



ANGUILLA

A BILL FOR

ELECTIONS (AMENDMENT) ACT, 2014

Published by Authority

ELECTIONS (AMENDMENT) ACT, 2014

TABLE OF CONTENTS

SECTION

1. Interpretation
 2. Amendment to section 1
 3. Amendment to section 49
 4. Insertion of new sections 49A to 49D
 5. Insertion of new section 76A
 6. Insertion of new section 78A
 7. Amendment to section 79
 8. Amendment to Schedule 2
 9. Citation
-

I Assent

Christina Scott
Governor

Date

ANGUILLA

NO. /2014

A BILL FOR

ELECTIONS (AMENDMENT) ACT, 2014

[Gazette Date: , 2014] [Commencement: Assent under section 57 of the Constitution]

An Act to amend the Elections Act, R.S.A. c. E30 to make provision for the use of electoral ink; to require candidates to make a Declaration as to their qualification and to provide for matters connected therewith and incidental thereto.

ENACTED by the Legislature of Anguilla

Interpretation

1. In this Act, “principal Act” means the Elections Act, R.S.A. c. E30.

Amendment to section 1

2. The principal Act is amended in section 1 by inserting in the appropriate alphabetical order the following definitions—

““appropriate digit” means in the case of a voter—

- (a) who has a right hand upon which there are any digits, that finger on the right hand which is nearest to the thumb, or if the voter has no right thumb, to the right thumb socket; or, if the voter has a right thumb but no fingers on his right hand, the right thumb;

- (b) who has no right hand or has a right hand but no digits upon such hand, the finger on the left hand which is nearest to the left thumb, or if the voter has no left thumb, to the left thumb socket; or if he has a left thumb but no fingers upon his left hand, the left thumb;

“digit” means fingers or thumb;”.

Amendment to section 49

3. The principal Act is amended in section 49 as follows —

- (a) in subsection (1) by inserting immediately before the phrase “Each voter” the phrase “Subject to sections 49A, 49B and 49D”; and
- (b) in subsection (3)(e) by inserting immediately before the phrase “the presiding officer” the phrase “subject to section 49B”.

Insertion of new sections 49A to 49D

4. The principal Act is amended by inserting immediately after section 49 the following new sections—

“Ballot paper not to be given to voter unless no marks of electoral ink appear on voter

49A (1) Subject to the provisions of section 49D, every presiding officer shall refuse to give any ballot paper to any voter unless he is satisfied that there does not appear—

- (a) upon the appropriate digit of that voter; or
- (b) in the case of a voter who the presiding officer is satisfied is suffering from an injury to the appropriate digit, upon any of the other digits of that voter;

any mark of electoral ink.

(2) Subject to subsection (3), where the appropriate digit of a voter who attends a polling station and applies for a ballot is concealed or covered over with any bandage or other material, the presiding officer shall, before giving a ballot paper to that voter, require him to remove that bandage or other material and wholly uncover his appropriate digit and shall refuse to give that voter a ballot paper unless and until he has removed the bandage or other material and has wholly uncovered his appropriate digit.

(3) A voter shall not be obliged to remove any bandage or other material or uncover his appropriate digit if he satisfies the presiding officer that he is suffering from an injury to his appropriate digit and if he takes an oath in Form 12A.

(4) For the purpose of satisfying himself in the manner required by subsection (1) the presiding officer shall, in the presence of the poll clerk and of the agents of the candidates, inspect the appropriate digit of each voter or all of the digits of each voter, as the case may require and shall comply with the provisions of subsection (2).

(5) If any voter whose appropriate digit is concealed or covered over refuses to remove that bandage or other material and wholly uncover his appropriate digit and refuses to take the oath in Form 12A, the presiding officer shall draw erasing lines through

his name on the official list of voters and in the poll book, if his name has been entered in the poll book, and the words “Refused to be sworn” shall be written after it.

(6) Every presiding officer who refuses to give any ballot paper to any voter under the provisions of this section shall make an entry in the poll book setting out the facts in relation to that refusal.

Voter to immerse appropriate digit in electoral ink

49B. (1) Upon receiving a ballot paper from any voter in accordance with the provisions of section 49, the presiding officer before removing the counterfoil from that ballot paper shall, if the voter possesses on his hand an appropriate digit, satisfy himself that there does not appear upon that digit any substance which in his opinion is likely to prevent the adhesion of electoral ink and shall require the voter to immerse that digit in the electoral ink.

(2) Where the presiding officer is satisfied that the voter is suffering from some injury to his appropriate digit which is of such nature as to render it undesirable for him to immerse that digit in the electoral ink, the presiding officer shall require him to immerse in the ink any other digit upon which the presiding officer is satisfied that there is no substance which is likely to prevent the adhesion of electoral ink.

(3) If any voter on being required to immerse his appropriate digit or any other digit as required under subsection (1) in the electoral ink fails or refuses to immerse his digit, the presiding officer shall destroy the ballot paper handed to him by that voter and shall make an entry in the poll book setting out the particulars in relation to the destruction of that ballot paper.

Penalty for failure of presiding officer to carry out provisions of 49A and 49B

49C. Subject to the provisions of section 49D, every presiding officer who fails or neglects to perform any duty imposed upon him by sections 49A and 49B, is guilty an offence and is liable on summary conviction to imprisonment for a term of 6 months or to a fine of \$19200.

Non-application of sections 49A and 49B to voter with no hands

49D. The provisions of sections 49A and 49B shall not apply in relation to a voter who has no hands.”.

Insertion of new section 76A

5. The principal Act is amended by inserting immediately after section 76 the following—

“False Declaration

Every person who knowingly or negligently makes a declaration as to their qualification to be elected as a member of the House of Assembly pursuant to sections 36 and 37 of the Anguilla Constitution Order 1982 and that declaration is false, is guilty of making a false declaration within the meaning of this Act.”.

Insertion of new section 78A

6. The principal Act is amended by inserting immediately after section 78 the following—

Penalty for false declaration

78A. Every person who is guilty of false declaration, is liable, on conviction, to imprisonment for 2 years.”.

Amendment to section 79

7. The principal Act is amended in section 79 by deleting the phrase “or personation” and substituting the phrase “personation or false declaration,”.

Amendment to Schedule 2

8. The principal Act is amended in Schedule 2 by—

(a) deleting Form 5 and substituting the following—

“Form 5
(Section 29 (3))
ANGUILLA
ELECTIONS ACT
NOMINATION PAPER

We the undersigned voters for Electoral District No.;, do hereby nominate the following person as a proper person to serve as a member of the House of Assembly for the Electoral District No; and we certify that to the best of our belief he is qualified for election as a member of the House of Assembly.

| | Surname | Other Name | Address | Occupation | Date of Birth | Sex | Ethnicity |
|----|---------|------------|---------|------------|---------------|-----|-----------|
| 1. | | | | | | | |
| 2. | | | | | | | |
| 3. | | | | | | | |
| 4. | | | | | | | |
| 5. | | | | | | | |

Signatures

.....
.....
.....
.....
.....

DETAILS OF NOMINEE

| Surname | Other Name | Address | Occupation | Date of Birth | Sex | Ethnicity | Party |
|---------|------------|---------|------------|---------------|-----|-----------|-------|
| | | | | | | | |

I nominated in the foregoing nomination paper hereby consent to such nomination as a candidate for election as a member of the House of Assembly for the Electoral District of No..... I hereby declare that I meet the requirements set out in section 36 of the Constitution of Anguilla and I am therefore qualified to be elected as a member of the House of Assembly. I further declare that I am not disqualified from being elected as a member of the Assembly by the provisions set out in section 37 of the Anguilla Constitutions

Witness my hand thisday of, 20.....

.....

Signed by the nominee in the presence of

.....

_____”

(b) by inserting the following new form immediately after Form 12—

“FORM 12A
(Section 49A(3))
ANGUILLA
ELECTIONS ACT

**OATH/AFFIRMATION OF VOTER THAT APPROPRIATE DIGIT OF THE VOTER IS
CONCEALED FOR REASONS OF INJURY AND THAT THE VOTER HAS NOT VOTED**

I..... of swear/solemnly and sincerely affirm that I have
suffered injury to my appropriate digit which is for that reason covered, concealed or bandaged and that I
have not already voted at this election. So help me God.*

.....

Sworn/Affirmed before me thisday of, 20.....

** Delete if affirmed*

_____”

Citation

9. This Act may be cited as the Elections (Amendment) Act, 2014.

Barbara Webster-Bourne
Speaker

Passed by the House of Assembly this day of , 2014.

Carmen A. Richardson
Clerk of the House of Assembly

OBJECTS AND REASONS**ELECTIONS (AMENDMENT) BILL, 2014**

(These objects and reasons do not form part of this Bill)

The Elections (Amendment) Bill, 2014 seeks to amend the Elections Bill, R.S.A. c. E30 to make provision for the use of electoral ink; to require candidates to make a Declaration as to their qualification and to provide for matters connected therewith and incidental thereto.

The Bill consists of 9 clauses.

Clause 1 of the Bill deals with the preliminary issue of interpretation.

Clause 2 amends section 2 of the Act by inserting the definitions of “appropriate digit” and “digit”.

Clause 3 amends section 49 by providing that the mode of taking Ballots is subject to the provisions relating to the use of electoral ink.

Clause 4 makes provision for the insertion of new sections 49A to 49D. The new section 49A provides that a potential voter can only be given a ballot paper where there is no evidence of electoral ink on his hands. The new section 49B provides that the presiding officer shall not permit a ballot to be cast until the voter immerses a finger in the electoral ink. Where the voter refuses to immerse a finger in the electoral ink, the voter’s ballot will be destroyed. The new section 49C creates the offence of failure of the presiding officer to carry out the provisions of 49A and 49B and section 49D provides that the provisions of 49A and 49B do not apply to voters with no hands.

Clause 5 makes provision for the insertion of new section 76A. This new section 76A makes it an offence to knowingly or negligently make a false declaration as to their qualification to be elected as a member of the House of Assembly.

Clause 6 makes provision for the insertion of new section 78A. This new section 78A creates a penalty for false declarations.

Clause 7 amends section 79 by inserting the offence of false declarations as a ground for disqualification from voting or from being elected or appointed as a member of the Assembly.

Clause 8 amends Schedule 2 -

- (a) in Form 5 to make provision for the particulars of the nominee and the making of a declaration of qualification which will place the onus squarely on the nominee to consider his eligibility to offer himself as a candidate for elections at the outset rather than further into the electoral process; and
- (b) to insert a new Form 12A to provide for the form of the oath to be taken by the voter whose appropriate digit is concealed for reasons of injury and that the voter has not voted.

Clause 9 provides for the citation.