

# REPRINT

## NATIONAL PARLIAMENT ELECTORAL PROVISIONS ACT (CAP. 87)

**As in force at: 16 April 2010**

**STATUS: HISTORICAL & REPEALED**

This version is that in force at the date stated above. It does not include amendments made since that date.

For list of amendments see Endnotes

Repealed by the Electoral Act 2018 (No. 2 of 2018) from 25 September 2018

**AN ACT TO MAKE PROVISIONS FOR THE PARLIAMENTARY CONSTITUENCIES FOR THE NATIONAL PARLIAMENT, FOR REGISTRATION OF ELECTORS, FOR THE CONDUCT OF ELECTIONS, FOR THE HEARING OF PETITIONS IN IN RELATION TO SUCH ELECTIONS AND PROVISIONS RELATED THERETO AND CONSEQUENTIAL THEREUPON.**

# **NATIONAL PARLIAMENT ELECTORAL PROVISIONS ACT (CAP. 87)**

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# NATIONAL PARLIAMENT ELECTORAL PROVISIONS ACT (Cap. 87)

As in force at: 16 April 2010

## PART I PRELIMINARY

### 1 Short title

This Act may be cited as the *National Parliament Electoral Provisions Act*.

### 2 Interpretation

In this Act, unless the context otherwise requires:

**“candidate”** means a person nominated under section 26 whose nomination stands valid under section 28;

**“the Commission”** means the Electoral Commission established by section 57 of the *Constitution*;

**“count”** means anything done under section 48 or 49;

**“election”** means an election held under and in accordance with the *Constitution* and this Act and includes both the nomination of candidates and the poll;

**“election officer”** means Returning Officer, Assistant Returning Officer, presiding officer and polling assistant;

**“elector”** means any person entitled to vote at any election;

**“electoral constituency”** means a constituency prescribed for the purposes of section 54 of the *Constitution*;

**“Provincial Assembly”** means a Provincial Assembly established under the *Provincial Government Act*;

**“registration area”** means an area to which Part II is applied under section 11;

**“Registration Officer”** means a person so appointed under section 12 of this Act;

**“Returning Officer”** means a person so appointed under section 4;

**“Revising Officer”** means a person so appointed under section 12;

**“ward”** means a ward constituted under section 13 of this Act.

### **3 Constituencies at the coming into force of this Act**

The constituencies into which Solomon Islands is divided at the date of coming into force of this Act are as set out in the First Schedule to this Act.

### **4 Appointment of Returning Officers and Assistant Returning Officers**

- (1) The Commission shall appoint a fit and proper person to be the Returning Officer for each electoral constituency.
- (2) The Returning Officer for each electoral constituency may, in respect of the electoral constituency, appoint such fit and proper persons to assist him in the conduct of the election as he may deem expedient, and such persons shall be known as Assistant Returning Officers.
- (3) In addition to the Returning Officers and Assistant Returning Officers appointed pursuant to subsections (1) and (2), there shall be appointed by the Commission for each province an Electoral Manager. Each Electoral Manager shall be responsible for the coordination of all the elections being conducted in all the constituencies of that province and shall be answerable to the Commission on all matters relating to elections.

### **5 Conduct of elections**

- (1) The election of members of the National Parliament shall be in accordance with the provisions of the *Constitution* and this Act.
- (2) The Commission is responsible for the conduct of elections of members of Parliament.
- (3) The Commission may direct any person whose functions under this

Act relate to the conduct of elections as to the performance of those functions.

## **6 Registration of electors**

- (1) For the purposes of an election in any electoral constituency there shall be a register of electors under Part II or subsection (2).
- (2) Where there is in relation to any constituency or part thereof to which Part II has not been applied, a register of voters prepared under the *Local Government (Registration of Voters) Regulations* that register of voters shall be the register of electors or part of the register of electors for the purposes of this Act.
- (3) The Commission is responsible for the registration of electors for the election of members of Parliament.
- (4) The Commission may direct any person whose functions under this Act relate to the registration of electors as to the performance of those functions.

## **7 Right to vote**

- (1) No person shall vote at an election unless he is entitled to do so by section 56 of the *Constitution*.
- (2) No person shall be entitled to vote more than once at an election.
- (3) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding 3,000 penalty units or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

## **8 Expenses of registration and elections**

All expenses, including costs in legal proceedings, properly incurred in the registration of electors and in the holding of elections shall be a charge on the Consolidated Fund.

## **9 Non-compliance with this Act**

No election shall be invalid by reason of non-compliance with this Act if it appears that the election was conducted in accordance with

the principles of this Act and that the non-compliance did not affect the result of the election.

**10 Immunity against claims for damages**

No election officer shall be liable in any claim for damages in respect of the breach of any duty imposed upon him by this Act.

**PART II REGISTRATION OF ELECTORS**

**11 Application**

- (1) The Commission shall apply this Part to an electoral constituency or any part thereof with respect to which there is no register of voters prepared under the *Local Government (Registration of Voters) Regulations*.
- (2) The Commission may apply this Part to any electoral constituency or any part thereof.

**12 Appointment and remuneration of officers**

- (1) The Commission shall appoint a Registration Officer for the registration of electors in a registration area.
- (2) The Registration Officer may appoint such number of persons as may be necessary to be Assistant Registration Officers for any particular ward or wards; and such Assistant Registration Officers shall, subject to the directions of the Registration Officer, have all the powers and functions of the Registration Officer.
- (3) The Commission shall appoint a Revising Officer to revise the list of electors.
- (4) The Commission may authorise any officer or officers appointed under this Act to be remunerated out of the Consolidated Fund at such rates as it shall specify after consultation with the Minister of Finance.

**13 Division of electoral district into wards**

A Registration Officer may divide a registration area into such number of wards as to him may seem expedient and shall publish

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the description of the areas of such wards in such manner as appears to him to be adequate for the purpose of bringing the description of the area of each ward to the attention of its inhabitants.

**14 Qualification of electors**

Any person who is entitled to be registered as an elector by section 55 of the *Constitution* shall be entitled to be registered as an elector under this Act.

**15 Persons not entitled to registration under this Part**

- (1) Notwithstanding the provisions of the previous section, no person shall be entitled to be registered as an elector under this Part if he is registered as an elector for an election to the National Parliament under section 55 of the *Constitution* in a register of voters prepared under the *Local Government (Registration of Voters) Regulations* which forms part of the register of electors in accordance with section 6(2).
- (2) No person shall be registered more than once under or in pursuance of the *Constitution* and this Part.

**16 Preparation of registers**

The Registration Officer shall, forthwith upon the application of this Part to the registration area in respect of which he has been appointed or as soon thereafter as may be practical and in every fifth year thereafter, on 1st January, or as soon thereafter as may be practicable, publish a notice in Form A in the Second Schedule requiring, within sixty days of the publication of such notice, all persons who desire and claim to be entitled to be registered as electors in the registration area, to deliver to the Registration Officer or an Assistant Registration Officer a notice of his claim in Form B in the Second Schedule.

**17 Notice of claim**

- (1) Within the period of sixty days mentioned in section 16 any person who desires, and is entitled to be registered as an elector in any ward shall deliver or cause to be delivered to the Registration Officer or an Assistant Registration Officer for that ward, a notice in Form B in the

Second Schedule of his claim to be registered as an elector and shall produce such evidence as may be necessary to establish his claim to be so registered.

- (2) The Registration Officer or an Assistant Registration Officer shall examine the qualifications in respect of which such claim is made and shall receive such evidence as may be necessary to prove to his satisfaction that the claimant possesses the qualifications in respect of which he claims to be an elector.
- (3) In any case where the Registration Officer or Assistant Registration Officer, as the case may be, is satisfied that the claimant possesses the necessary qualifications, he shall register the claimant in the manner hereinafter provided; otherwise he shall disallow the claim.

## **18 List of electors**

The Registration Officer shall, within fourteen days from the last day upon which any notice of claims provided for in section 17(1) is allowed to be made, make out, or cause to be made out an alphabetical list for each ward in Form C in the Second Schedule, of all persons who have under section 17(1) delivered notices of claims to be registered, and in his opinion are entitled to be registered as electors in that ward, and shall cause a copy of such list dated and signed by him or by an Assistant Registration Officer, to be published in such manner as appears to him to be adequate for the purpose of bringing the list to the attention of persons entitled to be so registered.

## **19 Procedure as to omissions and objections**

- (1) Any person:
  - (a) who delivered a notice of claim to be registered;
  - (b) whose name has nevertheless been omitted from the list of electors; and
  - (c) who claims to be entitled to have his name registered therein,shall within ten days after the publication of such list give notice in writing to the Registration Officer or an Assistant Registration Officer

for that ward in Form D in the Second Schedule.

- (2) Any person whose name appears in any such list may object to any other person whose name also appears therein as not being entitled to have his name retained therein by giving notice in writing in Form E in the Second Schedule to the Registration Officer or an Assistant Registration Officer for the ward concerned and to the person objected to within ten days after publication of the list.
- (3) If any notice as aforesaid is received, the Registration Officer or an Assistant Registration Officer shall, within seven days of the expiration of the aforesaid period of ten days, prepare and publish, or cause to be prepared and published, in each ward a list of all the claims and objections relating to the list of electors in that ward, and the names of the persons who have made the same.

## **20 Public inquiry and revision of lists**

- (1) The Registration Officer shall, within seven days of the expiration of the period of ten days prescribed in section 19 cause all the lists of electors to be handed over to the Revising Officer together with any notice of claims and objections received in respect of the said lists.
- (2) Where the Revising Officer has had handed to him with the lists of electors, any notices of claim or objection, he shall upon giving such notice as is prescribed by the proviso to section 21(5), proceed within ten days of the receipt of the notices and lists aforesaid, to hold a public inquiry into all the claims and objections of which notice has been received, and to revise the said lists in accordance with the provisions of this Act and the *Constitution*.

## **21 Inquiry and revision procedure**

- (1) The Revising Officer, upon consideration of the claims and objections, and any evidence made available thereon shall:
  - (a) insert in the appropriate list of electors the name of any person who is proved to his satisfaction to be entitled to have his name inserted therein; and
  - (b) strike out of any list of electors the name of any person who, upon the application of the objector, is proved to his satisfaction

not to be entitled to have his name retained therein.

- (2) If an objector does not appear either in person or by counsel, the objection shall be over-ruled and the name of the person objected to shall be retained on the list of electors unless such person agrees to his name being struck out, or it is otherwise proved that the person objected to is dead.
- (3) The Revising Officer may, at or in respect of any inquiry under this Part:
  - (a) summon any person to appear at the inquiry;
  - (b) require any person at the inquiry to give such information as he may consider necessary for the due discharge of his duties; and
  - (c) take evidence on oath, and is for that purpose hereby authorised to administer oaths.
- (4) The Revising Officer shall, in accordance with the provisions of this Act, determine all claims in respect of any objections to the list of electors and shall write his initials against any name struck out of a list and against any mistake or omissions corrected, and shall sign his name to every page of each list when the same is finally settled.
- (5) The Revising Officer may, subject to the provisions of sections 20(2) and 22(1), hold the public inquiry at such places within the electoral constituency and at such times as he thinks fit, and may likewise adjourn the inquiry from place to place and from time to time:

Provided that the Revising Officer shall, in such manner as he may consider appropriate, give not less than six days' notice of the places and times at which the inquiry is to be held.

- (6) If the Revising Officer is of the opinion that the objection or claim of any person is without foundation or is frivolous, he may order such person to pay such sum as appears to him to represent the actual costs of the inquiry, including the cost of witnesses, attributable to the objection or claim, and such order shall be deemed to be an order of a Magistrate's Court and may be executed on the application of the Registration Officer or an Assistant Registration Officer in any manner authorised by law for the execution of orders, judgments or

decrees of competent courts in Solomon Islands.

## **22 Settlement of lists of electors**

- (1) The lists of electors shall be finally settled and signed by the Revising Officer and then delivered by him to the Registration Officer within seven days of:
  - (a) the commencement of the public inquiry, where notices of claims or objections have been received; or
  - (b) the date of the receipt by the Revising Officer of the lists of electors, where no notices of claims or objections have been received.
- (2) The Registration Officer shall thereupon cause the names on each list to be fairly and truly recorded, ward by ward in alphabetical order in a book to be provided by him for that purpose, with every name therein numbered, beginning to number from the first name and continuing in a regular series to the last name and shall cause such recording to be completed within ten days after the delivery to him of such revised lists by the Revising Officer.

## **23 Register of electors and annual revision**

- (1) The register in which the revised list for the wards are copied in pursuance of the provisions of this Act shall remain in force until the next such book has been completed and shall be *prima facie* evidence for the purpose of determining whether or not a person is entitled to vote at an election:

Provided that nothing in this Act shall entitle any person to vote at any election if he is not qualified or is disqualified from so voting by any law for the time being in force in Solomon Islands.

- (2) The Registration Officer shall, in 1980 and every subsequent year, other than a year in which he is required to act under section 16, on the first day of January, or as soon thereafter as may be practicable:
  - (a) in the manner prescribed by section 16, invite any person whose name is not in the book and who desires and claims that he is entitled to be registered as an elector to give notice of his

claim; and

- (b) if he is satisfied that any person has died, become disqualified or is not qualified, strike off from the book the name of that person.
- (3) Where the Registration Officer is satisfied that any person claiming under subsection (2)(a) is entitled to be registered as an elector in a registration area, he shall enter the name of such person in the book.
- (4) The Registration Officer shall publish annually, in such manner as may seem appropriate to him, a list showing the names so entered or struck off the book.

### **PART III ELECTIONS**

#### **24 Governor-General to appoint date for election**

Subject to section 74 of the *Constitution* whenever an election for a member of the National Parliament or a general election becomes necessary the Governor-General shall, by notice or in the case of a general election by proclamation, published in the *Gazette*, appoint a date for the holding of the election not being earlier than forty-two days after the publication of such notice or proclamation.

#### **25 Publication date of election, etc., in constituency**

- (1) The Returning Officer shall, within seven days of the publication of a notice under section 24, publish in an appropriate manner in each ward of the electoral constituency a notice stating:
  - (a) the date and time of the election;
  - (b) the date, place and time at which nomination papers are to be delivered to him, which time shall not be later than twenty-eight days before the date appointed for the election;
  - (c) the place at and the time within which a candidate may withdraw his candidature by delivering notice to an Assistant Returning Officer under section 30.
- (2) More than one place may be appointed for the delivery of nomination

papers and any place may be so appointed whether within or without the electoral constituency.

## **26 Nomination of candidates**

- (1) Any person submitting himself for election, hereinafter referred to as a candidate, shall be nominated in writing by three electors ordinarily resident in the constituency for which he is a candidate and the persons making the nomination, other than in relation to an election for a constituency which is in or partly in the town of Honiara, shall be persons whose parents or either of the parents are or were permanently residing in that constituency or in the Province in which the constituency is situated, and no candidate may be nominated for more than one electoral constituency.
- (2) The writing for the purposes of subsection (1) shall be subscribed by the candidate, and by the persons nominating him, in the form set forth in the Third Schedule and the nominations form shall contain the following particulars:
  - (a) the full name, and the address and description of the candidate;
  - (b) the full names, and the addresses and description of the nominators of the candidate; and
  - (c) a certification by the candidate that he is willing and qualified to stand for election.
- (3) The Returning Officer shall provide nomination papers and shall at the request of any elector, the candidate and all his nominators being present, complete any such nomination paper on such elector's behalf.
- (4) No elector shall nominate more than one candidate, and where any elector purports to nominate more than one candidate, only his subscription of the first nomination paper delivered in accordance with the provisions of this Act and so subscribed shall, subject to the provisions of this Act, be valid and his subscription on every other nomination paper shall be null and void.
- (5) Each candidate, or one of the persons nominating him, shall deliver his nomination paper subscribed as hereinbefore provided to the

Returning Officer not later than the time specified under section 25(1)(b).

- (6) Where the Returning Officer is satisfied that difficulty of physical communication prevents withdrawal within the period specified in section 25(1)(c), notices in writing may be accepted if delivered instead to an Assistant Returning Officer resident within the electoral constituency in respect of which the candidate has been nominated and the Assistant Returning Officer shall communicate the fact of withdrawal to the Returning Officer as soon as practicable.

## **27        Deposit to be made on nominations**

- (1) A person shall not be validly nominated unless the sum of five thousand dollars is deposited by him or on his behalf with the Returning Officer within the time allowed for the delivery of nomination papers.
- (2) The deposit may be made either by the deposit of cash or by means of a banker's draft issued by any bank carrying on business in Solomon Islands.

## **28        Validity of nominations**

- (1) When any nomination paper is delivered to the Returning Officer the candidate shall be deemed to stand nominated unless and until the Returning Officer decides that the nomination paper is invalid or proof is given to the satisfaction of the Returning Officer of the death of the candidate or if the candidate withdraws in accordance with section 30.
- (2) The Returning Officer shall not be entitled to hold the nomination paper invalid except on one or more of the following grounds:
  - (a) that the candidate is not qualified for election under section 48 of the *Constitution*; or
  - (b) that the candidate is disqualified for election under section 49 of the *Constitution*; or
  - (c) that it is not in the form in the Third Schedule; or that such form has not been properly completed; or



- (d) that the paper is not signed as required by law; or
  - (e) that the nominators of the candidate or one or any of them are not persons eligible to nominate under section 26(1); or
  - (f) that the candidate already stands nominated for another electoral constituency; or
  - (g) that no deposit has been made in accordance with the provisions of section 27; or
  - (h) that the paper has not been delivered in accordance with section 26(6).
- (3) The Returning Officer's decision that the candidate has been validly nominated shall be final and shall not be questioned in any legal proceedings except on an election petition.
  - (4) Whenever the Returning Officer decides that a candidate has not been validly nominated he shall endorse and sign on the nomination paper his decision and the reasons therefor, and such decision shall not be subject to review except on an election petition.
  - (5) In any case where the Returning Officer holds a nomination paper to be invalid under this Act, he shall as soon as practicable communicate his decision to the candidate or any of his nominators.
  - (6) A candidate whose first nomination paper is or may be invalid shall be permitted to submit a second nomination paper within the time allowed for delivery of nomination papers under section 25(1)(b).

## **29 List of candidates to be published**

The Returning Officer shall within forty-eight hours of the expiry of the time allowed for delivery of nomination papers under section 25(1)(b) cause to be published at such place within the electoral constituency as he considers expedient, being the place at which notice has been given under section 25(1)(c), and in such manner as he may deem appropriate, a list containing the full names, and the addresses and descriptions of the candidate for that electoral constituency and of the persons by whom they were nominated.

### **30 Withdrawal of candidates**

Any candidate may withdraw his candidature by notice in writing signed and delivered by him to the Returning Officer within seventy-two hours of the expiry of the time allowed for delivery of nomination papers under section 25(1)(b):

Provided that:

- (a) subject to paragraphs (b) and (c) of this proviso such notices of withdrawal shall take effect at the time at which they are received;
- (b) no such notice shall have effect so as to reduce the number of candidates in any electoral constituency below one;
- (c) where two or more notices of withdrawal are delivered at the same time, or if it is not possible to determine the order in time in which such notices were delivered, and in time in which such notices would have the effect of reducing the number of candidates in any electoral constituency below one, none of such notices shall have effect.

### **31 Unopposed candidates**

Where there is only one candidate in any electoral constituency the Returning Officer shall, on the day appointed for the election, declare such candidate to have been elected and shall report the result of the election to the Governor-General.

### **32 Death of candidates**

- (1) Where, after the expiration of the time allowed for the delivery of nomination papers by section 26(5), and before the commencement of the voting, a candidate dies, the Returning Officer shall, upon being satisfied of the fact of death, countermand the election in respect of the electoral constituency for which the deceased was a candidate, and report his action to the Governor-General.
- (2) Upon receipt of a report under the preceding subsection, the Governor-General in his discretion shall appoint some other convenient day or days for the election and the electoral procedure

shall be commenced *de novo*:

Provided that no new nomination shall be required in respect of a candidate who, at the time of the countermand of the election, had been properly nominated in accordance with the provisions of section 26.

### **33 Notice of election**

In the case of a contested election, the Returning Officer shall on or before the seventh day next before the day of the election give notice thereof in such manner as he may think fit specifying:

- (a) the day and the hours fixed for voting;
- (b) the full name, address and description of each candidate and the symbol and colour allotted to him under section 34(g);
- (c) the full names, and the addresses and descriptions of the persons who nominated each candidate; and
- (d) the situation of each polling station and a statement of the persons entitled to vote thereat.

### **34 Arrangements for elections**

(1) The Returning Officer shall:

- (a) provide a sufficient number of polling stations in the electoral constituency and, in accordance with the terms of any notice given under section 33 allot the electors within the electoral constituency to the polling stations in such manner as seems to him most convenient;
- (b) appoint, in respect of the electoral constituency such persons as he may think fit to assist at the voting in the election and such persons shall be known as polling assistants;
- (c) appoint from amongst such polling assistants a person to be in charge of each polling station to be known as the presiding officer;
- (d) furnish each polling station with compartments in which electors

can, in secret, record their votes;

- (e) provide each presiding officer with such numbers of ballot papers having counterfoils with corresponding numbers as in the opinion of the Returning Officer may be necessary;
  - (f) provide each polling station with instruments for making an official mark on the ballot papers, and with copies of the register of electors for the electoral constituency or such part thereof as contains the names of the voters allotted to vote at the polling station;
  - (g) allot a symbol and colour to each candidate; and
  - (h) do such other acts and things as may be necessary for conducting the election in the manner provided for in this Act.
- (2) The presiding officer shall provide a sealed and secured ballot box in the polling station.
- (2A) If the presiding officer reasonably considers that the number of ballots likely to be cast at the station will exceed the capacity of a single ballot box, the presiding officer shall provide as many additional sealed and secured ballot boxes in the station as the officer reasonably considers might be needed.
- (3) Immediately before the commencement of the voting, the presiding officer at the polling station shall show to the electors present the empty ballot box that is to be used on commencement of the voting so that they may see that it is empty and shall then close and seal the box in such a manner as to prevent it being opened without breaking the seal.
- (4) If at any time during the voting the ballots cast fill the ballot box in use, the presiding officer shall:
- (a) seal the filled ballot box with the presiding officer's own seal, unopened and sealed so as to prevent the addition of further ballot; and
  - (b) then show to the electors present the empty ballot box that is to be used next, so that they may see that it is empty; and

- (c) then close and seal the empty box in a way that will prevent it being opened without breaking the seal.
- (5) The presiding officer shall ensure that only one ballot box is being used at any particular time.

**35 Polling agents**

- (1) Each candidate may, in respect of each polling station within the electoral constituency for which he is a candidate, appoint two persons, hereinafter referred to as “polling agents”, to attend to that polling station for the purpose of detecting personation.
- (2) Notice in writing of the appointments, stating the names and addresses of the polling agents, together with the polling stations to which they have been assigned, shall be given by the candidate to the Returning Officer not later than four days before the day fixed for the election.
- (3) If any polling agent dies or becomes incapable of acting as such, the candidate may appoint another polling agent in his place, and shall forthwith give to the Returning Officer notice in writing of the polling agent so appointed.

**36 Symbols and colors marked in accordance with section 34(1)(g)**

The presiding officer shall cause to be displayed in the polling station, a list of the candidates’ names, symbols and colours in accordance with section 34(1)(g).

**37 Hours of voting**

- (1) The Commission may, by notice specify the hours of voting generally or in relation to any electoral constituency:

Provided that the power conferred by this subsection shall not be exercised in relation to any electoral constituency at any time between the dates appointed in relation to that electoral constituency for the delivery of nomination papers and for holding the election.

- (2) Except where the Commission otherwise specifies under this Act, the

hours of voting shall be from seven o'clock in the forenoon until five o'clock in the afternoon.

## **38 Method of voting**

The voting at an election shall be conducted in the following manner :

- (a) every elector desiring to record his vote shall present himself to a polling assistant at the polling station at which he is entitled to vote, and the polling assistant, after satisfying himself that the name of such elector appears on the copy of the register of electors, or part thereof provided for that polling station, and that he has not already voted, shall deliver to him a ballot paper in the form prescribed in the Fourth Schedule;
- (b) immediately before the polling assistant delivers a ballot paper to an elector:
  - (i) the ballot paper shall be marked with an official mark;
  - (ii) the number, name, address and description of the elector as stated in the copy of the register of electors, or part thereof, shall be called out;
  - (iii) the name of the elector in the register of electors shall be marked on the counterfoil;
  - (iv) a mark shall be placed against the number of the elector in the copy of the register of electors, or part thereof, to denote that a ballot paper has been received, but without showing the number of the ballot paper which has been received; and
  - (v) he shall make a mark with indelible ink on the little finger of the elector's left hand or if such finger is missing on any other finger on his left hand. If all the fingers on his left hand are missing the mark shall be made on any finger of his right hand.
- (c) a polling assistant may, and if required by a candidate or a polling agent shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following

questions or either of them:

- (i) are you the person whose name is on the register of electors as follows (reading the copy of the entry in the register)?
  - (ii) have you already voted at the present election at this or any other polling station?
- (d) an elector on receiving a ballot paper, shall go immediately into a voting compartment in the polling station, and shall then secretly record his vote by placing a mark in the box in the ballot paper corresponding to the candidate of his choice and insert the marked folded ballot paper into the ballot box prior to leaving the polling station. The ballot box shall be placed within the polling station in such manner as to be observed by polling officials;
- (e) an elector shall not vote for more candidates than one nor record more than one vote in favour of any candidate nor place on the ballot paper any writing or mark by which he may be identified;
- (f) an elector who has accidentally dealt with his ballot paper in such a manner that it cannot be conveniently used as a valid ballot paper may, in delivering such ballot paper to the presiding officer and after satisfying the presiding officer that the ballot paper has been spoilt by accident, obtain another ballot paper in the place of the paper so delivered up, and the spoilt ballot paper shall be immediately cancelled;
- (g) if an elector by reason of blindness or other physical disability, is unable to cast his vote, he shall call the presiding officer aside and tell him, in the presence of a police officer or another polling assistant the name of the candidate for whom he wishes to vote and the presiding officer shall record the elector's vote by placing a mark in the box on the ballot paper corresponding to the candidate for whom the elector wishes to vote and insert the marked folded ballot paper into the ballot box prior to the aforesaid elector leaving the polling station.

**39 Admission of persons to polling station**

- (1) No person shall be permitted to vote at any polling station other than the one allotted to him under the provisions of section 34(a).
- (2) The presiding officer shall regulate the admission of electors to the polling station, and shall exclude all other persons except the Returning Officer, Assistant Returning Officers, candidates, polling agents, polling assistants, police officers on duty and any other person who in his opinion has lawful reason to be admitted.

**40 Personation**

- (1) If at the time a person applies for a ballot paper, or after he has so applied and before he has left the polling station, a polling agent declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation and undertakes to substantiate the charge in a court of law, the presiding officer may order a police officer to arrest such person, and the order of the presiding officer shall be sufficient authority for the police officer so to do.
- (2) A person in respect of whom a polling agent makes a declaration in accordance with the provisions of subsection (1) above shall not by reason thereof, be prevented from voting, but the presiding officer shall cause the words "Protested against for personation" to be placed against his name in the marked copy of the register of electors or portion thereof, and shall record the fact on a list to be called the protested votes list:

Provided that where a person in respect of whom such declaration is made, admits to the presiding officer that he is not the person he held himself out to be, he shall not be permitted to vote if he has not already done so, and if he has already voted the ballot paper shall be invalid and the presiding officer shall record the fact and the number of the ballot paper on a list to be called the invalidated votes list, and such list shall be admissible in any legal proceedings arising out of the election.

- (3) A person arrested under the provisions of this Act shall be dealt with in accordance with the provisions of the *Criminal Procedure Code* relating to the arrest and taking into custody of persons without a



warrant.

#### **41 Tendered ballot**

If a person representing himself to be an elector named in the register of electors applies for a ballot paper after another person has voted as such an elector, the applicant shall, upon giving satisfactory answers to the questions set out in section 38(c), be entitled to receive a ballot paper in the same manner as any other elector but such ballot paper, hereinafter, called tendered ballot paper, shall be of a colour different from ordinary ballot papers and instead of being put in the ballot box, shall be given to the presiding officer and endorsed by him with the name of the elector and his number in the register of electors: the elector shall then place a mark on the box on the ballot paper corresponding to the candidate of his choice or call the presiding officer aside and tell him, no other person being present or within hearing, the name of the candidate for whom he wishes to vote and the presiding officer shall record the electors vote by placing a mark in the box on the ballot paper corresponding to the candidate for whom the elector wishes to vote, and in either case the ballot paper shall then be set aside in a separate packet and not counted by the Returning Officer as herein provided; and the name of the elector shall be entered in a list to be called the tendered votes list, and the list shall be admissible in any legal proceedings out of the election.

#### **42 Conduct in polling stations**

- (1) The presiding officer shall keep order at the polling station.
- (2) If any person misconducts himself in a polling station, or fails to obey any lawful order of the presiding officer, he may, by order of the presiding officer, be removed from the polling station by any police officer, or by any other person authorised by the presiding officer in that behalf; and the person so removed shall not, without the permission of the presiding officer, again enter the polling station during the day of the election:

Provided that the provisions of this Act shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of so voting.

- (3) Any offence against this Act which is committed within a polling station shall be deemed to be a cognisable offence within the meaning and for all the purposes of the *Criminal Procedure Code*.

**43 Presiding officer's duties at close of voting**

- (1) As soon as practicable after the termination of the voting the presiding officer shall in the presence of the polling agents, make up into separate packets, each sealed with his own seal:

- (a) each ballot box in use at his polling station, un-opened and sealed so as to prevent the introduction of additional ballot papers;
- (b) unused and spoilt ballot papers, placed together;
- (c) used and unused tendered ballot papers;
- (d) the marked copies of the register of electors;
- (e) the counterfoils of the used ballot papers;
- (f) the tendered votes list;
- (g) the invalidated votes list; and
- (h) the protested votes list,

and shall deliver the packets to the Returning Officer, or to an Assistant Returning Officer who shall deliver them to the Returning Officer.

- (2) The packets shall be accompanied by a statement to be called the ballot papers account, prepared by the presiding officer showing the number of ballot papers entrusted to him and accounting for them under the following heads:

- (a) number of spoilt ballot papers;
- (b) number of tendered ballot papers;
- (c) number of unused ballot papers; and

- (d) number of unused tendered ballot papers.

#### **44 Counting agents**

- (1) Each candidate may appoint one person, hereinafter referred to as a counting agent, to attend at the counting of votes.
- (2) Notice in writing of the appointment, stating the names and address of the counting agent, shall be given by the candidate to the Returning Officer not later than two days before the day of the election and the Returning Officer may refuse to admit to the place where the votes are counted any person purporting to be a counting agent in respect of whom such notice has not been given.
- (2A) The Returning Officer shall, before the counting of votes begins, advise any Assistant Returning Officers for the electoral constituency of the name of any person appointed as the counting agent for a candidate in the constituency.
- (3) If a counting agent dies or becomes incapable of acting as such, the candidate may appoint another counting agent in his place, and shall immediately give to the Returning Officer notice in writing of the name and address of the counting agent so appointed.

#### **45 Electoral expenses**

- (1) Each candidate shall submit to the Returning Officer within one month of the declaration of the result of the election a statement of account, specifying all expenses incurred by him in his election campaign.
- (2) If any expenses referred to in subsection (1) amount, in the case of any individual candidate to more than fifty thousand dollars, that candidate shall be guilty of an offence and liable to a fine not exceeding 3,000 penalty units or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

#### **46 Counting of votes**

- (1) The counting of votes shall commence, so far as is practicable, on such day and on such hours in that day as may be specified by the Commission.

- (2) All counting shall be completed within such number of days as may be specified by the Commission.

**47        Persons who may be present**

Except with the consent of the Returning Officer, no person other than the Returning Officer, an Assistant Returning Officer, the candidates and their counting agents may be present at the counting of votes.

**48        Method of counting votes**

The Returning Officer shall, in the presence of the counting agents, open each ballot box and, taking out the ballot papers, shall, with such assistance of Assistant Returning Officers as he may deem expedient, count and record the number thereof cast in favour of each candidate.

**49        Handling of Ballot papers**

The Returning Officer and any Assistant Returning Officers assisting the Returning Officer, while counting and recording the number of the ballot papers, shall keep the ballot papers with their faces upwards and take all precautions for preventing any person from seeing the numbers printed on the back of the ballot paper.

**50        Votes to be counted if intention is clear**

- (1) A ballot paper shall be counted if it is clear which candidate the voter intended to vote for.
- (2) The determination of a ballot paper under subsection (1) shall be done in the presence of a police officer and counting agents for candidates in that constituency.
- (3) Notwithstanding subsection (1), the following ballot paper shall not be counted:
  - (a) a ballot paper which does not bear an official mark; or
  - (b) a ballot paper on which anything is written or marked by which an elector can be identified other than the printed matters.

**51            Endorsement by Returning Officer**

- (1) The Returning Officer shall endorse the word “Rejected” on any ballot paper which, under the provisions of section 50(3), is not to be counted.
- (2) The Returning Officer shall in either case add to the endorsement the words “rejection objected to” if an objection to his decision is made by any counting agent.

**52            Rejected ballot papers**

The Returning Officer shall prepare a statement showing the number of ballot papers rejected under the following heads:

- (a) want of official mark;
  - (b) writing or mark by which the elector could be identified,
- and shall on request allow any counting agent to copy the statement.

**53            Returning Officer’s decision final**

The decision of the Returning Officer as to any question arising in respect of any ballot paper shall be final, and shall be subject to review only on an election petition questioning the election.

**54            Returning Officer’s duties at conclusion of counting**

Upon the conclusion of the counting of the votes the Returning Officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or the sealed packet containing the marked copy of the register of electors or the sealed packet containing the counterfoils of used ballot papers but shall proceed, in the presence of the counting agents, to verify the ballot paper account given by each presiding officer under section 43(2) by comparing it with the number of ballot papers recorded in accordance with section 48, the number of rejected ballot papers shown in the statement prepared in pursuance of section 52, the unused and spoilt papers in his possession, the tendered votes list and the invalidated votes lists, and shall seal each packet after examination. The Returning Officer

shall prepare a statement as to the result of the verification and shall on request allow any counting agent to copy such statement.

**55 Declaration of result**

- (1) When the result of the election has been ascertained, the Returning Officer shall forthwith declare to be elected the candidate for whom the majority of votes has been cast, and such declaration shall be made in the following terms:

“I hereby declare that \_\_\_\_\_ is elected”.

- (2) The number of votes cast for each candidate shall not be finalised by the Returning Officer when he makes the declaration referred to in subsection (1).

**56 Equality of votes**

When an equality of votes is found to exist between any candidates so that the addition of a vote would entitle any of them to be declared elected, the Returning Officer shall make a recount of the votes cast. If there is again an equality of votes, as ascertained by such recount, the Returning Officer shall report the fact to the Governor-General who shall order that another election shall be held for that electoral constituency on such day as he shall, in his discretion, determine.

**57 Notification to successful candidate and publication of result**

- (1) At the conclusion of the election the Returning Officer shall:
  - (a) notify the successful candidate in writing; and
  - (b) notify the Governor-General of the result.
- (2) The Governor-General shall:
  - (a) cause the result to be published locally in such manner as to him may seem appropriate; and
  - (b) cause the result to be published as soon as may be in the *Gazette*.

**58 Refund and forfeiture of deposits**

The deposit made under section 27 shall be forfeited and paid into the Consolidated Fund.

**59 Custody of documents, etc.**

- (1) The Returning Officer shall ensure the safe custody of all documents relating to the conduct of the election.
- (2) The Returning Officer shall cause all such documents to be destroyed after the expiration of six months from the date of the election unless otherwise directed by an order of the Court.

**60 Powers of polling assistants**

A polling assistant may be authorised by a presiding officer to do any act which the presiding officer is required or authorised to do at a polling station by this Act, except that he may not order the arrest of any person, or the exclusion or removal of any person from the polling station.

**61 Candidate has power of his agent**

A candidate may do any act or thing which his agent would have been authorised or required to do, and may assist his agent in the doing of any such act or thing.

**62 Non-attendance of agents not to invalidate proceedings**

Where in this Act any act or thing is required or authorised to be done in the presence of the agents of the candidates, the non-attendance of any agent or agents at the time and the place appointed for the purpose shall not, if that act or thing is otherwise properly done, invalidate the act or thing done.

**63 Remuneration of officers and polling assistants**

The Returning Officer, Assistant Returning Officers and polling assistants shall receive such reasonable remuneration for their services as the Commission, after consultation with the Minister for Finance may see fit to authorise.

**64            Presiding officers, etc. to have documents of authority**

Each presiding officer and each polling assistant shall have in their possession a document signed by the Returning Officer specifying his authority to exercise powers under this Act and such document shall be produced on demand.

**65            Power to defer part of an election**

- (1) Notwithstanding anything to the contrary contained in this Act, where the Commission is satisfied that by reason of flood or storm or any other cause whatsoever, whether of the like nature or otherwise, it has not been or will not be possible to carry out any part of an election or to comply with any of the provisions of this Act relating to time, throughout the electoral constituency or any ward thereof, it may within fourteen days of the date originally appointed for that part of the election by notice, appoint or direct the Returning Officer to appoint a new date for such part and for any subsequent part of the election as may be necessary.
- (2) Any date appointed under subsection (1) shall be deemed to have been appointed under the appropriate provisions of this Act, and shall afford all persons not less notice than is provided for in those provisions.
- (3) In exercising its powers under subsection (1) the Commission may give such directions as it may consider necessary as to the deferment or suspension of the counting of votes pending receipt of the ballot boxes, papers and lists relating to any part of any election for which a new date is appointed, and for the safe custody of all ballot boxes, papers and lists already received.
- (4) In subsection (1) “part” in relation to an election includes any stage of an election and any act, matter or thing required to be done by any of the provisions of this Act.

**PART IV            ELECTION OFFENCES**

**66            Corrupt practice**

- (1) No election shall be valid if any corrupt or illegal practice is committed in connection therewith by the candidate elected or his agent.



- (2) Where on an election petition it is shown that corrupt or illegal practices or illegal payments, employments or hirings committed in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, his election if he has been elected, shall be void and he shall be disqualified for election as a member of the National Parliament for a period commencing on the date of judgment by the Court to the date of dissolution of the National Parliament following that judgment.

**67           Penalty for false answer**

Every person who makes a false answer to either of the questions prescribed in section 38(c) knowing it to be false or not believing it to be true, shall be guilty of an offence and shall be liable to a fine not exceeding 3,000 penalty units or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

**68           Offence in respect of nomination papers, etc.**

- (1) Every person who:
- (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers, to any person or authority to whom nomination papers are required by this Act to be delivered, any nomination paper knowing the same to be forged; or
  - (b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
  - (c) without due authority, supplies any ballot paper to any person; or
  - (d) fraudulently takes out of any polling station, place of voting or place of election any ballot paper; or
  - (e) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of an election,

shall be guilty of an offence, and shall be liable to a fine not exceeding 5,000 penalty units or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

- (2) In any prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, counterfoils, marking instruments and other things in use at an election, the property in such papers, boxes, instruments and things may be stated to be in the Returning Officer at such election.

## **69      Infringement of secrecy**

- (1) Every Returning Officer, Assistant Returning Officer, Supervising Officer, polling or other assistant and agent shall maintain and aid in maintaining the secrecy of the voting in an election and shall not communicate, except for some purpose authorised by law, before the election is closed to any person any information as to the name or number on a register of electors, of any elector who has or has not applied for a ballot paper or voted, or as to the official mark.
- (2) No such Officer, assistant or agent, and no person whosoever shall interfere with or attempt to interfere with an elector when casting his vote, or otherwise attempt to obtain information as to the candidate for whom any elector is about to vote or has voted, or communicate at any time to any person information obtained during any election as to the candidate for whom any elector is about to vote, or has voted, or as to the number on the ballot paper given to any voter:

Provided always that the provisions of this subsection shall not prohibit, limit or qualify any procedure prescribed under this Act for recording the vote of any elector who is unable to read or is incapacitated by blindness or other disability from casting his vote himself.

- (3) Any such Officer, assistant, candidate or agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting and shall not communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper.
- (4) Any person who acts in contravention of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding 3,000

penalty units or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

**70      Penalty for bribery, treating and undue influence**

Any person who is guilty of bribery, treating or undue influence shall be guilty of a corrupt practice and liable to a fine not exceeding 5,000 penalty units or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

**71      Persons to be deemed guilty of bribery**

The following persons shall be deemed to be guilty of bribery within the meaning of this Act:

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

- (d) any person who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any person as a member of the National Parliament or the vote of an elector at any election;
- (e) any person who advances or pays, or causes to be paid, any money to or for the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who knowingly pays or causes to be paid, any money to any person, in discharge or repayment of any money wholly or in part expended in bribery at any election;
- (f) any elector, who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees to receive, or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election; and
- (g) any person who, after any election, directly or indirectly by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting, at any election:

Provided always that the provisions of this section shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bona fide* incurred at or concerning any election.

## **72 Persons to be deemed guilty of treating**

- (1) The following persons shall be deemed to be guilty of treating within the meaning of this Act:
  - (a) any person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives, or provides, or pays, or promises to give, provide or pay, wholly or in part, the expense of giving or providing any food, drink, entertainment or provision to or for any person, for the

purpose of corruptly influencing that person, or any other person, to vote or refrain from voting at such election or on account of that person or any other person having voted or refrained from voting at such election; and

- (b) any elector who corruptly accepts or takes any such food, drink, entertainment or provision.
- (2) For the avoidance of doubt, it is hereby declared that the provision of any feast or other entertainment in accordance with established custom shall not be treating for the purposes of this section if the provision of that feast or entertainment is not for the purpose of corruptly influencing any person.

### **73       Persons to be deemed guilty of undue influence**

Any person who directly or indirectly, by himself or by any other person on his behalf, makes use of, or threatens to make use of, any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any injury, damage, harm or loss, upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who, by abduction, duress, or any fraudulent contrivance, impedes or prevents the free use of the vote by any elector or thereby compels, induces or prevails upon any elector either to give or refrain from giving his vote at any election shall be guilty of undue influence within the meaning of this Act.

### **74       Penalty for personation**

Any person who is guilty of personation or of aiding, abetting, counselling or procuring the commission of the offence of personation, shall be guilty of a corrupt practice and liable to a fine not exceeding 3,000 penalty units or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

### **75       Persons to be deemed guilty of personation**

Any person who at any election applies for a ballot paper in the name of another person or tenders a vote in the name of another person whether that name is the name of a person living or dead or of a fictitious person, or who, having voted once at any direct election,

applies for a ballot paper or tenders a vote at the same election, in his own name, which he is not entitled to tender under the provisions of this Act shall be guilty of personation within the meaning of this Act.

**76 Incapacity entailed by conviction for corrupt practice**

Any person who is convicted of a corrupt practice shall, in addition to any other punishment, be disqualified during a period of five years from the date of his conviction:

- (a) from being registered as an elector or of voting at any election; and
- (b) from being elected as a member of the National Parliament or, if elected before his conviction, from retaining his seat as such member.

**77 Penalty for persons guilty of certain illegal practices**

Any person who:

- (a) votes, or induces, or procures any other person to vote, at any election, knowing that he or such other person is prohibited by any provision of this Act or of the *Constitution* or any other law for the time being in force in Solomon Islands from voting at such election; or
- (b) before or during an election knowingly publishes any false statement of the withdrawal of a candidate at such election for the purpose of promoting the election of another candidate,

shall be guilty of an illegal practice and shall be liable to a fine not exceeding 3,000 penalty units or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment, and shall be disqualified during the period of three years from the date of his conviction, from voting at any election.

**78 Interference with lawful public meeting to be an illegal practice**

Any person who at a lawful public meeting, held in connection with the election of any person to the National Parliament between the

date of publication of a notice issued under the provisions of sections 24 or 65 appointing a day for the holding of an election under this Act and the date on which the result of the election is published, 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 shall be guilty of an illegal practice and shall be liable to a fine not exceeding 3,000 penalty units or to a term of imprisonment not exceeding three months or to both such fine and such imprisonment, and shall be disqualified, during a period of three years from the date of his conviction, from voting at any election.

**79            Display of emblems in vicinity of place of voting prohibited**

- (1) No person other than a candidate shall within any building where voting for the election of a member of the National Parliament is in progress, or on any public way within a distance of fifty yards of any entrance to such building, bear or display any card, symbol, favour or other emblem indicating support for a particular candidate or political party and no person shall within two hundred yards of any such building make any public address indicating support for a particular candidate or political party.
- (2) Any person acting in contravention of this section shall be guilty of an offence and shall be liable to a fine not exceeding 1,000 penalty units.
- (3) For the purpose of this section “public way” includes any highway, market place, square, street, bridge or other way which is lawfully used by the public.

**80            Offences relating to election boycotts**

Any person:

- (a) having customary authority or religious influence within any constituency or over or upon any elector residing within any constituency who, in relation to any election being held or proposed to be held within the constituency, issues or causes to be issued any prohibition, instruction, direction, order or command which, having regard to the nature and extent of such authority or influence or to the probable consequences, if any, of non-compliance with the prohibition, instruction, direction,

order or command, is likely to cause:

- (i) any elector residing within the constituency or who is subject to the authority or affected by the influence to desist or refrain from voting or taking part in the election; or
  - (ii) any election officer to desist or refrain from conducting the election within the constituency, or among the electors who are subject to the authority or affected by the influence; or
- (b) who publicises any prohibition, direction, order or command referred to in paragraph (a) knowing that the prohibition, instruction, direction, order or command is likely to cause any elector residing within the constituency or who is subject to the authority or affected by the influence to desist or refrain from voting or taking part in the election,

is guilty of an offence and liable to imprisonment for a term not less than one year but not more than ten years.

## **81 Saving of offences under Penal Code**

Nothing in this Act shall be construed or deemed in any way to prejudice, derogate from or affect any of the provisions of the *Penal Code* as to the offences relating to public offices or officers.

## **82 Questions as to elected members to be determined by High Court**

- (1) All questions which may arise from any election as to the right of any person to be or remain an elected member of the National Parliament shall be referred to and determined by the Court on a petition presented by the Attorney-General or by an elector, in accordance with the procedure prescribed by Rules made under section 85 for the presentation and hearing of an election petition and the decision of the Court on any such petition shall be final and shall not be questioned in any other proceedings.
- (2) Where the question to be decided concerns the right of any person to remain a member of the National Parliament, the Court shall certify



its decision in writing to the Governor-General and where the Court has decided that any person is not entitled to remain a member, such person shall thereupon cease to be a member.

### **83           Presentation of election petition**

- (1) A petition complaining of an undue return or undue election of a member of the National Parliament hereinafter called an election petition, may within one month from the date of the publication, in pursuance of section 57(2)(b), of the result of the election in relation to an electoral constituency be presented to the Court in its civil jurisdiction by any one or more of the following persons, that is to say:
  - (a) some person who voted or had a right to vote at that election for the electoral constituency to which the petition relates; or
  - (b) some person who claims to have had a right to be returned or elected at such election; or
  - (c) some person who alleges himself to have been a candidate at such election.
- (2) No petition shall be entered by the Court in its civil jurisdiction if, in the opinion of the Court, such petition is frivolous or vexatious and any election petition may be summarily dismissed by the Court if, in the opinion of the Court, there are insufficient grounds to warrant the hearing of such petition.

### **84           Hearing of election petition**

- (1) Every election petition shall be heard by the Court in open court.
- (2) During such hearing the Court may order:
  - (a) the inspection and production of any rejected ballot papers; or
  - (b) the opening of any sealed packet of counterfoils of used ballot papers; or
  - (c) the inspection of any counted ballot papers; or
  - (d) the inspection and production of tendered ballot papers and the

tendered votes list:

Provided that in making and carrying into effect the order made under this subsection care should be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved that his vote was given and the vote has been declared by the Court to be invalid.

- (3) At the conclusion of the hearing, the Court shall determine whether the member whose return or election is complained of or any other and what person, was duly returned or elected, or whether the election was void, and shall certify such determination to the Governor-General and, upon such certification being given, such determination shall be final and shall not be questioned in any proceedings, nor shall any appeal lie therefrom to any court; and the election shall be confirmed, or a new election shall be held, as the case may require, in accordance with such certificate:

Provided that where the Court finds that any candidate who has been declared to be elected was not qualified or was disqualified at the time of his election, the court shall determine the election to be void.

## **85 Procedure at hearing of election petition**

Subject to the provisions of this Act, the Chief Justice may from time to time make rules for the practice and procedure to be observed in relation to election petitions, and subject to such rules the procedure at the hearing of an election petition, shall, as near as circumstances will admit, be the same, and the Court shall have the same powers, jurisdiction, and authority, as if it were hearing a civil action; and witnesses may be subpoenaed and sworn in the same manner, as near as circumstances will admit, as in the hearing of a civil action in the Court, and shall be subject to the same penalties for perjury.

## **86 Questions as to whether a seat has become vacant**

- (1) Any questions which may arise as to whether the seat of a member of the National Parliament has become vacant, other than a question arising from the election of that member, shall be referred to and determined by the High Court on a petition presented by the Attorney-General, the member concerned or any other member of the National Parliament.

- (2) The member concerned and the petitioner shall have the right to appear and be represented before the High Court.
- (3) Where the High Court decides that the seat of a member has become vacant, the seat of that member shall become vacant as soon as the High Court issues a certificate to that effect.
- (4) Section 85 shall apply *mutatis mutandis* to and in relation to petitions under this Act as it applies to and in relation to election petitions.

**87 Transitional and consequential provisions**

The Election Petition Rules 1976 until revoked and replaced by Rules made under section 85 shall have full force and effect as though they were Rules made under that section and shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the provisions of the *Constitution* and this Act.

**88 Power to make regulations**

The Minister on the advice of the Electoral Commission may make regulations for the better carrying out of the provisions and purposes of this Act.

## FIRST SCHEDULE\*

\*This Schedule contains the Constituencies in existence on 3rd April 1980 – vide Section 3. The Constituencies in existence on 1st March 1996, numbering forty-seven, are set out in Gazette Notification No 50 of 1993

(Section 3)

### ELECTORAL CONSTITUENCIES

#### 1. North West Malaita Electoral Constituency

The area comprised by the wards numbered 5 to 10 inclusive and defined in the Schedule to Legal Notice No. 6 of 1964.

#### 2. Lau and Mbaelelea Electoral Constituency

The area comprised by the wards numbered 11 to 15 inclusive and defined in the Schedule to Legal Notice No. 6 of 1964.

#### 3. West Kwara'ae Electoral Constituency

The area comprised by the wards numbered 2 to 4 inclusive and defined in the Schedule to Legal Notice No. 6 of 1964.

#### 4. East Malaita Electoral Constituency

The area comprised by the wards numbered 16 to 21 inclusive and defined in the Schedule to Legal Notice No. 6 of 1964.

#### 5. Central Malaita Electoral Constituency

The area comprised by the wards numbered 1 and 36 to 38 inclusive and defined in the Schedule to Legal Notice No. 6 of 1964.

#### 6. West Kwaio Electoral Constituency

The area comprised by the wards numbered 33 to 35 inclusive and

defined in the Schedule to Legal Notice No. 6 of 1964.

7. East Kwaio Electoral Constituency

The area comprised by the wards numbered 22 to 24 inclusive and defined in the Schedule to Legal Notice No. 6 of 1964.

8. West Are Are Electoral Constituency

The area comprised by the wards numbered 31 to 32 inclusive and defined in the Schedule to Legal Notice No. 6 of 1964.

9. East Are Are Electoral Constituency

The area comprised by the wards numbered 25 to 26 inclusive and defined in the Schedule to Legal Notice No. 6 of 1964.

10. Small Malaita Electoral Constituency

The area comprised by the wards numbered 27 to 30 inclusive and defined in the Schedule to Legal Notice No. 6 of 1964.

11. Malaita Outer Islands Electoral Constituency

The area comprised by the wards numbered 39 to 41 inclusive and defined in the Schedule to Legal Notice No. 6 of 1964 as amended by Legal Notice No. 53 of 1974.

12. West Guadalcanal Electoral Constituency

The area comprised by the wards numbered 1 to 3 inclusive and defined in the Schedule to Legal Notice No. 5 of 1964.

13. South Guadalcanal Electoral Constituency

The area comprised by the wards numbered 4 to 7 inclusive and defined in the Schedule to Legal Notice No. 5 of 1964.

14. East Guadalcanal Electoral Constituency

The area comprised by the wards numbered 8 to 11 inclusive and defined in the Schedule to Legal Notice No. 5 of 1964.

15. North East Guadalcanal Electoral Constituency

The area comprised by the wards numbered 12 to 14 inclusive and defined in the Schedule to Legal Notice No. 5 of 1964.

16. North Guadalcanal Electoral Constituency

The area comprised by the wards numbered 16 and 18 and defined in the Schedule to Legal Notice No. 5 of 1964.

17. Central Guadalcanal Electoral Constituency

The area comprised by the wards numbered 15, 17 and 19 and defined in the Schedule to Legal Notice No. 5 of 1964.

18. West Honiara Electoral Constituency

The area comprised by the wards numbered 1 to 7 inclusive and defined in the Schedule to Legal Notice No. 29 of 1976.

19. East Honiara Electoral Constituency

The area comprised by the wards numbered 8 to 12 inclusive and defined in the Schedule to Legal Notice No. 29 of 1976.

20. Russells and Savo Electoral Constituency

The area comprised by the wards numbered 4 to 6 inclusive and defined in the Schedule to Legal Notice No. 50 of 1974 and the wards numbered 7 to 8 inclusive and defined in the Schedule to Legal Notice No. 50 of 1974.

21. Rennell and Bellona Electoral Constituency

The area comprised by the wards numbered 1 to 3 inclusive and defined in the Schedule to Legal Notice No. 50 of 1974.

22. Gela Electoral Constituency

The area comprised by the wards numbered 9 to 13 inclusive and ward 16 as defined in the Schedule to Legal Notice No. 77 of 1984.

23. West Ysabel Electoral Constituency

The area comprised by the wards numbered 1 to 8 inclusive and ward 16 as defined in the Schedule to Legal Notice No. 103 of 1984.

24. East Ysabel Electoral Constituency

The area comprised by the wards numbered 9 to 15 and defined in the Schedule to Legal Notice No. 103 of 1984.

25. Shortlands Electoral Constituency

The area comprised by the wards numbered 1 to 2 inclusive, and defined in the Schedule to Legal Notice No. 50 of 1971.

26. North Choiseul Electoral Constituency

The area comprised by the wards numbered 13 to 16 inclusive and defined in the Schedule to Legal Notice No. 50 of 1971.

27. South Choiseul Electoral Constituency

The area comprised by the wards numbered 12 and 17 to 19 inclusive and defined in the Schedule to Legal Notice No. 50 of 1971.

28. Velia Lavella Electoral Constituency

The area comprised by wards 7 to 10 inclusive, and defined in the Schedule to Legal Notice No. 50 of 1971.

29. Ranongga and Simbo Electoral Constituency

The area comprised by the wards numbered 3 to 6 inclusive, defined in the Schedule to Legal Notice No. 50 of 1971.

30. Gizo and Kolombangara Electoral Constituency

The area comprised by the wards numbered 11 and 20, and defined in the Schedule to Legal Notice No. 50 of 1971.

31. Vona Vona, Rendova and Tetepari Electoral Constituency

The area comprised by the wards numbered 21 and 26 to 27 inclusive, and defined in the Schedule to Legal Notice No. 50 of 1971.

32. Roviana and North New Georgia Electoral Constituency

The area comprised by the wards numbered 22 to 25 inclusive and 28, and defined in the Schedule to Legal Notice No. 50 of 1971.

33. Marovo Electoral Constituency

The area comprised by the wards numbered 29 to 32 inclusive and defined in the Schedule to Legal Notice No. 50 of 1971.

34. West Makira Electoral Constituency

The area comprised by wards numbered 4 to 9 inclusive and ward 20 as defined in the Schedule to Legal Notice No. 82 of 1976

35. East Makira Electoral Constituency

The area comprised by the wards numbered 10 to 19 inclusive and defined in the Schedule to Legal Notice No. 82 of 1976.



36. Ulawa and Ugi Electoral Constituency

The area comprised by the wards numbered 1 to 4 inclusive and defined in the Schedule to Legal Notice No. 82 of 1976.

37. Temotu Pele Electoral Constituency

The area comprised by the wards numbered 1 to 6 and 13 to 15 inclusive and defined in Legal Notice No. 83 of 1977.

38. Temotu Nendo Electoral Constituency

The area comprised by wards numbered 7 to 12 and 16 to 17 inclusive and defined in Legal Notice No. 83 of 1977.

## **SECOND SCHEDULE**

(Section 16)

### **FORM A**

#### **THE NATIONAL PARLIAMENT ELECTORAL PROVISIONS ACT**

##### **NOTICE TO PERSONS ENTITLED TO VOTE**

All persons who claim to be entitled to be registered as electors in the Registration Area and who are qualified to be and are desirous of being so registered are hereby required to deliver to me or to an Assistant Registration Officer within sixty days of the date hereof, a claim in the prescribed form. Prescribed forms are available free of charge from me and from an Assistant Registration Officer at the addresses set out below.

Dated this ..... day of.....19 .....

.....

Registration Officer

Address of Registration Officer

Address of Assistant Registration Officers:

Sections 16 and 17 (1)

**FORM B**

**THE NATIONAL PARLIAMENT ELECTORAL PROVISIONS ACT**

**CLAIM TO BE REGISTERED AS AN ELECTOR**

To the Registration Officer for the.....

Registration Area.

I,.....

(First names in full)

.....

(surname)

of.....

occupation.....

hereby claim to be registered as an elector in the .....  
Registration Area.

I hereby declare that I am qualified and not disqualified to be an elector under  
the Constitution.

Dated the ..... day of ..... 19 .....

Marked in the presence of\*

Name .....

Address .....

.....

Signature ..... .....

(Witness)

Signature or Mark

\*The name, address and signature of an attesting witness is only required if the Claimant makes a mark, and not if he actually signs his name.

Section 18

## FORM C

### LIST OF ELECTORS

..... Registration Area. Ward.....

The Electoral Constituency

No.	Full Name	Address	Occupation
.....			

Dated this.....day of.....19.....

.....

*Registration Officer or Assistant Registration Officer*

Section 20(1)

**FORM D**

**THE NATIONAL PARLIAMENT ELECTORAL PROVISIONS ACT  
CLAIM TO BE REGISTERED AS AN ELECTOR**

To the Registration Officer for the ..... Registration Area.

I, .....

(first names in full)

.....

(surname)

of .....

(address)

occupation.....

hereby claim to be registered as an elector in the ..... Registration Area.

I hereby declare that I am qualified and not disqualified to be an elector under the Constitution.

I delivered a notice of claim to be registered as an elector to

.....

(Registration Officer or Assistant Registration Officer)

at ..... on .....

(place)

(date)

My name has been omitted from the list of electors for the ..... ward.

I claim to have my name inserted in the said list of electors.

Dated the ..... day of ..... 19 .....

Marked in the presence of\*

Name .....

Address .....

Signature.....

(witness)

(Signature or mark)

\*The name, address and signature of an attesting witness are only required if the Claimant makes a mark, and not if he actually signs his name.

N.B. This must be lodged with the Registration Officer or Assistant Registration Officer for the Ward concerned within ten days of the publication of the list of electors for that Ward.

Section 19(2)

## FORM E

### THE NATIONAL PARLIAMENT ELECTORAL PROVISIONS ACT

#### NOTICE OF OBJECTION

To the Registration Officer for the .....

Registration Area.

I, .....

(first name in full)

.....

(surname)

of .....

(address)

Occupation .....

being a person whose name appears on the list of electors for the .....  
Registration Area, do hereby give notice that I object to the name

of .....

(name of person objected to)

being retained on the said list of electors. My grounds for objections are:

(state grounds)

Dated this ..... day of ..... 19 .....

Marked in the presence of\*

Name .....

Address .....

Signature.....  
(Witness) (Signature or mark)

\*The name, address and signature of an attesting witness are only required if the  
Claimant makes a mark and not if he actually signs his name.

To be served upon the Registration Officer (or an Assistant Registration Officer) and the person objected to within 10 days of the publication of the list of electors.

## THIRD SCHEDULE

(Section 26 (2))

### NOMINATION PAPER

Electoral Constituency for which the candidate seeks election  
.....

Date of election .....

1. I, the undersigned, am the candidate to whom this nomination paper refers, and I hereby state that I am willing to stand for election to the National Parliament as a Member for the aforesaid Electoral Constituency.

2. I also hereby state that I am qualified, and not disqualified for election to the National Parliament in accordance with the law now in force in Solomon Islands, that is to say:

(a) I am a citizen of Solomon Islands

(b) I have attained the age of 21 years

(c) I am not, by virtue of my own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state.

(d) I am not holding, or acting in, any public office.

(e) I am not an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law for the time being in force in any part of the Commonwealth;

(f) I have not been certified insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Solomon Islands;

(g) I am not under sentence of death imposed by a court in any part of the world, or under a sentence of imprisonment for a term of or exceeding six months other than a sentence in lieu of a fine but including a suspended sentence imposed by such a court or substituted by competent authority for some other sentence imposed on him by such a court;

(h) I am not disqualified from membership of the National Parliament or from registration as an elector or from voting at elections under any law for the time being in force in Solomon Islands relating to offences connected with elections;

(i) I am not holding or acting in any office the functions of which involve any responsibility for, or in connection with, the conduct of any election to the National Parliament or the compilation or revision of any electoral register for that purpose.

Full name .....

Address .....

Description or Occupation .....

Date..... Signature.....

We, the undersigned, are the nominators of the candidate, and are electors for the Electoral Constituency for which this candidate seeks election.

Full name .....

Address .....

Description or Occupation .....

I am registered as a voter in the .....

Ward of the .....Province/Registration Area

Date ..... Signature.....

Full name .....

Address .....

Description or Occupation .....

I am registered as a voter in the .....

Ward of the .....Province/Registration Area

Date ..... Signature.....



Full name .....

Address .....

Description or Occupation .....

I am registered as a voter in the .....

Ward of the .....Province/Registration Area

Date ..... Signature.....

\*Delete alternative not applicable.

## FOURTH SCHEDULE

(Section 38(a))

### BALLOT PAPER

CONSTITUENCY OF .....

### PUT A MARK IN THE BOX OF YOUR CHOICE

Vote for one candidate only

NAME OF CANDIDATE POLITICAL PARTY/ INDEPENDENT	SYMBOL OF CANDIDATE	MARK




OFFICIAL MARK.

## ENDNOTES

### 1

#### KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

#### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 87 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act to 16 April 2010.

### 2

#### LIST OF LEGISLATION

***National Parliament Electoral Provisions Act (Cap. 87)***

*Constituent legislation:* 5 of 1980 (Commenced 3 April 1980)  
1 of 1987  
5 of 1992

***National Parliament Electoral Provisions (Amendment) Act 1997 (No. 3 of 1997)***

Assent date 25 June 1997  
Gazetted 25 June 1997  
Commenced 25 June 1997

***National Parliament Electoral Provisions (Amendment) Act 2001 (No. 5 of 2001)***

Assent date 28 August 2001  
Gazetted 5 September 2001  
Commenced 5 September 2001

***National Parliament Electoral Provisions (Corrections of Errors) Order 2001 (LN 169 of 2001)***

Gazetted 29 October 2001  
Commenced 29 October 2001

***National Parliament (Electoral Provisions) (Amendment) Act 2005 (No. 4 of 2005)***

Assent date 6 September 2005  
Gazetted 20 September 2005

Commenced 20 September 2005

***Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)***

Assent date 29 July 2009  
Gazetted 1 October 2009  
Commenced 1 October 2009

***National Parliament Electoral Provisions (Amendment) Act 2010 (No. 5 of 2010)***

Assent date 14 April 2010  
Gazetted 16 April 2010  
Commenced 16 April 2010 (ss 1-4, 15-20); (*Partial commencement – see v8 for remainder commenced as at 1 October 2010*)

**3**

**LIST OF AMENDMENTS**

s 2 amd by Act No. 5 of 2010  
s 4 amd by Acts No. 3 of 1997; No. 4 of 2005  
s 5 amd by Act No. 5 of 2010  
s 6 amd by Act No. 5 of 2010  
s 7 amd by Act No. 14 of 2009  
s 26 amd by Act No. 3 of 1997  
s 27 amd by Acts No. 3 of 1997; No. 5 of 2001  
s 34 amd by Acts No. 4 of 2005; No. 5 of 2010  
s 36 sub by Act No. 4 of 2005  
s 38 amd by Acts No. 3 of 1997; No. 4 of 2005; No. 5 of 2010  
s 41 sub by Act No. 4 of 2005  
s 44 amd by Act No. 5 of 2010  
s 45 amd by Acts No. 3 of 1997; No. 14 of 2009  
s 46 amd by Act No. 5 of 2010  
s 49 sub by Act No. 4 of 2005  
s 50 sub by Act No. 5 of 2010  
s 51 amd by Act No. 5 of 2010  
s 67 amd by Act No. 14 of 2009  
s 68 amd by Act No. 14 of 2009  
s 69 amd by Act No. 14 of 2009  
s 70 amd by Act No. 14 of 2009  
s 74 amd by Act No. 14 of 2009  
s 77 amd by Act No. 14 of 2009  
s 78 amd by Act No. 14 of 2009  
s 79 amd by Act No. 14 of 2009  
s 88 ins by Act No. 4 of 2004  
Third Sch amd by LN 169 of 2001  
Fourth Sch ins by Act No. 4 of 2005