



ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER E30

ELECTIONS ACT

Showing the Law as at 15 December 2000

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ELECTIONS ACT

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ELECTIONS ACT

PART 1

PRELIMINARY PROVISIONS

Interpretation**1.** (1) In this Act—

“affirmation” means an affirmation in the case of a person allowed to affirm instead of swear an oath and “affirm” has a corresponding meaning;

“Assembly” means the House of Assembly;

“ballot paper” means a ballot paper referred to in section 30(2);

“election” means the election of one or more members to the Assembly;

“Electoral District” means an electoral district referred to in section 2;

“election officer” means a Returning Officer, presiding officer, poll clerk or other person who has any duty to perform under this Act that he is sworn to perform faithfully;

“enumeration year” means the year 1972 and the last year of each successive four-year period after that;

“Form” means a form set out in Schedule 2;

“High Court” means the High Court established by the Supreme Court Order;

“Judge” means a Judge of the High Court;

“list of voters” means the first list of voters or the register of voters or the official list of voters, as defined in this Act, as the context requires;

“Magistrate” means the person appointed as Magistrate under the Magistrate’s Code of Procedure Act;

“Magistrate’s Court” means the Magistrate’s Court referred to in the Magistrate’s Code of Procedure Act;

“official list of voters” means the certified copy of the register of voters or part thereof supplied to a polling station in accordance with section 28(2)(d);

“poll book” means the book in Form 12;

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

“Polling Division” means any polling division constituted under section 4;

“polling station” means any room secured by the Returning Officer for the taking of the votes on polling day;

“prescribed” means prescribed by regulation;

“proclamation” means a written or printed notice signed by the Governor and published in the *Gazette*;

“qualifying date” means the date prescribed by regulation in respect of a year as the date with reference to which the qualifications of voters are to be ascertained for the purpose of compiling the registers of voters in that year;

“Registrar of the High Court” means any person appointed under the Supreme Court Order to exercise in or in relation to Anguilla any powers, duties or jurisdiction of a Registrar of the High Court;

“Registration Officer” means a registration officer appointed under section 6;

“regulations” means regulations made under this Act;

“rejected ballot paper” means a ballot paper referred to in section 45(3)(b);

“Returning Officer”, in relation to an Electoral District, means the officer appointed by the Governor for that Electoral District under section 15;

“Revising Officer” means the person appointed by the Governor for the purpose of revising and settling the list of voters for one or more Electoral Districts;

“Schedule” means a Schedule to this Act;

“spoiled ballot paper” means a ballot paper referred to in section 38(4)(a) or (b) in respect of which the presiding officer has performed the obligations described in sections 38(4)(c) and (d);

“Supervisor of Elections” means the Supervisor of Elections appointed under section 5;

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

“writ” means the writ for an election.

(2) In reckoning time for the purposes of this Act, Sunday is included but Christmas Day, Good Friday and any bank holiday are excluded.

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

(4) In this Act, any reference to the holder of an office by a term designating or describing his office shall be construed as including a reference to any person who, under and to the extent of any authority, is for the time being performing the functions of that office.

(5) Where by this Act any person is directed or power is conferred on any person or authority to appoint a person to perform the functions of an office and the holder of the office is unable to

perform those functions, the validity of any performance of those functions by the person directed or of any appointment made in exercise of that power shall not be called in question in any court on the ground that the holder of the office is unable to perform the functions of the office.

(6) For the purposes of this Act, the resignation of the holder of an office that is required to be addressed to any person shall have effect from the time that it is received by that person.

(7) For the avoidance of doubt, it is hereby declared that any person who has vacated any office established by this Act may, if qualified, again be appointed to that office.

PART 2

ELECTORAL DISTRICTS AND POLLING DIVISIONS

Electoral Districts

2. (1) Anguilla shall be divided into the 7 Electoral Districts described in Schedule 1.

(2) The Governor in Council may by regulation more particularly describe the boundaries of an Electoral District.

One member per Electoral District

3. Each Electoral District shall elect one member to the Assembly.

Polling divisions

4. (1) Each Electoral District shall be a Polling Division.

(2) Notwithstanding subsection (1), the Supervisor of Elections, with the approval of the Governor, may divide an Electoral District into as many Polling Divisions with such boundaries and descriptions as he may appoint by notice published in the *Gazette*.

(3) The Supervisor of Elections may, with the approval of the Governor, vary the number, boundaries and description of any Polling Division.

PART 3

REGISTRATION OF VOTERS

Appointment, powers and duties of Supervisor of Elections

5. The Governor shall appoint a Supervisor of Elections who shall—

- (a) exercise general direction and supervision over the administrative conduct of elections and enforce on the part of all election officers fairness, impartiality and compliance with this Act and the regulations;

- (b) issue to election officers any instructions that he considers necessary to ensure effective execution of the provisions of this Act; and
- (c) exercise the other powers and perform the other duties that are conferred and imposed upon him by this Act.

Appointment of Registration Officers, etc.

6. (1) The Supervisor of Elections shall appoint a Registration Officer for each Electoral District.

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

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

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

(5) Subject to the authority, direction and control of the Registration Officer, an assistant Registration Officer has all the powers and may perform any of the duties of the Registration Officer under this Act, other than the consideration of claims and objections.

(6) Every Registration Officer shall, before entering on his duties as such, take and subscribe an oath or affirmation in Form 1 and shall transmit the oath or affirmation to the Supervisor of Elections.

Registration Officers' duties

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

Scrutineers

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

(2) If on the day appointed for the commencement of the preparation of the preliminary list for an Electoral District—

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

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

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

Preparation of preliminary lists and registers in enumeration years

9. (1) Between 1st March and 30th April in an enumeration year, the Registration Officer of each Electoral District shall cause to be prepared for his Electoral District in accordance with the regulations a preliminary list of all persons qualified to be registered as voters in that Electoral District and those lists, when revised and published in accordance with the regulations, shall, subject to the provisions of this Act and the regulations, constitute the register of voters for the Electoral District.

(2) The Governor may in respect of any year, by regulation, vary the dates or the period referred to in subsection (1).

Preparation of preliminary lists and registers in other years

10. (1) Between 1st March and 30th April, in a year other than an enumeration year, the Registration Officer of each Electoral District shall prepare for his Electoral District in accordance with this section and the regulations, a preliminary list of all persons qualified to be registered as voters in his Electoral District and the list, when revised and published in accordance with the regulations shall, subject to this Act and the regulations, constitute the register of voters for the Electoral District.

(2) The Governor may in respect of any year, by regulation, vary the dates or the period referred to in subsection (1).

(3) In a year other than an enumeration year, the preliminary list of voters for an Electoral District shall be prepared—

- (a) by the deletion from the existing register of voters of the names, addresses and occupations of all persons whom the Registration Officer has reasonable cause to believe to have died or to have ceased to be qualified to be registered as voters in that Electoral District;
- (b) by the amendment of the existing register of voters by the substitution for the name, address or occupation of any person whom the Registration Officer has reasonable cause to believe to have changed his name, address or occupation but still to be qualified for inclusion in the register of voters for that Electoral District, of the name, address or occupation that the Registration Officer has reasonable cause to believe to be the true name, address or occupation of the person at the qualifying date; and
- (c) by the addition to the existing register of voters of the names, addresses and occupations of all persons whom the Registration Officer has reasonable cause to believe to have become qualified to be registered as voters in that Electoral District since the existing register of voters came into force.

(4) In this section, “existing register of voters” means, in relation to any Electoral District, the register of voters for that Electoral District that is in force at the commencement of the preparation in any year of the preliminary list for that Electoral District.

Provisions with respect to preliminary lists and registers in general

11. (1) Where an Electoral District is divided into 2 or more Polling Divisions, the preliminary list and the register of voters for that Electoral District shall be framed in separate parts for each Polling Division.

(2) A register of voters for an Electoral District shall come into force on the date that the Governor may by regulation appoint and shall remain in force until the next register of voters comes into force.

Qualification for registration

12. Sections 43 and 44 of the Constitution of Anguilla apply to the determination as to whether or not a person is qualified to be registered as a voter.

Appeal

13. (1) An appeal lies to the Magistrate from any decision of a Registration Officer on any claim or objection that has been considered by him under this Act or the regulations, but no appeal lies where a claimant or objector has not availed himself of the opportunity provided under the regulations of being heard by the Registration Officer on the claim or objection.

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

(3) The Registration Officer shall—

(a) immediately forward—

(i) the notice to the Clerk of the Magistrate's Court,

(ii) a statement of the material facts that, in his opinion, have been established in the case, and

(iii) his decision on the whole case and on any point that may be specified as a ground of appeal; and

(b) furnish to the Magistrate any further information that the Magistrate may require and that the Registration Officer is able to furnish.

(4) When it appears to the Registration Officer that any notices of appeal given to him are based on similar grounds, he shall inform the Clerk of the Magistrate's Court of that fact for the purpose of enabling the Magistrate, if he thinks fit, to consolidate the appeals or to select a case as a test case.

(5) On any appeal under this section, the Registration Officer shall be a party to the proceedings.

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

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

(8) Notice shall be sent to the Registration Officer by the Clerk of the Magistrate's Court of the decision of the Magistrate on any appeal under this section, and the Registration Officer shall make any alteration in the list of voters that may be required to give effect to the decision.

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

Rules of Magistrate's Court

14. The Magistrate may by regulation make rules of the Magistrate's Court for regulating the practice in respect of appeals under this Part.

PART 4

ARRANGEMENTS FOR ELECTIONS

Appointment of Returning Officer

15. (1) The Governor may, on the recommendation of the Supervisor of Elections, appoint a fit and proper person to be the Returning Officer for each Electoral District.

(2) Forthwith after being appointed, each Returning Officer shall take and subscribe an oath or affirmation in Form 2 and shall transmit it to the Supervisor of Elections.

Persons entitled to vote

16. The determination as to whether a person is entitled to vote at an election for an Electoral District shall be based on section 45 of the Constitution of Anguilla.

Issue of writs for holding elections

17. (1) For the purpose of every general election of members of the Assembly, and for the purpose of the election of a member to fill a vacancy, the Governor shall issue a writ addressed to the Returning Officers of the respective Electoral Districts for which members are to be returned.

(2) A writ shall—

- (a) be in Form 3;
- (b) specify the day and place of nomination of candidates, the day on which, if necessary, the poll shall be taken, being not less than 7 days after the day of nomination, and the day on which the writ is returnable to the Governor; and
- (c) be authenticated by the Governor's signature.

(3) A writ shall be forwarded to the Supervisor of Elections for transmission to the Returning Officers.

(4) Upon receipt of a writ, a Returning Officer shall proceed to hold the election in the manner provided in this Act.

Nominations and uncontested elections

18. (1) On receiving a writ, a Returning Officer shall publish in the *Gazette*, and may in one or more newspapers published in Anguilla, publish a notice in Form 4 of the day and place fixed for the nomination of candidates.

(2) The notice shall be published at least 7 clear days before the day fixed for nomination and the Returning Officer shall give further notice of the issue of the writ and of the time and place fixed for the nomination of candidates by causing notices to be posted on the outer door of any court house, police station, church, chapel, school-house or other building in the Electoral District as he considers necessary.

(3) Nomination papers shall be provided by the Returning Officer and shall be in Form 5.

(4) On the day and at the place so fixed for the nomination of candidates, a Returning Officer shall attend from 10 a.m. to 1 p.m. and from 2 p.m. to 4 p.m. and receive the nomination of any duly qualified candidate for the seat to be filled.

(5) A candidate for election shall be nominated on one nomination paper by at least 2 persons who are registered voters in the Electoral District for which the candidate seeks election and his consent to nomination shall be given in writing on the nomination paper and attested by one witness, but no candidate shall be deemed to have been invalidly nominated by reason only of the fact that subsequent to nomination day any person by whom his nomination paper was signed is struck off the register of voters for the relevant Electoral District.

(6) If at 4 p.m. only one qualified candidate has been nominated for the seat to be filled, the Returning Officer shall declare that candidate to be duly elected and shall immediately thereafter certify by endorsement on the writ the return of the candidate in Form 6 and shall return the writ so endorsed to the Supervisor of Elections for transmission to the Governor within the specified time for that purpose in the writ.

(7) Any candidate duly nominated may, not less than 3 clear days before the day fixed for taking the poll, withdraw from his candidature by giving notice to that effect, signed by him, to the Returning Officer, if on the withdrawal there remain not less than 2 duly nominated candidates.

Deposit

19. (1) A candidate for election, or someone on his behalf, shall deposit with the Returning Officer, on or before the day of his nomination, the amount of \$1,000 and, if he fails to do so, the nomination of the candidate is deemed to be withdrawn.

(2) The deposit may be made in any legal tender or, with the consent of the Returning Officer, in any other manner.

(3) The full amount of every deposit made under subsection (1) shall forthwith after its receipt be transmitted by the Returning Officer to the Accountant General.

(4) If after the deposit is made the candidature is withdrawn in accordance with section 18(7), the deposit shall be returned by the Accountant General to the person by whom it was made and, if

the candidate dies after the deposit is made and before the taking of the poll, the deposit, if made by him, shall be returned to his personal representative or, if not made by him, shall be returned to the person by whom it was made.

When deposit forfeited or returned

20. (1) If a candidate in respect of whom a deposit referred to in section 19 has been made is not elected, and the number of votes polled by him does not exceed one-eighth of the total number of votes polled, the amount deposited shall be forfeited to the Crown, and in any other case the deposit shall be returned by the Accountant General to the candidate, his personal representative, or the person by whom the deposit was made, as the case may be, as soon as practicable after the result of the election is declared.

(2) For the purposes of this section, the number of votes polled is the number of the ballot papers, other than rejected ballot papers, that are counted.

Contested elections, publication of date and place, etc.

21. (1) If there is more than one candidate duly nominated, a poll shall be taken, and in that case the Returning Officer shall adjourn the election to the day specified in the writ, and the poll shall be taken on that day in the manner provided in this Act.

(2) The Returning Officer shall, as soon as practicable after adjourning the election, give notice in Form 7, of—

- (a) the day and time on which, and the addresses of the polling stations in the Electoral District at which, the poll will be taken; and
- (b) the names of the candidates nominated for election and the place where, and the day and time when, the number of votes given to the candidates for the Electoral District will be counted.

(3) The notice shall be published in the manner that the Supervisor of Elections directs.

Power to adjourn poll

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

(2) Where the poll is adjourned at any polling station—

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

Polling stations

23. (1) On the day named in the notice published under section 21(2) for the taking of the poll, the Returning Officer shall cause to be opened in each Polling Division in the Electoral District to which he is appointed the number of polling stations that the Supervisor of Elections determines.

(2) The Returning Officer shall provide each polling station with the number of compartments that he considers necessary to enable voters to record their votes screened from observation.

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

Division of list

24. Where more than one Polling Station is established for a Polling Division, the Returning Officer shall divide the register of voters for that Polling Division or, where the Electoral District comprises more than one Polling Division, that part of the register of voters that relates to the Polling Division in question, into as many separate lists as there are polling stations in the Polling Division.

Presiding officers

25. (1) The Supervisor of Elections shall, subject to the approval of the Governor, appoint a presiding officer to attend at each polling station to receive the votes, but he shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.

(2) The Supervisor of Elections may preside at any polling station.

(3) Forthwith upon his appointment each presiding officer shall take and subscribe an oath or affirmation in Form 8 and shall transmit the oath or affirmation to the Supervisor of Elections.

Poll clerks

26. (1) Subject to the approval of the Governor, the Supervisor of Elections shall appoint a poll clerk for every polling station in an Electoral District.

(2) Forthwith upon his appointment, every poll clerk shall take and subscribe an oath or affirmation in Form 9 and shall transmit the oath or affirmation to the Supervisor of Elections.

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

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

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

Ballot boxes

27. (1) The Supervisor of Elections shall supply to each Returning Officer a number of ballot boxes equal to the number of polling stations in his Electoral District.

- (2) Every ballot box shall—
- (a) be made of durable material with one lock and key and a slit or narrow opening in the top; and
 - (b) be so constructed that the ballot papers may be introduced into it but cannot be withdrawn from it unless the box is unlocked.

Supply of election material

28. (1) The Returning Officer shall provide each presiding officer with the number of ballot boxes and ballot papers that in the opinion of the Returning Officer are necessary.

- (2) The Returning Officer shall provide each polling station with—
- (a) a statement showing the number of ballot papers so provided together with their serial numbers;
 - (b) the necessary materials to enable voters to mark the ballot papers;
 - (c) the necessary materials for putting the official mark on the ballot papers;
 - (d) at least 2 copies which shall be certified by the Returning Officer of the register of voters relating to the Electoral District to which he is appointed or to the part of the Electoral District that contains the names of the voters allocated to the polling station hereinafter referred to as the “official list of voters”;
 - (e) at least 3 copies of the directions for the guidance of voters in Form 10;
 - (f) a blank poll book;
 - (g) the forms of various oaths and affirmations to be administered to voters or other persons; and
 - (h) such other things as may be necessary for conducting the election in the manner provided by this Act.

Polling and counting agent

29. (1) Each candidate may, before the commencement of the poll, appoint one polling agent to attend at a polling station and one counting agent to attend at the counting of the votes.

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

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

Taking of poll and the ballot

30. (1) The poll shall be taken in each Polling Division by secret ballot in accordance with the provisions of sections 38, 39 and 40.

(2) The ballot of each voter shall be a printed paper in Form 11 on which the names, descriptions, symbols and places of residence of the candidates arranged alphabetically in the order of their surnames and numbered accordingly shall be printed exactly as they are set out in the nomination paper.

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

Inspection of polling station

31. Each presiding officer shall, no later than the day fixed for taking the poll, visit his polling station and see that it is provided with the proper conveniences as aforesaid for taking the poll.

Where voter shall vote

32. Subject to sections 34 and 35, no person shall be entitled to vote in any Polling Division unless his name appears on the list of voters in respect of that Polling Division.

Restriction on voting

33. No person shall vote for the election of more than one candidate.

Transfer of voters in special cases

34. (1) Where any person whose name appears on the official list of voters for any polling station is appointed as presiding officer or poll clerk for some other polling station in an Electoral District, the Returning Officer shall transfer the name of the presiding officer or poll clerk, as the case may be, to the official list of voters for the polling station of which the person is appointed the presiding officer or poll clerk.

(2) The Returning Officer shall give notice in writing to every candidate in his Electoral District of any transfer made under subsection (1) and to the presiding officer of the polling station at which the person whose name is so transferred would have been entitled to vote but for section 35.

Where transferred voter may vote

35. (1) Every person whose name is transferred in accordance with section 34 from any official list of voters to another official list of voters shall vote, if he votes at all, in the polling station of which he is appointed presiding officer or poll clerk, as the case may be.

(2) Every presiding officer who issues to any person whose name has been transferred from any official list of voters to any other official list of voters any ballot paper at any polling station, other than the polling station of the Polling Division to which the person's name has been transferred, is liable on summary conviction to a fine of \$1,000 or to imprisonment for 1 month.

Proceedings at poll

36. (1) At the hour fixed for opening the poll, the presiding officer and the poll clerk shall, in the presence of the candidates, their agents and the voters who are present, open the ballot box and ascertain that there are no ballot papers or other papers inside the ballot box, after which the presiding officer or poll clerk—

(a) shall lock the box and the presiding officer shall keep the key to it; and

- (b) shall place the box on a table in full view of all present and shall ensure that it remains there until the close of the poll.
- (2) Immediately after the ballot box is so locked, the presiding officer shall call on the voters to vote.
- (3) The presiding officer shall—
 - (a) secure the admittance of every voter in the polling station; and
 - (b) see that they are not impeded or molested at or about the polling station.
- (4) Upon entering the polling station, every voter shall declare his name, residence and occupation. The poll clerk shall then ascertain if the name of the voter appears on the official list of voters used at the polling station. When it has been ascertained that the applicant voter is qualified to vote at the polling station, his name, address and occupation shall be entered in the poll book to be kept by the poll clerk in Form 12, a number corresponding to the consecutive number allotted to the voter on the official list of voters being prefixed to the voter's name in the appropriate column of the poll book and the voter shall immediately be allowed to vote, unless an election officer or any agent of a candidate present at the polling station desires that he be first sworn or affirmed.
- (5) The poll clerk shall—
 - (a) make the entries in the poll book opposite the name of each voter that the presiding officer pursuant to this Act directs;
 - (b) enter in the poll book opposite the name of each voter as soon as the voter's ballot paper has been deposited in the ballot box, the word "voted";
 - (c) enter in the poll book the word "Sworn" or "Affirmed" opposite the name of each voter to whom any oath or affirmation has been administered indicating the nature of the oath or affirmation; and
 - (d) enter in the poll book the words "Refused to be sworn" or "Refused to affirm" or "Refused to answer" opposite the name of each voter who refused to take an oath or affirmation when he was legally required to do so, or refused to answer questions that he was legally required to answer.

Who are to be admitted within polling stations

- 37.** (1) The presiding officer shall—
- (a) keep order at his polling station;
 - (b) regulate the number of voters to be admitted at one time; and
 - (c) exclude all other persons except the Supervisor of Elections, the Returning Officer of the Electoral District, the polling clerk, the candidates, one agent for each candidate appointed by the candidate in accordance with section 29 and the police officers on duty.

(2) The agent for each candidate shall be posted so that he can see each person who presents himself as a voter and hear his name as given by him, but not so that he can see how any voter votes.

(3) An agent shall not interfere in the proceedings except in so far as he is allowed to do so by this Act.

General mode of taking ballot

38. (1) Each voter shall receive from the presiding officer a ballot paper—

- (a) on which the officer has previously put his initials so placed as indicated in Form 11 that, when the ballot paper is folded, the initials can be seen without opening it; and
- (b) on the counterfoil of which the officer has placed a number corresponding to the consecutive number on the official list of voters and entered in the poll book opposite the name of the voter.

(2) The presiding officer shall instruct the voter how to make his mark, and shall properly fold the voter's ballot paper, directing him to return it, when marked, folded as shown, but without inquiring or seeing for whom the voter intends to vote, except when the voter is unable to vote in the manner provided by this Act on account of illiteracy, blindness or other physical incapacity.

(3) The voter shall—

- (a) on receiving the ballot paper forthwith enter one of the polling compartments in the polling station and there mark his ballot paper by marking with a black lead pencil and not otherwise a cross within the space opposite the name and symbol of the candidate for whom he intends to vote; and
- (b) fold the ballot paper as directed so that the initials and the numbers on the counterfoil can be seen without opening it, and hand the paper to the presiding officer who shall, without unfolding it, ascertain by examination of the initials and numbers appearing on it that it is the same paper as that delivered to the voter and, if it is the same, he shall in full view of the voter and of all others present remove the counterfoil and deposit the ballot paper in the ballot box.

(4) A voter—

- (a) who is given a ballot paper that is soiled or improperly printed; or
- (b) who has spoiled a ballot paper in marking it;

shall return it to the presiding officer who shall—

- (c) cancel it by writing "spoiled" across its face; and
- (d) deliver another ballot paper to the voter.

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

(6) If at the closing of the poll there are any voters inside the polling station who are qualified to vote and have not been able to do so since their arrival at the polling station, the poll shall be kept open a sufficient time to enable them to vote, but no one not actually present within the polling station at the hour of closing shall be allowed to vote.

Questions which may be put to a voter

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

- (a) Are you the same person whose name appears as “A.B.” on the list of voters now in force for this Polling Division?
- (b) Have you already voted at this election either here or elsewhere?

(2) If any person refuses to answer a question referred to in subsection (1) that is put to him, the presiding officer shall refuse to give him a ballot paper.

(3) If any person makes a false answer to a question referred to in subsection (1), is liable on summary conviction to imprisonment for 6 months.

Oath of person when another has voted in his name

40. (1) Subject to any other provision of this Act as to proof of qualification as a voter and as to the administration of oaths or affirmations, if a person representing himself to be a particular voter applies for a ballot paper after another person has voted as that person, he shall be entitled to receive a ballot paper and to vote after taking the oath or affirmation of identity in Form 13, and otherwise establishing his identity to the satisfaction of the presiding officer.

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

- (a) the name of the voter;
- (b) a note of his having voted on a second ballot paper issued under the same name;
- (c) the fact of the oath or affirmation of identity having been required and taken and the fact of any other oath or affirmation being required and taken; and
- (d) any objections made on behalf of any candidate and that candidate’s name.

Voting by incapacitated voters

41. (1) On application by a voter who is incapacitated from any physical cause, other than by blindness or by reason of illiteracy, from voting in the manner provided by this Act, the presiding officer shall—

- (a) require the voter to swear an oath or affirmation in Form 14 with regard to his incapacity to vote without assistance;

(b) thereafter assist the voter by marking the ballot paper in the manner directed by the voter in the presence of the poll clerk and the sworn agents of the candidates and of no other person; and

(c) place the ballot paper in the ballot box.

(2) On application by a voter who is incapacitated by blindness or by reason of illiteracy from voting in the manner provided by this Act, the presiding officer shall deal with the voter in the manner described in subsection (1) unless the voter requests to vote with the assistance of a friend.

(3) A voter who—

(a) is incapacitated by blindness or by reason of illiteracy from voting in the manner provided by this Act;

(b) requests to vote with the assistance of a friend who—

(i) has accompanied him,

(ii) has complied with subsection (4), and

(iii) has not in that election acted as a friend to any other voter; and

(c) has taken an oath or affirmation in Form 15;

shall be permitted by the presiding officer to have the friend accompany him into the voting compartment and to have the friend mark the voter's ballot paper for him.

(4) A friend of a voter who proposes to mark the voter's ballot paper shall take an oath or affirmation in Form 16.

(5) Whenever a voter has had his ballot paper marked by another person under this section, the poll clerk shall, in addition to making any other entry, enter in the poll book opposite the voter's name the reason why the ballot paper was so marked.

Who may vote

42. (1) Where there is contained in the list of voters a name, address and occupation that corresponds so closely with the name, address and occupation of a person by whom a ballot paper is demanded as to suggest that the entry in the list of voters was intended to refer to him, that person shall, upon taking an oath or affirmation in Form 17 and complying in all other respects with this Act, be entitled to receive a ballot paper and to vote.

(2) The name, address and occupation of a voter referred to in subsection (1) shall be correctly entered in the poll book and the fact that the oath or affirmation has been taken shall be entered in the proper column of the poll book.

(3) If required by the presiding officer, the poll clerk, one of the candidates or an agent of a candidate, or by a voter present, a voter shall before receiving his ballot paper take an oath or affirmation in Form 18 and, if he refuses to take the oath or affirmation, erasing lines shall be drawn through his name on the official list of voters and in the poll book, if his name has been entered in the poll book, and the words "Refused to be sworn or affirmed" shall be written after it.

Who may be present

43. (1) No person other than the presiding officer, the poll clerk, the candidates, one agent for each candidate in each polling station, and the police officers on duty shall be permitted to remain in the polling station during the period that the poll remains open but no candidate and his agent shall be in the same polling station at the same time for more than 5 consecutive minutes.

(2) The agent of a candidate, on being admitted to the polling station, shall take an oath or affirmation in Form 19 to keep secret the name of the candidate for whom a voter has marked his ballot paper in the agent's presence.

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

Proceedings after poll

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

- (a) seal the ballot boxes;
- (b) count the number of voters whose names appear in the poll book as having voted and make an entry of the number on the line immediately below the name of the voter who voted last as follows: "The number of voters who voted at this election in this polling station is" (stating the number), and sign his name to it in the poll book;
- (c) count the spoiled ballot papers, if any, place them in the special envelope supplied for that purpose and indicate on the envelope the number of spoiled ballot papers and seal it up;
- (d) count the unused ballot papers, place them with all the stubs of all used ballot papers in the special envelope supplied for that purpose and indicate on the envelope the number of such unused ballot papers; and
- (e) check the number of ballot papers supplied by the Returning Officer against the number of spoiled ballot papers, if any, the number of unused ballot papers and the number of voters whose names appear in the poll book as having voted in order to ascertain that all ballot papers are accounted for.

(2) The ballot boxes, poll book, envelopes containing the spoiled and unused ballot papers, official list of voters and other documents used at the poll shall be transmitted to the place notified for the counting of the votes or delivered to the Returning Officer.

(3) The Returning Officer may specially appoint one or more persons for the purpose of collecting the ballot boxes and ballot papers from a given number of polling stations, and that person or persons shall, on delivering the ballot boxes and papers to the Returning Officer, take the oath or affirmation in Form 20.

(4) The presiding officer shall, with the ballot boxes and papers, transmit or deliver to the Returning Officer, the keys of the ballot boxes in the envelope provided for that purpose.

The count

45. (1) Upon receipt by him of each of the ballot boxes, the Returning Officer shall—
- (a) take every precaution for its safe keeping and to prevent any person other than himself from having access to it; and
 - (b) seal it under his own seal so that it cannot be opened without the seal being broken but without effacing or covering any other seals affixed to it.
- (2) After all the ballot boxes have been received, they shall be opened by the Returning Officer for the count of votes—
- (a) in the presence of the candidates or their agents;
 - (b) if any candidate or agent is absent, in the presence of the candidates or agents who are present; or
 - (c) if none of the candidates is represented by an agent, in the presence of at least 2 voters.
- (3) The Returning Officer shall—
- (a) record and count the number of votes given to each candidate; and
 - (b) reject all ballot papers—
 - (i) that have not been marked for any candidate,
 - (ii) on which votes have been given for more candidates than there are seats to be filled,
 - (iii) upon which there is any writing or mark by which the voter could be identified, but no ballot paper shall be rejected on account of any writing, number or mark placed on it by any presiding officer, or
 - (iv) that have been so improperly marked that in the opinion of the returning officer they cannot be counted.
- (4) In recording and counting the number of votes under paragraph (3)(a), the Returning Officer shall allow the candidates and their agents full opportunity to see the votes but not the official number on the back of the ballot paper, and a poll clerk and not less than 2 witnesses shall be supplied with tally sheets upon which they may keep their own score as each vote is called out by the Returning Officer.
- (5) If in the course of counting the votes any ballot paper is found with the counterfoil still attached to it, the Returning Officer shall—
- (a) remove the counterfoil (carefully concealing the numbers on it from all persons present and without examining them himself); and

- (b) not reject the ballot paper merely by reason of the failure of the presiding officer to remove the counterfoil.

(6) If in the course of counting the votes the Returning Officer discovers that the presiding officer has omitted to affix his initials to any ballot paper as provided by section 38(1), he shall, in the presence of a poll clerk and the candidates or their counting agents who are present, affix his initials to the ballot paper and shall count the ballot paper as if it had been initialled by the presiding officer in the first place, if he is satisfied that—

- (a) the ballot paper is one that has been supplied by the presiding officer; and
- (b) every ballot paper supplied to the presiding officer has been accounted for as provided by section 44(1)(e).

(7) The Returning Officer shall—

- (a) keep a record on the special form printed in the poll book of every objection made by any candidate or his counting agent or any voter present to a ballot paper found in a ballot box;
- (b) decide every question arising out of an objection; and
- (c) number every objection, place a corresponding number on the back of the ballot paper and initial it;

and, subject to reversal on petition questioning the election or return, the decision of the Returning Officer is final.

(8) All the ballot papers not rejected by the Returning Officer shall be counted and a list shall be kept of the number of votes given to each candidate and of the number of rejected ballot papers.

(9) The ballot papers that respectively indicate the votes given for each candidate shall be put into separate envelopes, all rejected ballot papers shall be put into a special envelope and all the envelopes shall be sealed by the Returning Officer and by any of the agents or witnesses present who desire to seal them or to sign their names on them.

(10) The candidate who on the completion of the count is found to have the largest number of votes shall be declared by the Returning Officer to be elected as the member for the Electoral District.

(11) Whenever there is an equality of votes between 2 or more candidates and the addition of a vote would entitle one of the candidates to be declared elected—

- (a) the Returning Officer, if he is a registered voter of the Electoral District for which the election is held, may give such additional vote, but the Returning Officer shall not in any other case be entitled to vote at an election for which he is the Returning Officer; and
- (b) if the Returning Officer is not a registered voter of the Electoral District for which the election is held, or if, being a registered voter, he declines to vote, he shall make a special return of the result of the election and the Assembly shall have the right by resolution to choose one of the candidates to be the member for that Electoral District.

Maintenance of order at polling stations

46. (1) Subject to subsection (2), during the hours when the poll is open on polling day, no persons shall assemble or congregate within 100 yards of any building in which any polling station is located.

(2) This section shall not apply—

(a) to any voters who are waiting to poll their votes at the polling station and who obey any instruction that may be given by the presiding officer or poll clerk or any police officer for the purpose of forming a queue with other voters who are waiting; or

(b) to any person who may under this Act lawfully enter or remain in the polling station.

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

Influencing of voters to vote for any candidate

47. (1) During the hours that the poll is open on polling day, no person shall on any public road or in any public place within 100 yards of any building in which a polling station is located seek to influence any voter to vote for any candidate or to ascertain for what candidate any voter intends to vote or has voted.

(2) Every person who contravenes any of the provisions of subsection (1) is liable on summary conviction to a fine of \$9,600 or to imprisonment for 6 months or to both.

Election return

48. (1) The Returning Officer shall, within the time specified for the return of any writ, forward to the Supervisor of Elections—

(a) the writ with his return in Form 21 endorsed on it that the candidate having the majority of votes has been elected;

(b) a report of his proceedings—

(i) showing the number of votes cast for each candidate at each polling station, and

(ii) making such observations as the Returning Officer may think proper as to the state of the election papers as received from the presiding officer;

(c) the number of persons to whom, as appears from the counterfoils, ballot papers have been supplied in each Polling Division;

(d) the reserve supply of undistributed blank ballot papers;

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

(f) all other documents used for the election.

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

(3) The Supervisor of Elections shall, on receiving the return of a member elected to serve in the Assembly, transmit the writ with the return endorsed on it to the Governor within the time specified in the writ. The Governor shall within 7 days of the receipt of the writ return it to the Supervisor of Elections for safe custody in accordance with section 49.

(4) The Supervisor of Elections shall—

(a) immediately after each general election, cause to be printed a report giving, by Polling Division—

(i) the number of votes polled for each candidate,

(ii) the number of rejected ballot papers,

(iii) the number of names on the register of voters, and

(iv) any other information that he considers fit to include; and

(b) at the end of each year, cause to be printed a similar report on the by-elections held during the year.

(5) If—

(a) any Returning Officer wilfully delays, neglects or refuses duly to return any person who ought to be returned to serve in the Assembly for an Electoral District; and

(b) it has been determined on the hearing of an election petition respecting the election for that Electoral District that that person was entitled to have been returned;

the Returning Officer shall forfeit to the person aggrieved the amount of \$20,000 and costs in addition to all damages sustained.

Custody of election documents

49. (1) The Supervisor of Elections shall keep the election documents referred to in section 48(1) in safe custody and shall not allow any person to have access to them but—

(a) if an election petition has been presented questioning the validity of any election or return, the Supervisor of Elections shall, on the order of a Judge, deliver to the Registrar of the High Court the documents relating to the election that is in dispute; and

(b) after the expiration of 12 months from the day of any election, the Supervisor of Elections may cause the documents used at the election to be burnt.

(2) No election documents in the custody of the Supervisor of Elections shall be inspected or produced to any person except on the order of a Judge and an order for inspection or production may be made by a Judge on being satisfied by evidence on oath or affirmation that the inspection or production of the election documents is required for the purpose of instituting or maintaining a prosecution for an offence in relation to an election or for the purpose of a petition that has been filed questioning an election or return.

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

Custody of ballot boxes

50. (1) Forthwith upon making the return to the writ in accordance with section 48, the Returning Officer shall cause the ballot boxes used at the election together with their locks and keys and the screens and other appliances used in the polling station to be deposited in the custody of the police officer in charge of a police station in the Electoral District.

(2) Upon delivery to him of the ballot boxes, locks, keys, screens and other appliances, the custodian shall issue his receipt and shall at the next ensuing election, upon request, deliver the ballot boxes, locks, keys, screens and other appliances to the Returning Officer to whom the writ is directed, taking such Returning Officer's receipt.

PART 5

ELECTION PETITIONS

Questions as to validity of elections

51. (1) Section 41(2) of the Constitution of Anguilla applies to the determination of any question whether a person has been validly elected as a member of the Assembly.

(2) An application under section 41(2) of the Constitution of Anguilla shall be by election petition in accordance with this Part.

Presentation of election petition and security for costs

52. (1) The following provisions apply with respect to the presentation of an election petition—

- (a) except as provided in paragraph (b), the petition shall be presented within 21 days after the return made by the Returning Officer of the member to whose election the petition relates;
- (b) if a petition questions the return or election upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made by any member, or on his account, or with his privity, since the time of the return in pursuance or in furtherance of such corrupt practices, the petition may be presented within 28 days after the date of the payment or other reward;

- (c) at the time of the presentation of the petition, or within 3 days afterwards, security for the payment of all costs, charges and expenses that may become payable by the petitioner to—
- (i) any person summoned as a witness on his behalf,
 - (ii) the member whose election or return is complained of, or
 - (iii) any other person named as a respondent in the petition,
- shall be given on behalf of the petitioner;
- (d) the security shall be to an amount of \$1,200 and shall be given by recognizance to be entered into by any number of sureties not exceeding 4 approved by the Registrar of the High Court, or by deposit of money with the Registrar of the High Court, or partly in one way and partly in the other.

(2) Rules, not inconsistent with the provisions of this Act as to the deposit of security and the practice and procedure for the service and hearing of election petitions and matters incidental thereto, may be made by a Judge.

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

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

Avoidance of election for general corruption, etc.

54. Where on an election petition it is shown that corrupt or illegal practices or illegal payments or employments committed in reference to the election for the purpose of promoting or procuring the election of any person have so extensively prevailed that they may be reasonably supposed to have affected the result, his election, if he has been elected, shall be void and he shall be disqualified from being elected to fill the vacancy or any of the vacancies for which the election was held.

Trial of election petitions

55. (1) Every election petition shall be tried in the same manner as any other action in the High Court by a Judge sitting alone.

(2) At the conclusion of the trial, the Judge shall determine whether—

- (a) the member of the Assembly whose return or election is complained of or any, and what, other person was duly returned and elected; or
- (b) the election was void;

and shall certify such determination to the Governor, and, upon his certificate being given, it is final and the return shall be confirmed or altered, or a writ for a new election issued, as the case may require, in accordance with the determination.

(3) No election shall be declared invalid by reason of the failure of the Governor or any election officer to comply with this Act or the regulations, or by reason of any mistake made by any

person in the use of the forms prescribed by or under this Act, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act and the regulations and that the failure or mistake did not affect the result of the election.

Powers of Judge

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

PART 6

ELECTION OFFENCES

Intoxicating liquor not to be sold or given on polling day

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

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

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

Employers to allow employees time to vote

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

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

Offences by election officers

59. Every election officer who—

- (a) makes, in any record, return or other document that he is required to keep or make under this Act, any entry which he knows or has reasonable cause to believe to be false, or does not believe to be true;
- (b) permits any person whom he knows or has reasonable cause to believe not to be a blind person, an illiterate person or an incapacitated person to vote in the manner provided for blind persons, illiterate persons or incapacitated persons, as the case may be;

- (c) refuses to permit any person whom he knows or has reasonable cause to believe to be a blind person, an illiterate person or an incapacitated person to vote in the manner provided for blind persons, illiterate persons or incapacitated persons, as the case may be;
- (d) wilfully prevents any person from voting at the polling station at which he knows or has reasonable cause to believe the person is entitled to vote;
- (e) wilfully rejects or refuses to count any ballot paper that he knows or has reasonable cause to believe is validly cast for any candidate in accordance with this Act; or
- (f) wilfully counts any ballot paper as being cast for any candidate, that he knows or has reasonable cause to believe was not validly cast for that candidate;

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

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

60. (1) No person—

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

(2) No person—

- (a) shall furnish or supply any flag, ribbon, label or like favour to or for any person with intent that it be worn or used by any person within any Electoral District on polling day as a party badge to distinguish the wearer as the supporter of any candidate, or of the political or other opinions entertained or supposed to be entertained, by the candidate; or
- (b) shall use or wear any flag, ribbon, label or other favour, as badge for a purpose described in paragraph (a) within any Electoral District on polling day.

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

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

Bribery

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

- (a) every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to

procure or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or corruptly does any of those acts on account of any voter having voted or refrained from voting at any election;

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

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

(3) In subsection (2), “legal expenses” include—

- (a) the payment of the agents, clerks, canvassers and messengers of candidates;
- (b) payments made for the purpose of hiring vehicles for the conveyance of voters to or from a polling station;

- (c) payments made for the use of any premises for a public meeting in furtherance of the candidature of any person or for the use of any committee room or office for the purpose of promoting or procuring the election of a candidate; and
- (d) payments made in respect of postage, stationery, printing, advertising, the distribution of advertising material and the use of any public address system.

Treating

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

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

Undue influence

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

Personation

64. Every person who at an election—

- (a) applies for a ballot paper in the name of another person, whether that name be the name of a person living or dead or of a fictitious person; or
- (b) having voted once at any election, applies at the same election for a ballot paper in his own name;

is guilty of personation within the meaning of this Act.

Penalty for bribery, treating or undue influence

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

Penalty for personation

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

Disqualification for bribery, etc.

67. Every person who is convicted of bribery, treating, undue influence or personation, or of aiding, counselling or procuring the commission of the offence of personation shall, in addition to any other punishment, be disqualified during a period of 7 years from the date of conviction from being—

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

Penalty for certain illegal practices at elections

68. (1) Every person who—

- (a) votes, or induces or procures any person to vote, at any election, knowing that he or the other person is prohibited by this Act, or by any law in force in Anguilla, from voting at the election;
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate at the election for the purpose of promoting or procuring the election of another candidate; or
- (c) between the date of the publication in the *Gazette* by the Returning Officer of a notice in accordance with section 18(1) and the day after polling at the election, whether in a general election or in a by-election, acts in a disorderly manner, with intent to prevent the transaction of the business of a public meeting called for the purpose of promoting the election of a candidate as a member to serve in the Assembly;

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

(2) Every person who, between the date of the publication in the *Gazette* by the Returning Officer of a notice in accordance with section 18(1) and the day after polling at the election, whether in a general election or in a by-election, incites, combines or conspires with others to act in a disorderly manner with intent to prevent the transaction of the business of a public meeting called for the purpose of promoting the election of a candidate as a member to serve in the Assembly, is guilty of an illegal practice and is liable, on conviction on indictment, to imprisonment for 2 years, and is disqualified from being registered as a voter or of voting at any election during a period of 5 years from the date of conviction.

Offences in respect of ballot papers

69. (1) Every person who—

- (a) forges or counterfeits, or fraudulently defaces or destroys, any ballot paper;
- (b) without due authority supplies a ballot paper to any person;
- (c) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in;

- (d) fraudulently takes out of the polling station any ballot paper;
- (e) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers in use for the purposes of any election; or
- (f) not being duly registered as a voter, votes at an election;

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

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

Infringement of secrecy

70. (1) Every election officer and every agent appointed under section 29 in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in the station, and shall not communicate except for a purpose authorized by law, before the poll is closed, to any person any information as to the name or number on the list of voters of any voter who has or has not applied for a ballot paper or voted at that polling station.

(2) No person shall interfere with or attempt to interfere with a voter when marking his vote or otherwise attempt to obtain in the polling station any information as to the candidate for whom any voter in the station is about to vote or has voted.

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

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

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

PART 7

MISCELLANEOUS PROVISIONS

Taking of oaths

71. Every election officer and every person who is required by Part 3 and Part 4 to take any oath or affirmation may take the oath before the Magistrate, a Justice of the Peace, the Supervisor of Elections, Returning Officer or presiding officer or poll clerk appointed under this Act and the Magistrate, Justice of the Peace, Returning Officer, presiding officer, poll clerk and the Supervisor of Elections are hereby authorized to administer any oath required by Part 3 or Part 4 to be made or taken by any election officer or other person.

No obligation on voter to disclose vote

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

Conclusiveness of register of voters

73. At any election—

- (a) a person shall not be entitled to vote unless his name is on the register of voters for the Electoral District in which he resides; and
- (b) subject to the provisions of this Act, every person whose name is on the register of voters shall be entitled to demand and receive a ballot paper and to vote;

but nothing in this section entitles a person to vote who is prohibited from voting by any law in force in Anguilla, or relieves any such person from any penalties for which he may be liable for voting.

Power to make regulations

74. (1) The Governor in Council may make regulations generally for giving effect to the provisions of this Act and, without prejudice to that general power, may make regulations—

- (a) with respect to the registration of voters;
- (b) with respect to the incurring of expenses and the making of payments by or on behalf of a candidate, whether before, during or after an election, on account or in respect of the conduct of the election;
- (c) requiring the appointment of an election agent through or by whom the expenses or payments referred to in paragraph (b) shall be incurred or made;
- (d) fixing the maximum amount of expenses and payments that may be incurred or paid, whether before, during or after an election, on account or in respect of the conduct of the election;
- (e) fixing the time within which all election expenses shall be paid;
- (f) requiring a return of election expenses and payments and prescribing the form in which they shall be made and verified;
- (g) prescribing the remuneration and travelling allowances and other expenses that may be paid to officers appointed under this Act;
- (h) prescribing the duties of Returning Officers and the procedure to be followed in the performance of their duties;
- (i) adding to, amending or replacing the Forms set out in Schedule 2;
- (j) prescribing penalties not exceeding \$8,000 for the breach of any regulation made under this Act; and
- (k) prescribing any other matter that is to be prescribed by this Act.

(2) A regulation made under subsection (1) may, in specifying any offence or offences, further specify that the offence is an illegal practice.

(3) An election petition may be presented in respect of any illegal practice declared by the regulations to be a ground for presenting such a petition, and the provisions of sections 51, 52, 55 and 56 shall, subject to the regulations, apply to petitions presented in respect of an illegal practice.

Expenses of elections

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

Citation

76. This Act may be cited as the Elections Act, Revised Statutes of Anguilla, Chapter E30.

SCHEDULE 1

(Section 2(1))

ELECTORAL DISTRICTS

Anguilla shall be divided into the following Electoral Districts—

(1) Island Harbour District, comprising the area of Island Harbour, The Copse, Pond Ground, Mount Fortune, White Hill, Welches, Scrub Island, Little Scrub and Scilly Cay;

(2) Sandy Hill District, comprising the area of Sandy Hill, Long Path, Chalvilles, Bad Cox, Deep Waters, Cannifist, Water Ground, Upper House, Betty Hill, The Copse;

Provided that the dividing line between Island Harbour District and Sandy Hill District shall be the road to Sile Bay through The Copse.

(3) Valley North District, comprising the area of Crocus Bay, Roaches Hill, The Valley, North Valley, Upper Valley, The Quarter, North Side, Stoney Ground, Caul's Bottom, The Farrington, Wattices, Little Dix, and Shoal Bay.

(4) Valley South District, comprising the area of Vieux Fort, Crocus Hill, The Valley, South Valley, Upper Valley, The Quarter, The Farrington, Rey Hill, The Forest, Corito, Long Ground, Statia Valley and George Hill;

Provided that the dividing line between Valley North District and Valley South District shall be the main Valley Road leading from the Cottage Hospital eastwards through the Long Road towards the East End.

(5) Road North District, comprising the area of Water Swamp, North Hill, Sandy Ground, that part of South Hill lying north of the main road leading from The Valley towards the West End; and the islands of Sombrero, Sandy Island, Dog Island, Upper and Lower Prickly Pear Islands and Seal Island.

(6) Road South District, comprising the area of Blowing Point, Sandy Point, Rendezvous and that part of South Hill lying south of the main road leading from The Valley towards the West End.

(7) West End District, comprising the area known as the West End, and including Long Bay, Meads Bay (otherwise known as Mayds Bay), Maundays Bay, West End Village and Anguillita Island.

SCHEDULE 2

FORMS

FORM 1

(Section 6(6))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF REGISTRATION OFFICER

I, do swear/solemnly and sincerely affirm that I will faithfully perform all the duties of Registration Officer of the Polling Division of in the Electoral District of in accordance with the provisions of the Elections Act to the best of my ability. So help me God.*

.....
Registration Officer

Sworn/Affirmed before me this day of, 20.....

.....

** Delete if affirmed*

FORM 2

(Section 15(2))

ANGUILLA

ELECTIONS ACT

OATH/AFFIRMATION OF RETURNING OFFICER

I, having been appointed Returning Officer for the Electoral District of do swear/solemnly and sincerely affirm that I will faithfully perform all the duties of Returning Officer in accordance with the provisions of the Elections Act to the best of my ability. So help me God.*

.....
Returning Officer

Sworn/Affirmed before me this day of, 20.....

.....

** Delete if affirmed*

FORM 3
(Section 17(2)(a))
ANGUILLA
ELECTIONS ACT
WRIT OF ELECTION

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To , the Returning Officer of the Electoral District of.....

WHEREAS by sections 17(1) and (2) of the Elections Act it is provided that for the purpose of every general election of members of the Assembly, and for the purpose of the election of members to supply vacancies caused by death, resignation or otherwise, the Governor shall issue writs of election authenticated by his own signature, addressed to the Returning Officers of the respective Electoral Districts for which members are to be returned;

AND WHEREAS I think it expedient that writs should be issued for the election of members to serve in the Assembly;

NOW, THEREFORE, I, the Governor do hereby require that you proceed to the nomination of candidates on the day of, 20....., at and thereafter, if necessary, you do on the day of, 20 between a.m. and p.m., cause election to be made according to law of a member to serve in the House of Assembly for the Electoral District and that you do cause the name of the member when so elected to be certified to me not later than the day of, 20..... .

Given under my hand and authenticated this day of, 20..... and in the year of Her Majesty's reign.

.....
Governor of Anguilla

FORM 4
 (Section 18(1))
 ANGUILLA
 ELECTIONS ACT
NOTICE OF NOMINATION

The Governor having issued his Writ of Election for the election of a member of the House of Assembly for the Electoral District of the Returning Officer for that District will on the day of between the hours of 10 a.m. and 1 p.m. and between the hours of 2 p.m. and 4 p.m. at proceed to the nomination of a member for the Electoral District of

Dated this day of, 20.....

.....
 Returning Officer for
 the Electoral District of

.....

FORM 5
(Section 18(3))
ANGUILLA
ELECTIONS ACT
NOMINATION PAPER

We, the undersigned voters for the Electoral District of

....., do hereby
nominate the following person as a proper person to serve as a member of the House of Assembly for the
Electoral District of

..... and we
certify that to the best of our belief he is qualified for election as a member of the House of Assembly.

Surname	Other Name	Address	Occupation

Signatures

.....
.....

I, nominated in the foregoing nomination
paper hereby consent to such nomination as candidate for election as a member of the House of Assembly for
the Electoral District of

Witness my hand thisday of, 20.....

.....

Signed by the nominee in the presence of—

FORM 6
 (Section 18(6))
 ANGUILLA
 ELECTIONS ACT
RETURN OF UNCONTESTED ELECTION

I hereby certify that the member elected for the Electoral District of

.....

in pursuance of the within Writ is

.....

(insert name, address and occupation of member elected as stated on the nomination paper)

no other candidate(s) having been nominated.

Dated this day of, 20.....

.....
 Returning Officer

FORM 7
 (Section 21(2))
 ANGUILLA
 ELECTIONS ACT
NOTIFICATION OF ELECTION

TAKE NOTICE that a poll will be taken for the election of a member for the Electoral District of to serve in the House of Assembly.

The poll will be opened on the day of, 20....., at 7 a.m. and kept open till 6 p.m. in the following district, that is to say—

Addresses of Polling Stations:

Voters allotted thereto:

.....

The candidates in the above Electoral District are as follows—

Candidates—

.....

The number of votes given to the several candidates will be counted on the day of, 20....., at a.m./p.m. at of which all persons are hereby required to take notice and govern themselves accordingly.

Dated this day of, 20.....

.....
 Returning Officer for the Electoral District of

FORM 8
(Section 25(3))

ANGUILLA
ELECTIONS ACT

OATH/AFFIRMATION OF PRESIDING OFFICER

I, having been appointed Presiding Officer for the Polling Station at in the Electoral District of swear/solemnly and sincerely affirm that I will act faithfully in my capacity of Presiding Officer, according to law, without partiality, fear, favour or affection and that I will keep secret the names of the candidates for whom any of the voters in the above-mentioned Polling Station marks his ballot paper in my presence at this election. So help me God.*

.....
Presiding Officer

Sworn/Affirmed before me this day of, 20.....

** Delete if affirmed*

FORM 9
(Section 26(2))

ANGUILLA
ELECTIONS ACT

OATH/AFFIRMATION OF POLL CLERK

I, having been appointed as Poll Clerk for the Polling Station at in the Electoral District of swear/solemnly and sincerely affirm that I will act faithfully in my capacity of Poll Clerk and also in that of Presiding Officer if required to act as such, according to law, without partiality, fear, favour or affection, and that I will keep secret the names of the candidates for whom any of the voters in the above-named Polling Station marks his ballot paper in my presence at this election. So help me God.*

.....
Poll Clerk

Sworn/Affirmed before me this day of, 20.....

** Delete if affirmed*

FORM 10
(Section 28(2)(e))
ANGUILLA
ELECTIONS ACT

DIRECTIONS FOR THE GUIDANCE OF VOTERS

1. Each voter may vote only at one polling station and for only one candidate.
2. The voter will go into one of the compartments and, with the pencil provided in the compartment, place a cross on the right hand side, opposite the name of the candidate for whom he votes, thus X.

For example:- Supposing John Jones and George Smith are the candidates for election and the voter wishes to vote for Jones, he must place a cross opposite Jones' name as follows—

Jones, John Long Bay Shopkeeper	X
Smith, George Island Harbour Carpenter	

3. The voter shall then fold the ballot paper so that the initials of the presiding officer and the numbers on the counterfoil can be seen and the counterfoil detached without opening the ballot paper; he shall then return the ballot paper so folded to the presiding officer who shall in full view of those present including the voter, remove the counterfoil and place the ballot paper in the ballot box. The voter shall then forthwith leave the polling station.
4. If a ballot paper is spoiled, he can return it to the presiding officers, who will, if satisfied that it is spoiled, give him another paper.
5. If the voter votes for more than one candidate or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void and will not be counted.
6. A voter who takes a ballot paper out of the polling station or deposits in the ballot box any other paper than the one given him by the presiding officer is liable on summary conviction to imprisonment for 3 months or to a fine of \$19,200.

FORM 11
 (Section 30(2))
 ANGUILLA
 ELECTIONS ACT
BALLOT PAPER

No.

GENERAL ELECTION/BY-ELECTION		
.....Electoral District		
Voter's Number on Register.....		
Polling Day		Space for Initials of P.O.
Do not fold beyond this line		
1.	JAMES, John P. Wattices Shopkeeper	*
2.	ROBINSON, Peter F. Sandy Ground Carpenter	*
3.	SMITH, George R. Blowing Point Mechanic	*

** Symbol of candidate's party or of candidate to be inserted*

FORM 12
(Section 36(4))
ANGUILLA
ELECTIONS ACT
POLL BOOK

Consecutive No. given each voter as he applies for ballot	Particulars of Voters								Particulars of Persons applying for Ballot Papers after another person has voted as such person			Remarks
	Name of Voter	Occupation	Residential Address	Consecutive No. of Voter on list of voters	Form numbers of oaths or affirmation if any voter is required to swear or affirm	(a) Record that oath sworn or affirmation affirmed or refused	(b) Record that voter has voted	Name	Consecutive No. of Voter on list of voters	Record that oath sworn or affirmation made	Objections if any made on behalf of any candidate	

(a) If sworn or affirmed insert "sworn or affirmed" and number of the oath or affirmation; if refused, insert "Refused to be sworn" or "Refused to affirm" or "Refused to answer"

(b) When ballot put into ballot box, insert "voted"

FORM 13
(Section 40(1))
ANGUILLA
ELECTIONS ACT

**OATH/AFFIRMATION OF IDENTITY OF A VOTER
RECEIVING A BALLOT PAPER AFTER ANOTHER HAS VOTED IN HIS NAME**

I swear/solemnly and sincerely affirm that I am (*name on list of voters*) of (*address as on list of voters*)..... whose name is entered on the list of voters now shown to me. So help me God.*

.....

Sworn/Affirmed before me this day of, 20.....

.....

** Delete if affirmed*

FORM 14
(Section 41(1)(a))
ANGUILLA
ELECTIONS ACT

**OATH/AFFIRMATION OF VOTER INCAPABLE OF VOTING
WITHOUT ASSISTANCE BY REASON OF PHYSICAL INCAPACITY**

I swear/solemnly and sincerely affirm that I am incapable of voting without assistance by reason of physical incapacity. So help me God.*

.....

Sworn/Affirmed before me this day of, 20.....

.....

** Delete if affirmed*

FORM 15
(Section 41(3)(c))
ANGUILLA
ELECTIONS ACT

**OATH/AFFIRMATION OF BLIND OR ILLITERATE VOTER
INCAPABLE OF VOTING WITHOUT ASSISTANCE**

I,

of

swear/solemnly and sincerely affirm that I am incapable of voting without assistance by reason of my (blindness) (illiteracy)*. So help me God.†

.....

Sworn/Affirmed before me this day of, 20.....

.....

* Delete as appropriate
† Delete if affirmed

FORM 16
(Section 41(4))
ANGUILLA
ELECTIONS ACT

**OATH/AFFIRMATION OF FRIEND
OF BLIND OR ILLITERATE VOTER**

1. I swear/solemnly and sincerely affirm that I will keep secret the name of the candidate for whom I mark the ballot paper of the blind/illiterate* voter on whose behalf I act.
2. That I have not already acted as a friend of a blind or illiterate voter for the purpose of marking his ballot paper at this election. So help me God.†

.....

Sworn/Affirmed before me this day of, 20.....

.....

* Delete as appropriate
† Delete if affirmed

FORM 17
(Section 42(1))
ANGUILLA
ELECTIONS ACT

**OATH/AFFIRMATION THAT THE VOTER IS THE PERSON
INTENDED TO BE REFERRED TO IN THE LIST OF VOTERS**

I swear/solemnly and sincerely affirm that I am qualified to vote at this election of a member to serve in the House of Assembly and am not disqualified from voting at this election and that I verily believe that I am the person intended to be referred to by the entry in the list of voters used at this Polling Station of the name whose occupation is given as and whose address is given as So help me God.*

.....
Sworn/Affirmed before me this day of, 20.....
.....

* *Delete if affirmed*

FORM 18
 (Section 42(3))
 ANGUILLA
 ELECTIONS ACT
OATH/AFFIRMATION OF QUALIFICATION OF VOTER

I swear/solemnly and sincerely affirm that on the qualifying date for registration as a voter—

1. I was of the age of 18 years or upwards;
2. I was one of the following—
 - (a) a British Dependent Territories citizen born in Anguilla and was domiciled in Anguilla;
 - (b) a person who—
 - (i) belonged to Anguilla and resided in Anguilla for a period of not less than 12 months immediately before the qualifying date,
 - (ii) was domiciled in Anguilla, and
 - (iii) was the lawful spouse, widow or widower or the son or daughter or the spouse of the son or daughter of a person who was born in Anguilla;
 - (c) a person who—
 - (i) belonged to Anguilla,
 - (ii) was domiciled in Anguilla, and
 - (iii) resided in Anguilla for a period of at least 5 years immediately before the qualifying date;
3. I was a resident of the Electoral District of; and
4. I was not disqualified from being registered as a voter under the Constitution of Anguilla or any other law in force in Anguilla connected with elections.

.....

Sworn/Affirmed before me thisday of, 20.....

.....
 Presiding Officer/Poll Clerk

FORM 19
(Section 43(2))
ANGUILLA
ELECTIONS ACT

OATH/AFFIRMATION OF AGENT OF A CANDIDATE

I, the undersigned agent for
..... one of the candidates at the election
of a member of the House of Assembly held on this day in the Electoral District
of do swear/solemnly and sincerely affirm that I will keep secret the
name of the candidate for whom any voter voting at this Polling Station marks his ballot paper in my presence
at this election. So help me God.*

Sworn/Affirmed before me this day of, 20.....

** Delete if affirmed*

FORM 20
(Section 44(3))
ANGUILLA
ELECTIONS ACT

OATH/AFFIRMATION OF MESSENGER SENT TO COLLECT BALLOT BOXES

I, Returning Messenger appointed
by Returning Officer for the Electoral District
of do swear/solemnly and sincerely affirm that the
several boxes to the number ofwhich were used at the Polling Station
at of this Electoral District on polling day now delivered by me
to were handed to me by,
that they have not been opened by me or any other person and that they are in the same state as they were in
when they came into my possession. So help me God.*

Signature

Sworn/Affirmed before me this day of, 20.....

** Delete if affirmed*

FORM 21
(Section 48(1)(a))
ANGUILLA
ELECTIONS ACT

RETURN AFTER POLL HAS BEEN TAKEN

I hereby certify that the member elected for the Electoral District of
..... in pursuance of the within Writ as having received the majority of votes lawfully given
is
(name, address and occupation as stated in Nomination Paper)

.....
Returning Officer
