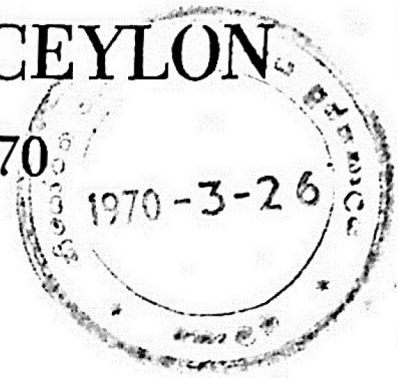


PARLIAMENT OF CEYLON

5th Session 1969-70



Ceylon (Parliamentary Elections) (Amendment) Act, No. 9 of 1970

Date of Assent : March 1, 1970

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Ceylon (Parliamentary Elections) (Amendment)
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L. D.—O. 19/68.

AN ACT TO AMEND THE CEYLON (PARLIAMENTARY
ELECTIONS) ORDER IN COUNCIL, 1946.

[Date of Assent: March 1, 1970]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Ceylon (Parliamentary Elections) (Amendment) Act, No. 9 of 1970.

Short title.

2. Section 4A of the Ceylon (Parliamentary Elections) Order in Council, 1946, hereinafter referred to as the "principal enactment", is hereby amended—

Amendment of
section 4A of
the Ceylon
(Parliamentary
Elections)
Order in
Council, 1946.

(a) in paragraph (b) of that section by the substitution, for the expression "sections 77 to 82 (both inclusive).", of the expression "sections 77 to 82 (both inclusive); or"; and

(b) by the insertion, at the end of that section, of the following new paragraph:—

"(c) is, at that time, disqualified for being elected or appointed as a Senator or a Member of the House of Representatives, or for sitting or voting, in the Senate or the House of Representatives, under section 13 (3) (k) of the Ceylon (Constitution) Order in Council, 1946."

3. Section 15B of the principal enactment is hereby amended in sub-section (8) thereof as follows:—

Amendment of
section 15B
of the
principal
enactment.

(a) in the proviso to that sub-section by the substitution, for the expression "in the register.", of the expression "in the register: "; and

(b) by the insertion, immediately after the proviso to that sub-section, of the following additional proviso:—

"And provided further that the registering officer may, if he deems it necessary so to do, by written notice direct any

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claimant, objector, or person in regard to whom objection has been made, to appear at any public inquiry as aforesaid either by himself or by any other person duly authorized by him in writing in that behalf, and if such person fails to comply with such direction, such person shall be guilty of an offence and shall on conviction before a Magistrate be liable to a fine not exceeding five hundred rupees.”.

Amendment of
section 22A of
the principal
enactment.

4. Section 22A of the principal enactment is hereby amended by the insertion, immediately after sub-section (2) of that section, of the following new sub-sections:—

“(2A) Where, by virtue of the operation of the preceding provisions of this section, the register of electors for any electoral district has to be prepared in both the official language and a language of the minority, then, such register may be so prepared in separate parts in each such language, and such parts may be subsequently bound together to form one register.

(2B) The entry made in any register in the official language shall prevail over the corresponding entry, if any, made in such register in any other language; and accordingly in the event of any dispute arising as to the correctness of any such entry such dispute shall be determined by reference to the entry so made in the official language.”.

Amendment of
section 22B of
the principal
enactment.

5. Section 22B of the principal enactment is hereby amended—

(a) by the substitution, for the expression “ have been completed:”, of the expression “ have been completed.”; and

(b) by the omission of the proviso to that section.

Amendment of
section 28 of
the principal
enactment

6. Section 28 of the principal enactment is hereby amended in sub-section (2) of that section by the substitution, for the word “ six,”, of the word “ three,”.

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7. Section 28A of the principal enactment is hereby amended as follows:—

Amendment of
section 28A
of the
principal
enactment.

(a) by the repeal of sub-section (2) of that section and the substitution therefor of the following new sub-section:—

“(2) Subject to the other provisions of this Order, a political party shall be entitled to be treated as a recognized political party for the purpose of elections, if, but only if, it was, at the last general election immediately preceding such elections, treated as a recognized political party under this Order for the purpose of the provisions of section 29 relating to the deposit to be made by candidates.”; and

(b) in sub-section (3) of that section by the substitution, for the expression “at the general election held in the month of July, 1960,” of the expression “at the last general election immediately preceding such elections”.

8. Section 28D of the principal enactment is hereby amended in sub-section (1) of that section by the substitution, for the expression “seven days of”, of the expression “seven days from”.

Amendment of
section 28D of
the principal
enactment.

9. The following new section is hereby inserted immediately after section 28F, and shall have effect as section 28FF, of the principal enactment:—

Insertion of
new section
28FF in the
principal
enactment.

“Determination of any doubt or question with regard to certificates of official candidature, &c.

28FF. (1) Where, in the exercise or discharge or performance of any power, function or duty conferred or imposed on the Commissioner or the returning officer for any electoral district, any doubt or question arises—

(a) as to whether or not any certificate of official candidature has been validly issued; or

(b) as to whether or not any such certificate is in force; or

(c) as to whether or not a person is the official candidate of any recognized party for the purpose of elections,

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such doubt or question shall be determined by the Commissioner, or such returning officer, as the case may be, in his absolute discretion, and any such determination shall be final and conclusive, and shall not be called in question in any court.

(2) No suit or other proceeding shall lie against—

(a) the Commissioner or a returning officer by reason of his having made a determination under sub-section (1); or

(b) any other officer for any act or thing done or omitted to be done in accordance with such determination.

(3) The preceding provisions of this section, and any determination made thereunder, shall have effect notwithstanding anything to the contrary in any other provisions of this Order.”.

Amendment of
section 30 of
the principal
enactment.

10. Section 30 of the principal enactment is hereby amended as follows:—

(a) in sub-section (1) of that section by the substitution, for the expression “ twelve noon until one o'clock in the afternoon ”, of the expression “ ten o'clock until eleven o'clock in the morning ”; and

(b) in sub-section (4) of that section by the substitution, for the expression “ twelve noon and one-thirty o'clock in the afternoon ”, of the expression “ ten o'clock and eleven-thirty o'clock in the morning ”.

Amendment of
section 31
of the
principal
enactment.

11. Section 31 of the principal enactment is hereby amended as follows:—

(1) in sub-section (1) of that section—

(a) by the substitution, in paragraph (d) of that sub-section, for the word “ observed. ”, of the word “ observed; ”; and

(b) by the insertion, immediately after paragraph (d) of that sub-section, of the following new paragraph:—

“(e) that, by reason of his conviction for a corrupt or illegal practice or by reason of the report of an Election Judge in accordance with the law for the time being in force relating to the election of Members of Parliament, the candidate is not capable of being elected as such a Member, and, for the purposes of this paragraph, a copy of the judgment or order of the court by which he was so convicted certified by the officer of the court having custody of such judgment or order supported, in any case where there was an appeal against such conviction, by a copy of the order of the Supreme Court on such appeal affirming such judgment or order, or a copy of or an extract from the *Gazette* in which such report is published as required by sub-section (2) (a) of section 82D, shall be conclusive proof of such incapacity.”;

(2) in sub-section (2) of that section by the substitution, for the expression “twelve noon and one-thirty o'clock in the afternoon”, of the expression “ten o'clock and eleven-thirty o'clock in the morning”;

(3) by the substitution, for sub-section (4) of that section, of the following new sub-section:—

“(4) The returning officer shall with the least possible delay decide on the validity of every objection, other than any objection taken on any ground referred to in paragraph (e) of sub-section (1), and inform the

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candidate concerned of his decision, and of the grounds therefor if such decision allows the objection. ”; and

- (4) by the insertion, immediately after sub-section (4) of that section, of the following new sub-sections:—

“ (5) The decision of the returning officer if disallowing the objection taken on any ground, other than any ground referred to in paragraph (e) of sub-section (1), shall be final; but if allowing such objection shall be subject to reversal on an election petition.

(6) The returning officer shall refer any objection taken on any ground referred to in paragraph (e) of sub-section (1) for the decision of the Supreme Court.

(7) Every reference under sub-section (6) on any objection taken to the nomination of the candidate concerned—

(a) shall be made by petition in writing which shall be free of stamp duty;

(b) shall be made within a period of three days after the day of nomination;

(c) shall specify the names and addresses of the returning officer, the objector and the candidate concerned;

(d) shall be accompanied by a copy or copies of the relevant document or documents on which the objection is based; and

(e) shall be heard and decided by a Judge of the Supreme Court after such summary inquiry as that Judge may deem requisite within a period of ten days after the date of the receipt of such reference.

The decision of the Supreme Court on the reference within the period referred to in paragraph (e) of this sub-section shall be final. If there is no such decision, the reference shall, for the purposes of this Order, be deemed to have abated, but may be taken by way of an election petition.

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(8) Where the returning officer is required by sub-section (6) to refer any objection taken under paragraph (e) of sub-section (1) to the nomination of the candidate concerned for the decision of the Supreme Court, such candidate shall, for the purposes of this Order, be a candidate who stands nominated on the day of nomination, and shall cease to be a candidate so nominated if, but only if, the decision, if any, of that Court which becomes final as herein before provided allows the objection. The returning officer shall so act under this Order as to give force and effect to the preceding provisions of this sub-section.

(9) The provisions of sub-sections (6) to (8) shall not apply in the event of the returning officer allowing any objection against the candidate concerned on any ground, other than the ground referred to in paragraph (e) of sub-section (1). ”.

12. Section 33 of the principal enactment is hereby amended in sub-section (1) of that section by the substitution, for the expression “ one o'clock in the afternoon ”, of the expression “ eleven o'clock in the morning ”.

Amendment of
section 33 of
the principal
enactment.

13. Section 34 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of
section 34 of
the principal
enactment.

“ Uncontested
elections.

34. The following provisions shall apply if on the day of nomination in any electoral district no more candidates stand nominated for that district than there are vacancies to be filled:—

(a) Subject to the provisions of paragraph (b), the returning officer shall forthwith declare the nominated candidate or candidates to be elected and shall forthwith make a return, which shall be substantially in the form H in the First Schedule to this Order, to the Commissioner who shall cause the name or names of the Member or Members so elected to be published in the *Gazette*.

(b) Where the returning officer is required by sub-section (6) of section 31 to make a reference to the Supreme Court for a decision on any objection taken to the nomination of such candidate or any such candidate,—

(i) the returning officer shall not act under paragraph (a) unless as a result of such reference being deemed to have abated or the decision of that Court on such reference which becomes final no such candidate or candidates cease to be nominated by virtue of the operation of sub-section (8) of section 31; or

(ii) the returning officer shall, if as a result of such decision which becomes final such candidate or all such candidates so cease to be nominated, instead of acting under paragraph (a) commence or cause to be commenced all proceedings relating to the election afresh; or

(iii) the returning officer shall, if as a result of such decision which becomes final less candidates continue to stand nominated than there are vacancies to be filled, act under paragraph (a) only in respect of the candidates who so continue to stand nominated and commence or cause to be commenced all proceedings relating

to the election afresh in respect of any vacancy that still remains to be filled.”.

14. Section 35 of the principal enactment is hereby amended as follows:—

Amendment of
section 35 of
the principal
enactment.

(1) in sub-section (1) of that section by the omission of all the words from “ after the decision ” to “ lodged ”;

(2) in sub-section (2) of that section by the omission of all the words and figures from “ A polling station ” to the end of that sub-section;

(3) in sub-section (3) of that section by the substitution, for paragraph (b) of that sub-section, of the following new paragraph:—

“ (b) the date on which the poll will be taken, such date,—

(i) in the case of a general election, being a date not less than three or more than eight weeks after the day of nomination, and

(ii) in case such election is to fill a vacancy in the seat of a Member for such district, being a date not less than three or more than five weeks after such day.”;

(4) in sub-section (3B) of that section by the substitution, for all the words from “ Where ” to “ in any electoral district ”, of the following:—

“ Where due to any matter arising at the nomination of candidates for election in any electoral district, or to any emergency, the poll for the election in such district ”;

(5) by the insertion immediately after sub-section (3B) of that section of the following new sub-section:—

“ (3BB) If, after an election has been reported as contested such election ceases to be so contested as a result of a decision of

the Supreme Court which becomes final on any reference made to it under sub-section (6) of section 31, the Commissioner shall upon being satisfied of such cessation, countermand the notice of the poll, and the returning officer shall thereupon forthwith declare the nominated candidate or candidates to be elected and shall forthwith make a return which shall be substantially in the form H in the First Schedule to this Order to the Commissioner who shall cause the name or names of the Member or Members so elected to be published in the *Gazette*.”; and

- (6) by the insertion, immediately after sub-section (4) of that section, of the following new sub-section:—

“(5) (a) Where in the exercise, discharge or performance of any power, function or duty conferred or imposed on the returning officer for any electoral district under the preceding provisions of this section, any doubt or question arises—

- (i) as to the approved symbol to be allotted to any candidate at any election under this Order; or
- (ii) as to whether or not any such candidate is entitled to be allotted any particular approved symbol,

such doubt or question shall be determined by the returning officer in his absolute discretion, and any such determination shall be final and conclusive, and shall not be called in question in any court.

(b) No suit or other proceeding shall lie against—

- (i) a returning officer by reason of his having made a determination under this sub-section; or
- (ii) any other officer for any act or thing done or omitted to be done in accordance with such determination.

(c) The preceding provisions of this sub-section, and any determination made thereunder, shall have effect notwithstanding anything to the contrary in any other provisions of this Order.”.

15. Section 41 of the principal enactment is hereby amended by the repeal of sub-section (2) of that section and the substitution therefor of the following new sub-section:—

Amendment of
section 41 of
the principal
enactment.

“(2) Immediately before the commencement of the poll, the presiding officer at a polling station—

(a) shall show the ballot papers, the official seal, the official mark and the copies of the parts of the register of electors, to be used at the poll to such persons, if any, as may be present in such station; and

(b) shall also show each ballot box to be used at the commencement of the poll empty to the persons aforesaid so that they may see that it is empty, and shall then lock it up and place his seal upon it in such manner as to prevent it being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers and keep it so locked and sealed.

The duties imposed on the presiding officer by the preceding provisions of this section shall be performed by him in such manner as to ensure that the poll is opened at the hour fixed by this Order.”.

16. Section 42 of the principal enactment is hereby amended as follows:—

Amendment of
section 42 of
the principal
enactment.

(1) in sub-section (2c) of that section by the substitution in paragraph (b) of that sub-section, for the word “forefinger” wherever it occurs in that sub-section, of the words “little finger”; and

(2) in sub-section (7) of that section by the substitution, for the expression “English, Sinhalese and Tamil,” of the expression “Sinhala, Tamil and English,”.

17. Section 42A of the principal enactment is hereby amended as follows:—

Amendment
section 42A
of the
principal
enactment.

(a) in paragraph (aa) of sub-section (2) of that section by the substitution, for the expression “public service”, of the expression “public service, or of the Central Bank of Ceylon,”; and

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- (b) in sub-section (3) of that section by the substitution, for the word "seven", of the word "ten".

Amendment of
section 43
of the
principal
enactment.

18. Section 43 of the principal enactment is hereby amended in sub-section (1) of that section by the substitution, for the expression "K and L", of the expression "K, KK and L".

Amendment of
section 48 of
the principal
enactment.

19. Section 48 of the principal enactment is hereby amended as follows:—

- (a) by the insertion, immediately after sub-section (3) of that section, of the following new sub-section:—

“(3A) Immediately after the close of the poll and before the returning officer proceeds to count the votes, he, or a person authorized by him shall, in the presence of such of the candidates and their counting agents as attend,—

(a) show such candidates and their counting agents the statement referred to in sub-section (4) of section 47 and permit them to take copies thereof; and

(b) open the postal voters' ballot box, if any, and dispose of the contents thereof in accordance with the regulations contained in the Fifth Schedule to this Order.”; and

- (b) in sub-section (4) of that section by the omission of paragraph (a) of that sub-section.

Amendment of
section 49 of
the principal
enactment.

20. Section 49 of the principal enactment is hereby amended as follows:—

- (1) in sub-section (1) of that section by the substitution, for the expression “The returning officer”, of the expression “Subject to the succeeding provisions of this section, the returning officer”; and

- (2) by the insertion, immediately after sub-section (2) of that section, of the following new sub-section:—

“(2A) Where the returning officer is satisfied that a ballot paper is not a forged or counterfeit ballot paper, he shall not reject it solely on the ground that it is not stamped

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or perforated with the official mark. Before deciding not to reject a ballot paper under the preceding provisions of this section the returning officer shall show it to each candidate or his counting agent if present and hear his views thereon.”.

21. Section 52 of the principal enactment is hereby amended as follows:—

Amendment of
section 52 of
the principal
enactment.

(1) in sub-section (1) of that section—

(a) by the substitution in paragraph (o) of that sub-section, for the expression “due authority,”, of the expression “due authority; or”; and

(b) by the insertion, immediately after paragraph (o) of that sub-section, of the following new paragraph:—

“ (p) votes at any election knowing that he is legally incapable of, or disqualified from, so voting, ”;

(2) in sub-section (1A) of that section by the substitution, for all the words from “within” to “that polling station:—”, of the following:—

“ within the precincts, or a distance of a quarter of a mile of the entrance, of that polling station:— ”; and

(3) in sub-section (1BB) of that section—

(a) by the omission of paragraph (a) of that sub-section; and

(b) by the substitution in paragraph (b) of that sub-section, for the expression “the poll is taken at such election,”, of the expression “the result of the poll taken at such election is declared by the returning officer under this Order,”.

22. The following new section is hereby inserted immediately after section 52A, and shall have effect as section 52AA, of the principal enactment:—

Insertion of
new section
52AA in the
principal
enactment.

‘ Election
offices.

52AA. (1) A person who is a candidate at any election in any electoral district.

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or is the agent of such candidate, shall not have,—

(a) during the period commencing on the day immediately succeeding the day of nomination at such election and ending on the day immediately following the date on which a poll is taken at such election, any election office, other than one notified central election office in the electoral district, and one notified branch election office in each polling district;

(b) during the period commencing on the day immediately preceding the date of such poll and ending on the day immediately following such date, any election office, other than one notified central election office.

(2) The use of the ordinary place of residence of any candidate referred to in sub-section (1) of this section as an election office shall be deemed not to be a contravention of the provisions of that sub-section.

(3) Every person who contravenes the provisions of sub-section (1) of this section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

(4) Every person who attempts to commit any offence specified in this section shall be liable to the punishment prescribed for that offence.

(5) A prosecution for an offence under this section shall not be instituted without the sanction of the Attorney-General.

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(6) For the purposes of this section, the term "notified", in relation to any election office, means notified to the officer in charge of the police station for the area, and the returning officer for the electoral district, in which that office is situated, before such office is established.'

23. The following new section is hereby inserted immediately after section 58A, and shall have effect as section 58B, of the principal enactment:—

Insertion of
new section
58B in the
principal
enactment.

" Special
provisions re-
lating to
punishment
and incapacity
for a corrupt
practice by
an unsuccess-
ful candidate
at any
election.

58B. (1) Where a corrupt practice is committed in connection with any election under this Order by any candidate who was not elected as a Member at the election or with his knowledge or consent or by any of his agents, such candidate shall on conviction by a District Court be liable, in the case of the offence of personation, to imprisonment for a term not exceeding twelve months, and, in any other case, to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment:

Provided, however, that such candidate shall not be convicted of such corrupt practice under this section consisting of the offence of treating or undue influence committed by any of his agents if he proves to the District Court—

(a) that no corrupt or illegal practice was committed at the election by such candidate or his election agent and any such offence was committed contrary to the orders and without the sanction or connivance of such candidate or his election agent; and

(b) that such candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at the election; and

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(c) that any such offence was of a trivial, unimportant and limited character; and

(d) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and his agents.

(2) Every person who is convicted of a corrupt practice under this section shall, by conviction, become incapable for a period of seven years from the date of his conviction of being registered as an elector or of voting at any election under this Order or of being elected or appointed as a Senator or Member of Parliament, and if at that date he has been so elected or appointed, his election or appointment shall be vacated from the date of such conviction.

(3) A prosecution for a corrupt practice under this section shall not be instituted against any candidate at any election under this Order who was not elected as a Member at such election—

(a) except within the period during which an election petition could, if such candidate had been elected as a Member at such election, have been presented against him in connection with his election; and

(b) except by a person who would have had a right to present such petition under section 79; and

(c) except with the sanction of the Attorney-General.

(4) Nothing in the preceding provisions of this section shall be deemed or construed to preclude or prevent a candidate who was not elected as a Member at any election under this Order from being prosecuted for a corrupt practice in connection with such election under section 58. "

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24. Section 67 of the principal enactment is hereby amended as follows:—

Amendment of
section 67 of
the principal
enactment.

- (1) by the repeal of sub-section (3) of that section, and the substitution therefor of the following new sub-section:—

“ (3) Subject to any such express exceptions as are or may be made by or under this Order, a person shall not let, lend, employ, hire, borrow or use, or aid or abet any other person to let, lend, employ, hire, borrow or use, any vehicle, vessel or animal, in any electoral district during the period commencing one hour before the time of the opening of the poll at any election in that district, and ending one hour after the time of the closure of such poll—

(a) for the purpose of the conveyance of voters to or from the poll; or

(b) for any other purpose, other than—

(i) any legitimate business; or

(ii) any official business, that is to say, the performance of any duty or the discharge of any function accruing from or connected with or incidental to any office, service or employment, held or undertaken or carried on by him.

Any person knowingly acting in contravention of this sub-section shall be guilty of an illegal practice.”; and

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(2) by the substitution, for sub-section (5) of that section, of the following new sub-section:—

“ (5) Where at any poll taken in any electoral district any police officer, either of his own motion or after an investigation which he is hereby required to carry out on the complaint of any person, is satisfied that any vehicle, vessel or animal is being used in contravention of the provisions of sub-section (1) or sub-section (3), that officer shall stop and seize such vehicle, vessel or animal, and take it to a police station and detain it therein until the conclusion of the poll. ”.

Amendment of
section 70 of
the principal
enactment.

25. Section 70 of the principal enactment is hereby amended as follows:—

(1) by the repeal of sub-section (6) of that section, and the substitution therefor of the following new sub-section:—

“ (6) If the election agent of any candidate at any election fails to comply with the requirements of sub-section (1) of this section, both such agent and candidate shall, subject to the provisions of section 58, each be guilty of an illegal practice. ”; and

(2) by the insertion, at the end of that section, of the following new sub-section:—

“ (7) In the event of a failure to comply with the requirements of sub-section (2) of this section, both the candidate at any election and his election agent shall, subject to the provisions of section 58, each be guilty of an illegal practice. ” .

26. The following new section is hereby inserted immediately after section 72, and shall have effect as section 72A, of the principal enactment:—

Insertion of
new section
72A in the
principal
enactment.

“ Special
provisions re-
lating to
punishment
and incapacity
for an illegal
practice by an
unsuccessful
candidate at
any election.

72A. (1) Where an illegal practice is committed in connection with any election under this Order by any candidate who was not elected as a Member at the election or with his knowledge or consent or by any of his agents, such candidate shall on conviction by a District Court be liable to a fine not exceeding three hundred rupees :

Provided, however, that such candidate shall not be convicted of such illegal practice under this section committed by any of his agents if he proves to the District Court—

- (a) that no corrupt or illegal practice was committed at the election by such candidate or his election agent and the illegal practice which is the subject-matter of the prosecution was committed contrary to the orders and without the sanction or connivance of such candidate or his election agent; and
- (b) that such candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at the election; and
- (c) that the offence or offences constituting such illegal practice was or were of a trivial, unimportant and limited nature; and

(d) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and his agents.

(2) Every person who is convicted of an illegal practice under this section shall, by conviction, become incapable for a period of three years from the date of his conviction of being registered as an elector or of voting at any election under this Order or of being elected or appointed as a Senator or Member of Parliament, and if at that date he has been elected or appointed as a Senator or Member of Parliament, his election or appointment shall be vacated from the date of such conviction.

(3) A prosecution for an illegal practice under this section shall not be instituted against any candidate at any election under this Order who was not elected as a Member at such election—

(a) except within the period during which an election petition could, if such candidate had been elected as a Member at such election, have been presented against him in connection with his election; and

(b) except by a person who would have had the right to present such petition under section 79; and

(c) except with the sanction of the Attorney-General.

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(4) Nothing in the preceding provisions of this section shall be deemed or construed to preclude or prevent a candidate who was not elected as a Member at any election under this Order from being prosecuted for an illegal practice in connection with such election under section 72."

27. Section 78 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement
of section 78
of the
principal
enactment.

Appointment
and powers
of Election
Judge.

78. (1) Every election petition shall be tried by the Chief Justice or by a Judge of the Supreme Court nominated by the Chief Justice for the purpose.

(2) The Chief Justice or the Judge so nominated is, in this Order, referred to as the "Election Judge".

(3) For the purpose of summoning or compelling the attendance of witnesses at the trial of an election petition, the Election Judge shall have the same power, jurisdiction, and authority as are possessed and exercised by the Judge of a District Court in the trial of a civil action and witnesses shall be sworn in the same manner, as near as circumstances will admit, as in the trial of such an action, and shall be subject to the same penalties for the giving of false evidence.

(4) The Election Judge shall be attended on the trial of an election petition in the same manner as if he were a Judge of the Supreme Court sitting at Assizes.

(5) Unless otherwise ordered by the Chief Justice, all interlocutory matters in connection with an election petition may be dealt with and decided by any Judge of the Supreme Court. '

28. Sections 78A and 78B of the principal enactment are hereby repealed.

Repeal of
sections 78A
and 78B of
the principal
enactment.

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Renumbering
of section
78c of the
principal
enactment.

29. The principal enactment is hereby amended by the re-numbering of section 78c, as section 78A, of that enactment.

Insertion of
new sections
80A, 80B and
80C in the
principal
enactment.

30. The following new sections are hereby inserted immediately after section 80, and shall have effect as section 80A, section 80B and section 80c, of the principal enactment:—

"Parties to a
petition.

80A. (1) A petitioner shall join as respondents to his election petition—

(a) where the petition, in addition to claiming that the election of all or any of the returned candidates is void or was undue, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates, other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(b) any other candidate or person against whom allegations of any corrupt or illegal practice are made in the petition.

(2) Any candidate not already a respondent to an election petition shall, upon application in that behalf made by him to the Election Judge, be entitled to be joined as a respondent to such petition:

Provided that no candidate shall be entitled to be joined of his own motion as a respondent to such petition under the preceding provisions of this section unless he has given such security for costs as the Election Judge may determine.

Contents of the
petition.

80B. An election petition—

(a) shall state the right of the petitioner to petition within section 79 of this Order;

(b) shall state the holding and result of the election;

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- (c) shall contain a concise statement of the material facts on which the petitioner relies;
- (d) shall set forth full particulars of any corrupt or illegal practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt or illegal practice and the date and place of the commission of such practice, and shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt or illegal practice and the date and place of the commission of such practice;
- (e) shall conclude with a prayer as, for instance, that some specified person should be declared duly returned or elected, or that the election should be declared void, or as the case may be, and shall be signed by all the petitioners:

Provided, however, that nothing in the preceding provisions of this section shall be deemed or construed to require evidence to be stated in the petition.

Special provisions relating to the procedure before an Election Judge.

80c. (1) The Election Judge may, upon such terms as to costs or otherwise as he may deem fit, allow the particulars of any corrupt or illegal practice specified in an election petition to be amended or amplified in such manner as may in his opinion be necessary for ensuring a fair or effective trial of the petition so, however, that he shall not allow such amendment or amplification if it will result in the introduction of particulars of any corrupt or illegal practice not previously alleged in the petition.

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(2) Every election petition shall be tried as expeditiously as possible and every endeavour shall be made to conclude the trial of such petition within a period of six months after the date of the presentation of such petition. The Election Judge shall make his order deciding such petition without undue delay after the date of the conclusion of the trial of such petition. ”.

Insertion of
new section
82AA in the
principal
enactment.

31. The following new section is hereby inserted immediately after section 82A, and shall have effect as section 82AA, of the principal enactment:—

“ Security by
appellant for
costs, &c.
of appeal.

82AA. (1) At the time of the filing of a petition of appeal, or within three days afterwards, security for the payment of all costs, charges and expenses that may become payable by the appellant shall be given on behalf of the appellant.

(2) The security shall be an amount of not less than five thousand rupees. The security required by this section shall be given by a deposit of money.

(3) If the security as in this section provided is not given by the appellant, no further proceedings shall be had on the appeal, and the respondent may apply to the Supreme Court for an order directing the dismissal of the appeal and for the payment of the respondent's costs. The costs of hearing and deciding such application shall be paid as ordered by the Supreme Court, and in default of such order shall form part of the general costs of the appeal.

(4) The deposit of money by way of security for the payment of the costs, charges and expenses payable by the appellant shall be made by payment to the Commissioner which shall be vested in and drawn upon from time to time by the Chief Justice for the purposes for which security is required by this section. A receipt shall be given by the Commissioner for the same,

which shall forthwith be left at the office of the Registrar of the Supreme Court by the appellant.

(5) The Registrar of the Supreme Court shall file such receipt and keep a book open to the inspection of all parties concerned in which shall be entered from time to time the amount and the appeal to which it is applicable.

(6) Money so deposited shall, if and when the same is no longer needed for securing the payment of the costs, charges and expenses payable by the appellant, be returned or otherwise disposed of as justice may require by order of the Chief Justice.

(7) Such order may be made after such notice of intention to apply and proof that all just claims have been satisfied or otherwise sufficiently provided for as the Chief Justice may require.

(8) Such order may direct payment to the party in whose name the same is deposited or to any person entitled to receive the same. ” .

32. Section 85 of the principal enactment is hereby amended in sub-section (1) of that section by the omission of paragraph (f) of that sub-section.

Amendment of
section 85 of
the principal
enactment.

33. The Parliamentary Election Petition Rules, 1946, set out in the Third Schedule to the principal enactment are hereby amended as follows:—

Amendment of
the
Parliamentary
Election
Petition
Rules.

(a) in rule 4 thereof—

(i) by the omission of paragraphs (1), (2) and (3) of that rule; and

(ii) by the substitution, for the marginal note to that rule, of the following new marginal note:—

“ Form of election petition. ” ;

(b) by the omission of rule 5 thereof;

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(c) in rule 12 thereof, by the substitution, for paragraph (2) of that rule, of the following new paragraph:—

“(2) The security shall be an amount of not less than five thousand rupees in respect of the first charge constituting a distinct ground on which the petitioner relies, and a further amount of not less than two thousand five hundred rupees in respect of each additional charge constituting any such ground. The security required by this rule shall be given by a deposit of money.”;

(d) by the insertion, immediately after rule 26 thereof, of the following new rule:—

“ Non-
abatement
of election
petition
by reason
only of a
dissolution of
Parliament.

26A. An election petition shall not be abated by reason only of a dissolution of Parliament, and accordingly in the event of such dissolution such petition shall be heard or continue to be heard, and determined as though Parliament had not been dissolved but was in session.”; and

(e) in rule 33 thereof, by the substitution, for paragraph (1) of that rule, of the following new paragraph:—

“(1) Costs shall be taxed by the Registrar upon the order by which the costs are payable in such manner as shall be specified in such order; and costs when taxed may be recovered in the same manner as the costs of an action at law.”.

Amendment of
the First
Schedule to
the principal
enactment.

34. The First Schedule to the principal enactment is hereby amended by the insertion, immediately after Form K, of the following new Form:—

“ FORM KK

DECLARATION

I, (name in full) of (address), hereby declare that I am not legally incapable of, or disqualified from, voting at this election for the election of a Member for this electoral district.

.....
(Signature or thumb mark of voter)

Declared before me this day of 19.....

.....
(Signature of Presiding Officer) ”.

[Section 43 (1)]

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35. The regulations contained in the Fifth Schedule to the principal enactment are hereby amended as follows:—

Amendment of
the Fifth
Schedule to
the principal
enactment.

- (1) by the repeal of regulation 18 of such regulations, and the substitution therefor of the following new regulation:—

“ Opening of
postal voters’
ballot box.

18. Every postal voters’ ballot box shall be opened by the returning officer, in the presence of the agents of the candidates, immediately after the close of the poll and before such officer proceeds to count the votes. ”; and

- (2) by the insertion, immediately after sub-paragraph (c) of paragraph (1) of Form A in the Schedule to such regulations, of the following new sub-paragraph:—

“*(d) as an officer or servant of the Central Bank of Ceylon appointed*/ likely to be appointed for duties connected with such election; ”.