

[draft of 23 November 2016]

DRAFT NEW ELECTIONS BILL

EXPLANATORY MEMORANDUM

The Constitutional and Electoral Reform Committee, acting upon its mandate given to it by the Executive Council of Anguilla in September 2015, has arrived at proposals for submission to Executive Council for the reform of the elections law of Anguilla. While many attempts were made to engage with members of the public, the opportunities offered were not taken up by many persons. We hope that the publication of these proposals will be seen as yet another opportunity for public engagement. Members of the Committee would welcome any invitation to engage in further public discussion on its proposals.

It is proposed that there will be a new Elections Act, the passage into law of which does not and will not depend on the coming into effect of the new Constitution. It is expected that the new law, as finally settled by the legal draftspersons in the Attorney-General's Chambers, will be brought into effect as soon as it is approved by the House of Assembly, hopefully early in 2017. First, the Boundaries Commission will have to be established, and new boundaries put in place.

The next general elections, presently scheduled for the year 2020, at the expiration of the present House of Assembly, will then be held under the new Elections Act. If the new Constitution has been brought into effect prior to 2020 some consequential amendments will need to be made to the new Elections Act, eg, to reflect that the new qualification to be on the Voters' List is 'ordinary residence', and that 'mere residence' will no longer suffice.

The important new features proposed include the following ones.

1. **Reorganise the Central Electoral Office** (sections 3-16). The Central Electoral Office needs to be completely reorganised to make its performance more professional and clearly independent.
2. **A new enumeration year** (sections 19-25). It is proposed the new enumeration year will be the year 2017, and that a new enumeration year occur approximately every 10 years following the taking of the census. It is generally agreed that there is a need to

clean up the Voters List to remove any persons who may be wrongfully on the List. As it is practically impossible in the absence of death to remove a person from the Voters List even once they are on, even if they have moved away from Anguilla for many years, periodic enumerations will ensure the List is kept relevant.

3. **Continuous registration** (section 26). Thereafter, there will be continuing registration.
4. **Applicants must appear in person** (section 32). Once the enumeration process is over, wherever the Supervisor of Elections considers it necessary, he may require any applicant for registration on the Voters List to appear in person before him and to prove that he is qualified to be registered.
5. **Appeals to the Judge** (section 37). Objections to registration must be heard by a qualified person such as the Supervisor, who will ensure the law and the rules of natural justice are followed. Appeals will lie to the High Court Judge as is normal in our region. The Magistrate was given this duty many years ago when there was no judge assigned to Anguilla.
6. **Voter registration cards** (section 42). There is a need to speed up the process on polling day, and it is believed that identification cards will help this process.
7. **Fixed date elections** (section 43). It is generally agreed that the present process whereby the Chief Minister has the sole say in choosing the date for elections is wrong. Elections will be due on the first Monday after the fifth anniversary of the previous general election.
8. **Advance polls** (section 68). Arrangements will be made for election officers and members of essential services to vote a few days in advance of polling day.
9. **Sale of liquor** (section 84). Holders of hotel licences and restaurant licences will not be affected by the provision prohibiting sale of alcohol by persons holding Liquor Licences. This will return Anguilla to the previous situation where, as in other Leeward Islands, only rum shops and similar institutions were obliged to close on election day.

10. **Removal of posters and billboards** (section 87(5)). All election material must be removed by midnight of the day before polling day, or candidates will face severe penalties.
11. **New district boundaries** (section 98). An Electoral District Boundaries Commission will be established to work with the Statistics Department and the Surveys Department and such others as they determine useful to provide advice and to divide the island up into more or less equal constituencies. It is anticipated this exercise will occur every ten years.
12. **Thirteen elected members instead of seven** (section 99). We do not need to wait for a new Constitution to start increasing the size of the House of Assembly. This is essential if we are to have a proper debate on matters before the House. It is proposed there should be nine district representatives and four members at large. The House will be increased from seven to thirteen elected representatives once elections are held under the new Elections Act.
13. **Campaign financing** (section 105). Political parties must keep a strict account of all donations and contributions, whether of cash or in kind, and whether made to the party or directly to the candidates, and whether made before, during or after an election. The accounts must be audited and filed within six months after the general election, otherwise the party and its candidates will face stiff penalties.

A BILL FOR AN ELECTIONS ACT¹

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¹ This draft Bill is based on the current British Virgin Islands Elections Act, but retains a number of features of the Anguilla Elections Act. The Regulations and the Forms are mainly Anguillian.

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An Act to regulate and control the holding of elections within Anguilla, to declare the boundaries of electoral districts, and for purposes connected therewith and incidental thereto.

[Gazetted]

ENACTED by the House of Assembly of Anguilla as follows -

PART I

PRELIMINARY

Short title and commencement

1. This Act may be cited as the Elections Act and shall come into operation on such date as the Governor, by proclamation published in the Gazette, shall appoint.

Interpretation

2. (1) In this Act, unless the context otherwise requires –

"Assembly" means the House of Assembly of Anguilla established under Part IV of the Constitution;

"Central Electoral Office" means the office described in section 3;²

"Constitution" means the Anguilla Constitution, 1982;

"elderly person" means a person of seventy years of age or older;

"election" includes an election for a member to represent a local electoral district and an election for four members to represent the Island-wide electoral district;

"election documents" means the documents referred to in section 76 (1);

"election officer" means a returning officer, every presiding officer, poll clerk or other person having any duty to perform under this Act, or to whom the Supervisor of Elections delegates any function, to the faithful performance of which duty he is sworn;

"electoral district" includes both a local electoral district and the Island-wide electoral district;

"form" means the forms specified in the Third Schedule;³

"Island-wide electoral district" means the single electoral district comprising Anguilla which returns four members to the Assembly;

"local electoral district" means one of the nine electoral districts defined in the First Schedule each of which returns one member to the Assembly;

"political party" means any party members of which contest an election;

"poll book" means the book in Form 48 in which the name and other particulars of every person applying to vote are consecutively entered by the poll clerk as soon as the applicant's right to vote at the polling station has been ascertained and before any such applicant is allowed to vote;

² We have attempted to cross-reference the section numbers as accurately as we can, but some anomalies may remain. We respectfully depend on the legal draftspersons in the A-G's Department to ensure all is perfect

³ Some of the forms in this draft may not be correctly cross-referenced to the relevant sections, due to the addition of some new forms, and the deletion of others. This exercise should await the finalisation of the draft Bill in order to avoid unnecessary duplication of the work.

"polling day" means the day fixed for holding the poll at an election;

"polling division" means any polling division constituted in accordance with section 17;

"polling station" means any room or rooms secured by the returning officer for the taking of the votes on polling day;

"preliminary list" means the list of voters mentioned in section 30;

"provisional list" means the list of voters prepared pursuant to section 20;

"qualifying date", in relation to determining the qualification of any person to be registered as a voter, means,

(a) in the case of the enumeration year, 31 December 2017; and

(b) in any other year, the last day of March, June, September and December;

"the Regulations" means the Election Registration Regulations found at the Second Schedule as amended from time to time;

"rejected ballot paper" means a ballot paper which has been handed by the presiding officer to a voter to cast his vote but which at the close of the poll has been found in the ballot box unmarked or so improperly marked that, in the opinion of the returning officer, it cannot be counted;

"returning officer" means, in relation to an electoral district, the officer appointed by the Governor in that behalf under section 8;

"spoiled ballot paper" means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the presiding officer to be soiled or improperly printed, or has been handed by the presiding officer to a voter to cast his vote, and,

(a) has been spoiled in marking by the voter; and

(b) has been handed back to the presiding officer and exchanged for another;

"Supervisor of Elections" means the officer appointed under section 4;

"voter" means any person who votes or is entitled to vote at an election;

"writ" means the writ for an election.

(2) Where in this Act,

(a) any notice, list or any other instrument is required to be "published", then, unless the contrary intention appears in any section, the publication thereof shall be made by placing the same on the website of the Electoral Office or any publicly accessed website of the Government of Anguilla, and by posting the same on the door of any Court House, Church, Chapel, Schoolhouse or other building in Anguilla which in the opinion of the Supervisor of Elections will give publicity to such instrument. In places where there is no such building as aforesaid, such instrument may be attached to a board and fastened up in a conspicuous place; and

(b) any paper, list or report is required to be printed under the provisions of this Act, such paper, list or report may, instead of being so printed, be represented or reproduced by means of a digital screen, a typewriter, roneo, cyclostyle, photocopier or other similar apparatus or

by any other method by which words, figures or signs may be represented or reproduced in visible form whether analogue or digital.⁴

(3) Where in this Act reference is made to any officer by the term designating his office, such reference shall be construed as a reference to the officer for the time being lawfully discharging the function of that office.

PART II

CENTRAL ELECTORAL OFFICE⁵

3. Central Electoral Office

After the coming into effect of this Act, the Governor in Council shall set up an electoral office in The Valley, which shall be known as the Central Electoral Office and which shall be under the direction of the Supervisor of Elections.

Supervisor of Elections

4. (1) The Supervisor of Elections shall be a Belonger of Anguilla, as defined in section 80(2) of the Constitution, who shall,

- (a) be ordinarily resident in Anguilla;
- (b) be a registered voter; and
- (c) be in possession of,
 - (i) the necessary qualifications to practise in Anguilla as a barrister or a solicitor with at least one year administrative or supervisory experience respecting elections; or
 - (ii) an undergraduate degree with at least two years administrative or supervisory experience respecting elections; or
 - (iii) at least five years administrative or supervisory experience respecting elections.

(2) The Governor shall, by instrument under his hand, appoint the Supervisor of Elections and such other officers as are required to enable the Supervisor of Elections to carry out his functions under this Act or the Regulations.

Duties of the Supervisor of Elections

5. (1) The Supervisor of Elections shall act impartially and independently of any political or governmental influence.⁶

(2) In addition to any other duties set out in this or any other Act, the duties of the Supervisor of Elections shall be,

- (a) to exercise general direction and supervision over the registration of voters and the administrative conduct of elections and enforce on the

⁴ This wording adds digital reproduction to the more traditional methods.

⁵ Introduced in accordance with Recommendation 1 of the 2015 Election Observer Mission Report and with wording taken from the Montserrat Electoral Commission Act.

⁶ This BVI section has been reworked to include most to the provisions of the Montserrat Electoral Commission Act, applying the characteristics of the Montserrat Commission to the Anguilla Supervisor of Elections.

part of all election officers fairness, impartiality and compliance with the provisions of this Act and the Regulations;

- (b) to develop and design training programmes for persons appointed to be election officers, including such programmes as shall ensure that the functions of officers are carried out in an independent and impartial manner;
- (c) design a continuous non-partisan voter education programme for voters;
- (d) regulate the conduct of election officers, issuing to them such instructions as from time to time he may deem necessary to ensure effective execution of the provisions of this Act and the Regulations;
- (e) to publish at least once in every three months a notice in the Gazette, and on the Electoral Office website or in default on any publicly accessible government of Anguilla website and in such other manner as he may deem fit, requiring any person who is qualified as a voter under section 43 of the Constitution to make an application for such registration in the appropriate form;
- (f) shall prepare and furnish to the Governor,
 - (i) as soon as practicable after 30 March in each year, a report on the operations of the Central Electoral Office during the year that ended on 31 December; and
 - (ii) a copy of the statement of accounts required under section 7 and the Auditor's Report on that statement of accounts.
- (g) to execute and perform all other powers and duties which by this Act and the Regulations are conferred and imposed upon him.

(3) The Governor shall cause the reports to be laid before the House of Assembly within a period of three months after their receipt; and thereafter to be made available to the public on one or more government websites.

(4) The Supervisor of Elections may, from time to time, delegate in writing any of the functions, duties or powers conferred upon him by this Act and the Regulations to an election officer, subject to such conditions as he thinks fit.

Appointment of Registration Officers, etc.⁷

6. (1) The Governor may on the recommendation of the Supervisor of Elections appoint a Registration Officer for each electoral district.

(2) The Supervisor of Elections may appoint assistant Registration Officers.

(3) The same person may be appointed as Registration Officer or as assistant Registration Officer for more than one electoral district.

(4) A Registration Officer shall have such powers and be charged with such duties as hereinafter appear.

(5) Subject to the authority, direction and control of the Registration Officer, an assistant Registration Officer has all the powers and may perform any of the duties of

⁷ Taken from the Anguilla Elections Act.

the Registration Officer under this Act, other than the consideration of claims and objections.

(6) Every Registration Officer shall, before entering on his duties as such, take and subscribe an oath in Form 35 and shall transmit the oath or affirmation to the Supervisor of Elections.

Registration Officers' duties⁸

7. The Registration Officer of each electoral district shall compile the register of voters for his electoral district in accordance with this Act and the regulations.

Returning officers

8. (1) The Governor may on the recommendation of the Supervisor of Elections appoint a fit and proper person who is registered to vote in Anguilla to assist the Supervisor of Elections as the returning officer for each electoral district.

(2) The Governor may at any time revoke any appointment made by him under this section and make another appointment in place thereof.

(3) Forthwith upon his appointment each returning officer shall take and subscribe an oath in Form 34 and shall transmit such oath to the Supervisor of Elections.

(4) Notwithstanding anything contained in this Act, the Supervisor of Elections may perform the duties of a returning officer if the need arises.

Oaths

9. (1) Every election officer and every person who is required by Parts II to V of this Act to take any oath may take such oath before a Magistrate, a Justice of the Peace, the Supervisor of Elections or before any returning officer or presiding officer or poll clerk appointed in accordance with the provisions of this Act, each of whom is hereby authorised and empowered to administer any oath required by Parts II to V to be taken by any election officer or other person.

(2) Every person who is required to take an oath in pursuance of any of the provisions of Parts II to V may elect to make a solemn affirmation instead of taking such oath.

Funds of the Central Electoral Office

10. The funds of the Central Electoral Office shall consist of monies that are appropriated to it by the House of Assembly for the purposes of this Act and the Regulations;

Accounts and audit

11. (1) The Supervisor of Elections shall cause proper accounts of all financial transactions of the Central Electoral Office to be kept in a form as the Accountant General may direct.

(2) The Supervisor of Elections shall, within three months after the end of each financial year, prepare a statement of the accounts of the Central Electoral Office.

(3) The accounts required to be kept under subsection (1) and the statement of accounts required under subsection (2) shall be audited, as soon as practicable and in any case within four months after the end of each financial year, by the Chief Auditor.

⁸ Taken from the Anguilla Elections Act.

Appointment of staff

12. (1) The Central Electoral Office shall be provided with such staff as the Governor, after consultation with the Supervisor of Elections, considers necessary for the efficient administration of this Act and the Regulations.

(2) The administrative expenses of the Central Electoral Office, including salaries and allowances payable to persons serving with the Central Electoral Office, shall be charged to the Consolidated Fund.

(3) The Supervisor of Elections shall prepare the estimate proposals for the Central Electoral Office and submit them to the Governor who shall seek the approval of the House of Assembly of the budget as proposed by the Supervisor of Elections

Premises and supplies

13. Within the funds allocated under section 10, the Central Electoral Office may lease premises and acquire equipment and supplies as are necessary for its efficient operation.

Shared staff, services etc.

14. Notwithstanding any provision of this Act, the Central Electoral Office may share staff, services, equipment and supplies with any other Government entity.

Protection of Central Electoral Office from legal proceedings

15. (1) No officer shall be personally liable for any act or default of the Central Electoral Office done or omitted to be done in good faith in the course of its operation.

(2) Where any officer is exempt from liability by reason only of the provisions of this section the Central Electoral Office shall be liable to the extent that it would be if the said member were its servant or agent.

Public education during election campaign

16. The Central Electoral Office shall ensure continuous public education on the electoral process.

PART III

ELECTORAL DISTRICTS

Polling divisions

17. (1) Anguilla shall be divided into the 9 local electoral districts described in the First Schedule and one Island-wide electoral district.

(2) Each local electoral district shall be a polling division.

(3) Notwithstanding the provisions of subsections (1) and (2), the Supervisor of Elections may divide any local electoral district into so many polling divisions and with such boundaries and descriptions as he may by notice in the Gazette, appoint.

(4) The Supervisor of Elections may in like manner from time to time vary the number, descriptions and boundaries of any polling division so appointed.

(5) In determining the boundaries of any polling division, the Supervisor of Elections shall have regard to geographical considerations and such other factors as may affect the facility of communication between various places within the polling division.

(6) The polling divisions of the Island-wide electoral district shall be the same as those prescribed and appointed for local electoral districts.

Requirement for registration⁹

18. Every person who is qualified to be registered as a voter shall, unless registered in the register of voters for an electoral district,

(a) apply to the Registration Officer for that electoral district, during the enumeration year; or

(b) apply to the Electoral Registration Officer, after the enumeration year;

to be registered as a voter in accordance with this Act and the regulations.

PART IV

REGISTRATION OF VOTERS IN AN ENUMERATION YEAR

Appointment of enumerators

19. (1) Within 30 days after the approval of the Proclamation by the House of Assembly under section 1, the Governor shall,¹⁰ on the recommendation of the Supervisor of Elections, appoint for each local electoral district or for each polling division in an electoral district as the circumstances may require, fit and proper persons who are registered to vote in Anguilla to be enumerators to register voters in the polling division named in the instrument of appointment for the purpose of maintaining and updating a provisional list of voters to be used by the Supervisor of Elections in the compilation of the preliminary list.

(2) Forthwith upon his appointment, an enumerator shall take and subscribe the oath in accordance with the Regulations and shall transmit the oath to the Supervisor of Elections.

(3) Within 12 months after the holding of any island-wide census the Governor shall by Proclamation approved by the House of Assembly declare a new enumeration year and proceed as in subsection (1).

Duties of enumerators

20. An enumerator shall,

(a) commencing on such day as the Governor may, by notice in the Gazette, appoint, (hereinafter referred to as the "commencement day") proceed to ascertain the name, address and occupation of every person qualified to vote in the polling division named in his instrument of appointment;

(b) obtain the information he may require by a house to house enquiry;

(c) prepare a list of the names, addresses and occupations of all voters who are included in the enumeration, with the surnames in alphabetical order, and where more than one person has the same surname, with the names arranged in alphabetical order of their other names, and with each name followed by the address and occupation of the person and particulars of the

⁹ Taken from the Anguilla Elections Act.

¹⁰ It is proposed by this provision that the new elections procedure, with 13 representatives, will be implemented during the year 2017 prior to the coming into effect of any new Constitution.

documentary evidence, if any, examined by the enumerator to determine eligibility for registration;

- (d) exercise the utmost care in preparing the provisional list and take all necessary precautions to ensure that the list, when completed, contains the required list of particulars of every qualified voter in the polling division and that it does not contain the name of any person not so qualified;
- (e) place his signature at the end of the provisional list; and
- (f) within a period of twenty-one days from the commencement day or such longer period as the Governor may, after consultation with the Supervisor of Elections, determine, submit the provisional list to the Supervisor of Elections.

Powers of enumerators

21. An enumerator may, if he thinks it necessary, request any person to produce for examination that person's birth certificate, passport or other documentary proof of qualification as a voter and may omit from the provisional list the name of any person who fails to comply with his request.

Duties of Supervisor of Elections in relation to enumeration

22. Within ten days after the time limited for the receipt of the provisional list, the Supervisor of Elections shall cause the provisional list to be open to the inspection of the public free of charge during the hours of 9:00 a.m. to 3:30 p.m. in each day for a period of ten days at the General Post Office in The Valley and at such other places in the electoral districts as the Governor may direct, provided that copies shall be made available to any person upon request and upon payment of a reasonable administrative fee, and thereafter the Supervisor of Elections shall take claims for correction and proceed to decide claims in accordance with the Regulations.

Scrutineers¹¹

23. (1) In the enumeration year each political party is entitled to nominate in accordance with the regulations one person who is qualified as a voter for appointment as scrutineer in respect of each Polling Division.

(2) If on the day appointed for the commencement of the preparation of the preliminary list for an electoral district,

- (a) no qualified person has been nominated as scrutineer in respect of that electoral district; or
- (b) where the electoral district comprises more than one Polling Division, in respect of any Polling Division;

the Supervisor of Elections may nominate not more than 2 persons qualified as voters for appointment as scrutineers in respect of that electoral district or that Polling Division, as the case may be.

(3) A qualified person who is duly nominated for appointment as a scrutineer shall be appointed as scrutineer under the regulations.

¹¹ Taken from the Anguilla Elections Act.

Registration procedures

24. On or after the day fixed for the commencement of registration of voters, every person eligible for registration as a voter may make an application for registration in accordance with the Regulations.

Preparation of preliminary lists and registers in enumeration year

25. Within 30 days after the appointment of enumerators in accordance with section 14, the Supervisor of Elections shall cause to be prepared for each electoral district in accordance with section 30 a preliminary list of all persons qualified to be registered as voters in that electoral district and those lists, when revised and published in accordance with section 34, shall, subject to the provisions of this Act and the Regulations, constitute the register of voters for the electoral district.

PART V

REGISTRATION OF VOTERS AFTER ENUMERATION YEAR

Continuous registration

26. After the enumeration year and until another enumeration year is appointed,

- (a) there shall be continuous registration of all persons qualified to be registered as voters under this Act; and
- (b) when a person is qualified or will be qualified on the next qualifying date to be registered as a voter in an electoral district, that person may apply to the Supervisor of Elections to be registered as a voter in that electoral district in accordance with this Act.

Registration of voters

27. A person who is qualified to be registered as a voter under section 43 (1) of the Constitution and who wishes to be registered shall apply in person to the Supervisor of Elections to have his name entered in the preliminary list of the local electoral district in which such person resides in accordance with the Regulations.

Quarterly lists

28. After the enumeration year, the Supervisor of Elections shall, not later than the 40th day of every quarter in every succeeding year, prepare a quarterly list of voters for every electoral district in accordance with the Regulations.

Preparation of registers after enumeration year

29. After the enumeration year, the register of voters for every electoral district shall be prepared in accordance with this section and the Regulations.

Compiling list of voters

30. The Supervisor of Elections shall prepare or cause to be prepared a list (hereinafter referred to as the "preliminary list") in accordance with the Act and the Regulations.

Householders and others to give information to Supervisor of Elections

31. (1) The Supervisor of Elections may require any householder or person owning or occupying any premises to give the information required for the purpose of preparing the preliminary list.

(2) Without prejudice to the generality of subsection (1), the Supervisor of Elections may require any householder or person owning or occupying any premises to complete and return to him within fourteen days of its receipt by him an application for registration in accordance with the Regulations.

Supervisor of Elections may require attendance of persons

32. (1) The Supervisor of Elections, before entering the name of any person in a preliminary list, may, if he thinks it necessary, require such a person to appear before him and produce his birth certificate, passport or other documents and make and sign a declaration showing the qualifications for his name to be included in a preliminary list.

(2) The Supervisor of Elections may omit from a preliminary list the name of any person who has been required under subsection (1) to appear before him or to produce his birth certificate, passport or other documents or to make or sign a declaration and who fails to do so within one month of having been so required.

Transfer of registration

33. A registered voter who moves his place of residence from within one local electoral district or polling division to another, may have his name transferred to the list of voters for the local electoral district or polling division to which he has moved, if he applies in Form 36 and establishes, to the satisfaction of the Supervisor of Elections, proof of residence within the local electoral district or polling division to which he has moved.

Preliminary list

34. The Supervisor of Elections shall write down or cause to be written in the manner specified in the Regulations in the preliminary list, the names of all persons residing in the local electoral district or polling division, as the case may be, who are entitled to be registered as voters and shall sign, date and publish it in accordance with the Regulations.

Procedure as to omissions and objections

35. All claims for registration or for correction of any error or of objection shall be made in accordance with the Regulations.

Hearing of claims and objections

36. Where any claim or objection is made under section 35, it shall be considered and determined by the Supervisor of Elections in accordance with the Regulations.

Appeal

37. (1) An appeal lies to a Judge of the High Court from any decision of the Supervisor of Elections on any claim or objection that has been considered by him under this Act or the Regulations, but no appeal lies where a claimant or objector has not availed himself of the opportunity provided under the Regulations of being heard by the Supervisor of Elections on the claim or objection.

(2) Any claimant or objector desiring to appeal against the decision of the Supervisor of Elections shall give written notice of appeal to Supervisor of Elections and to the opposite party, if any, not later than 7 days after the decision, specifying the grounds of appeal.

(3) The Supervisor of Elections shall,

(a) immediately forward,

- (i) the notice to the Registrar of the High Court,
- (ii) a statement of the material facts that, in his opinion, have been established in the case, and
- (iii) his decision on the whole case and on any point that may be specified as a ground of appeal; and

(b) furnish to the Judge of the High Court any further information that the Judge may require and that the Supervisor of Elections is able to furnish.

(4) When it appears to the Supervisor of Elections that any notices of appeal given to him are based on similar grounds, he shall inform the Registrar of the High Court of that fact for the purpose of enabling the Judge, if he thinks fit, to consolidate the appeals or to select a case as a test case.

(5) On any appeal under this section, the Supervisor of Elections shall be a party to the proceedings.

(6) Every appeal under this section shall be prosecuted, heard and determined by the High Court in the manner prescribed by rules of the High Court, and the costs of the appeal are in the discretion of the Judge.

(7) The right of a person whose name is for the time being on the list of voters to vote at an election shall not be prejudiced by an appeal that is pending under this section and any vote given at an election in pursuance of that right shall be as good as if no appeal were pending and shall not be affected by the subsequent decision of the appeal.

(8) Notice shall be sent to the Supervisor of Elections by the Registrar of the Supreme Court of the decision of the Judge on any appeal under this section, and the Supervisor of Elections shall make any alteration in the list of voters that may be required to give effect to the decision.

(9) A decision of the High Court given under this section is final.

Rules of High Court

38. The Chief Justice may by regulation make rules of the High Court for regulating the practice in respect of appeals under this Part.

Corrections to the preliminary list

39. The Supervisor of Elections shall make alterations to the preliminary list,

- (a) to carry out a decision with respect to any claim or objection;
- (b) to correct any clerical error;
- (c) to correct any misnomer or inaccurate description;
- (d) to delete the name of any person who the Supervisor of Elections is satisfied,
 - (i) is not qualified to be registered as a voter under section 43 (1) of the Constitution; or
 - (ii) is subject to a disqualification as specified in section 43 (2) of the Constitution;
 - (iii) is dead; or

(iv) to carry out any other corrections he considers necessary.

Other corrections to the preliminary list

40. Where at any time before the issue of a writ under section 45, it appears to the Supervisor of Elections, that it is necessary to make any alteration to the preliminary list, other than an alteration made as a result of a claim or objection to the preliminary list, he shall forthwith send to the person affected by the alteration a notice stating the nature of the proposed alteration and shall give him an opportunity of objecting to the alteration and, if necessary, of appearing and being heard in accordance with section 32, and the Supervisor of Elections may thereafter make such alteration, as seems to him to be necessary.

Revised preliminary list to be certified and deemed Register of Voters

41. (1) On completion of the revision of the preliminary list for each local electoral district or polling division, as the case may be, the Supervisor of Elections shall prepare and publish not later than the 72nd day of every quarter of every succeeding year a preliminary list of voters for every electoral district in accordance with this section or in the case of an election other than a general election not later than three days after the issue of a writ for election, by a notification in the Gazette and in such other manner as he may deem fit and by making such copies available at such places as he may select for public inspection until the coming into force of the next Register of Voters.

(2) The copies published under subsection (1) shall be deemed to be the Registers of Voters for the local electoral district to which they refer and shall be used for a general election of members of the Assembly and for any other election to fill a vacancy in the seat of the member of the Assembly representing the relevant district.

(3) The current Register of Voters for all local electoral districts shall constitute the Register of Voters for the Island-wide electoral district and shall be used for all elections for members of the Assembly to represent that district.

(4) If, as the result of an appeal from a decision of the Supervisor of Elections or the death of a person or for other sufficient cause, the insertion of any name in the Register of Voters or the deletion of any name therefrom shall be necessary, such insertion or deletion shall be made by the Supervisor of Elections who shall number any name inserted with the same number as the preceding name followed by a letter or letters.

Voters' Database and voter registration cards

42. (1) The Supervisor of Elections shall establish, maintain and update an electronic database (hereinafter referred to as "the Voters' Database") in which shall be entered, in separate sections thereof,

(a) the name of each person listed in any current Register of Voters for a local electoral district;

(b) the name of each person whose application to have his name entered in a preliminary list is refused on the grounds that,

(i) he is not qualified to be registered as a voter under section 43 of the Constitution; or

(ii) he is subject to a disqualification as specified in section 44 of the Constitution;

- (c) the name of each person whose name has, in accordance with this Act, been deleted from any preliminary list or Register of Voters; and
- (d) an image or photograph of the person on the Register of Voters.

and such other information as the Supervisor of Elections may determine for the purpose of ascertaining the identity of each such person.

(2) Each person whose name is entered on the Voters' Database shall be assigned an identification number.

(3) For the purpose of any election or any referendum under any Referendum Act, (in this Act referred to as "a referendum"), the Supervisor of Elections shall cause to be issued to each person whose name is listed in any current Register of Voters, a voter registration card¹² in Form 37 or containing such other information as the Supervisor of Elections may determine for the purpose of,

- (a) ascertaining the identity of each such person;
- (b) registering the fact that such person is entitled to vote at an election or referendum; or
- (c) registering the fact that such person has voted at an election or referendum.

(4) The Governor shall, by Order published in the *Gazette*, authorise the varying by the Supervisor of Elections of the contents of voter registration cards issued under subsection (3), subject to such terms and conditions as may be specified in the Order

(5) Without prejudice to the generality of subsection (3), information on a voter registration card shall include a photograph of the person to whom it is issued and may include information stored on a magnetic strip, bar code or other device.

(6) The Supervisor of Elections shall take all reasonable steps to ensure the Voters' Database is designed in such a way as to prevent a person from determining,

- (a) the candidate for whom a person voted;
- (b) the party affiliation of a person; and
- (c) in the case of a referendum, the manner in which a person voted.

(7) Where, upon an application in Form 38, the Supervisor of Elections is satisfied as regards the loss, mutilation, destruction or defacing of a voter registration card, he shall upon payment of any reasonable administrative fee issue the applicant with a duplicate voter registration card which shall be valid and treated as if it were the original voter registration card.

(8) For the purpose of security, an electronic backup copy of the Voters' Database shall be kept at a secure location designated by the Governor outside the premises of the Elections Office.

(9) No person shall be prevented from voting in any election or referendum by reason only of the fact that he is not in possession of a voter registration card issued or authorised for the purposes of that election or referendum, provided that the person

¹² In accordance with Recommendation 4 of the 2015 Election Observer Mission Report and taken from the BVI Elections Act.

produces other identification considered by the Supervisor of Elections as sufficient proof of his entitlement to vote.

(10) In any case where information in a Register of Voters conflicts with information in the Voters' Database, the Register of Voters shall prevail.

(11) An election officer who makes an entry in the Voters' Database which he knows or has reasonable cause to believe to be false, or which he does not believe to be true, commits an offence and is liable on conviction on indictment, to a fine of \$19,200 or imprisonment for two years.

(12) An election officer who issues a voter registration card, or causes a voter registration card to be issued, to a person whom he knows, or has reasonable cause to believe, is not entitled to be the holder of that voter registration card, commits an offence and is liable on conviction on indictment, to a fine of \$19,200 or imprisonment for two years.

(13) A person who, with intent to deceive, forges a voter registration card, commits an offence and is liable on conviction on indictment, to a fine of \$19,200 or imprisonment for two years.

(14) A person who knowingly, with intent to deceive, uses any forged voter registration card for the purposes of enabling him to vote in an election or referendum, commits an offence and is liable on conviction on indictment, to a fine of \$19,200 or imprisonment for two years."

PART VI

ARRANGEMENTS FOR ELECTIONS

Fixed date for general elections

43. (1) Polling day for the next general election after the passing of this Act will be the first Monday after the 5th anniversary of the last general election.¹³

(2) The polling day for each subsequent general election is to be the first Monday after the 5th anniversary of the previous general election.

(3) The Governor acting on the advice of the Chief Minister may by order made by statutory instrument provide that the polling day for a general election in a specified calendar year is to be later than the day determined under subsections (1) or (2), but not more than two months later.

(4) A statutory instrument containing an order under subsection (3) shall not be made unless a draft has been laid before and approved by a resolution of the House of Assembly.

(5) The draft laid before the House of Assembly containing an order under subsection (3) must be accompanied by a statement setting out the Chief Minister's reasons for proposing the change in the polling day.

Early general elections

44. (1) An early general election is to take place if the House of Assembly passes a motion of no confidence in the government.

¹³ This provision reflects the proposed constitutional provision for fixed dates for general elections, strongly favoured by the public during the consultations over the draft new Constitution. The wording is taken from the UK Act.

(2) If a general election is to take place as provided for by subsection (1), the polling day for the election will be the day appointed by the Governor being not later than two months after the date of the passage of the motion.

Issue of writs for holding elections

45. (1) For the purpose of every general election of members of the Assembly, and for the purpose of the election of members to vacancies in such membership, the Governor shall issue writs under the Public Seal of Anguilla addressed to the returning officers of the respective electoral districts for which members are to be returned. Such writs shall be forwarded to the Supervisor of Elections for transmission to the several returning officers.

(2) Every writ shall be in Form 39 and shall specify the day and place of nomination of candidates, the day on which, if it is necessary, the poll shall be taken (being not less than fourteen days after the day of such nomination), and the day on which such writ shall be returnable to the Governor. A writ for an election in the Island-wide electoral district shall specify the number of members to be elected in that district.

(3) Upon receipt of such writ, every returning officer shall proceed to hold the election in the manner hereinafter provided.

Nomination

46. (1) On receiving such writ, every returning officer shall publish a notice in Form 40 of the day and place fixed for the nomination of candidates.

(2) Such notice shall be published at least seven clear days before the day fixed for such nomination.

(3) Nomination papers shall be provided by the returning officer and shall be in Form 41.

(4) On the day and at the place so fixed for the nomination of candidates every returning officer shall attend between the hours of 10:00 a.m. and 1:00 p.m. and between the hours of 2:00 p.m. and 4:00 p.m. and receive the nomination papers; and each candidate so nominated shall present to the returning officer a receipt issued pursuant to section 48.

(5) Every candidate for election shall be nominated on one nomination paper by at least two registered voters of the electoral district for which such candidate seeks election and his consent to nomination shall be given on such nomination paper and attested by one witness; and such candidate shall swear the affidavit at the foot of Form 41 that he is, to the best of his knowledge, not disqualified under the provisions of the Constitution from contesting and being elected as a member of the Assembly:

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

(6) If at four o'clock on the day fixed for nomination,

(a) in a local electoral district, only one candidate has been nominated for the seat to be filled, the returning officer shall declare the candidate elected;

- (b) in the Island-wide electoral district, the number of candidates nominated equals or is less than the number of seats to be filled, the returning officer shall declare those candidates elected;

and the returning officer shall immediately certify by endorsement on the writ in accordance with the Regulations the return of such candidate or candidates and shall return the writ so endorsed to the Supervisor of Elections for transmission to the Governor within the time specified for that purpose in the writ. Where the numbers of candidates so elected in the Island-wide electoral district is less than the number of seats to be filled, the returning officer shall, after communication with the Supervisor of Elections, adjourn the election of the remainder.

(7) Any candidate duly nominated may, not less than three clear days before the day fixed for taking the poll, withdraw from his candidature by giving notice to that effect, signed by him, to the returning officer, provided that on such withdrawal there remain,

- (a) in an election in a local electoral district, no fewer than one duly nominated candidate;
- (b) in an election in the Island-wide electoral district, no fewer candidates than the number of seats to be filled in that election.

(8) Subject to subsection (9), where a candidate has withdrawn after the ballots are printed, the returning officer shall advise each presiding officer of his electoral district of the withdrawal and, when time permits, shall distribute to each presiding officer a printed notice of the withdrawal. On polling day each presiding officer shall post up a copy of the printed notice of withdrawal in a conspicuous place in his polling station. If time does not permit of the printing and distribution of such notice, the presiding officer, upon being advised by the returning officer of the withdrawal of any candidate, shall himself prepare by hand a notice to that effect and post it up in a conspicuous place in his polling station. In either case, the presiding officer shall, when delivering a ballot to a voter, inform the voter of the withdrawal of the candidate.

(9) If, after a withdrawal,

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

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

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

(11) Whenever,

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

the period of adjournment shall not exceed one month and the Governor shall by Proclamation amend the writ already issued to alter the day for the nomination of candidates, the day for the holding of the poll, if a polling day is necessary, and the day

on which the name of the elected member or members shall be certified to him. In the case referred to at paragraph (b), such Proclamation shall also state the number of seats remaining to be filled.

Symbols¹⁴

47. (1) Where candidates from the same political party contest an election the secretary of the party shall file with the Supervisor of Elections a certified joint statement made by such candidates in Form 61.

(2) There shall be printed upon every ballot paper opposite the name of every candidate who has been allocated a symbol the appropriate symbol, being one of the symbols provided for in Form 62.

(3) The same symbol may be allotted to every candidate from the same political party, if so requested by the political party.

(4) Allotment of symbols shall be at the discretion of the Supervisor of Elections, but so far as possible he shall allot to each political party or individual candidate the symbol requested.

Deposit

48. (1) A candidate for election, or someone on his behalf, shall deposit at Inland Revenue Department, on or before the day of his nomination, the sum of \$1,000, and, if he fails to do so, the nomination of such candidate shall be deemed to be withdrawn.

(2) The deposit shall be made in legal tender and a receipt therefor shall be given by the Inland Revenue Department.

When deposit forfeited or returned

49. (1) If a candidate who has made such deposit is not elected, and the number of votes polled by him,

(a) in an election in a local electoral district does not exceed one-eighth of the total number of votes polled in the election in that district;

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

$$\frac{1}{8 \times \text{the number of seats to be filled at that election}}$$

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

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

¹⁴ Taken from RRA E30-2.

Contested elections and power to adjourn poll

50. (1) If,

- (a) in a local electoral district there shall be more than one candidate duly nominated;
- (b) in the Island-wide electoral district there shall be more candidates nominated than there are seats to be filled,

a poll shall be taken, and in such case the returning officer shall adjourn the election to the day specified in the writ and the poll shall be taken on such day in the manner hereinafter provided.

(2) The returning officer shall, as soon as practicable after adjourning the election, publish a notice in accordance with the Regulations specifying the day and time on which and the locations of the polling stations in the electoral district at which the poll will be taken and of the names of the candidates nominated for election and of the place where and the day and time when the number of votes given to the several candidates for such electoral district will be counted.

(3) Where the proceedings at any polling station are interrupted or obstructed by riot, or open violence, or by the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or outbreak of infectious disease, or other calamity whether similar to the foregoing or not, the presiding officer may adjourn the proceedings until the following day and thereafter from day to day as may be necessary and shall forthwith give notice to the returning officer.

(4) Where the poll is adjourned at any polling station,

- (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
- (b) references in this Act to the close of the poll shall be construed accordingly.

(5) Where any election is uncontested the returning officer shall execute and deliver a return in Form 42 to the Supervisor of Elections.

Polling Stations

51. (1) Subject to subsection (4), on the day named in the notice published under section 46 (2) for the taking of the poll, the returning officer shall cause to be opened in the electoral district to which he is appointed such number of polling stations as the Supervisor of Elections shall determine.

(2) The returning officer shall provide each polling station with such number of compartments as he may consider necessary to enable voters to record their votes screened from observation.

(3) Unless the writ otherwise directs, polling stations shall be opened at 7:00 a.m. and shall be closed at 6:00 p.m.

(4) In a general election, the same polling stations shall be used for the Island-wide electoral district as are used for local electoral districts in which there is a contested election, and the same presiding officer may be appointed at a polling station for the election in the Island-wide electoral district and for the election in the relevant local electoral district.

Presiding officers

52. (1) The Supervisor of Elections shall, subject to the approval of the Governor, appoint a presiding officer who is registered to vote in Anguilla to attend at each polling station to receive the votes, but he shall not so appoint any person who has been employed by or on behalf of a candidate in or about the same election. The Supervisor of elections may himself, if he thinks fit, preside at any polling station.

(2) Subject to subsection (1), the Supervisor of Elections may appoint different presiding officers for the local electoral districts and the Island-wide electoral district for the purpose of receiving the votes at a polling station.

(3) Forthwith upon his appointment, every presiding officer shall take and subscribe an oath in Form 43 and shall transmit such oath to the Supervisor of Elections.

Poll clerks

53. (1) The Supervisor of Elections shall, subject to the approval of the Governor, appoint one or more poll clerks who are registered voters in Anguilla for every polling station in an electoral district.

(2) Forthwith upon his appointment, every poll clerk shall take and subscribe an oath in accordance with Form 44 and shall transmit such oath to the Supervisor of Elections.

(3) If any presiding officer dies or becomes incapable of performing his duties during the taking of the poll, the poll clerk (or, if more than one, such of them as may be nominated by the returning officer) shall forthwith assume the office of presiding officer and shall appoint some other person to act as poll clerk in his place.

(4) If any poll clerk dies or becomes incapable of performing his duties during the taking of the poll, the presiding officer shall forthwith appoint some other person to act as poll clerk.

(5) Every appointment made under subsection (3) or (4) shall be immediately reported to the Supervisor of Elections by the person making the appointment.

Ballot boxes

54. (1) The Supervisor of Elections shall supply to each returning officer a number of ballot boxes equal to the number of polling stations in his electoral district.

(2) Every ballot box shall be made of some durable material with one lock and key and a slit or narrow opening in the top and shall be so constructed that the ballot papers may be introduced therein but cannot be withdrawn therefrom unless the box is unlocked.

(3) In a general election, and on any other occasion when the same polling station is used for an election both for the Island-wide electoral district and for a local electoral district, the same ballot boxes shall be used.

Supplies of election material

55. (1) The returning officer shall provide each presiding officer with a ballot box and such number of ballot papers as in the opinion of the returning officer may be necessary.

(2) In a general election, and on any other occasion when the same polling station is used for an election both for the Island-wide electoral district and for a local electoral district, the part of the ballot papers provided for the Island-wide electoral

district shall be separated by a perforated line from the part of the ballot papers provided for the local electoral district.

(3) In an election to fill a vacancy in the Island-wide electoral district, the ballot papers provided shall list only the candidates for election to fill the vacancy.

(4) The returning officer shall provide each polling station with,

- (a) a statement showing the number of ballot papers so provided, with the serial numbers on the ballots;
- (b) the necessary materials to enable voters to mark the ballot papers;
- (c) the necessary materials for putting the official mark on the ballot papers;
- (d) at least two copies, which he shall certify of the Register of Voters, hereinafter called "the official list of voters" relating to the local electoral district in which the polling station is situate;
- (e) at least three copies of the directions for the guidance of voters in accordance with Form 45;
- (f) a blank poll book;
- (g) the several forms of oaths to be administered to voters or other persons;
- (h) such other things as may be necessary for conducting the election in the manner provided by this Act.

Polling and counting agent

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

- (a) not more than two polling agents to attend at a polling station, but only one of those polling agents shall remain in the polling station at any given time, provided that this shall not be construed as preventing a polling agent from handing over his duties to another polling agent in the polling station within such period and in such manner as may be directed by the Supervisor of Elections; and
- (b) not more than two counting agents to attend at the counting of the votes.

(2) An agent may be appointed on behalf of more than one candidate.

(3) Every appointment of an agent shall be in writing and shall state the name and address of the person appointed and shall be given, duly signed by the candidate, to the presiding officer or the returning officer as the case may be.

Taking of poll and the ballot

57. (1) The poll shall be taken in each electoral district by secret ballot in accordance with the provisions of sections 60, 61 and 62.

(2) The ballot of each voter shall be a printed paper in Form 46 (in this Act called "a ballot paper") in which the names, addresses, occupations and symbols of the candidates, alphabetically arranged in the order of their surnames and numbered accordingly shall be printed exactly as they are set out in the nomination paper.

(3) The poll for the Island-wide electoral district shall be dealt with at the same time as the poll for each electoral district, and each ballot paper shall have a separate section with the same information as in subsection (2) for each of the candidates in the Island-wide electoral district and there shall be a line of perforations between the part of the ballot paper for the local electoral district and the part of the ballot for the Island-wide electoral district to permit them to be separated and counted as described at section 72(1)(e).

(4) Each ballot paper shall have attached to it a counterfoil with a number printed on the face of the ballot paper and there shall be a line of perforations between the remainder of the ballot paper and the counterfoil.

Inspection of polling station

58. Each presiding officer shall, on or before the day fixed for taking the poll, visit his polling station and see that it is provided with proper conveniences as aforesaid for taking the poll.

Where voter shall vote

59. (1) Every person whose name appears upon the official list of voters for any polling division shall be entitled to vote in that polling division,

(a) in an election in the local electoral district in which that polling division is situate; and

(b) in an election for the Island-wide electoral district,

and may so vote notwithstanding that he is not resident in the local electoral district on polling day.

(2) Subject to section 67 no person shall be entitled to vote in any polling division unless his name appears on the official list of voters in respect of that polling division.

(3) No person shall vote,

(a) at more than one polling station on the same day;

(b) in more than one local electoral district on the same day;

(c) more than once in the same local electoral district on the same day;

(d) more than once in the same election in the Island-wide electoral district.

(4) Any person contravening the foregoing provisions of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding six months.

Restriction on voting

60. (1) In an election in a local electoral district no person shall vote for more than one candidate.

(2) In a general election in the Island-wide electoral district no person shall vote,

(a) for more than four candidates; and

(b) more than once for any one candidate.

(3) In an election other than a general election in the Island-wide electoral district no person shall vote,

- (a) for more candidates than there are seats to be filled; and
- (b) more than once for any one candidate.

Proceeding at poll

61. (1) At the hour fixed for opening the poll the presiding officer and the poll clerk shall, in the presence of such of the candidates, their agents and voters as are present, open the ballot box and ascertain that there are no ballot papers or other papers therein, after which the box shall be locked, and the presiding officer shall keep the key thereof; the box shall be placed on a table in full view of all present and shall be maintained there until the close of the poll.

(2) Immediately after the ballot box is so locked, the presiding officer shall call on the voters to vote.

(3) The presiding officer shall secure the admittance of every voter in the polling station and shall see that they are not impeded or molested at or about the polling station.

(4) Every voter, upon entering the polling station, shall declare his name, address, date of birth and occupation, and present his voter registration card if any has been issued to him. The poll clerk shall then ascertain if the name of the voter appears on the official list of voters used at the polling station. When it has been ascertained that the applicant voter is qualified to vote at the polling station, his name, address and occupation shall be entered in the poll book to be kept by the poll clerk in accordance with the Regulations, a number corresponding to the consecutive number allotted to the voter on the official list of voters being prefixed to the voter's name in the appropriate column of the poll book, and the voter shall be immediately allowed to vote, unless an election officer or any agent of a candidate present at the polling station desires that he be first sworn.

(5) The poll clerk shall,

- (a) make such entries in the poll book opposite the name of each voter as the presiding officer pursuant to the provisions of this Act directs;
- (b) enter in the poll book opposite the name of each voter as soon as the voter's ballot paper has been deposited in the ballot box, the word "voted";
- (c) enter in the poll book the word "Sworn" or "Affirmed" opposite the name of each voter, to whom any oath or affirmation has been administered indicating the nature of the oath or affirmation; and
- (d) enter in the poll book the words "Refused to be sworn" or "Refused to affirm" or "Refused to answer" opposite the name of each voter who has refused to take an oath or affirm, when he has been legally required so to do, or has refused to answer questions which he has been legally required to answer.

Procedures for poll to be followed for each election

62. The procedures for conducting the poll prescribed in this Act shall apply to each election whether it is a general election for both the Island-wide electoral district and for a local electoral district or is an election for one only.

Admission to polling stations

63. (1) The presiding officer shall keep order at his polling station and shall regulate the number of voters to be admitted at a time, and shall exclude all other persons except the Supervisor of Elections, the returning officer of the electoral district, the poll clerk, the candidates, one agent for each candidate appointed by such candidate in accordance with section 56, any approved international observers, and the police officers on duty.

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

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

General mode of taking ballot

64. (1) Each voter shall after identifying himself receive from the presiding officer a ballot paper on which such officer has previously placed his initials as indicated in accordance with the Regulations so that when the ballot paper is folded the said initials can be seen without opening it, and on the counterfoil of which he has placed a number corresponding to the consecutive number on the official list of voters and entered in the poll book opposite the name of the voter.

(2) The presiding officer shall instruct the voter how to make his mark, which shall be a cross ("X"), by referring him to a specimen ballot paper posted in a conspicuous place at the polling station.

(3) Immediately after complying with subsections (1) and (2), the presiding officer shall properly fold the voter's ballot paper, directing him to return it, when marked, folded as shown, but without inquiring or seeing for whom the voter intends to vote, except when the voter is unable to vote in the manner prescribed by this Act by reason of being an elderly person, illiteracy, or physical incapacity.

(4) The voter on receiving the ballot paper shall forthwith enter one of the polling compartments in the polling station and there mark his ballot paper by marking with a black lead pencil a cross ("X"), and not otherwise, within the space opposite the name of the candidate for whom (and, in the case of the Island-wide electoral district where there is more than one seat to be filled, the names of the candidates) he intends to vote for; and he shall then fold the ballot paper as directed so that the initials and the numbers on the counterfoil can be seen without opening it, and hand the paper to the presiding officer who shall, without unfolding it, ascertain by examination of the initials and the numbers appearing thereon that it is the same paper as that delivered to the voter and, if the same, he shall,

- (a) in full view of the voter and of all others present remove the counterfoil;
- (b) deposit the ballot paper into the ballot box; and
- (c) place the counterfoil in a receptacle reserved by him for that purpose and in his custody.

(5) A voter who has inadvertently dealt with a ballot paper delivered to him so that it cannot conveniently be used shall return that ballot paper to the presiding officer

who shall cancel it by writing the word "spoiled" across the back of the same and thereafter deliver another ballot paper to that voter.

(6) Every voter shall vote without undue delay and shall leave the polling station as soon as his ballot paper has been put in a ballot box.

(7) If at the hour of the closing of polls in accordance with section 51 (3), there are any voters who,

(a) are qualified to vote, but have not been able to do so since their arrival at the polling station; and

(b) are in the line of waiting voters,

the poll shall be kept open to enable such persons to vote in accordance with the directions of the presiding officer.

(8) Where there are any matters or issues to be determined respecting the line of waiting voters, the presiding officer shall decide every question arising therefrom and the decision of the presiding officer shall be final.

Questions which may be put to a voter

65. (1) The presiding officer may, and shall if requested by a candidate or his agent, put to the voter the following questions,

(a) Are you the same person whose name appears as "A.B." on the official list of voters now in force for this polling division?

(b) Have you already voted at this election either here or elsewhere?

(2) If the person refuses to answer any question put to him as in this section provided or answers question (a) other than in the affirmative or question (b) or (c) other than in the negative, the presiding officer shall refuse to give him a ballot paper.

(3) If any person makes a false answer to any such question he shall be guilty of an offence and liable, on summary conviction, to a fine of \$9,600 and to imprisonment for six months.

Mode of taking ballot in special cases

66. (1) Subject to all other provisions of this Act as to proof of qualification as a voter, and as to the administration of oaths, if a person representing himself to be a particular voter applies for a ballot paper after another person has voted as such person, he shall be entitled to receive a ballot paper and to vote after he takes the oath of identity in Form 47 and otherwise proves his identity to the satisfaction of the presiding officer by producing,

(a) at least one Government issued identification, such as his voter registration card, driver's licence, or passport; or

(b) any other identification acceptable to the presiding officer.

(2) In any case under subsection (1), the presiding officer shall put his initials on the ballot paper together with a number on the counterfoil attached to the ballot paper corresponding to the number allotted to the voter on the official list of voters entered in the poll book opposite the name of such voter, and the poll clerk shall enter in the poll book,

(a) the name of such voter;

- (b) a note of his having voted on a second ballot paper issued under the same name;
- (c) the fact of the oath of identity having been required and taken, and the fact of any other proof of identity so required and accepted; and
- (d) any objections made on behalf of any of the candidates, and of which candidates.

(3) The presiding officer, on the application of any voter who is incapacitated,

- (a) by reason of any physical cause;
- (b) by reason of being an elderly person; or
- (c) by reason of illiteracy,

from voting in the manner prescribed by this Act, shall require the voter making such application to take the oath of the incapacity to vote without assistance in accordance with Form 49 in the case of a voter under paragraph (a), or in accordance with Form 50 in the case of a voter under paragraph (b) or (c), and shall thereafter, subject to subsection (4), assist such voter by marking his ballot paper in the manner directed by such voter in the presence of the poll clerk and of the sworn agents of the candidates and of no other person, and shall place such ballot in the ballot box.

(4) The presiding officer shall, at the request of any voter under subsection (3), who is accompanied by a friend who is a voter in the local electoral district, permit the friend to accompany the voter into the voting compartment and mark the voter's ballot paper for him; but a person shall not at any election be allowed to act as such friend to more than one voter.

(5) Any friend who, in accordance with subsection (4), is permitted to mark the ballot paper of a voter who is unable to mark his ballot paper by reason of being an elderly person, illiteracy or any physical incapacity shall first be required to take an oath in accordance with Form 51.

(6) Whenever any voter has had his ballot paper marked as provided in subsection (3) or (4), the poll clerk shall enter in the poll book opposite the voter's name, in addition to any other requisite entry, the reason why such ballot paper was so marked.

(7) For the purposes of this section "friend" includes family and relatives.

Voting where discrepancy of minor nature exists

67. (1) Where there is contained in the official list of voters a name, address and occupation which corresponds so closely with the name, address and occupation of a person by whom a ballot paper is demanded as to suggest that the entry in such list of voters was intended to refer to him, such person shall, upon taking the oath in Form 52 and complying in all other respects with the provisions of this Act, be entitled to receive a ballot paper and to vote. In any such case the name, address and occupation shall be correctly entered in the poll book and the fact that the oath has been taken shall be entered in the proper column of the poll book.

(2) A voter, if required by the presiding officer, the poll clerk, one of the candidates, an agent of a candidate or a voter present, shall before receiving his ballot paper take an oath in Form 53 and, if he refuses to take such oath, erasing lines shall be drawn through his name on the official list of voters and in the poll book, if such name

has been entered in the said book, and the words "Refused to be sworn" shall be written thereafter.

Advance polls

68. (1) Where any voter who is duly registered in the Register of Voters for an electoral district in which an election is pending is unable to attend the polling station on the day appointed for the taking of poll because of that voter's employment on the date of the poll, as

- (i) a police officer, nurse, doctor, emergency medical technician;
- (ii) a person employed in the Central Electoral Office;
- (iii) all election officers;

it shall be lawful for such a voter to record his vote at an advance poll to be held for the purpose at such place, and on such date not earlier than three days prior to polling day, as the Supervisor of Elections may, by notice in the *Gazette*, appoint for that purpose.

(2) For the purpose of voting at any advance poll, a voter referred to in subsection (1) shall apply not later than ten days after the issue of the writ for election the Supervisor of Elections in Form 54 for a specially issued card enabling him to vote at an advance poll and the signature of the applicant shall be witnessed in writing by the Supervisor of Elections.

(3) A voter to whom subsection (1) applies, who desires to vote at any advance poll shall be allowed to vote in like manner as he would have been entitled to do on the day appointed for the taking of the poll, except that if he is a voter referred to in subsection (1) (b), he shall not be allowed to vote at an advance poll unless he produces the card specially issued under subsection (2).

(4) Unless the writ otherwise directs, polling stations established for the purpose of recording advance polls shall be opened between 9:00 a.m. and 2:00 p.m.

(5) The Supervisor of Elections may extend the time specified in subsection (4) by Notice published in the *Gazette*.

(6) The Supervisor of Elections may direct that all polling stations established for the purpose of recording advance polls are to be placed at the same location.

Conduct of advance polls

69. (1) At an advance poll a separate ballot box shall be provided for each polling division of each electoral district and at the close of such advance poll the ballot papers in each box shall, without any examination, be counted and placed in separate packets and sealed by the officer conducting the poll, each packet clearly designating the number of ballot papers it contains and the polling division and the electoral district to which it relates.

(2) The officer conducting the poll shall, after complying with subsection (1), complete the prescribed form in accordance with the provisions of section 71 (1) (g) and the Regulations.

(3) Each sealed packet of ballot papers taken at an advance poll along with all the relevant forms shall be immediately given by the officer conducting the poll to the Supervisor of Elections to be kept intact, in a vault in his office, until delivery by him on polling day in the election concerned to the presiding officer at the polling station identified for the counting of votes within the electoral district to which the packet relates.

(4) The presiding officer shall open every packet of ballot papers delivered to him pursuant to subsection (3) immediately before the commencement of the poll at an election in the presence of any persons who are lawfully present at that time and shall place the ballot papers without examining them in the relevant ballot box at his poll before he locks it up and places his seal upon it.

(5) For the avoidance of doubt, it is hereby declared that the other provisions of this Act applying to voters, to voting procedure and to elections shall apply so far as is convenient to the taking of an advance poll as they apply to the taking of a poll at an election.

Who may be present

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

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

(2) The agent of each candidate, on being first admitted to any polling station, shall take an oath in Form 56 to keep secret the name of the candidate for whom any of the voters has marked his ballot paper in his presence.

(3) Agents of candidates may, with the permission of the presiding officer, absent themselves from and return to the polling station at any time before one hour prior to the close of the poll.

Proceedings at the close of poll

71. (1) Forthwith upon the close of the poll the presiding officer shall act in the following order,

- (a) announce the close of poll and record in the poll book, in the manner specified in paragraph (c), the hour at which the poll was closed;
- (b) seal the ballot boxes with the seal provided by the Supervisor of Elections;
- (c) count the number of voters whose names appear in the poll book as having voted and make an entry thereof on the line immediately below the name of the voter, who voted last, thus: "The number of voters who voted at this election in this polling station is" (stating the number in words and the hour at which the poll was closed), and sign his name thereto;
- (d) count the spoiled ballot papers, if any, place them in the special envelope supplied for that purpose and indicate thereon in words the number of such spoiled ballot papers and seal the envelope and initial it;
- (e) count the unused ballot papers, place them with all the counterfoils of all used ballot papers in the special envelope supplied for that purpose and indicate thereon in words the number of such unused ballot papers, then seal the envelope and initial it;

- (f) check the number of ballot papers supplied by the returning officer against the number of spoiled ballot papers, if any, the number of unused ballot papers and the number of voters whose names appear in the poll book as having voted in order to ascertain that all ballot papers are accounted for; and
- (g) record the number of ballot boxes in his possession, the number of ballot papers issued to voters, the number of unused ballot papers, the number of spoiled ballot papers and all other information required in accordance with Form 55 and attach his signature thereto.

(2) The ballot boxes, poll book, envelopes containing the spoiled and unused ballot papers, official list of voters, and other documents used at a polling station shall be transmitted to the place identified for the counting of votes within the local electoral district of that polling station or delivered to the returning officer for that district.

(3) The returning officer for each local electoral district may specially appoint one or more persons for the purpose of collecting the ballot boxes and papers aforesaid from a given number of polling stations, and such persons shall, on delivering the ballot boxes and papers to the returning officer, take the oath in Form 57.

(4) Notwithstanding subsection (2), where a polling station within a particular local electoral district is identified as the place to conduct the counting of votes, there shall be no transporting of ballot boxes from that polling station until all ballots for that district have been counted and the provisions of section 72 have been fulfilled.

(5) Subject to subsection (6), the candidates or their agents are entitled to accompany the ballot boxes and papers to the place identified for the counting of votes and subsequently to such other place identified by the Supervisor of Elections.

(6) Where the conveyance carrying the ballot boxes cannot comfortably accommodate more than one polling agent or candidate, a polling clerk and a police officer shall accompany the ballot boxes. The polling agent or agents and candidates shall, if they so desire, be allowed to follow the conveyance carrying the ballot boxes in a separate conveyance in convoy.

(7) The presiding officer shall, with the ballot boxes and papers aforesaid, transmit or deliver to the returning officer for the appropriate district, in the envelope provided for that purpose, the keys of such ballot boxes.

Counting of votes, etc

72. (1) After the ballot boxes from every polling station within a local electoral district have been received, the returning officer shall, in the presence of such of the candidates or their agents that are present, and if the candidates or any of them are absent, then in the presence of such as are present, and of at least two voters if none of the candidates is represented,

- (a) examine the ballot boxes and envelopes received from each polling station one at a time, ensuring that the seals thereon are securely affixed;
- (b) count and record the number of ballot boxes and envelopes received from each polling station, ensuring that all ballot boxes and envelopes are accounted for in accordance with the Regulations;

- (c) distribute tally sheets to not less than two poll clerks and two witnesses upon which they shall keep their own score as each vote is called out by the returning officer;
- (d) open each ballot box, one at a time, in order to count the votes;
- (e) in the case of a general election separate along the perforated line the part of the ballot for the local electoral district from the part of the ballot for the Island-wide electoral district;
- (f) count and record the number of votes given to each candidate, including in the case of the Island-wide electoral district, those blanks contained in ballot papers that reflect unmarked ballots in form 59, giving full opportunity for the candidates and their agents to see and examine each ballot;
- (g) reject all ballot papers
 - (i) which have not been supplied by him;
 - (ii) which have not been marked for any candidate;
 - (iii) on which votes have been given for more than the number of candidates to be selected for the electoral district;
 - (iv) on which more than one vote has been cast for any one candidate; or
 - (v) upon which there is any writing or mark by which the voter could be identified.

(2) Notwithstanding subsection (1) (f), no ballot paper shall be rejected by reason only that,

- (a) the cross is marked outside the space provided;
- (b) more than one cross is marked thereon;
- (c) the presiding officer failed to remove the counterfoil; or
- (d) there is any writing, number or mark placed thereon by the presiding officer,

if there is a clear indication for which candidate the voter intended to vote.

(3) The Supervisor of Elections may, for the purposes of an election in the Island-wide electoral district, appoint additional returning officers and counting agents, as he thinks fit, to deal with the counting of votes in accordance with the provisions of this section.

(4) If in the course of counting the votes any ballot paper is found with the counterfoil still attached thereto, the returning officer shall (after carefully concealing the numbers on the counterfoil thereon from all persons present and without examining them himself) remove such counterfoil.

(5) If in the course of counting the votes the returning officer discovers that the presiding officer has omitted to affix his initials to any ballot paper as provided by section 64 (1), he shall in the presence of a poll clerk and such of the candidates or their agents as are present, affix his initials to such ballot paper and shall count such ballot paper as if it had been initialled by the presiding officer in the first place, provided that he is

satisfied that the ballot paper is one that has been supplied to such presiding officer and also that every ballot paper supplied to such presiding officer has been accounted for in accordance with section 71 (1) (f).

(6) The returning officer shall keep a record on the special form printed in the poll book of every objection made by any candidate or his counting agent or any voter present to any ballot paper found in a ballot box, and shall decide every question arising out of the objection.

(7) The decision of the returning officer pursuant to subsection (6) shall be final, subject to reversal on petition questioning the election or return; and every such objection shall be numbered, and a corresponding number placed on the back of the ballot paper and initialled by the returning officer.

(8) Immediately after the counting of the votes pursuant to this section has terminated, a candidate or his counting agent present at the count may, by completing Form 58, demand a recount and thereupon, unless the returning officer considers the demand to be unreasonable having regard to the result of the first count, he shall proceed to recount the votes to ascertain the result of the poll.

(9) The returning officer shall, after the count or recount of the votes as the case may be,

- (a) subject to the final declaration made by the Supervisor of Elections under subsection (17)
 - (i) in the case of a local electoral district, declare the candidate who is found to have the largest number of votes to be elected as the member for the electoral district;
 - (ii) in the case of the Island-wide electoral district, declare the number of votes received by each candidate or candidates as the case may be;
- (b) make up into separate envelopes the ballot papers cast for each candidate and the rejected ballot papers and place these along with all other papers, lists, documents and records of the result of the count conducted under subsection (1) for that district into packets and indicate thereon in words the district from which those papers and documents came and shall seal it up and initial it allowing such agents or witnesses present as may desire to seal them or sign their names thereon in addition or instead and shall place such packets in a ballot box or boxes and seal the said box or boxes;
- (c) complete Form 59; and
- (d) cause all ballot boxes containing the sealed packets, envelope containing the keys of each ballot box and the statement showing the total number of votes polled for each candidate, within that district in accordance with the prescribed form to be delivered to the Supervisor of Elections at the place identified for such purpose in accordance with section 71 (5).

(10) Subject to subsection (11), as soon as practicable after the receipt of all ballot boxes, envelopes, statements and packets, the Supervisor of Elections shall ascertain the total votes cast in favour of each candidate by checking the votes recorded

on the statement submitted by the returning officers of each district and thereupon make a declaration in accordance with subsection (17).

(11) If a ballot box has been destroyed or is missing, the Supervisor of Elections shall ascertain the cause of the destruction or loss and shall complete the validation of the results from the statement of the votes recorded by the returning officer for that district as if he had received the ballot box.

(12) If at any time before the counting of votes is completed in accordance with this section, any ballot box or boxes used at any polling station are destroyed, lost, damaged or tampered with, to such an extent that the result of the poll at that polling station cannot be ascertained, the returning officer for the particular district to which such box or boxes relate shall forthwith report the matter to the Supervisor of Elections.

(13) The Governor shall, in consultation with the Supervisor of Elections, after taking all the material circumstances into account,

- (a) declare by proclamation the poll at the polling station referred to under subsection (12) to be void and issue such directions as he thinks fit for the resumption and completion of the counting of votes and of the election; and
- (b) issue a writ under the Public Seal of Anguilla addressed to the relevant returning officer, appointing a day, and fixing the hours for taking a fresh poll at that polling station.

(14) The poll under subsection (13) (b) shall be held at the appropriate polling station or stations in accordance with the provisions of this Act in all respects as if it is the original poll.

(15) The Supervisor of Elections shall adjourn the declaration of results pursuant to subsection (17) until the taking of the fresh poll in accordance with subsection (13) (b) has been completed.

(16) For the avoidance of doubt, it is hereby declared that all provisions relating to proceedings at the close of poll, transporting of ballot boxes, statements etc., to counting and recounting of votes and to elections shall be complied with as regards all other polling stations to which subsection (12) does not apply.

(17) On the completion of the count or recount, as the case may be, in an election,

- (a) in a local electoral district to return one member to the House, the candidate with the largest number of votes shall be declared by the Supervisor of Elections to be elected as a member for the local electoral district;
- (b) in the Island-wide electoral district to return more than one member to the House, the number of candidates equal to the members to be returned with the largest number of votes shall be declared by the Supervisor of Elections to be elected as members for the Island-wide electoral district.

(18) Whenever after the count of votes (including any recount) is completed, an equality of votes is found to exist between any candidates and the addition of one vote would entitle any of those candidates to be elected,

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

Maintenance of order at polling station

73. (1) Subject to subsection (2), during the hours when the poll is open upon polling day, no person shall assemble or congregate within one hundred yards of any building in which is situate any polling station.

(2) This section shall not apply,

- (a) to any voters who are waiting to poll their votes at such polling station and who obey any instructions which may be given by the presiding officer or poll clerk or any police officer for the purpose of forming a queue with other voters also waiting; or
- (b) to any person who may under the provisions of this Act lawfully enter or remain in such polling station.

(3) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine of \$9,600 or imprisonment for three months.

Influencing of voters to vote for candidate

74. (1) During the hours that the poll is open upon polling day no person shall upon any public road or in any public place within one hundred yards of any building in which a polling station is situate seek to influence any voter to vote for any candidate or to ascertain for what candidate any voter intends to vote or has voted.

(2) Every person who contravenes any of the provisions of subsection (1) shall be liable on summary conviction to a fine of \$9,600 and to imprisonment for three months.

Election return

75. (1) The returning officer within the time specified for the return of any writ shall forward to the Supervisor of Elections,

- (a) the writ with his return in Form 60 endorsed thereon that the candidate or candidates with the largest numbers of votes have been elected;
- (b) a report of the proceedings showing the number of votes cast for each candidate at each polling station, and making such observations as the returning officer may think proper as to the state of the election papers as received from the presiding officer;
- (c) a statement of the number of persons to whom, it appears from the counterfoils, ballot papers have been supplied in the electoral district;
- (d) the reserve supply of undistributed blank ballot papers;

- (e) the poll book used at each polling station, a packet containing the counterfoils and unused ballot papers, packets containing the ballot papers cast for the several candidates, a packet containing the spoiled ballot papers, a packet containing the rejected ballot papers and a packet containing the official lists of voters used at the polling stations, and the written appointments of candidates' agents; and
- (f) all other documents used for the election.

(2) The Supervisor of Elections shall, on receiving the return of any member or members elected to serve in the Assembly, cause it to be entered, in the order in which such return is received by him, in a book to be kept by him, for such purpose and thereupon immediately cause a notice to be published in the Gazette of the name of the candidate or candidates so elected and in the order in which it was received.

(3) The Supervisor of Elections shall, on receiving the return of any member or members elected to serve in the Assembly, transmit the writ with the return endorsed thereon to the Governor within the time specified in such writ. The Governor shall within seven days of the receipt of the said writ return the same to the Supervisor of Elections for safe custody in accordance with section 72.

(4) The Supervisor of Elections shall, immediately after each general election, cause to be printed a report giving, by polling divisions, the number of votes polled for each candidate, the number of rejected ballot papers, the number of names on the official lists of voters, together with any other information that he may deem fit to include; and shall also, at the end of each year, cause to be printed a similar report on the by-elections held during the year.

(5) If any returning officer wilfully delays, neglects or refuses duly to return any person who ought to be returned to serve in the Assembly for any electoral district, and if it has been determined on the hearing of an election petition respecting the election for such electoral district that such person was entitled to have been returned, the returning officer who has so wilfully delayed, neglected or refused duly to make such return of his election shall forfeit to the person aggrieved the sum of \$20,000 and costs in addition to all damages sustained.

Custody of election documents

76. (1) The Supervisor of Elections shall keep the election documents in safe custody and shall allow no person to have access to them:

Provided that, if any election petition has been presented questioning the validity of any election or return, the Supervisor of Elections shall, on the order of a Judge of the High Court, deliver to the proper officer of that Court the documents relating to the election that is in dispute:

Provided also that after the expiration of twelve months from the day of any election it shall be lawful for the Supervisor of Elections to cause the said documents used at such election to be burnt.

(2) No election documents in the custody of the Supervisor of Elections shall be inspected or produced except on the order of a Judge of the High Court; and an order under this subsection may be made by any such Judge upon his being satisfied by evidence on oath that the inspection or production of such election documents is required for the purpose of instituting or maintaining a prosecution for an offence in

relation to an election or for the purpose of a petition which has been filed questioning an election or return.

(3) Any such order for the inspection or production of election documents may be made subject to such conditions as to persons, time, place and mode of inspection or production as the Judge deems expedient.

Custody of ballot boxes

77. Forthwith upon making the return to the writ in accordance with section 72, the returning officer shall cause the ballot boxes used at such election, with their locks and keys and the screens and other appliances used in the polling station, to be transmitted or delivered to the Supervisor of Elections.

PART VII

ELECTION PETITIONS

Petitions against elections

78. A petition complaining of an undue return or undue election of a member of the Assembly (in this Act called an election petition) may be presented to the High Court by any one or more of the persons specified in section 49 (2) (a) of the Constitution, that is to say,

- (a) any person entitled to vote in the electoral district and at the election to which the application relates;
- (b) any person who was a candidate in that electoral district at that election; and
- (c) the Attorney General.

Presentation of election petition and security for costs

79. (1) The following provisions shall apply with respect to the presentation of an election petition,

- (a) the petition shall be presented within twenty-one days after the return made by the returning officer of the member to whose election the petition relates, unless it questions the return or election upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made by any member, or on his account, with his privity, since the time of such return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented at any time within twenty-eight days after the date of such payment;
- (b) at the time of the presentation of the petition, or within three days afterwards, security for the payment of all costs, charges and expenses that may become payable by the petitioner,
 - (i) to any person summoned as a witness on his behalf, or
 - (ii) to the member whose election or return is complained of, or to any other person named as a respondent in the petition, shall be given on behalf of every petitioner except the Attorney General;

- (c) the security shall be to an amount of \$1,200 and shall be given by recognisance to be entered into by any number of sureties, who are persons entitled to vote in the electoral district and at the election to which the petition relates, not exceeding four approved by the Registrar of the High Court, or by deposit of money in the High Court, or partly in one way and partly in the other.

(2) The Election Petition Rules found at the Fourth Schedule shall apply to the deposit of security and the practice and procedure for the service and hearing of election petitions and matters incidental thereto until amended or replaced by the Chief Justice.

Avoidance of election of candidate certified guilty of corrupt or illegal practice

80. If a candidate who has been elected is certified by the Judge who tried the election petition questioning the return or election of such candidate to have been personally guilty or guilty by his agents of any corrupt or illegal practice his election shall be void.

Avoidance of election for general corruption, etc

81. Where on an election petition it is shown that corrupt or illegal practices or illegal payments or employments 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 incapable of being elected to fill the vacancy or any of the vacancies for which the election was held.

Trial of election petitions

82. Every election petition shall be tried in the same manner as an action in the High Court by a Judge sitting alone. At the conclusion of the trial the Judge shall determine whether the member of the Assembly whose return or election is complained of or any, and what, other person was duly returned and elected, or whether the election was void, and shall certify such determination to the Governor, and, upon his certificate being given, such determination, subject to the right of appeal to the Court of Appeal contained in section 49 (4) of the constitution, shall be final; and the return shall be confirmed or altered, or a writ for a new election issued, as the case may require, in accordance with such determination or in the case of an appeal to the Court of Appeal, the determination on appeal.

Powers of judge

83. At the trial of an election petition the Judge shall; subject to the provisions of this Act, have the same powers, jurisdiction and authority, and witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances admit as in the trial of a civil action in the High Court, and such witnesses shall be subject to the same penalties for perjury.

PART VIII

ELECTION OFFENCES

Intoxicating liquor not to be sold or given on polling day

84. (1) No intoxicating liquor shall be sold, offered for sale, or given away at any premises situate in any electoral district in which an election is being held to which a

licence issued under the Liquor Licences Ordinance applies, at any time between the opening and the closing of the poll on polling day.

Provided that this section shall not apply to a licensed restaurant or hotel.¹⁵

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine of \$4,000 and to imprisonment for six months.

Employers to allow employees time

85. (1) Every employer shall, on polling day, allow to every voter in his employ a reasonable period for voting, and no employer shall make any deduction from the pay or other remuneration of any such voter or impose upon or exact from him any penalty by reason of his absence during such period.

(2) Any employer who, directly or indirectly, refuses, or by intimidation, undue influence or in any other way, interferes with the granting to any voter in his employ, of such period for voting, as in this section provided, shall be guilty of an offence and liable on summary conviction to a fine of \$20,000 and to imprisonment for six months.

Offences by election officers

86. Every election officer who,

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

¹⁵ In an island whose main industry is tourism, it seems inappropriate to ban visitors and other guests from enjoying the facilities of the resorts they visit in Anguilla. Historically, the prohibition on sale of alcohol on polling day applied only to rum shops and small retail outlets which were the only premises licensed under the Liquor Licensing Act. It was only in recent years when liquor licences began to be applied to restaurants and hotels, which had previously been licensed by the Ministry of Home Affairs, that the sale of liquor in hotels and restaurants came to be prohibited on polling day. Introducing this exception returns Anguilla to the previous Leeward Island position that hotels and restaurants were not affected by the prohibition.

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

shall be guilty of an offence against this section and liable on conviction on indictment to imprisonment for two years.

Acts prohibited on polling day

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

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

(3) Nothing contained in subsection (1) or (2) shall be deemed to extend to the furnishing or supplying of any banner bearing only the name of any candidate or only such name preceded by the words "Vote for" or of any rosette or to the use of any such banner on any vehicle or of any such rosette.

(4) No person shall broadcast any item on polling day on any television or wireless transmitting station which would tend to promote or procure the election of any candidate or of any political party.

(5) It shall be the duty of each candidate before midnight on the day before polling day to ensure the removal of all billboards, signs, posters and banners so erected or posted as to be visible from any public road and which would tend to promote or procure the election of the candidate or of his or her political party.

(6) No person shall consume nor anyone offer any food or drink, save for water, for consumption within one hundred yards of a polling station.

(7) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine of \$40,000 and to imprisonment for twelve months.

Definition of bribery

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

or to endeavour to procure, any office, place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election;

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

shall be guilty of the offence of bribery.

(2) The provisions of subsection (1) shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election.

(3) For the purposes of this section "legal expenses" includes,

- (a) the payment of the agents, clerks, canvassers and messengers of candidates;
- (b) payments made for the purpose of hiring vehicles for the conveyance of voters to or from a polling station;
- (c) payments made for the use of any premises for a public meeting in furtherance of the candidature of any person or for the use of any committee room or office for the purpose of promoting or procuring the election of a candidate; and
- (d) payments made in respect of postage, stationery, printing, advertising, the distribution of advertising material and the use of any public address system.

Definition of treating

- 89.** The following persons shall be guilty of the offence of treating,
- (a) any person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly, gives, or provides or pays, wholly or in part, the expenses of giving or providing any food, drink, entertainment or provision to or for any person for the purpose of corruptly influencing that person, or any other person, to vote or to refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election; or
 - (b) any voter who corruptly accepts or takes any such food, drink, entertainment or provisions.

Definition of undue influence

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

Definition of personation

91. Every person who at an election applies for a ballot paper in the name of another person, whether that name be the name of a person living or dead, or of a fictitious person, or who, having voted once at any election, applies at the same election for a ballot paper in his own name, shall be guilty of the offence of personation.

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

Penalty for bribery, etc

92. Any person guilty of bribery, treating, or undue influence shall be liable on summary conviction, if he is an election officer, to a fine of \$19,200 and to imprisonment for six months, and if he is any other person, to a fine of \$9,600 and to imprisonment for six months.

Penalty for personation

93. Any person guilty of personation, or of aiding, abetting, counselling or procuring the commission of the offence of personation, shall, on conviction on indictment, be liable to a fine of \$19,200 or to imprisonment for two years,

Disqualification for bribery, etc.

94. Any person who is convicted of bribery, treating, undue influence, or personation, or of aiding, counselling or procuring the commission of the offence of personation shall

(in addition to any other punishment) be incapable during a period of seven years from the date of conviction,

- (a) of being registered as a voter, or of voting at any election;
- (b) of being elected a member of the Assembly or, if elected before his conviction, of retaining his seat as such member.

Penalty for certain illegal practices at elections

- 95.** (1) Any person who,
- (a) votes, or induces or procures any person to vote, at any election, knowing that he or such other person is prohibited by this Act, or by any law in force in Anguilla, from voting at such election;
 - (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate; or
 - (c) between the date of the publication in the Gazette by the returning officer of a notice in accordance with section 46 (1) and the day after polling at the election, whether in a general election or in a by-election, acts in a disorderly manner, with intent to prevent the transaction of the business of a public meeting called for the purpose of promoting the election of a candidate as a member to serve in the Assembly,

shall be guilty of an illegal practice, and liable on summary conviction, if he is an election officer, to a fine of \$19,200 and if he is any other person, to a fine of \$9,600 and be incapable, during a period of five years from the date of conviction, of being registered as a voter or of voting at any election.

(2) Any person who, between the date of the publication by the returning officer of a notice in accordance with section 46 (1), and the day of polling at the election, whether in a general election or in a by-election, incites, combines or conspires with others to act in a disorderly manner with intent to prevent the transaction of the business of a public meeting called for the purpose of promoting the election of a candidate as a member to serve in the Assembly shall be guilty of the offence of an illegal practice and, liable on conviction on indictment, to a fine of \$9,600 and to imprisonment for two years, and be incapable, during a period of five years from the date of conviction, of being registered as a voter or of voting at any election.

Offences in respect of ballot papers

- 96.** (1) Any person who,
- (a) forges or counterfeits, or fraudulently defaces or destroys;
 - (b) without due authority supplies a ballot paper to any person;
 - (c) fraudulently puts into any ballot box paper other than the ballot paper which he is authorised by law to put in;
 - (d) fraudulently takes out of the polling station any ballot paper;
 - (e) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purpose of any election; or

(f) not being duly registered as a voter, votes at an election, shall be guilty of an offence and liable on summary conviction, if he is an election officer, to a fine of \$19,200 and to imprisonment for six months, and if he is any other person, to a fine of \$9,600 and to imprisonment for three months.

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

Infringement of secrecy

97. (1) Each election officer and agent appointed under section 56 in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate except for some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the list of voters of any voter who has or has not applied for a ballot paper or voted at that polling station, and no person shall interfere with or attempt to interfere with a voter when marking his vote or otherwise attempt to obtain in the polling station any information as to any candidate for whom any voter in such station is about to vote or has voted.

(2) Each election officer and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting and shall not attempt to communicate any information obtained at such counting as to a candidate for whom any vote is given in any particular ballot paper.

(3) No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked it so as to make known to any person the name of a candidate for whom or against whose name he has so marked his vote.

(4) Any person who acts in contravention of this section shall be liable, on summary conviction, to a fine of \$9,600 and to imprisonment for three months.

PART IX

DELIMITATION OF ELECTORAL DISTRICTS¹⁶

Electoral District Boundaries Commission

98. (1) Within 30 days after this Act comes into effect there shall be appointed for Anguilla an Electoral District Boundaries Commission (hereinafter in this section referred to as the Commission) which shall consist of,

- (a) a chairman appointed by the Governor acting in his discretion;
- (b) one member appointed by the Governor acting on the advice of the Chief Minister; and
- (c) one member appointed by the Governor acting on the advice of the Leader of the Opposition;

none of whom may be a member of the House of Assembly.

(2) A member of the Commission shall vacate his office,

- (a) at the next dissolution of the House of Assembly after his appointment;

¹⁶ Adapted from the St Kitts-Nevis Constitution, sections 49-50 and schedule 2.

- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such; or
- (c) if the Governor, acting on the advice of the Chief Minister in the case of a member appointed under subsection (1) (b) or in accordance with the advice of the Leader of the Opposition in the case of a member appointed under subsection (1) (c), so directs.

(3) The Commission may regulate its own procedure and, with the consent of the Governor, may confer powers and impose duties on any public officer or on any authority of the Government for the purpose of discharging its functions.

(4) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

Provided that any decision of the Commission shall require the concurrence of a majority of its members.

Review of electoral district boundaries

99. (1) The Electoral District Boundaries Commission (hereinafter in this section referred to as the Commission) shall, in accordance with the provisions of this section, review the number and boundaries of the electoral districts into which Anguilla is divided and submit to the Governor reports either,

- (a) showing the electoral districts into which it recommends that Anguilla should be divided in order to give effect to the rules set out in section 101; or
- (b) stating that, in its opinion, no alteration is required to the existing number of boundaries or electoral districts in order to give effect to those rules.

(2) The first report of the Commission under subsection (1) shall be submitted by the Commission within six months of this Act coming into effect, and thereafter within one year of the taking of any subsequent national census of population.

(3) Within 30 days after the Commission has submitted a report under subsection (1)(a), the Chief Minister shall lay before the House of Assembly for its approval the draft of a proclamation by the Governor for giving effect to the recommendations contained in the report, and that draft proclamation may make provision for any matters that appear to the House of Assembly to be incidental to or consequential upon the other provisions of the draft.

Number of local electoral districts

100. Until altered by the Electoral District Boundaries Commission under the provisions of section 99, there shall be nine local electoral districts in Anguilla as set out in the First Schedule and the island shall be one district for the purpose of electing four members at large of the House of Assembly.

Rules for delimitation of local electoral districts

101. All of the nine local electoral districts shall contain as nearly equal numbers of inhabitants as appears to the Commission to be reasonably practicable but the

Commission may depart from this rule to such extent as it considers expedient to take account of the following factors, that is to say,

- (a) the density of population and, in particular, the need to ensure adequate representation of sparsely populated areas;
- (b) the means of communication;
- (c) geographical features.

PART X

MISCELLANEOUS PROVISIONS

No obligation on voter to disclose vote

102. No voter who has voted at any election shall, in any legal proceedings to question the election or return, be required to state for whom he voted.

Conclusiveness of Register of Voters

103. At any election a person shall not be entitled to vote unless his name is on the Register of Voters for the time being in force by virtue of this Act, and every person whose name is on such Register shall, subject to the provisions of this Act, be entitled to demand and receive a ballot paper and to vote:

Provided that nothing in this section shall entitle any person to vote who is prohibited from voting by any law in force in Anguilla, or relieve such person from any penalties for which he may be liable for voting.

Expenses of elections

104. All expenses properly incurred by, and all remuneration and travelling allowances payable to, officers under this Act shall be defrayed out of the general revenue of Anguilla.

Campaign financing¹⁷

105. (1) Every political party and organisation shall keep an account book into which shall be recorded,

- (a) all monetary, in kind, and other forms of contributions received by or made to it or to or for any candidate's election expenses whether before, during or after an election;
- (b) the name and address of any person or entity who contributes any money or other thing which exceeds \$5,000;

(2) No political party, organisation or candidate shall accept any monetary or other contribution exceeding \$5,000 unless it can identify the source of the money or other contribution and record it accordingly in the party account book.

(3) Every political party and organisation procuring the election of a candidate shall, within six weeks after the announcement of the results of the election, file a report of the contributions made by individuals and entities with the Supervisor of Elections.

(4) Every political party shall grant to the Supervisor of Elections access to examine the records and audited accounts kept by the political party in accordance with

¹⁷ Adapted from the Antigua and Barbuda Representation of the People Act, section 83 as amended in 2001 by Act No 17 of 2001.

this section and, on request, shall give all such information as may be requested in relation to all contributions received by or on behalf of the party.

(5) Every political party shall have its accounts audited within six months after the election that it contested and shall file a copy of its audited accounts both on paper and digitally with the Supervisor of Elections who shall cause the audited accounts to be published on the website maintained by the Electoral Office or in default on a publicly accessible government website.

(6) The Supervisor of Elections shall impose a penalty of \$2,000 per day on any party or organisation which fails to comply with this section.

(7) Compliance by the political party with this section is the responsibility of each candidate who contested the election under the party's symbol.

(8) Until the report required under subsection (3) is filed, or access under subsection (4) is granted, or the audited accounts under subsection (5) is filed, or until the penalty imposed by subsection (6) is paid, a candidate who has been returned as a member of the House of Assembly shall be temporarily disqualified from membership of the Assembly.

Computation of time

106. (1) In reckoning time for the purposes of this Act, Saturday, Sunday, Christmas Day, Good Friday and any public holiday, under the Public Holidays Act, shall be excluded.

(2) Where anything required by this Act to be done on any day falls to be done on Saturday or Sunday or on any such excluded day, that thing may be done on the next day, not being a Sunday or one of such excluded days.

Removal of difficulties

107. If any difficulty arises in first giving effect to any of the provisions of this Act, the Supervisor of Elections may, by Order published in the Gazette, issue all such directions as he may deem necessary with a view to providing for any special or unforeseen circumstances or to determining or adjusting any question or matter for the determination or adjustment of which no provision or effective provision is made by this Act.

Power to make regulations

108. (1) The Governor may make regulations generally for giving effect to the provisions of this Act and without prejudice to such general power may make regulations in addition to or in substitution for the Regulations found at the Second Schedule and the forms found at the Third Schedule,

- (a) with respect to the financing of election campaigns, including expenses and the making of payments by or on behalf of a candidate, whether before, during or after an election, on account or in respect of the conduct of such election;
- (b) requiring the appointment of an election agent through or by whom all such expenses or payments as aforesaid shall be incurred or made;
- (c) fixing the maximum amount of expenses and payments that may be incurred or paid, whether before, during or after an election, on account or in respect of the conduct of such election;

- (d) fixing the time within which all election expenses shall be paid;
- (e) requiring a return of election expenses and payments and prescribing the form in which the same shall be made and verified;
- (f) prescribing the remuneration and travelling allowances and other expenses which may be paid to election officers appointed under this Act;
- (g) prescribing the duties of returning officers and the procedure to be followed in the performance of their duties;
- (h) amending or replacing the Second Schedule;
- (i) adding to, rescinding, varying or amending any prescribed form; and
- (j) prescribing penalties for the breach of any regulations made hereunder.

(2) Any regulation made under subsection (1) may, in specifying any offence, further specify that any such offence shall be deemed to be an illegal practice.

(3) Regulations made under subsection (1) shall be laid before the House of Assembly as soon as may be after they are made, and shall not continue in force after the expiration of seven days from the time when they are laid unless a resolution is passed by the House of Assembly providing for the continuance thereof.

(4) An election petition may be presented in respect of any illegal practice declared by such regulations to be a ground for presenting such petition, and sections 74, 75, 78 and 79 shall, subject to such regulations, apply to petitions presented in respect of illegal practices.

Repeal of RSA c E030

109. The Elections Act and all subsidiary legislation made under it and in force prior to the coming into operation of this Act are repealed.

Savings

110. (1) In so far as anything done under the repealed Act could have been done under a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if done under that provision.

(2) The person who immediately before the coming into operation of this Act was the Supervisor of Elections under the repealed Act shall continue to be the Supervisor of Elections as if that person had been appointed under section 4 on the same terms and conditions for a term expiring on the day on which the appointment under the repealed Act would expire.

(3) The Register of Voters in effect immediately before the coming into operation of this Act shall upon the coming into operation of this Act be deemed to be the Register of Voters in effect at the date of the coming into operation of this Act.

FIRST SCHEDULE

Section 17

Local Electoral Districts

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Island Harbour, awaiting determination by the Electoral District Boundaries Commission

District Two

East End, awaiting determination by the Electoral District Boundaries Commission

District Three

North Valley 1, awaiting determination by the Electoral District Boundaries Commission

District Four

North Valley 2, awaiting determination by the Electoral District Boundaries Commission

District Five

South Valley 1, awaiting determination by the Electoral District Boundaries Commission

District Six

South Valley 2, awaiting determination by the Electoral District Boundaries Commission

District Seven

Road, awaiting determination by the Electoral District Boundaries Commission

District Eight

Blowing Point, awaiting determination by the Electoral District Boundaries Commission

District Nine

West End, awaiting determination by the Electoral District Boundaries Commission

SECOND SCHEDULE¹⁸

ELECTION REGISTRATION REGULATIONS

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¹⁸ The Second Schedule consists of the existing Election Registration Regulations, RRA E30-1, amended to include some sections from the BVI Elections Act.

¹⁹ The BVI Elections Act does not have separate Elections Registration Regulations. All the regulations and forms are in the Act. The provisions of the BVI Act that deal with forms that are required to supplement the Anguilla Election Registration Regulations and the Forms have been inserted into these Second Schedule Regulations and the Forms in the Third Schedule.

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INTERPRETATION

Interpretation

1. (1) In these Regulations—

“Act” means the Elections Act;

“building”, in relation to a polling division, means,

- (a) a public building in the polling division; or
- (b) if no public building is located in the polling division, any building;

“Central Electoral Office” means the office set up in accordance with section 3 of the Act;²⁰

“enumeration period” means the period set out in regulation 4;

“form” means a form set out in the Schedule to these Regulations;

“prescribed” means prescribed by the Governor.

(2) A reference in these Regulations to a preliminary list for a polling division is a reference,

- (a) in the case of a preliminary list for an Electoral District that comprises one polling division, to the preliminary list for the Electoral District; and
- (b) in the case of an Electoral District that comprises more than one polling division, to that part of a preliminary list that relates to a particular polling division.

(3) A person who is required to deliver a claim, notice of objection or other document to the Registration Officer may effect delivery by leaving the document addressed to the Registration Officer, or causing it to be left, at his office during office hours.

(4) A person who is required to deliver a notice or other document to a person other than the Registration Officer, may effect delivery on the person by leaving the document, or causing it to be left,

- (a) at the address of the person as given by him for that purpose or as appearing on the relevant preliminary list or list of claimants; or
- (b) if there is no such address, at his last known residence.

²⁰ We have attempted to cross-reference the section numbers as accurately as we can, but some anomalies may remain. We respectfully depend on the legal draftspersons in the A-G’s Department to ensure all is perfect

Form of list of voters

2. The names in each preliminary list of voters shall be arranged in alphabetical order on Form 1,²¹ or in street order on Form 3, as determined by the Supervisor of Elections and shall be numbered consecutively beginning with the number one.

ENUMERATION

Application of regulations 4 to 25

3. Regulations 4 to 25 apply to the enumeration year.

Commencement of enumeration

4. The Registration Officer for an Electoral District shall, between 1st July and 30th September in the enumeration year, cause to be prepared in accordance with the Act and these Regulations a preliminary list of all persons who are qualified as voters in each polling division in the Electoral District.

Appointment of enumerators

5. The Registration Officer shall in Form 5 appoint a person to be enumerator for each polling division in the Electoral District.

Qualification of enumerators

6. Each enumerator shall be qualified as a voter in any Electoral District.

Removal by Registration Officer

7. The Registration Officer may at any time replace any enumerator appointed by him by appointing another enumerator to act in his place, and any enumerator so replaced shall, on request in writing signed by the Registration Officer, deliver to the person appointed in his place or to any other authorized person, any instructions, index books or other papers and any information which he has obtained for the purpose of the performance of his duties.

Oath or affirmation of office of enumerator

8. (1) Every enumerator shall forthwith on his appointment take an oath or affirmation as enumerator in Form 6, detach it from the form of appointment and send it to the Registration Officer.

(2) The Registration Officer shall certify in the manner appearing on Form 6 that the enumerator has taken the oath or affirmation.

Registration notice

9. The enumerator shall, immediately after his appointment, affix on 2 buildings in his polling division, a copy of a registration notice in Form 7.

²¹ We have attempted to cross-reference the Form numbers as accurately as we can, but some anomalies may remain. We respectfully depend on the legal draftspersons in the A-G's Department to ensure all is perfect

Right of entry on premises

10. (1) Every enumerator may enter upon any premises in the polling division in respect of which he is appointed and there make the enquiries that in his opinion are necessary for the purpose of obtaining information as to the persons qualified to be registered as voters.

(2) No enumerator shall enter upon any premises,

(a) except during daylight hours, unless the occupier of the premises consents to his entry otherwise than during those hours; or

(b) at any time when he is not wearing an enumerator's badge supplied to him by the Supervisor of Elections.

(3) Where any enumerator enters upon any premises, he may ask the questions of any person on the premises who appears to him to be of the age of 16 years or over, that in his opinion are necessary to enable him to obtain the information referred to in paragraph (1).

House-to-house enquiry

11. (1) After taking his oath or affirmation as enumerator, each enumerator shall, during the enumeration period, ascertain by a house-to-house enquiry the name, address and occupation of every person qualified to vote for the election of a member of the Assembly in the polling division for which the enumerator has been appointed.

(2) When making a house-to-house enquiry, an enumerator shall cause,

(a) every person who believes that he is qualified or will be qualified on the qualifying date to be registered as a voter to complete an application in Form 8 to be registered as a voter in the polling division for which the enumerator has been appointed; or

(b) an adult in the household in which a person referred to in paragraph (a) resides, to complete an application in Form 8 for that person to be registered as a voter in the polling division for which the enumerator has been appointed.

(3) When an enumerator is satisfied that a person is qualified or will be qualified on the qualifying date to be registered as a voter, the enumerator shall enter the name, address and occupation of that person in an index book in Form 10 and shall use the index book to prepare the preliminary list of voters for the polling division for which he has been appointed.

(4) Before departing from a household in respect of which he has made an entry in the index book of persons qualified to be registered as voters, the enumerator shall make a copy of the entry in Form 11, sign it and leave it at the household.

Manner of making enquiry

12. (1) When making a house-to-house enquiry, every enumerator shall wear and prominently display an enumerator's badge provided by the Supervisor of Elections as

evidence of his authority to enter the premises for the purposes of a house-to-house enquiry.

(2) Every enumerator shall keep the scrutineers in his polling division informed of the notices issued by him in respect of the enumeration and of the times at which such enumerator proposes to commence or continue the house-to-house enquiry for purposes of the enumeration.

(3) No enumerator shall, in the course of performing his duties of an enumerator, ask any question or make any remark to any person on any premises entered by him with a view to ascertaining or to influencing the political opinions of any person on those premises.

(4) An enumerator who contravenes paragraph (3) is liable on summary conviction to a penalty of \$4,000 and to forfeiture of his right to payment for his services as enumerator.

Complete enumeration

13. Each enumerator shall exercise the utmost care in preparing the preliminary list of voters for the polling division for which he has been appointed and in particular shall take all necessary precautions to ensure that the list when completed,

- (a) contains the name, address and occupation of every qualified voter in the polling division; and
- (b) does not contain the name of any person who is not so qualified.

Application for scrutineers

14. Any political party that desires to have a scrutineer appointed in connection with the registration of voters in a polling division shall make application for his appointment in Form 13.

Offences relating to applications for appointment of scrutineers

15. Any person who,

- (a) makes any false statement in an application for the appointment of a scrutineer; or
- (b) without authority or instructions makes or tenders such an application;

is liable on summary conviction to a penalty of \$4,000.

Appointment of scrutineers

16. The Registration Officer shall in Form 23 appoint as scrutineers the persons nominated under section 9 of the Act.

Oath or affirmation to be taken by scrutineer

17. Every scrutineer shall forthwith on his appointment take an oath or affirmation as scrutineer in Form 15, detach it and give it to the Registration Officer who shall, in the

manner appearing on the Form, certify that the scrutineer has taken the oath or affirmation.

Functions of scrutineer

18. (1) Subject to paragraph (2), any scrutineer appointed under regulation 16 may accompany the enumerator for the polling division for which he is appointed as a scrutineer at all times when the enumerator is making a house-to-house enquiry.

(2) Every scrutineer shall at all times when acting as a scrutineer wear a badge supplied by the Supervisor of Elections indicating that he is a scrutineer.

(3) No scrutineer shall, in the course of accompanying any enumerator, ask any question or make any remark to any person upon any premises entered by him with a view to ascertaining or to influencing the political views of such person or of any other person upon those premises except that a scrutineer may, on visiting any premises, say, "I represent the party."

(4) A scrutineer who contravenes paragraph (3) is liable on summary conviction to a penalty of \$4,000 and to forfeiture of his right to payment for his services as scrutineer and on conviction his appointment as scrutineer ceases.

Offences relating to duties of scrutineers

19. Any scrutineer who wilfully obstructs, molests or threatens any enumerator or other election officer in the performance of his duties is liable on summary conviction to a penalty of \$4,000 and to forfeiture of any right to payment for his services as scrutineer and on conviction his appointment as scrutineer ceases.

Information on preliminary list

20. The names, addresses and occupations of all voters who are included in a preliminary list shall be written up according to Form 1 or Form 3, as directed by the Registration Officer.

Completion, certification and transmission of list

21. (1) The enumerator shall complete the preliminary list not later than 10 days after the last day of the enumeration period.

(2) The enumerator shall,

(a) when the preliminary list is completed, certify it in Form 16; and

(b) not later than the following day, transmit it to the Registration Officer.

Enumerators to certify copies of preliminary list

22. (1) The Registration Officer shall on the receipt of the preliminary lists from the enumerators prepare and complete, not later than 25 days after the last day of the enumeration period, 4 typewritten or printed copies of each list.

(2) The typewritten or printed copies shall then be checked by the respective enumerators and certified in Form 16.

Distribution of certified copies of preliminary list

23. The Registration Officer shall,

- (a) distribute 2 copies of the certified preliminary list to each enumerator; and
- (b) arrange one complete set of lists numerically according to polling divisions and send it to the Supervisor of Elections and keep the remaining set for himself.

Posting up of preliminary list and notice

24. The enumerator of a polling division shall, 27 days after the last day of the enumeration period, affix or cause to be affixed to each of 2 buildings in his polling division, a certified copy of the preliminary list prepared by him and a notice in Form 17, and the copy and the notice shall remain affixed for 12 days including Sundays.

Oath or affirmation of enumerator on completion of work

25. On the completion of his work, the enumerator shall take an oath or affirmation in Form 20.

PROCEDURE AFTER THE ENUMERATION YEAR

Central Electoral Office

26. (1) The Central Electoral Office shall be open during regular business hours Monday through Friday, except on public holidays.

(2) The Supervisor of Elections may,

- (a) designate a Registration Officer as Electoral Registration Officer, who shall, in addition to the powers and duties assigned to him by the Supervisor of Elections or under the Act and these Regulations or any other enactment, be responsible for the management of the Central Electoral Office; and
- (b) appoint such staff as are necessary for the administration of the Central Electoral Office.

Continuous registration of voters

27. (1) After the enumeration year, a person,

- (a) who is qualified or will be qualified on the next qualifying date to be registered as a voter in an Electoral District and who is not registered on the existing register of voters for that Electoral District;
- (b) whose name appears on the existing register of voters for an Electoral District and who has changed his name, address or occupation but who remains qualified to be registered as a voter in that Electoral District; or

- (c) whose name appears on the existing register of voters for an Electoral District and who has changed address and is ordinarily resident in an Electoral District other than the one in which he is registered;

may appear in person at the Central Electoral Office and submit to the Supervisor of Elections an application in Form 9 to be registered on the quarterly list of voters for the relevant Electoral District.

(2) The applicant shall, in the presence of the Supervisor of Elections or a member of staff of the Central Electoral Office, place his signature and date on the application and produce his birth certificate or Belonger certificate or certificate of naturalization, together with a passport or driver's licence containing his photograph and such evidentiary documents as may be required by the Supervisor of Elections to authenticate the statements in the application.²²

Provided that where an applicant is unable to place his signature on the application he shall place his thumb print only.

(3) A photograph shall be taken of every person at the same time as that person makes an application for registration.

(4) The Supervisor of Elections shall conduct investigations and hold inquiries as he thinks fit to satisfy himself as to the applicant's eligibility or otherwise to be registered as an elector. For that purpose he may summon witnesses or order the production of any document that he may deem necessary and receive and record any evidence adduced.

(5) Where an application is made under paragraph (1) to the Supervisor of Elections, he may upon being satisfied that such applicant is qualified as a voter under section 43 (1) of the Constitution, enter his name on a list to be included in any preliminary list to be prepared under regulations 30 and 34.

- (6) The Supervisor of Elections shall refuse an application which is not received,
 - (a) in the case of a general election, by the second day after the day on which the Assembly is dissolved;
 - (b) in the case of any other election, by the second day after the date on which the relevant vacancy occurred.

(7) The Supervisor of Elections shall as soon as is practicable notify an applicant of the outcome of his application and, where the application is refused, he shall give the grounds for his refusal.

(8) In an application to which paragraph (3) applies, the Supervisor of Elections shall process the application as soon as is practicable after the polling date.

(9) (a) Where the Supervisor of Elections is not satisfied with the applicant's claim to register as a voter, he shall issue to that applicant a notice of disallowance in Form 63.

(b) Where the Supervisor of Elections disallows an application for registration he shall record his reasons for the disallowance and a statement of his reasons shall be set out in the notice of disallowance.

²² Paragraphs (2) to (10) are taken from the BVI Elections Act and inserted into the Regulations.

(10) (a) Any person who is aggrieved by a decision of the Supervisor of Elections may within 7 days from the date of the notice of disallowance deliver to the Supervisor of Elections concerned a statement of appeal, to be heard at the same time as objections made against the registration of voters.

(b) The Supervisor of Elections shall maintain a book showing the names, addresses and other particulars of every applicant whose application for registration has been disallowed by him.

(11) The Supervisor of Elections may make inquiries and request and review documents that he considers necessary to determine whether on the next qualifying date the person referred to in paragraph (1) is qualified or will be qualified to be registered as a voter in an Electoral District.

(12) When the Supervisor of Elections is satisfied that the person referred to in paragraph (1) is qualified or will be qualified on the next qualifying date to be registered as a voter in an Electoral District, the Supervisor of Elections shall give to the person a certificate of provisional registration in Form 12.

(13) The Supervisor of Elections shall enter on the quarterly list of voters for the relevant Electoral District, the name, address and occupation of a person to whom a certificate of provisional registration was given under paragraph (3).

Form of quarterly lists

28. (1) The quarterly list of voters for each electoral district shall be in Form 4 and shall consist of,²³

- (a) persons whose names do not appear on the register of voters or any revised quarterly list for any electoral district and who have applied to be registered as voters for an electoral district and who the Supervisor of Elections has reasonable cause to believe are qualified or will be qualified, on the next qualifying date, to be registered as voters in that electoral district;
- (b) persons whose names appear on the register of voters for an electoral district and who have notified the Supervisor of Elections of a change in their name, address or occupation but who remain qualified to be registered as voters in that electoral district; and
- (c) persons whose names appear on the register of voters for an electoral district and who have satisfied the Supervisor of Elections that they have changed address and are ordinarily resident in another electoral district.

(2) A person who is qualified to be registered as a voter but whose name does not appear on the register of voters for an electoral district shall be entitled to be registered on the quarterly list of voters prepared in accordance with paragraph (1), upon making application in accordance with regulation 27 (1).

(3) The quarterly lists of voters for every electoral district shall be revised and published in accordance with regulation 29 and shall be used to revise the register of voters for that electoral district in accordance with regulation 46.

²³ Paragraphs (1) to (3) are taken from the BVI Elections Act and inserted into the Regulations.

(4) The names in each quarterly list of voters shall be arranged in alphabetical order according to the surname of the voters and shall be numbered consecutively beginning with the number one.

Publication of quarterly lists

29. (1) The Supervisor of Elections shall publish the quarterly list of voters for each Electoral District not later than the 42nd day of every quarter of every year.

(2) In addition to any method of publication employed under paragraph (1), the Supervisor of Elections shall post the quarterly list of voters for each Electoral District by affixing the list, together with a revision notice in Form 18, to the Central Electoral Office and to 2 buildings in the Electoral District to which the list relates.

Post-enumeration register of voters and preliminary lists

30. (1) After the enumeration year, the Supervisor of Elections shall prepare the register of voters for each Electoral District on a quarterly basis in accordance with the Act and these Regulations.

(2) After the enumeration year, the Supervisor of Elections shall prepare and publish not later than the 72nd day of every quarter of every succeeding year a preliminary list of voters for every electoral district in accordance with this regulation and regulation 48, and the preliminary list when revised and published in accordance with regulation 37 shall, subject to the provisions of this Act and the Regulations, constitute the register of voters for that electoral district.²⁴

(3) The preliminary list of voters for each electoral district under paragraph (2) shall be prepared by,

- (a) deleting from the existing register of voters for that electoral district last published under this Act the names, addresses and occupations of persons whom he has reasonable cause to believe are dead or disqualified for registration as voters in that electoral district;
- (b) making the requested alterations to the names, addresses or occupations of persons registered in the existing register of voters for that electoral district last published under this Act and whose names appear on the last revised quarterly list of voters for that electoral district by virtue of regulation 46; and
- (c) adding to the existing register of voters for that electoral district last published under this Act the names, addresses and occupations of persons not registered in the register of voters for that electoral district who he is satisfied are qualified to be registered as voters for that electoral district and whose names appear on the last revised quarterly list of voters for that electoral district by virtue of regulation 46.

(4) For the purposes of paragraph (1), the Supervisor of Elections shall, on a quarterly basis, prepare a preliminary list of voters in Form 2 in accordance with the Act and these Regulations.

²⁴ Paragraphs (2) and (3) are taken from the BVI Elections Act and inserted into the Regulations.

(5) The names in the preliminary list of voters shall be arranged in alphabetical order according to the surname of the voters and shall be numbered consecutively beginning with the number one.

(6) The Supervisor of Elections shall publish the preliminary list of voters for each Electoral District not later than the 72nd day of every quarter.

(7) In addition to any method of publication employed under paragraph (4), the Supervisor of Elections shall post the preliminary list of voters for each Electoral District by affixing the list, together with a revision notice in Form 19, to the Central Electoral Office and to 2 buildings in the Electoral District to which the list relates.

CLAIMS, OBJECTIONS, CORRECTIONS AND COMPLETION OF LISTS

Forms to be available

31. The Supervisor of Elections shall make available at the places in each Electoral District directed by the Governor a sufficient number of copies of Forms 21, 22, 23, 24 and 25.

Supply of forms

32. The Supervisor of Elections shall, without fee, on the application of any person, supply forms of claim and notices of objection.

Names on more than one list and mis-spelt names

33. (1) During the enumeration year, any voter,

(a) whose name appears on more than one preliminary list of voters shall in Form 24 forthwith notify the Supervisor of Elections of the polling division in which he elects to have his name retained; or

(b) whose name is spelt incorrectly on a preliminary list of voters shall in Form 25 forthwith notify the Supervisor of Elections of the polling division of the inaccuracy.

(2) After the enumeration year, any voter,

(a) whose name appears on a quarterly list of voters or a preliminary list of voters for more than one Electoral District, shall in Form 24 forthwith notify the Supervisor of Elections; or

(b) whose name is spelt incorrectly on a quarterly list of voters or a preliminary list of voters shall in Form 25 forthwith notify the Supervisor of Elections of the inaccuracy.

Claims to be delivered to Registration Officer

34. (1) During the enumeration year, any person who claims to be entitled to be registered as a voter, and who is not entered, or is entered in an incorrect manner or with incorrect particulars in the preliminary list of voters, may claim to be registered, or to be registered correctly, as the case may be, by delivering to the Supervisor of Elections,

not later than 38 days after the last day of the enumeration period, a notice of claim in Form 21.

(2) Upon receipt of a claim referred to in paragraph (1), the Supervisor of Elections may make inquiries and request and review documents that he considers necessary to determine whether the claimant is entitled to be registered as a voter in, or whether corrections should be made in relation to the claimant to, the preliminary list of voters.

(3) After the enumeration year, any person who,

- (a) holds a certificate of provisional registration and who is not entered or is entered in an incorrect manner or with incorrect particulars in the quarterly list of voters for an Electoral District; or
- (b) applied to be registered on the quarterly list of voters for an Electoral District and did not receive a certificate of provisional registration, but who reasonably believes he is qualified to be registered;

may claim to be registered or to be registered correctly, as the case may be, by delivering a notice of claim in Form 22 to the Supervisor of Elections not later than 7 days after the first day on which the quarterly list of voters was published.

(4) Upon receipt of a claim referred to in paragraph (3), the Supervisor of Elections shall review the claim to assess whether,

- (a) the claimant is not listed, is listed incorrectly or is listed with incorrect particulars on the quarterly list of voters; and
- (b) the claim contains or is accompanied by information necessary to make the required determinations.

(5) If additional information is required, the Supervisor of Elections shall give notice to the claimant setting out what additional information is required and a statement to the effect that failure to provide the information within 7 days will result in the claim being rejected.

(6) If the claimant does not provide the information within 7 days of the date of the notice,

- (a) the claim shall be rejected; and
- (b) the Supervisor of Elections shall give notice to the claimant that the claim is rejected.

(7) If a person whose claim is rejected under paragraph (6) wants to make another claim at a later time, he shall submit a new notice of claim in Form 22 and paragraphs (4) to (6) apply to the new notice of claim.

Publication of claims to insertion or correction

35. (1) During the enumeration year, the Supervisor of Elections shall, not later than 40 days after the last day of the enumeration period, cause to be affixed for 5 days to 2 buildings in the polling division a list, in Form 28, of names of persons living in the polling division who claim under regulation 34 (1) that their names should be inserted in, or that corrections should be made to, the preliminary list of voters.

(2) After the enumeration year, the Supervisor of Elections shall, not later than 8 days after the first day of publishing of a quarterly list of voters, publish for 7 days a list, in Form 28, of names of persons who claim under regulation 34 (3) that their names should be inserted in, or that corrections should be made to, that quarterly list of voters.

Notice of objection to claims

36. (1) During the enumeration year, any person whose name appears on the preliminary list of voters for an Electoral District may object to the registration of any person whose name is included in the list of claimants prepared in accordance with regulation 35 (1) by delivering or causing to be delivered a notice of objection in Form 23 to the Registration Officer and a copy of the notice to the person whose claim is being objected to.

(2) A notice under paragraph (1) shall be delivered not later than 44 days after the last day of the enumeration period.

(3) After the enumeration year, any person whose name appears on the existing register of voters for an Electoral District may object to the registration of any person whose name is included in the list of claimants prepared in accordance with regulation 35 (2) by delivering or causing to be delivered a notice of objection in Form 23 to the Supervisor of Elections and a copy of the notice to the person whose claim is being objected to.

(4) A notice under paragraph (3) shall be delivered not later than 15 days after the first day of publishing of the quarterly list of voters.

(5) When the Supervisor of Elections receives a notice of objection under this regulation, he shall immediately deliver or cause to be delivered a notice in Form 26 to the person in respect of whose claim the notice of objection is given and a notice in Form 27 to the person making the objection.

Publishing lists of objections to claims

37. (1) During the enumeration year, the Supervisor of Elections shall, not later than 45 days after the last day of the enumeration period, cause to be affixed for 5 days to 2 buildings in the polling division a list, in Form 29, of names of persons included in the list of claims for the polling division to whose registration notice of objection has been given.

(2) After the enumeration year, the Supervisor of Elections shall, not later than 16 days after the first day of publishing of a quarterly list of voters, publish for 5 days a list, in Form 29, of names of persons included in the list of claims to whose registration notice of objection has been given.

Notice of objection to registration

38. (1) During the enumeration year, any person whose name appears on the preliminary list for an Electoral District may object to the registration of any person whose name is included in that list by delivering to the Supervisor of Elections notice of objection in Form 23.

(2) A notice under paragraph (1) shall be delivered not later than 38 days after the last day of the enumeration period.

(3) After the enumeration year,

(a) any person whose name appears on the existing register of voters last published for an Electoral District, may object to the registration of a person whose name is included on the quarterly list of voters for that Electoral District; or

(b) any person whose name appears on the preliminary list of voters for an Electoral District, may object to the registration of a person whose name is included on that list;

by delivering notice of objection in Form 23 to the Supervisor of Elections.

(4) A notice of an objection referred to in paragraph (3)(a) shall be delivered not later than 10 days after the first day of publishing the quarterly list of voters and a notice of an objection referred to in paragraph (3)(b) shall be delivered not later than 8 days after the first day of publishing the preliminary list of voters.

(5) When the Supervisor of Elections receives a notice of objection under this regulation, he shall immediately deliver or cause to be delivered a notice in Form 26 to the person in respect of whose registration the notice of objection is given and a notice in Form 27 to the person making the objection.

Publication of objections to registration

39. (1) During the enumeration year, the Supervisor of Elections shall, not later than 40 days after the last day of the enumeration period, cause to be affixed for 5 days to 2 buildings in the polling division a list in Form 29 of names of persons whose names appear on the preliminary list of voters to whose registration notice of objection has been given.

(2) After the enumeration year, the Supervisor of Elections shall,

(a) not later than 11 days after the first day of posting of a quarterly list of voters, publish for 7 days a list, in Form 29, of persons whose names appear on that quarterly list and to whose registration notice of objection has been given; and

(b) not later than 9 days after the first day of posting of a preliminary list of voters, publish for 5 days a list, in Form 29, of persons whose names appear on that preliminary list and to whose registration notice of objection has been given.

Consideration of claims

40. (1) The Supervisor of Elections shall consider all claims of which notice is given to him in accordance with these Regulations and in respect of which no notice of objection is given, and if he considers that any claim may be allowed without further enquiry, shall give notice in Form 30 to the claimant that his claim is allowed.

(2) Where no notice of objection has been given in respect of a claim, if the Supervisor of Elections is not satisfied that a claim can be allowed without enquiry, he shall give at least 5 clear days' notice to the claimant of the time and place at which the claim will be considered by him.

(3) On the consideration of any claim by the Supervisor of Elections any person appearing to the Supervisor of Elections to be interested may appear and be heard in person or by any other person, other than counsel, on his behalf.

(4) The claimant or the objector and any other person, as the case may be, appearing to the Supervisor of Elections to be interested, may appear and be heard personally on the matter.²⁵

(5) The Supervisor of Elections shall permit the claimant or the objector or other person interested, as the case may be, to give or adduce oral or documentary evidence in support of or in opposition to the claim or the objection.

(6) The Supervisor of Elections may require that the evidence tendered by any person be given upon oath or affirmation as commonly administered in a court and may administer an oath or affirmation for that purpose and may take affidavits.

(7) The Supervisor of Elections may require any person appearing before him to furnish to him such additional information as he considers necessary for a proper determination of the application and for the prevention of fraudulent registration and may of his own motion make further inquiries for those purposes.

(8) Where any question arises as to whether any person is deemed to belong to Anguilla or is a British Overseas Territories subject, the Supervisor of Elections may have recourse to the Attorney-General's Chambers, and a statement signed by or on behalf of the Attorney-General as to the status of any such person shall, for the purposes of the proceedings and without prejudice to any other evidence before him, be sufficient evidence of the facts stated therein.

(9) The Supervisor of Elections shall inform the claimant or objector or any person objected to of his decision upon the claim or objection and shall if requested by the claimant or the objector or any person objected to give in writing his reasons for making the decision.

Consideration of objections

41. (1) The Supervisor of Elections shall consider all objections of which notice has been given to him in accordance with these Regulations and for that purpose give at least 5 clear days' notice to the objector and to the person in respect of whose registration the notice of objection has been given of the time and place at which the objection will be considered by him.

²⁵ Paragraphs (4) to (9) are taken from the BVI Elections Act and inserted into the Regulations.

(2) On the consideration of any objection or other matter by Supervisor of Elections any person appearing to the Registration Officer or the Supervisor of Elections to be interested may appear and be heard in person or by any other person, other than counsel, on his behalf.

Correction of lists

42. (1) During the enumeration year, the Supervisor of Elections shall make any correction to the preliminary list of voters that is required to carry out his decision in respect of any claim or objection.

(2) After the enumeration year, the Supervisor of Elections shall make any correction,

- (a) to a quarterly list of voters that is required to carry out his decisions in respect of any claim or objection; and
- (b) to a preliminary list of voters that is required to carry out his decisions in respect of any objection.

(3) In addition to any correction required to carry out a decision in respect of any claim or objection, to ensure that the preliminary list of voters is complete and accurate as a register, the Supervisor of Elections may,

- (a) remove duplicate entries (subject to any expression of choice by persons affected as to those entries);
- (b) expunge the names of persons who are dead or subject to any legal disqualification; and
- (c) correct clerical errors.

Objection to corrections

43. (1) During the enumeration year, where the Supervisor of Elections makes a correction referred to in regulation 33(1)(a) or (b) in the preliminary list of voters, he shall give notice in Form 31 to the person affected by the correction and allow that person an opportunity of objecting to the correction and, if necessary, of being heard with respect to it.

(2) After the enumeration year, where the Supervisor of Elections makes any correction referred to in regulation 33(2)(a) or (b) in a quarterly list of voters or in a preliminary list of voters, he shall give notice in Form 31 to the person affected by the correction and allow that person an opportunity of objecting to the correction and, if necessary, of being heard with respect to it.

(3) The Supervisor of Elections shall make any correction to the quarterly list of voters or preliminary list of voters, as the case may be, that is required to carry out his decision in respect of any objection under this regulation.

Completion of lists

44. The Supervisor of Elections shall ensure that the quarterly or preliminary lists of voters required under the Act are completed as expeditiously as possible in time for publication of the register of voters in accordance with the Act and these Regulations.

Certification and publication, etc. of revised preliminary lists in enumeration year

45. (1) During the enumeration year, the Supervisor of Elections shall, after revising the preliminary list of voters in accordance with regulations 42 and 43,

(a) certify three copies of the revised preliminary list in Form 32 for each Electoral District;

(b) not later than 59 days after the last day of the enumeration period, publish a certified copy of the revised preliminary list.

(2) When published in accordance with these Regulations, the revised preliminary list of voters for an Electoral District constitutes the register of voters for that Electoral District.

(3) During the enumeration year, after the date on which the register is proclaimed to be in force, the Supervisor of Elections shall, on the application of any person during business hours and on payment of the prescribed fee, furnish the person with a copy of the register of voters.

(4) In the enumeration year, when a writ is issued, the Supervisor of Elections shall immediately transmit a certified copy of the register of voters to the Returning Officer for each Electoral District.

Certification and publication of revised quarterly lists post-enumeration

46. After the enumeration year, the Supervisor of Elections shall, after revising a quarterly list of voters in accordance with regulations 42 and 43,

(a) certify two copies of the revised quarterly list in Form 33 for each Electoral District;

(b) not later than 28 days after the first day of posting of the quarterly list, publish a certified copy of that revised quarterly list.

Transfer from revised quarterly lists to preliminary lists

47. (1) After the enumeration year, the Supervisor of Elections shall, not later than the 71st day of every quarter, transfer the names, addresses and occupations of persons named on the revised quarterly list of voters for an Electoral District to the preliminary list of voters for that Electoral District.

(2) When the name, address and occupation of a person described in regulation 27(1)(c) is transferred to the preliminary list of voters for an Electoral District, the Registration Officer shall delete the name, address and occupation of that person from the preliminary list of voters for the Electoral District in which that person was previously registered.

Certification and publication, etc. of revised preliminary lists post-enumeration

48. (1) After the enumeration year, the Supervisor of Elections shall, after revising a preliminary list of voters in accordance with regulations 46 and 47,

- (a) certify three copies of the revised preliminary list in Form 32 for each Electoral District;
- (b) deliver one certified copy of the revised preliminary list to the Supervisor of Elections and retain the other copies; and
- (c) not later than the last day of every quarter of every year, publish a certified copy of the revised preliminary list.

(2) When published in accordance with these Regulations, the revised preliminary list of voters for an Electoral District constitutes the register of voters for that Electoral District.

(3) After the enumeration year, after the date on which the register is proclaimed to be in force, the Supervisor of Elections shall, on the application of any person during business hours and on payment of the prescribed fee, furnish the person with a copy of the register of voters.

(4) After the enumeration year, when a writ is issued, the Supervisor of Elections shall immediately transmit a certified copy of the register of voters to the Returning Officer for each Electoral District.

Insertion of names in register of voters

49. (1) If the Supervisor of Elections has reasonable cause to believe that the name of any voter who has been included in the preliminary list of voters for any polling division has through inadvertence been omitted from the register of voters for that Division, the Supervisor of Elections shall ascertain by reference to the relevant preliminary list, whether the omission of that name has been made.

(2) If the omission is verified, the Supervisor of Elections shall insert in the copies of the register of voters the name, address and occupation of the voter concerned and initial the correction and shall,

- (a) notify the person whose name was omitted, of the insertion; and
- (b) send a copy of the corrected register to the Returning Officer for the Elections District concerned.

(3) The Supervisor of Elections shall not insert the name of any person,

- (a) expunged by him from the preliminary list of voters in pursuance of a decision in respect of an objection made by him under regulation 42; or
- (b) at any time after 7 days immediately before polling day.

(4) When a Returning Officer receives a copy of the corrected register in accordance with this regulation, the Returning Officer shall give notice of the insertion to the persons whom he believes to be likely to be nominated as candidates for the relevant Electoral District or who have actually been nominated and to the presiding officer for the polling division concerned.

Deletion of names from register of voters

50. (1) If, during the period between the revision of any quarterly or preliminary list of voters and nomination day, the Supervisor of Elections has reasonable cause to believe that there appears on any register of voters the name of any person who is not qualified for inclusion on the register or that any insertion that has been made under regulation 49 is in respect of a person who is not entitled to be included in the register, he shall hold a special revision to investigate the case.

(2) The Supervisor of Elections shall give at least 5 days' notice to the person referred to in paragraph (1) of the time and place at which the special revision will take place and at that time and place consider the eligibility of the person to be included in the register of voters.

(3) If the Supervisor of Elections decides that the name of the person referred to in paragraph (1) should not be included in the register of voters, he shall delete the name from the register of voters and initial the deletion on the copies of the register retained by him.

(4) The Supervisor of Elections shall,

(a) send a copy of the corrected register to the Returning Officer; and

(b) if the register has been transmitted to the Returning Officer under regulation 45(4), 48(4) or 49(2)(c), send a copy of the corrected register to the Returning Officer for the Elections District concerned.

(5) No special revision under this regulation shall be held later than 7 days after nomination day.

(6) When a Returning Officer receives a copy of the corrected register in accordance with this regulation, the Returning Officer shall give notice of the deletion to the persons whom he believes to be likely to be nominated as candidates for the relevant Electoral District or who have actually been nominated and to the presiding officer for the polling division concerned.

MISCELLANEOUS

Publication of documents

51. (1) Where the Supervisor of Elections is required by these Regulations to publish any document, he shall publish the document by making the proper entries on the prescribed forms and making a copy of the document available for inspection by the public in his office and electronically, and, if he thinks fit, in any manner that in his opinion is desirable for the purpose of bringing the contents of the document to the notice of those interested.

(2) Failure to publish a document in accordance with these Regulations does not invalidate the document.

Destroying or defacing documents

52. Any person who without lawful authority destroys, mutilates, defaces or removes, or makes any alteration in any notice published by the Registration Officer in connection with his registration duties, or any copies of a document which have been made available for inspection in pursuance of these Regulations, is liable on summary conviction to a fine of \$2,000.

Inspection and copies of documents

53. The Supervisor of Elections shall, on the application of a person, allow the person to inspect, and take extracts from, or on payment of the prescribed fee, supply to that person, copies of the lists of voters for any registration unit in his Electoral District and any claim or notice of objection made under these Regulations.

Declarations as to age and nationality

54. (1) The Supervisor of Elections, before registering any person as a voter, may, if he thinks it necessary,

(a) require that person to produce a certificate of birth, or, if that is not practicable, to make a statutory declaration that he has attained the required age; and

(b) require that person to produce such other evidence, or to make such statutory declaration, respecting his qualification as a voter (other than age) as the Supervisor of Elections considers appropriate.

(2) Where a declaration is required, no fee is payable for it.

(3) The Supervisor of Elections shall during office hours allow any person to inspect and take a copy of a declaration referred to in paragraph (1).

Power to require evidence on oath or affirmation

55. The Supervisor of Elections may, at the request of any person interested, or if he thinks fit without a request, on the consideration of any claim, objection, or other matter, require that the evidence tendered by any person should be given on oath or affirmation and may administer an oath or affirmation for the purpose.

Oaths or affirmations of enumerators and scrutineers

56. The Supervisor of Elections may administer an oath or affirmation in the Form referred to in regulation 8, 17 or 25.

False declaration

57. Any person who in the course of revision of any preliminary list makes before the Supervisor of Elections any statement upon oath or affirmation which he knows to be false, or does not believe to be true, is guilty of an offence and is liable on summary conviction to imprisonment for 1 year.

False documentation, etc. for purpose of being registered

58. Any person who is not qualified to be registered as a voter and who, for the purpose of being so registered, wilfully or knowingly gives any false documentation or information to an enumerator or Registration Officer is guilty of an offence and is liable on summary conviction to imprisonment for 1 year or to a fine of \$10,000 or to both.

Provisions as to misnomer or inaccurate description

59. No misnomer or inaccurate description of any person or place on any list or on any notice shall prejudice the operation of these Regulations as respects that person or place, if the person or place is so designated as to be commonly understood.

THIRD SCHEDULE

(Section 1)²⁶

FORMS

LIST OF FORMS

Form

- 1 Preliminary List of Voters (Alphabetical Order)
- 2 Preliminary List of Voters (Post-enumeration)
- 3 Preliminary List of Voters (Street Order)
- 4 Quarterly List of Voters
- 5 Appointment of an Enumerator
- 6 Oath/Affirmation of Enumerator
- 7 Registration Notice
- 8 Application for Registration on Preliminary List of Voters
- 9 Application for Registration on Quarterly List of Voters
- 10 Index Book
- 11 Copy of Entry Made in Index Book
- 12 Certificate of Provisional Registration
- 13 Application for Appointment of Scrutineer
- 14 Appointment of a Scrutineer
- 15 Oath/Affirmation of Scrutineer
- 16 Certificate of Enumerator
- 17 Revision Notice
- 18 Revision Notice (Quarterly List of Voters)
- 19 Revision Notice (Preliminary List of Voters)
- 20 Oath/Affirmation of Enumerator upon Completion of his Work
- 21 Notice of Claim
- 22 Notice of Claim
- 23 Notice of Objection
- 24 Notice of Election of Residence
- 25 Notice of Mis-spelt Name
- 26 Notice to Person Objected to
- 27 Notice of Hearing of Objection
- 28 List of Claims
- 29 List of Objections
- 30 Notice of Insertion of Correction
- 31 Notice of Intention to Make Corrections or Insertions
- 32 Revised Preliminary List of Voters
- 33 Revised Quarterly List of Voters
- 34 Oath/Affirmation of Returning Officer
- 35 Oath/Affirmation of Registration Officer
- 36 Application for Transfer of Registration
- 37 Voter Registration Card
- 38 Application for a Duplicate Voter Registration Card
- 39 Writ of Election
- 40 Notice of Nomination Day
- 41 Nomination Paper
- 42 Return of Uncontested Election

²⁶ We have attempted to cross-reference the Section numbers, Regulation numbers, and Form numbers as accurately as we can, but some anomalies may remain. We respectfully depend on the legal draftspersons in the A-G's Department to ensure all is perfect

| | |
|----|---|
| 43 | Oath/Affirmation of Presiding Officer |
| 44 | Oath/Affirmation of Poll Clerk |
| 45 | Directions for the Guidance of Voters |
| 46 | Ballot Paper |
| 47 | Oath/Affirmation of Identity of a Voter Receiving a Ballot Paper after Another has Voted in his Name |
| 48 | Poll Book |
| 49 | Oath/Affirmation of Physically Handicapped Voter |
| 50 | Oath/Affirmation of an Elderly or Illiterate Voter |
| 51 | Oath/Affirmation of Friend of Blind or Illiterate Voter |
| 52 | Oath/Affirmation that the Voter is the Person Intended to Be Referred to in the List of Voters |
| 53 | Oath/Affirmation of Qualification |
| 54 | Application to Be Treated as a Voter at an Advance Poll |
| 55 | Ballot Paper and Ballot Box Account |
| 56 | Oath/Affirmation of Agent of a Candidate |
| 57 | Oath/Affirmation of Messenger Sent to Collect Ballot Boxes |
| 58 | Request for Recount |
| 59 | Statement of Poll |
| 60 | Return after Poll Has Been Taken |
| 61 | Certified Joint Statement of Candidature |
| 62 | Symbols to Be Used on Ballot Paper |
| 63 | Notice of Disallowance |

FORM 1

(Regulations 2 and 20)

Preliminary List of Voters (Alphabetical Order)

[Use Form 1 of the Election Registration Regulations, RRA E30-1.]

FORM 2

(Regulation 30(4))

Preliminary List of Voters (Post-Enumeration)

[Use Form 2 of the Election Registration Regulations, RRA E30-1.]

FORM 3

(Regulations 2 and 20)

Preliminary List of Voters (Street Order)

[Use Form 3 of the Election Registration Regulations, RRA E30-1.]

FORM 4

(Regulation 28(1))

Quarterly List of Voters

[Use Form 4 of the Election Registration Regulations, RRA E30-1.]

FORM 5

(Regulation 5)

Appointment of an Enumerator

[Use Form 5 of the Election Registration Regulations, RRA E30-1.]

FORM 6

(Regulation 8)

Oath/Affirmation of Enumerator

(Use Form 6 of the Election Registration Regulations, RRA E30-1)

FORM 7

(Regulation 9)

Registration Notice

[Use Form 7 of the Election Registration Regulations, RRA E30-1.]

FORM 8

(Regulation 11(2))

Application for Registration on Preliminary List of Voters

[Use Form 8 of the Election Registration Regulations, RRA E30-1.]

FORM 9

(Regulation 27(1))

Application for Registration on Quarterly List of Voters

[Use Form 9 of the Election Registration Regulations, RRA E30-1.]

FORM 10

(Regulation 11(3))

Index Book

[Use Form 10 of the Election Registration Regulations, RRA E30-1.]

FORM 11

(Regulation 11(4))

Copy of Entry Made in Index Book

[Use Form 11 of the Election Registration Regulations, RRA E30-1.]

FORM 12

(Regulation 27(12))

Certificate of Provisional Registration

[Form 12 of the Election Registration Regulations, RRA E30-1.]

FORM 13

(Regulation 14)

Application for Appointment of Scrutineers

[Form 13 of the Election Registration Regulations, RRA E30-1.]

FORM 14

(Regulation 16)

Appointment of a Scrutineer

[Form 14 of the Election Registration Regulations, RRA E30-1.]

FORM 15

(Regulations 17 and 56)

Oath/Affirmation of Scrutineer

[Use Form 15 of the Election Registration Regulations, RRA E30-1.]

FORM 16

(Regulations 21(2)(a) and 22(2))

Certificate of Enumerator

[Use Form 16 of the Election Registration Regulations, RRA E30-1.]

FORM 17

(Regulation 24)

Revision Notice

[Use Form 17 of the Election Registration Regulations, RRA E30-1]

FORM 18

(Regulation 29(2))

Revision Notice (Quarterly List of Voters)

[Use Form 18 of the Election Registration Regulations, RRA E30-1.]

FORM 19

(Regulation 30(7))

Revision Notice (Preliminary List of Voters)

[Use Form 19 of the Election Registration Regulations, RRA E30-1.]

FORM 20

(Regulations 25 and 56)

Oath/Affirmation of Enumerator upon Completion of his Work

[Use Form 20 of the Election Registration Regulations, RRA E30-1.]

FORM 21

(Regulations 31 and 34(1))

Notice of Claim

[Use Form 21 of the Election Registration Regulations, RRA E30-1.]

FORM 22

(Regulations 31, 34(3) and 34(7))

Notice of Claim

[Form 22 of the Election Registration Regulations, RRA E30-1.]

FORM 23

(Regulations 31, 36(3), 38(1) and 38(3))

Notice of Objection

[Form 23 of the Election Registration Regulations, RRA E30-1.]

FORM 24

(Regulations 31, 33(1)(a), and 33(2)(a))

Notice of Election of Residence

[Use Form 24 of the Election Registration Regulations, RRA E30-1.]

FORM 25

(Regulations 31, 33(1)(b) and 33(2)(b))

Notice of Mis-spelt Name

[Use Form 25 of the Election Registration Regulations, RRA E30-1.]

FORM 26

(Regulations 36(5) and 38(5))

Notice to Persons Objected to

[Use Form 25 of the Election Registration Regulations, RRA E30-1.]

FORM 27

(Regulations 36(5) and 38(5))

NOTICE OF HEARING OF OBJECTION

[Use Form 27 of the Election Registration Regulations, RRA E30-1.]

FORM 28

(Regulation 35)

List of Claims

[Use Form 28 of the Election Registration Regulations, RRA E30-1.]

FORM 29

(Regulations 37 and 39)

List of Objections

[Use Form 29 of the Election Registration Regulations, RRA E30-1.]

FORM 30

(Regulation 40(1))

Notice of Insertion or Correction

[Use Form 30 of the Election Registration Regulations, RRA E30-1.]

FORM 31

(Regulation 43(1) and (2))

Notice of Intention to Make Corrections or Insertions

[Use Form 31 of the Election Registration Regulations, RRA E30-1.]

FORM 32

(Regulations 45(1)(a) and 48(1)(a))

Revised Preliminary List of Voters

[Use Form 32 of the Election Registration Regulations, RRA E30-1.]

FORM 33

(Regulation 46(a))

Revised Quarterly List of Voters

[Use Form 32 of the Election Registration Regulations, RRA E30-1.]

FORM 34

(Section 8(4))

Oath/Affirmation of Returning Officer

[Use Form 2 in the Elections Act, RSA c E30.]

FORM 35

(Section 6(6))

Oath/Affirmation of Registration Officer

[Use Form 1 in the Elections Act, RSA c E 30.]

FORM 36

(Section 33)

Application for Transfer of Registration

[Use Form 8 in the BVI Elections Act, 1994.]

FORM 37

(Section 42(3))

Voter Registration Card

[Adapt Form 9 of the BVI Elections (Amendment) Act, 2007.]

FORM 38

(Section 42(7))

APPLICATION FOR A DUPLICATE VOTER REGISTRATION CARD

[Adapt Form 9B of the BVI Elections (Amendment) Act, 2007.]

FORM 39

(Section 45)

Writ of Election

[Use Form 3 in the Elections Act, RSA c E30.]

FORM 40

(Section 46(1))

Notice of Nomination Day

[Use Form 4 from in the Elections Act, RSA c E30.]

FORM 41

(Section 46(3) and (5))

Nomination Paper

[Use Form 5 in the Elections Act, RSA c E30 amended in the first line to give the alternative, "local electoral district/island-wide electoral district".]

FORM 42

(Section 50(5))

Return of Uncontested Election

[Use Form 6 in the Elections Act, RSA c E30.]

FORM 43

(Section 52(3))

Oath/Affirmation of Presiding Officer

[Use Form 8 in the Elections Act, RSA c E30.]

FORM 44

(Section 53(2))

Oath/Affirmation of Poll Clerk

[Use Form 9 in the Elections Act, RSA c E30.]

FORM 45

(Section 55(4)(e))

Directions for the Guidance of Voters

[Use Form 18 in the BVI Elections Act, 1994, combined with Form 10 in the Elections Act, RSA c E30.]

FORM 46

(Sections 57(2))

Ballot Paper

[Use BVI Form No 19 in the BVI Elections Act, 1994, with a perforation to provide a separate ballot for island-wide elections.]

FORM 47

(Section 66(1))

Oath/Affirmation of Identity of a Voter Receiving a Ballot Paper after Another has Voted in his Name.

[Use Form 7 in the Elections Act, RSA c E30.]

FORM 48

(Section 2)

Poll Book

[Use Form 12 in the Elections Act, RSA c E30.]

FORM 49

(Section 66(3))

Oath/Affirmation of Voter Incapable of Voting without Assistance by Reason of Physical Incapacity

[Use Form 15 in the Elections Act, RSA c E30.]

FORM 50

(Section 66(3))

Oath/Affirmation of Blind or Illiterate Voter Incapable of Voting without Assistance

[Use Form 16 in the Elections Act, RSA c E30.]

FORM 51

(Section 66(1) and (5))

Oath/Affirmation of Friend of Blind or Illiterate Voter

[Use Form 17 in the Elections Act, RSA c E30.]

FORM 52

(Section 66(1) and 67(1))

Oath/Affirmation that the Voter Is the Person Intended to Be Referred to in the List of Voters.

[Use Form 18 in the Elections Act, RSA c E30.]

FORM 53

(Section 67(2))

Oath/Affirmation of Qualification of Voter

[Use Form 19 in the Elections Act, RSA c E30.]

FORM 54

(Section 68(2))

Application to Be Treated as a Voter of an Advance Poll

[Use Form 27 in the BVI Elections Act, No 16 of 1994.]

FORM 55

(Section 72(1(g))

Ballot Paper and Ballot Box Account

[Use Form 27A in the BVI Elections (Amendment) Act, No 14 of 2011.]

FORM 56

(Section 70(2))

Oath/Affirmation of Agent of a Candidate

[Use Form 20 in the Elections Act, RSA c E30.]

FORM 57

(Section 71(3))

Oath/Affirmation of Messenger Sent to Collect Ballot Boxes.

[Use Form 21 in the Elections Act, RSA c E30.]

FORM 58

(Section 72(8))

Request for Recount

[Use Form 30 in the BVI Elections Act, No 16 of 1994.]

FORM 59

(Section 72(9)(c))

Statement of Poll

[Use Form 30A in the BVI Elections (Amendment) Act, No 14 of 2011.]

FORM 60

(Section 75(1))

Return after Poll Has Been Taken

[Use Form 22 in the Elections Act, RSA c E30.]

FORM 61

(Section 47(1))

Certified Joint Statement of Candidature

[Use Schedule 1 to the House of Assembly Regulations, RRA E30-2.]

FORM 62

(Section 47(2))

Symbols to be Used on Ballot Paper

[Use Schedule 2 of the House of Assembly Regulations, RRA E30-2.]

FORM 63

(Regulation 27(9))

Notice of disallowance

[Use Form in the .]

FOURTH SCHEDULE
ELECTION PETITION RULES AND FORMS²⁷
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 2. The petition
 3. Particulars of election offence
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 7. Service of petition
 8. Security for costs
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 15. Addition or substitution of respondent
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 19. Notice of recrimination when petition complains of undue return and claims seat
 20. Returning officer if complained of to be respondent
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 27. Application of Eastern Caribbean Supreme Court Civil Procedure Rules 2000
 28. Costs
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- APPENDIX: Forms

²⁷ These are the present House of Assembly (Election Petition) Rules, RRA E30-9.

Interpretation

1. In these Rules—

“ Act” means the Elections Act;

“corrupt practice” means bribery, treating, undue influence, personation or any other offence defined or recognised as a corrupt practice by the laws of Anguilla;

“Court of Appeal” means the Court of Appeal of the Eastern Caribbean Supreme Court established by the Supreme Court Order 1967;

“court office” means the Registry of the High Court;

“election petition” or “petition” means a petition complaining of an undue return or undue election of a member of the House of Assembly presented to the High Court under the Elections Act and of these Rules;

“petitioner” means a person who presents a petition to the High Court under these Rules;

“respondent” means a person against whom a petition is presented to the High Court.

The petition

2. (1) A petition shall be in the form specified as Form 1 of the Appendix and,
- (a) be signed by the petitioner or, if more than one, by all the petitioners;
 - (b) state the right of the petitioner to petition within section 67(2) of the Act;
 - (c) state the date and result of the election to which the petition relates;
 - (d) state the grounds on which relief is sought, setting out with sufficient particularity the facts relied on to sustain the prayer, but not the evidence by which they are to be proved;
 - (e) be divided into consecutively numbered paragraphs, each of which, as much as possible, shall be confined to a distinct portion of the subject; and
 - (f) conclude with a prayer, setting out particulars of the relief sought, for instance, that a specified person should be declared duly returned or elected, or that the election should be declared void, or that a return may be enforced.
- (2) Evidence shall not be stated in the petition.

Particulars of election offence

3. (1) The judge may order, on an application in the manner prescribed as Form 2 in the Appendix, that such particulars as may be necessary to prevent surprise and unnecessary expense and to ensure a fair and effectual trial in the same way as in

ordinary proceedings in the Court and on such terms as to costs and otherwise be delivered by the petitioner.

(2) Where an allegation is made against a person for the commission of an election offence under the Act, that allegation shall be made in the manner prescribed in Form 3 of the Appendix and the particulars shall include,

- (a) the name of the person in the petition against whom the alleged election offence was committed;
- (b) the name, address, telephone number and occupation on the register of the person who is alleged to have committed the election offence; and
- (c) the details of the alleged election offence including,
 - (i) the nature of the offence;
 - (ii) the time of the commission of the offence; and
 - (iii) the place where the offence was committed.

(3) In any case in which the judge orders that particulars of any allegation made in a petition be delivered to the respondent, he may fix the time within which the particulars shall be delivered and may also order that the petitioner, at the trial of the petition, may be precluded from going into any case in respect of which the particulars have not been duly delivered, unless it is otherwise ordered.

Petitioner to give address for service

4. The petitioner shall in his petition give the name and address of a legal practitioner whom he authorises to act on his behalf, or state that he acts for himself, and in either case give an address for service within 3 miles of the office of the Registrar.

Presentation of petition

5. (1) A petition shall be presented in accordance with section 68 of the Act.

(2) The petitioner shall file the petition along with 3 copies of it at the court office and the Registrar or his deputy or clerk shall give a receipt for it.

Publication of notice of the presentation of the petition

6. The Registrar shall, on presentation of the petition, immediately cause a notice of the presentation of the petition in the manner prescribed in Form 4 of the Appendix, to be published in the Gazette and in a newspaper of general circulation in Anguilla.

Service of petition

7. (1) The petitioner shall, within 10 days after the presentation of the petition, serve the petition on the respondent by delivering a notice of the presentation of the petition together with a copy of the petition to the respondent personally.

(2) Notwithstanding subsection (1), a judge may,

(a) on an application by the petitioner within 14 days of the presentation of the petition; and

(b) supported by affidavit showing what has been done,

and on being satisfied that all reasonable effort has been made to effect personal service and cause the matter to come to the knowledge of the respondent, order that what has been done shall be considered sufficient service, subject to any conditions which he may think fit to impose.

(3) Where a respondent is evading service, the petitioner may apply, in the manner prescribed on Form 5 in the Appendix, to the judge, for an order deeming that a notice stating that the petition has been presented, the name of the petitioner, the prayer and the nature of the proposed security,

(a) posted in the office of the Registrar; or

(b) published in a newspaper of general circulation in Anguilla,

is personal service on the respondent.

(4) The application under subsection (3) shall be supported by evidence on affidavit.

(5) A respondent shall, within 10 days after service on him of the notice of the petition, lodge with the Registrar and serve on the petitioner a statement of particulars of an address for service similar to those required under section 4 to be stated by a petitioner, and he shall state the said particulars in any application made by him for the purpose of objecting to the security given by the petitioner or otherwise.

Security for costs

8. (1) Where security for the payment of all costs, charges and expenses and any recognizance entered into pursuant to sections 68(1)(c) and (d) are made same shall be entered on Form 6 of the Appendix and shall contain the name and usual place of abode of each surety with sufficient description as shall enable him to be found or ascertained.

(2) Within 3 days after the giving of security as required by this section, notice of the nature of the security given shall be served by the petitioner on the respondent.

(3) When the security is given wholly or partly by recognizance, it is lawful for the respondent within 10 days from the date of service on him of the notice to object to the recognizance on the ground that,

(a) one or more of the sureties is insufficient;

(b) a surety is dead;

(c) a surety cannot be found or ascertained for want of sufficient description in the recognizance; or

(d) a person named in the recognizance has not duly acknowledged the same.

(4) An objection to the security shall be made by application, in the manner prescribed in Form 7 of the Appendix, before a judge supported by affidavit of the facts relied on, but the judge may require the person giving evidence on affidavit to attend for personal examination.

(5) The application shall be made with not less than 4 days notice to the petitioner and the costs of the application shall be in the discretion of the judge who may decide which party shall pay them.

(6) The petitioner shall pay the costs of hearing and deciding an objection on the ground of insufficiency of a security unless at the time of leaving the recognizance with the Registrar the petitioner also left with the Registrar an affidavit sworn by each surety before a justice of the peace, or other person duly authorised to administer oaths, that he is possessed of immovable property of the value of double the amount for which he is bound by the recognizance, after satisfying all other debts and liabilities due to other persons.

Removal of objection where security declared insufficient

9. (1) If on an application under section 8, an order, in the manner prescribed as Form 8 in the Appendix, is made declaring the security insufficient and the objection allowed, the petitioner may, within a time not exceeding 10 days as may be ordered by the judge before whom the application is heard, deposit with the Court a sum of money as the judge may direct for the purpose of making the security sufficient.

(2) If the petitioner does not deposit the sum of money as directed by the order of the judge, no further proceedings shall be taken on the petition and the application stands dismissed.

When petition at issue

10. If on the application under section 8, an order in the manner prescribed as Form 8 in the Appendix is made declaring the security sufficient, or if no objection is made to the sufficiency of the security within the time limited by these Rules for making the objection, the petition shall be at issue.

Amendment of petition

11. (1) A petition which has been presented,
(a) questioning a return or election other than on an allegation of a corrupt practice; or
(b) questioning the return or election on an allegation of a corrupt practice,
may be amended with the leave of the Court.

(2) An application for leave to amend shall be made to the Court in the manner prescribed as Form 9 in the Appendix and in accordance with the Act.

Withdrawal of petition

12. (1) A petition may be withdrawn with the leave of the Court.

(2) No application under subsection (1) shall be made for the withdrawal of a petition until the petitioner has given notice, in the manner prescribed as Forms 10 and 11 in the Appendix, of his intention to the Registrar and the respondent, and the Registrar shall immediately cause the notice to be published in the *Gazette* and in a newspaper of general circulation in Anguilla and an application for leave shall be made in the manner prescribed as Form 12 in the Appendix.

(3) Where there is more than one petitioner, no application to withdraw a petition shall be made except with the consent of all the petitioners.

(4) Before leave for the withdrawal of a petition is granted,

(a) a party to the petition and his legal practitioner; and

(b) the election agents of the parties who were candidates at the election,

shall produce affidavits to the effect stated in subsection (5), but the Court may, on cause shown, dispense with the affidavit of a particular person if on special grounds it appears to the Court just to do so.

(5) Each affidavit shall state that, to the best of the deponent's knowledge and belief,

(a) no agreement or terms of any kind whatsoever has, or have been, made; and

(b) no undertaking has been entered into,

in relation to the withdrawal of the petition, but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set out that agreement and shall make the foregoing statement subject to what appears from the affidavits.

(6) The affidavits of the applicant and his legal practitioner shall further state the ground on which the petition is sought to be withdrawn.

(7) No person shall make any agreement or terms, or enter into any undertaking, in relation to or for the withdrawal of a petition in consideration,

(a) of any payment;

(b) that the seat shall at any time be vacated; or

(c) of the withdrawal of any other petition.

(8) A person who contravenes this section commits an offence and is liable to a fine of \$500.

Substitution of a new petitioner

13. (1) A person who might have been a petitioner in respect of the election to which the petition relates may, within 5 days after the publication by the Registrar in the *Gazette* of a copy of the notice of application for leave to withdraw the petition, apply to the Court, in the manner prescribed as Form 13 in the Appendix, to be substituted as a petitioner for the petitioner who desires to withdraw the petition, and the judge may at the hearing of the application, if he thinks fit, substitute the applicant as a petitioner.

(2) Where in the opinion of the judge, the proposed withdrawal of a petition is induced by any corrupt bargain or consideration or is the result of any agreement, terms or undertaking prohibited by these Rules, he may, by order, direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner.

(3) If no order under subsection (2) is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of an original petitioner and subject to like conditions, shall be given on behalf of the substituted petitioner within 5 days after the order of substitution and before he takes any step in the proceedings.

(4) Subject to this section, a substituted petitioner shall stand in the same position, as nearly as may be, and be subject to the same liabilities, as the original petitioner.

(5) If a petition is withdrawn, the substituted petitioner is liable to pay the costs of the respondent.

Abatement of petition

14. (1) A petition shall be abated by the death of a sole petitioner or the survivor of several petitioners.

(2) The abatement of a petition shall not affect the liability of the petitioner's legal personal representative to pay the costs previously incurred.

(3) On the abatement of a petition, a party or person interested in the petition shall give to the Registrar notice of the abatement, in the manner prescribed as Form 14 in the Appendix and the Registrar shall immediately cause the notice to be inserted in the *Gazette* and in a newspaper of general circulation in Anguilla.

(4) Within one month after publication of the notice in the *Gazette* a person who might have been a petitioner in respect of the election to which the petition relates may apply to the Court, pursuant to section 13, to be substituted as a petitioner.

(5) The judge may, if he thinks fit, substitute as a petitioner the applicant on whose behalf security to the same amount as is required in the case of an original petition is given and the security shall be subject to the same objection as the security given in an original petition.

Addition or substitution of respondent

15. (1) If, before the trial of a petition,

- (a) the respondent dies, then a person entitled to be a petitioner in respect of the election to which the petition relates may give notice, in the manner prescribed in Form 15 of the Appendix, of the death of the respondent by publication in the *Gazette* and in a newspaper of general circulation in Anguilla; or
- (b) the respondent gives notice, in the manner prescribed in Form 16 of the Appendix, to the Registrar and to the petitioner that he does not intend to oppose the petition, the Registrar shall give notice of the intention of the respondent by publication in the *Gazette* and in a newspaper of general circulation in Anguilla.

(2) Within 21 days after publication of the notice under subsection (1) in the *Gazette*, a person may apply, in the manner prescribed as Form 17 of the Appendix, to the Court to be admitted as a respondent to oppose the petition, and the person shall be admitted accordingly either with the respondent, if there be a respondent, or in place of the respondent.

(3) Any number of persons not exceeding 3 may be admitted.

Notice of intention not to oppose petition

16. A respondent who does not intend to oppose the petition shall, not less than 7 days before the day fixed for the trial, serve notice in the manner prescribed in Form 17 of the Appendix to that effect on the petitioner and all other parties.

Respondent not opposing not to appear as party

17. A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not appear or act as a party against the petition in any proceedings on the petition.

Several petitions as to the same election

18. Where more than one petition relating to the same election or return is presented, all the petitions shall be dealt with as one petition, in the manner and on the terms, as the judge directs.

Notice of recrimination when petition complains of undue return and claims seat

19. (1) When a petition complains of an undue return and claims the seat for some person other than the person returned, the respondent may, within 10 days after the service of the notice of the petition, give notice in the manner prescribed in Form 18 of the Appendix to the petitioner that he intends to give evidence to prove that the person on whose behalf the seat is claimed was not duly elected.

(2) The grounds on which a respondent intends to complain that a person on whose behalf the seat is claimed was not duly elected shall be set out in the notice and the Rules applicable to a petition and the particulars of charges made in the petition shall apply to every notice.

Returning officer if complained of to be respondent

20. Where a petition complains of the conduct of a returning officer, the returning officer shall for the purposes of these Rules, be the respondent except where there is a substitution of a respondent in his place.

Petition complaining of no return

21. A petition complaining of no return may be presented to the Court, and is deemed to be an election petition, and the judge may,

- (a) make an order on the petition as he thinks expedient for compelling a return to be made; or
- (b) allow the petition to be heard in a manner provided with regard to petitions.

Mode of trial of petitions

22. The following provisions apply to the trial of a petition,

- (a) the trial shall take place in open court at a time as a judge may appoint, not being less than 7 days after notice of trial, in the manner prescribed as Form 19 in the Appendix, has been given to the parties and published in the *Gazette* and in a newspaper of general circulation in Anguilla;
- (b) the judge may adjourn the trial from time to time, but the trial of every petition so far as practicable, and consistent with the interests of justice in respect of the trial, shall be continued from day to day on lawful days until its conclusion;
- (c) the judge may make a special report to the Governor upon any matter arising in the course of the trial, an account of which in his judgment ought to be submitted;
- (d) where it appears to the judge, on application, in the manner prescribed as Form 20 in the Appendix, by either party or without the application, that the case raised by the petition can be conveniently stated as a special case, he may direct the same to be stated by the petitioner and the respondent accordingly, and any special case shall, as far as may be, be heard before the Court, and the decision of the Court shall be the decision on the petition;
- (e) in case the petitioner and the respondent differ on the stating of the special case, the Court may refer the same to be settled by a legal practitioner conferred with the rank of Queen's Counsel or Senior Counsel;
- (f) a copy of the case stated as settled shall be sent to the parties within 7 days of settlement of the case stated;
- (g) the court office shall give the parties at least 14 days notice of the date, time and hearing of the special case;
- (h) the judge shall certify to the Governor his determination in reference to a special case.

Power to reserve question of law for Court of Appeal

23. (1) If it appears to the judge, on the hearing of any election petition or any special case, that any question of law requires further consideration by the Court of Appeal, he may postpone the hearing, or the granting of any certificate to the Governor, until the determination of the question by the Court of Appeal and for this purpose may reserve any question of law for the determination of the Court of Appeal.

(2) A reference to the Court of Appeal under subsection (1) shall be by way of a special case stated under section 22.

Evidence of corrupt practice receivable before proof of agency

24. On the trial of a petition, unless the judge otherwise directs, any charge of a corrupt practice may be examined by the Court, and evidence in relation to the charge received, notwithstanding that any proof has been given of agency on the part of any candidate in respect of the corrupt practice.

Witnesses

25. (1) Witnesses shall be summoned and sworn in the same manner, as nearly as circumstances admit, as in an action tried in a civil trial.

(2) At the trial, the Court may, by order under the hand of the judge, require a person who appears to him to have been concerned in the election to attend as a witness, and a person wilfully refusing to obey that order shall be guilty of contempt of court.

(3) A witness may, after his examination by the Court, be cross-examined by or on behalf of the petitioner and respondent, or either of them.

(4) A person called as a witness in respect of an election before the Court shall not be excused from answering any question relating to any offence at or connected with the election, on the ground of privilege.

(5) Notwithstanding subsection (4),

(a) a witness who answers truly all questions which he is required by the Court to answer shall in the discretion of the Court be eligible to receive a certificate of indemnity under the hand of the judge stating that the witness has so answered; and

(b) an answer by a person to a question put by or before the Court is not admissible in evidence against that person in civil or criminal proceedings, except in the case of any criminal proceeding for perjury in respect of the evidence.

(6) The reasonable expenses incurred by a person in appearing to give evidence at the trial of a petition, if allowed to the person by order of the judge, is payable in the first instance by the party who calls him as a witness and the amount payable shall be ascertained and certified by the Registrar.

(7) The expenses under subsection (6) may be included in the costs of the petition and shall be paid by the party directed to pay those costs.

(8) The expenses of a witness called and examined by the judge are deemed to be costs of the petition and shall be paid as directed by the order of the judge.

General costs of petition

26. (1) Except where specifically provided for in these Rules, all costs, charges and expenses of and incidental to the presentation of a petition, or of any consequent proceedings shall be in the discretion of the Court and shall be defrayed by the parties to the petition in a manner and in proportions as the Court may determine.

(2) The Court may disallow any costs, charges or expenses which may, in its opinion, have been caused by,

- (a) vexatious conduct;
- (b) unfounded allegations; or
- (c) unfounded objections,

on the part of either the petitioner or the respondent, and shall have regard to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether or not the parties are on the whole successful.

(3) The rules and regulations of the Court with respect to costs to be allowed in actions, causes and matters in the Court shall, in principle and so far as practicable, apply to the costs of election petitions and connected proceedings and the amount of the costs may be fixed by the judge or may be directed to be assessed.

(4) Where the petitioner is ordered to pay any costs and he fails to pay the costs within 14 days from the date of the order of the Court,

- (a) the Registrar shall pay the costs out of any money deposited with the Court as security under these Rules and execution may be issued against the petitioner and the sureties jointly and severally for any balance not covered by the deposit; or
- (b) where security has been given by recognizance, the Registrar shall, on an affidavit of the respondent stating,
 - (i) the amount of the costs directed to be paid by the petitioner; and
 - (ii) that neither the petitioner nor any of the sureties has paid them within 14 days after the order to pay the same,

certify the recognizance to be forfeited.

(5) The Court shall immediately issue execution for the recovery of the amount of the costs ordered to be paid against the petitioner and the sureties jointly and severally to the extent of the amount for which they are bound by the recognizance, but the petitioner is always liable to pay the full amount of the costs.

(6) If the security given by the petitioner is in the form of money deposited with the Court, the petitioner is entitled to a refund of a portion of the money exceeding the amount of the costs ordered to be paid by him.

(7) If a respondent who is ordered to pay any costs to the petitioner fails to do so within 14 days from the date of the order directing the payment, execution shall immediately be issued out of the Court for the recovery of the amount of costs.

(8) Execution shall be levied in accordance with the law governing execution in civil actions in the Court.

Application of Eastern Caribbean Supreme Court Civil Procedure Rules 2000

27. A judge may direct, in any matter not provided for by the Act or by these Rules, that the practice and procedure set out in the Eastern Caribbean Supreme Court Civil Procedure Rules 2000, relating to the service of documents other than the election petition and the conduct of a civil trial may be applied.

Costs

28. The costs of publication of the notice of the presentation of the petition in section 6 and of any other matter required to be published by the Registrar under these Rules shall be paid to the Registrar before the publication by the petitioner or other person moving the matter in the first instance and shall form part of the general cost of the petition.

Citation

29. These Rules may be cited as the House of Assembly (Election Petition) Rules.

APPENDIX

FORMS

FORM 1

(Rule 2)

Petition

[Form 1 of the Election Petition Rules RRA, E030.9]

FORM 2

(Rule 3)

Application for Particulars

[Form 2 of the Election Petition Rules RRA, E030.9]

FORM 3

(Rule 3)

Particulars Delivered

[Form 3 of the Election Petition Rules RRA, E030.9]

FORM 4

(Rule 6)

Notice of Presentation of Petition and of the Nature of the Security

[Form 4 of the Election Petition Rules RRA, E030.9]

FORM 5

(Rule 7)

Application for Substituted Service

[Form 5 of the Election Petition Rules, RRA, E030.9]

FORM 6

(Rule 8)

Recognizance Giving Security for Costs under Section 8

[Form 6 of the Election Petition Rules, RRA, E030.9]

FORM 7

(Rule 8)

Application Objecting to Security

[Form 7 of the Election Petition Rules, RRA, E030.9]

FORM 8

(Rules 9, 10)

Order Upon an Application objecting to Security

[Form 8 of the Election Petition Rules, RRA, E030.9]

FORM 9

(Rule 11)

Application to Amend Petition

[Form 9 of the Election Petition Rules, RRA, E030.9]

FORM 10

(Rule 12)

Notice to Registrar and Respondent of Application for Leave to Withdraw a Petition

[Form 10 of the Election Petition Rules, RRA, E030.9]

FORM 11

(Rule 12)

Notice to Public of Application for Leave to Withdraw Petition

[Form 11 of the Election Petition Rules, RRA, E030.9]

FORM 12

(Rule 12)

Application for Leave to Withdraw Petition

[Form 12 of the Election Petition Rules, RRA, E030.9]

FORM 13

(Rule 13)

Application for Substitution of a Petitioner in Place of a Deceased Petitioner

[Form 13 of the Election Petition Rules, RRA, E030.9]

FORM 14

(Rule 14)

Notice of Abatement of Petition

[Form 14 of the Election Petition Rules, RRA, E030.9]

FORM 15

(Rule 15)

Notice to be Published of Death of the Respondent

[Form 15 of the Election Petition Rules, RRA, E030.9]

FORM 16

(Rule 15)

Notice to be Published by Respondent of Intention not to Oppose the Petition

[Form 16 of the Election Petition Rules, RRA, E030.9]

FORM 17

(Rule 15 and 16)

Application to be Admitted as a Respondent to Oppose the Petition

[Form 10 of the Election Petition Rules, RRA, E030.9]

FORM 18

(Rule 19)

Notice of Recriminatory Grounds

[Form 18 of the Election Petition Rules, RRA, E030.9]

FORM 19

(Rule 22)

Notice of Trial

[Form 19 of the Election Petition Rules, RRA, E030.9]

FORM 20

(Rule 22)

Application to turn Petition into Special Case

[Form 20 of the Election Petition Rules, RRA, E030.9]

Passed by the House of Assembly this

....., Speaker.

.....Clerk of the House of Assembly.