

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 63 OF 2016

The Electoral Process Act 2016

(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

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SCHEDULE

IN EXERCISE of the powers contained in section *one hundred and twenty-five* of the Electoral Process Act, 2016, the following Regulations are made:

PART I

PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Electoral Process (General) Regulations, 2016. Title

2. (1) In these Regulations, unless the context otherwise requires— Interpretation
 - “assistant returning officer” means a person appointed as such under regulation 4;
 - “ballot box” has the meaning assigned to it in the Act;
 - “ballot paper” has the meaning assigned to it in the Act;
 - “ballot paper account” has the meaning assigned to it in the Act;
 - “by-election” has the meaning assigned to it in the Constitution; Cap. 1
 - “candidate” has the meaning assigned to it in the Act;
 - “councillors” has the meaning assigned to it in the Act;
 - “Chief Electoral Officer” means the person appointed as Chief Electoral Officer under the Electoral Commission of Zambia Act, 2016 Act No. 25 of 2016
 - “election agent” has the meaning assigned to it in the Act;
 - “election officer” has the meaning assigned to it in the Act;
 - “local government election” includes elections for a mayor, council chairperson and councillor;
 - “local notice” means a notice given at the nomination office, the office of the district council within which the constituency is situated and such other place as the returning officer considers necessary;
 - “Member of Parliament” has the meaning assigned to it in the Constitution; Cap. 1
 - “national registration card” has the meaning assigned to it in the Act;
 - “national registration number” has the meaning assigned to it in the Act;
 - “nomination office” means a place appointed as such under regulation 10;

“nomination paper” has the meaning assigned to it in the Act;
 “official mark” means a mark provided to a presiding officer under regulation 29, for the taking of a poll; “official seal” means a seal provided to a presiding officer under regulation 29, for the taking of a poll; “polling agent” has the meaning assigned to it in the Act;

“polling assistant” has the meaning assigned to it in the Act;

“polling day” has the meaning assigned to it in the Act;

“polling district” has the meaning assigned to it in the Act;

“polling station” has the meaning assigned to it in the Act;

“presiding officer” has the meaning assigned to it in the Act;

“registered” means registered in a register of voters;

“register of voters” has the meaning assigned to it in the Act;

“Returning Officer” has the meaning assigned to it in the Act;

“returning officer” has the meaning assigned to it in the Act;

“Speaker” has the meaning assigned to it in the Constitution;
 and

“voter’s card” has the meaning assigned to it in the Act.

Cap. 1

(2) Where an act or thing is required or authorised to be done under these Regulations in the presence of a candidate, an election agent or a polling agent, the non attendance of the candidate, election agent or polling agent at the time and place appointed for the purpose shall not, if the act or thing is otherwise legally done, invalidate the act or thing done.

Functions of
 Chief
 Electoral
 Officer

3. The Chief Electoral Officer shall —

- (a) ensure that an election officer performs the election office’s functions with impartiality and in accordance with these Regulations;
- (b) issue to an election officer such instructions as the Chief Electoral Officer considers necessary to ensure due compliance with these Regulations; and
- (c) perform such functions as are conferred upon the Chief Electoral Officer under these Regulations.

Returning
 officer

4. (1) The Commission shall appoint in respect of each constituency, district or ward—

- (a) a returning officer, by notice in the *Gazette*;

(b) assistant returning officers, by notice, in writing, for the purpose of assisting the returning officers in the performance of their functions; and

(c) polling assistants, by notice, in writing.

(2) The Commission may, by notice, in writing, appoint for each polling district, presiding officers, assistant presiding officers and polling assistants.

5. The officers referred to in regulation 4 shall, before exercising any of the functions conferred upon the officers under these Regulations, take and subscribe an oath or make an affirmation before a Subordinate Court Magistrate, Local Court Magistrate, election officer,

Form of
oath or
affirmation

returning officer, Commissioner for Oaths, Head of a Government School or Principal of a College in Form GEN 1 set out in the Schedule.

6. (1) Where the Commission revokes the appointment of a returning officer, it shall publish a notice of the revocation in the *Gazette*.

Revocation
of
appointment
of election
officers

(2) Where the Commission revokes the appointment of an assistant returning officer, presiding officer, assistant presiding officer or polling assistant, it shall give notice, in writing, of the revocation to the person concerned.

7. (1) The principal officer of a council shall, upon a casual vacancy occurring in the elected membership of a council, inform the Commission and the district or ward concerned, in writing, of the occurrence of the vacancy, as soon as practicable after it occurs.

Notification
of vacancy in
council or
National
Assembly

(2) The Commission shall cause every casual vacancy in the elected membership of the National Assembly or council to be filled as soon as practicable.

8. (1) The Chief Electoral Officer shall maintain a register of symbols for use by candidates at elections, and that register shall be in such form as the Chief Electoral Officer may determine.

Allocation
and
registration
of symbols

(2) A political party or independent candidate contesting an election shall apply to the Chief Electoral Officer for the registration of a symbol chosen by that party or candidate for use by a candidate supported by that party or by that independent candidate at elections and subject to subregulations (4) and (5), the Chief Electoral Officer shall register that symbol.

(3) An application made on behalf of a political party shall be made by the secretary of that political party.

(4) The following shall not be registered or used as symbols:

- (a) the armorial ensigns or the National Flag of Zambia;
- (b) a device or an emblem which, in the opinion of the Chief Electoral Officer, is normally associated with an ethnic group or religion or the regalia of a chief;
- (c) a symbol or part of a symbol which, under the provisions of this regulation, is currently registered in respect of a political party or candidate;
- (d) a symbol which is not distinctive from any other registered symbol; and
- (e) a symbol the use of which is, in the opinion of the Chief Electoral Officer, offensive or objectionable.

(5) The Chief Electoral Officer shall not register a symbol under this regulation in respect of a political

party or candidate until any other registered symbol in respect of that party or independent candidate is cancelled.

(6) The Chief Electoral Officer shall allocate and register in respect of a political party or independent candidate for election in a constituency, district or ward a symbol for use by that political party or independent candidate in that election.

Determination
of whether
candidate is
supported
by political
party

9. (1) If a question arises in respect of the allocation and registration of a symbol under regulation 8 regarding whether the nomination of a candidate is supported by a political party, that question shall be referred to and determined by the Commission.

(2) The Commission shall consult the leader or secretary of a political party before determining the question referred to in sub-regulation (1).

PART II

NOMINATION PROCEDURE

Appointment
of
nomination
office

10. (1) The Commission shall, by notice in the *Gazette*, appoint for each constituency, district or ward in respect of which an election date has been appointed, a place to be the nomination office for receiving nominations papers.

(2) The returning officer for a constituency, district or ward shall attend at the nomination office during the periods appointed in respect of that constituency, district or ward for the receipt of nomination, to receive nomination papers in that constituency, district or ward.

11. (1) A presidential nomination paper shall be—
- Nomination
for
presidential
election
- (a) in Form GEN 2 set out in the Schedule;
 - (b) signed by the candidate in the presence of the Returning Officer;
 - (c) subscribed to by not less than one hundred registered voters from each Province who support the presidential candidate and the running mate; and
 - (d) accompanied by a nonrefundable election fee determined by the Commission.
- (2) A nomination paper for a running mate shall be in Form GEN 3 set out in the Schedule.
- (3) Sub-regulation (1)(c) and (d) does not apply to a running mate.
- (4) A Presidential candidate shall file an affidavit, for purposes of Article 52 of the Constitution, in Form GEN 4 set out in the Schedule. Cap. 1
- (5) The supporters referred to in sub regulation (1) (c) shall -
- (a) be screened and validated by an assistant returning officer at each provincial capital appointed for that purpose by the Commission; and
 - (b) endorse Part B of the presidential nomination paper in the presence of the assistant returning officer.
- (6) A presidential candidate shall lodge with the Returning Officer—
- (a) a statutory declaration of assets and liabilities in Form GEN 5 set out in the Schedule; and
 - (b) a declaration of compliance with the Electoral Code of Conduct in Form GEN 6 set out in the Schedule.
- (7) A presidential candidate shall submit the processed nomination papers to the Returning Officer on a day and at a time appointed for the receipt of nominations.
- (8) The Returning Officer shall, at the time of lodging nomination papers, take a portrait of the candidate and where the nomination papers are lodged by an election agent, the election agent shall submit a portrait of the candidate as specified by the Commission.
- (9) In this regulation, unless otherwise provided, a reference to a Presidential candidate includes a running mate.

Nomination
for
candidate
for election
as Member
of
Parliament

12. (1) The nomination paper for a candidate for election as a Member of Parliament shall be—

- (a) in Form GEN 7 set out in the Schedule;
- (b) subscribed to in Part B of the Form by fifteen supporters, registered in the constituency, in the presence of the returning officer;
- (c) signed by the candidate in the presence of the returning officer; and
- (d) accompanied by a nonrefundable election fee determined by the Commission.

Cap. 1

(2) A candidate for election as a Member of Parliament shall file an affidavit, for purposes of Article 52 of the Constitution, in Form GEN 8 set out in the Schedule.

(3) A candidate for election as a Member of Parliament shall lodge with the returning officer for the constituency concerned -

- (a) a statutory declaration of assets and liabilities in Form GEN 5 set out in the Schedule; and
- (b) a declaration of compliance with the Electoral Code of Conduct in Form GEN 6 set out in the Schedule.

(4) The returning officer shall, at the time of receiving nomination papers, take a portrait of the candidate, and where the nomination papers are lodged by an election agent, the agent shall submit a portrait of the candidate as specified by the Commission.

(5) A candidate or a person duly authorised by that candidate shall, at the time of lodging a nomination paper in a constituency, attend before the returning officer for the constituency with the fifteen supporters of the candidate who shall produce their voter's cards and national registration cards to the returning officer.

Nomination
for mayor or
council
chairperson

13. A candidate for election as a mayor or council chairperson in a district shall lodge with the returning officer for that district-

- (a) a nomination paper in Form GEN 9 set out in the Schedule; and
- (b) an affidavit in Form GEN 10 set out in the Schedule.

Nomination
for election
as councillor

14. (1) The nomination paper for a candidate for election as a councillor shall be—

- (a) in Form GEN 11 set out in the Schedule;
- (b) subscribed to by nine supporters, registered in the ward, in the presence of the returning officer;

(c) signed by the candidate in the presence of the returning officer; and

(d) accompanied by a non refundable election fee specified by the Commission.

(2) A candidate for election as a councillor shall file an affidavit in Form GEN 12 set out in the Schedule.

(3) A candidate for election as a councillor in a ward shall lodge with the returning officer for that ward—

(a) a duly completed nomination paper and affidavit; and

(b) a declaration of compliance with the Electoral Code of Conduct in Form GEN 6 set out in the Schedule.

(4) The returning officer shall, at the time of lodging nomination papers, take a portrait of the candidate and where the nomination papers are lodged by an election agent, the agent shall submit a portrait of the candidate as specified by the Commission.

(5) A candidate or a person duly authorised by the candidate shall, at the time of lodging a nomination paper, present themselves to the returning officer with the fifteen supporters who shall produce their voters cards and national registration cards to the returning officer.

(6) The supporters shall subscribe their signatures on the nomination paper in the presence of the the returning officer.

15. (1) A returning officer shall receive the nomination of a candidate in an election on the days, hours and places specified by the Commission, by statutory order.

Receipt of
nominations

(2) A returning officer shall attend at the place, on the days and during the hours appointed by the Commission to provide nomination papers to candidates and to receive the nomination of candidates.

(3) A returning officer may extend the closing time of the period within which to receive nominations if the returning officer is satisfied that a candidate and the candidate's supporters duly presented themselves to the returning officer before the close of the period fixed for the receipt of nominations but were prevented from lodging their nomination before the expiry of that period because the returning officer was receiving the nomination of another candidate during the same period.

16. (1) Where a candidate or candidate's agent intending to lodge a nomination in a constituency, district or ward requests the

Guidance by
returning
officer

returning officer for that constituency, district or ward to examine the nomination paper before it is lodged, or to be guided on any matter relating to that nomination paper, the returning officer shall guide that candidate or candidate's agent to the best of the returning officer's ability.

(2) The advice or guidance given under subregulation (1) shall not be inquired into in a proceeding before a court.

Control at
nomination
office

17. (1) A returning officer shall maintain order at the polling station and in its precincts, and shall regulate the number of persons to be admitted at a time in the nomination office.

(2) A returning officer at a nomination centre may require any person to leave the nomination centre and its precincts if, in the opinion of the returning officer, the person is causing a disturbance which is likely to interfere with the poll.

(3) Sub-regulation (2) does not apply to—

- (a) a member of the Commission or its members of staff;
- (b) an election officer;
- (c) a person who is accompanying another person wishing to lodge a nomination paper in accordance with these Regulations and whose name appears on the nomination paper as a candidate, proposer, seconder or supporter;
- (e) a police officer on duty;
- (f) accredited monitors and observers; or
- (g) a person authorised, in writing, by the Chief Electoral Officer to enter and remain in the polling station.

(4) The powers conferred by this regulation shall not be exercised so as to prevent a person who is otherwise entitled to be at the nomination office.

Determination
of validity of
nominations

18. (1) A returning officer for a constituency, district or ward shall, immediately after the filing of a nomination paper in that constituency, district or ward, determine the validity of each nomination lodged with the returning officer and shall declare invalid a nomination in respect of which—

- (a) the nomination paper was not duly completed or properly signed or lodged;
- (b) the nomination paper is not accompanied by the affidavit or the affidavit is defective in a material particular; or
- (c) the appropriate election fee has not been paid.

(2) Where a returning officer determines that a nomination is invalid, the returning officer shall reject the nomination and shall endorse on the nomination paper the reason for the determination, and shall sign that endorsement.

(3) Where a returning officer determines that a nomination is valid, the returning officer shall sign the nomination paper to signify acceptance of the nomination.

(4) Where a returning officer for a constituency, district or ward determines that only one candidate has been validly nominated for election in that constituency, district or ward, the returning officer shall declare that candidate to be duly elected in that constituency, district or ward and shall inform the Commission accordingly.

(5) A returning officer shall notify each candidate, in writing, of the returning officer's decision in respect of that candidate immediately after the filing of nominations.

(6) Where a returning officer determines that more than one candidate is validly nominated, the returning officer shall immediately publish a notice of the names of the candidates validly nominated, in a manner that the returning officer considers necessary for giving the names sufficient publicity, and shall cause the notice to be published in the *Gazette*.

(7) The determination of the returning officer that a nomination is valid or invalid is final unless challenged through an election petition in accordance with Article 52(4) of the Constitution.

Cap. 1

19. (1) A returning officer shall, after determining the validity of nominations lodged with the returning officer, inform the Commission of the candidates who are validly nominated.

Procedure
after
determination
of validity of
nominations

(2) Where a returning officer determines that no candidate has been validly nominated for election in that constituency, district or ward, the returning officer shall inform the Commission accordingly.

(3) Where the Commission is informed under subregulation (2) that no candidate has been validly nominated, the Commission shall, in respect of that constituency, district or ward, exercise its powers provided for in regulation 7.

20. (1) Where two or more candidates have been validly nominated for a constituency, district or ward, the returning officer shall give local notice that a poll shall be taken in that constituency, district or ward on the day appointed for the election, and the local notice shall set out the names of the candidates in alphabetical order of surnames.

Publication
of local
notice

(2) Where two or more candidates have been validly nominated for a constituency, district or ward, the returning officer shall publish the information contained in the nomination papers and affidavits relating to the candidates.

(3) Where no candidate or only one candidate has been validly nominated for election in a constituency, district or ward, the returning officer shall give local notice that a poll shall not be taken in that constituency, district or ward.

(4) Where in respect of a constituency, district or ward, the same day has been appointed for the poll for elections to the office of President, the National Assembly or councillor, the returning officer for that constituency, district or ward shall—

(a) in the notice referred to in subregulation (1), state that the polls shall be held at the same time; and

(b) in the notice referred to in subregulation (3), state that despite a poll for election to the National Assembly not being taken in that constituency, district or ward, the poll for the election to the office of President or councillor, as the case may be, shall be taken on the appointed day.

Procedure
upon death
of candidate

21. The Commission shall, where a candidate who is validly nominated for election in a constituency, district or ward dies before the close of the poll in that election, declare all proceedings relating to the election in that constituency, district or ward to be void, and shall in respect of that constituency, district or ward appoint new election dates.

Inspection of
nomination
paper

22. A person registered in a constituency, district or ward may, at any reasonable time, after the returning officer for the constituency, district or ward has given notice of the date of the poll and before the day appointed for the taking of a poll in that constituency, district or ward inspect, at the office of the returning officer, a nomination paper of a candidate in that constituency, district or ward.

PART III

ELECTIONS

Notice of
polling
stations

23. The electoral officer for a polling district shall, for the purpose of the taking of a poll in the polling district, give local notice and such other notice indicating the location of a polling station in the polling district.

24. (1) Subject to regulation 25, a poll shall commence and close at such time as the Commission appoints, and notice of the times shall be published in the *Gazette* and in such other manner as the Commission directs.

Appointment
of times of
polling

(2) The Commission may appoint different commencement or closing times for different constituencies or polling districts.

25. (1) A presiding officer may postpone until later in the day, and if necessary to some other day, the polling at the polling station where voting cannot be started or is interrupted by reason of a riot, open violence, flood, natural catastrophe or other cause, which affects the conduct of a free and fair election at the polling station.

Postponement
of poll in
case of
emergency

(2) Where a presiding officer postpones a poll, in accordance with sub-regulation (1), the polling shall start or restart at the earliest practicable time or date.

(3) A presiding officer may extend the hours or postpone the day of polling at a polling station where polling has started or has been interrupted by reason of any of the causes referred to in subregulation (1), and references in these Regulations to the close of the poll shall be construed accordingly.

(4) If a poll is postponed at a polling station, the hours of polling on the day to which it is postponed shall be the same as those for the original day, and references in these Regulations to the closing of the poll shall be construed accordingly.

(5) A presiding officer shall, where the presiding officer postpones a poll in accordance with these Regulations, take such precautions as are necessary to safeguard the ballot boxes, ballot papers and other election requisites, and shall immediately notify the returning officer of that postponement.

(6) Where a returning officer is notified under subregulation (4) of the postponement of a poll, the returning officer shall immediately notify the Commission of the postponement.

26. (1) A voter may vote at the polling station appointed for the polling district in which that voter is registered and shall not be entitled to vote at any other polling station.

Nature of
poll

(2) At the taking of a poll, a voter shall be entitled to cast one vote for a candidate and if a voters name appears in error or for any other reason in more than one register of voters, or more than once in the same register of voters, the voter shall not be entitled to cast more than one vote for a candidate.

Form of
ballot paper

27. (1) The ballot paper for a poll in a presidential election shall be in Form GEN 13 set out in the Schedule and shall show, in alphabetical order, the surnames and portraits of the presidential candidates and the names only of the running mate, the names of the political party, if supported by any, and the symbol of each candidate.

(2) The ballot paper for a poll in an election for a Member of Parliament or councillor shall be in Form GEN 14 set out in the Schedule and in respect of a constituency, district or ward shall show the names in alphabetical order of the surnames and portraits of the candidates, the names of the political party, if supported by any, for election in that constituency, district or ward and the symbol of each candidate.

Issuance of
ballot paper

28. (1) A person who intends to vote in an election shall apply for a ballot paper and shall—

- (a) attend at the polling station at which the person is entitled to vote;
- (b) produce that person's voter's card and national registration card to the presiding officer or assistant presiding officer at a polling station;
- (c) present both hands for inspection by the presiding officer, assistant presiding officer or polling assistant; and
- (d) have the right hand thumb nail stained, or any other finger or body part found appropriate by the polling assistant.

(2) A person who fails to comply with the requirements of this regulation shall not be issued with a ballot paper.

(3) Subregulation (1) (a), (c) and (d) shall not apply where a special vote is applicable.

(4) A presiding officer or polling assistant at a polling station may ask an applicant for a ballot paper any question that the presiding officer or polling assistant considers necessary to enable the presiding officer or polling assistant to identify the applicant with the name on the register of voters for that polling station.

(5) A person shall not be issued with a ballot paper or permitted to vote at a polling station unless the presiding officer or polling assistant for the polling station is satisfied that the person—

- (a) is entitled to vote at that polling station;
- (b) has produced that person's voter's card;
- (c) has properly been identified;

- (d) has not previously voted in the poll in respect of which the person is applying for a ballot paper; and
- (e) is not disqualified from voting at that election under section 47 of the Act.

29. (1) A returning officer shall, in respect of the taking of a poll in a polling station within the returning officer's constituency, district or ward—

Preparations
for taking of
poll

- (a) ensure that there are sufficient compartments within which voters may mark their ballot papers in secrecy and screened from observation;
- (b) provide each presiding officer with such number of ballot boxes, ballot papers, official seals, official marks, the voters' roll relating to the polling station and such other things as may be necessary for the taking of the poll;
- (c) make such arrangements to facilitate the taking of the poll as may be necessary for ensuring that the poll is taken in the manner provided in these Regulations and in accordance with any instructions issued by the Commission; and
- (d) publish, both inside and outside each polling station, notices instructing voters on the procedure for casting their votes and notices showing
 - (i) the names in alphabetical order of surnames of the candidates for election in that constituency, district or ward; and
 - (ii) the symbol allocated under regulation 8 in respect of each candidate for election in the constituency, district or ward.

(2) The returning officer for each constituency, district or ward in which a poll is to be taken shall give notice, in writing, to each candidate for election in the constituency, district or ward, before the day appointed for taking of the poll, of the time and place at which the votes cast in the elections shall be counted.

30. (1) Every ballot box shall be transparent and constructed in a manner that, after it is sealed under regulation 42, the ballot papers can be placed in the ballot box by the voters but not taken out without breaking the seals.

Ballot
boxes,
official seals
and official
marks

(2) The official seals and official marks in respect of every poll shall be in such form as the Commission may determine.

Procedure
before
commencement
of poll

31. (1) The presiding officer at each polling station shall, immediately before the commencement of the poll, show every ballot box, open and empty, to any person whose presence for that purpose is permitted so that the person may see that it is empty, and shall then seal with the official seal each ballot box, and shall permit a candidate, election agent or polling agent, who may be present to affix their seals to the ballot box, and the seal or seals shall not be broken until the ballot box is opened in accordance with the provisions of these Regulations.

(2) The presiding officer or assistant presiding officer at each polling station shall place every ballot box sealed under subregulation (1) in a position that it can be seen throughout the taking of the poll by the presiding officer or assistant presiding officer and a candidate, election agent or polling agent who is present at the polling station.

Control of
persons
entering
polling
station

32. (1) The presiding officer at each polling station shall keep order in the polling station and in its precincts, and shall regulate the number of voters to be admitted at a time to that polling station.

(2) The presiding officer at each polling station may require any person to leave the polling station and its precincts if, in the opinion of the presiding officer, that person is causing a disturbance which is likely to interfere with the taking of the poll.

(3) Sub-regulation (2) does not apply to—

- (a) a member of the Commission or its members of staff;
- (b) an election officer;
- (c) a person who is accompanying another person wishing to vote in accordance with these Regulations;
- (e) a police officer on duty;
- (f) accredited monitors and observers; or
- (g) a person authorised, in writing, by the Chief Electoral Officer to enter and remain in the polling station.

(4) A candidate, election agent, polling agent or a person accredited by the Commission to enter and remain in a polling station shall, before attending the taking of a poll at any polling station, take and subscribe an oath or make an affirmation, in Form GEN 1 set out in the Schedule before the returning officer for that constituency, district or ward.

(5) The powers conferred by this regulation shall not be exercised so as to prevent any voter who is entitled to vote at a polling station from having an opportunity of voting at that polling station.

33. Where a presiding officer, assistant presiding officer or polling assistant is satisfied that an applicant is entitled to be issued with a ballot paper, and to vote, the following procedure shall be followed:

Procedure
for casting
vote at
polling
station

- (a) the voter shall, before receiving a ballot paper, present to the polling assistant, the right hand thumb to be marked, except that in the case of a voter without any thumb, that voter shall present any other finger or body part found appropriate by the polling assistant;
- (b) before issuing a ballot paper to the voter, the presiding officer or assistant presiding officer shall
 - (i) call out the name and the number of the voter as recorded in the register of voters at such polling station;
 - (ii) cancel the name relating to the voter in the register of voters, as evidence that the voter has received a ballot paper; and
 - (iii) stamp the back of the ballot paper with the official mark;
- (c) the presiding officer or polling assistant shall detach the ballot paper from its counterfoil and deliver it to the voter;
- (d) the voter shall, on receiving the ballot paper, enter one of the compartments provided in the polling station for that purpose and signify the vote by secretly marking the ballot paper with a cross in the appropriate place and shall then fold the ballot paper in such a way that the official mark stamped on it is visible and the mark signifying the vote is not visible; and
- (e) the voter shall thereafter leave the compartment and shall, in the presence of the presiding officer or polling assistant, place the folded ballot paper in the ballot box provided in the polling station for that purpose.

34. (1) A voter shall cast the vote without undue delay and shall leave the polling station as soon as the voter has placed the ballot paper in the ballot box.

Costing of
votes

(2) Where the presiding officer is of the opinion that a voter is causing undue delay in casting the vote and that the delay is likely to hinder the adequate or orderly conduct of the poll, the presiding officer may require that voter to complete casting the vote within a period of two minutes immediately thereafter.

(3) A presiding officer shall permit every voter to cast a vote before closing the poll if the voter, at the time appointed for the closing of the poll

(a) is inside the polling station; or

(b) is owing to congestion, in the opinion of the presiding officer, within the precincts of the polling station.

Restriction
on
communication
in precincts
of polling
station

35. A person, other than a presiding officer, polling assistant, police officer or person on duty in an official capacity at a polling station, shall not have any communication with a voter while the voter is in the precincts of the polling station for the purpose of voting.

Prohibition
of use of
electronic
devices

36. (1) A person shall not use or be allowed to use an electronic device in a polling station or verification room of an election result.

(2) Despite sub-regulation (1), the Commission may specify a list of officials who may use an electronic device in a polling station or verification room for purposes of communication.

Spoilt ballot
papers

37. Where a voter inadvertently deals with a ballot paper in such a manner that it cannot be used as a valid ballot paper, the voter shall deliver that ballot paper to the presiding officer and if the presiding officer is satisfied that the ballot paper has been spoilt inadvertently, the presiding officer shall issue another ballot paper to that voter and shall cancel the spoilt ballot paper and the counterfoil to which it relates.

Objections
concerning
voting

38. (1) An election agent, a polling agent or another voter may, at any time before a voter has been handed a ballot paper at a polling station, object to that voter being entitled to vote or to vote at that polling station if it appears that —

(a) the vote's name is not in the register of voters at that polling station; and

(b) the voter is not in possession of a voter's card or national registration card, or the objector has reasonable grounds to show that the person is not a citizen.

(2) An election agent or voter may object to any other conduct of an election officer or any other person present at a polling station.

(3) An objection shall be made to the presiding officer by an election agent, polling agent or voter in Form GEN 15 set out in the Schedule.

(4) Where a presiding officer does not accept an objection lodged under this regulation, the presiding officer shall accept the ballot and shall count the objected votes.

(5) An objector who is not satisfied with the decision of the presiding officer made under sub-regulation (4) may appeal to the returning officer before the close of voting in Form GEN 16 set out in the Schedule, and the returning officer and presiding officer shall keep a record of each objection and decision made.

39. (1) A presiding officer or other election officer at the request of a voter who is unable to read shall assist that voter in voting in the presence of—

Assistance
to certain
voters

(a) a person appointed by the presiding officer or accredited observer or monitor, if available; or

(b) two election agents of different candidates, if available.

(2) A person may assist a voter in voting if -

(a) the voter requires assistance due to physical disability;

(b) the voter has requested to be assisted by that person; and

(c) the presiding officer is satisfied that person has attained the age of eighteen years.

(3) The secrecy of voting as provided in the Constitution shall be preserved in the application of this regulation.

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(4) A presiding officer shall record in the copy of the register of voters, by means of a mark placed next to the name of the voter concerned, that the presiding officer or another person assisted the voter as provided under this regulation and give the reason for doing so.

40. (1) Where a person entitled to vote in a constituency, district or ward is employed as a returning officer, presiding officer, polling assistant, police officer or in any other official capacity at a polling station outside that constituency, district or ward, other than the polling station at which that person is entitled to vote, the returning officer for that constituency, district or ward may authorise that person, by certificate under the returning officers' hand in Form GEN 17 set out in the Schedule, to vote at the polling station at which the person is employed.

Voting by
persons
employed on
election
duties

(2) A voter to whom a certificate is issued under subregulation (1) shall deliver that certificate to the presiding officer when the voter applies for a ballot paper.

- Delegation of powers of presiding officer
41. The presiding officer at a polling station may, during a temporary absence from that polling station, delegate the presiding officer's powers, subject to the directions of the Commission, to a polling assistant, and during the period of that absence, the polling assistant shall have and may exercise the powers of the presiding officer.
- Sealing of full ballot box
42. (1) The presiding officer shall, as soon as a ballot box gets filled up during voting, seal it in the presence of accredited observers, monitors or polling agents and allow the agents to affix their seals to the box, which shall be kept in full view of all persons present until the close of the poll.
- (2) The presiding officer shall, where a ballot is sealed under sub-regulation (1), place a new sealed ballot box for the continuity of the voting process.
- Procedures after close of poll
43. (1) The presiding officer at a polling station shall, as soon as practicable after the close of the poll, in the presence of the candidates, accredited observers, monitors, election agents or polling agents, present at the polling station—
- (a) close and seal the aperture of every ballot box used for the poll, and permit the candidates, accredited observers, monitors, election agents or polling agents, present at the polling station to affix their seal to the ballot box;
 - (b) in respect of the poll, complete the ballot paper account in Form GEN 18 set out in the Schedule; and
 - (c) place in separate envelopes, which shall be sealed with official paper seals and with the seals of the candidates, election agents or polling agents, if any, who wish to affix their seals to the ballot box, all the relevant documents such as unused ballot papers, spoilt ballot papers, copy of the register of voters, counterfoils of used ballot papers, the ballot paper account, the official marks and official seals.
- (2) A presiding officer shall, in accordance with such directions as may be issued by the Commission, dispatch each envelope sealed and the ballot boxes sealed in safe custody to the returning officer for the constituency, district or ward in respect of which the poll was conducted.
- (3) The returning officer for a constituency, district or ward in which a poll has been taken shall take into custody and issue a receipt for all the packets and ballot boxes delivered to the returning officer by a presiding officer in accordance with subregulation (2).

44. (1) The returning officer for constituency, district or ward shall ensure that the counting takes place as soon as practicable after the close of the poll in the respective polling stations in the constituency.

Counting to
be done at
polling
stations

(2) A presiding officer for a polling station shall, as soon as practicable, conduct the count at the polling station immediately after the close of the poll at the polling station.

45. (1) A presiding officer for a polling station in which a poll has been taken shall, with the assistance of the polling assistants for that polling station, count all the votes cast in the election in that polling station in accordance with the provisions of this regulation.

Counting of
votes

(2) The counting of the votes shall, so far as circumstances permit, proceed continuously until the count is completed, allowing only a reasonable time for refreshments.

(3) The procedure for counting shall be as follows:

(a) the presiding officer shall open each ballot box and, after removing all the ballot papers, shall count and record the total number of ballot papers contained in each ballot box, without reference to the manner in which the ballot papers are marked;

(b) the presiding officer shall then count and record the total number of valid ballot papers in respect of each candidate, commencing with the election to the office of the President, Member of Parliament and councillor; and

(c) the presiding officer shall ensure that, while counting the ballot papers, the polling assistants keep the side of each ballot paper on which the vote is recorded upwards, and shall take all precautions for preventing any person present at the count from seeing the number printed on each ballot paper.

46. (1) A presiding officer shall, subject to subregulation (2) reject as invalid, and shall not count, a ballot paper—

Rejection of
ballot papers

(a) which does not bear the official mark, unless the presiding officer is satisfied that the omission is a *bona fide* error;

(b) which contains more than one vote;

(c) on which anything other than the number printed on the ballot paper is written or marked in such manner that the voter can be identified; or

(d) which is unmarked or invalid for uncertainty.