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**LAWS OF THE GAMBIA**

**ELECTIONS ACT**

**CHAPTER 3:01**

**Decree No.  
78 of 1996**

**Amended by  
Decree No. 91 of 1996  
Decree No. 93 of 1996  
Act No. 7 of 2001**

*Elections Act*

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**CHAPTER 3:01**

**ELECTIONS ACT**

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## CHAPTER 3:01

## ELECTIONS ACT

**An Act for regulating the registration of voters and conduct of elections in The Gambia, and for connected matters.**

[Decree No. 78 of 1996 amended by Decree No. 91 of 1996, Decree No. 93 of 1996, Act No. 7 of 2001.]

[Date of commencement: *2nd January, 1996.*]

## PART I

*Preliminary***1. Short title and commencement**

This Act may be cited as the Elections Act and shall be deemed to have come into force on the second day of January, 1996.

**2. Interpretation**

In this Act, unless the context otherwise requires—

“**Administrative Area**” means one of the Areas specified in Part I of the First Schedule;

[First Schedule.]

“**Commission**” means the Independent Electoral Commission established under the Constitution;

“**Constituency**” means one of the constituencies described in Part II of the First Schedule;

[First Schedule.]

“**Constitution**” means the Constitution of the Republic of The Gambia;

“**Court**” means the High Court established under the provisions of the Constitution;

“**election officer**” includes a member of the Commission, a Registering Officer, Presiding Officer, Returning Officer, Assistant Registering Officer, Assistant Presiding Officer, Assistant Returning Officer, and such other officer as the Commission may appoint for purposes of this Act;

“**electoral division**” means a constituency, district, ward or other area for which a candidate is elected and in the case of Presidential election, the whole country and such constituency that may be created for Gambians in foreign countries; and

“**political party**” means an association of Gambian citizens formed solely on the basis of party politics and registered as such with the Commission in accordance with section 105.



**3. Application**

(1) This Act applies to the election of candidates for the office of President, Member of the National Assembly, Mayor, Mayoress, Councillor and such other offices as the Commission may, by Order published in the *Gazette*, designate.

[Act No. 7 of 2001, Act No. 10 of 2007.]

(2) The Commission may, in the application of the provisions of this Act, make such adaptations as may be necessary for the conduct of elections to an office designated by it under subsection (1).

**PART II****Administration****4. Administrative Areas, Constituencies and Wards**

(1) The Commission shall, for the purpose of registration of voters and the conduct of elections, divide The Gambia into the Administrative Areas specified in Part I of the First Schedule or any other law, each Area consisting of such number of constituencies, demarcated and determined in accordance with the provisions of the Constitution and any other law.

[First Schedule.]

(2) For the purpose of the election of—

- (a) members of the National Assembly, The Gambia shall be divided into constituencies demarcated in accordance with the provisions of the Constitution and any other law, with each constituency returning one Member;
- (b) Councillors, each Administrative Area shall be divided into such number of wards as the Commission may determine, in consultation with the appropriate Ministry, in accordance with the provisions of this Act or any other law.

[Act No. 7 of 2001.]

**5. Appointment of election officers**

(1) Subject to this section and section 6, the Commission may appoint such number of election officers as it may consider fit, on such terms and conditions as it may determine.

(2) Without prejudice to subsection (1), the Commission shall appoint for each Administrative Area, a Registering Officer and a Returning Officer, and the Commission may appoint one person to hold both offices.

(3) For purposes of conducting elections, the Commission shall appoint Presiding Officers whose duties shall include the smooth conduct of elections at polling stations.

(4) A person shall not be qualified to be appointed as an election officer if he or she—

- (a) is not qualified to be registered as a voter under this Act;
- (b) is or has been convicted of an offence involving dishonesty or moral turpitude; or
- (c) has at any time been involved in election fraud or convicted of an offence under this Act.

(5) Paragraph (a) of subsection (4) may be waived in relation to any election conducted for Gambians in a foreign country.

(6) A person appointed as an election officer shall be a public officer under the direction and control of the Commission.

(7) An appointment made by the Commission may be revoked by it at any time.

#### 6. Objections to appointments.

(1) Where the Commission appoints a person as an election officer, it shall publish that person's name in the *Gazette* inviting members of the public to make objections to the appointment.

(2) A member of the public who objects to an appointment under subsection (1) shall, within seven days of the publication of the appointment in the *Gazette*, give the Commission his or her reasons in person or in writing for objecting to the appointment.

(3) Where the Commission receives an objection under this section, it shall consider the objection and take a decision and its decision shall be final.

(4) Where the Commission does not receive an objection in accordance with this section, it may confirm an appointment.

#### 7. Oath

A person who is appointed an election officer under section 5 shall subscribe to the oath for the due execution of office and oath of secrecy in accordance with the Second Schedule.

[Second Schedule.]

#### 8. Powers and functions of the Commission

(1) The Commission shall, in addition to the powers and functions conferred on it by the Constitution, be responsible for—

- (a) the conduct of registration of voters and the nomination and election of candidates for the offices of President, Member of the National Assembly, Mayor or Mayoress, Councillor and such other office as the Commission designates under section 3;

- (b) the preparation of an election timetable in advance of the holding of elections;
- (c) the implementation of the constitutional and other legal provisions relating to the electoral process;
- (d) the registration and supervision of political parties; and
- (e) the exercise of any powers that may be incidental to its duties and functions conferred by the Constitution, this Act or any other law.

[Act No. 7 of 2001, Act No. 10 of 2007.]

(2) The Commission shall—

- (a) enforce on the part of election officers, fairness, impartiality and compliance with the provisions of this Act;
- (b) issue to election officers such instructions as it may deem necessary to ensure the effective execution of the provisions of this Act; and
- (c) ensure that election officers execute and perform to the best of their abilities all other powers, functions and duties which by this Act or otherwise are conferred and imposed on them.

(3) The Commission may, by rules or otherwise, regulate its own procedure and may confer powers or impose duties on any election officer for the purpose of the exercise of its functions.

9. Delineation of boundaries

(1) The boundaries of—

- (a) each constituency and district shall be determined in accordance with the provisions of the Constitution and any other law;
- (b) each ward shall be such as shall be prescribed by the Commission, in consultation with the appropriate Ministry, by order published in the *Gazette*.

(2) The geographical boundaries of each local government authority shall be determined by the Commission.

(3) In determining the boundaries of a local government authority, the Commission shall disregard any consideration of the ethnic origin of the inhabitants.

[Act No. 7 of 2001.]

10. Funds, accounts and audit

(1) The funds of the Commission shall consist of—

- (a) moneys appropriated to it by the National Assembly;
- (b) such grants, donations and fees as may be made or paid to it, provided that the Commission shall not accept or receive any grant or donation made or paid by a political party.

(2) The Commission shall keep—

- (a) its funds in such bank as it may determine; and
- (b) proper accounts which shall be audited annually by the Auditor-General.

(3) The Chairperson of the Commission shall, not later than three months after the end of the financial year, submit to the National Assembly the audited statement of accounts of the Commission.

**PART III**

*Registration of Voters*

**11. Register of voters**

(1) The Commission shall prepare, compile and maintain in accordance with this Part, a register of voters for each constituency and a register of Gambian registered voters in foreign countries.

(2) A register of voters shall contain the names of persons who are entitled and apply to be registered in a constituency.

(3) The Commission shall cause each register to be divided into such parts as it may determine and the register shall contain, though not be limited to, the following—

- (a) the complete name of the voter;
- (b) the voter's date and place of birth;
- (c) the voter's usual residence and address at the time of registration;
- (d) the voter's sex;
- (e) the voter's signature and thumbprint;
- (f) a column to indicate whether or not a voter has voted;
- (g) date of registration and voting;
- (h) the form of identification used; and
- (i) the district, ward, town, village or such other area in which the voter is resident.

(4) A register of voters shall be kept in such number of copies and at such places as the Commission may direct to ensure the proper and fair conduct of elections.

(5) Notwithstanding anything contained in this section, the Commission may improve the format, content and design of the register of voters.

(6) The existing register of voters and voting cards shall, on the coming into force of this Act, cease to be valid and all previous holders of voting cards may register and be issued with voting cards in accordance with the provisions of this Act.

### 12. Qualifications for registration

(1) Subject to section 13, a person shall be entitled to have his or her name entered on a register of voters in a constituency if he or she—

- (a) is a citizen of The Gambia;
- (b) has attained, or will on the date of the holding of the next election attain, the age of eighteen years; and
- (c) is resident, or was born in that constituency.

(2) Notwithstanding subsection (1), a person's name shall not be entered on a register of voters in a constituency unless he or she produces any one of the following documents—

- (a) a birth certificate;
- (b) a Gambian passport;
- (c) a National Identity Card;
- (d) a document certified by five elders that the applicant is a citizen of The Gambia; or
- (e) a document certified by the District Seyfo or an Alkalo of the village of birth of the applicant stating that the applicant was born in the district or village.

[Act No. 7 of 2001.]

(3) The Commission shall not reject a valid document produced under subsection (2).

[Act No. 7 of 2001.]

### 13. Disqualification for registration

A person shall not be entitled to have his or her name entered or retained on a register of voters if he or she is—

- (a) by virtue of his or her own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or State or does, concurs in or adopts any act done with the intention that he or she, subject to section 12A of the Constitution, shall become a subject or citizen of a foreign power or State;
- (b) serving a sentence of imprisonment;
- (c) a person adjudged to be of unsound mind or detained as a criminal lunatic under any law;

- (d) subject to section 12A of the Constitution, a person whose name is entered on a register of voters (by whatever name called) in any other country or territory; or
- (e) otherwise disqualified under this Act or under any other law.

#### 14. Period of general and supplementary registration

(1) The Commission shall determine and declare the period within which it is to carry out a general and supplementary registration of voters in a constituency.

(2) Where, on the presentation of a report by an election officer or any other person, or on its own motion, the Commission is of the opinion that general or supplementary registration of voters in a constituency or part of a constituency has not been properly carried out or has not been performed, it shall cause a general or supplementary registration of voters in respect of that constituency or part of a constituency to be carried out all over again or performed, as the case may be.

#### 15. Registration centres

(1) The Commission shall, for purposes of carrying out general and supplementary registration of voters designate registration centres.

(2) Registration centres shall be so designated as to afford easy access to the centres by persons wishing to be registered.

#### 16. Notice to claimants for registration

(1) Where the Commission makes a declaration under section 14 to carry out a general or supplementary registration of voters, it shall cause to be published a Notice in the form prescribed in Form 1 of the Third Schedule requiring all persons who claim to be entitled to be registered as voters to present themselves at the designated registration centres.

[Form 1, Third Schedule.]

(2) The Notice referred to in subsection (1) shall in the case of—

- (a) a general registration, be published not less than thirty days before the date of registration; and
- (b) a supplementary registration, be published not less than fifteen days before the date of registration.

(3) The Notice shall be published—

- (a) in the *Gazette*;
- (b) by announcement on radio;
- (c) in at least five issues of a newspaper circulated in The Gambia; and
- (d) by such other means as the Commission considers fit to adequately inform claimants for registration.

**19. Preparation of list of voters and deletions**

(1) The Commission shall prepare, from the register of voters, a separate list of voters and separate list of deletions for each constituency which shall contain the name, address and occupation of every voter, including the serial number of the voter's card.

(2) A list of deletions shall include the names of persons whom the Commission has cause to believe are dead or have ceased to be qualified or entitled to be on the register of voters.

(3) The Commission shall cause to be prepared such number of copies of lists of voters and lists of deletions as it may consider necessary and shall make copies of the lists available to the Revising Officer when he or she holds his or her court.

(4) The Commission shall cause the lists of voters and lists of deletions to be published for at least ten days in the Administrative Area in which the constituency is situated.

(5) In making a publication under subsection (4), the Commission shall, as far as possible, have regard to section 132, such that the lists will be easily available for scrutiny by members of the public.

(6) The Commission may at any time correct any mistake in any list of voters, list of deletions or register of voters that comes to its notice.

**20. Bar to registering in more than one constituency**

A person shall not be entitled to be registered as a voter in more than one constituency at any one time.

**21. Issuing voting card**

(1) A claimant whose name is entered in the register of voters shall be issued a voting card in such form as shall be prescribed by the Commission in conjunction with the appropriate Ministry.

(2) Provision shall be made in a voting card prescribed under subsection (1) of this section for the insertion of the constituency in which a voter is registered and there shall be a counterfoil of the voting card as set out in Form 3 in the Third Schedule.

[Act No. 7 of 2001, Form 3, Third Schedule.]

(3) A voting card issued to a claimant under subsection (2) shall—

- (a) be valid for use by the claimant only;
- (b) be valid for a minimum period of ten years before it is changed or replaced by the Commission but the Commission may replace a voting card under subsection (4) or section 38; and
- (c) not be transferable.

[Act No. 7 of 2001.]

(4) Without prejudice to section 38, the Commission may replace a voting card where it is satisfied, on application made to it, that—

- (a) entries in the card have been obliterated or defaced in some material respect;
- (b) the photograph on the card is fading, has faded or no longer represents a fair likeness of its holder; and
- (c) for any good reason it is proper and desirable that the card should be replaced.

[Act No. 7 of 2001.]

(5) An election officer or police officer may at any time seize and retain, pending inquiry, any voting card which such officer suspects is not valid.

## 22. Omissions and objections

(1) A person—

- (a) who has made a claim to be registered as a voter and whose name has been omitted from any list of voters;
- (b) whose name being entered on a register of voters in force has been entered in any list of deletions; or
- (c) who claims to have his or her name inserted in the list of voters or expunged from the list of deletions,

shall, within fourteen days from the date of publication of the list, appeal to the appropriate Registering Officer to have his or her name inserted or expunged, as the case may be.

(2) An appeal under subsection (1) shall be in writing in the form prescribed in Form 5 of the Third Schedule.

[Form 5, Third Schedule.]

(3) A person whose name appears—

- (a) in any list of voters and who objects to his or her own name appearing on the list; or
- (b) on a current register and who objects to the name of any other person appearing on any list of voters,

shall, within fourteen days from the date of publication of the list, serve on the appropriate Registering Officer a notice of objection in the form prescribed in Form 6 of the Third Schedule.

[Form 6, Third Schedule.]

(4) In this Act, a person objecting to the inclusion or insertion of any name in the register of voters is referred to as the objector.



(5) The Registering Officer on receiving the notice of objection, shall serve on the person in respect of whose name the objection is taken, a notice—

- (a) in the form prescribed in Form 7 of the Third Schedule; and  
[Form 7, Third Schedule.]
- (b) stating the date of hearing of the objection.

(6) An appeal or a notice of objection under this section shall not be received or allowed unless it is accompanied by the payment of a fee prescribed by the Commission.

(7) The Registering Officer shall, as soon as practicable after the period of fourteen days specified in subsection (1), prepare and publish a list of all appeals and objections and the names and addresses of the persons who have made them.

### 23. Opposition to an appeal

(1) Subject to subsection (2), a person whose name appears on a current register of voters may oppose an appeal made under section 22 (1).

(2) An opposition to an appeal shall not be made unless the person opposing the appeal gives to the Registering Officer a notice in Form 8 of the Third Schedule stating his or her intention to oppose the appeal.

[Form 8, Third Schedule.]

(3) The person opposing the appeal shall state in the notice his or her grounds of opposition and the Registering Officer shall give the appellant not less than five days notice in the form prescribed in Form 7 of the Third Schedule.

[Form 7, Third Schedule.]

(4) A notice under this section shall be—

- (a) directed to the appellant at his or her address as stated in the list of appeals and objections and shall be delivered at the address; and
- (b) lodged with the revising court established under section 24.

### 24. Revising Court

(1) As soon as may be practicable after the lists mentioned in section 19 are published, the Chief Justice shall, on the advice of the Commission, appoint a Magistrate of the First Class to—

- (a) hold a court (hereinafter called a “revising court”); and
- (b) hear and decide appeals and objections.

(2) A revising court shall be held in each Administrative Area in which notices of appeals and objections have been received and the Chief Justice may, for this purpose, appoint different Magistrates for each Administrative Area.

(3) A Magistrate appointed under this section shall—

- (a) hold his or her revising court and give his or her decision on appeals and objections within sixty days from the date the notice of the appeals and objections are lodged in the revising court;
- (b) give not less than five clear days' notice of the time and place of holding of his or her court; and
- (c) hold his or her revising court in public.

#### 25. Disposal of appeals and objections

(1) At any sitting of a revising court, a person appearing to the court to be interested in or affected by the subject matter before the court may appear and be heard by himself or herself, by a legal practitioner or by any other person duly authorised by him or her in writing in that behalf.

(2) The revising court shall produce or cause to be produced in court the lists of voters, deletions, appeals and objections, and shall go through the lists and—

- (a) insert in the appropriate place in the list of voters the name of every person who is proved to the satisfaction of the court to be entitled to have his or her name inserted in the lists of voters;
- (b) expunge from the lists of voters the name of every person who, on the application of an objector, is proved to the satisfaction of the revising court not to be entitled to have his or her name retained in the lists of voters; and
- (c) expunge from the lists of deletions the name of every person who is proved to the satisfaction of the revising court to be entitled to remain on a register of voters.

(3) Notwithstanding anything to the contrary contained in this Act, the revising court may, without any inquiry, allow a claim in respect of which no objection has been made if it is satisfied that the claim should be allowed and shall advise the Commission to insert the claimant's name in the register of voters.

(4) If an objector fails to appear in person, by a legal practitioner or by some person duly authorised by him or her in that behalf in support of his or her objection, the objection shall be rejected and the name of the person objected to shall be retained in the lists of voters.

(5) If an appellant or objector appears in person, by a legal practitioner, or by some other person duly authorised by him or her in that behalf to prosecute his or her appeal or objection, he or she shall prove service of the notice of appeal or objection and the revising court shall then decide the appeal or objection.

(6) The Magistrate shall, when he or she has determined an appeal or an objection, write his or her initials and the date of the determination against any name struck out of any list or inserted in it, and against any mistake or omission corrected, and shall sign his or her name to every page of the lists when they are finally settled.

**26. Additional powers of revising courts**

A revising court shall have, in addition to any other powers given to it under this Act, power—

- (a) to expunge from the lists of voters the name of every person who is proved to be dead;
- (b) to correct any apparent errors or mistakes;
- (c) on the written application of a voter, to change the original name or address of the voter to an altered name or address; and
- (d) to reinstate the name of any person in a list of voters struck out by mistake or to insert in the list the name of any person inadvertently omitted from the list.

**27. Practice and procedure in revising court**

In all proceedings in a revising court, the law and rules of evidence to be complied with shall be the same as in civil cases before a Magistrate Court, and the practice and procedure shall, as nearly as may be, conform to the practice and procedure on the hearing of civil cases.

**28. Grounds on which appeal from revising court barred**

An appeal or notice of appeal shall not be received or allowed against the decision of a revising court on any question of fact or on the admissibility or effect of any evidence or admission adduced or made in any case to establish any matter of fact only.

**29. Appeals to High Court**

(1) A person—

- (a) whose claim to have his or her name inserted in a register of voters has been disallowed;
- (b) who has made any objection to any person as not being entitled to have his or her name inserted in a register of voters;
- (c) whose name has been expunged from a register of voters; or
- (d) whose claim to have his or her name expunged from any list of deletions has been disallowed,

and who is dissatisfied with a decision of a revising court on any point of law material to the result of the case, may, in person, by a legal practitioner, or by some other person on his or her behalf, give to the revising court within two days after the decision was given, a notice in writing of his or her desire to appeal to the Court.

- (2) A notice given under subsection (1) shall—
- (a) contain a short statement of the decision being appealed against; and
  - (b) be accompanied by the payment of such fee as may be prescribed by the Commission.
- (3) Where the Commission does not prescribe a fee under subsection (2) (b), the fees applicable in processing appeals in the Court shall apply.
- (4) The Magistrate holding a revising court shall state in writing the facts which in his or her judgement were established by the evidence in the case, and which are material to the matter in question and his or her decision on the whole case, and also his or her decision on any point of law appealed against, and shall sign and date the same.
- (5) The Magistrate shall endorse on the case so stated the name of the constituency to which the case relates and the respective names and places of abode of the appellant and of the respondent, if any, and shall—
- (a) transmit the case so endorsed together with the notice of the appellant to the Registrar of the Court; and
  - (b) deliver a copy of the case so endorsed to the appellant and respondent (if any) in the appeal if either makes a request to that effect.
- (6) The Registrar of the Court, on receiving a case stated from a Magistrate holding a revising court, shall file the case in Court and forthwith set down the appeal for hearing in the summary jurisdiction of the Court.
- (7) The Registrar of the Court shall give seven clear days' notice of the date of the hearing of the appeal to the appellant and respondent (if any).
- (8) A judgement or decision of the Court shall be final and conclusive in the case on the point of law adjudicated on.
- (9) When the Court has determined an appeal, the Registrar of the Court shall forward to the Revising Officer, a statement under his or her hand of the decision of the Court.
- (10) When by a decision of the Court the decision of the revising court is reversed or altered so as to require an alteration or correction in a register of voters or list of deletions, the Magistrate of the revising court shall alter or correct the register of list, as the case may be, accordingly and shall sign his or her name after the words "altered (or corrected) by Order of the Court dated the ..... day of ....., 20.....", which he or she shall write on the register or list, as the case may be, against every alternation or correction.
- (11) The right of a person whose name is on a register of voters to vote at an election shall not be prejudiced by any appeal pending under this Part, 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.

(12) The Court may make such order as to the payment of the costs of any appeal either in whole or in part or in proportion or by way of contribution amongst the parties interested as to the Court seems just.

### **30. Questioning lists of voters, etc.**

A list of voters, list of deletions and entry in any of the lists shall not be questioned in any proceedings (other than criminal proceedings) except in a revising court or an appeal from the revising court to the Court in accordance with this Part.

### **31. Registers and supplementary registers**

(1) After the conclusion of every general registration when the original lists of voters have been signed and dated by the Magistrate of a revising court, or by the Registering Officer where no Magistrate has been appointed, the lists shall become the master register.

(2) The Commission shall cause to be made copies of the master register, which may be referred to as "head registers" whenever it is necessary to distinguish between them and supplementary registers or registers in the collective sense.

(3) After the conclusion of every supplementary registration when the original lists of voters and the lists of deletions have been finally settled, signed and dated by the Magistrate of a revising court, or by the Registering Officer where no Magistrate has been appointed, the lists shall, for purposes of the supplementary registration, become the master register.

(4) The Commission shall cause to be made copies of the master register for supplementary registration, which may be referred to as "supplementary registers" whenever it is necessary to distinguish between them and head registers or registers in the collective sense, and shall cause the names of all persons on the lists of deletions to be struck out from the master register, the head registers or supplementary registers, as the case may be.

(5) A head register and any supplementary register in force may be referred to collectively as a register or a register of voters.

(6) There shall be a separate register for each constituency and in each of those registers the names of voters shall be recorded in so far as may be practicable, and, subject always to the discretion of the Commission, in alphabetical order under the name of the town, village, ward, district, or such other subdivision as may be appropriate, in which the voters are entitled to vote, and the names shall be numbered serially.

**32. Continuation of existing head and supplementary registers**

If for any reason a head or supplementary register of voters as required by the provisions of this Act is not prepared, the head register, and its supplementary register, if any, in force at the time when the new head or supplementary register should have been prepared, shall remain in force until a new head or supplementary register is prepared.

**33. Miscellaneous provisions on registers**

(1) The head and supplementary registers shall be deemed to be in force as of the date of the signing of the lists of voters and lists of deletions by the Magistrates of the revising courts, or by the Registering Officers where no Magistrates have been appointed, and the master copy of the registers shall be retained by the Commission.

(2) The Commission shall—

- (a) cause to be prepared a number of copies of every master register and master supplementary register sufficient for foreseeable elections and for sale to members of the public;
- (b) make available a copy of all head and supplementary registers for all constituencies in an Administrative Area in the office of every Registering Officer for inspection by members of the public during official hours; and
- (c) bring up to date copies of each master register and master supplementary register at each supplementary registration, and the Registering Officer shall certify on the cover of each of those copies that he or she has done so.

(3) A head register together with its supplementary registers, if any, shall remain in force until replaced by a new head register compiled pursuant to this Act.

(4) Wherever a question arises as to what register (or what head or supplementary register) is or was in force at any particular time, the question shall be resolved by the Commission whose decision shall be final and shall not be questioned in any court.

(5) If the question arises in any proceedings in a court, a member of the Commission shall not be required to attend the court as a witness but shall at the request of the court, convey his or her decision to the court by means of a certificate signed under his or her hand, addressed to the court.

(6) A certificate conveyed under subsection (5) shall be accompanied by an appropriate master copy of the register if the court so requires, and the certificate, and master copy of the register if required shall be admitted in evidence on their receipt by the court.

(7) Subject to subsection (8), the validity of a register of voters, or of an entry in a register of voters or of the method of compilation of a register shall not be questioned in any proceedings whatsoever, except in criminal proceedings.

(8) On the trial of an election petition it may be shown that a specified person, whose name was entered on a register of voters and who voted at the election in question, was disqualified from, or was not qualified or entitled to vote at, that election.

#### 34. Returns of death

(1) In each Administrative Area, the Alkalo, and in the case of Banjul and Kanifing Administrative Areas, the City Clerk and Municipal Clerk respectively, in such Areas shall, not later than 31st December in each year, send to the Commission a return certified by him or her under his or her hand of the names, residences and such other information as the Commission may require of all persons over the age of eighteen years who have died within his or her locality since his or her previous return.

(2) Notwithstanding the requirement placed on the Municipal Clerk of the Kanifing Municipality, the heads of the various settlements comprising the Kanifing Administrative Area shall each send to the Commission a return in accordance with subsection (1).

(3) The heads of medical institutions shall compile and send a list of the persons over the age of eighteen years who died in those institutions, within the period stipulated in subsection (1).

(4) The Registrar of Births and Deaths shall send to the Commission a return in accordance with subsection (1).

(5) The Commission may, for purposes of ensuring timely and proper preparation of returns, devise forms for use by those required to submit returns in accordance with subsection (1).

(6) The Commission shall, as soon as may be practicable, delete from the appropriate master register the names of those registered voters appearing in the returns of death, and shall—

- (a) state against the deletions the reasons for so doing; and
- (b) initial and date the annotation.

(7) The name of a person dealt with under this section shall be entered on the list of deletions in a supplementary registration proceedings.

#### 35. Application for transfer

(1) Notwithstanding anything contained in this Part, a registered voter may at anytime, if he or she ceases to be resident in the constituency in which he or she is registered as a voter, make application in accordance with Form 9 of the Third

Schedule to the Commission for his or her name to be transferred to the register of the constituency in which he or she has now become resident.

[Form 9, Third Schedule.]

(2) A registered voter seeking a transfer under this section shall pay the prescribed fee and attach to his or her application two recent identical photographs of himself or herself together with his or her current voting card.

(3) A registered voter whose voting card is lost, stolen or destroyed shall, before applying for a transfer under this section, apply for a replacement of his or her voting card.

(4) On receiving an application under this section, the Commission shall make such inquiries as it may deem fit to satisfy itself that the application is *bona fide*.

(5) Where the Commission satisfies itself that an application under this section is *bona fide*, it shall cause the transfer applied for to be effected and the applicant to be given a new voting card after the counterfoil has been prepared.

(6) The Commission shall, on effecting a transfer—

- (a) affix the surrendered voting card to its relevant counterfoil and annotate the counterfoil with the number of the card prepared in respect of the constituency to which the applicant is transferred;
- (b) delete the name of the applicant from the register of the constituency in which he or she was originally registered, and note against the deletion the name of applicant has been transferred; and
- (c) enter the name of the applicant and the serial number of his or her voting card in the register, annotating the entry with the name of the constituency from which the voter has been transferred.

(7) Where the Commission is satisfied that an application for a transfer under this section is not *bona fide*, it shall reject the application and—

- (a) return the applicant's fees and photographs, together with his or her surrendered voting card; and
- (b) give its reasons for the rejection.

(8) The rejection of an application for a transfer under this section shall not be a bar to the submission of a fresh application, provided that no fresh application shall be entertained by the Commission earlier than six months from the date of the rejection.

### 36. Limitation period for transfers

(1) The Commission shall, by Order published in the *Gazette*, determine the period immediately before the holding of an election when no application for a transfer shall be entertained.



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(2) The name of a person who has been dealt with under section 35 shall not be entered on any list of voters or deletions in any supplementary registration proceedings.

**37. Publication of lists of transfers**

(1) The Commission shall, as soon after the 31st day of December of each year as may be practicable, publish a list of the names of all voters who have been—

- (a) transferred from one constituency to another, showing the constituencies from and to which they have been transferred; and
- (b) deleted from the master copies of the registers as a result of the deaths notified to it under section 34.

(2) The list referred to in subsection (1) shall—

- (a) show the constituency, voting card number, name, address and occupation of the voters; and
- (b) be made available by the Commission for inspection in the offices of the Registering Officers and at such other place as the Commission may direct.

**38. Replacement of voting cards**

(1) A voter, who has been issued with a voting card and who claims that his or her card is lost, stolen, destroyed, mutilated or defaced, may apply in writing to the Commission to replace the card.

(2) The application shall be accompanied by such fee as may be prescribed, together with the mutilated or defaced voting card, if that is the reason for the application, and two recent identical passport size photographs of himself or herself.

(3) Where the Commission considers an application under this section to be proper and genuine, it shall cause to be prepared a replacement voting card and counterfoil, and the voting card shall be given to the applicant.

(4) At the time when it prepares a replacement voting card, the Commission shall note the fact and the number of the new card in the relevant register of voters opposite to the name of the voter and on the relevant counterfoils, and shall attach the mutilated or defaced card to its relevant counterfoil.

(5) Where the Commission does not consider an application under this section to be proper and genuine, it shall reject the application and—

- (a) return the applicant's fees and photographs, together with the surrendered voting card, if any; and
- (b) give its reasons for the rejection.

(6) Subject to subsection (7), the rejection of an application for replacement of a voting card under this section shall not be a bar to the submission of a fresh application, provided that no fresh application shall be entertained by the Commission earlier than six months from the date of the rejection.

(7) The Commission shall, by Order published in the *Gazette*, determine the period immediately before the holding of an election when no application for a replacement of a voting card shall be entertained.

(8) A replacement voting card shall contain such particulars as were recorded on the original voting card of the voter to whom it relates.

#### PART IV

##### *Nomination of Candidates*

#### 39. Nomination and election laws

(1) A candidate for election to the office of President, member of the National Assembly, Mayor or Mayoress, Councillor and such other offices as the Commission may designate under section 3 shall be nominated in accordance with this Act.

[Act No. 7 of 2001, Act No. 10 of 2007.]

(2) A person who desires to be nominated as a candidate for any elective office shall, before the acceptance of his or her nomination papers, satisfy the qualifications stipulated for that office in the Constitution, this Act and any other law.

#### 40. Notice of election

(1) When election to any of the offices referred to in section 39 becomes necessary, the Commission shall—

- (a) publish in the *Gazette*, Notice of that fact; and
- (b) state in the Notice the electoral division in respect of which the election is to be held.

(2) The Notice referred to in subsection (1) shall state—

- (a) the date, which shall not be less than thirty days after the publication of the Notice, and the place for nomination of candidates; and
- (b) the date on which or the dates between which, as may be appropriate, the election shall be held, such date or the first day of such period, as the case may be, being not less than ten nor more than thirty days after the date of nomination of candidates.

[Act No. 7 of 2001.]

**41. Duties of Returning Officer on publication of Notice**

A Returning Officer shall, on publication of the Notice referred to in section 40—

- (a) give such publicity in his or her Administrative Area to such parts of the Notice as affects his or her Area as may be necessary to adequately inform the registered voters in that Area; and
- (b) obtain from the Registering Officer of his or her Administrative Area such number of copies of the register of voters for the electoral division concerned as he or she may require.

**42. Nomination of candidates**

(1) On the date and at the place appointed for the receipt of nominations, the Returning Officer shall attend between the hours of eight o'clock in the forenoon and four o'clock in the afternoon and receive the nomination of any duly qualified candidate for any vacancy to be filled.

(2) A candidate for election to the office of—

- (a) President shall be nominated in the prescribed Form 1 of Part A of the Fourth Schedule by not less than five thousand voters whose names appear in the register of voters, with at least two hundred voters being drawn from each Administrative Area;

[Form 1, Part A, Fourth Schedule.]

- (b) Member of the National Assembly shall be nominated in the prescribed Form 1 of Part B of the Fourth Schedule by not less than three hundred voters whose names appear in the register of voters for the constituency for which he or she seeks to be elected;

[Form 1, Part B, Fourth Schedule.]

- (c) Mayor or Mayoress shall be nominated in the prescribed Form 1 of Part C of the Fourth Schedule by not less than one hundred and fifty voters whose names appear in the register of voters for the electoral division for which he or she seeks to be elected; and

[Form 1, Part C, Fourth Schedule.]

- (d) Councillor shall be nominated in the prescribed Form 1 of Part D of the Fourth Schedule by not less than seventy-five voters whose names appear in the register of voters for the ward for which he or she seeks to be elected.

[Act No. 7 of 2001, Form 1, Part D, Fourth Schedule.]

(3) Every nomination under subsection (2) shall be subscribed by the candidate who shall make the declaration contained in the relevant Form and by the persons nominating him or her.

(4) All nomination papers shall be obtained free of charge from the appropriate Returning Officer at any time before the close of nominations.

(5) A person shall not subscribe to more than one nomination paper in respect of an office for which elections are to be held.

(6) Where a person subscribes to more than one nomination paper contrary to subsection (5), his or her subscription shall only be effective in the case of the one which is first delivered.

(7) A candidate for election shall deliver to the Commission, with his or her nomination paper, a sworn declaration of his or her assets and a certificate, certifying that he or she has paid all taxes due from him or her.

[Act No. 7 of 2001.]

(8) . . . . .

[Omitted: Constitution as amended by Act No. 6 of 2001.]

#### 43. Payment of deposit

(1) A candidate shall, at the time he or she delivers his or her nomination paper to the Returning Officer for elections to the office of—

- (a) President, deposit or cause to be deposited with the Returning Officer, the sum of ten thousand dalasis;
- (b) Member of the National Assembly, deposit or cause to be deposited with the Returning Officer, the sum of five thousand dalasis;
- (c) Mayor or Mayoress, deposit or cause to be deposited with the Returning Officer, the sum of two thousand five hundred dalasis; and
- (d) Councillor, deposit or cause to be deposited with the Returning Officer, the sum of one thousand two hundred and fifty dalasis.

[Act No. 7 of 2001, Act No. 10 of 2007.]

(2) . . . . .

[Deleted by Act No. 7 of 2001.]

(3) The payment of deposit as required under subsection (1) shall be in cash and a nomination paper shall not be valid without the payment of the deposit, provided that it shall be sufficient if the deposit has been paid to the Commission before nomination day and a receipt produced to that effect.

(4) The Returning Officer shall remit to the Commission all deposits received by him or her and not returned pursuant to section 44.

#### 44. Return and forfeiture of deposit

(1) A deposit paid in accordance with section 43 shall be returned to the candidate if—

- (a) his or her nomination paper is rejected;
- (b) he or she withdraws his or her nomination in accordance with the provisions of this Act;

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- (c) there is no contested election; or
- (d) in a contested election in relation to—
- (i) the election of a President, he or she obtains not less than forty per cent of the votes cast for the elected candidate,
  - (ii) National Assembly elections he or she obtains twenty per cent of the votes cast for the elected candidate, and
  - (iii) the election of a Mayor or Mayoress or Councillor, he or she obtains fifteen per cent of the votes cast for the elected candidate.

[Act No. 7 of 2001, Act No. 10 of 2007.]

**45. Obligations**

(1) Where a nomination paper is duly completed and the required deposit paid in accordance with this Part, the symbol and colour by which the candidate is to be identified and any other relevant document required by the Commission shall be delivered to the Returning Officer at or before the time appointed for the close of nominations.

(2) The Returning Officer shall, on receipt of the nomination paper and other relevant documents, make entries of the date and time on which the nomination paper and other relevant documents were delivered.

**46. Acceptance of nomination paper**

(1) Where a Returning Officer satisfies himself or herself that all the constitutional and other legal requirements for the nomination of a candidate have been complied with, he or she shall accept the nomination paper and complete in duplicate the Acceptance of Nomination form set out in Form 2 of—

- (a) Part A of the Fourth Schedule, in the case of nomination for the office of President;

[Part A, Fourth Schedule.]

- (b) Part B of the Fourth Schedule, in the case of nomination for the office of Member of the National Assembly;

[Part B, Fourth Schedule.]

- (c) Part C of the Fourth Schedule, in the case of nomination for the office of Mayor or Mayoress; and

[Part C, Fourth Schedule.]

- (d) Part D of the Fourth Schedule, in the case of nomination for the office of Councillor.

[Act No. 7 of 2001, Part D, Fourth Schedule.]

(2) The Returning Officer shall deliver the relevant duplicate of the Acceptance of Nomination form to the candidate or his or her representative, and the candidate shall be deemed to be nominated.

**47. Rejection of nomination paper**

(1) Where a Returning Officer finds, after examining the nomination paper and other documents, that the particulars appearing in the nomination paper and other documents do not comply with the legal requirements for the nomination of a candidate, he or she shall reject the nomination paper and complete in duplicate the Rejection of Nomination form set out in Form 3 of—

- (a) Part A of the Fourth Schedule, in the case of nomination for the Office of President;  
[Part A, Fourth Schedule.]
- (b) Part B of the Fourth Schedule, in the case of nomination for the office of Member of the National Assembly;  
[Part B, Fourth Schedule.]
- (c) Part C of the Fourth Schedule, in the case of nomination for the Office of Mayor or Mayoress;  
[Part C, Fourth Schedule.]
- (d) Part D of the Fourth Schedule, in the case of nomination for the office of Councillor.

[Act No. 7 of 2001, Part D, Fourth Schedule.]

(2) The Returning Officer shall deliver the relevant duplicate of the Rejection of Nomination form to the candidate or his or her representative.

(3) The rejection of a nomination paper shall be without prejudice to the delivering of a fresh nomination paper, provided that the subsequent nomination paper is delivered before the close of nominations.

**48. Persons who may not be nominated**

The following persons may not be nominated as candidates for election to any of the offices outlined in section 39, unless before nominations are held, they vacate their offices—

- (a) Magistrates and Judges;
- (b) members of The Gambia Armed Forces, The Gambia Police Force and other security forces on active duty; and
- (c) members of the Commission.

**49. Objections to nominations**

(1) A registered voter may object to a nomination paper on all or any of the following grounds, but on no other ground, that—

- (a) the description of the candidate is insufficient to identify the candidate;
- (b) the nomination paper does not comply with or was not delivered in accordance with the provisions of this Act;

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- (c) it is apparent from the contents of the nomination paper that the candidate is not capable of being elected to the office to which his or her nomination paper relates.

[Act No. 7 of 2001.]

(2) An objection to a nomination paper shall not be allowed unless it is made to the Returning Officer between the hours of eleven o'clock in the forenoon and four o'clock in the afternoon on the day of nomination, provided that, if an objection is filed, a nomination paper may be corrected until five o'clock in the afternoon of the day of nomination.

(3) Every objection shall be in writing signed by the person objecting and shall specify the grounds of objection.

(4) The Returning Officer shall, with the least possible delay, decide on the validity of an objection and inform the candidate concerned of his or her decision in accordance with section 46 or 47.

(5) The decision of a Returning Officer on a nomination paper or any objection may be appealed against in writing presented to the Commission within two days of the decision, and the decision of the Commission on the appeal shall be final and shall not be called into question in any court of law.

(6) Nothing contained in this Part with respect to limitation of time or otherwise shall affect a decision of the Commission whether to accept or reject a nomination paper.

(7) The Commission shall communicate its decision to the appropriate Returning Officer who shall act promptly on the decision.

#### 50. Approval of photographs and symbols

(1) In a contested election a candidate shall, not later than the time and date set for the withdrawal of candidature under section 51, present to the appropriate Returning Officer—

- (a) photographs of himself or herself according to the number of polling booths in the candidate's electoral division, and the photographs shall consist of a representation of the head and shoulders only of the candidate, and without any distinguishing robes, insignia or uniform; and
- (b) the colour and symbol (hereinafter referred to as a "representative symbol") by which the candidate desires to be identified during the election.

[Decree No. 91 of 1996.]

(2) The Returning Officer shall ensure that the representative symbols presented to him or her by candidates—

- (a) are not the same or so similar as to mislead or confuse; and
- (b) do not have any religious, sectional or regional significance.

(3) If a candidate fails to comply with the requirements of this section, his or her nomination shall be void, provided that the Returning Officer may allow the nomination to stand if the candidate, before the lapse of the time and date referred to in subsection (1), complies with the requirements of this section.

(4) The Returning Officer may, for purposes of ensuring compliance with the requirements of this section, give such directions, to any candidate, as he or she may consider necessary.

#### 51. Withdrawal of candidature

(1) A candidate may withdraw from his or her candidature by notice in writing signed by him or her, and delivered by himself or herself or one of the persons nominating him or her to the Returning Officer not later than four o'clock in the afternoon of the twentieth day before the date of election, or where the election is to be held over a period of days, before the first day of that period.

(2) On receipt of the withdrawal of candidature, the Returning Officer shall duly complete and sign, in duplicate, the Acceptance of Withdrawal form set out in Form 4 of—

- (a) Part A of the Fourth Schedule, in the case of a candidate for the office of President;

[Part A, Fourth Schedule.]

- (b) Part B of the Fourth Schedule, in the case of a candidate for the office of Member of the National Assembly;

[Part B, Fourth Schedule.]

- (c) Part C of the Fourth Schedule, in the case of a candidate for the office of Mayor or Mayoress;

[Part C, Fourth Schedule.]

- (d) Part D of the Fourth Schedule, in the case of a candidate for the office of Councillor.

[Act No. 7 of 2001, Part D, Fourth Schedule.]

(3) The Returning Officer shall—

- (a) hand over to the candidate or his or her representative the appropriate Acceptance of Withdrawal form for endorsement;

- (b) keep the original of the form and deliver the duplicate to the candidate or his or her representative and if the candidate was registered under a political party, give notice to the party of the candidate's withdrawal.

(4) Where the candidate withdrawing his or her candidature had registered his or her nomination under a political party, that political party may within seven days from the date of the withdrawal field another candidate.

(5) A candidate fielded under subsection (4) shall be nominated in accordance with the provisions of this Part, provided that the Returning Officer may give such shorter notice when the nomination shall be held as he or she may deem fit.



**52. Publication of particulars of candidates**

A Returning Officer shall, as soon as may be practicable after the close of nominations but at least seven clear days before the day of election, or, if the election is to be held over a period of days, before the first day of that period, publish—

- (a) the names and addresses of all candidates deemed to be nominated;
- (b) the names and addresses of all persons nominating candidates; and
- (c) the representative symbols approved for each candidate.

**53. Poll to be taken unless candidate unopposed**

(1) The Commission shall—

- (a) declare a candidate unopposed and elected to the office in respect of which he or she sought to be elected if, at the close of nominations, he or she is the only candidate nominated for election to that office; and
- (b) as soon as practicable, cause the declaration to be published.

(2) Where, at the close of nominations—

- (a) more than one candidate stands nominated, a poll shall be taken in accordance with this Act; and
- (b) no person is or remains nominated, the Commission shall cause to be published a fresh Notice in accordance with section 40.

**54. Death of candidate**

(1) If after the date appointed for the receipt of nominations, one of the candidates nominated for election to an office dies before the poll has commenced, the Returning Officer concerned shall notify the fact of the death to the Commission which shall, on being satisfied of the facts of the notification—

- (a) cause a fresh Notice to be published in accordance with section 40 in respect of the electoral division affected by the death, provided that the death occurs within the period stipulated for withdrawal of candidates under section 51 (1); and
- (b) defer the holding of elections in respect of the electoral division affected by the death, if the death occurs outside the period stipulated in section 51 (1).

(2) Where a Notice is issued as required under subsection (1), the provisions of section 51 (4) and (5) shall apply as if the death of the candidate were a withdrawal.

(3) Where the holding of elections in respect of any area is deferred, fresh nominations for that area shall be held and the provisions of this Part shall apply accordingly.

## PART V

*Conduct of Elections**(a) Polling Stations***55. Provision of polling stations and allocation of voters**

(1) The Commission shall provide in its discretion polling stations in every electoral division in which elections are to be held and, subject to subsection (2), shall allocate voters to the polling stations.

(2) The number of voters allocated to a polling station shall not be less than one hundred and not more than two thousand.

(3) .....

[Deleted by Act No. 7 of 2001.]

(4) The Returning Officer shall in the statement required to be published in accordance with section 52—

- (a) include notice of the date of or period during which the poll is to be taken;
- (b) specify the polling stations in each electoral division in which elections are to be held and their location;
- (c) specify the voters allocated to each polling station; and
- (d) specify the day or days on which and the hours between which voting is to take place at every polling station.

**56. Preparation of polling stations**

(1) The Commission shall take measures in advance to ensure that every polling station is provided, before the commencement of the taking of the poll, with proper doors, barriers, tables, chairs and other conveniences, and shall see that they are properly arranged for carrying out the purposes of this Act.

(2) A polling station shall be furnished with a compartment in which voters can record their votes screened from observation but such that any person of normal hearing in the polling station can hear the recording of votes carried out in the manner provided in this Act.

(3) There shall be provided in the compartment, a number of ballot boxes equal in number to the number of candidates standing for election.

(4) Each ballot box shall be prominently marked with the name and shall bear the representative symbol, colour and a photograph of one of the candidates.

(5) Each ballot box shall be of convenient size and shall be so constructed that the ballot tokens can be introduced into the box and cannot be withdrawn from the box without the box being unsealed.

(6) Each ballot box shall be provided internally with a baffle plate or device so placed that any ballot token inserted in the ballot box shall strike such plate or device before coming to rest at the bottom of the ballot box.

(7) Each baffle plate or device shall be of such material, and shall be so disposed within the ballot box, as to emit, on its being struck by a ballot token inserted in the ballot box, a clear and distinctive sound audible to any person of normal hearing in the polling station in which the ballot box is located.

(8) Each ballot box in a polling station shall be of similar construction to all others in the polling station, as to ensure, as far as is practicable, that a person of normal hearing in the polling station is not able to distinguish by differentiation of sound the insertion of ballot tokens in any particular ballot box.

(9) The Presiding Officer shall so place the various ballot boxes within the screened compartment as to prevent, as far as is practicable, a person from being able to distinguish by direction of sound, the particular ballot box into which a ballot token is inserted.

#### **57. Conduct of polling stations**

(1) The Presiding Officer and any other election officer assigned to a polling station shall, to the best of their abilities, keep order in the polling station.

(2) If a person misconducts himself or herself at a polling station, or fails to obey a lawful order of the Presiding Officer, the Presiding Officer may order the person to be removed from the polling station by a police officer.

(3) The person who is removed from a polling station shall not, without the permission of the Presiding Officer re-enter the polling station during the day of the election, and the person may be deemed to be a person taken into custody by a police officer for an offence in respect of which he or she may be arrested without a warrant.

(4) The powers under subsection (3) shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of so voting.

#### **58. Equipment for polling**

(1) The Commission shall supply every Presiding Officer with—

- (a) such number of ballot boxes as may be required to comply with the provisions of section 56;

- (b) a copy of the register of voters applicable to the electoral division concerned, or such part thereof as contains the names of the voters allotted to the polling station at which he or she is appointed to preside;
  - (c) a sufficient number of ballot tokens; and
  - (d) such other conveniences as may be necessary for taking the poll.
- (2) The materials supplied under subsection (1) shall—
- (a) be certified by the Commission or such person designated by the Commission for that purpose; and
  - (b) be attested by the signature of the Presiding Officer receiving the materials.

#### 59. Presiding Officers and staff

(1) When elections are to be held over a period of days in an area, the Commission may specify that a Presiding Officer shall preside at more than one polling station in the area in such order as it may specify.

(2) The Presiding Officer shall regulate the number of voters to be admitted at a time in his or her polling station and shall exclude all other persons, except his or her authorised assistant election officers, polling agents, if any, police officers on duty and any other person so authorised by the Commission.

(3) Subject to the authority, directions and control of the Presiding Officer, an authorised assistant election officer shall have all the powers and may perform any of the duties of a Presiding Officer under this Act.

#### 60. Polling agents

(1) Each candidate nominated for election may appoint two persons (referred to in this Act as "polling agents") to attend at each polling station within the electoral division for which he or she is a candidate for the purpose of detecting irregularities and offences under the Act.

(2) Notice in writing of the appointment, stating the names and addresses of the polling agents, together with the polling stations to which they have been assigned, shall be given by the candidate to the Returning Officer not later than seven days before the day of election, or, where the election is to be held over a period of days, the first day of that period.

(3) If a polling agent dies or becomes incapable of acting as such, the candidate may appoint another polling agent in his or her place, and shall forthwith give to the Returning Officer notice in writing of the name and address of the polling agent so appointed.

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(4) A Presiding Officer shall not allow any person to act as a polling agent if that person cannot prove to him or her that the provisions of this section had been complied with.

(5) The polling agents shall be posted in such place at a polling station that they can see each person who presents himself or herself as a voter, and hear his or her name as given by him or her, but so that they cannot see how a voter votes, but can hear a voter recording his or her vote in the manner provided in section 56.

(6) A polling agent shall not address a voter at a polling station, but shall direct all his or her observations and queries to the Presiding Officer.

*(b) Voting***61. Obligation to vote at polling station**

(1) A voter shall not vote at a polling station other than the one allotted to him or her.

(2) Notwithstanding subsection (1), a police officer or election officer on duty at a polling station who is prevented from voting at the polling station allotted to him or her because of his or her assignment shall, if he or she produces a certificate under the hand of the Returning Officer stating that he or she is registered as a voter and any other relevant facts in support of his or her claim, be allowed to vote at the polling station at which he or she is on duty or employed, if the polling station is within the area for which he or she is registered.

(3) The Returning Officer shall furnish a copy of the certificate issued by him or her to the Presiding Officer at the polling station allotted to the person to whom the certificate relates.

(4) The Presiding Officer shall, on receipt of the certificate but before the opening of the poll, endorse against the name of the person to whom the certificate relates in the copies of the register of voters in use at his or her polling station and record the fact that the person is entitled to vote at that polling station.

**62. Directions on voting**

For the guidance of voters, Returning Officers shall cause notices to be printed in conspicuous characters and posted in various places outside and inside each polling station, in the following form or such other form as the Commission may direct—

**“Directions to Voters**

- (1) You may vote for one candidate only.
- (2) Place your ballot token in the ballot box bearing the name and symbol of the candidate for whom you wish to vote.
- (3) When you have recorded your vote, leave the polling station”.

**63. Ballot tokens**

(1) The votes at the poll shall be cast by ballot and the ballot of each voter shall consist of a token (referred to in this Act as a "ballot token").

(2) All ballot tokens used in any particular polling station shall be identical in all respects.

(3) Notwithstanding subsection (2), where elections are held for different offices on the same day at the same polling stations, the Commission may direct that different ballot tokens be used for each the different office.

**64. Ballot boxes**

The Presiding Officer shall—

- (a) immediately before the commencement of a poll at a polling station, exhibit each of the ballot boxes empty to such persons as may be present at the polling station;
- (b) in the presence of the persons referred to in paragraph (a), take all measures necessary to ensure that no sound other than that resulting from the impact of ballot tokens on the internal baffle plate or device in each ballot box shall issue from the ballot box;
- (c) seal up all the ballot boxes, placing his or her seal on each in such a manner as to prevent any ballot box being opened without breaking the seal; and
- (d) place the ballot boxes in the screened compartment of the polling station and keep them so sealed until the close of the poll at the polling station or, in an area where the election is to be held over a period of days, until the close of the poll at the last polling station for which he or she is appointed.

**65. Commencement and close of polls**

Polls at a polling station shall commence at seven o'clock in the forenoon and close at six o'clock in the evening, provided that the polls—

- (a) may close earlier if all the voters allotted to the polling station have voted; and
- (b) shall not be closed if there are voters waiting to vote.

**66. Method of voting**

(1) A voter desiring to record his or her vote shall present himself or herself together with his or her voting card to the Presiding Officer at the polling station allotted to him or her.

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(2) The Presiding Officer, after satisfying himself or herself that the name of a voter is in the copy of the part of the register of voters containing the names of the voters allotted to the polling station, shall subject to subsection (3), deliver a ballot token to the voter.

(3) The Presiding Officer shall verify, in such manner as he or she considers fit, the authenticity of the voting card presented to him or her by a voter before he or she delivers a ballot token to the voter.

(4) Where—

- (a) a voter fails to answer satisfactorily any question put to him or her by the Presiding Officer;
- (b) a voter refuses to furnish his or her signature or an impression of his or her thumbprint as required under this Act or any Rules made under it; or
- (c) after the examination of a voter's signature, thumbprint and if necessary, his or her voting card and counterfoil, the Presiding Officer is satisfied that the voter presenting himself or herself to vote—
  - (i) is not the same person whose name is on the register of voters, or
  - (ii) has already voted at the election,

the Presiding Officer shall refuse to give him or her a ballot token.

(5) Immediately before delivering a ballot token to a voter, the Presiding officer shall—

- (a) make a mark against the name of the voter on his or her copy of the register of voters to denote that the voter has received a ballot token and shall sign and date the reverse of the voter's card; and
- (b) ensure that the voter's thumb or other finger is marked with an indelible ink as an indication that the voter has voted.

(6) A voter shall record his or her vote by putting his or her ballot token into the box bearing the name and representative symbol of the candidate for whom he or she wishes to vote.

(7) Each voter shall have only one vote and a person shall not at an election vote for more than one candidate.

(8) Each voter shall vote without undue delay and shall quit the polling station as soon as he or she has put his or her ballot token in the ballot box.

(9) Subject to subsection (10), only one voter shall be allowed in a screened compartment at any one time and a person other than a voter who is recording his or her vote shall not at any time be allowed in the compartment except the Presiding Officer or other election officer who may enter only for purposes necessary for the proper conduct of the poll.

(10) Where a voter is incapacitated by blindness or other physical cause from recording his or her vote without assistance, the Presiding Officer or other election officer may accompany the voter into the screened compartment to assist him or her to record his or her vote.

**67. Priority of voting to candidates**

At a polling station in which elections are being held, the Presiding Officer shall give priority to the candidates contesting the elections to cast their ballot.

**68. Fraudulent voting**

(1) If, after a person has passed through the screened compartment in a polling station but before he or she has left the polling station, a polling agent declares to the Presiding Officer that he or she has reasonable cause to believe that the person has committed an offence under section 112 (e) and undertakes to substantiate the charge in a court of law, the Presiding Officer may order a police officer to arrest the person.

(2) A person in respect of whom a polling agent makes a declaration under subsection (1) shall not, if—

(a) he or she hands back to the Presiding Officer the ballot token received by him or her; and

(b) satisfies the Presiding Officer that he or she has taken the ballot token out of the screened compartment with no intent to defraud,

be arrested but shall be allowed to vote or to leave the polling station without voting, as he or she wishes.

(3) The Presiding Officer shall cause a note to be placed against the name of a person arrested or allowed to vote under this section, in the marked copy of the register of voters or portion of it and shall, if any objection is made by a polling agent to anything done by the Presiding Officer under this section, in addition, record that objection.

(4) A person arrested under the provisions of this section shall be deemed to be a person taken into custody by a police officer for an offence in respect of which he or she may be arrested without a warrant.

**69. Personation**

(1) If at the time a person applies for a ballot token, or after he or she has so applied but before he or she has left the polling station, a polling agent declares to the Presiding Officer that he or she has reasonable cause to believe that the applicant has committed an offence of personation and undertakes in writing to substantiate the charge in a court of law, the Presiding Officer may order a police officer to arrest the applicant.

(2) Subject to subsection (3), a person in respect of whom a polling agent makes a declaration under subsection (1) shall not, by reason of the declaration,



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be prevented from voting, but the Presiding Officer shall cause the words "Protested against for personation" to be placed against his or her name in the marked copy of the register of voters or portion of it.

(3) Where a person in respect of whom a declaration is made under subsection (1), admits to the Presiding Officer, or where the Presiding Officer is otherwise satisfied that he or she is not the person he or she held himself or herself out to be, he or she shall not be permitted to vote if he or she has not already done so.

(4) A person arrested under this section shall be deemed to be a person taken into custody by a police officer for an offence in respect of which he or she may be arrested without a warrant.

**70. Prohibitions on polling day**

On any day on which polling is to take place in an electoral division the following shall be prohibited in that Area—

- (a) the holding of a public meeting, procession or demonstration;
- (b) the making of any speech or announcement in a public place;
- (c) the use of any loudspeaker, loud hailer or other instrument of public address;
- (d) drumming or singing in a public place;
- (e) the display in any public place of a flag, banner or slogan;
- (f) canvassing;
- (g) the ringing of a bell or the making of any sound resembling that of a bell within the radius of five hundred metres of a polling station;
- (h) the riding or parking of a bicycle within the radius of five hundred metres of a polling station;
- (i) the selling or distribution of alcoholic drinks;
- (j) arriving at a polling station in a state of inebriation;
- (k) forming groups around polling stations, except joining a queue to cast a ballot;
- (l) entering a polling station armed; and
- (m) carrying out any other activity tending to block or disturb the normal voting process.

**71. Duty of Presiding Officer at close of polls**

(1) On closing polls at a polling station, the Presiding Officer shall, in the presence of the polling agents, seal each of the ballot boxes in use at the polling station so as to prevent the introduction of additional ballot tokens.

(2) The Presiding Officer shall, after sealing the ballot boxes, write a Report on the Closing of Polls which shall include the following—

- (a) the time when voting ended;
- (b) the number of ballot tokens which were given to him or her before the commencement of polling;
- (c) the number of ballot tokens remaining after voting ended;
- (d) the number of voters who voted;
- (e) the names and addresses of the polling agents who witnessed the voting and their observations or queries, if any, including the names of the candidates they represented; and
- (f) the number of certificates furnished in accordance with section 61.

(3) A polling agent shall, on the completion of the Report on the Closing of Polls, sign or thumbprint the Report.

(4) Where a polling agent refuses to sign or thumbprint the Report on the Closing of Polls this fact shall be stated in the Report by the Presiding Officer with the reasons, if any, given by the polling agent.

(5) If a polling agent has made observations or queries in accordance with this Act but refuses to sign the Report on the Closing of Polls, his or her observations or queries shall be nullified.

(6) Notwithstanding anything contained in this section, the refusal by a polling agent to sign the Report on Closing of Polls shall not affect the validity of the Report or any votes cast or any election held.

(7) The Commission may determine the form of the Report on the Closing of Polls.

## 72. Transportation of ballot boxes

(1) When the Presiding Officer completes the requirements of section 71, he or she shall make adequate arrangements for the security and transportation of the ballot boxes to the counting centres designated by the Commission.

[Act No. 7 of 2001.]

(2) The Presiding Officer and polling agents shall accompany the vehicle transporting the ballot boxes in accordance with such arrangements as the Presiding Officer may determine, but such that the vehicle transporting the ballot boxes shall be within the view of the polling agents.

(3) On the arrival of the ballot boxes at a counting centre, the Presiding Officer shall require each polling agent to certify the arrival, and the Presiding Officer shall note the certification in his or her Report on the Closing of Polls.

(4) Where a polling agent refuses to make a certification as required under subsection (3), the Presiding Officer shall note the polling agent's refusal, and reason, if any, for the refusal.

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(5) The refusal of a polling agent to make a certification under this section shall not affect the validity of the votes cast at an election or the election itself.

(6) On making a certification, or where there is a refusal to make a certification, on the Presiding Officer noting the refusal in accordance with this section, every polling agent shall withdraw from the counting centre.

*(c) Counting of Votes***73. Power to designate counting centres**

The Commission shall, prior to conducting elections for any electoral division under this Act, designate, by Order published in the *Gazette*, counting centres for the counting of votes cast in the election.

**74. Appointing counting agents**

(1) Each candidate may appoint one person (hereinafter referred to as "counting agent") to attend at the counting of votes.

(2) Notice in writing of the appointment, stating the name and address of the counting agent, shall be given by the candidate to the Returning Officer not later than seven days before the day of election, or if the election is to be held over a period of days, before the first day of that period.

(3) The Returning Officer may refuse to admit to a counting centre any person purporting to be a counting agent in respect of whom a notice has not been given.

(4) If a counting agent dies or becomes incapable of acting as such, the candidate concerned may appoint another counting agent in his or her place, and shall immediately give to the Returning Officer notice in writing of the name and address of the counting agent so appointed.

**75. Counting of votes**

(1) The Returning Officer shall—

- (a) make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the receipt of all the ballot boxes from the polling stations within his or her Administrative Area; and
- (b) break the seals on the ballot boxes of candidates, one after the other per polling station, bearing the name and representative symbol of each candidate and, with the aid of his or her election officers, proceed to examine and count the ballot tokens in accordance with this Act.

(2) Where elections are held over a period of days counting shall not take place before the last day of polling.

(3) The Returning officer shall ensure that ballot tokens are counted and carefully examined to verify that the number of votes matches the number of voters who have voted, using the Report on the Closing of Polls prepared by the respective Presiding Officers under section 71 as a guide.

(4) The Returning Officer, his or her election officers and the candidates and their respective counting agents and other persons authorised by the Commission, and no other persons, may be present at the counting of the votes.

#### **76. Void and rejected votes**

(1) Any object, not being an official ballot token, or any official ballot token which appears to have been tampered with in any way whatsoever, shall not be counted.

(2) The votes cast in an election shall be void if voting in the election was held in locations different from the polling stations designated by the Commission.

(3) The Returning Officer shall enclose any object or any tampered ballot token which is not to be counted as a vote in a cover on which he or she shall endorse the word "rejected", and shall add to the endorsement the words "rejection objected to" if any objection be in fact made by a candidate or his or her counting agent to his or her decision.

(4) The Returning Officer shall report to the Commission the—

- (a) fact of any votes that are void by virtue of this section; and
- (b) number of objects or any tampered ballot token rejected as votes and not counted by him or her.

(5) The Returning Officer shall, on request by any candidate for whom a rejected vote not counted has been given or his or her counting agent, allow the candidate or his or her counting agent to copy the report before it is sent to the Commission.

#### **77. Commission's decisions on ballot counts final**

Subject to review on an election petition questioning the election, the decision of the Commission on any question arising in respect of any ballot token examined or counted in any electoral division shall be final.

#### **78. Recount of votes**

(1) A candidate or his or her agent may, if present when the counting or any recount of the votes is completed, require the Returning Officer to have the votes recounted or again recounted but the Returning Officer may refuse to do so if in his or her opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any recounting of votes until the candidates and their counting agents present at the completion of counting or recounting have been given a reasonable opportunity to exercise the right conferred by subsection (1).

**79. Equality of votes**

(1) Where, after the counting of the votes or any recount of the votes is completed, an equality of votes is found to exist between any candidates, the Returning Officer shall declare a tie between the candidates and report the matter to the Commission.

(2) Where the Commission receives a report under subsection (1), it shall direct that fresh elections be held in respect of the electoral division in which the tie has been declared by the Returning Officer.

**80. Report on counting of votes**

(1) On the completion of the counting of votes at an election centre, the Returning Officer shall prepare a Report on the Counting of Votes which shall include the—

- (a) total number of votes cast per polling station for each electoral division;
- (b) number of valid votes;
- (c) number of invalid votes;
- (d) number of ballot tokens received and those not used;
- (e) votes obtained by each candidate; and
- (f) protests, if any, by counting agents regarding the validity of votes or any other matter.

(2) The Returning Officer shall require each counting agent to sign or thumb-print the Report on the Counting of Votes, and for this purpose the provisions of section 71 (4), (5) and (6) shall apply as if the reference in those subsections to Report on the Closing of Votes and polling agent were a reference to Report on the Counting of Votes and counting agent respectively.

(3) The Report on the Counting of Votes shall be in such form as the Commission may determine.

**81. Transmission and declaration of results**

(1) On completion of the requirements of section 80, the Returning Officer shall report the results of the elections to the Commission by such means of communication as the Commission may direct.

(2) The Commission shall, as soon as practicable on receipt of election results, declare—

- (a) the results; and
- (b) elected, the candidate, or in the case of a list of candidates the number on that list in accordance with section 79, who received the greatest number of votes.

**82. Publication of results**

The Commission shall, after the declaration of results—

- (a) publish the results of the election; and
- (b) retain the ballot tokens and any documents transmitted to it in pursuance of the provisions of this Act for a period of six months and dispose of the ballot tokens and documents in such manner as it thinks fit.

**83. Saving**

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

**84. By-elections**

(1) If, for any reason, the seat to an electoral division to which a candidate had been declared elected under section 80 becomes vacant and in consequence a by-election becomes necessary, the Commission shall hold another election for that electoral division in accordance with the provisions of the Constitution and this Act.

[Act No. 7 of 2001.]

(2) Except where a vacancy occurs within nine months of the anticipated dissolution of the National Assembly or Local Government Council, the Commission shall appoint an election day for by-election for a member to represent a constituency or Local Government Area not later than ninety days after the seat became vacant.

[Act No. 7 of 2001.]

**PART VI***Election Campaign**(a) Election Campaigning***85. Declaring election campaign periods**

(1) The Commission shall, by Order published in the *Gazette*, determine and declare the period after nominations are held when campaigning by candidates and political parties may begin and end.

(2) The Commission may, in its discretion, declare different periods for election campaigns for different offices.

**86. Election campaign materials**

(1) On the commencement of an election campaign candidates and political parties may, in addition to regular campaigning—

- (a) publish books, magazines, brochures, pamphlets, flyers, posters, signs and other similar materials;
- (b) make use of the press, radio, television and other media form;
- (c) carry out various political activities within the limits of the law.

(2) Every election campaign material published in accordance with the power conferred under subsection (1) shall identify the—

- (a) issuing candidate or political party, as the case may be; and
- (b) printer of the material.

(3) A person shall not post banners, posters, placards, drawings, billboards or other similar material on public buildings, national monuments, religious institutions or private property unless the owner of the property gives his or her consent.

(4) A candidate or political party shall, notwithstanding any law to the contrary, be exempted on the presentation of a Certificate of Authorisation issued by the Commission from the payment of customs duty in respect of election campaign material which is imported.

(5) The Commission may, on application made to it by a candidate or political party wishing to import electoral campaign materials, issue the candidate or political party, as the case may be, with a Certificate of Authorisation.

**87. Holding demonstration or procession**

(1) Where a political party wishes to hold a demonstration or procession during an election campaign period, it shall submit a written request to the Commission indicating the date, time and place of the holding of the demonstration or procession, at least three days in advance.

(2) The Commission shall, on receipt of a request under subsection (1), take a decision within forty-eight hours of the submission of the request.

(3) Where a demonstration or procession is requested by different political parties for the same time and place, the Commission may change the requests as submitted, but in any case giving priority to the first request received by the Commission.

(4) The Commission may, for purposes of ensuring the smooth co-ordination of a demonstration or procession and the maintenance of the peace and public order, liaise with the Inspector-General of Police.

(5) Nothing contained in this section shall be construed to prohibit a political party from conducting any meeting, organisational activity or publishing any book or other material in connection with its normal activities as a political party.

#### **88. Publicising information**

When the election campaign for any election comes to an end, all election campaign activities shall cease and the public media shall be at the disposal of the Commission to publicise information on procedures for exercising the right of suffrage.

#### **89. Rights of candidates and political parties to campaign**

(1) Where a candidate or political party believes that his or her or its rights under this Part have been violated, the candidate or political party may lodge a complaint with the Commission.

(2) The Commission shall, on receipt of a complaint under subsection (1), take all necessary steps to ensure that the rights of the candidate or political party which are the subject of a complaint are properly addressed and rectified without delay.

#### *(b) Election Campaign Ethics*

#### **90. Obligations of candidates and political parties**

Each candidate and political party involved in an election campaign shall—

- (a) respect the fundamental principles of the State as enshrined in the Constitution; and
- (b) carry out his, her or its campaign in keeping with ethical and moral standards and respect due to the candidates and political parties, voters and the Gambian people.

#### **91. Prohibitions during election campaigns**

A candidate or political party shall not, during an election campaign period—

- (a) insult or slander another candidate;
- (b) abuse or engage in the improper use of property of the Government for political propaganda purposes;
- (c) campaign in public offices or educational institutions during working hours or hours of instruction.

#### **92. Code on election campaign ethics**

(1) The Commission shall prepare a code on election campaign ethics which it shall, at least fifteen days before the beginning of election campaigning, issue to each candidate and political party.

[Decree No. 93 of 1996.]



(2) The acceptance of the code prepared and issued by the Commission under subsection (1) shall be a condition of—

- (a) the acceptance of a candidate's nomination paper; and
- (b) registration of a political party to take part in an election conducted under this Act.

(3) The code of ethics on election campaign shall be published in the *Gazette* by Order.

*(c) Use of Radio and Television*

**93. Air time on radio and television**

(1) The Commission shall, during an election campaign period, ensure that equal air time is given to each candidate and political party on the public radio and television.

(2) The Commission shall, in compliance with subsection (1), determine the time to be allocated to each candidate and political party per day or such other period as the Commission may consider reasonable, taking into account the number of candidates and political parties making a request under subsection (3).

(3) A candidate or political party wishing to be given air time under subsection (1), shall make a request in writing addressed to the Commission, and the Commission shall not be obligated under this section in the absence of the receipt of a request in writing.

**94. Use of private radio and television stations**

(1) Each candidate and political party shall enjoy the right to use private radio stations and television stations under the contract.

(2) A private radio station or television station shall, during an election campaign period, guarantee to each candidate and political party, in accordance with the principle stated in subsection (1), a minimum air time of five minutes.

**95. Rates of air time**

(1) A radio station and television station, whether public or private shall, within seven days of a declaration being made under section 85, prepare and present to the Commission the rates they intend to charge for air time for candidates and political parties.

(2) On receipt of the rates, the Commission shall, if it considers it reasonable to do so, enter into negotiations with the persons concerned in the management of the radio stations and television stations for purposes of—

- (a) finalising the rates; and
- (b) ensuring fairness in the distribution of air time.

(3) The Commission shall publish the rates agreed on under subsection (2) and a copy of the rates shall be made available, free of charge, to each candidate and political party on request.

(4) A candidate or political party requesting to be given air time in pursuance of section 93 or 94 shall pay the rates published by the Commission under subsection (3).

**96. Religious radio and television stations**

A religious radio station or television station shall not conduct political campaigns.

**PART VII**

*Election Petitions and Civil Proceedings*

**97. Elections to be questioned only by petition**

An election and a return to an elective office shall not be questioned in any proceedings except by an election petition presented in accordance with this Part.

**98. Presentation of election petition**

(1) A petition complaining of an undue return or undue election under the provisions of this Act (hereinafter called an "election petition") may, within thirty days from the date of the declaration of the result of the election, be presented to the Supreme Court or the Court, as the case may be, in its civil jurisdiction by any one or more of the following persons who—

- (a) voted or had a right to vote at the election to which the petition relates;
- (b) claim to have had a right to be returned or elected at the election; or
- (c) allege themselves to have been candidates at the election.

(2) At the time of the presentation of the petition, or within three days afterwards, the petitioner shall give security for the payment of all costs, charges and expenses that may become payable by him or her to any witness summoned on his or her behalf or to any respondent.

(3) The security shall be such amount and shall be given in such manner as the Supreme Court or the Court may order, and in the event of failure to comply with the order no further proceedings shall be had on the petition.

**99. Relief which may be claimed**

Without prejudice to subsections (10) and (11) of section 100, all or any of the following reliefs to which a petitioner may be entitled may be claimed in an election petition—

- (a) declaration that the election is void;

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- (b) a declaration that the return of the person elected was undue;
- (c) a declaration that a candidate was duly elected and ought to have been returned;
- (d) where the seat of an electoral division is claimed for any unsuccessful candidate on the ground that the candidate had a majority of the valid votes cast, a scrutiny under section 103.

**100. Trial of election petition**

(1) An election petition shall be tried by—

- (a) the Supreme Court, in the case of an election to the office of President or of a Member of the National Assembly; and
- (b) the Chief Justice in open Court, in the case of an election to any other office.

[Section 27 (1)(c) of the Constitution.]

(2) During the trial of an election petition the Supreme Court or Court may order—

- (a) the production and inspection of any rejected ballot token, of any voting card or counterfoil;
- (b) the inspection of any counted ballot token; or
- (c) the opening of any sealed packet of used ballot tokens.

(3) In making and carrying into effect an order made under subsection (2), the Supreme Court or Court shall ensure that the way in which the vote of any particular person has been given shall not be disclosed until it has been proved that the vote was given and the vote has been declared by the Supreme Court or Court to be invalid.

(4) A person called as a witness at the trial of an election petition shall not be excused from answering any question relating to any offence at or connected with the election on the grounds that the answer to the question may incriminate or tend to incriminate himself or herself, or on the grounds of privilege.

(5) A witness who answers truly all questions which he or she is required by the Supreme Court or Court to answer shall be entitled to receive a certificate of indemnity from the Supreme Court or under the hand of the Chief Justice, stating that the witness has so answered.

(6) An answer by a person to a question put by or before the Supreme Court or Court shall not be admissible in evidence against him or her in any proceedings, civil or criminal, except in the case of any criminal proceedings for perjury in respect of the evidence.

(7) Subject to subsection (9) and the provisions of this Act and without prejudice to any power to make Rules of Court under any other law, the Chief Justice

may make, amend, or revoke rules for regulating the practice and procedure to be observed on election petitions, and, subject to those rules, the procedure at the trial of an election petition shall, as near as circumstances will admit, be the same, and the Supreme Court or Court shall have the same power, jurisdiction and authority as if it were trying a civil action.

(8) The witnesses shall be subpoenaed and sworn in the same manner, as near as circumstances will admit, as in a trial and shall be subject to the same penalties for perjury.

(9) The Election Petition Rules shall be deemed to be made under the powers conferred in subsection (7).

(10) At the conclusion of the trial, the Supreme Court or Court shall determine whether the person of whose return or election complaint is made, or any other and what person, was duly returned or elected, or whether the election was void, and shall certify the determination to the Commission.

(11) On a certificate being given under subsection (10) by the Supreme Court or the Chief Justice the—

- (a) determination shall be final and no appeal shall lie from it; and
- (b) election shall be confirmed, or a new election held, as the case may require in accordance with the certificate.

(12) An election officer shall not be joined as a party to an election petition, and no Court shall accept the petition, except in the case of a Returning Officer, and then only if it is shown by affidavit annexed to the petition that there was wilful misconduct on the part of the Returning Officer.

**101. Proceedings against a person who has received certificate of indemnity to be stayed**

(1) Where a person has received a certificate of indemnity in relation to an election, and legal proceedings were at any time brought against him or her for any corrupt or illegal practice committed by him or her previous to the date of the certificate at or in relation to the election, the Court having cognizance of the case shall, on production of the certificate, stay the proceedings and may in its discretion award to the person such costs as he or she may have been put to in the proceedings.

(2) Nothing in this section shall be deemed to relieve any person receiving a certificate of indemnity from any incapacity under any law or from any proceedings to enforce that incapacity, other than a criminal prosecution.

*Elections Act***102. Reporting of illegal and corrupt practices**

(1) If during the course of the trial of an election petition it is shown to the satisfaction of the Supreme Court or Court that any person or political party has been guilty of an illegal or a corrupt practice, the Court shall, at the conclusion of the trial, report the person or party to the Commission, specifying in the report the—

- (a) name, description and address of the person or party; and
- (b) type of illegal or corrupt practice committed.

(2) Before the Supreme Court or Court makes a report under subsection (1), it shall give the person or political party concerned an opportunity of being heard and of giving and calling evidence to show why he or she or the party should not be reported.

(3) A person or political party reported in accordance with this section for an illegal or corrupt practice, shall from the date of the report be subject to the same incapacities as if on that date he or she or the party had been convicted of that practice in accordance with Part IX.

(4) On receiving a report under this section, the Commission shall in the case of the—

- (a) person, cause the person's name to be struck off from any register of voters on which it appears; and
- (b) political party—
  - (i) cause to be struck off from any register, the name of any person who, in the opinion of the Commission, has been involved in the illegal or corrupt practice committed by the party; and
  - (ii) take such disciplinary measures, including deregistration or suspension of the party, as may appear appropriate to the Commission to prevent a recurrence of the illegal or corrupt practice by the party.

(5) Where the Commission takes action against a person or political party under subsection (4), it shall publish the name of the person or party in the *Gazette*, stating its reasons for the action.

**103. Votes to be struck off at a scrutiny**

(1) On a scrutiny at the trial of an election petition, the following votes only shall be struck off, the vote—

- (a) of any person whose name was not on the register of voters assigned to the polling station at which the vote was recorded;
- (b) of any person whose vote was procured by bribery, treating or undue influence;

- (c) of any person who committed or procured the commission of personation at the election;
- (d) of any person proved to have voted at the election in more than one electoral division;
- (e) of any person, who, by reason of illegal practice or by reason of the report made against him or her under section 102, or by reason of his or her conviction of an offence under Part IX was incapable of voting at the election; and
- (f) given for a disqualified candidate by a voter knowing that the candidate was disqualified or the facts causing the disqualification, or after sufficient public notice of the disqualification, or when the disqualification or the facts causing it, were notorious.

(2) The vote of a registered voter shall not, except in the case specified in subsection (1) (e), be struck off at a scrutiny by reason only of the voter not having been or not being qualified to have his or her name entered on the register of voters.

(3) On a scrutiny, any invalidated vote proved to be a valid vote shall, on the application of any party to the petition, be added to the poll.

#### 103A. Establishment of political parties

Subject to the provisions of this Part, political parties may be established to—

- (a) participate in the shaping of the political will of the people;
- (b) disseminate information of political ideas and on political, economic and social programmes of national character; and
- (c) sponsor candidates for public elections.

[Act No. 7 of 2001.]

### PART VIII

#### *Registration and Conduct of Political Parties*

#### 104. Participation of political parties in election

(1) The conduct of elections to an elective office in accordance with the Constitution and this Act shall be based on party politics.

(2) Notwithstanding subsection (1), a person who is qualified to be registered as a voter under the Constitution and this Act may contest as an independent candidate in any election.

(3) The number of political parties shall not be limited by law and every citizen of The Gambia shall have the right freely to choose whether or not he or she becomes a member of a political party and which party he or she supports.

[Act No. 7 of 2001.]

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(4) A political party shall not be formed on sectional, religious, ethnic or regional basis.

(5) Every political party shall conform to democratic principles, and its actions and purposes shall not contravene or be inconsistent with the Constitution or any laws.

(6) A political party shall be required to—

- (a) as occasion may require, declare to the Commission and the public, its revenues and assets and the source of its revenue and assets;
- (b) publish annually, its audited accounts and to lodge a copy with the Commission.

[Act No. 7 of 2001.]

(7) A political party shall not receive any contribution from any person who is not a citizen of The Gambia, or from any corporate or unincorporated body.

[Act No. 7 of 2001.]

### 105. Registration of political parties

(1) The Commission shall, on the written application of a political party in the prescribed form, register the party, if the Commission is satisfied that—

- (a) it is the principal object of that political party to participate in an election under this Act, including the—
  - (i) nomination of persons as candidates for the election,
  - (ii) canvassing for votes for a candidate at the election, and
  - (iii) devotion of any of its funds or any part of it to the election expenses of any candidate taking part in the elections;
- (b) internal organisation of the political party conforms to democratic principles;
- (c) purposes and actions of the political party do not contravene or are not inconsistent with, the Constitution or other laws; and
- (d) political party has a national character and is not formed on any sectional, religious, ethnic or regional basis.

(2) The application shall be accompanied by—

- (a) the political party's constitution;
- (b) the political party's name and full address;
- (c) the names and addresses of all the registered officers of the political party;
- (d) the full address of the political party's secretariat;
- (e) the political party's emblem, colour, motto and symbol which shall have no ethnic, religious or regional connotation;

- (f) a declaration signed by at least five hundred members of the political party whose names appear in the register of voters to the effect that the voters support the registration of the political party and seek its registration as a political party;
- (g) such fee as the Commission may determine; and
- (h) a written undertaking that the political party shall abide by the code on election campaign ethics which the Commission may from time to time prepare.

#### 106. Political parties to notify Commission of change

(1) If a change occurs in relation to—

- (a) the name, emblem, colour, motto, symbol or address of a political party; or
- (b) the secretariat of registered officers of a political party,

the political party shall notify the Commission in writing of the change within thirty days after the date on which the change has occurred.

(2) If the Commission determines that the name, emblem, colour, motto or symbol of a political party—

- (a) violates the provisions of this section; or
- (b) is identical to the name, emblem, colour, motto or symbol of any other political party or so closely resembles it that voters may be misled or confused by it,

the Commission shall so notify the political party which shall change the name, emblem, colour, motto or symbol within ten days of receipt of the notification.

(3) Where the political party fails to comply with a notification issued under subsection (2), the Commission shall deny registration to the party or where the party is already registered, deregister the party.

#### 107. Submission of manifesto

At or prior to the time a political party submits a nomination for an election, it shall submit to the Commission a copy of the party's manifesto which shall contain—

- (a) a written commitment to encourage the spirit of tolerance and multiculturalism amongst the inhabitants of The Gambia;
- (b) evidence that the party is not based on religious, cultural or ethnic lines or on any consideration which may induce divisive political activity or promotion of unpatriotic and non-national interests;
- (c) a commitment to provide opportunities for its members to benefit from the Government's programme of civic and member education; and



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- (d) a clear cut explanation of the party's programme for national development.

[Act No. 7 of 2001.]

### 108. Cancellation of registration

Without prejudice to section 106 (3), the Commission shall cancel the registration of a political party if it is—

- (a) notified in writing signed by a majority of the registered officers of the political party that the political party has, by resolution, dissolved or is going to be dissolved on a date which shall be specified in the resolution; or
- (b) proved to the satisfaction of the Commission that the political party has, at any time after its registration, failed to comply with any of the provisions of this Part.

### 109. Appeal

(1) A political party which is aggrieved by a decision of the Commission to deny it registration or to deregister it may, within fourteen days of the denial or deregistration, appeal to the Court.

(2) The decision of the Court may be appealed against to the Court of Appeal whose decision shall be final.

## PART IX

### *Offences and Penalties*

### 110. Offences in respect of voter registration and voter forms

(1) A person who—

- (a) knowingly makes a false declaration or statement on a Claim for Registration either as a claimant or on behalf of a claimant;
- (b) forges, counterfeits, alters, defaces or fraudulently destroys any Claim for Registration, voting card or counterfoil;
- (c) sells, purchases or fraudulently possesses a Claim for Registration, voter card or counterfoil;
- (d) registers to vote in more than one constituency without applying for transfer of registration; or
- (e) induces or procures any other person to register to vote knowing that the person is prohibited or is not qualified or entitled by any law to register to vote,

commits an offence and is liable on conviction to imprisonment for a term not exceeding two years.

(2) A person convicted of an offence under subsection (1) shall be incapable during the period of five years from the date of his or her conviction of being registered as a voter or of voting at any election.

#### **111. Offences relating to registers**

A person who—

- (a) copies or possesses any copy of a register of voters or any part thereof without lawful authority;
- (b) forges, counterfeits, alters, defaces or fraudulently destroys any register of voters; or
- (c) unlawfully retains, seizes or possesses a voting card, counterfoil book, registration stamp or anything in use at a registration centre.

commits an offence and is liable on conviction to a fine not exceeding five thousand dalasis or to imprisonment for a term not exceeding two years or to both the fine and imprisonment.

#### **112. Offence relating to nominations, ballot tokens and representative symbols**

A person who—

- (a) forges, fraudulently defaces or fraudulently destroys any nomination paper or delivers to any person or authority to whom the nomination papers are required under this Act to be delivered, any nomination paper knowing the nomination paper to be forged or fraudulently defaced;
- (b) forges, counterfeits, defaces, fraudulently destroys, takes, opens or otherwise interferes with any ballot token, representative symbol or ballot box then in use for the purposes of an election;
- (c) supplies a ballot token to a person without lawful authority;
- (d) fraudulently puts into a ballot box an object other than the ballot token which he or she is authorised by law to put in; or
- (e) fraudulently takes a ballot token out of the screened compartment in a polling station,

commits an offence and is liable on conviction to imprisonment for a term not exceeding two years.

#### **113. Offences relating to infringement of secrecy**

(1) Each election officer, candidate, agent and other authorised person in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in the polling station and shall not communicate, except for some purpose authorised by law, to any person any information as to the name or number on a register of voters of any voter who has or has not applied for a ballot token or voted at that polling station before the poll is closed.

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(2) Each election officer, enumerator, candidate, agent and other authorised person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the counting and shall not communicate any information obtained at the counting as to the candidate for whom any vote is given by any particular voter.

(3) A person shall not directly or indirectly induce a voter to make known to a person, or otherwise obtain information as to the candidate or representative symbol of the candidate for whom the voter is about to vote or has voted or communicate at any time to a person any information obtained as to the candidate or representative symbol of the candidate for whom a voter is about to vote or has voted.

(4) A person who contravenes a provision of this section commits an offence and is liable on conviction to a fine not exceeding five thousand dalasis or to imprisonment for a term not exceeding two years or to both the fine and imprisonment.

(5) The provisions of this section shall not be construed to extend to any procedure prescribed for recording the vote of a voter who is incapacitated by blindness or other physical cause.

**114. Offence relating to interference with an election**

(1) A person who at an election held under this Act acts or incites another person to act in a disorderly manner for the purpose of preventing or obstructing the conduct of the election commits an offence and is liable on conviction to imprisonment for a term not exceeding five years.

(2) A person who—

- (a) makes use of, or threatens to make use of, any force, violence or restraint; or
- (b) inflicts, or threatens to inflict, any injury, damage, harm or loss on or against an election officer during the conduct of the election officer's official duties,

commits an offence and is liable on conviction to imprisonment for a term not exceeding seven years.

(3) A person who does, takes part in, organises or connives at any act prohibited under section 71 commits an offence and is liable on conviction to a fine not exceeding two thousand dalasis or to imprisonment for a term not exceeding six months or to both the fine and imprisonment.

**115. Conduct of illegal practices**

A person who—

- (a) votes or induces or procures any other person to vote at an election knowing that he or she or the other person is prohibited from voting, or is not qualified or entitled by any law to vote, in the election;
- (b) before or during an election, knowingly publishes any false statement of the withdrawal of a candidate at the election for the purposes of defeating the candidate or promoting or procuring the election of another candidate;
- (c) induces or procures any other person to become a candidate or to withdraw as a candidate, in an election in consideration of any payment or promise of any nature whatsoever; or
- (d) interferes with a voter when recording his or her vote,

commits the offence of an illegal practice and is liable on conviction to a fine not exceeding five thousand dalasis or to imprisonment for a term not exceeding two years, and shall in addition be incapable of being registered as a voter or of voting at any election during the period of five years from the date of his or her conviction.

**116. Conduct of corrupt practices**

(1) The term "corrupt practice" as used in this Act means bribery, treating, undue influence or personation as provided in this Part or aiding, abetting, counselling or procuring the commission of personation.

(2) A corrupt practice shall be deemed to be committed by a candidate if it is committed with his or her knowledge or consent or by a person who is acting under the general or special authority of the candidate with reference to the election.

(3) Where a corrupt practice is committed by a candidate elected at an election held under the provisions of this Act, the election of the candidate shall be invalid.

**117. Bribery**

(1) A person is guilty of bribery if he or she—

- (a) directly or indirectly, by himself or herself or by any other person on his or her behalf, gives, lends, agrees to give or lends, offers, promises, or promises to procure or endeavour to procure any money or valuable consideration to or for any other person, in order to induce any voter to vote or refrain from voting or does any such act on account of the voter having voted or refrained from voting at an election;
- (b) directly or indirectly, by himself or herself or by any other person on his or her behalf, gives or procures or agrees to give or procure or offers, promises or promises to procure or endeavour to procure any

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office, place or employment to or for any other person in order to induce a voter to vote or refrain from voting or does any such act on account of the voter having voted or refrained from voting at an election;

- (c) directly or indirectly, by himself or herself or by any other person on his or her behalf, makes any gift, loan, offer, promise, procurement or agreement to or for any person in order to induce the person to procure or to endeavour to procure the return of a person at an election or the vote of a voter at an election;
- (e) advances or pays or causes to be advanced or paid any money to or for the use of any other person with the intent that the money, or any part of the money, shall be expended in bribery at an election or who knowingly pays or causes to be paid money wholly or in part expended in bribery at an election;
- (f) before or during an election, directly or indirectly, by himself or herself or by any other person on his or her behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or herself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at an election; or
- (g) after an election, directly or indirectly, by himself or herself or by any other person on his or her behalf, receives any money or valuable consideration on account of a person having voted or refrained from voting or having induced any other person to vote or refrain from voting at the election.

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

**118. Treating**

A person is guilty of treating if he or she—

- (a) directly or indirectly, by himself or herself or by any other person, either before, during or after an election, gives, provides or pays, wholly or in part, the expenses of giving or providing any food, drink, entertainment or provision to or for a person for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at the election or on account of the person or any other person having voted or refrained from voting at the election; or

- (b) being a voter, corruptly accepts or takes the food, drink, entertainment or provision.

**119. Undue influence**

A person is guilty of undue influence if he or she directly or indirectly—

- (a) by himself or herself or by any other person on his or her behalf, makes use of or threatens to make use of any force, violence or restraint or inflicts or threatens to inflict by himself or herself or by any other person an injury, damage, harm or loss on or against a person in order to induce or compel the person to vote or refrain from voting or on account of the person having voted or refrained from voting at an election; or
- (b) by abduction, duress or any fraudulent device or contrivance impedes or prevents the free use of the vote by a voter or thereby compels, induces or prevails on a voter either to give or refrain from giving his or her vote at an election.

**120. Personation**

A person is guilty of personation if he or she—

- (a) at an election, applies for a ballot token in the name of some other person or tenders a vote 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 an election, applies for a ballot token or tenders a vote at the same election in his or her own name.

**121. Punishment for corrupt practices**

(1) A person who is guilty of bribery, treating, undue influence or personation or of aiding and abetting, counselling or procuring the commission of the offence of personation commits the offence of a corrupt practice and is liable on conviction to a fine not exceeding twenty-five thousand dalasis or to imprisonment for a term not exceeding five years or to both the fine and imprisonment.

(2) A person who is convicted of a corrupt practice shall, in addition to any other punishment, be incapable during a period of ten years from the date of his or her conviction, or, if on the conviction he or she has been sentenced to imprisonment, from the date when he or she completes the serving of such sentence—

- (a) of being registered as voter or voting at an election held under the provisions of this Act;
- (b) of being elected to an office to which this Act applies or, if elected before his or her conviction, of retaining the office; and
- (c) of holding any judicial office.

*Elections Act***122. Certification of illegal or corrupt practices**

(1) A court convicting a person of an illegal or corrupt practice under the provisions of this Act shall report that fact to the Commission which shall cause that person's name to be struck off any register of voters on which it appears.

(2) If on appeal the conviction is set aside, the court hearing the appeal shall report that fact to the Commission which shall cause the person's name to be reinstated on the register of voters.

**123. Attempted offence**

(1) An attempt to commit an offence specified in this Part shall be punishable in the same manner in which the offence itself is punishable.

(2) In a prosecution for an offence in relation to nomination papers, ballot boxes, ballot tokens, voting cards, counterfoils, representative symbols and things in use at an election, the property in the papers, boxes, tokens, cards, counterfoils, representative symbols and things, may be stated to be in the Commission.

**124. Effect of this Act on Cap. 10:01 and Cap. 11:01**

Nothing in this Act shall in any way prejudice or affect any of the provisions of the Criminal Code or of the Criminal Procedure Code as to the offence relating to public elections or to public offices or officers.

**125. General offence where specific provision not made**

(1) Where in this Act provision is made for compliance with, or prohibiting, an act or a thing for which no offence is stated, the non-compliance or non-prohibition in respect of, the act or thing by a person shall be an offence.

(2) A person who commits an offence by virtue of subsection (1) is liable on conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both the fine and imprisonment.

**126. Power to institute criminal proceedings**

The Commission may in its own name, institute criminal proceedings for an offence committed under this Act or refer the offence to the Attorney-General for prosecution.

**PART X***General***127. Power to resolve issues not addressed by this Act**

(1) Where an issue arises relating to electoral matters which is not addressed by this Act or any other law, the Commission shall resolve the issue in keeping with the standards and rules of natural justice and fairness.

(2) A decision of the Commission with respect to an issue arising under subsection (1) shall be final and shall not be called into question in any court of law.

#### **128. Non-compliance with Act**

Except as is otherwise provided by the Constitution in respect of elections to any elective office, an election shall not be invalid by reason of a non-compliance with this Act or any other law, if it appears that the election was conducted fairly and in good faith and that the non-compliance is not shown to have affected the result of the election.

#### **129. Providing security officers**

(1) The Inspector-General of Police shall, on the request of the Commission, assign to the Commission such number of police officers as the Commission may require during the periods of registration of voters and the conduct of election.

(2) A police officer assigned to the Commission shall, during his or her assignment, be under the control and direction of the Commission.

(3) A police officer assigned under this section shall serve the Commission from the period of the commencement of registration of voters or the conduct of elections until—

- (a) three days after the end of the registration; and
- (b) seven days after the declaration of election results.

#### **130. Guaranteeing candidate's job**

Where a person who desires to run for an elective office in accordance with this Act is an employee of an institution, the institution shall, on application made by that person—

- (a) grant the person leave of absence with pay for the duration of the election Campaign up until five days after the declaration of results; and
- (b) guarantee the person his or her job irrespective of his or her political affiliation.

#### **131. Inaccurate description of persons and places**

A misnomer or an inaccurate description of any person or place named or described in any register, notice or other document prepared or issued under or for the purposes of this Act shall not in any way affect the operation of this Act as respects that person or place if that person or place is so designated in the register, notice or other document as to be identifiable.



**132. Mode of carrying out publications**

(1) Where in this Act it is provided that any notice, list, register or other document shall be published and no specific provision is made as to the mode of publication, the publication may, in the discretion of the person responsible for the publishing of the publication or at the direction of the Commission, be made by posting the notice, list, register or other document near any post office, police station, court house, market place or other place where the publications are customarily posted in the constituency, ward, city, town, village or other area to which it applies.

(2) Nothing in subsection (1) shall be deemed to prohibit the making of the publication in the *Gazette* at the discretion of the Commission.

**133. Designating public places for election purposes**

(1) The Commission may, for purposes of public registration of voters, polling and the counting of votes, designate any public premises or buildings to be used for those purposes.

(2) A person who is in charge of public premises or buildings which are designated under subsection (1) shall co-operate with, and provide all necessary assistance to, the Commission to facilitate the use of the premises or buildings for the purpose for which they are designated.

**134. Power of Commission to make Rules**

(1) The Commission, with the approval of the National Assembly, may by Order published in the *Gazette*, add to, rescind, vary or otherwise amend the First Schedule and the various Forms contained in the Third and Fourth Schedules.

(2) The Commission may make Rules generally for the better carrying out of the provisions of this Act and shall in particular make Rules—

- (a) prescribing fees for the registration of political parties and any other fees which may be prescribed under this Act;
- (b) revising the deposits payable under this Act;
- (c) prescribing such procedures not covered under this Act as the Commission considers necessary for the effective conduct of elections;
- (d) authorising individuals, local and international organisations, and members of the press and media to witness registration of voters and the conduct of elections;
- (e) regarding the certificate to be used by the Returning Officers to allow election officers and police officers to vote at their places of duty;

- (f) regarding the forms of the Report on the Closing of Polls and Report on the Counting of Votes;
- (g) prescribing the Certificate of Authorisation required under section 86;
- (h) prescribing the amount of donations and gifts which a candidate or political party may receive with respect to any election;
- (i) prescribing forms for returns of death and the registration of political parties; and
- (j) prescribing any matter which may be prescribed under this Act.

135. ....

[Omitted: Spent.]

**PART XI**

*Transitional Provisions*

136. to 140. ....

[Omitted: Spent.]

**PART XII**

*Miscellaneous*

**141. Power to conduct Presidential election in a foreign country**

The Commission may make rules for Gambians in any foreign country to vote in a Presidential election.

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