

**Extract from the
Elections Act
R.S.A. c. E30 (15/12/2008)**

PART 6
ELECTION OFFENCES

Intoxicating liquor not to be sold or given on polling day

69. (1) No intoxicating liquor shall be sold, offered for sale, or given away, at any time between the opening and closing of the poll on polling day, at any premises—

- (a) that are located in any Electoral District in which an election is being held; and
- (b) in respect of which a licence is issued under the Liquor Licences Act.

(2) Any person who contravenes subsection (1) is liable on summary conviction to a fine of \$4,000 or to imprisonment for 6 months.

Employers to allow employees time to vote

70. (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 the voter or impose upon or exact from him any penalty by reason of his absence during that period.

(2) Any employer who, directly or indirectly, refuses to grant, or by intimidation, undue influence or in any other way, interferes with the granting to any voter in his employ of a period for voting as provided in subsection (1) is liable on summary conviction to a fine of \$20,000 or to imprisonment for 6 months.

Offences by election officers

71. Every election officer who—

- (a) makes, in any record, return or other document that 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 the person is entitled to vote;

- (e) wilfully rejects or refuses to count any ballot paper that he knows or has reasonable cause to believe is validly cast for any candidate in accordance with this Act; or
- (f) wilfully counts any ballot paper as being cast for any candidate, that he knows or has reasonable cause to believe was not validly cast for that candidate;

is guilty of an offence and, on conviction, is liable to be imprisoned for a term of 2 years.

Loudspeakers, ensigns, banners, etc., prohibited on polling day

72. (1) No person—

- (a) shall furnish or supply any loudspeaker, bunting, ensign, banner, standard, set of colours or other flag, to any person with intent that it be carried, worn or used on a motor car, truck or other vehicle, as political propaganda, on polling day; or
- (b) shall, with that intent, carry, wear or use, on a motor car, truck or other vehicle, any loudspeaker, bunting, ensign, banner, standard or set of colours, or other flag, on polling day.

(2) No person—

- (a) 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 the candidate; or
- (b) shall use or wear any flag, ribbon, label or other favour, as badge for a purpose described in paragraph (a) within any Electoral District on polling day.

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

(4) Any person who contravenes this section is liable on summary conviction to a fine of \$40,000 or to imprisonment for 6 months.

Bribery

73. (1) The following persons are guilty of bribery within the meaning of this Act—

- (a) every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure any money or valuable consideration to or for any 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 of those acts on account of any voter having voted or refrained from voting at any election;
- (b) every person who, 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, or

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 the voter to vote or refrain from voting, or corruptly does any of those acts on account of any voter having voted or refrained from voting at any election;

- (c) every person who, directly or indirectly, by himself or by any other person on his behalf, makes any 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) every person who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any person as an elected member of the Assembly or the vote of any voter at any election;
- (e) every person who advances or pays or causes to be paid, any money to or to the use of any other person with the intent that that money, or any part of it, 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 the election;
- (f) every voter who, 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, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election;
- (g) every person who, after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at the election.

(2) Subsection (1) does not 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) In subsection (2), “legal expenses” include—

- (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.

Treating

74. The following persons are guilty of treating within the meaning of this Act—

- (a) every person who corruptly, by himself or by any other person, 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 the election, or on account of such person or any other person having voted or refrained from voting at the election;
- (b) every voter who corruptly accepts or takes any food, drink, entertainment or provision referred to in paragraph (a).

Undue influence

75. Every 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 that person to vote or refrain from voting or on account of that 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 to give or refrain from giving his vote at any election, is guilty of undue influence within the meaning of this Act.

Personation

76. Every person who at an election—

- (a) 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
- (b) having voted once at any election, applies at the same election for a ballot paper in his own name;

is guilty of personation within the meaning of this Act.

Penalty for bribery, treating or undue influence

77. Every person who is guilty of bribery, treating or undue influence under this Act is liable on summary conviction to imprisonment for 6 months or to a fine of \$19,200.

Penalty for personation

78. Every person who is guilty of personation, or of aiding, abetting, counselling or procuring the commission of the offence of personation, is liable, on conviction, to imprisonment for 2 years.

Disqualification for bribery, etc.

79. Every 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 disqualified during a period of 7 years from the date of conviction from being—

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

Penalty for certain illegal practices at elections

80. (1) Every person who—

- (a) votes, or induces or procures any person to vote, at any election, knowing that he or the other person is prohibited by this Act, or by any law in force in Anguilla, from voting at the election;
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate at the 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 29(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;

is guilty of an illegal practice and is liable on summary conviction to a fine of \$19,200 and shall be disqualified from being registered as a voter or of voting at any election during a period of 5 years from the date of conviction.

(2) Every person who, between the date of the publication in the *Gazette* by the Returning Officer of a notice in accordance with section 29(1) and the day after 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, is guilty of an illegal practice and is liable, on conviction on indictment, to imprisonment for 2 years, and is disqualified from being registered as a voter or of voting at any election during a period of 5 years from the date of conviction.

Omitting qualified persons from register

81. (1) The Electoral Registration Officer or any Registration Officer, assistant Registration Officer or enumerator who wilfully or without reasonable cause omits to register the name of any person qualified to be registered commits an offence and is liable on summary conviction to a fine of \$20,000 or to imprisonment for 6 months.

(2) The Electoral Registration Officer or any Registration Officer, assistant Registration Officer or enumerator who is convicted of an offence under subsection (1) shall, in addition to any other punishment—

- (a) forfeit his right to payment for his services as the Electoral Registration Officer, a Registration Officer, assistant Registration Officer, or an enumerator, as the case may be; and
- (b) subject to subsection (3), be disqualified during a period of 7 years from the date of the conviction from being—
 - (i) registered as a voter or of voting at any election, and
 - (ii) elected or appointed a member of the Assembly or, if elected or appointed before his conviction, of retaining his seat as such a member.

(3) Notwithstanding that an appeal is made against conviction for an offence under subsection (1), the disqualification provided for by paragraph (2)(b) shall continue until the appeal is determined and after such determination, unless the conviction is quashed, the disqualification shall remain in force for a period of 7 years from the determination of the appeal unless the court hearing the appeal directs that the period of 7 years shall run from the date of the conviction.

(Act 11/2008, s. 12)

Offences in respect of ballot papers

82. (1) Every person who—

- (a) forges or counterfeits, or fraudulently defaces or destroys, any ballot paper;
- (b) without due authority supplies a ballot paper to any person;
- (c) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized 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 in use for the purposes of any election; or
- (f) not being duly registered as a voter, votes at an election;

is liable on summary conviction, if he is an election officer, to imprisonment for 6 months or to a fine of \$19,200 and, if he is any other person, to imprisonment for 3 months or to a fine of \$9,600.

(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 the ballot boxes, ballot papers, or things may be stated to be in the Returning Officer at the election.

Infringement of secrecy

83. (1) Every election officer and every agent appointed under section 40 in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in the station, and shall not communicate except for a purpose authorized 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.

(2) 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 the candidate for whom any voter in the station is about to vote or has voted.

(3) Every election officer and every such 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 the candidate for whom any vote is given in any particular ballot paper.

(4) 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 the candidate for whom or against whose name he has marked his vote.

(5) Every person who contravenes this section is liable on summary conviction to imprisonment for 6 months or to a fine of \$9,600.