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Assembly

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Assembly Ordinance 1966, No.33

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ASSEMBLY ORDINANCE 1966
1966, No. 33

An Ordinance to provide for the qualifications and dis-qualifications of electors and candidates, the mode of electing members of the Island Assembly and the terms and conditions of their membership (1 February 1966).

1. Short Title and Commencement - (1) This Ordinance may be cited as the Niue Island Assembly Ordinance 1966.

(2) This Ordinance shall come into force on the first day of February 1966.

2. Interpretation - (1) In this Ordinance, unless the context otherwise requires -

"The Act" means [Niue Act 1966];

"Announce" means make generally known in Niue by word of mouth or by any other practicable means;

"Candidate" means any registered elector capable of being elected and nominated for election;

"Chief Electoral Officer" means the Chief Electoral Officer appointed under section 3 of this Ordinance; and includes any person authorised to exercise the powers, duties and functions of the Chief Electoral Officer;

"Commonwealth" means the Commonwealth of Nations; and includes any territory for whose international relations the Government of any country that is a member of the Commonwealth of Nations is responsible;

"Constituency" means a constituency specified in section 5 of this Ordinance;

"Corrupt practice" means any of the offences defined by this Ordinance to be a corrupt practice:

"Election" means an election of a member of the Island Assembly:

"Elector", in relation to any constituency means a person registered, or qualified to be registered, as an elector of that constituency:

"Electoral Officer" means any officer appointed under sections 3 and 4 of this Ordinance:

"Gazette" means the Niue Island Gazette:

"General Election" means an election which takes place after the dissolution or expiration of the Island Assembly:

"High Court" means the High Court of Niue:

"Member" means a member of the Island Assembly:

"Nomination day", in relation to any election, means the day appointed by public notice as the latest day for the nomination of candidates:

"Notice in writing" includes notice by telegram or radio or other similar means; and "notify in writing" has a corresponding meaning:

"Official mark", in relation to any document, means any mark enabling the identification of the polling booth or office in which that document was issued:

"Polling day", in relation to any election, means the day appointed by public notice for that election for the polling to take place if a poll is required:

"Presiding officer" means an electoral officer appointed to preside and actually presiding at any polling booth on the day of polling:

"Public notice", in relation to any act, matter, or thing required to be publicly notified, means the making of the act, matter, or thing generally known in Niue by any practicable means in addition to publication in the Niue Island Gazette; and "publicly notify" has a corresponding meaning:

"Registered elector" means an elector whose name is entered on any electoral roll; and "to register" and "registration" have meanings corresponding to the meaning of the term registered elector:

"Registrar" and "Registrar in charge" means any person appointed as the Registrar under section 4 of this Ordinance; and includes any person authorised to exercise the powers, duties and functions of the Registrar:

"Resident", in relation to any constituency, means any resident of Niue who resides in that constituency and has resided there for at least three months immediately preceding the date of his application for registration pursuant to section 14 of this Ordinance:

"Resident of Niue", in relation to any applicant for registration as an elector pursuant to section 14 of this Ordinance, means a person who is deemed to be ordinarily resident in Niue and has been so ordinarily resident throughout the period of three months immediately preceding his application for enrolment or, as the case may be, his nomination as a candidate, and has at some period resided continuously in Niue for not less than 12 months.

"To reside" in relation to any constituency, has the meaning assigned thereto under section 15 of this Ordinance:

"Returning Officer" means a Returning Officer appointed under this Ordinance; and includes any person authorised to exercise the powers, duties and functions of a Returning Officer:

"Roll" means an electoral roll or a supplementary roll made in the manner provided by this Ordinance containing the names of electors:

"Transmit" means pass on by telegram, radio, or other similar means:

Subject to the provisions of this Ordinance, expressions defined in the [Niue Act 1966] have the meanings so defined.

(2) In this Ordinance a reference to a numbered form is a reference to the form so numbered in the Schedule to this Ordinance.

[In subsection (1) the Niue Act 1966, being the corresponding enactment in force at the date of this reprint, has been substituted for the Cook Islands Act 1915 and subsequent amendments.]

PART I - ELECTORAL OFFICERS

3. Chief Electoral Officer - (1) The Resident Commissioner shall from time to time appoint -

- (a) A Chief Electoral Officer, who shall have and exercise the powers and duties conferred on him by this Ordinance; and
- (b) A Deputy Chief Electoral Officer, to act in the case of the illness, absence, death, or removal of the Chief Electoral Officer.

(2) Every Deputy Chief Electoral Officer, while so acting, shall exercise the duties and shall have the powers and authorities of the Chief Electoral Officer, and the fact that he so acts shall be sufficient evidence of his authority to do so.

4. Electoral Officers - (1) The Resident Commissioner shall from time to time appoint -

- (a) A Registrar for each electoral roll, who shall be in charge of the roll in respect of which he is appointed:

- (b) A Returning Officer for each constituency, who shall be in charge of the election in the constituency for which he is appointed:
- (c) Such clerks and other officers as, in the opinion of the Resident Commissioner, are required to implement the provisions of this Ordinance:
- (d) A substitute for any officer appointed under this section to act in the case of the illness, absence, death, or removal of that officer. The substitute, while so acting, shall exercise the duties and have the powers and authorities of the officer for whom he is acting, and the fact that any substitute so acts shall be sufficient evidence of his authority to do so.

(2) Any reference in this Ordinance to one of the officers appointed under this section shall be deemed to include any substitute appointed for that officer.

(3) Every person appointed as aforesaid shall exercise his duties and functions subject to the control of the Chief Electoral Officer, and shall comply with any directions received from him from time to time.

(4) With the approval of the Chief Electoral Officer, every Returning Officer may appoint as many deputies and poll clerks as he deems necessary for the effective taking of the poll at every polling booth, and every such deputy shall have and may exercise in and about the polling booth for which he is appointed all the powers and duties of a Returning Officer, subject to the control of the Returning Officer by whom he is appointed.

(5) No Returning Officer shall hold any official position in connection with any political organisation.

(6) Any person may be appointed to hold two or more offices under this section and section 3 of this Ordinance.

(7) No candidate shall act as a scrutineer and no person holding any office in or being a member of any political organisation shall be an officer appointed under this section.

Constituencies

5. Constituencies - (1) There shall be fourteen constituencies for the election of members of the Island Assembly and each constituency shall have the name and comprise each of the villages of Alofi North, Alofi South, Avatele, Hakupu, Hikutavake, Lakepa, Liku, Makefu, Mutalau, Namukulu, Tamakautoga, Toi, Tuapa, and Vaiea.

(2) Each constituency shall consist of the electors entitled pursuant to the provisions of section 13 of this Ordinance to have their names entered upon the roll for that constituency.

PART II - QUALIFICATIONS OF MEMBERS

6. Registered electors may be members, unless disqualified - (1) Subject to the provisions of this Ordinance, every person registered as an elector of any constituency, but no other person, is qualified to be a candidate and to be elected a member for that or any other constituency:

Provided that a person shall not be so elected -

- (a) If he is disqualified for registration as an elector under any of the provisions of this Ordinance; or
- (b) If he is an undischarged bankrupt.

7. Removal of name from roll without cause - Any person duly qualified as an elector who has been registered on any electoral roll but whose name has become removed from that roll through no fault of his own shall not, by reason only of not being registered as an elector, be disqualified from becoming a candidate and being elected for any constituency, but in every such case he shall forward to the Chief Electoral Officer, at the time when he sends his consent to be nominated, a statutory declaration to the effect that he is not disqualified as an elector for the constituency in respect of which he was previously registered under the provisions of this Ordinance, that he still retains that qualification, and that his name has been removed from the roll of that constituency through no fault of his own.

8. Effect of registration on wrong roll - The nomination of any person as a candidate for election, or his election as a member, shall not be questioned on the ground that, though entitled to be registered as an elector of any constituency, he was not in fact registered as an elector of that constituency but was registered as an elector of some other constituency.

Vacancies

9. How vacancies created - The seat of a member shall be declared to be vacant by the Resident Commissioner, whose decision shall be final, by public notice under his hand -

- (a) If he fails to take the Oath of Allegiance under [section 33 of the Act] or to make an affirmation instead of that Oath, or
- (b) If on an election petition the Court declares his election void; or
- (c) If he dies; or
- (d) If he resigns his seat; or
- (e) If on three consecutive sitting days he fails, without permission of the Resident Commissioner, to attend in the Island Assembly or any committee thereof; or
- (f) If he ceases to reside in Niue; or
- (g) If he becomes a bankrupt within the meaning of the bankruptcy laws in force in Niue; or

- (h) If he is convicted in Niue or any other part of the Commonwealth of any offence punishable by death or imprisonment for a term of one year or upwards or is convicted in Niue of a corrupt practice; or
- (i) If he becomes of unsound mind and is so certified by two Medical Officers or by one Medical Officer and a graduate of the [Fiji School of Medicine]; or
- (j) If he becomes a national of or adheres to any State with which Her Majesty is at war.

[The words in square brackets have been substituted to correspond with the terms used in the Niue Act 1966.]

Tenure of Office

10. Tenure of Office - (1) Every member who has been elected pursuant to the provisions of this Ordinance shall take office on the day on which the warrant declaring his election is signed by the Resident Commissioner pursuant to sections 41 and 70 of this Ordinance.

(2) The seat of a member, unless previously vacated, shall become vacant at the end of the day next preceding the day on which the members elected at the next ensuing general election take office.

11. Form of Resignation - A member may resign his seat by writing under his hand addressed to the Resident Commissioner.

PART III - ELECTORS AND ELECTORAL ROLLS

12. Qualifications of electors - (1) Subject to the provisions of this Ordinance a person shall be deemed to be qualified to be registered as an elector of any constituency if -

- (a) He is a British subject; and
- (b) He is of or over the age of 18 years; and
- (c) He has been ordinarily resident in Niue throughout the period of three months immediately preceding his application for enrolment; and
- (d) He has at some period resided continuously in Niue for not less than 12 months; and
- (e) He has not been convicted in Niue or in any other part of the Commonwealth of any offence punishable by death or by imprisonment for a term of one year or upwards, or has been convicted in Niue of a corrupt practice, unless in each case he has received a free pardon or has undergone the sentence or punishment to which he was adjudged for the offence; and
- (f) He is not of unsound mind; and
- (g) He is a resident of that constituency.

(2) For the purposes of this section a person shall be deemed to be ordinarily resident in Niue if, and only if -

- (a) He is actually residing in Niue; or
- (b) Having been actually resident in Niue with the intention of residing therein indefinitely, he is outside Niue but has, and has ever since he left Niue an intention to return and reside therein indefinitely:

Provided that any person who has been outside Niue continuously for any period of more than three years, otherwise than for the purpose of undergoing a course of education or of technical training or instruction during the whole or substantially the whole of that period, shall be deemed not to have been actually resident in Niue during that period with the intention of residing therein indefinitely.

13. Electoral rolls - (1) There shall be an electoral roll for each constituency, and the Registrar in charge of that roll shall compile and keep, as provided herein, an electoral roll for the constituency for which he is appointed.

(2) Every person qualified to be registered as an elector shall, subject to the provisions of this Ordinance, be entitled to have his name entered upon the roll of the constituency of which he is a resident:

Provided that every person who is so qualified but is not a resident of any constituency shall be entitled to register in such constituency as the Resident Commissioner determines from time to time.

14. Compulsory registration of electors - (1) Every person who is or becomes qualified to be registered as an elector shall make application in the prescribed form to the Registrar in charge of the roll for the constituency for registration as an elector -

- (a) Within one month after the date of the commencement of this Ordinance, if he is qualified on that date.
- (b) Within one month after the date on which he first becomes qualified to be registered as an elector, if he is not so qualified on the date of the commencement of this Ordinance.
- (c) Being an elector registered on the roll for any constituency, within one month after the date on which he becomes qualified to be registered on the roll of another constituency.

(2) No person shall be entitled to be registered as an elector on more than one electoral roll.

15. Place of residence - A person shall be deemed to reside where he has his usual place of abode at any material time or during any material period, notwithstanding his occasional absence therefrom, and notwithstanding his occasional absence on leave from his occupation or employment.

16. Application for enrolment by electors - Every person required to apply for registration as an elector shall deliver or send by post to the Registrar in charge of the roll on which the applicant is entitled to have his name entered an application and declaration in form 1.

17. Procedure for registration - (1) Every applicant shall sign his application in the presence of any elector or electoral officer or a Postmaster, who shall add his signature in witness thereof.

(2) If the Registrar in charge of the roll is satisfied after due inquiry that any claim for registration as aforesaid is valid, he shall forthwith enter the name of the applicant on the roll.

(3) If the Registrar is not so satisfied, he shall, within three working days following the receipt of the application, notify the applicant in writing of his objection to enter the applicant's name on the roll; and the applicant may, within three days of receipt of that notice, apply to the Resident Commissioner to determine his claim; and the Resident Commissioner, whose decision shall be final, shall order the name of the applicant either to be entered on the roll or not to be so entered, and the Registrar shall comply with the order accordingly.

(4) Every Registrar who enters the name of any applicant on any roll shall forthwith give notice in form 2 to the Registrar of the constituency (if any) for which the applicant has stated that he was previously registered, and the Registrar receiving the notice shall forthwith remove from his roll the name of the applicant or, as the case may be, inform the Registrar giving the notice that the applicant was not registered on that roll.

(5) It shall be the duty of every Registrar to make the roll of which he is in charge as complete as possible, and with that object from time to time to place thereon the name of every person who has transmitted an application to the Registrar and of whose qualifications he is satisfied.

(6) It shall further be the duty of every Registrar to assure himself of the right of every registered elector to have his name retained on the roll, and to remove from the roll of which he is in charge the name of every person who-

- (a) Has died; or
- (b) Is no longer possessed of the qualifications for an elector; or
- (c) Ceases to reside within the constituency.

(7) When the Registrar removes any name from the roll pursuant to paragraph (b) or paragraph (c) of subsection (6) of this section, he shall, within three working days, notify the elector that his name has been so removed, and thereupon the provisions of subsection (3) of this section shall, as far as they are applicable and with the necessary modifications, apply.

(8) Every registered elector shall give notice in writing to the Registrar in charge within one month of any change of his or her name by marriage or otherwise; and

the Registrar shall, after verification of the particulars contained in the notice, amend the roll accordingly.

18. Objections to registration - Any name on any roll may be objected to either by the Registrar in charge of that roll or by any elector whose name appears on that roll, on the ground that the person whose name is objected to is not qualified to be registered or is not qualified to be registered on the roll on which his name appears.

19. Objection by an elector - If the objection is by an elector, the following provisions shall apply:

- (a) The objection shall be in writing lodged with the Registrar in charge setting forth the grounds thereof, and may be in form 3:
- (b) On receipt of the objection, the Registrar in charge shall forthwith give notice in writing to the person objected to, setting forth the objection and the grounds thereof:
- (c) If the person objected to does not, within five clear days after the service of the notice, cause his name to be removed from the roll on which his name appears, or satisfy the Registrar that he is entitled to have his name retained on that roll, the Registrar shall transmit the objection with the reply (if any) received from the person objected to and with any comments or recommendations the Registrar may wish to make, to the Resident Commissioner through the Chief Electoral Officer.

20. Objection by Registrar - If the objection is by the Registrar in charge of any roll, the following provisions shall apply:

- (a) The Registrar shall give notice in writing to the person objected to of the grounds of the objection and intimate in the notice that, unless notice of appeal is given within a time stated (being not less than four clear days), the name of the person objected to will be removed from the roll without further proceedings:
- (b) The notice of objection shall be in form 4, and the form of notice of appeal set out in that form shall be annexed thereto:
- (c) If the person objected to does not, within the time stated in the notice, satisfy the Registrar that he is entitled to have his name retained on the roll, or fails to give notice of appeal, the Registrar shall remove the name forthwith:
- (d) If notice of appeal is duly given, the Registrar, if he is satisfied that the appellant is entitled to have his name retained on the roll, shall withdraw his objection and notify him accordingly, but, if he is not so satisfied, he shall transmit his objection and the appeal, together with any comments thereon he may wish to make, to the Resident Commissioner through the Chief Electoral Officer.

21. Determination of objections - The Resident Commissioner shall determine any objection transmitted to him, after such investigation as he deems necessary, and shall direct the Registrar in charge to retain the name objected to on the roll on which it appears or, as the case may be, to remove it therefrom, or to transfer it through the Chief Electoral Officer to any other roll, or to make such amendment of any roll as may be necessary to give effect to the determination, and every such determination of the Resident Commissioner shall be final.

22. Closing of rolls - (1) Before every general election all electoral rolls shall be closed on a date to be fixed for each roll by the Chief Electoral Officer by notice in writing to the Registrar in charge of each roll. Different dates may be so fixed for different rolls.

(2) At least 10 clear days before the day so fixed for his roll, the Registrar in charge shall give public notice thereof.

23. Printing of copies - (1) As soon as practicable after the closing of any roll the Registrar in charge shall cause the roll to be printed, containing the names, residences, occupations and sex of the persons included therein, arranged and numbered consecutively in alphabetical order of surnames, of all persons whose names are lawfully entered thereon.

(2) Each roll shall be in form 5, and shall be issued under the hand of the Registrar in charge.

24. Supplementary rolls - The Registrar in charge may from time to time prepare a supplementary roll containing names added to the roll after the printing of the main roll and an indication of names removed from the main roll, and may cause the same to be printed, and every supplementary roll shall be deemed to be a part of the main roll to which it refers.

25. Inspection of rolls and supply - (1) Not later than 21 days before each general election, a printed copy of each main roll shall be made available for inspection by the public without payment during office hours at the office of the Registrar in charge and at such other places in each constituency as the Registrar in charge directs.

(2) The Registrar in charge shall supply printed copies of the roll issued under his hand to the Chief Electoral Officer, who shall supply each Returning Officer with copies as they are required from time to time for the purpose of conducting any election.

26. Closing of roll for by-election - (1) Before any by-election, the relevant roll shall be closed on a date to be fixed by the Chief Electoral Officer by notice in writing to the Registrar in charge, and at least 10 clear days before the day so fixed the Registrar in charge shall give public notice thereof.

(2) Unless the Registrar in charge thinks fit, a complete roll shall not be printed for use at a by-election, but a supplementary roll may, if the Registrar in charge thinks fit, be so printed, and the provisions of this Part of this Ordinance, as far as they are applicable, shall apply accordingly.

27. Effect of closing of rolls - (1) The printed rolls compiled, issued, added to, or altered from time to time as herein provided shall for the time being be the electoral rolls.

(2) It shall not be lawful for the Registrar in charge to enter on or remove from the roll the name of any person after the date fixed in accordance with this Ordinance for the closing of the roll until after the general election or by-election in connection with which the roll has been closed:

Provided that the Registrar in charge, on being satisfied that the name of any person has been omitted or removed from the roll by mistake or clerical error, or through false information, may add or restore the name of that person to the roll at any time not later than seven clear days before the day appointed for an election.

(3) Any Registrar commits an offence who offends against the provisions of this section, and is liable to a fine not exceeding £20 for every name improperly entered on or removed from the roll.

28. Offences in relation to enrolment - (1) Every person commits an offence, and is liable to a fine not exceeding £20 or to imprisonment for a term not exceeding three months, who knowingly makes a false statement in any claim, application, or declaration referred to in this Part of this Ordinance.

(2) Every person commits an offence, and is liable to a fine not exceeding £50, who -

- (a) Wilfully misleads the Registrar in the compilation of any electoral roll, or wilfully enters or causes to be entered therein any false or fictitious name or qualification or the name of any person whom he knows to be dead; or
- (b) Signs the name of any other person, whether requested to do so or not, or any false or fictitious name, to any form of claim, application, or objection for the purpose of this Part of this Ordinance, either as claimant, applicant, objector, or witness; or
- (c) Signs his name as witness to any signature upon any such form of claim or objection without either having seen that signature written or hearing the person signing declare that the signature is his own hand-writing and that the name so signed is his own proper name.

(3) Every person commits an offence, and is liable to a fine not exceeding £20, who, having obtained possession of a claim for enrolment signed by any other person for the purpose of being delivered to the Registrar for enrolment, fails so to deliver it so that the claimant's name is not placed on any roll.

29. Effect of registration - (1) Subject to the provisions of this Ordinance, every elector registered on the roll of any constituency, and no other person, shall be entitled to nominate a candidate for election as a representative for that constituency and to vote at any election of such a representative.

PART IV - CONDUCT OF ELECTIONS

General Elections and By-elections

30. Resident Commissioner gives notice to Chief Electoral Officer - For every general election and every by-election the Resident Commissioner shall give notice in writing to the Chief Electoral Officer not less than 30 clear days before the polling day fixed for that election.

31. Chief Electoral Officer to give public notice of election and nomination day - The Chief Electoral Officer shall, not less than 28 clear days before polling day give public notice of that day, and shall in the notice appoint a place in Alofi and a day, being not less than 15 clear days (exclusive of polling day) before polling day, for receiving nominations of candidates:

Provided that, after giving any public notice, the Chief Electoral Officer shall satisfy himself that the requirements of the notice are in fact known in all constituencies concerned.

32. By-elections - (1) If the seat of a member becomes vacant six months or more before the expiration of three years from the date of the last preceding general election, the Chief Electoral Officer upon receipt of notice in writing from the Resident Commissioner under section 30 of this Ordinance, shall forthwith, by public notice, appoint a day for a by-election to fill the vacancy.

(2) If the seat of a member becomes vacant less than six months before the expiration of three years from the date of the last preceding general election the seat shall remain vacant until the next general election.

(3) Except as provided by this Ordinance the proceedings in a by-election shall be the same as in the case of a general election.

Nominations

33. Nomination of candidates - (1) Any person qualified under Part II of this Ordinance may, with his consent, be nominated as a candidate for election for any constituency.

by not less than two registered electors of that constituency, by a nomination paper in form 6.

(2) Every nomination paper and every consent shall be lodged with or given to the Chief Electoral Officer not later than noon on nomination day. The Chief Electoral Officer shall give a receipt in writing for every nomination accepted by him.

(3) Every candidate shall be nominated by a separate nomination paper in such manner as, in the opinion of the Chief Electoral Officer, is sufficient to identify the candidate.

(4) No elector may nominate more than one candidate.

(5) Any registered elector of the constituency may inspect any nomination paper or consent at the office of the Chief Electoral Officer without payment at any time when the office is open for the transaction of business.

34. Consent to nomination - (1) No person shall consent to more than one nomination as a candidate at any one election.

(2) Consent to the nomination of any person as a candidate shall be given by him in form 6 and delivered to the Chief Electoral Officer but need not be signified on the nomination paper or given at the time the nomination paper is lodged.

(3) Where the Chief Electoral Officer has reasonable grounds to suspect that consent has been given by any candidate who is not a resident of Niue, he shall reject that consent and advise the candidate accordingly.

(4) If any dispute arises as to whether a candidate has or has not been in residence in Niue that question shall be decided, after due inquiry into the facts of the case, by the Resident Commissioner, whose decision shall be final.

35. Deposit by candidate - (1) Every candidate, or some person on his behalf, shall deposit with the Chief Electoral Officer the sum of £5 not later than noon on nomination day.

(2) The deposit shall be paid in the form of money, a money order, a money order telegram, or a bank draft.

(3) If the total number of votes received by any unsuccessful candidate is less than one-fourth of the total number of votes received by the successful candidate the deposit of the unsuccessful candidate shall be forfeited and paid into the Niue Assembly Account, but in every other case the deposit shall be returned to the person who paid it.

36. Acceptance or rejection of nomination - (1) The Chief Electoral Officer shall reject the nomination of any candidate -

- (a) If the nomination paper and the consent of the candidate are not lodged with him not later than noon on nomination day; or
- (b) If the nomination paper does not state that the candidate is a registered elector of a specified constituency; or
- (c) If the nomination paper is not signed by at least two registered electors of the constituency for which the nomination is made; or
- (d) If the required deposit is not paid as required by section 35 of this Ordinance.

(2) In every other case the Chief Electoral Officer shall accept the nomination:

Provided that nothing in this subsection shall limit the jurisdiction of the Court hearing an election petition.

37. Withdrawal of nomination - (1) Every candidate at any election may sign and deliver to the Chief Electoral Officer, not later than seven clear days before polling day, a paper in form 7 stating that the candidate withdraws his nomination. The Chief Electoral Officer shall give public notice thereof.

(2) No withdrawal of nomination which does not comply with subsection one of this section shall have any effect.

(3) If any candidate withdraws his nomination in accordance with subsection one of this section, he shall not be capable of being elected at any poll which it may still be necessary to hold.

(4) Where a candidate has duly withdrawn his nomination in accordance with subsection one of this section, his deposit shall be returned to the person who paid it.

38. Advertisement of nominations - At the hour of noon on the day appointed for the nominations of candidates, or as soon as thereafter practicable, the Chief Electoral Officer shall cause the names of all candidates so nominated to be posted in a conspicuous place outside the place named in the said public notice, and shall in each constituency give public notice of the nominations for that constituency.

39. Insufficient number of nominations - Where at any election any vacancy remains unfilled by nominations as aforesaid, the Chief Electoral Officer shall report accordingly to the Resident Commissioner, who shall, not later than three months after nomination day, declare the seat for which no candidate was nominated to be vacant, and thereupon the provisions of section 32 of this Ordinance shall apply.

40. Unlawful nominations - (1) Every elector who nominates more than one candidate at any election commits an offence, and is liable to a fine not exceeding £20.

(2) Every person who consents to more than one nomination as a candidate at any election or wilfully makes a false statement in his consent in respect of his residen-

tial qualification commits an offence, and is liable to a fine not exceeding £50 or to imprisonment for a term not exceeding three months.

41. Procedure where election not contested - If only one candidate is nominated, or if any candidate who has been nominated duly withdraws his nomination and there remains only one candidate, the Chief Electoral Officer shall, by public notice on or before polling day, declare that candidate to be duly elected and thereupon the Resident Commissioner shall, by warrant under his hand, declare such candidate to be elected and shall publicly notify the date of the warrant.

Contested Elections

42. If necessary, poll to be taken - If more than one candidate is nominated, and a sufficient number do not withdraw their nominations so as to leave only one candidate, a poll for deciding between the candidates shall be taken by secret ballot and the Chief Electoral Officer shall forthwith give a second public notice of polling day, and public notice of the names of the candidates.

43. Form of ballot papers - (1) Forthwith after nomination day the Chief Electoral Officer shall cause ballot papers to be printed in form 8 in sufficient number for the election.

(2) The ballot papers shall contain a list of all the persons nominated as candidates who have not withdrawn their nominations (each name being inserted once only, whether nominated in one or more nomination papers), and of no other persons, arranged alphabetically in order of their surnames in large characters; and where two or more candidates have the same surname, or for any other reason the Chief Electoral Officer considers that confusion may arise, the candidates shall be distinguished on the ballot papers by the addition in smaller characters of their Christian names and such other matter as may be necessary to distinguish them.

(3) The ballot papers to be used at any election shall be printed on paper of uniform colour.

(4) Every ballot paper shall have a counterfoil in form 9.

(5) If the Returning Officer so decides, there may also be printed on the top right-hand corner of every ballot paper and in the space provided in the counterfoil attached thereto a number one in the case of the first ballot paper printed, and on all succeeding ballot papers printed the numbers shall be consecutive, so that no two ballot papers for the constituency shall bear the same number.

(6) If a candidate withdraws his nomination after the ballot papers have been printed the Chief Electoral Officer shall, before the poll, erase his name from every ballot paper.

Death of Candidate

44. Death before close of nominations - (1) Where a candidate who has been nominated and has not withdrawn his nomination dies before the close of nominations his nomination shall be treated in all respects as if it had not been made, and his deposit shall be returned to his personal representatives or, as the case may be, to the person who paid it.

(2) Where in any such case the candidate dies on nomination day or on the day before nomination day the time for the close of nominations in that constituency shall be deemed to be postponed by two days.

45. Death after close of nominations - (1) If any candidate dies after the close of nominations and before the close of the poll or if the successful candidate dies after the close of the poll and before the declaration of the result of the poll, the provisions of this section shall apply.

(2) The election shall be deemed to have failed and the seat shall be deemed to be vacated.

(3) Where the candidate dies before polling day the Chief Electoral Officer shall, upon being satisfied of the fact of the death, countermand the notice of the poll in that particular constituency.

(4) Where the candidate dies on polling day before the close of the poll the Chief Electoral Officer shall, upon being satisfied of the fact of the death, immediately close the poll and declare it to be null and of no effect.

(5) Where the candidate dies after the close of the poll and before the declaration of the result of the poll, and it is found on the completion of the count of votes or on a recount that the candidate, if still living, would have been elected, the Chief Electoral Officer shall, upon being satisfied of the fact of the death, endorse on the report to the Resident Commissioner the fact of the death and that the candidate, if still living, would have been elected.

(6) The provisions of this Ordinance as to an equality of votes between candidates shall apply notwithstanding the death of one of those candidates after the close of the poll.

(7) Where the poll is interrupted in consequence of the death of a candidate all ballot papers placed in the several ballot boxes shall be taken out by the Presiding Officers and, being made up into secured packages, shall be sent unopened to the Chief Electoral Officer, who shall forthwith destroy them in the presence of an officer appointed for the purpose by the Resident Commissioner.

(8) A fresh public notice shall be issued by the Chief Electoral Officer forthwith for a new election and, except as otherwise provided, all proceedings in connection with the new election shall be had and taken anew.

(9) The main roll and supplementary rolls which were to be used at the election which has failed shall be used at the new election without any amendment or addition.

(10) It shall not be necessary to nominate afresh any candidate who at the time of the countermand or close of the poll was a duly nominated candidate:

Provided that any such candidate may withdraw his nomination not later than seven clear days before the new polling day.

(11) All appointments of polling places made in respect of the election which has failed shall continue in respect of the new election.

Polling at Elections

46. Polling places - The Chief Electoral Officer shall by public notice, given at least seven days before polling day, appoint a sufficient number of polling places in each constituency where an election is being held for the taking of the poll.

47. Allocation of Officers - (1) The Chief Electoral Officer shall prescribe the constituency in which Returning Officers, poll clerks, and interpreters shall exercise their functions.

(2) A Returning Officer shall have the powers and may perform any of the duties of the Chief Electoral Officer in the constituency to which he is appointed and shall be subject to the authority and control of the Chief Electoral Officer.

(3) The Chief Electoral Officer shall exercise supervision over the functions of Returning Officers, poll clerks, and interpreters and may give any such officers directions as to the performance of their duties.

48. Polling booths, ballot boxes, ballot papers, etc. - The Chief Electoral Officer shall provide the following things for taking the poll:

- (a) One or more rooms for polling booths at each polling place, and in each booth one or more inner compartments, separate from but opening into the booth and having no other opening:
- (b) In each inner compartment pencils for the use of the voters or other suitable facilities for the marking of ballot papers:
- (c) In each booth one or more ballot boxes having a lock and key and a slit in the upper side by which the ballot papers may be put into the box:
- (d) In each booth one or more copies of the main roll and supplementary rolls for the constituency, and a sufficient number of ballot papers.

49. Returning Officers, poll clerks, and interpreters -

(1) The Chief Electoral Officer shall appoint for each polling booth a Returning Officer to conduct the poll at that booth and one or more poll clerks to assist the Returning Officer, and may appoint such additional poll clerks and such interpreters as he considers necessary.

(2) Any Returning Officer may at any time on polling day appoint in writing a substitute to act for him in respect of that election in case of his absence from duty.

(3) If the Returning Officer fails to open the polling at any booth, or if he is absent from duty and has not appointed a substitute, the poll clerk at the booth may act for him and in that event shall be deemed to be his substitute.

(4) Every substitute while acting for any Returning Officer shall have all the powers, duties, and functions of that Returning Officer.

50. Returning Officers, poll clerks, and interpreters to make declaration - Every Returning Officer and poll clerk and interpreter shall before the poll, and every substitute for a Returning Officer shall before acting, make a declaration in form 10 before the Chief Electoral Officer, or another Returning Officer.

51. Scrutineers - (1) Each candidate may, by writing under his hand, appoint one scrutineer for each polling booth at any election.

(2) Every scrutineer shall, before being allowed to act, make a declaration in form 10 before the Chief Electoral Officer or a Returning Officer.

(3) Any scrutineer who during the hours of polling leaves the polling booth to which he is appointed, without having first obtained the permission of the Returning Officer at that polling booth, shall not be entitled to re-enter the booth or to resume his scrutiny.

(4) Nothing in this Ordinance shall render it unlawful for a scrutineer to communicate to any person information as to the names of persons who have voted.

52. Hours of polling - (1) The poll at every election shall commence at nine o'clock in the morning of polling day, and, except as otherwise provided in this Ordinance, shall finally close at six o'clock in the evening of the same day.

(2) Every elector who at the close of the poll is present in a booth for the purpose of voting shall be entitled to receive a ballot paper and to mark and deposit it in the same manner as if he had voted before the close of the poll.

53. Place of ordinary voting - Every elector registered in respect of any constituency, unless he is a special voter, shall be entitled to vote at any place in that constituency appointed for the taking of the poll for that constituency, and at no other place.

The Ballot

54. Ballot box to be kept locked during poll - The Presiding Officer shall, before the opening of the poll, and in the sight of any of the scrutineers present, see that the ballot box is empty, and shall close and lock it, and retain the key in his possession; and the ballot box shall not again be opened until after the close of the poll:

Provided that, if the lock of a ballot box is damaged or defective so that the box cannot be locked, the Presiding Officer shall securely seal the box instead of locking it.

55. Persons not to remain in polling booth - (1) Not more than so many voters as the Presiding Officer determines from time to time shall be allowed in a polling booth at one and the same time, and not more than one voter shall be allowed in any inner compartment at one and the same time.

(2) No person shall be allowed to remain in any polling booth after having recorded his vote, except the Presiding Officer and his clerks, any of the scrutineers, an interpreter, and as many constables as the Presiding Officer thinks necessary to keep the peace.

56. Voters not to be spoken to in booth - (1) No scrutineer or other official or unofficial person shall speak to any voter in a polling booth either before or after the voter has given his vote, except only the Presiding Officer or poll clerk (with an interpreter if necessary), who may ask the questions he is authorised to put, and give such general directions as may assist any voter to give his vote, and in particular may on request inform a voter orally of the names of all the candidates in alphabetical order.

(2) Every person who offends against this section commits an offence, and is liable to a fine not exceeding £20, and may be at once removed from the booth by order of the Presiding Officer.

57. Questions may be put to voter - (1) The Presiding Officer may, and if so required by any scrutineers shall, before allowing any person to vote, put to him the following questions:

- (a) Are you the person whose name appears as A.B. in the electoral roll now in force for the (Name) constituency?
- (b) Are you 18 years of age or over?
- (c) Are you still possessed of the qualification in respect of which you are registered?
- (d) Have you already voted at this election?

(2) Any person to whom these questions are put who does not answer the same, or does not answer the first three in the affirmative and the fourth in the negative, shall not be permitted to vote.

(3) Every person who wilfully and knowingly makes a false answer to any of the questions that the Presiding Officer may put to him under this section shall be liable to a fine not exceeding £20.

58. Issue of ballot papers - (1) Every Presiding Officer shall, in accordance with the provisions of this section, issue ballot papers to all electors who apply to vote at the booth in respect of which he is appointed.

(2) The elector shall state his name to the Presiding Officer and shall give such particulars as may be necessary to identify the entry in the printed rolls relating to the elector.

(3) If the name of the elector appears in the rolls a line shall be drawn through his name and number.

(4) If the name of the elector appears in the rolls, the Presiding Officer shall then issue to the elector a ballot paper after he has prepared it in the following manner:

- (a) Unless a consecutive number has been printed on the ballot paper and on the counterfoil, he shall enter on both the counterfoil and the ballot paper in the spaces provided a number (called a consecutive number), beginning with the number one in the case of the first ballot paper issued by him, and on all succeeding ballot papers issued by him the numbers shall be consecutive, so that no two ballot papers issued in the same booth shall bear the same number;
- (b) He shall then fold over the corner of the ballot paper on which the consecutive number appears and shall firmly fix a piece of gummed paper over that corner so as effectively to conceal the consecutive number;
- (c) On the counterfoil of the ballot paper he shall write his initials, and the number appearing in the roll against the name of the elector;
- (d) He shall place his official booth stamp on the perforation between the ballot paper and the counterfoil so that the booth in which the ballot paper was issued may be identified.

(5) Every Presiding Officer who fails faithfully to perform the duty imposed on him by this section, by reason whereof any of the requirements of this section are not effectively fulfilled, shall be liable to a fine not exceeding £10:

Provided that, in so far as the failure relates to the duty of fixing a piece of gummed paper over the consecutive number so as to conceal it effectively, it shall be a sufficient defence if he satisfies the Court that he took all reasonable precautions to secure the same.

59. Method of voting - (1) The voter, having received a ballot paper, shall immediately retire into one of the inner compartments provided for the purpose, and shall

there alone and secretly exercise his vote by marking his ballot paper by striking out the name of every candidate except the one for whom he wishes to vote.

(2) Every voter shall, before leaving the inner compartment, fold his ballot paper so that the contents cannot be seen, and shall then deposit it so folded in the ballot box.

60. Spoilt ballot papers - (1) Any voter who, not having deposited his ballot paper in the ballot box, satisfies the Presiding Officer that he has spoilt it by inadvertence may be supplied with a fresh ballot paper, but only after the spoilt one has been returned to the Presiding Officer.

(2) The Presiding Officer shall -

- (a) Cancel every such spoilt ballot paper by writing across the face thereof the words "Spoilt by voter and a fresh ballot paper issued" and writing his initials thereon;
- (b) If any ballot paper is inadvertently spoilt by the Presiding Officer or any other official, cancel it by writing across the face thereof the words "Spoilt by official" and also the words "and a fresh ballot paper issued" if that is the case, and writing his initials thereon;
- (c) Retain all spoilt ballot papers in his possession until the close of the poll.

(3) The Presiding Officer shall make up into separate packets and shall deliver to the Chief Electoral Officer as soon as practicable after the close of the poll all spoilt ballot papers at the polling booth at which he presided.

(4) The provisions of subsection one of section 73 of this Ordinance providing for the disposal of ballot papers shall apply with respect to the disposal of spoilt ballot papers.

61. Blind or disabled voters - (1) Any elector who is wholly or partially blind, or is unable to read or write (whether because of physical handicap or otherwise), may vote in accordance with the provisions of this section.

(2) At the request of any such voter who has received a ballot paper the Presiding Officer shall accompany him into one of the inner compartments provided for the marking of ballot papers, and the ballot paper may there be marked by the voter with the assistance of the Presiding Officer or may be marked by the Presiding Officer in accordance with the instructions of the voter.

(3) The person assisting the voter shall sign his name on the back of the ballot paper and shall add the words "Witness for blind or partially blind person" or "Witness for person unable to read or write", as the case may be, and shall fold the ballot paper so that its face cannot be seen before depositing it in the ballot box.

(4) A poll clerk or some other person nominated by the voter shall also accompany him into the inner compartment and may, if so desired by the voter, inspect the ballot paper before it is deposited in the ballot box.

(5) Any elector voting as a special voter may vote in the manner prescribed by this section, with any necessary modifications, or in any manner prescribed by regulations made under this Ordinance.

(6) If any elector is precluded by reason of illness or infirmity from attending at any polling booth, the Presiding Officer shall make such arrangements as are in his opinion reasonably practicable to enable the voter, if he so desires, to vote.

(7) Every person who is present in accordance with this section or with any regulations when an elector votes and who communicates at any time to any person any information obtained as to the candidate for whom the voter is about to vote or has voted, or as to the number on the ballot paper given to the voter, commits an offence, and shall be liable on conviction to imprisonment for a term not exceeding three months.

62. Procedure when second vote given in same name - (1)
If any person representing himself to be a voter at any election gives as his name the name of any person to whom a ballot paper has already been given at the same election, the voter shall, upon giving satisfactory answers to any questions put to him by the Presiding Officer, be entitled to receive a ballot paper in the same manner as any other voter, but that ballot paper (hereinafter referred to as a tendered ballot paper), instead of being put into the ballot box, shall be given to the presiding officer who shall place it in an envelope, seal the envelope, and then endorse the envelope with the name of the voter and his number in the electoral roll.

(2) The name of the voter and his number in the electoral roll shall be entered by the Presiding Officer on a list to be called the tendered votes list, and that list shall be admissible as evidence in any legal proceedings arising out of the election. The tendered votes list shall be in form 11.

(3) The envelope containing the tendered ballot paper shall be placed by the Presiding Officer in the ballot box but shall not be counted.

Special Voting

63. Voting by special voters - (1) Any registered elector of any constituency may vote as a special voter if, on polling day, he will not be in the constituency of which he is a resident.

(2) Any such elector who desires to vote as a special voter shall, not later than seven days before polling day, apply to the Chief Electoral Officer for a certificate

enabling the applicant to vote in the constituency in which he will be present on polling day, and the Chief Electoral Officer if satisfied that the application is made in good faith shall issue the certificate in form 12.

(3) On polling day, on delivery by the special voter of the certificate issued to him as aforesaid, the Presiding Officer at the place named in the certificate shall supply the special voter with a ballot paper containing the names of the candidates nominated for election by the constituency in which the special voter is registered.

(4) Subject to the provisions of this section, all the provisions of this Part of this Ordinance shall, as far as applicable and with the necessary modifications, apply with respect to voting by special voters and to their votes:

Provided that notwithstanding anything to the contrary in this Part of this Ordinance, the consecutive number of special ballot papers in any polling booth shall be in a different series from that used in that booth for ordinary voting.

64. Voting in advance of poll - (1) Any registered elector of any constituency who is entitled to vote as a special voter may instead of applying for a certificate pursuant to subsection (2) of section 63 of this Ordinance, vote in advance of polling day as provided herein.

(2) Application for leave to vote in advance shall be made to the Chief Electoral Officer at any time during office hours not earlier than three clear working days after nomination day and not later than the day immediately preceding the day fixed for taking the poll.

(3) Every applicant shall sign and deliver to the Chief Electoral Officer a declaration in form 13 and the Chief Electoral Officer, if satisfied that the application is made in good faith, shall issue to the applicant -

- (a) A ballot paper; and
- (b) An envelope marked "Vote in Advance of Poll" and addressed to the Returning Officer in charge of the constituency.

(4) Before giving the ballot paper to the applicant, the Chief Electoral Officer shall proceed as provided in section 58 of this Ordinance:

Provided that he shall also enter the date of voting in advance on the counterfoil and the top right-hand corner of the back of the ballot paper, and also against the name of the applicant on the master roll for the constituency.

(5) The applicant shall then alone and secretly on the ballot paper indicate the candidate for whom he desires to vote, place the ballot paper duly folded in the envelope, and deliver the envelope, after sealing it, to the Chief Electoral Officer.

(6) The Chief Electoral Officer shall hold for production on polling day the sealed envelope, together with the declaration form on which the consecutive number shall be entered, and shall be personally responsible for their safe custody.

(7) On polling day the Chief Electoral Officer shall deliver the sealed envelopes to the Presiding Officers in charge of each of the polling booths where votes have been made in advance of the poll. The Presiding Officer shall give a receipt to the Chief Electoral Officer for the envelopes and shall record the number of envelopes received by him on the form provided for this purpose.

(8) The Presiding Officer shall during the hours of polling open all the envelopes delivered to him, extract therefrom any ballot papers, and deposit the ballot papers, without unfolding them, in the ballot box.

(9) Any person who, with intent to offer to vote more than once at the same election, after having applied for a certificate enabling him to vote as a special voter pursuant to section 63 of this Ordinance, applies for leave to vote in advance of polling day, or, after having voted in advance of polling day, applies for a certificate as a special voter, commits an offence and is liable to imprisonment for a term not exceeding three months.

Preliminary Count of Votes

65. Procedure after close of poll - (1) At each polling booth the Presiding Officer shall, as soon as practicable after the close of the poll, in the presence of such of the scrutineers as choose to be present, and the poll clerks, but of no other person, perform the following duties:

- (a) He shall make up into separate parcels -
 - (i) The certified copies of the main roll and supplementary rolls on which the fact of any person having received a ballot paper has been noted; and
 - (ii) All the counterfoils of ballot papers that have been issued to voters; and
 - (iii) All the spoilt ballot papers; and
 - (iv) All the unused ballot papers;
- (b) He shall then open the ballot boxes and, taking therefrom all the ballot papers therein, proceed to ascertain the number of votes received by each candidate;
- (c) He shall set aside as informal all ballot papers which do not clearly indicate the candidate for whom the voter desired to vote;
- (d) He shall announce the result of the voting at the polling booth at which he presides and arrange for the result of the voting to be transmitted as soon as possible to the Chief Electoral Officer;
- (e) He shall make up into separate parcels -
 - (i) The used ballot papers, together with (but in separate enclosures) the ballot

papers set aside as informal, and the ballot papers set aside under section 62 of this Ordinance; and

- (11) A certificate signed by himself and by such of the scrutineers as are present and consent to sign it of the number of votes received by each candidate, the number of ballot papers set aside as informal, the number of ballot papers set aside under section 62 of this Ordinance, the number of spoilt ballot papers, the number of ballot papers delivered to special voters, the number of unused ballot papers, and the number of ballot papers originally delivered to him.

(2) Each parcel made up under this section shall be endorsed by the Presiding Officer with a description of its contents, the name of the constituency, the name of the polling place, the number of the booth and the date of the polling; and the endorsement shall be signed by the Presiding Officer and by such of the scrutineers as are present and desire to sign it; and the parcel shall be enclosed in paper or similar material and shall be properly secured.

(3) The Presiding Officer shall forthwith forward all the parcels mentioned in this section to the Chief Electoral Officer.

Scrutiny of the Rolls

66. Scrutiny of the rolls - (1) The Chief Electoral Officer shall make arrangements for a scrutiny of the rolls as soon as practicable after the close of the poll, and shall give notice in writing to each of the candidates or their scrutineers of the time and place at which he will commence the scrutiny.

(2) No person other than the Chief Electoral Officer and his assistants, and one person appointed as scrutineer by each candidate for the purpose, shall be present at the scrutiny.

(3) No candidate shall act as scrutineer under this section.

67. Marked copies of rolls to be compared - (1) The Chief Electoral Officer shall, in the presence and hearing of his assistants (if any) and such scrutineers as are entitled to be present under this Ordinance, but of no other person, compare one with another all the certified copies of the main roll and the supplementary rolls on which the fact of any person having received a ballot paper has been noted, and all records of special votes exercised in respect of this constituency, and shall on an unmarked copy of the main roll and every supplementary roll (called the master roll) draw a line through the number and name of any elector who is shown on any of the certified copies of the rolls or in any record of special votes issued as having received a ballot paper.

(2) If on that comparison, or from the checking of declarations in respect of special votes, or from the report of the Presiding Officer on the ballot papers set aside under section 62 of this Ordinance, and after such inquiry as the Chief Electoral Officer deems necessary, it

appears that the same voter has received more than one ballot paper, the Chief Electoral Officer shall, in the presence of his assistants (if any) and such scrutineers as choose to be present, but of no other person, open the parcel or parcels of ballot papers used at the polling booth or polling booths at which that voter appears to have received a ballot paper, and shall select therefrom the ballot papers which appear from their consecutive numbers and counterfoils to have been issued to that voter, and shall disallow every vote appearing to have been given by means of the ballot papers so selected:

Provided that, if the Chief Electoral Officer is satisfied that one and only one of the ballot papers was lawfully received by the voter entitled thereto and that he was not in any way concerned in the issue of the other ballot paper or ballot papers, the Chief Electoral Officer shall allow the vote of that voter and shall disallow the other vote or votes.

(3) For the purposes of subsection (2) of this section, every ballot paper issued to a special voter shall be deemed to have been issued at a polling booth.

(4) Except in the case of the ballot papers so selected therefrom, the Chief Electoral Officer shall inspect only the consecutive numbers on the ballot papers in the several parcels so opened, and shall so cover the ballot papers that no person present shall have the opportunity of determining the candidate for whom any particular voter has voted.

68. Parcels to be secured after scrutiny - (1) When the Chief Electoral Officer has selected from any parcel all the ballot papers he is required to select therefrom, he shall forthwith in the presence of his assistants (if any) and such scrutineers as are present, but of no other person, close and secure the parcel, and shall endorse thereon a memorandum of the fact of the ballot papers having been selected from that parcel, specifying the same by the name of the person to whom the same appear to have been delivered, and shall sign the endorsement with his name.

(2) The Chief Electoral Officer shall set aside all ballot papers selected by him from any parcel as herein provided, and shall in the presence of his assistants (if any) and such scrutineers as are present, but of no other person, secure those ballot papers in a separate parcel, and shall endorse the parcel with a description of the contents thereof, and shall sign the endorsement with his name.

Official Count and Declaration of Poll

69. Counting the votes - (1) On completion of the scrutiny hereinbefore directed the Chief Electoral Officer, with such assistants as he deems necessary, and in the presence of such of the scrutineers appointed under section 66 of this Ordinance as are present, but of no other person, shall select and open one of the parcels of used ballot papers referred to in paragraph (e) of subsection one of section 65 of this Ordinance and shall mark each ballot paper therein with a number in consecutive order, beginning with the number one, so that no two ballot papers in that parcel shall bear the same number:

Provided that the procedure set out in this subsection need not be delayed until the inquiries under subsection (2) of section 66 of this Ordinance have been completed, but the ballot papers from any particular polling booth shall not be counted until any inquiries in respect of ballot papers from that booth have been completed.

(2) When the ballot papers from the parcel so selected have been marked as aforesaid the Chief Electoral Officer shall make a record of the last number marked, and shall then, in the presence of his assistants (if any) and the scrutineers as aforesaid, but of no other person, deal with the ballot papers as follows:

(a) He shall reject as informal any ballot paper -

- (1) That does not bear the official mark if there is reasonable cause to believe that it was not issued to a voter by any Presiding Officer; or
- (ii) That purports to vote for more candidates than the number of candidates to be elected; or
- (iii) That has anything not authorised by this Ordinance written or marked thereon by which the elector can be identified; or
- (iv) That does not clearly indicate the candidate for whom the voter desired to vote;

Provided that no ballot paper shall be rejected as informal by reason only of some informality in the manner in which it has been dealt with by the voter if it is otherwise regular, and if in the opinion of the Chief Electoral Officer the intention of the voter in voting is clearly indicated:

Provided also that no ballot paper shall be rejected as informal by reason only of some error or omission on the part of an official, if the Chief Electoral Officer is satisfied that the voter was qualified to vote at the election:

(b) The Chief Electoral Officer shall then count the number of votes received by each candidate, and the number of votes rejected as informal, and compare the result of that count with the certificate of the Presiding Officer in respect of the preliminary count, and shall, where necessary, amend that certificate; and every such certificate shall be initialled by the Chief Electoral Officer:

(c) The Chief Electoral Officer shall then make up and secure the parcel anew, and endorse thereon a memorandum specifying the number of ballot papers contained in the parcel, the number of votes received by each candidate, the number of informal ballot papers, and the number of the booth at which the votes were recorded; and the endorsement shall be signed by the Chief Electoral Officer.

(3) After the ballot papers from one parcel have been dealt with in the manner aforesaid, those from the remaining parcels shall be successively dealt with in like manner, the marking of the ballot papers to commence with the number one in the case of each parcel.

(4) The ballot papers of special voters shall be dealt with in like manner, after which they shall be made up together into a parcel which shall be properly secured and shall be endorsed in the manner hereinbefore described.

70. Declaration of result of poll - (1) When all the ballot papers have been dealt with as aforesaid the Chief Electoral Officer, having ascertained the total number of votes received by each candidate, shall declare the result of the poll by giving public notice thereof in form 14.

(2) Where there is an equality of votes between candidates and the addition of a vote would entitle one of those candidates to be declared elected, the Chief Electoral Officer shall forthwith apply to a Judge of the High Court for a recount under section 71 of this Ordinance and all the provisions of that section shall apply accordingly, except that no deposit shall be necessary.

(3) In any case where on any recount under section 71 of this Ordinance there is an equality of votes between candidates and the addition of a vote would entitle one of those candidates to be declared elected, the Chief Electoral Officer shall determine by lot which candidate shall be elected.

(4) The Chief Electoral Officer shall report the result of every election to the Resident Commissioner who shall by warrant under his hand declare the successful candidate to be elected and shall publicly notify the date of the warrant.

Recount

71. Application to Judge for recount - (1) Where any candidate has reason to believe that the public declaration by the Chief Electoral Officer of the number of votes received by each candidate is incorrect, and that on a recount thereof the first-mentioned candidate might be found to be elected, he may within three days after the public declaration apply to a Judge for a recount of the votes.

(2) Every such application shall be accompanied by a deposit of £15.

(3) The Judge shall cause a recount of the votes to be commenced within three days after receiving the application, and shall give notice in writing to the Chief Electoral Officer and to each of the candidates or their scrutineers of the time and place at which the recount will be made.

(4) The recount shall be made in the presence of the Judge or of an officer appointed by him for the purpose, and shall as far as practicable be made in the manner provided in the case of the original count:

Provided that no person shall be present at the recount except the Judge or the officer appointed by him, his assistants (if any), the Chief Electoral Officer and his assistants (if any), and the scrutineers appointed under section 66 of this Ordinance.

(5) The Judge shall have all the powers that the Chief Electoral Officer had on the original count, and may reverse any decision made by the Chief Electoral Officer in the exercise of those powers.

(6) If on the recount the Judge finds that the public declaration was incorrect he shall order the Chief Electoral Officer to give an amended declaration of the result of the poll.

(7) The Judge may make such order as to the costs of and incidental to the recount as he deems just, and, subject to any such order, shall direct the deposit made under this section to be returned to the person who paid it.

72. Ballot papers and certificate to be compared on recount - (1) At any recount made as aforesaid the Chief Electoral Officer shall produce to the Judge all the used ballot papers, together with the certificate stating the total number of ballot papers used at the election.

(2) If on comparing the number of ballot papers stated in the certificate with the ballot papers used at the election the Judge finds that any of the ballot papers have been lost, stolen, or in any way interfered with during the interval between the official count and the recount, the official count made by the Chief Electoral Officer shall be deemed to be correct, and the result of the poll declared accordingly. Where in any such case there is an equality of votes between candidates and the addition of a vote would entitle one of those candidates to be declared elected, the Chief Electoral Officer shall determine by lot which candidate shall be elected.

Disposal of Ballot Papers

73. Disposal of ballot papers, rolls, etc. - (1) As soon as practicable after polling day the Chief Electoral Officer shall enclose in separate packets in the following manner all the parcels transmitted to him by the several Presiding Officers or made up and secured by himself, that is to say:

- (a) He shall enclose in one or more separate packets all the parcels of used ballot papers, including the special voters' ballot papers, and all counterfoils corresponding to those ballot papers; in one or more other separate packets all parcels of unused and spoilt ballot papers;

in another all parcels of ballot papers set aside under sections 62 and 68 of this Ordinance and in one or more other separate packets all parcels containing ballot paper accounts, copies of rolls (except the master roll), books, or other papers, as in this Act provided, and all letters, and other papers received from any Chief Electoral Officer in respect of the votes of special voters:

- (b) He shall properly secure the said several packets, and endorse them with a description of the contents thereof respectively; and the name of the constituency and the date of the polling, and shall sign the endorsement; and shall forthwith forward the said packets to the Registrar of the High Court:
- (c) He shall also at the same time properly secure and transmit to the Registrar of the High Court a parcel containing all ballot papers printed for the election and not used by the Chief Electoral Officer or distributed for use to any Presiding Officer.

(2) The Registrar of the High Court shall forthwith give or send to the Chief Electoral Officer a receipt under his hand for the said packets and parcel.

(3) The Chief Electoral Officer shall send the master roll to the Registrar of Electors and the Registrar shall keep it until the next general election. Any registered elector of the constituency may inspect any master roll at the Registrar's office without payment of any fee at any time when the office is open for the transaction of business.

74. Disposal of packets - (1) The packets and parcel shall be safely kept for one year unopened, unless a Court of competent jurisdiction orders them, or any of them, to be opened.

(2) At the end of one year the packets and parcel shall be destroyed unopened in the presence of the Clerk of the Island Assembly and the Registrar of the High Court.

75. Papers taken from parcels as evidence in certain cases - (1) Any ballot paper, and any copy of a roll, and any book purporting to be taken from any such parcel as aforesaid, and having written thereon respectively, under the hand of the Registrar of the High Court, a certificate of the several particulars by this Ordinance required to be endorsed on the parcel, shall be conclusive evidence in any Court that it was so taken and that it, if a ballot paper, was deposited and, if a roll or book, was kept or used at the election and booth to which the endorsement and writing relate.

(2) Every ballot paper so certified shall be evidence of a vote given at the poll, and of the correspondence of the number appearing on the ballot paper with the number appearing on any roll so certified as of the same election and booth, according to the tenor of the said ballot paper.

(3) But in the case of the ballot papers set aside or selected by a Presiding Officer or by the Chief Electoral Officer, the correspondence shall be evidence only of some person having voted in the name appearing on the roll.

Maintenance of Order at Elections

76. Presiding Officer to maintain order - Every Presiding Officer shall have power to enforce order and keep the peace at any election and may, without any other warrant than this Ordinance, cause to be arrested and taken before a Judge or Commissioner of the High Court any person reasonably suspected of knowingly and wilfully making a false answer to any of the questions the Presiding Officer is authorised to put, or who attempts to personate any voter or to vote more than once at the same election, or who obstructs the approaches to any polling booth, or who otherwise behaves in a disorderly manner or causes disturbances at any election; and all constables shall aid and assist the Presiding Officer in the performance of his duty.

77. Adjournment of poll - Where the polling at any polling place cannot start or has to be suspended whether by reason of riot or open violence, natural disaster, or any other cause, the Presiding Officer shall adjourn the taking of the poll at that polling place to the following day, and if necessary from day to day until the poll can be taken, and shall forthwith give public notice of the adjournment in such manner as he thinks fit:

Provided that the poll shall not be kept open for more than nine hours in all at any polling place.

Custody of Ballot Papers

78. Prevention of irregularities as to ballot papers - In order to prevent the commission at any election of irregularities in respect of the improper possession of ballot papers the following provisions shall apply:

- (a) The Chief Electoral Officer shall give to the person printing the ballot papers a receipt specifying the total number of ballot papers received by him, and it shall be the duty of the printer to see that all copies of the ballot paper other than those delivered to the Chief Electoral Officer are immediately destroyed:
- (b) Every Presiding Officer shall give to the Chief Electoral Officer a receipt specifying the total number of ballot papers received by him, and shall be personally responsible for the safe custody of all such ballot papers from the time they are received by him until they are issued or otherwise disposed of in accordance with this Ordinance:
- (c) Every Presiding Officer shall be personally responsible for the safe custody of all ballot papers used at the polling booth at which he presides from the time each

ballot paper was placed in the ballot box by the voter until the parcel of used ballot papers has been delivered to the Chief Electoral Officer as in this Ordinance provided and the Presiding Officer obtained from the Chief Electoral Officer a receipt in writing for the parcel, which receipt the Chief Electoral Officer is in all cases required to give on such delivery:

- (d) In like manner the Chief Electoral Officer shall be personally responsible for the safe custody of all ballot papers used at the polling booth at which he presides until they have been sent to the Registrar of the High Court as hereinbefore provided, and also for the safe custody of all parcels of used ballot papers for which he has given a receipt to a Presiding Officer, until they have been sent by him to the Registrar of the High Court as aforesaid:
- (e) Every person who fails to take reasonable steps to secure the safe custody of all ballot papers for which he is responsible, with the result that any such ballot paper is removed from his custody, shall be liable to a fine not exceeding £50 or to imprisonment for a term not exceeding six months:
- (f) Every person shall be liable to a fine not exceeding £50 who wilfully or negligently allows any copy of a ballot paper printed by him to come into the possession of any person other than the Chief Electoral Officer:
- (g) Every person shall be liable to a fine not exceeding £50 who except in accordance with any regulations made under this Ordinance in relation to special voters, obtains possession of or has in his possession any ballot paper other than the one given to him by the Chief Electoral Officer or Presiding Officer for the purpose of recording his vote, or retains any ballot paper in his possession after leaving the polling booth.

Offences at Elections

79. Interfering with or influencing voters - (1) Every person commits an offence and shall be liable to a fine not exceeding £20 who at an election -

- (a) In any way interferes with any elector, either in the polling booth or while on his way thereto, with the intention of influencing him or advising him as to his vote:
- (b) At any time on polling day before the close of the poll in or in view or hearing of any public place holds or takes part in any demonstration or procession having direct or indirect reference to the poll by any means whatsoever:

- (c) At any time on polling day before the close of the poll makes any statement having direct or indirect reference to the poll by means of any loudspeaker or public address apparatus or cinematograph apparatus:
- (d) At any time on polling day before the close of the poll, or at any time on any of the three days immediately preceding polling day, prints or distributes or delivers to any person anything being or purporting to be an imitation of any ballot paper to be used at the poll and having thereon the names of the candidates or any of them, together with any direction or indication as to the candidate for whom any person should vote, or in any way containing any such direction or indication, or having thereon any matter likely to influence any vote:
- (e) At any time on polling day before the close of the poll exhibits in or in view of any public place, or publishes or distributes, or broadcasts, any statement advising or intended or likely to influence any elector as to the candidate or party for whom he should vote:
Provided that this paragraph shall not apply to any statement in a newspaper published before six o'clock in the afternoon of the day before polling day:
Provided also that where any statement is so exhibited before polling day in a fixed position not in view of a polling place it shall not be an offence to leave it so exhibited on polling day:
Provided further that the Chief Electoral Officer may at any time on polling day cause to be removed or obliterated any statement to which this paragraph applies which is exhibited within half a mile of a polling place, and may recover all expenses incurred in so doing from the persons by whom or by whose direction the statement was exhibited, as a debt due by them jointly and severally to the Government:
- (f) At any time on polling day before the close of the poll prints or distributes or delivers to any person any card or paper (whether or not it is an imitation ballot paper) having thereon the names of the candidates or any of them:
- (g) Exhibits or leaves in any polling booth any card or paper having thereon any direction or indication as to how any person should vote or as to the method of voting:
- (h) At any time on polling day before the close of the poll, within, or at the entrance to, or in the vicinity of, any polling place -
 - (i) Gives or offers to give to any person any written or oral information as to any name or number of the main roll or any supplementary roll being used at the election:

- (11) Permits or offers to permit any person to examine any copy of the main roll or any supplementary roll being used at the election.

(2) It shall not be an offence against this section for any person to wear or display (whether on his person or not) any party emblem.

(3) Nothing in this section shall apply to any official statement or announcement made or exhibited under the authority of this Ordinance.

80. Publishing defamatory matter at election time - Every person shall be liable to a fine not exceeding £50 or to imprisonment for a term not exceeding three months who at any time after public notice has been given of any election and before the close of the poll publishes or exposes, or causes to be published or exposed, to public view any document or writing or printed matter containing any untrue statement defamatory of any candidate and calculated to influence the vote of any elector.

81. Erasing and altering official mark on ballot paper - Every person shall be liable to a fine not exceeding £50 who erases, obliterates, or alters any official mark, stamp, or writing on any ballot paper, or places thereon any writing, print, or other matter which might lead persons to believe that it was put thereon by any official or person duly authorised in that behalf.

82. Offences in respect of ballot papers and ballot boxes - (1) Every person commits an offence against this section who -

- (a) Forges, or counterfeits, or fraudulently defaces, or fraudulently destroys any ballot paper, or the official mark on any ballot paper;
- (b) Without due authority supplies any ballot paper to any person;
- (c) Fraudulently puts into any ballot box any paper other than the ballot paper that he is authorised by law to put therein;
- (d) Fraudulently takes out of a polling booth any ballot paper;
- (e) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box, or box or packet or parcel of ballot papers, then in use for the purposes of an election, or in course of transmission by post or otherwise, or thereafter whenever the same may be kept as a record of the election.

(2) Every person who commits an offence against this section shall be liable on conviction -

- (a) if an officer appointed under this Ordinance, to imprisonment for a term not exceeding two years;
- (b) if any other person, to imprisonment for a term not exceeding six months.

(3) Every person who attempts to commit any offence against this section shall be liable on conviction to imprisonment for a term not exceeding one half of the longest term to which a person committing the offence may be sentenced.

83. Property to be stated as being in Chief Electoral Officer - In any prosecution for an offence in relation to any ballot boxes, ballot papers, or marking instruments at an election, the property in the boxes, papers, and instruments may be stated as being in the Chief Electoral Officer.

84. Infringement of secrecy - (1) Every official, clerk, scrutineer, interpreter, and constable in attendance at a polling booth shall maintain and aid in maintaining the secrecy of the voting in the booth, and shall not communicate to any person, except for some purpose authorised by law, any information likely to defeat the secrecy of the ballot.

(2) No person, except for some purpose authorised by law, shall -

- (a) Interfere with or attempt to interfere with a voter when marking his vote;
- (b) Attempt to obtain in a polling booth information as to the candidate for whom any voter in a booth is about to vote or has voted;
- (c) Communicate at any time to any person any information obtained in a polling booth as to the candidate for whom any voter at the booth is about to vote or has voted, or as to the consecutive number on the ballot paper given to any voter at the booth.

(3) Every person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at the counting as to the candidate for whom any vote is given in any particular ballot paper.

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

(5) Every person who offends against this section shall be liable to imprisonment for a term not exceeding three months.

PART IV - CORRUPT PRACTICES

85. Corrupt practices - Every person is guilty of a corrupt practice, and is liable to imprisonment for a term not exceeding one year, who, in connection with any election, is convicted of bribery, treating, undue influence, or personation as hereinafter defined.

86. Bribery - Every person commits the offence of bribery who, in connection with any election, -

- (a) Directly or indirectly gives or offers to give to any elector any money or valuable consideration or any office or employment in order to induce the elector to vote or refrain from voting; or
- (b) Directly or indirectly makes any gift or offer as aforesaid to any person in order to induce that person to procure or endeavour to procure the return of any candidate or the vote of any elector; or
- (c) Upon or in consequence of any such gift or offer, procures or endeavours to procure the return of any candidate or the vote of any elector; or
- (d) Advances any money to any person with the intent that that money or any part thereof shall be expended in bribery within the meaning of this section; or
- (e) Being an elector, directly or indirectly receives or agrees to receive any gift, money, valuable consideration, office, or employment as aforesaid in return for voting or refraining from voting or for agreeing thereto.

87. Treating - Every person commits the offence of treating who, being a candidate at any election, by himself or any other person on his behalf, corruptly gives or provides any meat, drink, entertainment, or other provision to or for any person for the purpose of procuring his own election or on account of his having been elected or for any other purpose calculated to influence the vote of that person.

88. Undue influence - Every person commits the offence of undue influence who, by himself, or any other person on his behalf, uses or threatens to use any force, violence, or restraint, or inflicts or threatens to inflict any injury, damage, harm, or loss upon or against any person in order to induce or compel that person to vote or refrain from voting or on account of that person having voted or refrained from voting, or who by abduction, duress, or any fraudulent device or contrivance in any way interferes with the free exercise of the franchise by an elector.

89. Personation - Every person commits the offence of personation who at any election applies for a voting paper in the name of some other person, living or dead, or of a fictitious person, or who, having voted once at any such election, applies again at the same election for a voting paper in his own name.

PART VI - DISPUTED ELECTIONS

90. Election petitions - (1) Where any candidate and five electors, or where any 10 electors, are dissatisfied with the result of any election held in the constituency for which that candidate is nominated, or in which those electors are registered, they may, within 14 days after the declaration of the result of the election, by petition filed in the High Court as hereinafter mentioned, demand an inquiry as to the conduct of the election or of any candidate or other person thereat.

(2) Every such petition shall be accompanied by a deposit of £10.

(3) The petition shall be in form 15 and shall be filed in the High Court, and shall be heard and determined before a Judge of the High Court.

(4) The petition shall allege the specific grounds on which the complaint is founded, and no grounds other than those stated shall be investigated except by leave of the Judge and upon reasonable notice being given, which leave may be given on such terms and conditions as the Judge deems just:

Provided that evidence may be given to prove that the election of any rejected candidate would be invalid in the same manner as if the petition had complained of his election.

91. Candidate may oppose petition - Any candidate may, at any time before the commencement of the inquiry, file in the High Court a notice in writing of his intention to oppose the petition, and thereupon the candidate shall be deemed to be the respondent to the petition.

92. Time for holding inquiry - The inquiry shall be commenced within 14 days after the filing of the petition, but not earlier than 14 days after the day on which the poll was closed, and not less than seven clear days' public notice shall be given of the time and place at which the inquiry will be held.

93. Powers of Judge on inquiry - For the purposes of the inquiry, the Judge shall have and may exercise all the powers of citing parties, compelling evidence, adjourning from time to time and from place to place, and maintaining order that he would have in this ordinary jurisdiction, and, in addition, may at any time during the inquiry direct a recount or scrutiny of the votes given at the election, and shall disallow the vote of every person who -
(a) Has voted, not being entitled to vote; or
(b) Has given more votes than he was entitled to give.

94. Certain irregularities to be disregarded - No election shall be declared void by reason of any irregularity in any of the proceedings preliminary to the polling or by reason of any failure to hold a poll at any place appointed for holding a poll, or to comply with the directions contained or incorporated in this Ordinance as to the taking of the poll or the counting of the votes or by reason of any mistake in the use of the forms contained or incorporated in this Ordinance, if it appears to the Judge that the election was conducted in accordance with the principles laid down in and by this Ordinance and that the irregularity, failure, or mistake did not affect the result of the election.

95. Result of inquiry - (1) The Judge shall determine whether, by reason of some irregularity that in his opinion materially affected the result of the election, the election is void; or whether the candidate whose election is complained of, or any and what other candidate, was duly elected.

(2) The Judge shall cause any determination under this section to be transmitted to the Resident Commissioner, who shall forthwith -

- (a) Publicly notify any such determination;
- (b) Where any election is determined to be void, declare the seat vacant pursuant to section 10 of this Ordinance;
- (c) Where any other candidate is determined to be elected, declare that candidate to be elected pursuant to section 70 of this Ordinance and revoke any warrant previously issued by him pursuant to that section which is not consistent with the determination.

96. Persons committing irregularities to be prosecuted - Where on any such inquiry the Judge is of opinion that any irregularity has been wilfully committed by any person, he shall direct the officer in charge of the Police in Niue to take proceedings for the prosecution of that person, who on conviction shall (unless some other penalty is elsewhere prescribed) be liable -

- (a) To a fine not exceeding £100, where the irregularity, in the opinion of the Judge, materially affected the result of the election; or
- (b) To a fine not exceeding £20, where the irregularity did not, in the opinion of the Judge, materially affect the result but defeated the fairness of the election; or
- (c) To a fine not exceeding £5, where the irregularity did not, in the opinion of the Judge, either materially affect the result or defeat the fairness of the election.

97. Costs of inquiry - (1) The Judge may order that the expenses of and incidental to the inquiry shall be borne either by any party to the inquiry, or, where he declares the election void on the ground or partly on the ground of any negligence or misfeasance of any electoral officer or other person exercising any functions at the election under this Ordinance, may order that those expenses or any part thereof shall be borne by that officer or other person; and that order shall have the same effect and may be enforced in like manner as if it were a judgement for a sum of money obtained in the High Court:

Provided that no such order shall be made against any person other than a party to the inquiry, unless he has been summoned to attend and give evidence at the inquiry.

(2) Subject to any such order, the Judge shall direct that the deposit accompanying any petition shall be returned to the person or persons who paid the same, unless the Judge is of opinion that the petitioners have failed to establish the grounds specified in their petition, or any other grounds investigated by leave of the Judge, in which case the deposit or the surplus

remaining after satisfying the order shall be deemed to be forfeited to Her Majesty, and shall form part of the public revenues of Niue.

98. Determination by the High Court final - Every determination or order by the Judge in respect of or in connection with an election petition shall be final.

PART VII - MISCELLANEOUS PROVISIONS

99. Notification of bankruptcy and death - (1) The Registrar of the High Court shall forthwith after adjudication as a bankrupt of a member, or after his conviction of an offence under subsection (2) of section 102 of this Ordinance or of any offence described in paragraph (e) of subsection one of section 12 of this Ordinance notify the fact to the Resident Commissioner.

(2) The Registrar of Deaths by whom the death of any member is registered shall, within one working day of making that registration, notify the fact to the Resident Commissioner.

100. Requirement of printing, and improvisation of forms - (1) Any requirement of printing under this Ordinance shall be satisfied by typewriting and any mechanical process of reproducing typewritten copies, and the term "printed" shall, where necessary, be construed accordingly.

(2) Where any form prescribed by or referred to in this Ordinance is not available, a form may be improvised, and any electoral officer using or issuing any such form so improvised shall affix his initials or official mark thereto.

101. Form and transmission of documents - (1) Every person making or giving any claim, application, declaration, or notice under this Ordinance shall sign the same with his own hand, or, if he cannot write, his mark shall be attested by a Postmaster, an officer of the High Court, or any electoral officer.

(2) Save as otherwise provided in this Ordinance, every such document may be delivered to any electoral officer appointed in any constituency for the purposes of this Ordinance, who shall transmit it to the Resident Commissioner, the High Court, or the appropriate electoral officer, as the case may be, by mail or telegram as circumstances require, and the expenses of any such transmission of any such bona fide document shall be paid out of the public revenues of Niue.

102. Offences - (1) Every person commits an offence, and is liable to a fine not exceeding £20, who -

(a) Procures himself to be nominated as a candidate for election as a member knowing himself to be incapable under any provisions of this Ordinance of holding that office; or

- (b) Signs any nomination paper purporting to nominate to that office a person who is, to the knowledge of the person so signing, incapable as aforesaid; or
- (c) Signs any nomination paper knowing himself not to be qualified to nominate a candidate.

(2) Every member who sits or votes in the Island Assembly, being disqualified under any provisions of this Ordinance and knowing himself to be so disqualified, or being liable to have his seat declared vacant under any provisions of this Ordinance and knowing himself to be so liable, commits an offence and is liable to a fine not exceeding £20 for every day on which he so sits or votes.

103. General penalty for offences - (1) Every person appointed to carry the provisions of this Ordinance into execution commits an offence, and is liable to a fine not exceeding £50 or to imprisonment for a term not exceeding one month, who is guilty of any wilful or negligent act of commission or omission contrary to the provisions of this Ordinance in respect of any election, and for which no other penalty is provided by this Ordinance.

(2) Any other person who commits a breach of this Ordinance for which no other penalty is provided by this Ordinance is liable to a fine not exceeding £50.

104. Validation of irregularities - Where anything is omitted to be done or cannot be done at the time required by or under this Ordinance, or is done before or after that time, or is otherwise irregularly done in matter of form, or sufficient provision is not made by or under this Ordinance, the Resident Commissioner may, by public notice, at any time before or after the time within which the thing is required to be done, extend that time, or validate anything so done before or after the time required or so irregularly done in matter of form or make other provision for the case as he thinks fit.

105. Regulations - (1) The Resident Commissioner may from time to time make such regulations as may be deemed necessary or expedient for the purpose of giving full effect to the provisions of this Ordinance and for the due administration thereof.

(2) Regulations made under this section may prescribe penalties for offences against the regulations, not exceeding imprisonment for a term of three months or a fine of £50, or both.

(3) Any regulations made pursuant to this section shall be laid before the Island Assembly within 14 days after the date of the making thereof if the Assembly is then in session, or if not, within 14 days after the commencement of the next ensuing session.

[No regulations under this section made before the date of this reprint.]

SCHEDULE

Section 16

Form 1

APPLICATION FOR REGISTRATION AS ELECTOR

To the Registrar for the Constituency.
I, (name in full), hereby claim to have my name entered
upon the Electoral Roll for the Constituency,
and I declare that the answers to the following questions
are true and correct in every particular:

1. Are you a British subject?
2. Have you attained the age of eighteen years?
3. What is your date of birth?
4. What is your present full residential address?
5. (a) From what date have you continuously resided in -
 (1) Niue?
 (ii) The Island Assembly Constituency of....?
 (b) Have you at some period resided continuously
 in Niue for 12 months or more?
 (c) If you have not actually resided in Niue
 throughout the period of three months
 immediately preceding the date of this
 application, did you during any absence
 from Niue within that period intend to
 return to Niue and reside therein indefinitely?
 (d) If after actually residing in Niue you have
 been outside Niue for a period of more than
 three years, were you absent from Niue for
 the purpose of undergoing a course of educa-
 tion or of technical training or instruction
 during the whole or substantially the whole
 of that period?
6. What is your occupation?

Signature of applicant

Signed and declared by the applicant, this day of
..... 19.....

Signature of witness:

Residential address of witness:

Qualification of witness:

Section 17(4)

Form 2

NOTICE OF TRANSFER

To the Registrar for the Constituency.
 PLEASE remove from your electoral roll the name of
 (Surname), (Christian name), (Address on former roll),
 (Occupation on former roll), (Sex), as the elector was
 registered in this constituency on (date).

.....
 Registrar for the Constituency

Section 19(a)

Form 3

NOTICE OF OBJECTION BY ELECTOR

To the Registrar for the Constituency.
 I, (Name in full), of (postal address in full), hereby give
 notice that I object

- * to the registration on any roll of (name in full),
 of (postal address in full)
- * to the retention of the name of (name in full) of
 (postal address in full),

on the roll for the Constituency.

The grounds of my objection are the following:

Dated this day of 19 ...

Signature:

* Delete words that do not apply

Section 20(b)

Form 4

NOTICE OF OBJECTION BY REGISTRAR

- To Take notice that I object
- * to your registration on any electoral roll
 - * to the retention of your name on the roll for the Constituency on the following grounds:
- Unless the annexed notice of appeal is signed by you and returned to me within days from this date, your name will be removed from the roll without further proceedings.

Dated this day of 19 ...

Registrar:
Constituency:

- * Delete words that do not apply

NOTICE OF APPEAL

To the Registrar for the Constituency.
Take notice that I appeal from your objection to my registration

- * on any electoral roll
- * on the roll for the Constituency on the following grounds:

Dated this day of 19...

Signature and address:

- * Delete words that do not apply

Section 23(2)

Form 5

ELECTORAL ROLL FOR CONSTITUENCY

Roll of Persons Entitled to Vote
for a Representative for the Constituency

Number on Roll	Name in Full, Residence, Occupation, Sex

..... Registrar

Section 33

Form 6

NOMINATION PAPER

To the Chief Electoral Officer:

WE (name), and (name), being registered on the Electoral Roll for the Constituency hereby nominate (name, residence, occupation), registered on the roll for the Constituency, with his consent, as a candidate at the election of a Representative for the Constituency, the holding of which election is appointed for the day of 19...

Dated this day of 19...

To the best of our knowledge, on nomination day, namely the day of 19... (name) will have been ordinarily resident (within the meaning of that expression as it is defined in section 12 of the Niue Island Assembly Ordinance 1966) in Niue throughout the period of three months immediately preceding that date and will have at some period resided continuously in Niue for not less than twelve months.

Dated this day of 19...

A.B.

C.D.

(Full names, residences, & occupations)

CONSENT

I, (name) hereby consent

- * to the above nomination
- * to my nomination as a candidate at the election of a representative for the Constituency by A.B. and C.D.

And I solemnly declare that throughout the period of three months immediately preceding nomination day, namely the day of 19.... I have been ordinarily resident (within the meaning of that expression as it is defined in section 12 of the Niue Island Assembly Ordinance 1966) in Niue.

(Full name, residence, & occupation)

- * Delete words that do not apply.

Section 37

Form 7

NOTICE OF WITHDRAWAL OF NOMINATION

To the Chief Electoral Officer:

I hereby give notice that I withdraw my name as a candidate at the election of a representative for the Constituency, the holding of which election is appointed for the day of 19 ..

Signature of candidate:

Received at the hour of..... on the..... day of.....19..

Signature of Chief Electoral Officer

Section 43

Form 8

ELECTION OF A REPRESENTATIVE OF THE
..... CONSTITUENCY BALLOT PAPERDirections

Strike out the name of every candidate except the one for whom you wish to vote.

You must not vote for more than one candidate.

After voting, fold this paper and place it in the ballot box.

You must not take it out of the polling booth.

If you spoil this paper, return it to the Presiding Officer and obtain another.

Lipitoa

Makaola

Sisipi

Tusini, Mose

Tusini, Sione

1966

Assembly

65

Section 43(4)

Form 9

COUNTERFOIL OF BALLOT PAPER

Consecutive No.....

To be entered here and also on the top right-hand corner of the back of the ballot paper.

.....
Designation of Roll:

(To be entered here only)

.....
Stamp across the perforation so that the }
official booth stamp of the polling place } Official
shall appear on both the counterfoil and } Booth
the ballot paper. } Stamp

Initials of Presiding Officer:

.....

Sections 50, 51

Form 10

DECLARATION BY RETURNING OFFICER, POLL CLERKS,
SCRUTINEERS, AND OTHER OFFICERS

I, A.B., solemnly declare that I will faithfully and impartially according to the best of my skill and judgement, exercise and perform all the powers or duties reposed in or required of me by the Niue Island Assembly Ordinance 1966, and I solemnly promise that I will not, except as provided by the said Ordinance, directly or indirectly disclose any fact coming to my knowledge at any election.

Signature

Declared and signed at this.... day of 19..
before me:

Signature:

Capacity of witness:.....

NOTE: The witness, in the case of a Returning Officer, must be the Chief Electoral Officer. In the case of any other electoral officer or of any scrutineer, the witness must be the Chief Electoral Officer or a Returning Officer.

Section 62

Form 11

TENDERED VOTES LIST

	<u>Name of Voter</u>	<u>Number in Roll</u>
1.
2.
3.

Each of the abovenamed persons, representing himself to be a voter, applied for a ballot paper after another person has voted as that voter. Each applicant gave satisfactory answers to the questions in section 62 of the Niue Island Assembly Ordinance 1966, and I therefore entered on this list his name and his number in the electoral roll.

Constituency:

Polling Booth at:

..... Presiding Officer

..... 19 ...

Section 63(2)

Form 12

CERTIFICATE FOR SPECIAL VOTER

To the Returning Officer for theConstituency.

Whereas (name, occupation, address) is an elector registered on the electoral roll for theConstituency and has duly applied for a certificate enabling him to vote in the Constituency pursuant to the provisions of section 63 of the Niue Island Assembly Ordinance 1966.

I hereby certify that the said (name) is entitled to vote in the Constituency at the election appointed to be held on the day of 19....

Dated this day of 19....

.....
Chief Electoral Officer

1966

Assembly

67

Section 64

Form 13

DECLARATION ON VOTING IN ADVANCE OF POLL

I hereby declare that to the best of my knowledge and belief the following statements are true:

1. My surname and Christian names are:
Surname:
Full Christian name:
2. My address is:
3. My occupation is:
4. I am registered as an elector of the ... Constituency
5. I am still possessed of the qualification in respect of which I am registered.
6. I have not already voted at this election.
7. I have not applied for a certificate as a special voter pursuant to Section 63 of the Niue Island Assembly Ordinance 1966.

Signature of elector: Date:

.....
Chief Electoral Officer

Section 70

Form 14

DECLARATION OF RESULT OF POLL

..... Constituency

I hereby declare the result of the poll taken on the day of 19... for the election of a representative for the Constituency of to be as follows:

<u>Candidates</u>	<u>Votes received</u>
C.D.	
E.F.	
G.H.	
K.L.	
Total number of valid votes	
Number of votes rejected as informal	

I therefore declare the said C.D. to be elected.

Dated at this day of 19.....

A.B.
Chief Electoral Officer

Section 90

Form 15

PETITION FOR INQUIRY

In the matter of an election of members of the Niue
Island Assembly held on the day of
19.....

To..... Esquire, Judge of the High Court in Niue.

The Petition of the undersigned, namely -
(name, occupation, address), Candidate
(name, occupation, address), Elector
humbly shows:

1. Your petitioners state that the said election was held on the day of 19..... and that A.B. was declared to be elected as a representative for the Constituency:
2. And your petitioners say that (state the facts and grounds on which the petitioners rely).

Wherefore your petitioners pray that it may be determined that the said A.B.* was not duly elected (or that the election was void)* (or) that (name) was duly elected, and ought to have so been declared.

Dated at this day of 19....

Signatures:
.....
.....

* Delete words which do not apply.