lay foundation stone etc. without involving any political functionary.

**Q. 32. A budget provision has been made for a particular scheme or the scheme has been sanctioned earlier. Can such scheme be announced or inaugurated?**

**Ans.** No  
Inauguration/announcement of such scheme is prohibited during election period.

**Q. 33. Whether ongoing beneficiary scheme can be continued?**

**Ans.** No  
The processing of beneficiary oriented scheme, even if ongoing, shall be suspended during election period. Further, no fresh release of funds on welfare schemes and works should be made.

**Q. 34. Suppose work order has already been issued for a scheme. Can work be started in respect of such scheme?**

**Ans.** No work shall be started in respect of which even if work orders have already been issued, if the work has actually not started in the field. Work can start only after the completion of election process. However, if a work has actually started, that can be continued.

**Q. 35. Is there any bar to release of payments for completed work?**

**Ans.** There shall be no bar to the release of payments for completed work subject to the full satisfaction of the concerned officials.

**Q. 36. How the Govt. may meet the emergency situation or unforeseen calamities, when there are restrictions for announcing welfare measures?**

**Ans.** For tackling emergencies or unforeseen calamities like providing relief to people suffering from drought, floods, pestilences, other natural calamities or welfare measures for the aged, infirm etc., Govt. may do so after obtaining prior approval of the Commission and all ostentatious functions shall be strictly avoided and no impression shall be given or allowed to be created that such welfare measures or relief and rehabilitation works are being undertaken by the Government in office with any ulterior motive.

**Q. 37. Whether financial institutions funded, partially or wholly by the Governments can write off loans advanced to any individual, company, firm, etc.?**

**Ans.** No  
The financial institutions funded, partially or wholly by the Governments shall not take recourse to writing off loans advanced to any individual, company, firm, etc. Also, financial limits of such institutions, while granting or extending loans, should not be enhanced by issuing of loans indiscriminately to beneficiaries.

**Q. 38. Whether tenders, auctions etc. relating to matters such as liquor vends, Tendu leaves and other such cases can be processed?**

**Ans.** No  
Processing of such cases should be deferred till the completion of election process in the concerned areas and the Govt. may make interim arrangements where unavoidably necessary.

**Q. 39. Suppose contract for Toll Tax is expiring at the end of financial year (31<sup>st</sup> March of the year), for which auction date has already been proposed/advertised. Whether auction can be held for awarding the contract?**

**Ans.** Yes

Provided the contract is supervised by the Commissioner/Divisional Commissioner or some other senior District Officer directly answerable to the Commissioner/Divisional Commissioner and there is no change in the earlier policy or auction procedure.

**Q. 40. Whether meeting of Municipal Corporation, Nagar Panchayat, Town Area Committee, etc. can be convened to review the revenue collection and preparing draft annual budget etc?**

**Ans.** Yes

Provided that at such meetings only the matters of routine nature relating to day-to-day administration may be taken up and not the matters relating to its policies and programmes.

**Q. 41. Whether function regarding “Stop TB” programme can be held which may be inaugurated by a political functionary and whether an advertisement on “World TB Day” can be released and published?**

**Ans.** There is no objection provided –

- i. during the inauguration ceremony, no political speeches are made,
- ii. no advertisement with photographs of PM and / or any Minister is issued, and
- iii. advertisements and speeches are confined to the subject of combating and eradication of TB only.

**Q. 42. Whether political functionaries can participate in the celebration of "Sadbhavna Diwas" which is celebrated through out the country?**

**Ans.** The Central Ministers / Chief Minister / Ministers in the States and other political functionaries can participate in the celebration of "Sadbhavna Diwas" subject to condition that the "theme" of their speeches should be confined only to the promotion of harmony among the people' and no political speech should be made. Messages, if any, issued in the name of Minister should be confined to the theme of national integration only and should carry no photograph of the concerned Minister.

**Q. 43. Whether State-level functions can be held for observance of Martyrdom of Martyrs which may be presided/attended to by Chief Minister / Minister?**

**Ans.** Yes  
Provided that the speeches of the Chief Minister and other Ministers should restrict to the Martyrdom of the Martyrs and praising them. No political speech or speech enumerating or referring to the achievements of the Government or party in power should be made.

**Q. 44. Whether birthday celebration of Shri Babu Jagjivan Ram and Dr. B.R. Ambedkar which falls on 5<sup>th</sup> April and 14<sup>th</sup> April respectively as a State function may be conducted?**

**Ans.** Yes  
Provided it is not used as an occasion for political campaign or highlighting public achievements of the Govt. and also there is no ostentation and no political functionary addresses such meetings. The above restriction shall be equally applicable in all such other functions.

**Q. 45. Whether Kavi Sammelan, Mushiaras or other cultural functions can be organized in connection with the Independence Day/Republic Day celebration and whether political functionaries can attend the same?**

**Ans.** Yes  
The Central Ministers / Chief Minister / Ministers in the States and other political functionaries can attend the programme. However, it will be ensured that no political speeches highlighting the achievements of the party in power are made on the occasions.

- Q. 46. Whether films can be telecast on the occasions of birth and death anniversaries / ceremony anniversaries of prominent leaders in which VVIPs/VIPs may likely to feature?**
- Ans.** May not be telecast, in case the coverage involves VVIPs/VIPs.
- Q. 47. Whether media campaign can be made for effective implementation of statutory warnings, etc. on sale of cigarettes and other tobacco products?**
- Ans.** Yes  
Provided that photos/messages of political personalities etc. shall not be associated with the campaign.
- Q. 48. Whether political advertisements can be printed on back side of the bus-ticket of Govt. owned buses?**
- Ans.** No
- Q. 49. Whether Govt. can release convicted criminals on parole after following due procedures?**
- Ans.** If the Govt. feels that the release of any convict on parole is absolutely essential for certain compelling reasons, in that case Govt. shall consult the Chief Electoral Officer before granting parole.
- Q. 50. Whether minimum support price of wheat and other agricultural products can be determined?**
- Ans.** A reference in the matter shall be made to the Election Commission.

**Q 51. Whether the Government can proceed and act upon the following indicative illustrative list of items, which is not exhaustive, without obtaining clearance/approval from the Election Commission?**

- (i) Extension of term of an official for further period except officials related to conduct of elections,**
- (ii) Enhancement of minimum penalty in case of ticket less travel,**
- (iii) Sanctioning of grants to consumer co-ordination council from consumer welfare fund to organize a conference on world consumer rights day,**
- (iv) Issuing advertisement regarding pulse polio immunization programme,**
- (v) Seeking financial assistance from National Calamity Contingency Fund for drought relief measure-deputing of Inter-Ministerial team of officers to visit concerned State,**
- (vi) Request of the State Govt. for transportation of water and fodder by Rail in areas declared drought affected,**
- (vii) Promotion of officials by convening DPC and filling regular posts falling due to retirement, deputation, etc.,**
- (viii) Appointment of persons on compassionate grounds in pursuance of Court's orders,**
- (ix) Celebration of "May-Day",**
- (x) Providing additional charge of office of one officer to another one,**

- (xi) To call and finalize tenders of routine, repair maintenance, strengthening and upgradation public utilities being run by the local authorities,
- (xii) Replacement/repair or damaged water supply distribution pipes,
- (xiii) To issue work order of construction of public facilities and public toilets on BOT basis in pursuance of Court's directions,
- (xiv) To conduct the election of college students union,
- (xv) Clearance of unauthorized structure/land as per orders of Court,
- (xvi) Release of advertisement for activities relating to control of HIV/AIDS,
- (xvii) Release of advertisement to create awareness about important provisions of labour laws,
- (xviii) Purchase of uniform clothes and equipments for Police and awarding of Tender thereof,
- (xix) Commencement of desilting of drain/cattle ponds
- (xx) Grant of financial upgradation under assured career progression scheme to employees,
- (xxi) Calling of tenders for work to control mosquitoes
- (xxii) Transfer/posting of doctors,
- (xxiii) To shift criminals from one jail to other jail in pursuance of Court's orders,
- (xxiv) To form Committee for stock of chemical fertilizer for Kharif and Rabi crops ,
- (xxv) To purchase medicine and equipments for hospitals for which grants have already been sanctioned and tenders for which were already called for.
- (xxvi) Recruitment rally to enroll youth into the Army,

**Ans.**

Yes

Provided that no impression is given or created that the same has been done with a view to influencing the electorate in favour of ruling party. Further, in the case of advertisements, photo of Minister/political functionary should not be contained therein.

**Q. 52. Whether the Government can proceed and act upon the following indicative illustrative list of items, which is not exhaustive, without obtaining clearance from the Commission?**

- (i) Issuing sanction orders to out of turn PCO/Telephone connections and to nominate members to various Telephone Advisory Committees which were ordered by the minister before the elections.**
- (ii) Issue of appointment order to a person as a part time non-official Director on the board of PSU after Cabinet's approval.**
- (iii) Fixing of tariff for Major Port Trusts by Tariff Authority for major ports.**
- (iv) Sanctioning of grants From Consumer Welfare fund to eligible voluntary consumer organizations as per guidelines.**
- (v) Implementation of SEZ rules and regulations**
- (vi) Publication of a booklet titled "Year of Achievement of the Department" highlighting the salient achievement of the Department,**
- (vii) Anganwadi Karyakartri Bima Yojana, an insurance scheme under the LIC's social security group scheme for anganwadi workers and helpers,**
- (viii) Appointment of Central Govt. nominees to the General Council as well as Executive Committee of National Council for Teachers Education,**
- (ix) Recruitment drive only for wards of serving/retired service personnel as a welfare measures for troops.**
- (x) Issue of advertisements in newspapers and video & audio spots on generic advertisement of processed food,**
- (xi) Issue of Notification for setting up a new Promotion Council for pharmaceutical sector,**
- (xii) Appointment of a person as a Sr. Consultant from a Private Company as Head of the internal system group to review the ongoing projects and E-governance initiations with the**

**Ans.** No  
The processing of aforesaid items may be deferred till the completion of elections.

**Q. 53. Whether State Govt. can seek clarification/clearance/approval in respect of any proposal directly from the Election Commission?**

**Ans.** No  
Any proposal from State Govt. for seeking clarification/clearance/approval from the Election Commission should only be routed through Chief Electoral Officer, who will make his recommendation or otherwise in the matter.

### **ELECTION CAMPAIGN**

**Q. 54. What are the main guidelines for political parties/candidates while making election campaign?**

**Ans.** During the election campaign, no party or candidate shall indulge in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic. Further, criticism of other political parties, when made, shall be confined to their policies and programme, past record and work. Parties and candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of other parties. Criticism of other parties or their workers based on unverified allegations or distortion shall be avoided.

**Q. 55. Are there any restrictions in using religious places for election propaganda?**

**Ans.** Yes  
Religious places like Temple, Mosque, Church, Gurudwara or other places of worship shall not be used as forum for election propaganda. Further, there shall be no appeal to caste or communal feelings for securing votes.

**Q. 56. Can a candidate go to the office of Returning Officer for filing a nomination with a procession?**

**Ans.** No  
The maximum number of vehicles that will be allowed to come within the periphery of 100 mtrs. of Returning Officer's office has been restricted to 3 and maximum number of persons that will be allowed to enter the office of Returning Officer has been limited to 5 (including the candidate).

**Q. 57. How many persons are allowed at the time of scrutiny of nominations by the Returning Officer?**

**Ans.** The candidate, his election agent, one Proposer and one other person (who can be an advocate) duly authorized in writing by the candidate, but no other person, may attend at the time fixed for scrutiny of nominations by Returning Officer.

(Refer: Sec. 36 (1) of Representation of People Act, 1951)

**Q. 58. Are there any guidelines regarding use of vehicles by ministers/political functionaries/candidates, who have been provided security cover by the State?**

**Ans.** Yes

In respect of persons covered by security, the use of State owned one bullet proof vehicle for the particular person (PP) will be permitted in all cases where the security agencies, including the intelligence authorities, have prescribed such use. The use of multiple cars in the name of stand-by should not be permitted unless so specifically prescribed by security authorities. The cost of propulsion of such bullet proof vehicles where such use of bullet proof vehicles is specified will be borne by the particular person. The number of vehicles to accompany the carcade including pilots, escorts etc. will be strictly in accordance with the instructions laid down by the security authorities and shall not exceed them under any circumstances. The cost of propulsion of all such vehicles, whether owned by Government or hired vehicles, will be met by the State Government.

The restrictions do not apply to the Prime Minister whose security requirements are governed by the Government's Blue Book.

**Q. 59. Whether there is any restriction for plying of vehicles for electioneering purposes?**

**Ans.** Candidate can ply any number of vehicles (all mechanized/motorized vehicles including two-wheelers) for the purpose of election campaign but he has to seek prior approval of the Returning Officer for plying such vehicles and must display permit issued by Returning Officer in original (not photocopy) prominently on the windscreen of the Vehicle. The permit must bear the number of the vehicle and name of the candidate in whose favour it is issued.

**Q. 60. Whether a vehicle for which permission has been taken for election campaign in the name of a candidate, can be used for election campaign by another candidate?**

**Ans.** No  
Use of such vehicle for election campaign by another candidate shall invite action under section 171H of Indian Penal Code.

**Q. 61. Can a vehicle be used for electioneering purposes without getting permit from the District Election Officer/Returning Officer?**

**Ans.** No  
Such vehicle shall be deemed to be unauthorized for campaigning by the candidate and may attract penal provisions of Chapter IX A of the Indian Penal Code and shall therefore be immediately out of the campaigning exercise and shall not be used for further campaign.

**Q. 62. Whether there is any restriction on use of educational institutions including their grounds (whether Govt. aided, Private or Govt.) for political campaigns and rallies?**

**Ans.** Use of educational institutions including their grounds (whether Govt. aided, Private or Govt.) for political campaigns and rallies is not allowed.

**Q. 63. Is external fitting/modification allowed in the vehicles used for campaigning?**

**Ans.** External modification of vehicles including fitting of loudspeaker thereon, would be subject to the provisions of the Motor Vehicles Act/Rules as well as other Local Act/Rules. Vehicles with modifications and special campaign vehicles like Video Rath etc. can be used only after obtaining the requisite permission from the competent authorities under the Motor Vehicles Act.

**Q. 64. Is there any restriction or use of rest houses, dak bungalows or other Govt. accommodation for campaign office or for holding any public meeting for the purpose of election propaganda?**

**Ans.**

Yes

Rest houses, dak bungalows or other Govt. accommodation shall not be monopolized by the party in power or its candidates and such accommodation shall be allowed to use by other parties and candidates but no party or candidate shall be allowed to use as campaign office.

Further, it shall be ensured that –

- (i) no functionary can use the Circuit House, Dak bungalow to set up campaign office as the Circuit Houses/Dak bungalows are only for temporary stay (boarding and lodging) during transit of such functionaries,
- (ii) even casual meeting by Members of political parties inside the premises of the Government owned guesthouse etc. are not permitted and any violation of this shall be deemed to be a violation of the Model Code of Conduct,
- (iii) only the vehicle carrying the person allotted accommodation in the guest house and not more than two other vehicles, if used by the person, will be permitted inside the compound of the Guest House,
- (iv) rooms should not be made available for more than 48 hours to any single individual, and
- (v) 48 hours before the close of poll in any particular area, there will be freeze on such allocations till completion of poll or re-poll.

**Q. 65. Are there any conditions for getting Govt aircraft/helicopters (including Public Sector Undertakings) by political parties/candidates?**

**Ans.** Yes

While allowing the chartering of Govt. aircrafts/helicopters to political parties/candidates or private companies etc., the following conditions should be followed:-

i There should be no discrimination between the ruling party on the one hand and the other parties and contesting candidates on the other.

ii The payment will be made by the political parties or the contesting candidates and proper record maintained.

iii The rates and terms and conditions should be uniform for all.

iv The actual allotment should be made on the first-come first-served basis. For this purpose, the date and time of receipt of the application should be noted down by the authorized receiving authority.

v In the rare case when both the date and time of two or more applicants is the same, the allotment will be decided by draw of lots.

vi No individual, firm, party or candidate will be allowed to charter the aircraft/helicopter for more than three days at a time.

**Q. 66. Is there any restriction on displaying poster, placard, banner, flag etc of the party concerned or the candidate on a public property?**

**Ans.** Candidate may display poster, placard, banner, flag etc of the party concerned or the candidate on a public property subject to provisions of local law and prohibitory orders in force. For details, refer Commission's instructions No.3/7/2008/JS-II, dated 7.10.2008.

**Q. 67. If local law/bye-laws permit wall writings and pasting of posters, putting up hoardings, banners etc. on private premises/properties, is it necessary to obtain prior written permission from the owner of the premises/properties?**

**Ans.** Yes

Candidate is required to obtain prior written permission from the owner of the properties/premises and photocopy(ies) of such permission should be submitted within 3 days to the Returning Officer or an officer designated by him for the purpose.

**Q. 68. Is there any restriction on displaying/carrying poster/placard/ banner/flag of the party concerned or of the candidate on the vehicle during the procession?**

**Ans.** Candidate may display /carry one poster/placard/banner/flag of Candidate's party/or his own on vehicle during the procession subject to conformity with the provisions of Motor Vehicle Act and any other local laws/bye-laws.

**Q. 69. Whether there is any ban on use of plastic sheets for making use of posters/banners during the election campaign?**

**Ans.** The political parties and candidates should try to avoid the use of plastic/polythene for preparation of posters, banners etc. in the interest of environmental protection.

**Q. 70. Is there any restriction on the printing of pamphlets, posters etc?**

**Ans.** **Yes**  
Candidate shall not print or publish, or cause to be printed or published any election pamphlet or poster which does not bear on its face names and addresses of the printer and the publisher thereof.  
(Refer : Section 127A of Representation of 1951)

**Q. 71. Whether there is any restriction on air dropping of leaflets/pamphlets by the Political parties/candidates?**

**Ans.** **No**  
Provided that all the expenses in this regard have been booked against the election expenses of the candidate, on whose behalf the leaflets/pamphlets are being dropped.

**Q. 72. Is wearing of special accessories like cap, mask, scarf etc. of a candidate permitted during the campaigning?**

**Ans.** Yes, provided they are accounted for in the election expenses of the candidate concerned. However supply and distribution of main apparels like saree, shirt, etc. by party/candidate is not permitted as it may amount to bribery of voters.

**Q. 73. Whether dummy ballot units of EVM can be prepared by the candidate for the purpose of educating the voters?**

**Ans.** **Yes**  
The dummy ballot units may be made of wooden, plastic or ply board boxes, half the size of the official ballot units and may be painted brown, yellow or grey.

**Q. 74. Whether there is restriction to display to the public any election matter by means of cinematograph, television or other similar apparatus?**

**Ans.** Yes

Candidate can not display to the public any election matter by means of cinematograph, television or other similar apparatus during the period of 48 hours ending with the hour fixed for the conclusion of poll.

(Refer: Sec. 126 of Representation of People Act, 1951)

**Q. 75. Whether a candidate can print and distribute the diary/calendar/sticker depicting his image or image of Gods/ deities etc.**

**Ans.** No

This will amount to bribery under section 171E of Indian Penal Code.

**Q. 76. Whether distribution of printed "Stepney Covers" or other similar material containing symbol of party/candidate or without depicting it, is a violation?**

**Ans.** Yes

In case, it is established that such material have been distributed, a complaint may be filed before the area Magistrate by District Administration against the distribution of the said material under section 171 B of the IPC.

**Q. 77. Are there conditions/guidelines for setting up and operating of Temporary Offices by Party or candidate?**

**Ans.** Yes

Such offices can not be opened by way of any encroachment either on public or private property/ in any religious places or campus of such religious places/ contiguous to any educational institution / hospital / within 200 meters of an existing polling station. Further, such offices can display only one party flag and banner with party symbol/photographs and the size of the banner used in such offices should not exceed '4 feet X 8 feet' subject to the further condition that if the local laws prescribe a lower size for banner / hoarding etc., then the lower size prescribed by local law shall prevail.

**Q. 78. Is there any restriction on the presence of political functionaries in a constituency after campaign period is over?**

**Ans.** Yes

After the closure of campaign period (starting from 48 Hrs. before closure of poll), political functionaries etc. who have come from outside the constituency and who are not voters of the constituency should not continue to remain present in the constituency. Such functionaries should leave the constituency immediately after campaign period is over. This will not apply in the case of candidate or his election agent even if they are not voters in the constituency.

**Q. 79. Is such restriction applicable in the case of office bearer of a political party who is in-charge of election in the State?**

**Ans.** Yes

However, such restriction is not insisted upon during the general elections to Lok Sabha/State Assembly only in respect of the office bearer who is in-charge of the State during the election period. Such office bearer shall declare his place of stay in the State Headquarters and his movement during the period in question shall remain confined normally between his party office and place of his stay. **The above restrictions will be applicable to all other functionaries in all elections.**

**Q. 80. Whether there is any restriction for holding public meeting or taking out processions?**

**Ans.** Yes.

Prior written permission should be obtained from the concerned police authorities for holding of a meeting at any public or private place and for taking out processions.

**Q. 81. Whether loudspeakers can be used for public meetings or for processions or for general propaganda without obtaining permission from Police authorities?**

**Ans.** No.

Prior written permission should be obtained from the concerned police authorities for using loudspeakers.

**Q. 82. Whether there is any time limit for using loudspeakers?**

**Ans.** Yes.  
Loudspeaker can not be used at night between 10.00 P.M. and 6.00 A.M.

**Q. 83. What is the deadline after which no public meetings and processions can be taken out?**

**Ans.** Public meetings cannot be held after 10 PM and before 6.00 AM. Further, Candidate can not hold public meetings and processions during the period of 48 hours ending with the hour fixed for the conclusion of poll. Suppose, poll day is 15th July and hours of poll are from 8.00A.M to 5.00 P.M., then the public meetings and processions shall be closed at 5.00 P.M on the 13th July.  
(Refer: Sec. 126 of Representation of People Act, 1951)

**Q. 84. Whether there are any guidelines for political parties/candidates for issue of unofficial identity slips to voters?**

**Ans.** Yes.  
The unofficial identity slip, on white paper, shall contain only the particulars of the voter i.e. name, Serial number of voter, part No. in the electoral roll, s.no. and name of Polling Station and date of Poll. It should not contain the name of candidate, his photograph and symbol.

**Q. 85. Is there any restriction on appointment of a Minister/M.P./M.L.A/M.L.C or any other person who is under security cover as an Election Agent/Polling Agent/Counting Agent?**

**Ans.** Yes  
A candidate cannot appoint a Minister/M.P./ MLA/MLC or any other person who is under security cover, as an election/polling agent/counting agent, as his personal security shall be jeopardized with such appointment, because his security personnel will not under any circumstances be permitted to accompany him into the 100 meter perimeter of polling stations described as the "Polling Station Neighborhood" and within the polling booth and campus of counting centre and within the counting centre. Also any person having security cover will not be allowed to surrender his security cover to act as such agent of a candidate.

**Q. 86. Is a candidate allowed to appoint persons as polling agents from anywhere?**

**Ans.** No

Such person who is appointed by the candidate as a polling agent must be an ordinarily resident and elector of the concerned polling station area only and not from outside the concerned polling area. Such person must also have Elector's Photo Identity Card.

However, in the case of polling stations exclusively manned by the women polling personnel, the restriction of resident of same polling area shall not be applied for.

**Q. 87. Who is the authority to issue permits to Star Campaigners (Leaders) of the Political Parties who avail benefit under Section 77(1) of R.P Act, 1951?**

**Ans.** In case the mode of road transport is to be availed of by Star Campaigners (Leaders) of political, the permit will be issued centrally by the Chief Electoral Officer. If such party applies for issue of permit for the same vehicle to be used by any leader for election campaigning throughout the State, the same may be issued for such vehicle centrally by the Chief Electoral Officer, which will be prominently displayed on windscreen of such vehicle(s) to be used by concerned leader(s). If different vehicles are to be used by such party leaders in different areas, then the permit can be issued against the name of the person concerned who will display it prominently on the windscreen of the vehicle being used by such leader.

**Q. 88. Whether Opinion poll or Exit poll can be conducted, published, publicized or disseminated at any time?**

**Ans.** No

The result of any opinion poll or exit poll conducted shall not be published, publicized or disseminated in any manner by print, electronic or any other media, at any time-

(a) during the period of 48 hours ending with the hour fixed for closing of poll in an election held in a single phase; and

(b) in a multi-phased election, and in the case of elections in difference States announced simultaneously, at any time during the period starting from 48 hours before the hour fixed for closing of poll in the first phase of the election and till the poll is concluded in all the phases in all States.

**Q. 89. Whether there is any restriction for transmitting Short Messages Service (SMSs)?**

**Ans.** Yes

Transmitting objectionable messages on SMSs during election is prohibited. For objectionable SMSs which may violate the law and ECI instructions issued in this behalf, the police authorities shall advertise special mobile numbers on which the receiver of such SMS can forward the said SMS with the mobile number of sender. The police authorities shall take action under the law.

#### **POLL DAY**

**Q. 90. Are there any guidelines for setting up of election booth by candidate/political parties near polling station on the day of poll?**

**Ans.** Election booth can be set up beyond a distance of 200 meters from the polling stations, only with 1 table and 2 chairs with an umbrella or a piece of tarpaulin or cloth to protect the two occupants. Only one banner (3 x 41<sup>2</sup> feet) can be displayed showing the name of the candidate/ party / election symbol at the booth. However, two election booths can be set up, if more than two polling stations have been set up in a building

**Q. 91. Is it necessary to obtain written permission of the concerned Government authorities or local authorities for setting up of election booth?**

**Ans.** Yes

It is necessary to obtain the written permission of the Government authorities concerned or local authorities before setting up of such booths. Written permission must be available with the persons manning the booth for production before the police /election authorities concerned on demand.

**Q. 92. Is there any restriction of canvassing in or near polling station?**

**Ans.** Yes

Canvassing for votes etc. within a distance of one hundred meters of polling station is prohibited on the day of poll.  
(Refer : Section 130 of Representation of 1951)

**Q. 93. Whether the use of mobile phone is allowed in the polling station?**

**Ans.** No person is allowed to either carry or use mobile phones, cordless phones, wireless sets etc. in 100 meter perimeter of the polling stations described as the "polling station neighborhood" and within the polling booth.

Only Observer/Micro Observer, Presiding Officer and security personnel are allowed to carry mobile phone but they will keep their mobile phones in silent mode.

**Q. 94. Is there any restriction of going armed to or near polling station?**

**Ans.** Yes

No person is allowed to go armed with arms as defined in Arms Act 1959 of any kind within the neighborhood of a polling station on the day of poll.

(Refer: Section 134B of Representation of 1951)

**Q. 95. How many vehicles a candidate is entitled for on the day of poll?**

**Ans.** (i) For an **election to the House of the People**, a candidate will be entitled to:

(a) One vehicle for candidate's own use in respect of the entire constituency.

One vehicle for use of candidate's election agent for entire constituency.

(b) In addition, one vehicle for use of candidate's workers or party workers, as the case may be, in each of the assembly segments comprised in the Parliamentary Constituency.

(ii) For an **election to the State Legislative Assembly**, a candidate will be entitled to:

(a) One vehicle for candidate's own use

(b) One vehicle for use of candidate's election agent

(c) In addition, one vehicle for use of candidate's workers or party workers.

**Q. 96. If the candidate is absent from the constituency on the day of poll, can the vehicle allotted in his name be used by any other person?**

No

Vehicle allotted for candidate's use is not allowed to be used by any other person.

**Q. 97. Can any type of entitled vehicle be used on the day of poll?**

**Ans.** No

The candidate or his agent or party workers or workers will be allowed to use only four/three/two wheeler vehicles i.e. cars (of all types), taxis, auto rickshaws, rickshaws and two wheelers. In these vehicles not more than five persons including drivers are allowed to move on the day of poll.

**Q. 98. Whether Political Party/Candidate can make arrangements for transporting voter to and from Polling Station?**

**Ans.** No.

Any arrangement, direct or indirect, to carry any voter to or from polling station by any kind of vehicle used for transport is a criminal offence.

(Refer: Sec. 133 of Representation of People Act, 1951)

**Q. 99. Whether there are restrictions on plying of Govt./private vehicles on the poll day?**

**Ans.** No

Public transport like buses, minibuses are allowed to ply but it should be ensured that they are not used clandestinely for the conveyance of voters. Further, private cars, taxis carrying passengers to places other than polling booths like hospitals, airports, railway stations, bus stands, friends and relations houses, clubs, and restaurants will be allowed on the road. But they should not be allowed to come clandestinely near the polling areas for the conveyance of voters.

**Q. 100. Can a leader of Political party use private fixed-wing aircraft and helicopters for the purposes of supervising and monitoring the polling and counting process on the day of poll and counting?**

**Ans.** No

Leader of a political party is not allowed to use private fixed-wing aircraft and helicopters for the purposes of supervising and monitoring the polling and counting process on the day of poll and counting.

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GOVERNMENT OF INDIA  
**MINISTRY OF LAW**  
**(Department of Legal Affairs)**  
NOTIFICATION

*New Delhi, the 10th November, 1960*

In exercise of the powers conferred by section 28 of the Representation of the People Act, 1950 (43 of 1950), and in supersession of the Representation of the People (Preparation of Electoral Rolls) Rules, 1956, the Central Government, after consulting the Election Commission, hereby makes the following rules, namely:—

THE REGISTRATION OF ELECTORS RULES, 1960<sup>1</sup>

PART I  
*Preliminary*

**1. Short title and commencement.**—(1) These Rules may be called the Registration of Electors Rules, 1960.

(2) They shall come into force on the 1st day of January, 1961.

**2. Definitions and interpretation.**—(1) In these Rules, unless the context otherwise requires,—

(a) "Act" means the Representation of the People Act, 1950 (43 of 1950);

(b) "declared office" means an office declared by the President to be an office to which the provisions of sub-section (4) of section 20 apply;

<sup>2</sup>[(bb) "Electronic Gazette" shall have the same meaning as assigned to it in clause (s) of sub-section (1) section 2 of the Information Technology Act, 2000 (21 of 2000) ;]

<sup>3</sup>[(c) "Form" means a Form appended to these Rules and in respect of any constituency, includes a translation thereof in the language or any of the languages in which the electoral roll for that constituency is prepared;]

<sup>2</sup>[(cc) "overseas elector" means a citizen of India referred to in section 20A and who is not less than eighteen years of age on the qualifying date;]

(d) "registration officer" means the electoral registration officer of a constituency and includes an assistant electoral registration officer thereof;

(e) "roll" means the electoral roll for a constituency;

(f) "section" means a section of the Act;

<sup>4</sup>\* \* \* \* \*

(2) The General Clauses Act, 1897 (10 of 1897), shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

PART II

*Electoral rolls for Assembly Constituencies*

**3. Meaning of constituency.**—In this Part "constituency" means an Assembly constituency.

**4. Form and languages of roll.**—The roll for each constituency shall be prepared in such form and in such language or languages as the Election Commission may direct.

**5. Preparation of roll in parts.**—(1) The roll shall be divided into convenient parts which shall be numbered consecutively.

(2) The last part of the roll shall contain the names of every person having a service qualification and of his wife, if any, who are entitled to be included in that roll by virtue of a statement made under rule 7.

(3) The names of any person holding a declared office and of his wife, if any, who are entitled to be included in the roll by virtue of a statement made under rule 7 shall be included in the part of the roll, pertaining to the locality in which they would, according to that statement, have been ordinarily resident.

<sup>2</sup>[(3A) The name of every overseas elector who is entitled to be included in the roll under section 20A, shall be included in the part of the roll pertaining to the locality in which his place of residence in India as mentioned in his passport is located.]

(4) The number of names included in any part of the roll shall not ordinarily exceed two thousand.

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1. Published with the Ministry of Law Notifn. No. S.O. 2750, dated the 10th November, 1960, Gazette of India, Extraordinary, Part II, Section 3(ii), page 633.

2. Ins. by notifn. No. S. O. 244 (E), dated the 3rd February, 2011 (w.e.f. 10-2-2011).

3. Subs. by Notifn. No. S.O. 3874, dated the 15th December, 1966.

4. Cl. (g) omitted, *ibid.*

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**6. Order of names.**—(1) the names of electors in each part of the roll shall be arranged according to house number, unless the chief electoral officer, subject to any general or special instructions issued by the Election Commission, determines in respect of any part that the alphabetical order is more convenient or that the names shall be arranged partly in one way and partly in the other.

(2) The names of electors in each part of the roll shall be numbered, so far as practicable, consecutively with a separate series of numbers beginning with the number one.

**7. Statement under section 20.**—(1) Every person who holds a declared office or has a service qualification and desires to be registered in the roll for the constituency in which, but for holding such office or having such qualification, he would have been ordinarily resident, shall submit to the <sup>1</sup>[registration officer of the constituency], a statement in such one of the <sup>1</sup>[Forms 1, 2, 2A and 3] as may be appropriate.

(2) Every statement submitted under sub-rule (1) shall be verified in the manner specified in the Form.

(3) Every such statement shall cease to be valid when the person making it ceases to hold a declared office or, as the case may be, have a service qualification.

**8. Information to be supplied by occupants of dwelling-houses.**—The registration officer may, for the purpose of preparing the roll, send letters of request in Form 4 to the occupants of dwelling-houses in the constituency or any part thereof; and every person receiving any such letter shall furnish the information called for therein to the best of his ability.

<sup>2</sup>**8A. Manner of giving notice for registration of persons as overseas electors.** —On the commencement of the Representation of the People (Amendment) Act, 2010 (36 of 2010) and at such other times as the Election Commission may direct, the Chief Electoral Officer may, for the purpose of inclusion of names of overseas electors in the roll, make a public notification requesting every person entitled to be registered as an overseas elector under section 20A <sup>3</sup>[to make an application under rule 8B] and a copy of such notification shall be forwarded to all foreign missions of the Central Government and also make such further publicity as he may consider expedient and necessary.

**8B. Inclusion of names of overseas electors in the rolls.** — (1) Every overseas elector, who is not otherwise disqualified for registration and is desirous of being registered in the roll for the constituency pertaining to the locality in which his place of residence in India as mentioned in his passport is located, may make an application in Form 6A to the concerned registration officer directly or send the application to him by post.

(2) The provisions of sub-rules (2), (3) and (4) of rule 13 shall *mutatis mutandis* apply for filing of claims or objections to the inclusion of name or to any particulars of an entry or for transposition of any entry from one place to another in the roll as an overseas elector.

(3) Every application in Form 6A sent by post shall be accompanied by copies of all the documents mentioned in the said Form <sup>4</sup>[duly self attested].

(4) Every application in Form 6A presented in person to the registration officer shall be accompanied by photocopies of all the documents mentioned in the said Form along with originals thereof for verification by the registration officer.

(5) Where a personal hearing is necessary in respect of any claim for inclusion or objection to the inclusion of name in the roll as an overseas elector, the registration officer may, if considered necessary, designate an official in the Indian Mission in the concerned country for the purpose.]

**9. Access to certain registers.**—For the purpose of preparing any roll or deciding any claim or objection to a roll, any registration officer and any person employed by him shall have access to any register of births and deaths and to the admission register of any educational institution, and it shall be the duty of every person incharge of any such register to give to the said officer or person such information and such extracts from the said register as he may require.

**10. Publication of roll in draft.**—As soon as the roll for a constituency is ready, the registration officer shall publish it in draft by making a copy thereof available for inspection and displaying a notice in Form 5—

(a) at his office, if it is within the constituency, and

(b) at such place in the constituency as may be specified by him for the purpose, if his office is outside the constituency ; <sup>5</sup>[or in the official website of the Chief Electoral Officer of the concerned State:]

<sup>2</sup>[Provided that where such draft contains names of overseas electors, the copies of such rolls shall also be published in the Electronic Gazette <sup>6</sup>[or in the official website of the Chief Electoral Officer of the concerned State].]

1. Subs. by Notifn. No. S.O. 3874, dated the 15th December, 1966.

2. Ins. by Notifn. No. 244(E), dated the 3rd February, 2011 (w.e.f. 10-2-2011).

3. Ins. by corrigenda, Notifn. No. S. O. 306(E), dated the 9th February, 2011.

4. Subs. by Notifn. No. S. O. 426(E), dated the 23rd February, 2011.

5. Ins., *ibid.*

6. Ins. by Notifn. No. S. O. 426 (E), dated 23rd February, 2011.

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**11. Further publicity to the roll and notice.**—The registration officer shall also—

(a) make a copy of each separate part of the roll, together with a copy of the notice in Form 5 available for inspection at a specified place accessible to the public and in or near the area to which that part relates;

(b) give such further publicity to the notice in Form 5 as he may consider necessary; and

(c) supply free of cost two copies of each separate part of the roll to every political party <sup>1</sup>[for which a symbol has been exclusively reserved in the State] by the Election Commission.

<sup>2</sup>**12. Period for lodging claims and objections.**—Every claim for the inclusion of a name in the roll and every objection to an entry therein shall be lodged within a period of thirty days from the date of publication of the roll in draft under rule 10, or such shorter period of not less than fifteen days as may be fixed by the Election Commission in this behalf:

Provided that the Election Commission may, by notification in the Official Gazette, extend the period in respect of the constituency as a whole or in respect of any part thereof.]

**13. Form for claims and objections.**—(1) Every claim shall be—

(a) in Form 6; <sup>3</sup>[and]

(b) signed by the person desiring his name to be included in the roll; <sup>4\*\*\*</sup>

<sup>4\*</sup> \* \* \* \* \*

(2) Every objection to the inclusion of a name in the roll shall be—

(a) in Form 7; <sup>3</sup>[and]

(b) preferred only by a person whose name is already included in that roll; <sup>4\*\*\*</sup>

<sup>4\*</sup> \* \* \* \* \*

(3) Every objection to a particular or particulars in an entry in the roll shall be—

(a) in Form 8; and

(b) preferred only by the person to whom that entry relates.

<sup>5</sup>[(4) Every application for transposition of an entry from one part to another part of the roll shall be in Form 8A.]

**14. Manner of lodging claims and objections.**—Every claim or objection shall—

(a) either be presented to the registration officer or to such other officer as may be designated by him in this behalf; or

(b) be sent by <sup>6\*\*\*</sup> post to the registration officer.

**15. Procedure of designated officers.**—(1) Every officer designated under rule 14 shall—

(a) maintain in duplicate a list of claims in Form 9, a list of objections to the inclusion of names in Form 10 and a list of objections to particulars in Form 11; and

(b) keep exhibited one copy of each such list on a notice board in his office.

(2) Where a claim or objection is presented to him, he shall, after complying with the requirements of sub-rule (1), forward it with such remarks, if any, as he considers proper to the registration officer.

1. Subs. by Notifn. No. S.O. 2791, dated the 24th November, 1961 for "to which a symbol has been allotted".

2. Subs. by Notifn. No. S.O. 35(E), dated the 21st January, 1977, for rule 12.

3. Ins. by Notifn. No. S.O. 817(E), dated the 25th October, 1993.

4. The word "and" and cl. (c) omitted, *ibid.*

5. Ins. by Notifn. No. S.O. 934(E), dated the 18th August, 2003.

6. The word "registered" omitted by Notifn. No. S.O. 3661, dated the 12th October, 1964.

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**16. Procedure of registration officer.**—The registration officer also shall—

(a) maintain in duplicate the three lists in Forms 9, 10 and 11, entering thereon the particulars of every claim or objection as and when it is received by him whether directly under rule 14 or on being forwarded under rule 15; and

(b) keep exhibited one copy of each such list on a notice board in his office:

<sup>1</sup>[Provided that where any claim or objection relates to registration of a person as an overseas elector, a list of such claim or objection shall be exhibited on the notice board in his office and shall also be published in the Electronic Gazette <sup>2</sup>[or in the official website of the Chief Electoral Officer of the concerned State] in such form as the Election Commission may direct.]

**17. Rejection of certain claims and objections.**—Any claim or objection which is not lodged within the period, or in the form and manner, herein specified, shall be rejected by the registration officer.

**18. Acceptance of claims and objections without inquiry.**—If the registration officer is satisfied as to the validity of any claim or objection, he may allow it without further inquiry after the expiry of one week from the date on which it is entered in the list exhibited by him under clause (b) of rule 16:

Provided that where before any such claim or objection has been allowed, a demand for inquiry has been made in writing to the registration officer by any person, it shall not be allowed without further inquiry.

**19. Notice of hearing claims and objections.**—(1) Where a claim or objection is not disposed of under rule 17 or rule 18, the registration officer shall—

(a) specify in the list exhibited by him under clause (b) of rule 16, the date, time and place of hearing of the claim or objection; and

(b) give notice of the hearing—

(i) in the case of a claim to the claimant in Form 12;

(ii) in the case of an objection to the inclusion of a name, to the objector in Form 13 and to the person objected to in Form 14; and

(iii) in the case of an objection to a particular or particulars in an entry, to the objector in Form 15.

(2) A notice under this rule may be given either personally or by registered post or by affixing it to the person's residence or last known residence within the constituency.

**20. Inquiry into claims and objections.**—(1) The registration officer shall hold a summary inquiry into every claim or objection in respect of which notice has been given under rule 19 and shall record his decision thereon.

(2) At the hearing, the claimant or, as the case may be, the objector and the person objected to and any other person who, in the opinion of the registration officer, is likely to be of assistance to him, shall be entitled to appear and be heard.

(3) The registration officer may in his discretion—

(a) require any claimant, objector or person objected to, to appear in person before him;

(b) require that the evidence tendered by any person shall be given on oath and administer an oath for the purpose.

**21. Inclusion of names inadvertently omitted.**—<sup>3</sup>[(1)] If it appears to the registration officer that owing <sup>4\*\*\*</sup> to inadvertence or error during preparation, the names of any electors have been left out of the roll and that remedial

1. Ins. by Notifn. No. S. O. 244(E), dated 3rd February, 2011 (w.e.f. 10-2-2011).

2. Ins. by Notifn. No. S. O. 426 (E), dated 23rd February, 2011.

3. Rule 21 renumbered as sub-rule (1) of that rule by Notifn. No. S.O. 3661, dated the 12th October, 1964.

4. Certain words omitted, *ibid.*

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action should be taken under this rule, the registration officer shall—

(a) prepare a list of the names and other details of such electors;

(b) exhibit on the notice board of his office a copy of the list together with a notice as to the time and place at which the inclusion of these names in the roll will be considered, and also publish the list and the notice in such other manner as he may think fit; and

(c) after considering any verbal or written objections that may be preferred, decide whether all or any of the names should be included in the roll.

<sup>1</sup>[(2) If any statements under rule 7 are received after the publication of the roll in draft under rule 10, the registration officer shall direct the inclusion of the names of the electors covered by the statements in the appropriate parts of the roll.]

<sup>2</sup>[**21A. Deletion of names.**—If it appears to the registration officer at any time before the final publication of the roll that owing to inadvertence or error or otherwise, the names of dead persons or of persons who have ceased to be, or are not, ordinarily residents in the constituency or of persons who are otherwise not entitled to be registered in that roll, have been included in the roll and that remedial action should be taken under this rule, the registration officer, shall—

(a) prepare a list of the names and other details of such electors;

(b) exhibit on the notice board of his office a copy of the list together with a notice as to the time and place at which the question of deletion of these names from the roll will be considered, and also publish the list and the notice in such other manner as he may think fit; and

(c) after considering any verbal or written objections that may be preferred, decide whether all or any of the names should be deleted from the roll:

Provided that before taking any action under this rule in respect of any person on the ground that he has ceased to be, or is not, ordinarily resident in the constituency, or is otherwise not entitled to be registered in that roll, the registration officer shall make every endeavour to give him a reasonable opportunity to show cause why the action proposed should not be taken in relation to him.]

**22. Final publication of roll.**—(1) The registration officer shall thereafter—

(a) prepare a list of amendments to carry out his decisions under rules 18, 20, <sup>3</sup>[21 and 21A] and to correct any clerical or printing errors or other inaccuracies subsequently discovered in the roll; <sup>4</sup>\*\*\*

(b) publish the roll, together with the list of amendments, by making a complete copy thereof available for inspection and displaying a notice in Form 16 at his office <sup>5</sup>[Provided that where the roll contains the name of any overseas elector the same shall also be published in the Electronic Gazette <sup>6</sup>[or in the official website of the Chief Electoral Officer of the concerned State]] <sup>7</sup>[and]

<sup>7</sup>[(c) subject to such general or special directions as may be given by the Election Commission supply, free of cost, two copies of the roll, as finally published, with the list of amendments, if any, to every political party for which a symbol has been exclusively reserved by the Election Commission.]

(2) On such publication, the roll together with the list of amendments shall be the electoral roll of the constituency.

1. Ins. by Notifn. No. S.O. 3661, dated the 12th October, 1964.

2. Subs. by Notifn. No. S.O. 814(E), dated the 3rd September, 1987, for rule 21A.

3. Subs. by Notifn. No. S.O. 1519, dated the 25th April, 1968, for "and 21".

4. The word "and" omitted by Notifn. No. S.O. 233(E), dated the 31st March, 1984.

5. Ins. by Notifn. No. S. O. 244 (E), dated the 3rd February, 2011.

6. Ins. by Notifn No. S. O. 426 (E), dated the 23rd February, 2011.

7. Ins. by Notifn. No. S. O. 233(E), dated the 31st March, 1984.

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<sup>1</sup>[(3) Where the roll (hereafter in this sub-rule referred to as the basic roll), together with the list of amendments, becomes the electoral roll for a constituency under sub-rule (2), the registration officer may, for the convenience of all concerned, integrate, subject to any general or special directions issued by the Election Commission in this behalf, the list into the basic roll by <sup>2</sup>[incorporating inclusion of names, amendment, transposition or deletion of entries in the relevant parts of the basic roll itself] in the relevant parts of the basic roll itself, so, however, that no change shall be made in the process of such integration in the name of any elector or in any particulars relating to any elector as given in the list of amendments.]

**23. Appeals from orders deciding claims and objections.**—(1) An appeal shall lie from any decision of the registration officer under rule 20, <sup>3</sup>[rule 21 or rule 21A] to such officer of Government as the Election Commission may designate in this behalf (hereinafter referred to as the appellate officer):

Provided that an appeal shall not lie where the person desiring to appeal has not availed himself of his right to be heard by, or to make representations to, the registration officer on the matter which is the subject of appeal.

(2) Every appeal under sub-rule (1) shall be—

(a) in the form of a memorandum signed by the appellant, and

(b) presented to the appellate officer within a period of fifteen days from the date of announcement of the decision or sent to that officer by registered post so as to reach him within that period.

(3) The presentation of an appeal under this rule shall not have the effect of staying or postponing any action to be taken by the registration officer under rule 22.

(4) Every decision of the appellate officer shall be final, but in so far as it reverses or modifies a decision of the registration officer, shall take effect only from the date of the decision in appeal.

(5) The registration officer shall cause such amendments to be made in the roll as may be necessary to give effect to the decisions of the appellate officer under this rule.

**24. Special provision for preparation of rolls on redelimitation of constituencies.**—(1) If any constituency is delimited a new in accordance with law and it is necessary urgently to prepare the roll for such constituency, the Election Commission may direct that it shall be prepared—

(a) by putting together the rolls of such of the existing constituencies or parts thereof as are comprised within the new constituency; and

(b) by making appropriate alterations in the arrangement, serial numbering and headings of the rolls so compiled.

(2) The roll so prepared shall be published in the manner specified in rule 22 and shall, on such publication, be the electoral roll for the new constituency.

<sup>4</sup>**24A. Special provision for preparation of rolls of pre-delimited constituencies.** —(1) Notwithstanding anything contained in rule 24, if the electoral roll of any constituency prior to the last delimitation is required to be prepared urgently, the Election Commission may direct that it shall be prepared—

(a) by putting together the rolls of the new delimited constituencies or relevant parts thereof corresponding to the areas as were comprised within the pre-delimited constituency; and

(b) by making appropriate alterations in the arrangement, serial numbering, headings, etc., of the roll so prepared.

(2) The roll so prepared shall be published in the manner specified in rule 22, and shall, on such publication, be the roll for pre-delimited constituency concerned.]

1. Ins. by Notifn. No. S.O. 1033, dated the 12th March, 1970.

2. Subs. by Notifn. No. S.O. 814(E), dated the 3rd September, 1987, for certain words.

3. Subs. by Notifn. No. S.O. 1519, dated the 25th April, 1968 for "rule 21".

4. Ins. by Notifn. No. S. O. 1219 (E), dated the 15th May, 2009 (w.e.f. 15-5-2009).



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Provided that when an application is rejected by the registration officer, he shall record in writing a brief statement of his reasons for such rejections.]

**27. Appeals from <sup>1\*\*\*</sup> under rule 26.**—<sup>2</sup>[(I) Every appeal under section 24 shall be—

(a) in the form of a memorandum signed by the <sup>3</sup>[appellant];

(b) accompanied by a copy of the order appealed from and <sup>4</sup>[<sup>5</sup>a fee of five rupees] to be—

(i) paid by means of non-judicial stamps; or

(ii) deposited in a Government treasury or the Reserve Bank of India in favour of the chief electoral officer; or

(iii) paid in such other manner as may be directed by the Election Commission; and]

<sup>6</sup>[(c) presented to the chief electoral officer within a period of fifteen days from the date of the order appealed from or sent by registered post so as to reach him within that period:]

<sup>7</sup>[Provided that the chief electoral officer may condone the delay in the presentation of the appeal to him, if he is satisfied that the appellant had sufficient cause for not presenting it within the time prescribed.]

<sup>8</sup>[(IA) Where the fee is deposited under clause (b) (ii) of sub-rule (I), the appellant shall enclose with the memorandum of appeal a Government treasury receipt in proof of the fee having been deposited.]

<sup>9</sup>[(2) For the purposes of sub-rule (I), an appeal shall be deemed to have been presented to the chief electoral officer, when the memorandum of appeal is delivered by, or on behalf of, the appellant to the chief electoral officer himself or to any other officer appointed by him in this behalf.]

**28. Identity cards for electors in notified constituencies <sup>10\*\*\*</sup>.**—(I) The Election Commission may, with a view to preventing impersonation of electors and facilitating their identification at the time of poll, by notification in the Official Gazette of the State, direct that the provision of this rule shall apply to <sup>11</sup>[any such constituency or part thereof] as may be specified in the notification.

(2) The registration officer for such notified constituency shall, as soon as may be, after the issue of the notification under sub-rule (I), arrange for the issue to every elector of an identity card prepared in accordance with the provisions of this rule.

1. The words "rejecting applications" omitted by Notifn. No. S.O. 3874, dated the 15th December, 1966.

2. Subs. by Notifn. No. S.O. 2315, dated the 21st September, 1961, for sub-rule (I).

3. Subs. by Notifn. No. S.O. 814(E), dated the 3rd September, 1987, for "applicant".

4. Subs. by Notifn. No. S.O. 370, dated the 25th January, 1968, for certain words.

5. Subs. by Notifn. No. S.O. 814(E), dated the 3rd September, 1987, for "a fee of one rupee".

6. Subs. by Notifn. No. S.O. 3874, dated the 15th December, 1966, for cl. (c).

7. Ins. by Notifn. No. S.O. 814(E), dated the 3rd September, 1987.

8. Ins. by Notifn. No. S.O. 370, dated the 25th January, 1968.

9. Subs. by Notifn. No. S.O. 3874, dated the 15th December, 1966, for sub-rule (2).

10. Certain words omitted by Notifn. No. S.O. 1505, dated the 21st April, 1969.

11. Subs., *ibid.*, for certain words.

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(3) The identity card shall—

(a) be prepared in duplicate;

(b) contain the name, age, residence and such other particulars of the elector as may be specified by the Election Commission;

(c) have affixed to it a photograph of the elector which shall be taken at the expense of the Government; and

(d) bear the facsimile signature of the registration officer:

Provided that if the elector refuses or evades to have his photograph taken, or cannot be found at his residence by the official photographer in spite of repeated attempts, no such identity card shall be prepared for the elector and a note of such refusal or evasion or that the elector could not be found at his residence in spite of repeated attempts shall be made in the copy of the roll maintained by the registration officer.

(4) One copy of the identity card prepared under sub-rule (3) shall be retained by the registration officer and the other copy shall be delivered to the elector to be kept by him for production at the time of poll.

<sup>1</sup>[PART III

*Electoral rolls for Parliamentary constituencies in the Union territory of Delhi*

**29. Rolls for the Parliamentary constituencies in the Union territory of Delhi.**—The provisions of Part II shall apply in relation to parliamentary constituencies in the Union territory of Delhi as they apply in relation to assembly constituencies.]

PART IV

*Electoral rolls for Council constituencies*

**30. Rolls for local authorities' constituencies.**—(1) The roll for every local authorities' constituency shall be prepared and maintained in such form, manner and language or languages as the Election Commission may direct.

(2) The provisions of <sup>2</sup>[rule 26 except sub-rules (3) and (4) thereof and rule 27] shall apply in relation to local authorities' constituencies as they apply in relation to assembly constituencies:

Provided that an application for the inclusion of a name shall be made in Form 17:

<sup>3</sup>[Provided further that where an application referred to in sub-rule (1) of rule 26 is received by the electoral registration officer, he shall refer such application to the chief executive officer, of the local authority concerned and on receipt of information in relation thereto from the chief executive officer, the electoral registration officer shall act in accordance with clause (d) of sub-section (2) of section 27.]

**31. Rolls for graduates' and teachers' constituencies.**—(1) The roll for every graduates' or teachers' constituency shall be prepared in such form, manner and language, or languages as the Election Commission may direct.

(2) The roll shall be divided into convenient parts which shall be numbered consecutively.

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1. Subs. by Notifn. No. S.O. 2577, dated the 6th September, 1963, for Part III.

2. Subs. by Notifn. No. S.O. 3661, dated the 12th October, 1964, for "rules 26 and 27".

3. Subs. by Notifn. No. S.O. 814 (E), dated the 3rd September, 1987, for the second proviso.



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(h) papers relating to appeals under rule 23; and

(i) applications under sections 22 and 23.

(2) One complete copy of the roll for each constituency duly authenticated by the registration officer shall also be kept in such place as the chief electoral officer may specify <sup>1</sup>[as permanent board].

**33. Inspection of electoral rolls and connected papers.**—Every person shall have the right to inspect the election papers referred to in rule 32 and to get attested copies thereof on payment of such fee as may be fixed by the chief electoral officer.

**34. Disposal of electoral rolls and connected papers.**—(1) The papers referred to in rule 32 shall, on the expiry of the period specified therein, and subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, be disposed of in such manner as the chief electoral officer may direct.

(2) Copies of the electoral roll for any constituency in excess of the number required for deposit under rule 32 and for any other public purpose shall be disposed of at such time and in such manner as the Election Commission may direct and until such disposal shall be made available for sale to the public.

<sup>2</sup>[PART VI

*Miscellaneous*

**35. Use of old Forms.**—If, at any time, during a period of six months from the date on which any amendment to a form for making any claim, objection or other application to the registration officer under these rules takes effect, a person makes, such claim, objection or, as the case may be, other application in the Form as it stood before such amendment, the registration officer shall deal with such claim, objection or other application and he may, for this purpose, require such person, by notice in writing, to furnish such additional information (being the information which would have been furnished if the amended Forms had been used) within such reasonable time as may be specified in the notice.]

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1. Subs. by Notifn. No. S.O. 814(E), dated the 3rd September, 1987, for certain words.

2. Ins. by Notifn. No. S.O. 1128(E), dated the 29th December, 1987.

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FORM 1

(See rule 7)

Statement as to place of Ordinary Residence by a Person holding a Declared Office

Full name .....

<sup>1</sup>[Father's/Mother's/Husband's name] .....

Age.....years.

Office held .....

I hereby declare that I am a citizen of India and that but for my holding the above-mentioned office, I would have been ordinarily resident at (full postal address).....

.....

.....

I further declare that my wife (name) .....aged.....years, ordinarily resides with me <sup>2</sup>[and is a citizen of India].

This cancels any previous statement as to place of ordinary residence made by me.

Place.....

Date.....

Signature.....

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1. Subs. by Notifn. No. S. O. 303(E), dated the 8th May, 1993, for certain words.  
2. Ins. by Notifn. No. S. O. 2315, dated the 21st September, 1961.

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<sup>1</sup>[FORM 2  
(See rule 7)

*Statement as to place of Ordinary Residence by a member of the Armed Forces*

I hereby declare that I am a citizen of India and that but for my service in the Armed Forces I would have been ordinarily resident at—

House No.....  
 Street/Mohalla.....  
 Locality.....  
 Town/Village.....  
 Post Office.....  
 Police Station.....  
 Tehsil/Taluka.....  
 District.....  
 State.....  
 My full name.....  
 Service No.....Rank.....  
 Service/Corps/Regiment.....  
 Name and address of record office.....  
 Age last birthday.....years.

\*I further declare that my wife.....age.....years,  
 ordinarily resides with me and is a citizen of India.

This cancels any previous statement as to ordinary place of residence made by me.

Date.....20 . . . . .  
(Signature)

Record Office Folio No..... Place..... Date.....	Verified and found correct (Signature)..... (Designation)..... Officer-in-charge, Records.
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*(For use in the Election Office)*  
 Statement received on the .. ..199 .

Registered in the electoral roll for the.....Assembly Constituency (No...). Service voters' part, at S. No.....  
 Date.....20 . . . . .<sup>2</sup>[Electoral Registration Officer].]

\*Delete if not applicable.

1. Subs. by Notifn. No. S. O. 3667, dated the 12th October, 1964, for Form 2.  
 2. Subs. by Notifn. No. S.O. 3874, dated the 15th December, 1966, for "Chief Electoral Officer".

*Registration of Electors Rules, 1960*  
 (Statutory Rules and Order)  
<sup>1</sup>[FORM 2A  
 (See rule 7)

*Statement as to place of Ordinary Residence by a member of an armed police force of a State, who is serving outside that State*

I hereby declare that I am a citizen of India and that but for my service outside the State in the Armed Force mentioned below, I would have been ordinarily resident at:—

House No.....

Street/Mohalla.....

Locality.....

Town/Village.....

Post Office.....

Police Station.....

Tehsil/Taluka.....

District.....

State.....

My full name..... Rank .....

Buckle No.....

Name of armed police force.....

Name and address of the officer of the Commandant.....

Age last birthday.....years.

\*I further declare that my wife.....age.....years, ordinary reside with me and is a citizen of India.

This cancels any previous statement as to ordinary place of residence made by me.

Date.....20 . . . . . (Signature)

*Delete if not applicable. Commandant's Office Folio No..... Place..... Date.....	Verified and found correct  (Signature)..... (Designation)..... Commandant.
---	---

*(For use in the Election Office)*  
 Statement received on the .. ..20 . .

Registered in the electoral roll for the.....Assembly Constituency (No...). Service voters' part, at S. No.....  
 Date.....20 . . . . .<sup>2</sup>[Electoral Registration Officer].]

1. Ins. by Notifn. No. S. O. 4371, dated the 21st October, 1964.  
 2. Subs. by Notifn. No. S.O. 3874, dated the 15th December, 1966, for "Chief Electoral Officer".

Registration of Electors Rules, 1960  
(Statutory Rules and Order)

FORM 3

(See rule 7)

Statement as to place of Ordinary Residence by a person employed under the Government of India in a post outside India

Full name.....

<sup>1</sup>[Father's/Mother's/Husband's name].....

Age.....years.

Description of post

held outside India.....

.....

I hereby declare that I am a citizen of India and that but for my being employed under the Government of India in the above-mentioned post, I would have been ordinarily resident at (full postal address)

.....

I further declare that my wife (name) .....aged.....years, ordinarily resides with me <sup>2</sup>[and is a citizen of India].

This cancels any previous statement as to place of ordinary residence made by me.

Place.....

Signature.....

Date.....

Verified

Signature.....

Designation of the  
Head of Office.....

Place.....

Date.....

(For use in the Election Office)

Statement received on the.....199 .

Registered in the electoral roll for the.....Assembly Constituency  
(No.....). Service voters' part, at S.No.....

Date.....

<sup>3</sup>[Electoral Registration Officer].

1. Subs. by Notifn. No. S.O. 303(E), dated the 8th May, 1993, for certain words.

2. Ins. by Notifn. No. S.O. 2315, dated the 21st September, 1961.

3. Subs. by Notifn. No. S.O. 3874, dated the 15th December, 1966, for "Chief Electoral Officer".

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

FORM 4

(See rule 8)  
*Letter of request*

Place.....  
Date.....

To  
The occupant of.....

Sir/Madam,

The preparation of the electoral roll for the Assembly Constituency in which you are residing has been taken in hand. It will greatly facilitate my work if you will kindly complete the statement below after reading the attached instructions and hand it over to my assistant who will call for it.

Electoral Registration Officer of the.....  
.....  
Assembly Constituency.

STATEMENT

*Names and particulars of adult citizens ordinarily residing in the above premises*

Name of citizen	Particulars as to	<sup>1</sup> [Father or Mother or Husband ]	<sup>2</sup> [Age on 1 <sup>st</sup> January/April, 19...]
1.			
2.			
3.			
4.			
5.			
6.			
7.			
etc.			

Signature.....  
Date.....

INSTRUCTIONS

1. Enter the names of all persons who have completed <sup>2</sup>[18 years of age on or before the 1st of January/April] of this year and who are ordinarily residing in the premises.
  2. Only the names of these who are citizens of India should be entered.
  3. Enter against Serial No. 1 in the first column, the name of the head or other senior member of the family, provided he or she has the qualifications mentioned in paragraphs 1 and 2 above.
  4. "Ordinarily residing" does not mean that the person should be actually in the house when you are filling in the form. The persons who normally live in the house should be included even though they may be temporarily absent, e.g., on a journey or on business or in hospital. On the other hand, a guest or visitor, who normally lives elsewhere but happens to be in the house at the time should not be included.
  5. All ordinary residents of the house should be included, whether they are members of the family or not. But do not enter the name of any person who is a member of the Armed Forces of India or is employed under the Government of India in a post outside India or the name of such person's wife if she ordinarily resides with him.
  6. In the case of every male citizen, enter in the second column the name of his father preceded by the words "son of".
  7. In the case of every female citizen, enter in the second column—
    - (i) the name of the husband preceded by the words "wife of", if she be married;
    - (ii) the name of the late husband preceded by the words "widow of", if she be a widow; and
    - (iii) the name of the <sup>1</sup>[Father or Mother] preceded by the words "daughter of", if she be unmarried.
  8. In the third column, enter the age of the citizen as accurately as possible, giving only the number of complete years and ignoring the months.
- <sup>3</sup>[Note: For preparation/revision of rolls in 1989, omit "January" and retain "April". For preparation/revision of rolls in any other year, omit "April" and retain "January"].

---

1. Subs. by Notifn. No. S.O. 303(E), dated the 8th May, 1993, for certain words.  
 2. Subs. by Notifn. No. S. O. 409(E), dated the 6th June, 1989, for certain words.  
 3. Ins., *ibid.*

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 5

(See rule 10)

*Notice of publication of electoral roll in draft*

To

The Electors of the.....constituency.

Notice is hereby given that the electoral roll has been prepared in accordance with the Registration of Electors Rules, 1960, and a copy thereof is available for inspection at my office, and at.....during office hours.

The qualifying date for the preparation of the electoral roll is.....

If, with reference to the above said qualifying date, there be any claim for the inclusion of a name in the roll or any objection to the inclusion of name or any objection to particulars in any entry, it should be lodged on or before the.....19....., in Form 6, 7 or 8 as may be appropriate.

Every such claim or objection should either be presented in my office or to..... or sent by post to the address given below so as to reach me not later than the aforesaid date.

.....  
Electoral Registration Officer,  
(Address).....]

Date.....

---

1. Subs. by Notifn. No. S.O. 814(E), dated the 3rd September, 1987, for Form No. 5.

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

<sup>1</sup>[FORM 6  
[See rules 13(1) and 26]

Application for inclusion of name in electoral roll			
To The Electoral Registration Officer, -----Assembly/Parliamentary <sup>£</sup> Constituency.			
Sir, I request that my name be included in the electoral roll for the above Constituency. Particulars in support of my claim for inclusion in the electoral roll are given below:			
I. Applicant's details		Name	Surname (if any)
Age as on 1 <sup>st</sup> January.....#	Years :	Months :	Sex (male/female) :
Date of birth, if known :	Day :	Month :	Year :
Place of birth :	Village/Town :		
	District :	State :	
*Father's Mother's Name Husband's	Name		Surname(if any)
II. Particulars of place of ordinary residence (Full address):			
House / Door number :			
Street/ Area/Locality/Mohalla/ Road :			
Town / Village :			
Post Office :		Pin Code :	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Tehsil/Taluka/Mandal/Thana :			
District :			

<sup>£</sup> In case of Union territories having no Legislative Assembly and the State of Jammu and Kashmir.

<sup>#</sup> Please give the year, *i.e.*, 2003, 2004, etc.

\* Strike out the inappropriate alternative.

.....(Perforation).....

***Receipt for application***

Received the application in Form 6 of <sup>\*\*</sup>Shri/Shrimati/Kumari

.....

<sup>\*\*</sup>Address.....

Date.....

Signature of the officer receiving the application on  
behalf of the Electoral Registration Officer  
(Address).....

.....

<sup>\*\*</sup>To be filled in by the applicant.

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

III. Details of members(s) of applicant's family already included in the current electoral roll of the Constituency:										
Name	Relationship with applicant	Part number of the roll of the constituency	Serial number in that Part	Elector's photo identity card (if issued) number						
1.										
2.										
IV. Declaration: I hereby declare that to the best of my knowledge and belief— (i) I am a citizen of India; (ii) I am ordinarily resident at the address given in para II above since.....(date, month, year); (iii) I have not applied for the inclusion of my name in the electoral roll for any other constituency; (iv) my name has not already been included in the electoral roll for this or any other assembly constituency; <p style="text-align: center;">or</p> * my name may have been included in the electoral roll for .....constituency in .....State in which I was ordinarily resident earlier at the address mentioned below and, if so, I request that the same may be deleted from that electoral roll.  Full address (Earlier place of ordinary residence): <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;"></td> <td>Electors photo identity card (if issued) number;....., date of issue.....</td> </tr> <tr> <td colspan="2" style="height: 20px;"></td> </tr> <tr> <td colspan="2" style="height: 20px;"></td> </tr> </table> Place: Date: <span style="float: right;"><i>Signature or thumb impression of the applicant</i></span>						Electors photo identity card (if issued) number;....., date of issue.....				
	Electors photo identity card (if issued) number;....., date of issue.....									

**Note. — Any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true, is punishable under section 31 of the Representation of the People Act, 1950 (43 of 1950).**

\*Strike out the inappropriate alternative.

<p><b>Details of action taken</b> (To be filled by Electoral Registration Officer of the constituency)</p>
--

The application of Shri/Smt./ Km.....for inclusion of name in the electoral roll in Form 6 has been accepted\*/rejected\* .

Detailed reasons for \* acceptance [under or in pursuance of rule 18\*/20\*/26(4) \*]£ or rejection [under or in pursuance of rule 17\*/20\*/26(4) £ ] :

Place:	Signature of Electoral	(Seal of the Electoral
Date:	Registration Officer	Registration Officer)

£ During continuous updating after final publication of electoral roll.

\* Strike out the inappropriate alternative.

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)  
<sup>1</sup>[FORM 6A  
[See rule 8B]

**Application for inclusion of name in electoral roll by an overseas elector**

To

The Electoral Registration Officer,  
.....Assembly/Parliamentary  
Constituency.  
District .....

State in India.....

Space for pasting one recent passport size photograph (3.5 x 3.5CM) showing frontal view of full face within this box.

Sir,

I request that my name be included in the electoral roll for the Constituency in which my place of residence, as per the particulars furnished below in item 1(h), is located.

**PART –A**

Particulars in support of my claim for inclusion in the electoral roll are given below:

- (a) Name .....
- (b) Middle Name .....
- (c) Surname .....
- (d) Date of Birth : ..... Day..... Month..... Year
- (e) Sex (Male/Female).....
- (f) Place of Birth –
  - (i) Village/Town .....
  - (ii) District .....
  - (iii) State .....
- (g) Father's/Mother's/Husband's detail
  - (i) Name .....
  - (ii) Middle Name .....
  - (iii) Surname .....
- (h) Place of Ordinary Residence in India (Full Address as given in the Passport)
  - (i) House/Door number .....
  - (ii) Street/Area/Locality/Mohalla/Road.....
  - (iii) Town/Village.....
  - (iv) Post Office .....
  - (v) Pin Code .....
  - (vi) Tahsil/Taluka/Mandal/Thana .....
  - (vii) District .....
- (i) Passport Details—
  - (i) Passport Number .....
  - (ii) Place of Issue of current Indian Passport .....
  - (iii) Date of Issue of current Indian Passport .....
  - (iv) Date of expiry of current Indian Passport .....

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

**{Copies of the relevant pages of the passport containing the particulars mentioned at items (a) to (i) above to be enclosed <sup>1</sup>[duly self attested] if sent by post and produced with the original passport if presented in person before the registration officer}**

- (j) Details of Visa of the Country of current residence –
- (i) Visa Number .....
  - (ii) Type of Visa (Single Entry/Multiple Entry/  
Tourist/Work Visa, etc.).....
  - (iii) Date of issue of  
Visa .....
  - (iv) Place of issue of  
Visa .....
  - (v) Date of expiry of  
Visa .....
  - (vi) Name of the Issuing Authority .....

**{Copies of the relevant pages of the passport containing the current valid visa endorsement mentioned above to be enclosed <sup>1</sup>[duly self attested] if sent by post and produced with the original passport if presented in person before the registration officer}**

2. Description of Absence from Place of Ordinary Residence in India –
  - (a) Reason of being absent from the place of ordinary residence in India – (i) employment/  
(ii) education/ (iii) other (Give Description)  
.....
  - (b) Date from which absenting from ordinary residence in India .....(DD/MM/YYYY)
3. Full residential address in the country outside India where currently Residing .....
4. Full official address in the country outside India currently residing (address of the place of employment or the education institution where studying) .....
5. Declaration – I hereby declare that to the best of knowledge and belief –
  - (a) All information given in this application is true.
  - (b) I am a citizen of India by birth/domicile/ naturalisation.
  - (c) I have not acquired citizenship of any other country.
  - (d) But for being absent from the place of my ordinary residence in India owing to the reason given in 2(a) above, I would have been ordinarily resident at the address given in my Indian Passport, which has been reproduced at <sup>1</sup>[1(h)] above.
  - (e) I undertake to immediately inform the Electoral Registration Officer through the Indian Mission in the Country of my current residence if I renounce my Indian Citizenship or if I acquire the citizenship of any other country.
  - (f) I undertake to immediately inform the Electoral Registration Officer through the Indian Mission in the country of my current residence of any change in my residential address in the country of my residence for the records of the Electoral Registration Officer. I understand that any notice sent to me at the address, which is my residential address in the country of my current residence according to the records of the Electoral Registration Officer, shall be considered as due service of notice to me under the Representation of the People Act, 1950 and the rules made thereunder, and that it is my responsibility to keep the Electoral Registration Officer informed of my latest residential address in the country of my current residence.

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

- (g) If I return to India and become ordinarily resident in India, I shall immediately inform the Electoral Registration Officer of the concerned Assembly/Parliamentary Constituency.
- (h) I have not applied for inclusion of my name in the electoral roll of any other constituency.
- (i) My name has not already been included in this or any other constituency.

Or

My name may have been included in the electoral roll of ..... Constituency in ..... State in which I was ordinarily resident earlier at the address mentioned below and, if so, I request that the same may be deleted from that electoral roll, or transposed, as may be appropriate.

Full address (Earlier place of ordinary residence).....

Elector photo Identity Card (if issued number) .....  
date of issue .....

- (j) I have not been issued and EPIC in India/have been issued and EPIC which is enclosed with this application for cancellation.

Signature .....  
Place .....  
Date.....

**PART – B**

**(For use in the office of Electoral Registration Officer)**

Application received on ..... (DD/MM/YYYY)

The application in Form 6A of Shri/Shrimati/Kumari..... has been:–

- (a) Accepted and the name has been registered in the electoral roll of .....  
..... (constituency) at S. No..... Part No. ....
- (b) Rejected for the reason .....

Date : .....

[Electoral Registration Officer].

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)  
**PART – C**  
**Acknowledgment for Application**  
(When presented in person to the registration officer)

Receive the application in Form 6A of  
Shri/Shrimati/Kumari.....  
Address .....

Date

Signature of the Verifying Officer .....  
Address .....

### **GUIDELINES FOR FILLING UP THE APPLICATION FORM – 6A**

#### **General Instructions**

#### **Who can file Form -6A**

1. Every citizen of India staying in a foreign country, who has not acquired citizenship of a foreign country, and has completed 18 years of age as on 1st January of the year, can make an application in Form 6A for being registered in the roll for the constituency pertaining to the locality in which his place of residence in India as mentioned in the passport is located. The application in Form 6A can be presented to the registration officer concerned.

2. The applicant should have completed eighteen years of age as on 1st January of the year. For example, if the application is for inclusion of name in the electoral roll with reference to 01-01-2011 as the qualifying date, the applicant should have completed 18 years of age as on 01-01-2011.

#### **Where to submit the application in Form-6A**

3. The application should be submitted directly to the Electoral Registration Officer (ERO) of the constituency within which the place of ordinary residence of the applicant as given in the valid passport falls. The Application in Form 6A can be presented in person to the ERO or sent by post addressed to the ERO concerned.

[The particulars and postal address of the EROs of all the constituencies of India can be seen on the website of Election Commission of India (<http://eci.nic.in>)]

#### **Documents to be attached**

4. Paste one recent passport size coloured photograph with a light background (preferably white) showing the full face of the applicant.

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

5. Fill in all the columns in Form-6A. Write your name and other particulars as given in the valid Indian Passport.
6. If application is sent by post, it should be accompanied by photocopy of the relevant pages of the passport containing the photograph and all other particulars of the applicant and the page containing the valid visa endorsement. These photocopies should be <sup>1</sup>[duly self attested]. Application without the attested photo-copies of these documents will be liable to be summarily rejected.
7. If the application is submitted in person before the ERO, the application should be accompanied by a photocopy of the relevant pages of the passport as mentioned above. The original passport should also be produced along with the application for verification by the registration officer. The passport will be returned immediately after verification.

**Voting**

8. It may be noted that after your enrolment, you will be able to cast vote in election in the constituency, if you are physically present in the polling station along with your original passport on the day of poll.



*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

***Receipt for application***

Received the application in Form 7 of \*\*Shri/Shrimati/Kumari .....  
 \*\*Address.....  
 Date.....

Signature of the officer receiving the application on  
 behalf of the Electoral Registration Officer  
 (Address).....  
 .....

\*\*To be filled in by the applicant.

IV. Reason(s) for objection/*deletion:
V. Declaration:  I hereby declare that the facts and particulars mentioned above are true to the best of my knowledge and belief.  Place: Date: <span style="float: right;">Signature or thumb impression of the applicant</span>

***Note. — Any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true, is punishable under section 31 of the Representation of the People Act, 1950 (43 of 1950).***

\*Strike out the inappropriate alternative.

<b><i>Details of action taken</i></b> (To be filled by Electoral Registration Officer of the constituency)
---

The application of Shri/Smt./Km.....\*objecting to inclusion/\* seeking deletion of name of Shri/Smt/Km.....in the electoral roll in Form 7 has been accepted\*/rejected\*.

Detailed reasons for \*acceptance [under or in pursuance of rule 18\*/20\*/26(4) \*] or rejection [under or in pursuance of rule 17\*/20\*/26(4)£]:

Place:	Signature of Electoral	(Seal of the Electoral
Date:	Registration Officer	Registration Officer)

\* Strike out the inappropriate alternative.

£ During continuous updating after final publication of electoral roll.

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

FORM 8  
[See rules 13(3) and 26]

<b>Application for correction to particulars entered in electoral roll</b>			
To The Electoral Registration Officer, -----Assembly/Parliamentary <sup>‡</sup> constituency.  Sir, I request that entry relating to myself appearing in the electoral roll for the above constituency is not correct and it should be corrected. Correct particulars in support of my request are given below: —			
I. Applicant's details	Name	Surname (if any)	
Part number of electoral roll:	Serial number in that part:		
Age as on 1 <sup>st</sup> January.....#	Years:	Months:	Sex (male/female):
Date of birth, if known:	Day:	Month:	Year:
*Father's Mother's     Name Husband's	Name	Surname (if any)	
II. Particulars of place of ordinary residence (Full address):			
House / Door number:			
Street/ Area/Locality/Mohalla/ Road:			
Town / Village:			
Post Office:		Pin Code:	
Tehsil/Taluka/Mandal/Thana:			
District:			
III. Details of Electors' photo identity card (if issued, in this or some other constituency)			
Electors' photo identity card number:			
Name of the constituency:			
IV. Details of entries to be corrected: *My name/*Age/*Father's/Mother's/Husband's name/*Sex/Address/*Electors' photo identity card number may be corrected in terms of information provided in this Form above.			
Place:			
Date:		Signature or thumb impression of the elector	

***Note. — Any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true, is punishable under section 31 of the Representation of the People Act, 1950 (43 of 1950).***

<sup>‡</sup> in case of Union territories having no Legislative Assembly and the State of Jammu and Kashmir.

# Please give the year i.e. 2002, 2003, etc.

\* Strike out the inappropriate alternative.

.....(Perforation).....



*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

FORM 8A  
[See rules 13(4) and 26]

<b>Application for transposition of entry in electoral roll</b>			
To The Electoral Registration Officer, -----Assembly/Parliamentary <sup>£</sup> Constituency.  Sir, I request that the entry in the electoral roll for the above mentioned constituency relating to *myself/* person named below should be transposed to the relevant part of the roll in this constituency. Particulars of the entry to be transposed are given below:			
I.	Details of person whose entry is to be transposed:	Name	Surname (if any)
		Part number of electoral roll in which his/her name is included:	His/her serial number in that part:
			Elector's photo identity card (if issued) number:
	<u>*Father's</u> <u>Mother's</u> <u>Husband's</u> Name	Name	Surname (if any)
II.	Particulars of present place of ordinary residence (Full address):		
	House / Door number:		
	Street/ Area/Locality/Mohalla/ Road:		
	Town / Village:		
	Post Office:	Pin Code:	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	Tehsil/Taluka/Mandal/Thana:		
	District:		
III.	Period of continuous residence at the above address on the date of application	Years:	Months:
IV.	Part number to which the entry has to be transposed (if known):		
@V.	Details of applicant	Name	Surname (if any)
		Part number of electoral roll in which his/her name is included:	His/her serial number in that part:
			Elector's photo identity card (if issued) number:

£ In case of Union territories having no Legislative Assembly and the State of Jammu and Kashmir.

\* Strike out the inappropriate alternative.

@ Part V not to be filled where applicant seeks transposition of entry relating to himself.

.....(Perforation).....

Registration of Electors Rules, 1960  
(Statutory Rules and Order)

**Receipt for application**

Received the application in Form 8A of \*\*Shri/Shrimati/Kumari .....  
\*\*Address.....  
Date.....

Signature of the officer receiving the application on  
behalf of the Electoral Registration Officer  
(Address).....  
.....

VI. Declaration:  
  
I hereby declare that the facts and particulars mentioned above are true to the best of my knowledge and belief.  
  
Place: \_\_\_\_\_  
Date: \_\_\_\_\_ Signature or thumb impression of the applicant

*Note. —Any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true, is punishable under section 31 of the Representation of the People Act, 1950 (43 of 1950).*

**Details of action taken**  
(To be filled by Electoral Registration Officer of the constituency)

The application of Shri/Smt./ Km.....for transposition of entry relating to himself/herself/Shri/Smt./Km..... in the electoral roll in Form 8A has been accepted\*/rejected\*.

Detailed reasons for acceptance or rejection [under rule 26(4)]\*:

Place: \_\_\_\_\_ Signature of Electoral \_\_\_\_\_ (Seal of the Electoral  
Date: \_\_\_\_\_ Registration Officer \_\_\_\_\_ Registration Officer)]

\* Strike out the inappropriate alternative.

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)  
FORM 8B  
[See rule 26]

***Application for deletion of entry in electoral roll***

To

The Electoral Registration Officer,  
-----Assembly/Parliamentary<sup>£</sup> Constituency.

Sir,

I submit that the entry relating to the person named below in the electoral roll for the above Constituency is required to be deleted for the reasons stated hereunder :

<b>I.</b>	Details of person whose entry is to be deleted	1. Title <sup>§</sup>	2. First and middle name			3. Last name
		4. Part number of electoral roll in which his/her name is included :	5. His/her serial number in that part		6. Electors' Photo Identity Card number	
<b>II. (a)</b>	Details of relation of person whose entry is to be deleted (Father/Mother/Husband)	7. Title <sup>§</sup>	8. First and middle name			9. Last name
		(b) Relationship with the person whose entry is to be deleted. Father/Mother/Husband :				
<b>III. Reasons for objection</b>						
	a)*	Death on		10. Day :	11. Month :	12. Year :
	b)*	No longer ordinarily resident since		13. Day :	14. Month :	15. Year :
	c)*	*Not entitled to be registered for the reason.				
<b>IV.</b>	a) Objector's details :	16. Title <sup>§</sup>	17. First and middle name		18. Last name	
		19. Sex (male/female) :		20. Part number of electoral roll in which objector's name is included :		21. His/her serial number in that part:
<b>b)</b>	Details of relation of objector (Father/Mother/Husband)	22. Title <sup>§</sup>	23. First and middle name		24. Last name	
		(c) Relationship with objector. Father/Mother/Husband :				
<b>V. Particulars of place of ordinary residence of objector (Full address) :</b>						
25. House / Door number:						
26. Street/ Mohalla/ Road / Gali:						
27. Area / Locality:						
28. Town / Village:						
29. Post Office:				30. Pin Code:		
31. Police Station:						
32. Tehsil / Taluka <sup>@</sup> :						
33. Block / Mandal (for Village) <sup>@</sup> :						
34. District:						

<sup>£</sup> in case of Union territories having no Legislative Assembly and the State of Jammu and Kashmir.

<sup>§</sup> Sh./Smt./Km./Dr, etc.

\* Strike out the inappropriate alternative.

<sup>@</sup> May not be applicable in Metropolitan Areas.

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

Details of action taken (To be filled by electoral registration officer of the constituency)				
Revision identity	Constituency number and name			
The application of Shri./Smt. /Km.....for transposition of entry relating to himself/herself /Shri/Smt. /Km.....in the electoral roll in Form 8A has been accepted* / rejected*				
*Accepted:				
Under rule 26(4) entry of elector is transposed in the electoral roll of the Constituency	<i>Before transposition</i>		<i>After transposition</i>	
	Serial number	Part number	Serial number allotted	In Part number
*Rejected :				
Rejected, under rule 26(4)*				
Detailed reasons for acceptance or rejection [under rule 26(4)]* :				

Place :  
Date :

(Seal of the Electoral  
Registration Officer)

Signature of Electoral Registration Officer

---

\* Strike out the inappropriate alternative.

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

<b>VI. Details of objector's Photo identity Card, if issued, in this or in any other Constituency</b>	
35. Elector's Photo Identity Card number :	36. Date of issue :
37. Constituency (Assembly / Parliamentary Constituency) Number :	Name :
<b>VII. Declaration</b>	
I hereby declare that the facts and particulars mentioned above are true to the best of my knowledge and belief.	
Place :	
Date :	
<b><i>I am submitting the application to the Electoral Registration officer through</i></b>	<b><i>Signature or thumb impression of objector</i></b>

(i) Sh. /Smt./Km.(full name and address)

Or (ii) in person\* , / or (iii) by Post\*

.....Signature or thumb impression  
of objector

	<p><b>Note:– Any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true, is punishable under section 31 of the Representation of the People Act, 1950.</b></p>
--	---

\*Signature or thumb impression of the person submitting the application.

\* Strike out the inappropriate alternative.

£ In case of Union territories having no Legislative Assembly and the State of Jammu and Kashmir.

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)  
***For use of registration officer or other officer designated by him***

Details of acknowledgement (To be filled by Officer receiving the application)	
Details of acknowledgement receipt issued to the applicant.	
Receipt number:	Signature of Officer receiving the application
Date of receipt:	
Remarks, if any, of the Officer receiving the application :	
Application received by:	
Name of Officer :	
Designation * :	

Place :

Date

Signature of Officer  
receiving the application.

\* Electoral Registration Officer/Assistant Electoral Registration Officer

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

FORM 9

[See rules 15 and 16]

*List of applications for inclusion of names received in Form 6*

Designated location identity (where applications have been received)	Constituency (Assembly/Parliamentary <sup>£</sup> Constituency):				Revision identity	
1. List number <sup>@</sup>	2. Period of receipt of applications (covered in this list)		From date		To date	
			____/____/____		____/____/____	
3. Place of hearing <sup>*</sup>						
Serial number <sup>§</sup> of application	Date of receipt	Name of claimant	Name of Father / Mother / Husband and (Relationship) <sup>#</sup>	<i>Place of residence</i>	Date of hearing <sup>*</sup>	Time of hearing <sup>*</sup>
1	2	3	4	5	6(a)	6(b)
<sup>£</sup> In case of Union territories having no Legislative Assembly and the State of Jammu and Kashmir <sup>@</sup> For this revision for this designated location <sup>*</sup> Place, time and date of hearing as fixed by electoral registration officer <sup>§</sup> Running serial number is to be maintained for each revision for each designated location <sup>#</sup> Give relationship as F= Father, M=Mother and H=Husband within brackets i.e. (F), (M), (H)				Date of exhibition at designated location under rule 15(b)	Date of exhibition at Electoral Registration Officer's Office under rule 16(b)	

Continued in page.....



*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

FORM 10

[See rules 15 and 16]

*List of applications for objection to inclusion of names received in Form 7*

Designated location identity (where applications have been received)	Constituency (Assembly/Parliamentary <sup>£</sup> Constituency):				Revision identity:			
1. List number <sup>@</sup>	2. Period of receipt of applications (covered in this list)			From date		To date		
				___/___/___		___/___/___		
3. Place of hearing* :								
Serial number <sup>§</sup> of application	Date of receipt	Name (in full) of objector	Particulars of name objected to			<i>Reasons in brief for objection</i>	Date of hearing*	Time of hearing*
			Part number	Serial number	Name in full			
1	2	3	4	5	6	7	8(a)	8(b)
<sup>£</sup> In case of Union territories having no Legislative Assembly and the State of Jammu and Kashmir. <sup>@</sup> For this revision for this designated location. * Place, time and date of hearing as fixed by electoral registration officer. <sup>§</sup> Running serial number is to be maintained for each revision for each designated location.						Date of exhibition at designated location under rule 15(b)	Date of exhibition at Electoral Registration Officer's Office under rule 16(b)	

Continued in page.....



*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

FORM 11

[See rules 15 and 16]

*List of applications for objection to particulars in entries in electoral roll received in Form 8*

Designated location identity (where applications have been received)	Constituency (Assembly/Parliamentary <sup>£</sup> Constituency):				Revision identity:		
1. List number <sup>@</sup>	2. Period of receipt of applications (covered in this list)		From date		To date		
			____/____/____		____/____/____		
<b>3. Place of hearing*</b>							
Serial number <sup>§</sup> of application	Date of receipt	Name (in full) of elector objecting	Particulars of entry objected to		<i>Nature of objection</i>	Date of hearing <sup>*</sup>	Time of hearing <sup>*</sup>
			Part number	Serial number			
1	2	3	4	5	6	7(a)	7(b)
<sup>£</sup> In case of Union territories having no Legislative Assembly and the State of Jammu and Kashmir. <sup>@</sup> For this revision for this designated location. <sup>*</sup> Place, time and date of hearing as fixed by electoral registration officer. <sup>§</sup> Running serial number is to be maintained for each revision for each designated location.					Date of exhibition at designated location under rule 15(b)	Date of exhibition at Electoral Registration Officer's Office under rule 16(b)	

Continued in page.....



Registration of Electors Rules, 1960  
(Statutory Rules and Order)

FORM 12  
[See rule 19(I)(b)(i)]  
Notice of hearing of a claim

**Duplicate**

(Office Copy)

To

(Full name  
and address  
of claimant)

.....  
.....  
.....

Reference:.....Claim No. ....

Take notice that your claim for the inclusion of your name in the electoral roll will be heard at..... (place) at.....O'clock on the .....day of.....20 . You are directed to be present at the hearing with such evidence as you/may like to adduce.

Place.....

Date.....

.....  
Electoral Registration Officer.

FORM 12  
[See rule 19(I)(b)(i)]  
Notice of hearing of a claim

**Original**

(To be served on the claimant)

To

(Full name and address of claimant)

Reference:\_\_\_\_\_ Claim No.....

Take notice that your claim for the inclusion of your name in the electoral roll will be heard at..... (place) at..... O'clock on the..... day of.....20 . You are directed to be present at the hearing with such evidence as you may like to adduce.

Place.....

Date.....

.....  
Electoral Registration Officer.

CERTIFICATE OF SERVICE OF NOTICE  
*Received notice of the date of hearing*

Date.....

.....

Claimant

Certified that the notice on the claimant has been duly served by me this.....day of.....on (name)..... personally/by affixation on residence.

Place.....

Date.....

.....  
Serving Officer.

*N.B.*—If this notice is served by post, attach the receipt here.

Registration of Electors Rules, 1960  
(Statutory Rules and Order)

FORM 13  
[See rule 19(1)(b)(ii)]  
Notice to the objector

**Duplicate**  
(Office Copy)

To  
(Full name  
and address  
of objector) .....

Reference: \_\_\_\_\_ Objection No. ....

Take notice that your objection to the inclusion of the name of—

.....  
.....  
.....

will be heard at..... (place) at.....O'clock on the .....day of.....20 . You are directed to be present at the hearing with such evidence as you may like to adduce.  
Place.....  
Date.....

.....  
Electoral Registration Officer.

FORM 13  
[See rule 19(1)(b)(ii)]  
Notice to the objector

**Original**  
(To be served  
on the objector)

To  
  
(Full name  
and address  
of objector) .....

Reference: \_\_\_\_\_ Objection No.....

Take notice that your objection to the inclusion of the name of—

.....  
.....  
.....

will be heard at..... (place) at.....O'clock on the .....day of.....20 . You are directed to be present at the hearing with such evidence as you may like to adduce.  
Place.....  
Date.....

.....  
Electoral Registration Officer.

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

CERTIFICATE OF SERVICE OF NOTICE  
*Received notice of the date of hearing*

Date.....

.....  
Objector

Certified that the notice on the objector has been duly served by me this.....day of.....on  
(name).....personally/by affixing on residence.

Place.....

Date.....

.....  
Serving Officer.

---

*N.B.*— If this notice is served by post, attach the receipt here.

Registration of Electors Rules, 1960  
(Statutory Rules and Order)

FORM 14

[See rule 19(I)(b)(ii)]

<sup>1</sup>[Notice to the person in respect of whom objection has been made]

Duplicate  
(Office Copy)

To  
(Full name and address .....  
of person .....  
objected to) .....

Reference: \_\_\_\_\_ Objection No. ....

Take notice that the objection to the inclusion of your name at Serial No..... in Part.....of the electoral roll  
for.....constituency filed by (Full name.....  
and address of ..... objector).....

will be heard at.....(place) at.....O'clock on the.....day of ..... 19 . You are directed to be present  
at the hearing with such evidence as you may like to adduce. The grounds of objection (in brief) are:—

- (a)
- (b)
- (c)

Place.....  
Date.....

.....  
Electoral Registration Officer.

FORM 14

[See rule 19(I)(b)(ii)]

<sup>1</sup>[Notice to the person in respect of whom objection has been made]

Original  
(To be served on the person objected to)

To  
(Full name and address .....  
of person .....  
objected to) .....

Reference: \_\_\_\_\_ Objection No. ....

Take notice that the objection to the inclusion of your name at Serial No..... in Part.....of the electoral roll  
for..... constituency filed by

(Full name and .....  
address of .....  
objector) .....

will be heard at.....(place) at.....O'clock on the.....day of ..... 19 . You are directed to be present at the  
hearing with such evidence as you may like to adduce. The grounds of objection (in brief) are:—

- (a)
- (b)
- (c)

Place.....  
Date.....

.....  
Electoral Registration Officer.

1. Ins by Notifn. No. S. O. 814(E), dated the 3rd September, 1987.

Registration of Electors Rules, 1960  
(Statutory Rules and Order)

CERTIFICATE OF SERVICE OF NOTICE  
Received notice of the date of hearing

Date.....

.....  
Person objected to

Certified that the notice on the person, the entry relating to whose name has been objected to, has been duly served by me this..... day of..... on (name).....personally /[by affixation on residence.

Place.....

Date.....

.....  
Serving Officer.

N.B.—If this notice is served by post, attach the receipt here.

---

FORM 15  
[See rule 19(I)(b)(iii)]  
Notice of hearing of an objection to particulars in an entry

Duplicate  
(Office copy)

To

(Full name and address of objector) .....

Reference:--Objection No. ....

Take notice that your objection to certain particulars in the entry relating to you will be heard at..... (place) at.....O'clock on the.....day of ..... 19 . You are directed to be present at the hearing with such evidence as you may like to adduce.

Place.....

Date.....

.....  
Electoral Registration Officer.

---

FORM 15  
[See rule 19(I)(b)(iii)]  
Notice of hearing of an objection to particulars in an entry

Original  
(To be served on the objector)

To

(Full name and address of objector) .....

Reference:-- Objection No. ....

Take notice that your objection to certain particulars in the entry relating to you will be heard at..... (place) at.....O'clock on the.....day of ..... 19 . You are directed to be present at the hearing with such evidence as you may like to adduce.

Place.....

Date.....

.....  
Electoral Registration Officer.

---

Registration of Electors Rules, 1960  
(Statutory Rules and Order)  
CERTIFICATE OF SERVICE OF NOTICE  
Received notice of the date of hearing

Date.....

objector

Certified that the notice on the objector has been duly served by me this.....day of.....on (name)..... personally/by affixation on residence.

Place.....

Date.....

.....  
Serving Officer.

N.B.—If this notice is served by post, attach the receipt here.

---

<sup>1</sup>[FORM 16  
[See rule 22(1)]  
Notice of final publication of electoral roll

It is hereby notified for public information that the list of amendments to the draft electoral roll for the..... constituency has been prepared with reference to.....as the qualifying date and in accordance with the Registration of Electors Rules, 1960. A copy of the said roll together with the said list of amendments has been published and will be available for inspection at my office.

.....  
Electoral Registration Officer.

Place.....

Date.....

(Address).....  
.....]

---

FORM 17  
[See rule 30]  
Application for inclusion of name in the electoral roll for a local authorities' constituency

To

The Electoral Registration Officer,  
..... (Local Authorities) Constituency.

Sir,

I am a member of .....which is a constituent local authority exercising jurisdiction within the limits of the.....local authorities' constituency. I am therefore entitled to be registered as an elector in the said constituency, and request that my name be included in the electoral roll thereof.

My address is:

.....  
.....  
.....

Yours faithfully,

---

1. Subs. by Notifn. No. S. O. 814(E), dated the 3rd September, 1987, for Form 16.

Registration of Electors Rules, 1960  
(Statutory Rules and Order)

<sup>1</sup>[FORM 18  
(See rule 31)

Claim for inclusion of name in the electoral roll for a graduates' constituency

To

The Electoral Registration Officer,  
..... (graduate) Constituency.

Sir,

I request that my name be registered in the electoral roll for the.....(graduate's) Constituency.

The particulars are:—

Name (in full).....Sex.....  
Father's/Mother's/Husband's name (in full) .....  
Qualification .....  
Occupation .....  
House address (Place of ordinary residence) .....  
House No. ....  
Street/Mohalla .....  
Town/Village .....  
Post Office .....  
Police Station/Tehsil/Taluka/Mouza .....  
District .....  
Age.....

2. \*I am a graduate of the.....University having passed the degree/diploma examination in the year .....

OR

\*I am in possession of a diploma/certificate in.....which is a qualification equivalent to that of a graduate of a University in India having passed the examination for the diploma/certificate in the year.....

3. In support of my claim as being a graduate/in possession of the above diploma/certificate. I submit herewith.....

4. \*\*My name has not been included in the electoral roll for this or any other graduates' constituency.

OR

\*\*My name has been included in the electoral roll for the.....graduates' constituency under the address given below and I request that it be deleted from that roll:—

.....  
.....

5. I declare that I am a citizen of India and that all the particulars given above are true to the best of my knowledge.

Place.....

Date.....

.....  
Signature of claimant.

NOTE : Any person who makes a statement or declaration which is false and which the either knows or believes to be false or does not believe to be true is punishable under section 31 of the Representation of the People Act, 1950.

\*Strike out the paragraph not applicable.

\*\*Strike off the inappropriate alternative.

*Registration of Electors Rules, 1960*  
(Statutory Rules and Order)

.....(Perforation).....

Intimation of action taken

The application in Form 18 of Shri/Shrimati/Kumari.....address.....has been—

(a) accepted and the name of Shri/Shrimati/Kumari.....has been registered at Serial No.....in Part No.....

(b) rejected for the reason.....

Date.....

Electoral Registration Officer.  
(Address).....  
.....  
.....

.....(Perforation).....

Receipt for application

Received the application in Form 18 from Shri/Shrimati/Kumari\* .....address\* .....

Date.....

Electoral Registration Officer.  
(Address).....  
.....  
.....

---

\*To be filled in by the applicant.

Registration of Electors Rules, 1960  
(Statutory Rules and Order)

<sup>1</sup>[FORM 19  
[See rule 31]

Claim for inclusion of name in the electoral roll for a teachers' constituency

To

The Electoral Registration Officer,  
.....(Teachers') Constituency.

Sir,

I request that my name be registered in the electoral roll for the.....(teachers') Constituency.

The particulars are:—

Name (in full).....Sex.....

Father's/Mother's/Husband's name (in full).....

House address (Place of ordinary residence):—

House No.....

Street/Mohalla.....

Town/Village.....

Post Office.....

Police Station/Tehsil/Taluka/Mouza .....

District .....

Age .....

2. During the last six years I have been engaged in teaching for a total period of more than three years as follows:--

Name of Educational Institution	From (Date)	To (Date)	Period
1.			
2.			
3.			
4.			

In support of the above I submit herewith.....  
.....  
.....

3. \*My name has not been included in the electoral roll for this or any other teachers' constituency.

OR

\*My name has been included in the electoral roll for the.....teachers' constituency under the address given below and I request that it be deleted from that roll:—

.....  
.....  
.....

4. I declare that I am a citizen of India and that all the particulars given above are true to the best of my knowledge and belief.

Place.....

Date.....

.....  
Signature of claimant.

NOTE:-Any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true is punishable under section 31 of the Representation of the People Act, 1950.

\*Strike out the paragraph not applicable.

1. Subs. by Notifn. No. S. O. 814(E), dated the 3rd September, 1987, for Form 19.

Registration of Electors Rules, 1960  
(Statutory Rules and Order)

.....(Perforation).....

Intimation of action taken

The application in Form 19 of Shri/Shrimati/Kumari.....  
address.....

.....has been—

(a) accepted and the name of Shri/Shrimati/Kumari..... has been  
registered at Serial

No..... in Part  
No.....

(b) rejected for the  
reason.....

Date.....

Electoral Registration Officer  
(Address).....  
.....]  
.....]

.....(Perforation).....

Receipt for application

Received the application in Form 19 from Shri/Shrimati/  
Kumari\*.....  
address\*.....

Date.....

Electoral Registration Officer  
(Address).....  
.....]  
.....]

---

\*To be filled in by the applicant.

## THE ELECTION SYMBOLS (RESERVATION AND ALLOTMENT) ORDER, 1968

An order to provide for specification, reservation, choice and allotment of symbols at elections in Parliamentary and Assembly Constituencies, for the recognition of political parties in relation thereto and for matters connected therewith.

*S.O. 2959, dated the 31st August, 1968.*—Whereas, the superintendence, direction and control of all elections to Parliament and to the Legislature of every State are vested by the Constitution of India in the Election Commission of India.

AND WHEREAS, it is necessary and expedient to provide in the interest of purity of elections to the House of the People and the Legislative Assembly of every State and in the interest of the conduct of such elections in a fair and efficient manner, for the specification, reservation, choice and allotment of symbols for the recognition of political parties in relation thereto and for matters connected therewith.

NOW, THEREFORE, in exercise of the powers conferred by article 324 of the Constitution <sup>1</sup>[read with section 29A of the Representation of the People Act, 1951 (43 of 1951) and rules 5 and 10] of the Conduct of Elections Rules, 1961, and all other powers enabling it in this behalf, the Election Commission of India hereby makes the following Order:—

**1. Short title, extent, application and commencement.**—(1) This Order may be called the Election Symbols (Reservation and Allotment) Order, 1968.

(2) It extends to the whole of India and applies in relation to election in all Parliamentary and Assembly Constituencies other than Assembly Constituencies in the State of Jammu and Kashmir.

(3) It shall come into force on the date of its publication in the Gazette of India which date is hereinafter referred to as the commencement of this Order.

**2. Definitions and interpretation.**—(1) In this Order, unless the context otherwise requires, —

(a) "clause" means a clause of the paragraph or sub-paragraph in which the word occurs;

(b) "Commission", means the Election Commission of India constituted under article 324 of the Constitution;

(c) "constituency" means a parliamentary constituency or an assembly constituency;

(d) "contested election" means an election in a parliamentary or an assembly constituency where a poll is taken;

(e) "election" means an election to which this Order applies;

<sup>2</sup>[(e) "form" means a Form appended to this Order;]

(f) "general election" means any general election held after the commencement of this Order for the purposes of constituting the House of the People or the Legislative Assembly of a State and includes a general election whereby the House of the People or the Legislative Assembly of a State in existence and functioning at such commencement, has been constituted;

(g) "paragraph" means a paragraph of this Order;

<sup>3</sup>[(h) "political party" means an association or body of individual citizens of India registered with the Commission as a political party under section 29A of the Representation of the People Act, 1951 (43 of 1951);]

1. Subs. by Notifn No. O. N. 56(E), dated the 15th June, 1989, for certain words.

2. Ins. by Notifn No. O.N. 121(E), dated the 15th December, 1997.

3. Subs. by Notifn No. S.O. 3001, dated the 10th September, 1970, for cl. (h).

*Election Symbols (Reservation and Allotment) Order, 1968*  
(Statutory Rules and Order)

<sup>1</sup>[(i) "State" includes the National Capital Territory of Delhi and the Union territory of Pondicherry;]

(j) "Sub-paragraph" means a sub-paragraph of the paragraph in which the word occurs; <sup>2\*\*\*</sup>

<sup>3</sup>[(jj) "Union territory" means Union territory other than the National Capital Territory of Delhi and the Union territory of Pondicherry; and]

(k) words and expressions used but not defined in this Order but defined in the Representation of the People Act, 1950 (43 of 1950), or the rules made thereunder or in the Representation of the People Act, 1951 (43 of 1951), or the rules made thereunder shall have the meanings respectively assigned to them in those Acts and rules.

(2) The General Clauses Act, 1897 (10 of 1897) shall, as far as may be, apply in relation to the interpretation of this Order as it applies in relation to the interpretation of a Central Act.

<sup>4\*</sup> \* \* \* \* \*

**4. Allotment of symbols.**—In every contested election a symbol shall be allotted to a contesting candidate in accordance with the provisions of this Order and different symbols shall be allotted to different contesting candidates at an election in the same constituency.

**5. Classification of symbols.**—(1) For the purpose of this Order symbols are either reserved or free.

(2) Save as otherwise provided in this Order, a reserved symbol is a symbol which is reserved for a recognised political party for exclusive allotment to contesting candidates set up by that party.

(3) A free symbol is a symbol other than a reserved symbol.

<sup>5</sup>[**6. Classification of political parties.**—(1) For the purposes of this Order and for such other purposes as the Commission may specify as and when necessity therefor arises, political parties are either recognised political parties or unrecognised political parties.

(2) A recognised political party shall either be a National party or a State party.

<sup>6</sup>[**6A. Conditions for recognition as a State party.**—A political party shall be eligible for recognition as a State party in a State, if, and only if, any of the following conditions is fulfilled :—

(i) At the last general election to the Legislative Assembly of the State, the candidates set up by the party have secured not less than six per. Cent. of the total valid votes in the State; and, in addition, the party has returned at least two members to the Legislative Assembly of that State at such general election; or

(ii) At the last general election to the House of the People from that State, the candidates set up by the party have secured not less than six per. Cent. of the total valid votes polled in the State; and, in addition, the party has returned at least one member to the House of the People from that State at such general election; or

(iii) At the last general election to the Legislative Assembly of the State, the party has won at least three per. Cent. of the total number of seats in the Legislative Assembly, (any fraction exceeding half being counted as one), or at least three seats in the Assembly, whichever is more; or

(iv) At the last general election to the House of the People from the State, the party has returned at least one member to the House of the People for every 25 members or any fraction thereof allotted to that State. ]

**6B. Conditions for recognition as a State party.**—A political party, other than a National party, shall be treated as a recognised State party in a State or States, if, and only if,—

either (A)(i) the candidates set up by it, at the last general election to the House of the People, or to the Legislative Assembly of the State concerned, have secured not less than six per cent. of the total valid votes polled in that State at that general election; and (ii) in addition, it has returned at least two members to the Legislative Assembly of the State at the last general election to that Assembly;

or (B) it wins at least three per cent. of the total number of seats in the Legislative Assembly of the State (any fraction exceeding one-half being counted as one), or at least three seats in the Assembly, whichever is more, at the aforesaid general election.

**6C. Conditions for continued recognition as a National or State party.**—If a political party is recognised as a National party under paragraph 6A, or as a State party under paragraph 6B, the question whether it shall continue to be so recognized after any subsequent general election to the House of the People or, as the case may be, to the Legislative Assembly of the State concerned, shall be dependent upon the fulfilment by it of the conditions specified in the said paragraphs on the results of that general election.]

1. Subs. by Notifn. No. O.N. 6(E), dated the 8th June, 1999.

2. Omitted, *ibid.*

3. Ins., *ibid.*

4. Paragraph (3) omitted by Notifn. No. O.N. 21(E), dated the 23rd March, 1992 (w.e.f. 25-3-1992).

5. Subs. by Notifn. No. O.N. No. 63(E), dated 1st December, 2000, for s. 6.

6. Subs. by Notifn. No. 56/2005/JS-III, dated the 14th May, 2005.

*Election Symbols (Reservation and Allotment) Order, 1968*  
(Statutory Rules and Order)

<sup>1</sup>[7. *Savings and Interpretation.*—<sup>2</sup>(1) Notwithstanding anything contained in paragraph 6A, 6B or 6C, if any political party got recognized, whether before or after the commencement of the Election Symbols (Reservation and Allotment) (Amendment) Order, 2005, either as a National Party or as a State party, on satisfying the conditions for such recognition as they existed prior to such commencement, the said party shall continue to have and enjoy the status of such National or State party for the purposes of the next general election to the House of the People or, as the case may be, to the Legislative Assembly of the State concerned, depending on the election(s) which formed the basis for such recognition, and its continued recognition as such National or State party shall thereafter be dependent upon fulfilment by it of the conditions now specified in paragraph 6A or 6B as the case may be :

Provided that nothing herein shall preclude the Commission from withdrawing the recognition of a party, either as a National Party or as a State Party, if it failed to satisfy any of the conditions for such recognition as they existed prior to and also after the commencement of the Election Symbols (Reservation and Allotment) (Amendment) Order, 2005.]

(2) For the removal of doubts, it is hereby clarified that the conditions in paragraph 6A or paragraph 6B shall not be deemed to have been satisfied by a political party,—

(i) if it is newly formed, whether as a result of split in a recognized National or State party or otherwise, and registered with the Commission under section 29A of the Representation of the People Act, 1951, after the last general election to the House of the People or, as the case may be, to the Legislative Assembly of the State concerned; or

(ii) on the joining or taking the membership of that party, by a member of the House of the People, or the Legislative Assembly of a State, after his election to that House or, as the case may be, that Assembly.]

**8. Choice of symbols by candidates of National and State parties and allotment thereof.**—(1) A candidate set up by a National party at any election in any constituency in India shall choose, and shall be allotted, the symbol reserved for that party and no other symbol.

(2) A candidate set up by a State party at an election in any constituency in a State in which such party is a State party, shall choose, and shall be allotted the symbol reserved for that party in that State and no other symbol.

(3) A reserved symbol shall not be chosen by, or allotted to, any candidate in any constituency other than a candidate set up by a National party for whom such symbol, has been reserved or a candidate set up by a State party for whom such symbol has been reserved in the State in which it is a State party even if no candidate has been set up by such National or State party in that constituency.

<sup>3</sup>[9. *Restriction on the allotment of Symbols reserved for State parties in States where such parties are not recognised.*—A symbol reserved for a State party in any State—

<sup>4</sup>(a) shall not be included in the list of free symbols for any other State or Union territory, and

(b) shall not be reserved for any other party which subsequently becomes eligible, on fulfilment of the conditions specified in paragraph 6, for recognition as a State party in any other State:

Provided that nothing contained in clause (b) shall apply in relation to a political party, for which the Commission has, immediately before the commencement of the Election Symbols (Reservation and Allotment) (Amendment) Order, 1997, already reserved the same symbol which it has also reserved for some other State party or parties in any other State or States.]

<sup>4</sup>[10. *Concessions to candidates set up by a State party at elections in other States or Union territories.*—If a political party, which is recognised as a State party in some State or States, sets up a candidate at an election in a constituency in any other State in which it is not a recognised State party, then such candidate may, to the exclusion of all other candidates in the constituency, be allotted the symbol reserved for that party in the State or States in which it is a recognised State Party, notwithstanding that such symbol is not specified in the list of free symbols for such other State or Union territory, on the fulfilment of each of the following conditions, namely:—

(a) that an application is made to the Commission by the said party for exclusive allotment of that symbol to the candidate set up by it, not later than the third day after the publication in the Official Gazette of the notification calling the election;

(b) that the said candidate has made a declaration in his nomination paper that he has been set up by that party at the election and that the party has also fulfilled the requirements of clauses (b), (c), (d) and (e) of paragraph 13 read with paragraph 13A in respect of such candidate; and

(c) that in the opinion of the Commission there is no reasonable ground for refusing the application for such allotment:

Provided that nothing contained in this paragraph shall apply to a candidate set up by a State party at an election in any constituency in a State in which that party is not a State Party and where the same symbol is already reserved for some other State Party in that State.]

1. Subs. by Notifn. No. O.N. 63(E), dated the 1st December, 2000, for s. 7.

2. Subs. by Notifn. No. 56/2005/JS-III, dated the 14th May, 2005.

3. Subs. by Notifn. No. O.N. 121(E), dated the 15<sup>th</sup> December, 1997.

4. Subs. by Notifn. No. O.N. 6(E), dated the 8th June, 1999, for s. 10.

*Election Symbols (Reservation and Allotment) Order, 1968*  
(Statutory Rules and Order)

<sup>1</sup>[10A. *Concession to candidates set up by an unrecognized party which was earlier recognized as a National or State party.*—If a political party, which is unrecognized at present but was a recognized National or State party in any State or Union territory not earlier than six years from the date of notification of the election, sets up a candidate at an election in a constituency in any State or Union territory, whether such party was earlier recognized in that State or Union territory or not, then such candidate may, to the exclusion of all other candidates in the constituency, be allotted the symbol reserved earlier for that party when it was a recognized National or State party, notwithstanding that such symbol is not specified in the list of free symbols for such State or Union territory, on the fulfillment of each of the following conditions, namely:—

(a) that an application is made to the Commission by the said party for the exclusive allotment of that symbol to the candidate set up by it, not later than the third day after the publication in the Official Gazette of the notification calling the election;

(b) that the said candidate has made a declaration in his nomination paper that he has been set up by that party at the election and that the party has also fulfilled the requirements of clauses (b), (c), (d) and (e) of paragraph 13 read with paragraph 13A in respect of such candidate; and

(c) that in the opinion of the Commission there is no reasonable ground for refusing the application for such allotment:

Provided that nothing contained in this paragraph shall apply to a candidate set up by the said party at an election in any constituency in a State or Union territory where the same symbol is already reserved for some other National or State party in that State or Union Territory.

**11. Restrictions on the choice and allotment of symbols allotted under paragraph 10 or paragraph 10A.**—Notwithstanding anything contained in any of the foregoing provisions where elections are held simultaneously in a parliamentary constituency and in the Assembly constituencies comprised in such parliamentary constituency, then—

(a) if a symbol has been exclusively allotted under <sup>2</sup>[paragraph 10 for paragraph 10A] to a candidate set up by a political party at any election in the parliamentary constituency, that symbol shall not be allotted to any candidate at any election in any of the said Assembly constituencies unless such candidate is a candidate set up by that political party; and

(b) if a symbol has been exclusively allotted under <sup>2</sup>[paragraph 10 for paragraph 10A] to a candidate set up by a political party at any election in any of the said Assembly constituencies, that symbol shall not be allotted to any candidate at the election in the said parliamentary constituency unless such candidate is a candidate set up by that political party.

<sup>3</sup>[12. *Choice of symbols by other candidates and allotment thereof.*—(1) Any candidate at an election in a constituency in any State or Union territory, other than—

(a) a candidate set up by a National Party; or

(b) a candidate set up by a political party which is a State Party in that State; or

(c) a candidate referred to in paragraph 10 or paragraph 10A;

shall choose, and shall be allotted, in accordance with the provisions hereafter set out in this paragraph, one of the symbols specified as free symbols for that State or Union territory by notification under paragraph 17.

(2) Where any free symbol has been chosen by only one candidate at such election, the returning officer shall allot that symbol to that candidate and to no one else.

(3) Where the same free symbol has been chosen by several candidates at such election, then—

(a) if of those several candidates, only one is a candidate set up by an unrecognised political party and all the rest are independent candidates, the returning officer shall allot that free symbol to the candidate set up by the unrecognised political party, and to no one else; and, if, those several candidates, two or more are set up by different unrecognised political parties and the rest are independent candidates, the returning officer shall decide by lot to which of the two or more candidates set up by the different unrecognised political parties that free symbol shall be allotted, and allot that free symbol to the candidate on whom the lot falls, and to no one else:

Provided that where of the two or more such candidates set up by such different unrecognized political parties, only one is, or was, immediately before such election, a sitting member of the House of the People, or, as the case may be, of the Legislative Assembly (irrespective of the fact as to whether he was allotted that free symbol or any other symbol at the previous election when he was chosen as such member), the returning officer shall allot that free symbol to that candidate, and to no one else;

(b) if, of those several candidates, no one is set up by any unrecognised political party and all the independent candidates, but one of the independent candidates is, or was, immediately before such election a sitting member of the House of the People, or, as the case may be, of the legislative Assembly, and was allotted that free symbol at the previous election when he was chosen as such member, the Returning Officer shall allot that free symbol to that candidate, and to no one else; and

1. Ins. by Notifn. No. O.N. 63(E), dated the 1st December, 2000.

2. Subs., *ibid.* for "paragraph 10".

3. Subs., *ibid.*, for s. 12.

*Election Symbols (Reservation and Allotment) Order, 1968*  
(Statutory Rules and Order)

(c) if, of those several candidates, being all independent candidates, no one is, or was, a sitting member as aforesaid, the returning officer shall decide by lot to which of those independent candidates that free symbol shall be allotted, and allot that free symbol to the candidates on whom the lot falls, and to no one else.]

<sup>1</sup>[13. *When a candidate shall be deemed to be set up by a political party.*—For the purposes of this order, a candidate shall be deemed to be set up by a political party, if, and only if,—

(a) the candidate has made declaration to this effect in his nomination paper;

<sup>2</sup>[(aa) the candidate is a member of that political party and his name is borne on the rolls of members of the party;]

(b) a notice in writing, in Form B, to that effect has, not later than 3 p.m. on the last date for making nominations, been delivered to the Returning Officer of the constituency and the Chief Electoral officer of the State;

(c) the said notice is signed by the President, the Secretary or any other office bearer of the party and the President, Secretary or such other office bearer authorised by the party to send such notice;

(d) the name and specimen signature of such authorised person are communicated, to the returning Officer of the constituency and to the Chief Electoral Officer of the <sup>3</sup>[State or Union Territory concerned] not later than 3 P.M. on the last date for making nominations; and

(e) Forms A and B are signed, in ink only, by the said office bearer or person authorised by the party:

Provided that no facsimile signature or signature by means of rubber stamp, etc., of any such office bearer shall be accepted and no form transmitted by fax shall be accepted.

**13A.** *Substitution of a candidate by a political party.*—For the removal of any doubt, it is hereby clarified that a political party which has given a notice in Form B under paragraph 13 in favour of a candidate may rescind that notice and may give a revised notice in Form B in favour of another candidate for the constituency:

Provided that the revised notice in Form B, clearly indicating therein that the earlier notice in Form B has been rescinded, reaches the Returning Officer of the constituency, not later than 3 p.m. on the last date for making nominations, and the said revised notice in Form B is signed by the authorised person referred to in clause (d) of paragraph 13:

Provided further that in case more than one notice in Form B is received by the Returning Officer in respect of two or more candidates, and the political party fails to indicate in such notices in Form B that the earlier notice or notices in Form B, has or have been rescinded, the Returning Officer shall accept the notice in Form B in respect of the candidate whose nomination paper was first delivered to him, and the remaining candidate or candidates in respect of whom also notice or notices in form B has or have been received by him, shall not be treated as candidates set up by such political party.

**14.** *Power of Commission to issue instructions to unrecognised political parties for their expeditious recognition of fulfilment of conditions specified in <sup>4</sup>[paragraph 6A or paragraph 6B].*—The Commission may issue for the benefit of unrecognised political parties such instructions as it may think necessary for their expeditious recognition when they have <sup>4</sup>[fulfilled any of the conditions for such recognition specified in paragraph 6A or paragraph 6B.]

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1. Subs. by Notifn. No. O.N. 11(E), dated the 20th May, 1999, for s. 13.

2. Ins. by Notifn. No. O.N. 63(E), dated the 1st December, 2000.

3. Subs. by Notifn. No. O.N. 6(E), dated 8th June, 1999.

4. Subs. by Notifn. No. O.N. 63(E), dated the 1st December, 2000.



*Election Symbols (Reservation and Allotment) Order, 1968*  
(Statutory Rules and Order)

<sup>1</sup>[FORM A

Communication with regard to Authorised Persons to intimate name of Candidates set up by recognised NATIONAL OR STATE political party or REGISTERED UNRECOGNISED political party.

[See paragraph 13(c), (d) and (e) of the Election Symbols (Reservation and Allotment) Order, 1968.]

To

1. The Chief Electoral Officer,  
.....(State/Union Territory).
2. The Returning Officer for the  
.....Constituency.

Subject:- General Elections to.....from.....(State/Union Territory)— Allotment of Symbols - Authorisation of persons to intimate names of candidates.

Sir,

In pursuance of paragraph 13(c), (d) and (e) of the Election Symbols (Reservation and Allotment) Order, 1968, I hereby communicate that the following person(s) has/have been authorised by the party, which is National Party/State Party in the State of ...../Registered Un-recognised Party to intimate the names of the candidates proposed to be set up by the party at the election cited above.

Name of person authorised to send notice	Name of office held in the party	District(s)/area(s) constituency/ constituencies in respect of which he has been authorised
1	2	3
1. 2. 3. . . .		

2. The specimen signatures of the above mentioned person(s) so authorised are given below:—

1. Specimen signatures of Shri.....  
(i).....(ii).....(iii).....
2. Specimen signatures of Shri.....  
(i).....(ii).....(iii).....
3. Specimen signatures of Shri.....  
(i).....(ii).....(iii).....

Yours faithfully,

President/Secretary  
Name of the Party

Place.....  
Date.....

(Seal of the Party)

N.B.

1. This must be delivered to the Returning Officer and the Chief Electoral Officer not later than 3 p.m. on the last date for making nominations.
2. Form must be signed in ink by the office-bearer(s) mentioned above. No facsimile signature or signatures by means of rubber stamp, etc., of any office bearer shall be accepted.
3. No form transmitted by fax shall be accepted.

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1. Ins. by Notifn. No. O.N. 121(E), dated 15-12-1997.

*Election Symbols (Reservation and Allotment) Order, 1968*  
(Statutory Rules and Order)

<sup>1</sup>[FORM B

Notice as to names of candidates set up by the political party  
[See paragraph 13(b), (c) and (e) of the Election Symbols (Reservation and Allotment) Order 1968]

To

The Returning Officer for the.....Constituency.

Subject: General/Bye-election to.....from.....(Name of the Constituency) in.....(State/Union territory) –  
setting up of candidate.

Sir,

In pursuance of paragraph 13(b), (c) and (e) of the Election Symbols (Reservation and Allotment) Order, 1968, I hereby give notice on behalf of.....(party)—

(i) that the person whose particulars are furnished in columns (2) to (4) below is the approved candidate of the party above named, and

(ii) the person whose particulars are mentioned in columns (5) to (7) below is the substitute candidate of the party, who will step-in on the approved candidates's nomination being rejected on scrutiny or on his withdrawing from the contest, if the substitute candidate is still a contesting candidate,

at the ensuing general/bye-election from this constituency:

Name of the constituency	Name of the approved candidate	Father's/Mother's Husband's name of approved candidate	Postal address of approved candidate	Name of the substitute candidate who will step-in on the approved candidate's nomination being rejected on scrutiny or on his withdrawing from the contest if substitute candidate is still a contesting candidate	Father's/Mother's/Husband's name of substitute candidate	Postal address of substitute candidate
1	2	3	4	5	6	7

\*2. The notice in Form 'B' given earlier in favour of Shri/Smt/Sushri.....as party's approved candidate/Shri/Smt/Sushri.....as Party's substitute candidate is hereby rescinded.

<sup>2</sup>[3. It is certified that each of the candidates whose name is mentioned above is a member of this political party and his name is duly borne on the rolls of members of this party.]

Yours faithfully,

(Name and Signature of the  
Authorised person of the Party)  
(Seal of the Party)

Place.....

Date.....

\*Score off, if not applicable.

NB.:

1. This must be delivered to the Returning Officer not later than 3 P.M. on the last date for making nominations.
2. Form must be signed in ink by the office-bearer(s) mentioned above. No facsimile signature or signatures by means of rubber stamp, etc., of any office-bearer shall be accepted.
3. No Form transmitted by fax shall be accepted.
4. Para 2 of the Form must be scored off, if not applicable, or must be properly filled, if applicable.]

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1. Subs. by Notifn. No. O.N. 11(E), dated the 14th January, 1998, for Form B.  
2. Ins. by Notifn. No. O.N. 63(E), dated the 1st December, 2000.



## Voluntary Code of Ethics for the General Elections 2019

### Preamble

The Internet has created opportunities for all to access reliable information, seek out credible sources, and obtain relevant facts. The web's openness has made these benefits available to all no matter who they are and where they are located.

This equally applies to elections, which are key to nurturing and strengthening a democratic culture. A free and fair election is the foundation of democracy. Access to reliable information and communication platforms via the Internet enables people to make informed choices in exercising their franchise during elections.

Keeping this context in mind and as per recommendations of the Sinha Committee Report, Participants recognise that while their products/services allow users to post content, the Participants are neither the author(s) nor the publisher(s) of such content. However, the Participants have together developed this 'Voluntary Code of Ethics for the General Elections 2019' (Code) and are committed to helping support such democratic processes by improving the integrity and transparency of the electoral process.

The Participants recognize that their group companies provide and administer different products and services, each operating under different business models and technologies while having varying audiences. Therefore, the Participants will endeavour to ensure that such products/ services meet the spirit of the Code while accounting for the diverse nature of the products/ services, which are governed by their respective product policies.

The Code shall apply within the existing legal framework in India. In case of any conflict between the voluntary framework and the existing legal framework, the legal framework will prevail.

### Purpose of the Code

The purpose of this voluntary Code is to identify the measures that Participants can put in place to increase confidence in the electoral process. This is to help safeguard the products

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and/ or services of the Participants against misuse to vitiate the free and fair character of the 2019 General Elections in India.

### **Commitments**

The Participants will endeavour to meet, in good faith and to the best of their ability, the following commitments during the 2019 Lok Sabha General Elections in India:

1. Participants will endeavour to, where appropriate and keeping in mind the principle of freedom of expression, deploy appropriate policies and processes to facilitate access to information regarding electoral matters on their products and/ or services.
2. Participants will endeavour to voluntarily undertake information, education and communication campaigns to build awareness including electoral laws and other related instructions. Participants will also endeavour to impart training to the nodal officer at ECI on their products/ services, including mechanism for sending requests as per procedure established by law.
1. Participants and the Election Commission of India (ECI) have developed a notification mechanism by which the ECI can notify the relevant platforms of potential violations of Section 126 of the Representation of the People Act, 1951 and other applicable electoral laws in accordance with procedures established by law. These valid legal orders will be acknowledged and/ or processed within 3 hours for violations reported under Section 126 as per the Sinha Committee recommendations. All other valid legal requests will be acted upon expeditiously by the Participants, based on the nature of reported violation.
1. Participants are creating/opening a high priority dedicated reporting mechanism for the ECI and appoint dedicated person(s) / teams during the period of General Elections to interface with and to exchange feedback as may assist with taking expeditious action upon receipt of such a lawful request, following due legal process, from the ECI.

2. Participants will provide a mechanism for relevant political advertisers, in accordance with their obligations under law, to submit pre-certificates issued by ECI and/ or Media Certification & Monitoring Committee (MCMC) of the ECI in relation to election advertisements that feature names of political parties, candidates for the 2019 General Elections. Further, Participants shall expeditiously process/action paid political advertisements lawfully notified to Participants by the ECI that do not feature such certification.
3. Participants will commit to facilitating transparency in paid political advertisements, including utilising their pre-existing labels/ disclosure technology for such advertisements.
4. Participants will, pursuant to a valid request received from the ECI, via Internet and Mobile Association of India (IAMAI) provide an update on the measures taken by them to prevent abuse of their respective platforms.
5. IAMAI will coordinate with the Participants on the steps carried out under this Code and IAMAI as well as Participants will be in constant communication with the ECI during the election period.

***Entry into Force***

This Code will become effective and will enter into force on 20 March 2019 and will be in force for the duration of the 2019 Indian General Elections.

THE ELECTION COMMISSION (CONDITIONS OF SERVICE OF ELECTION  
COMMISSIONERS AND TRANSACTION OF BUSINESS) ACT, 1991

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ARRANGEMENT OF SECTIONS

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CHAPTER I

PRELIMINARY

SECTIONS

1. Short title.
2. Definitions.

CHAPTER II

SALARY AND OTHER CONDITIONS OF SERVICE OF THE CHIEF ELECTION  
COMMISSIONER AND ELECTION COMMISSIONERS

3. Salary.
4. Term of office.
5. Leave.
6. Pension payable to Election Commissioners.
7. Right to subscribe to General Provident Fund.
8. Other conditions of service.

CHAPTER III

TRANSACTION OF BUSINESS OF ELECTION COMMISSION

9. Transaction of business of Election Commission.
10. Disposal of business by Election Commission.

<sup>2</sup>[THE ELECTION COMMISSION (CONDITIONS OF SERVICE OF ELECTION COMMISSIONERS AND TRANSACTION OF BUSINESS)] ACT, 1991

ACT NO. 11 OF 1991

[25th January, 1991.]

An Act to determine the conditions of service of the Chief Election Commissioner and other Election Commissioners <sup>1</sup>[and to provide for the procedure for transaction of business by the Election Commission and for matters] connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

**1. Short title.**—This Act may be called <sup>2</sup>[the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business)] Act, 1991.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “Chief Election Commissioner” means the Chief Election Commissioner appointed under articles 324 of the Constitution;

<sup>3</sup>[(b) “Election Commission” means the Election Commission referred to in article 324 of the Constitution;]

<sup>4</sup>[(c) “Election Commissioner” means any other Election Commissioner appointed under article 324 of the Constitution.

CHAPTER II

SALARY AND OTHER CONDITIONS OF SERVICE OF THE CHIEF ELECTION COMMISSIONER AND ELECTION COMMISSIONERS

**3. Salary.**—<sup>5</sup>\*\*\*There shall be paid to the Chief Election Commissioner <sup>6</sup>[and other Election Commissioners] a salary which is equal to the salary of a Judge of the Supreme Court:

<sup>7</sup>\* \* \* \* \*

Provided that if a person who, immediately before the date of assuming office as the Chief Election Commissioner or, as the case maybe, an Election Commissioner, was in receipt of, or, being eligible so to do, had election to draw, a pension (other than a disability or wound pension) in respect of any previous service under the Government of the Union or under the Government of a State, his salary in respect of service as the Chief Election Commissioner or, as the case may be, an Election Commissioner shall be reduced—

(a) by the amount of that pension; and

(b) if he had, before assuming office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

1. Subs by Act 4 of 1994, s. 2, for “and for matters” (w.e.f. 1-10-1993).

2. Subs by s. 3, *ibid.*, for “the Chief Election Commissioner and other Election Commissioners (Conditions of Service)” (w.e.f. 1-10-1993)

3. Ins. by s. 4, *ibid.* (w.e.f. 1-10-1993).

4. Clause (b) shall be re-lettered as clause (c) by s. 4, *ibid.* (w.e.f. 1-10-1993).

5. The brackets and figure “(1)” omitted by s. 5, *ibid.* (w.e.f. 1-10-1993).

6. Ins. by s. 5, *ibid.* (w.e.f. 1-10-1993).

7. Certain brackets, figure and words omitted by s. 5, *ibid.* (w.e.f. 1-10-1993).

**4. Term of office.**—The Chief Election Commissioner or an Election Commissioner shall hold office for a term of six years from the date on which he assumes his office:

<sup>1</sup>[Provided that where the Chief Election Commissioner or an Election Commissioner attains the age of sixty-five years before the expiry of the said term of six years, he shall vacate his office on the date on which he attains the said age:]

Provided further that the Chief Election Commissioner or an Election Commissioner may, at any time, by writing under his hand addressed to the President, resign his office.

*Explanation.*—For the purpose of this section, the term of six years in respect of the Chief Election Commissioner or an Election Commissioner holding office immediately before the commencement of this Act, shall be computed from the date on which he had assumed office.

**5. Leave.**—(1) A person who, immediately before the date of assuming office as the Chief Election Commissioner or an Election Commissioner, was in service of Government may be granted during his tenure of office but not thereafter, leave in accordance with the rules for the time being applicable to the Service to which he belonged before such date and he shall be entitled to carry forward the amount of leave standing at his credit on such date, notwithstanding any thing contained in section 6.

(2) Any other person who is appointed as the Chief Election Commissioner or an Election Commissioner may be granted leave in accordance with such rules as are for the time being applicable to a member of the Indian Administrative Service.

(3) The power to grant or refuse leave to the Chief Election Commissioner or an Election Commissioner and to revoke or curtail leave granted to him, shall vest in the President.

**6. Pension payable to Election Commissioners.**—(1) A person who, immediately before the date of assuming office as the Chief Election Commissioner or an Election Commissioner was in service of Government, shall be deemed to have retired from service on the date on which he enters upon office as the Chief Election Commissioner or an Election Commissioner but his subsequent service as the Chief Election Commissioner or an Election Commissioner shall be reckoned as continuing approved service counting for pension in Service to which he belonged.

(2) Where the Chief Election Commissioner <sup>2</sup>[or an Election Commissioner] demits office [whether in any manner specified in <sup>3</sup>[sub-section (3)] or by resignation], he shall, on such demission be entitled to—

(a) a pension which is equal to the pension payable to a Judge of the Supreme Court in accordance with the provisions of Part III of the Schedule to the Supreme Court Judges (Conditions of Service) Act, 1958 (41 of 1958), as amended from time to time; and

(b) such pension (including commutation of pension), family pension and gratuity as are admissible to a Judge of the Supreme Court under the said Act and the rules made thereunder, as amended from time to time.

<sup>4</sup>\* \* \* \* \*

<sup>5</sup>[(3)]Except where the Chief Election Commissioner or an Election Commissioner demits office by resignation, he shall be deemed, for the purpose of this Act, to have demitted his office if, and only if,—

(a) he has completed the term of office specified in section 4, or

(b) he has attained the age of sixty-five years, <sup>6</sup>\*\*\* or

(c) his demission of office is medically certified to be necessitated by ill-health.

1. Subs by Act 4 of 1994, s. 6, for the first proviso (w.e.f. 1-10-1993).

2. Ins. by s. 7, *ibid.* (w.e.f. 1-10-1993).

3. Subs by s. 7, *ibid.*, for “sub-section (4)” (w.e.f. 1-10-1993).

4. Sub-section (3) omitted by s. 7, *ibid.* (w.e.f. 1-10-1993).

5. Sub-section (4) shall be re-numbered as sub-section (3) by s. 7, *ibid.* (w.e.f. 1-10-1993).

6. The words “or as the case may be, sixty-two years,” omitted by s. 7, *ibid.* (w.e.f. 1-10-1993).

**7. Right to subscribe to General Provident Fund.**—Every person holding office as the Chief Election Commissioner or an Election Commissioner shall be entitled to subscribe to the General Provident Fund (Central Services).

**8. Other conditions of service.**—Save as otherwise provided in this Act, the conditions of service relating to travelling allowance, provision of rent-free residence and exemption from payment of income-tax on the value of such rent-free residence, conveyance facilities, sumptuary allowance, medical facilities and such other conditions of service as are, <sup>1</sup>[for the time being, applicable to a Judge of the Supreme Court under Chapter IV of the Supreme Court Judges (Conditions of Service) Act, 1958 (41 of 1958) and the rules made thereunder, shall, so far as may be, apply to the Chief Election Commissioner and other Election Commissioners].

### <sup>2</sup>[CHAPTER III

#### TRANSACTION OF BUSINESS OF ELECTION COMMISSION

**9. Transaction of business of Election Commission.**—The business of the Election Commission shall be transacted in accordance with the provisions of this Act.

**10. Disposal of business by Election Commission.**—(1) The Election Commission may, by unanimous decision, regulate the procedure for transaction of its business as also allocation of its business amongst the Chief Election Commissioner and other Election Commissioners.

(2) Save as provided in sub-section (1), all business of the Election Commission shall, as far as possible, be transacted unanimously.

(3) Subject to the provisions of sub-section (2), if the Chief Election Commissioner and other Election Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.]

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1. Subs. by Act 4 of 1994, s. 8, for certain words (w.e.f. 1-10-1993).

2. Ins. by s. 9, *ibid.* (w.e.f. 1-10-1993).

# THE INFORMATION TECHNOLOGY ACT, 2000

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# THE INFORMATION TECHNOLOGY ACT, 2000

ACT NO. 21 OF 2000

[9th June, 2000.]

An Act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as “electronic commerce”, which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker’s Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto;

WHEREAS the General Assembly of the United Nations by resolution A/RES/51/162, dated the 30th January, 1997 has adopted the Model Law on Electronic Commerce adopted by the United Nations Commission on International Trade Law;

AND WHEREAS the said resolution recommends *inter alia*, that all States give favourable consideration to the said Model Law when they enact or revise their laws, in view of the need for uniformity of the law applicable to alternatives to paper-based methods of communication and storage of information;

AND WHEREAS it is considered necessary to give effect to the said resolution and to promote efficient delivery of Government services by means of reliable electronic records.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:–

## CHAPTER 1

### PRELIMINARY

**1. Short title, extent, commencement and application.**–(1) This Act may be called the Information Technology Act, 2000.

(2) It shall extend to the whole of India and, save as otherwise provided in this Act, it applies also to any offence or contravention thereunder committed outside India by any person.

(3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

<sup>2</sup>[(4) Nothing in this Act shall apply to documents or transactions specified in the First Schedule:

Provided that the Central Government may, by notification in the Official Gazette, amend the First Schedule by way of addition or deletion of entries thereto.

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament.]

**2. Definitions.**–(1) In this Act, unless the context otherwise requires,–

(a) “access” with its grammatical variations and cognate expressions means gaining entry into, instructing or communicating with the logical, arithmetical, or memory function resources of a computer, computer system or computer network;

(b) “addressee” means a person who is intended by the originator to receive the electronic record but does not include any intermediary;

(c) “adjudicating officer” means an adjudicating officer appointed under sub-section (1) of section 46;

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1. 17th October, 2000, *vide* notification No. G.S.R. 788 (E), dated 17th October, 2000, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii).

2. Subs. by Act 10 of 2009, s. 3, for sub-section (4) (w.e.f. 27-10-2009).

(d) “affixing <sup>1</sup>[electronic signature]” with its grammatical variations and cognate expressions means adoption of any methodology or procedure by a person for the purpose of authenticating an electronic record by means of digital signature;

(e) “appropriate Government” means as respects any matter,—

(i) enumerated in List II of the Seventh Schedule to the Constitution;

(ii) relating to any State law enacted under List III of the Seventh Schedule to the Constitution,

the State Government and in any other case, the Central Government;

(f) “asymmetric crypto system” means a system of a secure key pair consisting of a private key for creating a digital signature and a public key to verify the digital signature;

(g) “Certifying Authority” means a person who has been granted a licence to issue a <sup>1</sup>[electronic signature] Certificate under section 24;

(h) “certification practice statement” means a statement issued by a Certifying Authority to specify the practices that the Certifying Authority employs in issuing <sup>1</sup>[electronic signature] Certificates;

<sup>2</sup>[(ha) “communication device” means cell phones, personal digital assistance or combination of both or any other device used to communicate, send or transmit any text, video, audio or image;]

(i) “computer” means any electronic, magnetic, optical or other high-speed data processing device or system which performs logical, arithmetic, and memory functions by manipulations of electronic, magnetic or optical impulses, and includes all input, output, processing, storage, computer software or communication facilities which are connected or related to the computer in a computer system or computer network;

<sup>3</sup>[(j) “computer network” means the inter-connection of one or more computers or computer systems or communication device through—

(i) the use of satellite, microwave, terrestrial line, wire, wireless or other communication media; and

(ii) terminals or a complex consisting of two or more interconnected computers or communication device whether or not the inter-connection is continuously maintained;]

(k) “computer resource” means computer, computer system, computer network, data, computer data base or software;

(l) “computer system” means a device or collection of devices, including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, which contain computer programmes, electronic instructions, input data and output data, that performs logic, arithmetic, data storage and retrieval, communication control and other functions;

(m) “Controller” means the Controller of Certifying Authorities appointed under sub-section (1) of section 17;

(n) “Cyber Appellate Tribunal” means the Cyber <sup>4\*\*\*</sup> Appellate Tribunal established under sub-section (1) of section 48;

<sup>2</sup>[(na) “cyber cafe” means any facility from where access to the internet is offered by any person in the ordinary course of business to the members of the public;

(nb) “cyber security means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosure, disruption, modification or destruction;]

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1. Subs. by Act 10 of 2009, s. 2, for “digital signature” (w.e.f. 27-10-2009).

2. Ins. by s. 4, *ibid.* (w.e.f. 27-10-2009).

3. Subs. by s. 4, *ibid.*, for clause (j) (w.e.f. 27-10-2009).

4. The word “Regulations” omitted by s. 4, *ibid.* (w.e.f. 27-10-2009).

(o) “data” means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer;

(p) “digital signature” means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of section 3;

(q) “Digital Signature Certificate” means a Digital Signature Certificate issued under sub-section (4) of section 35;

(r) “electronic form” with reference to information, means any information generated, sent, received or stored in media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device;

(s) “Electronic Gazette” means the Official Gazette published in the electronic form;

(t) “electronic record” means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche;

<sup>1</sup>[(ta) “electronic signature” means authentication of any electronic record by a subscriber by means of the electronic technique specified in the Second Schedule and includes digital signature;

(tb) “Electronic Signature Certificate” means an Electronic Signature Certificate issued under section 35 and includes Digital Signature Certificate;]

(u) “function”, in relation to a computer, includes logic, control, arithmetical process, deletion, storage and retrieval and communication or telecommunication from or within a computer;

<sup>1</sup>[(ua) Indian Computer Emergency Response Team” means an agency established under sub-section (I) of Section 70B;]

(v) “information” includes <sup>2</sup>[data, message, text,] images, sound, voice, codes, computer programmes, software and data bases or micro film or computer generated micro fiche;

<sup>3</sup>[(w) “intermediary”, with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes;]

(x) “key pair”, in an asymmetric crypto system, means a private key and its mathematically related public key, which are so related that the public key can verify a digital signature created by the private key;

(y) “law” includes any Act of Parliament or of a State Legislature, Ordinances promulgated by the President or a Governor, as the case may be, Regulations made by the President under article 240, Bills enacted as President's Act under sub-clause (a) of clause (I) of article 357 of the Constitution and includes rules, regulations, bye-laws and orders issued or made thereunder;

(z) “licence” means a licence granted to a Certifying Authority under section 24;

(za) “originator” means a person who sends, generates, stores or transmits any electronic message or causes any electronic message to be sent, generated, stored or transmitted to any other person but does not include an intermediary;

(zb) “prescribed” means prescribed by rules made under this Act;

(zc) “private key” means the key of a key pair used to create a digital signature;

(zd) “public key” means the key of a key pair used to verify a digital signature and listed in the Digital Signature Certificate;

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1. Ins. by Act 10 of 2009 s. 4 (w.e.f. 27-10-2009).

2. Subs. by s. 4, *ibid.*, for “data, text”, (w.e.f. 27-10-2009).

3. Subs. by s. 4, *ibid.*, for clause (w), (w.e.f. 27-10-2009).

(ze) “secure system” means computer hardware, software, and procedure that—

- (a) are reasonably secure from unauthorised access and misuse;
- (b) provide a reasonable level of reliability and correct operation;
- (c) are reasonably suited to performing the intended functions; and
- (d) adhere to generally accepted security procedures;

(zf) “security procedure” means the security procedure prescribed under section 16 by the Central Government;

(zg) “subscriber” means a person in whose name the <sup>1</sup>[electronic signature] Certificate is issued;

(zh) “verify”, in relation to a digital signature, electronic record or public key, with its grammatical variations and cognate expressions, means to determine whether—

(a) the initial electronic record was affixed with the digital signature by the use of private key corresponding to the public key of the subscriber;

(b) the initial electronic record is retained intact or has been altered since such electronic record was so affixed with the digital signature.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

## CHAPTER II

### <sup>2</sup>[DIGITAL SIGNATURE AND ELECTRONIC SIGNATURE]

**3. Authentication of electronic records.**—(1) Subject to the provisions of this section any subscriber may authenticate an electronic record by affixing his digital signature.

(2) The authentication of the electronic record shall be effected by the use of asymmetric crypto system and hash function which envelop and transform the initial electronic record into another electronic record.

*Explanation.*—For the purposes of this sub-section, “hash function” means an algorithm mapping or translation of one sequence of bits into another, generally smaller, set known as “hash result” such that an electronic record yields the same hash result every time the algorithm is executed with the same electronic record as its input making it computationally infeasible—

(a) to derive or reconstruct the original electronic record from the hash result produced by the algorithm;

(b) that two electronic records can produce the same hash result using the algorithm.

(3) Any person by the use of a public key of the subscriber can verify the electronic record.

(4) The private key and the public key are unique to the subscriber and constitute a functioning key pair.

<sup>3</sup>**[3A. Electronic signature.**—(1) Notwithstanding anything contained in section 3, but subject to the provisions of sub-section (2), a subscriber may authenticate any electronic record by such electronic signature or electronic authentication technique which—

(a) is considered reliable; and

(b) may be specified in the Second Schedule.

(2) For the purposes of this section any electronic signature or electronic authentication technique shall be considered reliable if—

(a) the signature creation data or the authentication data are, within the context in which they are used, linked to the signatory or, as the case may be, the authenticator and to no other person;

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1. Subs. by Act 10 of 2009, s. 2, for “digital signature” (w.e.f. 27-10-2009).

2. Subs. by s. 5, *ibid.*, for the heading “DIGITAL SIGNATURE” (w.e.f. 27-10-2009).

3. Ins. by s. 6, *ibid.* (w.e.f. 27-10-2009).

(b) the signature creation data or the authentication data were, at the time of signing, under the control of the signatory or, as the case may be, the authenticator and of no other person;

(c) any alteration to the electronic signature made after affixing such signature is detectable;

(d) any alteration to the information made after its authentication by electronic signature is detectable; and

(e) it fulfils such other conditions which may be prescribed.

(3) The Central Government may prescribe the procedure for the purpose of ascertaining whether electronic signature is that of the person by whom it is purported to have been affixed or authenticated.

(4) The Central Government may, by notification in the Official Gazette, add to or omit any electronic signature or electronic authentication technique and the procedure for affixing such signature from the Second Schedule:

Provided that no electronic signature or authentication technique shall be specified in the Second Schedule unless such signature or technique is reliable.

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament.]

### CHAPTER III

#### ELECTRONIC GOVERNANCE

**4. Legal recognition of electronic records.**—Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is—

(a) rendered or made available in an electronic form; and

(b) accessible so as to be usable for a subsequent reference.

**5. Legal recognition of <sup>1</sup>[electronic signatures].**—Where any law provides that information or any other matter shall be authenticated by affixing the signature or any document shall be signed or bear the signature of any person, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied, if such information or matter is authenticated by means of <sup>1</sup>[electronic signature] affixed in such manner as may be prescribed by the Central Government.

*Explanation.*—For the purposes of this section, “signed”, with its grammatical variations and cognate expressions, shall, with reference to a person, mean affixing of his hand written signature or any mark on any document and the expression “signature” shall be construed accordingly.

**6. Use of electronic records and <sup>1</sup>[electronic signatures] in Government and its agencies.**—(1) Where any law provides for—

(a) the filing of any form, application or any other document with any office, authority, body or agency owned or controlled by the appropriate Government in a particular manner;

(b) the issue or grant of any licence, permit, sanction or approval by whatever name called in a particular manner;

(c) the receipt or payment of money in a particular manner,

then, notwithstanding anything contained in any other law for the time being in force, such requirement shall be deemed to have been satisfied if such filing, issue, grant, receipt or payment, as the case may be, is effected by means of such electronic form as may be prescribed by the appropriate Government.

(2) The appropriate Government may, for the purposes of sub-section (1), by rules, prescribe—

(a) the manner and format in which such electronic records shall be filed, created or issued;

(b) the manner or method of payment of any fee or charges for filing, creation or issue any electronic record under clause (a).

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1. Subs. by Act 10 of 2009, s. 2, for “digital signatures” (w.e.f. 27-10-2009).

<sup>1</sup>[**6A. Delivery of services by service provider.**—(1) The appropriate Government may, for the purposes of this Chapter and for efficient delivery of services to the public through electronic means authorise, by order, any service provider to set up, maintain and upgrade the computerised facilities and perform such other services as it may specify, by notification in the Official Gazette.

*Explanation.*—For the purposes of this section, service provider so authorised includes any individual, private agency, private company, partnership firm, sole proprietor firm or any such other body or agency which has been granted permission by the appropriate Government to offer services through electronic means in accordance with the policy governing such service sector.

(2) The appropriate Government may also authorise any service provider authorised under sub-section (1) to collect, retain and appropriate such service charges, as may be prescribed by the appropriate Government for the purpose of providing such services, from the person availing such service.

(3) Subject to the provisions of sub-section (2), the appropriate Government may authorise the service providers to collect, retain and appropriate service charges under this section notwithstanding the fact that there is no express provision under the Act, rule, regulation or notification under which the service is provided to collect, retain and appropriate e-service charges by the service providers.

(4) The appropriate Government shall, by notification in the Official Gazette, specify the scale of service charges which may be charged and collected by the service providers under this section:

Provided that the appropriate Government may specify different scale of service charges for different types of services.]

**7. Retention of electronic records.**—(1) Where any law provides that documents, records or information shall be retained for any specific period, then, that requirement shall be deemed to have been satisfied if such documents, records or information are retained in the electronic form, if—

(a) the information contained therein remains accessible so as to be usable for a subsequent reference;

(b) the electronic record is retained in the format in which it was originally generated, sent or received or in a format which can be demonstrated to represent accurately the information originally generated, sent or received;

(c) the details which will facilitate the identification of the origin, destination, date and time of despatch or receipt of such electronic record are available in the electronic record:

Provided that this clause does not apply to any information which is automatically generated solely for the purpose of enabling an electronic record to be despatched or received.

(2) Nothing in this section shall apply to any law that expressly provides for the retention of documents, records or information in the form of electronic records.

<sup>2</sup>[**7A. Audit of documents, etc., maintained in electronic form.**—Where in any law for the time being in force, there is a provision for audit of documents, records or information, that provision shall also be applicable for audit of documents, records or information processed and maintained in the electronic form.]

**8. Publication of rule, regulation, etc., in Electronic Gazette.**—Where any law provides that any rule, regulation, order, bye-law, notification or any other matter shall be published in the Official Gazette, then, such requirement shall be deemed to have been satisfied if such rule, regulation, order, bye-law, notification or any other matter is published in the Official Gazette or Electronic Gazette:

Provided that where any rule, regulation, order, by-law, notification or any other matter is published in the Official Gazette or Electronic Gazette, the date of publication shall be deemed to be the date of the Gazette which was first published in any form.

**9. Sections 6, 7 and 8 not to confer right to insist document should be accepted in electronic form.**—Nothing contained in sections 6, 7 and 8 shall confer a right upon any person to insist that any Ministry or Department of the Central Government or the State Government or any authority or body established by or under any law or controlled or funded by the Central or State Government should

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1. Ins. by Act 10 of 2009 s. 7 (w.e.f. 27-10-2009).

2. Ins. by s. 8, *ibid.* (w.e.f. 27-10-2009).

accept, issue, create, retain and preserve any document in the form of electronic records or effect any monetary transaction in the electronic form.

**10. Power to make rules by Central Government in respect of <sup>1</sup>[electronic signature].**—The Central Government may, for the purposes of this Act, by rules, prescribe—

- (a) the type of <sup>1</sup>[electronic signature];
- (b) the manner and format in which the <sup>1</sup>[electronic signature] shall be affixed;
- (c) the manner or procedure which facilitates identification of the person affixing the <sup>1</sup>[electronic signature];
- (d) control processes and procedures to ensure adequate integrity, security and confidentiality of electronic records or payments; and
- (e) any other matter which is necessary to give legal effect to <sup>1</sup>[electronic signatures].

<sup>2</sup>**[10A. Validity of contracts formed through electronic means.**—Where in a contract formation, the communication of proposals, the acceptance of proposals, the revocation of proposals and acceptances, as the case may be, are expressed in electronic form or by means of an electronic records, such contract shall not be deemed to be unenforceable solely on the ground that such electronic form or means was used for that purpose.]

#### CHAPTER IV

##### ATTRIBUTION, ACKNOWLEDGMENT AND DESPATCH OF ELECTRONIC RECORDS

**11. Attribution of electronic records.**—An electronic record shall be attributed to the originator—

- (a) if it was sent by the originator himself;
- (b) by a person who had the authority to act on behalf of the originator in respect of that electronic record; or
- (c) by an information system programmed by or on behalf of the originator to operate automatically.

**12. Acknowledgment of receipt.**—(1) Where the originator has not <sup>3</sup>[stipulated] that the acknowledgment of receipt of electronic record be given in a particular form or by a particular method, an acknowledgment may be given by—

- (a) any communication by the addressee, automated or otherwise; or
- (b) any conduct of the addressee, sufficient to indicate to the originator that the electronic record has been received.

(2) Where the originator has stipulated that the electronic record shall be binding only on receipt of an acknowledgment of such electronic record by him, then unless acknowledgment has been so received, the electronic record shall be deemed to have been never sent by the originator.

(3) Where the originator has not stipulated that the electronic record shall be binding only on receipt of such acknowledgment, and the acknowledgment has not been received by the originator within the time specified or agreed or, if no time has been specified or agreed to within a reasonable time, then the originator may give notice to the addressee stating that no acknowledgment has been received by him and specifying a reasonable time by which the acknowledgement must be received by him and if no acknowledgment is received within the aforesaid time limit he may after giving notice to the addressee, treat the electronic record as though it has never been sent.

**13. Time and place of despatch and receipt of electronic record.**—(1) Save as otherwise agreed to between the originator and the addressee, the despatch of an electronic record occurs when it enters a computer resource outside the control of the originator.

- (2) Save as otherwise agreed between the originator and the addressee, the time of receipt of an

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1. Subs. by Act 10 of 2009, s. 2, for “digital signature” (w.e.f. 27-10-2009).  
2. Ins. by s. 9, *ibid.* (w.e.f. 27-10-2009).  
3. Subs. by s. 10, *ibid.*, for “agreed with the addressee” (w.e.f. 27-10-2009).

electronic record shall be determined as follows, namely:–

(a) if the addressee has designated a computer resource for the purpose of receiving electronic records,–

(i) receipt occurs at the time when the electronic record enters the designated computer resource; or

(ii) if the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;

(b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee.

(3) Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be despatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.

(4) The provisions of sub-section (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3).

(5) For the purposes of this section,–

(a) if the originator or the addressee has more than one place of business, the principal place of business, shall be the place of business;

(b) if the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business;

(c) “usual place of residence”, in relation to a body corporate, means the place where it is registered.

## CHAPTER V

### SECURE ELECTRONIC RECORDS AND SECURE <sup>1</sup>[ELECTRONIC SIGNATURE]

**14. Secure electronic record.**–Where any security procedure has been applied to an electronic record at a specific point of time, then such record shall be deemed to be a secure electronic record from such point of time to the time of verification.

<sup>2</sup>[**15. Secure electronic signature.**– An electronic signature shall be deemed to be a secure electronic signature if–

(i) the signature creation data, at the time of affixing signature, was under the exclusive control of signatory and no other person; and

(ii) the signature creation data was stored and affixed in such exclusive manner as may be prescribed.

*Explanation.*–In case of digital signature, the “signature creation data” means the private key of the subscriber.

**16. Security procedures and practices.**–The Central Government may, for the purposes of sections 14 and 15, prescribe the security procedures and practices:

Provided that in prescribing such security procedures and practices, the Central Government shall have regard to the commercial circumstances, nature of transactions and such other related factors as it may consider appropriate.]

## CHAPTER VI

### REGULATION OF CERTIFYING AUTHORITIES

**17. Appointment of Controller and other officers.**–(1) The Central Government may, by notification in the Official Gazette, appoint a Controller of Certifying Authorities for the purposes of this Act and may also by the same or subsequent notification appoint such number of Deputy Controllers <sup>3</sup>[, Assistant Controllers, other officers and employees] as it deems fit.

1. Subs. by Act 10 of 2009, s. 2, for “digital signatures” (w.e.f. 27-10-2009).

2. Subs. by s 11, *ibid.*, for sections 15 and 16 (w.e.f. 27-10-2009).

3. Subs. by s.12, *ibid.*, for “and Assistant Controllers” (w.e.f. 27-10-2009).

(2) The Controller shall discharge his functions under this Act subject to the general control and directions of the Central Government.

(3) The Deputy Controllers and Assistant Controllers shall perform the functions assigned to them by the Controller under the general superintendence and control of the Controller.

(4) The qualifications, experience and terms and conditions of service of Controller, Deputy Controllers <sup>1</sup>[,Assistant Controllers, other officers and employees] shall be such as may be prescribed by the Central Government.

(5) The Head Office and Branch Office of the office of the Controller shall be at such places as the Central Government may specify, and these may be established at such places as the Central Government may think fit.

(6) There shall be a seal of the Office of the Controller.

**18. Functions of Controller.**—The Controller may perform all or any of the following functions, namely:—

(a) exercising supervision over the activities of the Certifying Authorities;

(b) certifying public keys of the Certifying Authorities;

(c) laying down the standards to be maintained by the Certifying Authorities;

(d) specifying the qualifications and experience which employees of the Certifying Authority should possess;

(e) specifying the conditions subject to which the Certifying Authorities shall conduct their business;

(f) specifying the contents of written, printed or visual materials and advertisements that may be distributed or used in respect of a <sup>2</sup>[electronic signature] Certificate and the public key;

(g) specifying the form and content of a <sup>2</sup>[electronic signature] Certificate and the key;

(h) specifying the form and manner in which accounts shall be maintained by the Certifying Authorities;

(i) specifying the terms and conditions subject to which auditors may be appointed and the remuneration to be paid to them;

(j) facilitating the establishment of any electronic system by a Certifying Authority either solely or jointly with other Certifying Authorities and regulation of such systems;

(k) specifying the manner in which the Certifying Authorities shall conduct their dealings with the subscribers;

(l) resolving any conflict of interests between the Certifying Authorities and the subscribers;

(m) laying down the duties of the Certifying Authorities;

(n) maintaining a data base containing the disclosure record of every Certifying Authority containing such particulars as may be specified by regulations, which shall be accessible to public.

**19. Recognition of foreign Certifying Authorities.**—(1) Subject to such conditions and restrictions as may be specified by regulations, the Controller may with the previous approval of the Central Government, and by notification in the Official Gazette, recognise any foreign Certifying Authority as a Certifying Authority for the purposes of this Act.

(2) Where any Certifying Authority is recognised under sub-section (1), the <sup>2</sup>[electronic signature] Certificate issued by such Certifying Authority shall be valid for the purposes of this Act.

(3) The Controller may, if he is satisfied that any Certifying Authority has contravened any of the conditions and restrictions subject to which it was granted recognition under sub-section (1) he may, for reasons to be recorded in writing, by notification in the Official Gazette, revoke such recognition.

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1. Subs. by Act 10 of 2009, s. 12, for “Assistant Controllers” (w.e.f. 27-10-2009).

2. Subs. by s. 2, *ibid.*, for “Digital Signature” (w.e.f. 27-10-2009).

**20.** [Controller to act as repository.] Omitted by the Information Technology (Amendment) Act, 2008 (10 of 2009), s. 13 (w.e.f. 27-10-2009).

**21. Licence to issue <sup>1</sup>[electronic signature] Certificates.**—(1) Subject to the provisions of sub-section (2), any person may make an application, to the Controller, for a licence to issue <sup>1</sup>[electronic signature] Certificates.

(2) No licence shall be issued under sub-section (1), unless the applicant fulfills such requirements with respect to qualification, expertise, manpower, financial resources and other infrastructure facilities, which are necessary to issue <sup>1</sup>[electronic signature] Certificates as may be prescribed by the Central Government.

(3) A licence granted under this section shall—

(a) be valid for such period as may be prescribed by the Central Government;

(b) not be transferable or heritable;

(c) be subject to such terms and conditions as may be specified by the regulations.

**22. Application for licence.**—(1) Every application for issue of a licence shall be in such form as may be prescribed by the Central Government.

(2) Every application for issue of a licence shall be accompanied by—

(a) a certification practice statement;

(b) a statement including the procedures with respect to identification of the applicant;

(c) payment of such fees, not exceeding twenty-five thousand rupees as may be prescribed by the Central Government;

(d) such other documents, as may be prescribed by the Central Government.

**23. Renewal of licence.**—An application for renewal of a licence shall be—

(a) in such form;

(b) accompanied by such fees, not exceeding five thousand rupees, as may be prescribed by the Central Government and shall be made not less than forty-five days before the date of expiry of the period of validity of the licence.

**24. Procedure for grant or rejection of licence.**—The Controller may, on receipt of an application under sub-section (1) of section 21, after considering the documents accompanying the application and such other factors, as he deems fit, grant the licence or reject the application:

Provided that no application shall be rejected under this section unless the applicant has been given a reasonable opportunity of presenting his case.

**25. Suspension of licence.**— (1) The Controller may, if he is satisfied after making such inquiry, as he may think fit, that a Certifying Authority has—

(a) made a statement in, or in relation to, the application for the issue or renewal of the licence, which is incorrect or false in material particulars;

(b) failed to comply with the terms and conditions subject to which the licence was granted;

<sup>2</sup>[(c) failed to maintain the procedures and standards specified in section 30;]

(d) contravened any provisions of this Act, rule, regulation or order made thereunder,

revoke the licence:

Provided that no licence shall be revoked unless the Certifying Authority has been given a reasonable opportunity of showing cause against the proposed revocation.

(2) The Controller may, if he has reasonable cause to believe that there is any ground for revoking a licence under sub-section (1), by order suspend such licence pending the completion of any enquiry ordered by him:

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1. Subs. by Act 10 of 2009, s. 2, for “Digital Signature” (w.e.f. 27-10-2009).

2. Subs. by notification No. S.O. 1015(E) (w.e.f. 19-9-2002).

Provided that no licence shall be suspended for a period exceeding ten days unless the Certifying Authority has been given a reasonable opportunity of showing cause against the proposed suspension.

(3) No Certifying Authority whose licence has been suspended shall issue any <sup>1</sup>[electronic signature] Certificate during such suspension.

**26. Notice of suspension or revocation of licence.**—(1) Where the licence of the Certifying Authority is suspended or revoked, the Controller shall publish notice of such suspension or revocation, as the case may be, in the data base maintained by him.

(2) Where one or more repositories are specified, the Controller shall publish notices of such suspension or revocation, as the case may be, in all such repositories:

Provided that the data base containing the notice of such suspension or revocation, as the case may be, shall be made available through a web site which shall be accessible round the clock:

Provided further that the Controller may, if he considers necessary, publicise the contents of data base in such electronic or other media, as he may consider appropriate.

**27. Power to delegate.**—The Controller may, in writing, authorise the Deputy Controller, Assistant Controller or any officer to exercise any of the powers of the Controller under this Chapter.

**28. Power to investigate contraventions.**—(1) The Controller or any officer authorised by him in this behalf shall take up for investigation any contravention of the provisions of this Act, rules or regulations made thereunder.

(2) The Controller or any officer authorised by him in this behalf shall exercise the like powers which are conferred on Income-tax authorities under Chapter XIII of the Income-tax Act, 1961 (43 of 1961), and shall exercise such powers, subject to such limitations laid down under that Act.

**29. Access to computers and data.**—(1) Without prejudice to the provisions of sub-section (1) of section 69, the Controller or any person authorised by him shall, if he has reasonable cause to suspect that <sup>2</sup>[any contravention of the provisions of this Chapter] has been committed, have access to any computer system, any apparatus, data or any other material connected with such system, for the purpose of searching or causing a search to be made for obtaining any information or data contained in or available to such computer system.

(2) For the purposes of sub-section (1), the Controller or any person authorised by him may, by order, direct any person in charge of, or otherwise concerned with the operation of, the computer system, data apparatus or material, to provide him with such reasonable technical and other assistance as he may consider necessary.

**30. Certifying Authority to follow certain procedures.**—Every Certifying Authority shall,—

(a) make use of hardware, software and procedures that are secure from intrusion and misuse;

(b) provide a reasonable level of reliability in its services which are reasonably suited to the performance of intended functions;

(c) adhere to security procedures to ensure that the secrecy and privacy of the <sup>1</sup>[electronic signatures] are assured; <sup>3</sup>\*\*\*

<sup>4</sup>[(ca) be the repository of all electronic signature Certificates issued under this Act;

(cb) publish information regarding its practices, electronic signature Certificates and current status of such certificates; and ]

(d) observe such other standards as may be specified by regulations.

**31. Certifying Authority to ensure compliance of the Act, etc.**—Every Certifying Authority shall ensure that every person employed or otherwise engaged by it complies, in the course of his employment or engagement, with the provisions of this Act, rules, regulations and orders made thereunder.

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1. Subs. by Act 10 of 2009, s. 2, for “Digital Signature” (w.e.f. 27-10-2009).

2. Subs. by s. 14, *ibid.*, for “any contravention of the provisions of this Act, rules and regulations made thereunder” (w.e.f. 27-10-2009).

3. The word “and” omitted by s. 15, *ibid.* (w.e.f. 27-10-2009).

4. Ins. by s. 15, *ibid.* (w.e.f. 27-10-2009).

**32. Display of licence.**—Every Certifying Authority shall display its licence at a conspicuous place of the premises in which it carries on its business.

**33. Surrender of licence.**—(1) Every Certifying Authority whose licence is suspended or revoked shall immediately after such suspension or revocation, surrender the licence to the Controller.

(2) Where any Certifying Authority fails to surrender a licence under sub-section (1), the person in whose favour a licence is issued, shall be guilty of an offence and shall be punished with imprisonment which may extend up to six months or a fine which may extend up to ten thousand rupees or with both.

**34. Disclosure.**—(1) Every Certifying Authority shall disclose in the manner specified by regulations—

(a) its <sup>1</sup>[electronic signature] Certificate <sup>2</sup>\*\*\*;

(b) any certification practice statement relevant thereto;

(c) notice of the revocation or suspension of its Certifying Authority certificate, if any; and

(d) any other fact that materially and adversely affects either the reliability of a <sup>1</sup>[electronic signature] Certificate, which that Authority has issued, or the Authority's ability to perform its services.

(2) Where in the opinion of the Certifying Authority any event has occurred or any situation has arisen which may materially and adversely affect the integrity of its computer system or the conditions subject to which a <sup>1</sup>[electronic signature] Certificate was granted, then, the Certifying Authority shall—

(a) use reasonable efforts to notify any person who is likely to be affected by that occurrence; or

(b) act in accordance with the procedure specified in its certification practice statement to deal with such event or situation.

## CHAPTER VII

### <sup>1</sup>[ELECTRONIC SIGNATURE] CERTIFICATES

**35. Certifying authority to issue <sup>1</sup>[electronic signature] Certificate.**—(1) Any person may make an application to the Certifying Authority for the issue of a <sup>1</sup>[electronic signature] Certificate in such form as may be prescribed by the Central Government.

(2) Every such application shall be accompanied by such fee not exceeding twenty-five thousand rupees as may be prescribed by the Central Government, to be paid to the Certifying Authority:

Provided that while prescribing fees under sub-section (2) different fees may be prescribed for different classes of applicants.

(3) Every such application shall be accompanied by a certification practice statement or where there is no such statement, a statement containing such particulars, as may be specified by regulations.

(4) On receipt of an application under sub-section (1), the Certifying Authority may, after consideration of the certification practice statement or the other statement under sub-section (3) and after making such enquiries as it may deem fit, grant the <sup>1</sup>[electronic signature] Certificate or for reasons to be recorded in writing, reject the application:

<sup>3</sup>\* \* \* \* \*

<sup>4</sup>[Provided] that no application shall be rejected unless the applicant has been given a reasonable opportunity of showing cause against the proposed rejection.

**36. Representations upon issuance of Digital Signature Certificate.**—A Certifying Authority while issuing a Digital Signature Certificate shall certify that—

(a) it has complied with the provisions of this Act and the rules and regulations made thereunder;

(b) it has published the Digital Signature Certificate or otherwise made it available to such person relying on it and the subscriber has accepted it;

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1. Subs. by Act 10 of 2009, s. 2, for “Digital Signature” (w.e.f. 27-10-2009).

2. Certain words omitted by s. 16, *ibid.* (w.e.f. 27-10-2009).

3. The first proviso omitted by s. 17, *ibid.* (w.e.f. 27-10-2009).

4. Subs. by s. 17, *ibid.*, for “Provided further” (w.e.f. 27-10-2009).

(c) the subscriber holds the private key corresponding to the public key, listed in the Digital Signature Certificate;

<sup>1</sup>[(ca) the subscriber holds a private key which is capable of creating a digital signature;

(cb) the public key to be listed in the certificate can be used to verify a digital signature affixed by the private key held by the subscriber;]

(d) the subscriber's public key and private key constitute a functioning key pair;

(e) the information contained in the Digital Signature Certificate is accurate; and

(f) it has no knowledge of any material fact, which if it had been included in the Digital Signature Certificate would adversely affect the reliability of the representations in clauses (a) to (d).

**37. Suspension of Digital Signature Certificate.**—(1) Subject to the provisions of sub-section (2), the Certifying Authority which has issued a Digital Signature Certificate may suspend such Digital Signature Certificate,—

(a) on receipt of a request to that effect from—

(i) the subscriber listed in the Digital Signature Certificate; or

(ii) any person duly authorised to act on behalf of that subscriber;

(b) if it is of opinion that the Digital Signature Certificate should be suspended in public interest.

(2) A Digital Signature Certificate shall not be suspended for a period exceeding fifteen days unless the subscriber has been given an opportunity of being heard in the matter.

(3) On suspension of a Digital Signature Certificate under this section, the Certifying Authority shall communicate the same to the subscriber.

**38. Revocation of Digital Signature Certificate.**—(1) A Certifying Authority may revoke a Digital Signature Certificate issued by it—

(a) where the subscriber or any other person authorised by him makes a request to that effect; or

(b) upon the death of the subscriber; or

(c) upon the dissolution of the firm or winding up of the company where the subscriber is a firm or a company.

(2) Subject to the provisions of sub-section (3) and without prejudice to the provisions of sub-section (1), a Certifying Authority may revoke a Digital Signature Certificate which has been issued by it at any time, if it is of opinion that—

(a) a material fact represented in the Digital Signature Certificate is false or has been concealed;

(b) a requirement for issuance of the Digital Signature Certificate was not satisfied;

(c) the Certifying Authority's private key or security system was compromised in a manner materially affecting the Digital Signature Certificate's reliability;

(d) the subscriber has been declared insolvent or dead or where a subscriber is a firm or a company, which has been dissolved, wound-up or otherwise ceased to exist.

(3) A Digital Signature Certificate shall not be revoked unless the subscriber has been given an opportunity of being heard in the matter.

(4) On revocation of a Digital Signature Certificate under this section, the Certifying Authority shall communicate the same to the subscriber.

**39. Notice of suspension or revocation.**—(1) Where a Digital Signature Certificate is suspended or revoked under section 37 or section 38, the Certifying Authority shall publish a notice of such suspension or revocation, as the case may be, in the repository specified in the Digital Signature Certificate for publication of such notice.

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1. Ins. by Act 10 of 2009, s. 18 (w.e.f. 27-10-2009).

(2) Where one or more repositories are specified, the Certifying Authority shall publish notices of such suspension or revocation, as the case may be, in all such repositories.

## CHAPTER VIII

### DUTIES OF SUBSCRIBERS

**40. Generating key pair.**—Where any Digital Signature Certificate the public key of which corresponds to the private key of that subscriber which is to be listed in the Digital Signature Certificate has been accepted by a subscriber, <sup>1</sup>\*\*\* the subscriber shall generate <sup>2</sup>[that key] pair by applying the security procedure.

<sup>3</sup>[**40A. Duties of subscriber of Electronic Signature Certificate.**—In respect of Electronic Signature Certificate the subscriber shall perform such duties as may be prescribed.]

**41. Acceptance of Digital Signature Certificate.**—(1) A subscriber shall be deemed to have accepted a Digital Signature Certificate if he publishes or authorises the publication of a Digital Signature Certificate—

(a) to one or more persons;

(b) in a repository; or

otherwise demonstrates his approval of the Digital Signature Certificate in any manner.

(2) By accepting a Digital Signature Certificate the subscriber certifies to all who reasonably rely on the information contained in the Digital Signature Certificate that—

(a) the subscriber holds the private key corresponding to the public key listed in the Digital Signature Certificate and is entitled to hold the same;

(b) all representations made by the subscriber to the Certifying Authority and all material relevant to the information contained in the Digital Signature Certificate are true;

(c) all information in the Digital Signature Certificate that is within the knowledge of the subscriber is true.

**42. Control of private key.**—(1) Every subscriber shall exercise reasonable care to retain control of the private key corresponding to the public key listed in his Digital Signature Certificate and take all steps to prevent its disclosure <sup>4</sup>\*\*\*.

(2) If the private key corresponding to the public key listed in the Digital Signature Certificate has been compromised, then, the subscriber shall communicate the same without any delay to the Certifying Authority in such manner as may be specified by the regulations.

*Explanation.*—For the removal of doubts, it is hereby declared that the subscriber shall be liable till he has informed the Certifying Authority that the private key has been compromised.

## CHAPTER IX

### <sup>5</sup>[PENALTIES, COMPENSATION AND ADJUDICATION]

**43. <sup>6</sup>[Penalty and compensation] for damage to computer, computer system, etc.**—If any person without permission of the owner or any other person who is in charge of a computer, computer system or computer network,—

(a) accesses or secures access to such computer, computer system or computer network <sup>7</sup>[or computer resource];

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1. The word “then” omitted by notification No. S.O. 1015(E) (w.e.f. 19-9-2002).

2. Subs. *ibid.*, for “the key” (w.e.f. 19-9-2002).

3. Ins. by Act 10 of 2009, s. 19 (w.e.f. 27-10-2009).

4. The words “to a person not authorised to affix the digital signature of the subscriber” omitted by notification No. S.O.1015(E) (w.e.f. 19-9-2002).

5. Subs. by Act 10 of 2009, s. 20, for “PENALTIES AND ADJUDICATION” (w.e.f. 27-10-2009).

6. Subs. by s. 21, *ibid.*, for “Penalty” (w.e.f. 27-10-2009).

7. Ins. by s. 21, *ibid.* (w.e.f. 27-10-2009).

(b) downloads, copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium;

(c) introduces or causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network;

(d) damages or causes to be damaged any computer, computer system or computer network, data, computer data base or any other programmes residing in such computer, computer system or computer network;

(e) disrupts or causes disruption of any computer, computer system or computer network;

(f) denies or causes the denial of access to any person authorised to access any computer, computer system or computer network by any means;

(g) provides any assistance to any person to facilitate access to a computer, computer system or computer network in contravention of the provisions of this Act, rules or regulations made thereunder;

(h) charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system, or computer network;

<sup>1</sup>[(i) destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means;

(j) steal, conceal, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used for a computer resource with an intention to cause damage;]

<sup>2</sup>[he shall be liable to pay damages by way of compensation to the person so affected.]

*Explanation.*—For the purposes of this section,—

(i) “computer contaminant” means any set of computer instructions that are designed—

(a) to modify, destroy, record, transmit data or programme residing within a computer, computer system or computer network; or

(b) by any means to usurp the normal operation of the computer, computer system, or computer network;

(ii) “computer data-base” means a representation of information, knowledge, facts, concepts or instructions in text, image, audio, video that are being prepared or have been prepared in a formalised manner or have been produced by a computer, computer system or computer network and are intended for use in a computer, computer system or computer network;

(iii) “computer virus” means any computer instruction, information, data or programme that destroys, damages, degrades or adversely affects the performance of a computer resource or attaches itself to another computer resource and operates when a programme, data or instruction is executed or some other event takes place in that computer resource;

(iv) “damage” means to destroy, alter, delete, add, modify or rearrange any computer resource by any means.

<sup>1</sup>[(v) “computer source code” means the listing of programme, computer commands, design and layout and programme analysis of computer resource in any form.]

<sup>3</sup>**[43A. Compensation for failure to protect data.**—Where a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, is negligent in implementing and maintaining reasonable security practices and procedures and thereby causes wrongful loss or wrongful gain to any person, such body corporate shall be liable to pay damages by way of compensation to the person so affected.

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1. Ins. by Act 10 of 2009, s. 21 (w.e.f. 27-10-2009).

2. Subs. by s. 21, *ibid.*, for certain words (w.e.f. 27-10-2009).

3. Ins. by s. 22, *ibid.* (w.e.f. 27-10-2009).

*Explanation.*—For the purposes of this section,—

(i) “body corporate” means any company and includes a firm, sole proprietorship or other association of individuals engaged in commercial or professional activities;

(ii) “reasonable security practices and procedures” means security practices and procedures designed to protect such information from unauthorised access, damage, use, modification, disclosure or impairment, as may be specified in an agreement between the parties or as may be specified in any law for the time being in force and in the absence of such agreement or any law, such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit;

(iii) “sensitive personal data or information” means such personal information as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.]

**44. Penalty for failure to furnish information, return, etc.**—If any person who is required under this Act or any rules or regulations made thereunder to—

(a) furnish any document, return or report to the Controller or the Certifying Authority fails to furnish the same, he shall be liable to a penalty not exceeding one lakh and fifty thousand rupees for each such failure;

(b) file any return or furnish any information, books or other documents within the time specified therefor in the regulations fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty not exceeding five thousand rupees for every day during which such failure continues;

(c) maintain books of account or records, fails to maintain the same, he shall be liable to a penalty not exceeding ten thousand rupees for every day during which the failure continues.

**45. Residuary penalty.**—Whoever contravenes any rules or regulations made under this Act, for the contravention of which no penalty has been separately provided, shall be liable to pay a compensation not exceeding twenty-five thousand rupees to the person affected by such contravention or a penalty not exceeding twenty-five thousand rupees.

**46. Power to adjudicate.**—(1) For the purpose of adjudging under this Chapter whether any person has committed a contravention of any of the provisions of this Act or of any rule, regulation, <sup>1</sup>[direction or order made thereunder which renders him liable to pay penalty or compensation,] the Central Government shall, subject to the provisions of sub-section (3), appoint any officer not below the rank of a Director to the Government of India or an equivalent officer of a State Government to be an adjudicating officer for holding an inquiry in the manner prescribed by the Central Government.

<sup>2</sup>[(1A) The adjudicating officer appointed under sub-section (1) shall exercise jurisdiction to adjudicate matters in which the claim for injury or damage does not exceed rupees five crore:

Provided that the jurisdiction in respect of the claim for injury or damage exceeding rupees five crores shall vest with the competent court.]

(2) The adjudicating officer shall, after giving the person referred to in sub-section (1) a reasonable opportunity for making representation in the matter and if, on such inquiry, he is satisfied that the person has committed the contravention, he may impose such penalty or award such compensation as he thinks fit in accordance with the provisions of that section.

(3) No person shall be appointed as an adjudicating officer unless he possesses such experience in the field of Information Technology and legal or judicial experience as may be prescribed by the Central Government.

(4) Where more than one adjudicating officers are appointed, the Central Government shall specify by order the matters and places with respect to which such officers shall exercise their jurisdiction.

(5) Every adjudicating officer shall have the powers of a civil court which are conferred on the Cyber Appellate Tribunal under sub-section (2) of section 58, and—

1. Subs. by Act 10 of 2009, s. 23, for “direction or order made thereunder” (w.e.f. 27-10-2009).

2. Ins. by s. 23, *ibid.* (w.e.f. 27-10-2009).

(a) all proceedings before it shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860);

(b) shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974);

<sup>1</sup>[(c) shall be deemed to be a civil court for purposes of Order XXI of the Civil Procedure Code, 1908 (5 of 1908).]

**47. Factors to be taken into account by the adjudicating officer.**—While adjudging the quantum of compensation under this Chapter, the adjudicating officer shall have due regard to the following factors, namely:—

(a) the amount of gain of unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to any person as a result of the default;

(c) the repetitive nature of the default.

## CHAPTER X

### THE CYBER <sup>2\*\*\*</sup> APPELLATE TRIBUNAL

**48. Establishment of Cyber Appellate Tribunal.**—(1) The Central Government shall, by notification, establish one or more appellate tribunals to be known as the Cyber <sup>3\*\*\*</sup> Appellate Tribunal.

(2) The Central Government shall also specify, in the notification referred to in sub-section (1), the matters and places in relation to which the Cyber Appellate Tribunal may exercise jurisdiction.

<sup>4</sup>[**49. Composition of Cyber Appellate Tribunal.**—(1) The Cyber Appellate Tribunal shall consist of a Chairperson and such number of other Members, as the Central Government may, by notification in the Official Gazette, appoint:

Provided that the person appointed as the Presiding Officer of the Cyber Appellate Tribunal under the provisions of this Act immediately before the commencement of the Information Technology (Amendment) Act, 2008 (10 of 2009) shall be deemed to have been appointed as the Chairperson of the said Cyber Appellate Tribunal under the provisions of this Act as amended by the Information Technology (Amendment) Act, 2008.

(2) The selection of Chairperson and Members of the Cyber Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India.

(3) Subject to the provisions of this Act—

(a) the jurisdiction, powers and authority of the Cyber Appellate Tribunal may be exercised by the Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Cyber Appellate Tribunal with one or two Members of such Tribunal as the Chairperson may deem fit.

(c) the Benches of the Cyber Appellate Tribunal shall sit at New Delhi and at such other places as the Central Government may, in consultation with the Chairperson of the Cyber Appellate Tribunal, by notification in the Official Gazette, specify;

(d) the Central Government shall, by notification in the Official Gazette, specify the areas in relation to which each Bench of the Cyber Appellate Tribunal may exercise its jurisdiction.

(4) Notwithstanding anything contained in sub-section (3), the Chairperson of the Cyber Appellate Tribunal may transfer a Member of such Tribunal from one Bench to another Bench.

(5) If at any stage of the hearing of any case or matter it appears to the Chairperson or a Member of the Cyber Appellate Tribunal that the case or matter is of such a nature that it ought to be heard by a Bench consisting of more Members, the case or matter may be transferred by the Chairperson to such Bench as the Chairperson may deem fit.

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1. Ins. by Act 10 of 2009, s. 23 (w.e.f. 27-10-2009).

2. The word “REGULATIONS” omitted by s. 24, *ibid.* (w.e.f. 27-10-2009).

3. The word “Regulations” omitted by s. 25, *ibid.* (w.e.f. 27-10-2009).

4. Subs. by s. 26, *ibid.*, for sections 49 to 52 (w.e.f. 27-10-2009).

**50. Qualifications for appointment as Chairperson and Members of Cyber Appellate Tribunal.–**

(1) A person shall not be qualified for appointment as a Chairperson of the Cyber Appellate Tribunal unless he is, or has been, or is qualified to be, a Judge of a High Court.

(2) The Members of the Cyber Appellate Tribunal, except the Judicial Member to be appointed under sub-section (3), shall be appointed by the Central Government from amongst persons, having special knowledge of, and professional experience in, information technology, telecommunication, industry, management or consumer affairs:

Provided that a person shall not be appointed as a Member, unless he is, or has been, in the service of the Central Government or a State Government, and has held the post of Additional Secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than one year or Joint Secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than seven years.

(3) The Judicial Members of the Cyber Appellate Tribunal shall be appointed by the Central Government from amongst persons who is or has been a member of the Indian Legal Service and has held the post of Additional Secretary for a period of not less than one year or Grade I post of that Service for a period of not less than five years.

**51. Term of office, conditions of service, etc., of Chairperson and Members.–**(1) The Chairperson or Member of the Cyber Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(2) Before appointing any person as the Chairperson or Member of the Cyber Appellate Tribunal, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member.

(3) An officer of the Central Government or State Government on his selection as the Chairperson or Member of the Cyber Appellate Tribunal, as the case may be, shall have to retire from service before joining as such Chairperson or Member.

**52. Salary, allowances and other terms and conditions of service of Chairperson and Members.–**The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the Chairperson or a Member of the Cyber Appellate Tribunal shall be such as may be prescribed.

**52A. Powers of superintendence, direction, etc.–**The Chairperson of the Cyber Appellate Tribunal shall have powers of general superintendence and directions in the conduct of the affairs of that Tribunal and he shall, in addition to presiding over the meetings of the Tribunal, exercise and discharge such powers and functions of the Tribunal as may be prescribed.

**52B. Distribution of business among Benches.–**Where Benches are constituted, the Chairperson of the Cyber Appellate Tribunal may, by order, distribute the business of that Tribunal amongst the Benches and also the matters to be dealt with by each Bench.

**52C. Power of Chairperson to transfer cases.–**On the application of any of the parties and after notice to the parties, and after hearing such of them as he may deem proper to be heard, or *suo motu* without such notice, the Chairperson of the Cyber Appellate Tribunal may transfer any case pending before one Bench, for disposal to any other Bench.

**52D. Decision by majority.–**If the Members of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the Cyber Appellate Tribunal who shall hear the point or points himself and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.]

**53. Filling up of vacancies.–**If, for reason other than temporary absence, any vacancy occurs in the office of the <sup>1</sup>[Chairperson or Member, as the case may be,] of a Cyber Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Cyber Appellate Tribunal from the stage at which the vacancy is filled.

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1. Subs. by Act 10 of 2009, s. 27, for "Presiding Officer" (w.e.f. 27-10-2009).

**54. Resignation and removal.**—(1) The <sup>1</sup>[Chairperson or the Member] of a Cyber Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the said <sup>1</sup>[Chairperson or the Member] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The <sup>1</sup>[Chairperson or the Member] of a Cyber Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehavior or incapacity after an inquiry made by a Judge of the Supreme Court in which the <sup>1</sup>[Chairperson or the Member] concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehavior or incapacity of the aforesaid <sup>1</sup>[Chairperson or the Member].

**55. Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.**—No order of the Central Government appointing any person as the <sup>2</sup>[Chairperson or the Member] of a Cyber Appellate Tribunal shall be called in question in any manner and no act or proceeding before a Cyber Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Cyber Appellate Tribunal.

**56. Staff of the Cyber Appellate Tribunal.**—(1) The Central Government shall provide the Cyber Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Cyber Appellate Tribunal shall discharge their functions under general superintendence of the <sup>3</sup>[Chairperson].

(3) The salaries, allowances and other conditions of service of the officers and employees of the Cyber Appellate Tribunal shall be such as may be prescribed by the Central Government.

**57. Appeal to Cyber Appellate Tribunal.**—(1) Save as provided in sub-section (2), any person aggrieved by an order made by controller or an adjudicating officer under this Act may prefer an appeal to a Cyber Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Cyber Appellate Tribunal from an order made by an adjudicating officer with the consent of the parties.

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Controller or the adjudicating officer is received by the person aggrieved and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Cyber Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Cyber Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Cyber Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Controller or adjudicating officer.

(6) The appeal filed before the Cyber Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

**58. Procedure and powers of the Cyber Appellate Tribunal.**—(1) The Cyber Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Cyber Appellate Tribunal shall have powers to regulate its own procedure including the place at which it shall have its sittings.

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1. Subs. by Act 10 of 2009, s. 28, for “Presiding Officer” (w.e.f. 27-10-2009).

2. Subs. by s. 29, *ibid.*, for “Presiding Officer” (w.e.f. 27-10-2009).

3. Subs. by s. 30, *ibid.*, for “Presiding Officer” (w.e.f. 27-10-2009).

(2) The Cyber Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents or other electronic records;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) any other matter which may be prescribed.

(3) Every proceeding before the Cyber Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Cyber Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

**59. Right to legal representation.**—The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Cyber Appellate Tribunal.

**60. Limitation.**—The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to the Cyber Appellate Tribunal.

**61. Civil court not to have jurisdiction.**—No court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the Cyber Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

**62. Appeal to High Court.**—Any person aggrieved by any decision or order of the Cyber Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Cyber Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

**63. Compounding of contraventions.**—(1) Any contravention under this <sup>1</sup>[Act] may, either before or after the institution of adjudication proceedings, be compounded by the Controller or such other officer as may be specially authorised by him in this behalf or by the adjudicating officer, as the case may be, subject to such conditions as the Controller or such other officer or the adjudicating officer may specify:

Provided that such sum shall not, in any case, exceed the maximum amount of the penalty which may be imposed under this Act for the contravention so compounded.

(2) Nothing in sub-section (1) shall apply to a person who commits the same or similar contravention within a period of three years from the date on which the first contravention, committed by him, was compounded.

*Explanation.*—For the purposes of this sub-section, any second or subsequent contravention committed after the expiry of a period of three years from the date on which the contravention was previously compounded shall be deemed to be a first contravention.

(3) Where any contravention has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the person guilty of such contravention in respect of the contravention so compounded.

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1. Subs. by notification No. S.O. 1015(E) (w.e.f. 19-9-2002).

**64. Recovery of <sup>1</sup>[penalty].**—A <sup>2</sup>[penalty imposed or compensation awarded] under this Act, if it is not paid, shall be recovered as an arrear of land revenue and the licence or the <sup>3</sup>[electronic signature] Certificate, as the case may be, shall be suspended till the penalty is paid.

## CHAPTER XI

### OFFENCES

**65. Tampering with computer source documents.**—Whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to conceal, destroy, or alter any computer source code used for a computer, computer programme, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

*Explanation.*—For the purposes of this section, “computer source code” means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form.

**4[66. Computer related offences.**—If any person, dishonestly or fraudulently, does any act referred to in section 43, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees or with both.

*Explanation.*—For the purposes of this section,—

(a) the word “dishonestly” shall have the meaning assigned to it in section 24 of the Indian Penal Code (45 of 1860);

(b) the word “fraudulently” shall have the meaning assigned to it in section 25 of the Indian Penal Code (45 of 1860).

**66A. Punishment for sending offensive messages through communication service, etc.**—Any person who sends, by means of a computer resource or a communication device,—

(a) any information that is grossly offensive or has menacing character; or

(b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device;

(c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages,

shall be punishable with imprisonment for a term which may extend to three years and with fine.

*Explanation.*—For the purpose of this section, terms “electronic mail” and “electronic mail message” means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, images, audio, video and any other electronic record, which may be transmitted with the message.

**66B. Punishment for dishonestly receiving stolen computer resource or communication device.**—Whoever dishonestly received or retains any stolen computer resource or communication device knowing or having reason to believe the same to be stolen computer resource or communication device, shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to rupees one lakh or with both.

**66C. Punishment for identity theft.**—Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to rupees one lakh.

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1. Subs. by Act 10 of 2009, s. 31, for “penalty” (w.e.f. 27-10-2009).

2. Subs. by s. 31, *ibid.*, for “penalty imposed” (w.e.f. 27-10-2009).

3. Subs. by s. 2, *ibid.*, for “Digital Signature” (w.e.f. 27-10-2009).

4. Subs. by s. 32, *ibid.*, for sections 66 and 67 (w.e.f. 27-10-2009).

**66D. Punishment for cheating by personation by using computer resource.**—Whoever, by means of any communication device or computer resource cheats by personating, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees.

**66E. Punishment for violation of privacy.**—Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.

*Explanation.*—For the purposes of this section—

(a) “transmit” means to electronically send a visual image with the intent that it be viewed by a person or persons;

(b) “capture”, with respect to an image, means to videotape, photograph, film or record by any means;

(c) “private area” means the naked or undergarment clad genitals, public area, buttocks or female breast:

(d) “publishes” means reproduction in the printed or electronic form and making it available for public;

(e) “under circumstances violating privacy” means circumstances in which a person can have a reasonable expectation that—

(i) he or she could disrobe in privacy, without being concerned that an image of his private area was being captured; or

(ii) any part of his or her private area would not be visible to the public, regardless of whether that person is in a public or private place.

**66F. Punishment for cyber terrorism.**—(1) Whoever,—

(A) with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people by—

(i) denying or cause the denial of access to any person authorised to access computer resource; or

(ii) attempting to penetrate or access a computer resource without authorisation or exceeding authorised access; or

(iii) introducing or causing to introduce any computer contaminant, and by means of such conduct causes or is likely to cause death or injuries to persons or damage to or destruction of property or disrupts or knowing that it is likely to cause damage or disruption of supplies or services essential to the life of the community or adversely affect the critical information infrastructure specified under section 70; or

(B) knowingly or intentionally penetrates or accesses a computer resource without authorisation or exceeding authorised access, and by means of such conduct obtains access to information, data or computer data base that is restricted for reasons of the security of the State or foreign relations; or any restricted information, data or computer data base, with reasons to believe that such information, data or computer data base so obtained may be used to cause or likely to cause injury to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence, or to the advantage of any foreign nation, group of individuals or otherwise,

commits the offence of cyber terrorism.

(2) Whoever commits or conspires to commit cyber terrorism shall be punishable with imprisonment which may extend to imprisonment for life.

**67. Punishment for publishing or transmitting obscene material in electronic form.**—Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter

contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.

**67A. Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.**—Whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees.

**67B. Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.**—Whoever,—

(a) publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct; or

(b) creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or

(c) cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource; or

(d) facilitates abusing children online, or

(e) records in any electronic form own abuse or that of others pertaining to sexually explicit act with children,

shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees:

Provided that provisions of section 67, section 67A and this section does not extend to any book, pamphlet, paper, writing, drawing, painting representation or figure in electronic form—

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting representation or figure is the interest of science, literature, art or learning or other objects of general concern; or

(ii) which is kept or used for *bonafide* heritage or religious purposes.

*Explanation*—For the purposes of this section, “children” means a person who has not completed the age of 18 years.

**67C. Preservation and retention of information by intermediaries.**—(1) Intermediary shall preserve and retain such information as may be specified for such duration and in such manner and format as the Central Government may prescribe.

(2) any intermediary who intentionally or knowingly contravenes the provisions of sub-section (1) shall be punished with an imprisonment for a term which may extend to three years and also be liable to fine.]

**68. Power of Controller to give directions.**—(1) The Controller may, by order, direct a Certifying Authority or any employee of such Authority to take such measures or cease carrying on such activities as specified in the order if those are necessary to ensure compliance with the provisions of this Act, rules or any regulations made thereunder.

<sup>1</sup>[(2) Any person who intentionally or knowingly fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or a fine not exceeding one lakh rupees or with both.]

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1. Subs. by Act 10 of 2009, s. 33, for sub-section (2) (w.e.f. 27-10-2009).

**1[69. Power to issue directions for interception or monitoring or decryption of any information through any computer resource.**—(1) Where the Central Government or a State Government or any of its officers specially authorised by the Central Government or the State Government, as the case may be, in this behalf may, if satisfied that it is necessary or expedient so to do, in the interest of the sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above or for investigation of any offence, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the appropriate Government to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted any information generated, transmitted, received or stored in any computer resource.

(2) The procedure and safeguards subject to which such interception or monitoring or decryption may be carried out, shall be such as may be prescribed.

(3) The subscriber or intermediary or any person in-charge of the computer resource shall, when called upon by any agency referred to in sub-section (1), extend all facilities and technical assistance to—

(a) provide access to or secure access to the computer resource generating, transmitting, receiving or storing such information; or

(b) intercept, monitor, or decrypt the information, as the case may be; or

(c) provide information stored in computer resource.

(4) The subscriber or intermediary or any person who fails to assist the agency referred to in sub-section (3) shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

**69A. Power to issue directions for blocking for public access of any information through any computer resource.**—(1) Where the Central Government or any of its officers specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do, in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.

(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and also be liable to fine.

**69B. Power to authorise to monitor and collect traffic data or information through any computer resource for cyber security.**—(1) The Central Government may, to enhance cyber security and for identification, analysis and prevention of intrusion or spread of computer contaminant in the country, by notification in the Official Gazette, authorise any agency of the Government to monitor and collect traffic data or information generated, transmitted, received or stored in any computer resource.

(2) The intermediary or any person in-charge of the computer resource shall, when called upon by the agency which has been authorised under sub-section (1), provide technical assistance and extend all facilities to such agency to enable online access or to secure and provide online access to the computer resource generating, transmitting, receiving or storing such traffic data or information.

(3) The procedure and safeguards for monitoring and collecting traffic data or information, shall be such as may be prescribed.

(4) Any intermediary who intentionally or knowingly contravenes the provisions of sub-section (2) shall be punished with an imprisonment for a term which may extend to three years and shall also be liable to fine.

*Explanation.*—For the purposes of this section,—

(i) “computer contaminant” shall have the meaning assigned to it in section 43;

(ii) “traffic data” means any data identifying or purporting to identify any person, computer system or computer network or location to or from which the communication is or may be transmitted and includes communications origin, destination, route, time, data, size, duration or type of underlying service and any other information.]

**70. Protected system.**—<sup>1</sup>[(1) The appropriate Government may, by notification in the Official Gazette, declare any computer resource which directly or indirectly affects the facility of Critical Information Infrastructure, to be a protected system.

*Explanation.*—For the purposes of this section, “Critical Information Infrastructure” means the computer resource, the incapacitation or destruction of which, shall have debilitating impact on national security, economy, public health or safety.]

(2) The appropriate Government may, by order in writing, authorise the persons who are authorised to access protected systems notified under sub-section (1).

(3) Any person who secures access or attempts to secure access to a protected system in contravention of the provisions of this section shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

<sup>2</sup>[(4) The Central Government shall prescribe the information security practices and procedures for such protected system.]

**70A. National nodal agency.**—(1) The Central Government may, by notification published in the Official Gazette, designate any organisation of the Government as the national nodal agency in respect of Critical Information Infrastructure Protection.

(2) The national nodal agency designated under sub-section (1) shall be responsible for all measures including Research and Development relating to protection of Critical Information Infrastructure.

(3) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

**70B. Indian Computer Emergency Response Team to serve as national agency for incident response.**—(1) The Central Government shall, by notification in the Official Gazette, appoint an agency of the Government to be called the Indian Computer Emergency Response Team.

(2) The Central Government shall provide the agency referred to in sub-section (1) with a Director General and such other officers and employees as may be prescribed.

(3) The salary and allowances and terms and conditions of the Director-General and other officers and employees shall be such as may be prescribed.

(4) The Indian Computer Emergency Response Team shall serve as the national agency for performing the following functions in the area of cyber security,—

(a) collection, analysis and dissemination of information on cyber incidents;

(b) forecast and alerts of cyber security incidents;

(c) emergency measures for handling cyber security incidents;

(d) coordination of cyber incidents response activities;

(e) issue guidelines, advisories, vulnerability notes and white papers relating to information security practices, procedures, prevention, response and reporting of cyber incidents;

(f) such other functions relating to cyber security as may be prescribed.

(5) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

(6) For carrying out the provisions of sub-section (4), the agency referred to in sub-section (1) may call for information and give direction to the service providers, intermediaries, data centres, body corporate and any other person.

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1. Subs. by Act 10 of 2009, s. 35, for sub-section (1) (w.e.f. 27-10-2009).

2. Ins. by s. 35, *ibid.* (w.e.f. 27-10-2009).

3. Ins. by s. 36, *ibid.* (w.e.f. 27-10-2009).

(7) Any service provider, intermediaries, data centres, body corporate or person who fails to provide the information called for or comply with the direction under sub-section (6), shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.

(8) No court shall take cognizance of any offence under this section, except on a complaint made by an officer authorised in this behalf by the agency referred to in sub-section (1).]

**71. Penalty for misrepresentation.**—Whoever makes any misrepresentation to, or suppresses any material fact from the Controller or the Certifying Authority for obtaining any licence or <sup>1</sup>[electronic signature] Certificate, as the case may be, shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

**72. Penalty for Breach of confidentiality and privacy.**—Save as otherwise provided in this Act or any other law for the time being in force, if any person who, in pursuance of any of the powers conferred under this Act, rules or regulations made thereunder, has secured access to any electronic record, book, register, correspondence, information, document or other material without the consent of the person concerned discloses such electronic record, book, register, correspondence, information, document or other material to any other person shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

<sup>2</sup>**72A. Punishment for disclosure of information in breach of lawful contract.**—Save as otherwise provided in this Act or any other law for the time being in force, any person including an intermediary who, while providing services under the terms of lawful contract, has secured access to any material containing personal information about another person, with the intent to cause or knowing that he is likely to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract, such material to any other person, shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.]

**73. Penalty for publishing <sup>1</sup>[electronic signature] Certificate false in certain particulars.**—(1) No person shall publish a <sup>1</sup>[electronic signature] Certificate or otherwise make it available to any other person with the knowledge that—

- (a) the Certifying Authority listed in the certificate has not issued it; or
- (b) the subscriber listed in the certificate has not accepted it; or
- (c) the certificate has been revoked or suspended,

unless such publication is for the purpose of verifying a <sup>1</sup>[electronic signature] created prior to such suspension or revocation.

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

**74. Publication for fraudulent purpose.**—Whoever knowingly creates, publishes or otherwise makes available a <sup>1</sup>[electronic signature] Certificate for any fraudulent or unlawful purpose shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

**75. Act to apply for offence or contravention committed outside India.**—(1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person irrespective of his nationality.

(2) For the purposes of sub-section (1), this Act shall apply to an offence or contravention committed outside India by any person if the act or conduct constituting the offence or contravention involves a computer, computer system or computer network located in India.

**76. Confiscation.**—Any computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, in respect of which any provision of this Act, rules, orders or regulations made thereunder has been or is being contravened, shall be liable to confiscation:

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1. Subs. by Act 10 of 2009, s. 2, for “Digital Signature” (w.e.f. 27-10-2009).

2. Ins. by s. 37, *ibid.* (w.e.f. 27-10-2009).

Provided that where it is established to the satisfaction of the court adjudicating the confiscation that the person in whose possession, power or control of any such computer, computer system, floppies, compact disks, tape drives or any other accessories relating thereto is found is not responsible for the contravention of the provisions of this Act, rules, orders or regulations made thereunder, the court may, instead of making an order for confiscation of such computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, make such other order authorised by this Act against the person contravening of the provisions of this Act, rules, orders or regulations made thereunder as it may think fit.

<sup>1</sup>[**77. Compensation, penalties or confiscation not to interfere with other punishment.**—No compensation awarded, penalty imposed or confiscation made under this Act shall prevent the award of compensation or imposition of any other penalty or punishment under any other law for the time being in force.

**77A. Compounding of offences.**—A court of competent jurisdiction may compound offences, other than offences for which the punishment for life or imprisonment for a term exceeding three years has been provided, under this Act:

Provided that the court shall not compound such offence where the accused is, by reason of his previous conviction, liable to either enhanced punishment or to a punishment of a different kind:

Provided further that the court shall not compound any offence where such offence affects the socio economic conditions of the country or has been committed against a child below the age of 18 years or a woman.

(2) The person accused of an offence under this Act may file an application for compounding in the court in which offence is pending for trial and the provisions of sections 265B and 265C of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply.

**77B. Offences with three years imprisonment to be bailable.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence punishable with imprisonment of three years and above shall be cognizable and the offence punishable with imprisonment of three years shall be bailable.]

**78. Power to investigate offences.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), a police officer not below the rank of <sup>2</sup>[Inspector] shall investigate any offence under this Act.

## <sup>3</sup>[CHAPTER XII

### INTERMEDIARIES NOT TO BE LIABLE IN CERTAIN CASES

**79. Exemption from liability of intermediary in certain cases.**—(1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-sections (2) and (3), an intermediary shall not be liable for any third party information, data, or communication link made available or hosted by him.

(2) The provisions of sub-section (1) shall apply if—

(a) the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted; or

(b) the intermediary does not—

(i) initiate the transmission,

(ii) select the receiver of the transmission, and

(iii) select or modify the information contained in the transmission;

(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

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1. Subs. by Act 10 of 2009, s. 38, for section 77 (w.e.f. 27-10-2009).

2. Subs. by s. 39, *ibid.*, for “Deputy Superintendent of Police” (w.e.f. 27-10-2009).

3. Subs. by s. 40, *ibid.*, for Chapter XII (w.e.f. 27-10-2009).

(3) The provisions of sub-section (1) shall not apply if—

(a) the intermediary has conspired or abetted or aided or induced, whether by threats or promise or otherwise in the commission of the unlawful act;

(b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner.

*Explanation.*—For the purposes of this section, the expression “third party information” means any information dealt with by an intermediary in his capacity as an intermediary.

## CHAPTER XIII

### EXAMINER OF ELECTRONIC EVIDENCE

**79A. Central Government to notify Examiner of Electronic Evidence.**—The Central Government may, for the purposes of providing expert opinion on electronic form evidence before any court or other authority specify, by notification in the Official Gazette, any Department, body or agency of the Central Government or a State Government as an Examiner of Electronic Evidence.

*Explanation.*—For the purposes of this section, “electronic form evidence” means any information of probative value that is either stored or transmitted in electronic form and includes computer evidence, digital audio, digital video, cell phones, digital fax machines.]

## CHAPTER XIII

### MISCELLANEOUS

**80. Power of police officer and other officers to enter, search, etc.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any police officer, not below the rank of a <sup>1</sup>[Inspector], or any other officer of the Central Government or a State Government authorised by the Central Government in this behalf may enter any public place and search and arrest without warrant any person found therein who is reasonably suspected of having committed or of committing or of being about to commit any offence under this Act.

*Explanation.*—For the purposes of this sub-section, the expression “public place” includes any public conveyance, any hotel, any shop or any other place intended for use by, or accessible to the public.

(2) Where any person is arrested under sub-section (1) by an officer other than a police officer, such officer shall, without unnecessary delay, take or send the person arrested before a magistrate having jurisdiction in the case or before the officer-in-charge of a police station.

(3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall, subject to the provisions of this section, apply, so far as may be, in relation to any entry, search or arrest, made under this section.

**81. Act to have overriding effect.**—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

<sup>2</sup>[Provided that nothing contained in this Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957 (14 of 1957) or the Patents Act, 1970 (39 of 1970).]

<sup>3</sup>**[81A. Application of the Act to electronic cheque and truncated cheque.**—(1) The provisions of this Act, for the time being in force, shall apply to, or in relation to, electronic cheques and the truncated cheques subject to such modifications and amendments as may be necessary for carrying out the purposes of the Negotiable Instruments Act, 1881 (26 of 1881) by the Central Government, in consultation with the Reserve Bank of India, by notification in the Official Gazette.

(2) Every notification made by the Central Government under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty

1. Subs. by Act 10 of 2009, s. 41, for “Deputy Superintendent of Police” (w.e.f. 27-10-2009).

2. Ins. by s. 42, *ibid.* (w.e.f. 27-10-2009).

3. Ins. by Act 55 of 2002, s. 13 (w.e.f. 26-2-2003).

days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

*Explanation.*—For the purposes of this Act, the expressions “electronic cheque” and “truncated cheque” shall have the same meaning as assigned to them in section 6 of the Negotiable Instruments Act, 1881 (26 of 1881).]

**82. <sup>1</sup>[Chairperson, Members, officers and employees to be public servants].**—The <sup>2</sup>[Chairperson, Members] and other officers and employees of a Cyber Appellate Tribunal, the Controller, the Deputy Controller and the Assistant Controllers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

**83. Power to give directions.**—The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule, regulation or order made thereunder.

**84. Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Controller or any person acting on behalf of him, the <sup>3</sup>[Chairperson, Members], adjudicating officers and the staff of the Cyber Appellate Tribunal for anything which is in good faith done or intended to be done in pursuance of this Act or any rule, regulation or order made thereunder.

**<sup>4</sup>[84A. Modes or methods for encryption.**—The Central Government may, for secure use of the electronic medium and for promotion of e-governance and e-commerce, prescribe the modes or methods for encryption.

**84B. Punishment for abetment of offences.**—Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be punished with the punishment provided for the offence under this Act.

*Explanation.*—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

**84C. Punishment for attempt to commit offences.**—Whoever attempts to commit an offence punishable by this Act or causes such an offence to be committed, and in such an attempt does any act towards the commission of the offence, shall, where no express provision is made for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.]

**85. Offences by companies.**—(1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company,

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1. Subs. by Act 10 of 2009, s. 43, for the marginal heading (w.e.f. 27-10-2009).

2. Subs. by s. 43, *ibid.*, for “Presiding Officer” (w.e.f. 27-10-2009).

3. Subs. by s. 44, *ibid.*, for “Presiding Officer” (w.e.f. 27-10-2009).

4. Ins. by s. 45, *ibid.* (w.e.f. 27-10-2009).

such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(i) “company” means any body corporate and includes a firm or other association of individuals; and

(ii) “director”, in relation to a firm, means a partner in the firm.

**86. Removal of difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

**87. Power of Central Government to make rules.**—(1) The Central Government may, by notification in the Official Gazette and in the Electronic Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

<sup>1</sup>[(a) the conditions for considering reliability of electronic signature or electronic authentication technique under sub-section (2) of section 3A;

(aa) the procedure for ascertaining electronic signature or authentication under sub-section (3) of section 3A;

(ab) the manner in which any information or matter may be authenticated by means of electronic signature under section 5;]

(b) the electronic form in which filing, issue, grant or payment shall be effected under sub-section (1) of section 6;

(c) the manner and format in which electronic records shall be filed, or issued and the method of payment under sub-section (2) of section 6;

<sup>2</sup>[(ca) the manner in which the authorised service provider may collect, retain and appropriate service charges under sub-section (2) of section 6A;]

(d) the matters relating to the type of <sup>3</sup>[electronic signature], manner and format in which it may be affixed under section 10;

<sup>4</sup>[(e) the manner of storing and affixing electronic signature creation data under section 15;

(ea) the security procedures and practices under section 16;]

(f) the qualifications, experience and terms and conditions of service of Controller, Deputy Controllers <sup>5</sup>[, Assistant Controllers, other officers and employees] under section 17;

<sup>6</sup>\* \* \* \* \*

(h) the requirements which an applicant must fulfil under sub-section (2) of section 21;

(i) the period of validity of licence granted under clause (a) of sub-section (3) of section 21;

(j) the form in which an application for licence may be made under sub-section (1) of section 22;

1. Subs. by Act 10 of 2009, s. 46, for clause (a) (w.e.f. 27-10-2009).

2. Ins. by s. 46, *ibid.* (w.e.f. 27-10-2009).

3. Subs. by s. 5, *ibid.*, for “digital signature” (w.e.f. 27-10-2009).

4. Subs. by s. 46, *ibid.*, for clause (e) (w.e.f. 27-10-2009).

5. Subs. by s. 46, *ibid.*, for “and Assistant Controllers” (w.e.f. 27-10-2009).

6. Clause (g) omitted by s. 46, *ibid.* (w.e.f. 27-10-2009).

- (k) the amount of fees payable under clause (c) of sub-section (2) of section 22;
- (l) such other documents which shall accompany an application for licence under clause (d) of sub-section (2) of section 22;
- (m) the form and the fee for renewal of a licence and the fee payable thereof under section 23;
- <sup>1</sup>[(ma) the form of application and fee for issue of Electronic Signature Certificate under section 35;]
- (n) the form in which application for issue of a <sup>2</sup>[electronic signature] Certificate may be made under sub-section (1) of section 35;
- (o) the fee to be paid to the Certifying Authority for issue of a <sup>2</sup>[electronic signature] Certificate under sub-section (2) of section 35;
- <sup>1</sup>[(oa) the duties of subscribers under section 40A;
- (ob) the reasonable security practices and procedures and sensitive personal data or information under section 43A;]
- (p) the manner in which the adjudicating officer shall hold inquiry under sub-section (1) of section 46;
- (q) the qualification and experience which the adjudicating officer shall possess under sub-section (3) of section 46;
- (r) the salary, allowances and the other terms and conditions of service of the <sup>3</sup>[Chairperson and Members] under section 52;
- (s) the procedure for investigation of misbehaviour or incapacity of the <sup>3</sup>[Chairperson and Members] under sub-section (3) of section 54;
- (t) the salary and allowances and other conditions of service of other officers and employees under sub-section (3) of section 56;
- (u) the form in which appeal may be filed and the fee thereof under sub-section (3) of section 57;
- (v) any other power of a civil court required to be prescribed under clause (g) of sub-section (2) of section 58; and
- <sup>4</sup>[(w) the powers and functions of the Chairperson of the Cyber Appellate Tribunal under section 52A;
- (x) the information, duration, manner and form of such information to be retained and preserved under section 67C;
- (y) the procedures and safeguards for interception, monitoring or decryption under sub-section (2) of section 69A;
- (z) the procedures and safeguards for blocking for access by the public under sub-section (3) of section 69 B;
- (za) the procedure and safeguards for monitoring and collecting traffic data or information under sub-section (3) of section 69B;
- (zb) the information security practices and procedures for protected system under section 70;
- (zc) manner of performing functions and duties of the agency under sub-section (3) of section 70 A;
- (zd) the officers and employees under sub-section (2) of section 70B;
- (ze) salaries and allowances and terms and conditions of service of the Director General and other officers and employees under sub-section (3) of section 70B;

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1. Ins. by Act 10 of 2009, s. 46 (w.e.f. 27-10-2009).

2. Subs. by, s. 5, for "digital signature" (w.e.f. 27-10-2009).

3. Subs. by s. 46, *ibid.*, for "Presiding Officer" (w.e.f. 27-10-2009).

4. Subs. by s. 46, *ibid.*, for clause (w) (w.e.f. 27-10-2009).

(zf) the manner in which the functions and duties of agency shall be performed under sub-section (5) of section 70B;

(zg) the guidelines to be observed by the intermediaries under sub-section (2) of section 79;

(zh) the modes or methods for encryption under section 84 A.]

(3) <sup>1</sup>[Every notification made by the Central Government under sub-section (1) of section 70A and every rule made by it] shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in <sup>2\*\*\*</sup> the rule or both Houses agree that <sup>2\*\*\*</sup> the rule should not be made, <sup>2\*\*\*</sup> the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

**88. Constitution of Advisory Committee.**—(1) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Committee called the Cyber Regulations Advisory Committee.

(2) The Cyber Regulations Advisory Committee shall consist of a Chairperson and such number of other official and non-official members representing the interests principally affected or having special knowledge of the subject-matter as the Central Government may deem fit.

(3) The Cyber Regulations Advisory Committee shall advise—

(a) the Central Government either generally as regards any rules or for any other purpose connected with this Act;

(b) the Controller in framing the regulations under this Act.

(4) There shall be paid to the non-official members of such Committee such travelling and other allowances as the Central Government may fix.

**89. Power of Controller to make regulations.**—(1) The Controller may, after consultation with the Cyber Regulations Advisory Committee and with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the particulars relating to maintenance of data base containing the disclosure record of every Certifying Authority under clause <sup>3</sup>[(n)] of section 18;

(b) the conditions and restrictions subject to which the Controller may recognise any foreign Certifying Authority under sub-section (1) of section 19;

(c) the terms and conditions subject to which a licence may be granted under clause (c) of sub-section (3) of section 21;

(d) other standards to be observed by a Certifying Authority under clause (d) of section 30;

(e) the manner in which the Certifying Authority shall disclose the matters specified in sub-section (1) of section 34;

(f) the particulars of statement which shall accompany an application under sub-section (3) of section 35.

(g) the manner by which the subscriber shall communicate the compromise of private key to the Certifying Authority under sub-section (2) of section 42.

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1. Subs. by Act 10 of 2009, s. 46, for certain words, brackets, letter and figures (w.e.f. 27-10-2009).

2. The words “the notification or” omitted by s. 46, *ibid.* (w.e.f. 27-10-2009).

3. Subs. by notification No. S.O. 1015(E), for “(m)” (w.e.f. 19-9-2002).



<sup>1</sup>[THE FIRST SCHEDULE

[See sub-section (4) of section 1]

DOCUMENTS OR TRANSACTIONS TO WHICH THE ACT SHALL NOT APPLY

Sl. No.	Description of documents or transactions
1.	A negotiable instrument (other than a cheque) as defined in section 13 of the Negotiable Instrument Act, 1881 (26 of 1881).
2.	A power-of-attorney as defined in section 1A of the Powers-of-Attorney Act, 1882 (7 of 1882).
3.	A trust as defined in section 3 of the Indian Trust Act, 1882 (2 of 1882).
4.	A will as defined in clause (h) of section 2 of the Indian Succession Act, 1925 (39 of 1925), including any other testamentary disposition by whatever name called.
5.	Any contract for the sale or conveyance of immovable property or any interest in such property.

THE SECOND SCHEDULE

[See sub-section (1) of section 3A]

ELECTRONIC SIGNATURE OR ELECTRONIC AUTHENTICATION TECHNIQUE AND PROCEDURE

Sl. No.	Description	Procedure
(1)	(2)	(3)

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[THE THIRD SCHEDULE.] Omitted by the Information Technology (Amendment) Act, 2008 (10 of 2009), s. 50 (w.e.f. 27-10-2009).

[THE FOURTH SCHEDULE.] Omitted by s. 50, *ibid.* (w.e.f. 27-10-2009).

1. Subs. by Act 10 of 2009, s. 49, for the First Schedule and the Second Schedule (w.e.f. 27-10-2009).