

## PARLIAMENT ACT

**Principal Act**

<b>Act. No. 1950-15</b>	<i>Commencement</i>	21.7.1950
Parts II, III and IV	<i>Assent</i>	

*With which are consolidated the following Acts:*

Acts.		<i>Commencement</i>
1964-03	Part V	12.6.1964
1979-22	Part VI	20.12.1979
1981-24		24.12.1981
Amending enactments	Relevant current provisions	Commencement date
Act. 1950-20	s. 28	
1951-06	s. 20	
1955-20	—	
1956-11	ss. 3(2), 5(2), 28	
1961-17	s. 5(1)	
1964-16	ss. 14(1), 45-46	
1955-27	s. 82	
1967-21	ss. 3(1)-(2), 19	
Regs. of 19.6.1969	ss. 3(1), 5(1), 6-7, 17, 20(1), (4), 22-23	
Act. 1969-24	ss. 3(1), 6(1)	
1970-19	—	
1973-07	ss. 3(1), 6(1)	
1974-40	s. 3(4)	
1976-06	s. 5(1)	
1977-28	s. 49(4)	
1979-21	s. 14(1)	
1983-17	ss. 3(1), 5(2), 25(1), 48(4)	
1983-40	ss. 97-98	
1986-01	s. 3	6.2.1986
1987-25	ss. 14, 25	29.10.1987
1995-17	Sch. 2	22.12.1995
2003-05	s. 14(1)	7.5.2003
2007-17	ss. 1, 2(a), 3(1), 9, 10(1), (3), 11(a), 20(1), (4), 22, 61-61, 63(1)-(3), 64(1), 65, 66(1)-(2),	

---

This version is out of date

	67(1), 68(1)-(2), 69(1), 70(1), (2)(a)-(b), 71(1)-(2), 72-74, 75(a)-(b), 76(1), 77(a), (c), (e), 78, 79(a)-(d), 80(a)-(b), (e), (f), 83(1)-(3), 84-85, 87-89, 90(1), (3), 91(1)(b), 101(2)-(3), Sch. 3	14.6.2007
2007-30	ss. 2(a)-(b), 3(1), (3), 4(2)-(4), 5(1), 6, 7(3), 14(1), 17, 20(1), (4), 22, 22A, 23, 25(1)-(2), 86, 88, 91(1)(b), 100, Schs. 2, 3	28.6.2007
2015-06	s. 94(1)(a)-(b)	26.2.2015
2016-07	ss. 89A-89B	10.3.2016
2019-02	ss. 3(1), (1C), (2)-(4), 5(1), (1A), (2), (b), (d), (3)-(6), 6, 19, 25(1)(eb)-(ec), 48(3)-(4)	31.1.2019

English sources

None cited

This version is out of date

## DERIVATION OF SECTION

Section	Source	Section	Source
1	Act. 1964-03 s.2	53	Act. 1950- 15 s.19
2	Act. 1981-24 s.2	54	“ 20
3	Act. 1950-15 s.2	55	“ 21
4	“ 3	56	“ 22
5	“ 4	57	“ 23
6	“ 4A	58	“ 24
7	“ 5	59	“ 25
8	“ 6	60	“ 54
9	Act. 1981-24 s.3	61	Act. 1964-03 s.3
10	“ 4	62	“ 4
11	“ 5	63	“ 5
12	Act. 1950-15 s.26	64	“ 6
13	“ 27(1)-(3)	65	“ 7
14	“ 28 (1) & (2)	66	“ 8
15	“ 29(1)- (4) & (7)	67	“ 9
16	“ 30	68	“ 10
17	“ 11	69	“ 11
18	“ 7	70	“ 12
19	“ 8	71	“ 13
20	“ 10	72	“ 17
21	“ 9	73	“ 14
22	“ 13	74	“ 16
23	“ 12	75	“ 15
24	“ 55	76	“ 18
25	“ 56	77	“ 19
26	“ 31	78	“ 21
27	“ 32	79	“ 22
28	“ 35	80	“ 20
29	“ 36	81	“ 25
30	“ 37	82	“ 24
31	“ 27(4)	83	“ 23
32	“ 28(3)	84	“ 26
33	“ 29(5)	85	“ 27
34	“ 44	86	“ 28
35	“ 33	87	“ 29
36	“ 49	88	“ 30
37	“ 45	89	“ 31
38	“ 43	90	Act. 1979-22 s.2
39	“ 29(6)	91	“ 3
40	“ 38	92	“ 4
41	“ 39	93	“ 5
		94	“ 6

---

This version is out of date

42	“	40		95	“	7
43	“	42		96	“	8
44	“	53		97	“	8A
45	“	41		98	“	8B
46	“	34		99	“	9
47	“	46		100	“	10
48	“	47		101	“	11
49	“	48		102	“	12
50	“	52				
51	Act. 1950-15	s.50		Sch.		
52	“	51		1	Act. 1981-24	
				2	“	
				3	“	

**ARRANGEMENT OF SECTIONS**

Section

**PART I.  
PRELIMINARY.**

1. Short title.
2. Interpretation.

**PART II.  
ELECTIONS.***The franchise*

3. Electors.

*Registration of electors*

4. Registration officer.
5. Register of electors.
6. Maintenance of Register.
7. Registration expenses.
8. Appeals from the registration officer.

*Eligibility of public officers*

9. Public officers who may be elected members.
10. Public officers who may be candidates for election.
11. Consequences of failure to comply with undertaking.

*Agents and expenditure*

12. Election agents.
13. Contracts and payments.
14. Limit on expenditure.
15. Returns by election agents.
16. Limitation for claims.

*Conduct of elections*

17. Returning officer.
18. Conduct of elections.
19. Entitlement to vote.
20. Issue of writ.
21. General, partial and void elections.

- 22. Method of voting.
- 22A. Equality of votes.
- 23. Expenses of elections.

*Miscellaneous*

- 24. Exemption from stamp duty.
- 25. Rules.

PART III.  
ELECTION OFFENCES

*Illegal practices*

- 26. Providing money for illegal practice.
- 27. Corruptly inducing withdrawal.
- 28. Restrictions on premises to be used as committee rooms.
- 29. Illegal employment.
- 30. Penalties for offences against sections 26 to 29.
- 31. Payments made otherwise than through election agents.
- 32. Exceeding limit on expenditure.
- 33. Agent failing to make return.
- 34. Voting by prohibited persons and publishing of false statements.
- 35. Posters to bear names of printers and publishers.
- 36. Penalty for and incapacity following illegal practices.
- 37. Relief for innocent acts.

*Corrupt practices*

- 38. Definition and penalty for corrupt practices.
- 39. False declarations.
- 40. Meaning of bribery.
- 41. Meaning of treating.
- 42. Meaning of undue influence.
- 43. Meaning of personation.
- 44. Persons charged with corrupt practice may be convicted of illegal practice.

*Other offences*

- 45. Molestation.
- 46. Destroying or defacing posters.
- 47. Offences in respect of ballot boxes and ballot papers.
- 48. Infringement of secrecy.
- 49. Breaches of official duty.

This version is out of date

*Miscellaneous*

- 50. Limitation.
- 51. Duties of Attorney-General.
- 52. Removal of incapacity.

**PART IV.**  
ELECTION PETITIONS.

- 53. Grounds for petitioning.
- 54. Application of English law.
- 55. Who may petition.
- 56. Security for costs.
- 57. Trial of petitions.
- 58. Withdrawal of election petition.
- 59. Exoneration of candidate where agent guilty of offence.
- 60. No obligation on voter to disclose vote.

**PART V.**  
POWERS AND PRIVILEGES OF THE PARLIAMENT.

*Privileges*

- 61. Freedom of speech and debate.
- 62. Immunity from legal proceedings.
- 63. Power to exclude strangers.
- 64. No evidence of proceedings to be given without leave.
- 65. Immunity from process within the precincts.

*Procuring of evidence*

- 66. Power to order attendance of witness.
- 67. Issue of summons.
- 68. Examination on oath.
- 69. Objections to answering questions or producing papers.
- 70. Privileges of witnesses.
- 71. Issue of certificates to protect witnesses.
- 72. Usage of Parliament.

*Offences*

- 73. False evidence.
- 74. False documents.
- 75. Interference with witnesses.
- 76. Corrupt and improper practices.
- 77. Contempt.

- 78. Disobedience.
- 79. Breaches of confidence, etc.
- 80. Assaulting, etc., members and officers.
- 81. Penalties.
- 82. Sanction of Attorney-General.
- 83. Powers of Parliament in cases of contempt.

*Miscellaneous*

- 84. Commons journals as evidence.
- 85. Journals, etc., of the Parliament as evidence.
- 86. Absence of the Speaker.
- 87. Suspension of members.
- 88. Powers supplementary.
- 89. Exclusion of court's jurisdiction.

**PART VI.**  
**PENSIONS.**

- 89A. Application.
- 89B. Alternative pension scheme.
- 90. Interpretation.
- 91. Entitlement to pension.
- 92. Computation of pension.
- 93. Computation of notional annual allowance.
- 94. Reduced pension and gratuity.
- 95. Effect of re-election.
- 96. Gratuity on death.
- 97. Members dying of injuries or diseases contracted on duty.
- 98. Members injured or contracting diseases on duty.
- 99. Pension not assignable.
- 100. Cessation of pension on disqualification.
- 101. Increase of pension.
- 102. Charge on Consolidated Fund.

**SCHEDULE 1.**

Classes of Public Officers who may be elected as members

**SCHEDULE 2.**

Classes of Public Officers who may be candidates for election

**SCHEDULE 3.**

Form of undertaking



This version is out of date

AN ACT TO GOVERN ELECTIONS TO THE GIBRALTAR PARLIAMENT, THE POWERS AND PRIVILEGES ATTACHING TO THE PARLIAMENT AND THE PENSIONS PAYABLE TO MEMBERS OF THE PARLIAMENT.

## PART I. PRELIMINARY.

### Short title.

1. This Act may be cited as the Parliament Act.

### Interpretation.

2. In this Act, unless the context otherwise requires—

- (a) “authorized committee” means any standing committee of the Parliament or any other committee authorized under section 66(2) to exercise the powers of a standing committee;

“Clerk” means the Clerk of the Parliament and includes any person acting as such on the authority of the Speaker;

“committee” means any standing, select or other committee of the Parliament;

“corrupt practice” has the meaning given to it in section 38;

“court” means the Supreme Court;

“election agent” means a person appointed as such by a candidate under section 12;

“election petition” means a petition presented under section 54;

“journals” means the official record of the votes and proceedings of the Parliament;

“member” means any member of the Parliament and includes the Speaker;

“Minister” means the Minister with responsibility for elections;

“officer” means the Clerk or any other officer or person acting within the precincts of the Parliament Chamber under the orders of the Speaker;

“precincts of the Parliament Chamber” means the chamber in which the Parliament or a committee thereof sits for the transaction of business, together with the offices, rooms, lobbies, galleries, courtyards, gardens and other places provided for the use or accommodation of members, officers or strangers, and any passages connecting such places, and any other places immediately contiguous thereto as may from time to time be designated by the Speaker;

“registration officer” means a person designated under section 4(2) to be the registration officer;

“returning officer” means a person designated under section 17 to be the returning officer;

“Standing Orders” means the Standing Rules and Orders of the Parliament made under the Gibraltar Constitution Order 2006 and any rules of procedure made under the Constitution;

“stranger” means a person other than a member or an officer; and

(b) expressions used shall have the same meanings as they have in Chapter III of the Constitution and the provisions of section 78 of the Constitution affecting the interpretation of that chapter shall apply accordingly.

## **PART II. ELECTIONS.**

### *The franchise.*

#### **Electors.**

3. (1) The persons entitled to vote as electors at elections of members of the Parliament (in this Act referred to as ‘the Parliament’) under the Gibraltar Constitution Order 2006 shall be those persons who—

- (i) have lived in Gibraltar during the whole of the qualifying period; and
- (ii) intend to live in Gibraltar either permanently or indefinitely; and
- (iii) are, on the qualifying date and on the date of the poll, British citizens, British Overseas Territories citizens, British Overseas

---

This version is out of date

citizens, British Nationals (Overseas), British protected persons or British subjects under the British Nationality Act 1981, and are 18 years of age or over and are not subject to any legal incapacity to vote;

Provided that a person shall not be entitled to vote as an elector unless registered in the register of electors to be used at the election, and that no person shall be so entitled to vote or to be registered as an elector if—

- (a) by virtue of his own act he is under any knowledge of allegiance, obedience or adherence to a foreign State or Power; or
- (b) he has been sentenced by any court in Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term exceeding twelve months and has not either suffered the punishment to which he was sentenced or such other punishment as may by a competent authority have been substituted therefor, or received a free pardon; or
- (c) he is certified to be suffering from mental disorder under any law for the time being in force in Gibraltar; or
- (d) he is disqualified by any enactment relating to offences connected with elections; or
- (e) he is a person serving in Gibraltar in any of Her Majesty's armed forces (other than the Gibraltar Regiment constituted under the Gibraltar Regiment Act<sup>2</sup>), or the spouse of such person;

Provided further that a person who has not attained the age of eighteen years and/or not complied with the qualifying period requirements shall, if he will have attained such age and/or qualifying period requirements on or before the date fixed for an election, be entitled to be included in the register and to vote at any election which takes place after he has attained the age of eighteen and after he has complied with the qualifying period requirements.

(1A) In determining questions arising under subsection (1)(i) as to whether a person has lived in Gibraltar during the whole of the qualifying period, regard shall be had to the purpose and other circumstances, as well as to the fact, of his presence in or absence from Gibraltar.

---

<sup>2</sup> 1998-25

(1B) For the purposes of subsection (1)(ii) the following presumptions shall apply:

- (a) where a person has his home in Gibraltar, he shall be presumed to intend to live in Gibraltar permanently or indefinitely;
- (b) where a person has more than one home, he shall be presumed to live permanently or indefinitely in that place in which he has his principal home;
- (c) where a person is stationed in Gibraltar for the principal purpose of carrying on a business, profession or occupation, and his spouse and children, if any, have their home outside Gibraltar, he shall be presumed to intend to live permanently or indefinitely in the latter place.

(1C) For the purposes of sub-section (1)(i) the registration officer shall have the power to require the applicant applying for registration in the register for such documentation and proof as the registration officer shall deem fit showing that the applicant has lived in Gibraltar during the whole of the qualifying period.

(2) An applicant wishing to be included in the register of electors must have been continuously living in Gibraltar for a period of not less than six months prior to the date on which his application for registration in the register of electors is received by the registration officer (in this Act referred to as 'the qualifying period').

(3) *Deleted.*

(4) *Deleted.*

#### *Registration of electors*

#### **Registration officer.**

4.(1) For the registration of electors there shall be an electoral registration officer.

(2) The registration officer shall be the Clerk.

(3) *Repealed*

(4) *Repealed*

#### **Register of electors.**

5(1) It shall be the duty of the registration officer to prepare and publish a register of electors in the year 2019 and such a register shall-

- (a) be prepared and maintained in accordance with the provisions of this Act and with any rules made under the provisions of this Act;
- (b) be published not later than the 1st June 2019; and
- (c) come into force immediately upon publication.

(1A) The register of electors published pursuant to the provisions of section 5(1)(b) shall be amended after the date of its publication as and when-

- (a) the registration officer receives an application for registration in the register from an applicant who the registration officer deems is entitled to be registered in the register of electors pursuant to the provisions of section 3; or
- (b) the registration officer receives and accepts from a person registered in the register of electors a duly completed form notifying the registration officer of their change of particulars;

Provided always that any application for registration or amendment received 5 days or less before an election shall be disregarded by the registration officer until after the election has been held.

(2) With a view to the preparation of the register published pursuant to the provisions of section 5(1)(b) and thereafter whenever deemed necessary by the registration officer, the registration officer shall –

- (a) have a house to house or other sufficient enquiry made in Gibraltar as to the persons entitled to be registered;
- (b) publish in the Gazette and in any such other manner as in his opinion is best calculated to bring it to the attention of the electors a notice that within the period of one month next following the date of publication he will receive applications in the prescribed form from persons claiming to be entitled to be registered;
- (c) prepare and publish an electors list showing the persons appearing to him to be entitled to be registered; and

(d) determine all claims for registration duly made by any person.

(3) The registration officer must on or before the 1<sup>st</sup> June 2020 and on or before the 1<sup>st</sup> June each year thereafter prepare and publish the register of electors by making copies available at any of the place or places which he may deem fit.

(4) The register published in accordance with the provisions of section 5(3) shall include all additions to and changes of particulars made to the register of electors during the period from and including the date on which the register was previously published to the date of the next publication of the register.

(5) The register published pursuant to the provisions of sub-section 5(1) and (3) shall not contain the electoral registration number of each elector on the register but save as to that particular all other details on the register shall be published.

(6) The register published pursuant to the provisions of section 5(1) as amended from time to time in accordance with the provisions of section 5 shall constitute and continue to constitute the register of electors.

#### **Maintenance of Register.**

6.(1) The registration officer must on or before the 15<sup>th</sup> January 2020 and on or before the 15<sup>th</sup> January of each year thereafter publish in such a manner as he may deem fit a notice informing the members of the public that he has published a list of amendments to the register of electors.

(2) The list of amendments must set out the additions to and changes of particulars made to the register of electors during the six month period since the last publication of the register in accordance with the provisions of section 5(3).

#### **Registration expenses.**

7. (1) Any expenses properly incurred by the registration officer in the performance of his registration duties shall be paid out of the Consolidated Fund.

(2) Any fees or other sums received by the registration officer in respect of his registration duties, other than sums paid to that officer in respect of his registration expenses, shall be accounted for by that officer and paid into the Consolidated Fund.

(3) Registration expenses shall include all proper and reasonable charges for the registration officer's own personal remuneration for performing his registration duties and for the remuneration and expenses of any staff provided to enable him to perform them, but shall not include any sum on account of the use of premises, furniture or equipment provided by the Government in excess of the amount by which the Government's expenditure has actually and directly been increased by the use of those premises or of that furniture or equipment in connection with registration.

**Appeals from the registration officer.**

8.(1) An appeal shall lie to the court from any decision of the registration officer on any claim for registration or objection to a person's registration made to and considered by him under this Act:

Provided that an appeal shall not lie where the person desiring to appeal has not availed himself of his right to be heard by or to make representations to the registration officer on the matter which is the subject of the appeal, or has not given notice of appeal within the prescribed time.

(2) Any power given under this section to the court may be exercised by the Chief Justice in chambers.

(3) An appeal by virtue of this section which is pending when notice of an election is given shall not prejudice the operation as respects the election of the decision appealed against, and anything done in pursuance of the decision shall be as good as if no such appeal had been brought and shall not be affected by the decision on the appeal.

(4) Notice shall be sent to the registration officer by the Registrar of the Supreme Court of the decision of the court on any appeal under this section, and the registration officer shall make such alterations in the electors list or register as may be required to give effect to the decision.

(5) The registration officer shall undertake such duties in connection with appeals brought by virtue of this section as may be prescribed and shall on any such appeal be deemed to be a party to the proceedings and the registration expenses payable to the registration officer shall include any expenses properly incurred by him by virtue of this subsection.

(6) Every appeal under this section shall be prosecuted, heard and determined by the court in such manner and in accordance with such rules of procedure as may be prescribed by rules of court made in the like manner as rules made under and for the purposes of the Supreme Court Act, and the costs of every such appeal shall be at the discretion of the court;

Provided that costs shall not be awarded against the registration officer.

*Eligibility of public officers*

**Public officers who may be elected members.**

9. A person shall not be disqualified for election as an elected member of the Parliament by virtue of his holding or acting in any public office or class of public office specified in Schedule 1.

**Public officers who may be candidates for election.**

10.(1) A person may stand as a candidate for election as an elected member of the Parliament, notwithstanding that he holds or is acting in any public office or class of public office specified in Schedule 2, if he undertakes in accordance with this section to relinquish and cease to act in any public office (other than any public office referred to or of a class referred to in section 9) if he is elected as an elected member of the Parliament.

(2) Every undertaking given under this section shall be in the form specified in Schedule 3.

(3) Every undertaking given under this section shall be delivered to the returning officer before the person by whom it is given stands as a candidate for election as an elected member of the Parliament.

**Consequences of failure to comply with undertaking.**

11. An elected member who has given an undertaking under section 10 –
- (a) shall be incapable of taking his seat in the Parliament until he has fulfilled the undertaking; and
  - (b) shall, on the expiry of the period of one month following the date of his election, vacate his seat if he has not then fulfilled the undertaking.

*Agents and expenditure*

**Election agents.**

12.(1) At the latest time fixed for delivery of notices of withdrawals of candidates at an election, each candidate shall by notice in writing given to the returning officer, appoint either himself or some other person as his agent for such election and shall specify an address to which all claims, notices, writs, summonses and documents may be sent, addressed to the



candidate or his agent and the returning officer shall publish in the Gazette the name and address of every election agent so appointed.

(2) Every candidate may at any time, by notice in writing given to the returning officer, revoke the appointment of his election agent, and, in the event of such revocation, or of the death of such agent, whether such event is before, during or after the election, another election agent shall forthwith be appointed and notice of his name and address shall be given in writing to the returning officer who shall publish the same in the Gazette.

(3) Any document delivered at the address specified in the notice referred to in this section shall be deemed to have been duly served upon the election agent.

(4) In any case where a candidate shall fail to give notice as provided by subsection (1), he shall be deemed to be his own election agent and, for the purposes of this section, his address as appearing upon his nomination paper shall be deemed to be the address for the purposes set out in subsection (1).

#### **Contracts and payments.**

13. (1) The election agent of a candidate shall appoint every person employed for payment on behalf of the candidate at an election, and hire every committee room hired on behalf of the candidate.

(2) A contract whereby any expenses are incurred on account of, or in respect of, the conduct or management of an election shall not be enforceable against a candidate unless made by the candidate himself, or by his election agent:

Provided that the inability under this section to enforce such contract against the candidate shall not relieve the candidate from the consequences of any illegal practice having been committed by his agent.

(3) Except as permitted by or in pursuance of this Act no payment, advance or deposit shall be made by a candidate, at an election, or by any agent on behalf of such candidate, or by any other person, at any time, whether before, during, or after such election, in respect of any expenses incurred on account of or in respect of the conduct or management of such election, otherwise than by or through the election agent of such candidate; and all money provided by any person other than the candidate for any expenses incurred on account of or in respect of the conduct or management of the election, whether as a gift, loan, advance or deposit, shall be paid to the candidate or his election agent and not otherwise;

Provided that this section shall not be deemed to apply to any sum disbursed by any person out of his own money for any small expense legally incurred by himself, if such sum is not repaid to him.

**Limit on expenditure.**

14.(1) Subject to the provisions of subsection (2), no expenditure shall be incurred in relation to the candidature of any person at any election, in excess of £3,000.

(2) In determining the total expenditure incurred in relation to the candidature of any person at any election, regard shall not be had to any expenditure incurred one month or more before the election in respect of services rendered, or materials supplied.

(3) Where any expenditure is incurred in contravention of the provisions of this section the person by whom such expenditure was incurred, and the candidate in connection with whose candidature it was incurred, shall be deemed to be guilty of an illegal practice:

Provided that no candidate shall be deemed to be guilty of an illegal practice by reason of any other person having incurred any expenditure in connection with the candidature of the candidate in contravention of the provisions of this section if the candidate proves that such expenditure was incurred without his knowledge or consent and that he took all reasonable steps to prevent the incurrence of such expenditure.

**Returns by election agents.**

15.(1) Within six weeks after the day on which the candidate or candidates returned at an election is or are declared to be elected, the election agent of every candidate at such election shall make a return containing a full statement under the appropriate head of all expenditure incurred in connection with the election by or on behalf of the candidate supported by vouchers for all payments in excess of £2. Such return shall be accompanied by a declaration made before a justice of the peace.

(2) Every return made under this section shall contain a full statement of all moneys, securities or value received by the election agent from the candidate or from any other person in connection with the election.

(3) Every return under this section shall also be accompanied by a declaration made before a justice of the peace by the candidate stating that –

- (a) the return fully and accurately sets out all payments made by the candidate himself; and

- (b) that to the best of his knowledge, information and belief, the return is a full and accurate return of all expenditure incurred, and of all moneys, securities or value received by the election agent, in connection with the election:

Provided that where a candidate acts as his own agent this paragraph shall not apply.

(4) Where a candidate acts as his own agent the form referred to in subsection (1) shall be modified accordingly.

(5) The returning officer, within ten days after he receives any return under this section, shall publish in a daily newspaper a notice of the time and place at which the return and the documents in support thereof can be inspected.

**Limitation for claims.**

16.(1) Subject to the provisions of subsections (2), (3) and (4) –

- (a) every claim against a candidate or his election agent, in respect of any expenses incurred on account of, or in respect of, the conduct or management of an election which is not sent into the election agent within fourteen days after the day on which the candidates returned are declared elected, shall be barred and shall not be paid; and an election agent who pays a claim which is barred under this section is guilty of an illegal practice; and
- (b) all expenses incurred by or on behalf of a candidate at an election, which are incurred on account of or in respect of the conduct or management of such election, shall be paid within twenty-eight days after the day on which the candidates returned are declared elected and not otherwise, and an election agent who makes a payment in contravention of this provision is guilty of an illegal practice.

(2) If the agent in the case of any claim sent in to him within the time limited by subsection (1) disputes it, or refuses or fails to pay it within the period of twenty-eight days, such claim shall be deemed to be a disputed claim.

(3) The claimant may, if he thinks fit, bring an action for a disputed claim in the court; and any sum paid by the candidate or his agent in pursuance of the judgment or order of the court shall be deemed to be paid within the time limited by subsection (1).

(4) On cause shown to the satisfaction of the Chief Justice in chambers, he, on application by the claimant or by the candidate or by his election agent, may by order give leave for the payment by a candidate or his election agent of a disputed claim, or of a claim for any such expenses as aforesaid, although sent in after the time mentioned in subsection (1) for sending in claims, or although such claim was sent in to the candidate and not to the election agent ; and any sum specified in the order may be paid by the candidate or his election agent, and when paid in pursuance of such order shall be deemed to be paid within the time limited by subsection (1).

*Conduct of Elections.*

**Returning officer.**

17. The returning officer shall be the registration officer.

**Conduct of elections.**

18.(1) The proceedings at elections shall be conducted in accordance with rules made under the provisions of this Act.

(2) No election shall be declared invalid by reason of any act or omission of the returning officer or any other person for breach of official duty in connection with the election or otherwise, of such rules as may be prescribed if it appears to the court that the election was so conducted as to be substantially in accordance with the law as to elections and the act or omission did not affect the result.

**Entitlement to vote.**

19. No person shall be entitled to vote at any election unless his name is on the register of electors; and every person whose name is on such register shall be entitled to demand and receive a ballot paper and vote at any such election unless that person has not acquired voting rights by virtue of the second proviso to section 3(1):

Provided that nothing in this section shall entitle any person to vote who is prohibited from voting by any enactment, or relieve such person from any penalty to which he may be liable for voting.

**Issue of writ.**

20.(1) For the purpose of every general election of members to the Parliament, and for the purpose of every election to supply a vacancy arising otherwise than by reason of the dissolution of the Parliament, the Governor

shall issue a writ, under the Public Seal of Gibraltar, directed to the returning officer, directing him to cause election to be made according to law, of such number of members as are specified in the writ, to serve in the Parliament.

(2) Every such writ shall also specify the day of election which shall not be less than thirty days after the day on which the writ is received by the returning officer.

(3) Upon receipt of such writ the returning officer shall endorse thereon and sign the date of the receipt thereof.

(4) The return of members elected to serve in the Parliament shall be made by a certificate of the names of such members under the hand of the returning officer endorsed on the writ and the returning officer shall deliver the writ with such certificate endorsed to the Governor.

(5) The execution of the writ shall belong to the returning officer as such and the writ shall be directed to him by the title of his office as returning officer, and that office shall be a distinct office from that, if any, by virtue of which he becomes returning officer.

(6) Where a person enters any office by virtue of which he becomes returning officer it shall belong to him and not to the outgoing holder of that office to complete the execution of any writ for an election previously issued and not yet returned.

## **General, partial and void elections.**

21.(1) If at any election the number of candidates who have been validly nominated, and who do not withdraw their candidature, exceeds the number of members to be elected the members shall be elected from among the persons nominated.

(2) If at any election the number of candidates who have been validly nominated is equal to or is, by the withdrawal of any candidate, reduced to the number equal to the number of vacancies, the returning officer shall give notice that no poll will be taken and that the candidates so nominated are declared to be elected.

(3) If at any election the number of candidates who have been validly nominated is less than or is, by the withdrawal of any candidate, reduced to a number less than the number of vacancies, the returning officer shall give notice that the candidates so nominated are declared elected and the Governor may order a new election to fill the remaining vacancy or vacancies to be held on a day appointed by him.

(4) If any election becomes void the Governor shall order a new election to be held on a day to be appointed by him.

(5) Where a new election is ordered under this section the election shall be conducted in the same manner as is directed by this Act for the conduct of the election in the place of which the new election is ordered.

#### **Method of voting.**

22. At a contested election for members of the Parliament each elector may vote for as many candidates as there are vacancies to be filled unless there are more vacancies than ten, in which case each elector may vote for not more than ten candidates.

#### **Equality of votes.**

22A.(1) Where the counting of votes (including any recount) has been completed and an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, a new poll shall be conducted as between those candidates on the day 21 days after the date of that election.

(2) Where a poll is conducted pursuant to subsection (1) the Elections Rules shall apply to that poll save that the returning officer may abridge the time for the taking of any act required under those rules where this is required to enable the poll to be undertaken on the day specified in subsection (1).

(3) If any number of such candidates is withdrawn so that only one of them remains, that remaining candidate shall be duly elected without the need for such a poll to be taken.

#### **Expenses of elections.**

23. All expenses properly incurred by the returning officer in relation to the holding of elections shall be paid out of the Consolidated Fund.

#### *Miscellaneous.*

#### **Exemption from stamp duty.**

24. Stamp duty shall not be chargeable on any claim, notice, declaration, list, register, nomination paper, ballot paper or other document used in connection with this Act.

**Rules.**

25. (1) The Minister may from time to time make rules for all or any of the following purposes –

- (a) prescribing the forms to be used for the purpose of this Act;
  - (b) prescribing the fees to be paid or charged in respect of any matter or thing to be done in connection with this Act;
  - (c) prescribing the period during which every employer shall permit his employees to be absent from work for the purpose of recording their votes;
  - (d) regulating the procedure for the registration of voters and the conduct of elections; and
  - (e) enabling persons who are entitled to vote as electors but are temporarily outside from Gibraltar to make postal votes in elections;
  - (ea) enabling persons who are entitled to vote as electors but whose temporary absence from Gibraltar is such that they will not be able to cast a postal vote in elections;
  - (eb) enabling persons who are entitled to vote at an election who, after the registration as an absentee voter closes, are informed that on election day they will be an in-patient at a hospital;
  - (ec) enabling persons wishing to vote by proxy to do so and prescribing the procedure and forms to enable them to appoint a proxy; and
  - (f) generally for carrying into effect the provisions of this Act.
- (2) Any rules made shall be laid upon the table of the Parliament.

**PART III.**  
ELECTION OFFENCES.

*Illegal practices.*

**Providing of money for illegal practice.**

26. A person who knowingly provides money for any payment which is contrary to the provisions of this Act, or for any expenses incurred in excess

of any maximum amount allowed by this Act, or for replacing any money expended in any such payment or expenses except where such payment or expenses may have been previously allowed in pursuance of this Act to be an exception, is guilty of illegal payment.

**Corruptly inducing withdrawal.**

27. A person who corruptly induces or procures any other person to withdraw from being a candidate at an election in consideration of any payment or promise of payment is guilty of illegal payment, and any person withdrawing, in pursuance of such inducement or procurement, is also guilty of illegal payment.

**Restrictions on premises to be used as committee room.**

28.

- (a) Any premises on which the sale by wholesale or retail of any intoxicating liquor is authorized by a licence (whether the licence be for consumption on or off the premises);
- (b) any premises where any intoxicating liquor is sold or is supplied to members of a club, society or association other than a permanent political club; or
- (c) the premises of any school or any part of such premises,

shall not be used as a committee room for the purpose of promoting or procuring the election of a candidate at an election, and any person who hires or uses any such premises or any part thereof as a committee room for such a purpose as aforesaid, is guilty of illegal hiring and the person letting such premises or part thereof, if he knew that it was intended to use such premises or part thereof as a committee room for such a purpose as aforesaid, is also guilty of illegal hiring:

Provided that nothing in this section—

- (i) shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor is sold or supplied as aforesaid;
- (ii) shall preclude a candidate, for the purpose of holding a public meeting in furtherance of his candidature, from using at reasonable times a suitable room in any school,



---

This version is out of date

subject to the consent of the headmaster of such school having previously been obtained.

**Illegal employment.**

29. No person shall, for the purpose of promoting or procuring the election of a candidate at any election, be engaged or employed for payment or promise of payment as a canvasser. If any person is engaged or employed in contravention of this section, either before, during, or after an election, the person engaging or employing him, is guilty of illegal employment and the person so engaged or employed is also guilty of illegal employment.

**Penalties for offences against sections 26-29.**

30.(1) A candidate, or any election agent of a candidate who personally commits the offence of illegal payment, hiring or employment is guilty of an illegal practice.

(2) Any other person who commits the offence of illegal payment, hiring or employment is liable on summary conviction to a fine of £100.

**Payments made otherwise than through election agents.**

31. A person who makes any payment, advance or deposit in contravention of section 13(3) is guilty of an illegal practice.

**Exceeding limit on expenditure.**

32. Where any expenditure is incurred in contravention of the provisions of section 14 the person by whom such expenditure was incurred, and the candidate in connection with whose candidature it was incurred, shall be deemed to be guilty of an illegal practice:

Provided that no candidate shall be deemed to be guilty of an illegal practice by reason of any other person having incurred any expenditure in connection with the candidature of the candidate in contravention of the provisions of section 14 if the candidate proves that such expenditure was incurred without his knowledge or consent and that he took all reasonable steps to prevent the incurrence of such expenditure.

**Agent failing to make return.**

33. A candidate or election agent who, without such authorized excuse as is in this Act mentioned, fails to comply with the requirements of section 15 is guilty of an illegal practice.

**Voting by prohibited persons and publishing of false statements.**

34. A person who—

- (a) votes, or induces or procures any person to vote, at any election, knowing that he or such other person is prohibited by this Act, or by any other enactment, from voting at such election; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate,

is guilty of an illegal practice;

Provided that a candidate is not liable, nor shall his election be avoided, for any illegal practice under this section committed by his agent other than his election agent.

**Posters to bear names of printers and publishers.**

35.(1) Every bill, placard, or poster having reference to an election shall bear upon the face thereof the name and address of the printer and publisher thereof; and a person who prints, publishes, posts or knowingly causes to be printed, published or posted, any such bill, placard or poster, which fails to bear upon the face thereof the name and address of the printer and publisher, is, if he be the candidate or the election agent of the candidate be guilty of an illegal practice, and any such person, if he be not the candidate or the election agent of the candidate, is liable, on summary conviction, to a fine of £100.

(2) Subsection (1) shall apply to every printed document distributed for the purpose of promoting or procuring the election of a candidate as it applies to bills, placards and posters but with the substitution of references to distributing for references to posting.

(3) For the purposes of this section any process of multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression “printer” shall be construed accordingly.

**Penalty for and incapacity following illegal practices.**

36. A person who is convicted of any offence declared to be an illegal practice under this Act is liable, on summary conviction to a fine of £100,

---

This version is out of date

and shall, in addition, be incapable during a period of five years from the date of his conviction of –

- (a) being registered as an elector or of voting at an election; or
- (b) being elected at an election or, if elected before conviction, of retaining his seat.

**Relief for innocent acts.**

37. Where, on application made, it is shown to the court by such evidence as seems to the court sufficient –

- (a) that any act or omission of a candidate at any election, or of any agent or other person, would, by reason of being in contravention of any of the provisions of this Act, be but for this section an illegal practice, payment, employment or hiring; and
- (b) that such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of the like nature, and in any case did not arise from any want of good faith; and
- (c) that such notice of the application has been given as to the court seems fit,

and under the circumstances it seems to the court to be just that such candidate, agent and person, or any of them, should not be subject to any of the consequences under this Act of the act or omission, the court may make an order allowing such act or omission to be an exception from the provisions of this Act which would otherwise make the same an illegal practice, payment, employment or hiring, and thereupon such candidate, agent or person shall not be subject to any of the consequences under this Act of the act or omission.

*Corrupt practices .*

**Definition of and penalty for corrupt practices.**

38. (1) The expression “corrupt practice” in this Act means any of the following offences, namely, bribery, treating, undue influence, and personation as defined by this Act and aiding, abetting, counselling and procuring the offence of personation.

(2) A person who commits any corrupt practice other than personation or aiding, abetting, counselling or procuring the offence of personation is liable, on summary conviction to imprisonment for six months and to a fine of £100.

(3) A person who commits the offence of personation or of aiding, abetting, counselling or procuring the commission of that offence is liable, on conviction, to imprisonment for two years and to a fine of £200:

Provided that a person charged with personation shall not be summarily convicted by virtue of this section or committed for trial, except on the evidence of not less than two credible witnesses.

(4) A person who is convicted of any corrupt practice shall (in addition to any punishment as above provided) be incapable during a period of seven years from the date of his conviction—

- (a) of being registered as an elector or of voting at an election; or
- (b) of being elected at an election or, if elected before conviction, of retaining his seat.

#### **False declarations.**

39. A candidate or election agent who knowingly makes the declaration required by section 15 falsely is guilty of a corrupt practice.

#### **Meaning of bribery.**

40. The following persons shall be deemed guilty of bribery within the meaning of this Act –

- (a) any 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 elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce any elector to vote for or refrain from voting, or corruptly does any such act on account of such elector having voted or refrained from voting at any election;
- (b) any person who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure any office, place, or employment to or for

This version is out of date

- any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at any election;
- (c) any person who directly or indirectly by himself or by any other person on his behalf, makes any such 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 election of any person or the vote of any elector at any election;
  - (d) any 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 election of any person or the vote of any elector at any election;
  - (e) any 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 such money, or any part thereof, 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 any election;
  - (f) any elector 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 person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at any election; and
  - (g) any 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 any election.

**Meaning of treating.**

41. The following persons shall be deemed guilty of treating within the meaning of this Act –

- (a) any person who corruptly by himself or by any other person, either 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 refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting or being about to vote or refrain from voting at such election; and

- (b) any elector who corruptly accepts or takes any such food, drink, entertainment, or provision.

**Meaning of undue influence.**

42. A 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, or in any other manner practices intimidation upon or against any person, in order to induce or compel such person to vote or, refrain from voting, or on account of such 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 elector, or thereby compels, induces, or prevails upon any elector either to give or refrain from giving his vote at any election, is guilty of undue influence within the meaning of this Act.

**Meaning of personation.**

43. A person who at an election 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 who, 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.

**Persons charged with corrupt practice may be convicted of illegal practice.**

44. A person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice (which offence shall for that purpose be an indictable offence) and any person charged with an illegal practice may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt practice, and a person charged with illegal payment, employment or hiring may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

*Other offences*

**Molestation.**

45.(1) The returning officer may, by means of a red line marked on the ground, cause to be demarcated an area in the vicinity of any polling station, and it shall not be permitted during the hours of poll to solicit voters who are in such an area or to distribute leaflets or other papers to them or to accost them with a view to such solicitation or distribution or otherwise to molest them.

(2) A person who, during the hours of poll whilst a voter is in an area demarcated in pursuance of subsection (1), solicits him or distributes leaflets or other papers to him or accosts him with a view to such a solicitation or distribution or otherwise molests him is guilty of an offence and is liable on summary conviction to a fine of £100.

**Destroying or defacing posters.**

46. A person who prior to the declaration of results of the poll wilfully destroys, defaces, tears, adds to, alters, wholly or partly obliterates or otherwise mutilates or renders illegible a bill, placard or poster having reference to an election is guilty of an offence and is liable on summary conviction, to a fine of £100.

**Offences in respect of ballot papers and ballot boxes.**

47.(1) A person who –

- (a) forges or counterfeits or fraudulently defaces or destroys any nomination paper or any ballot paper or the official mark on 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; or
- (e) without due authority destroys, takes, opens, or otherwise interferes with, any ballot box or packet of ballot papers then in use for the purposes of any election,

is guilty of an offence, and is liable, on conviction, if he be the returning or presiding officer, or clerk employed at a polling station, to imprisonment for

one year and to a fine of £200, and, if he is any other person, to imprisonment for six months and to a fine of £100.

(2) Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

(3) 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 such ballot boxes, ballot papers or things, may be stated to be vested in the returning officer at such election.

**Infringement of secrecy.**

48.(1) Every person in attendance at a polling station shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorized by law, communicate to any person before the poll is closed any information as to—

- (a) the name or number on the register of any elector who has or has not applied for a ballot paper or voted at a polling station; or
- (b) the official mark.

(2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of votes the number on the back of any ballot paper; or
- (b) communicate any information obtained at the counting of the votes as to the candidates for whom any votes are given on any particular ballot paper.

(3) No person whatsoever shall—

- (a) interfere or attempt to interfere with a voter when recording his vote or with a proxy voter when recording the absent voters' vote;
- (b) obtain or attempt to obtain in a polling station information as to the candidates for whom a voter or proxy voter in that station is about to vote or has voted;
- (c) communicate at any time to any person any information obtained in a polling station as to the candidates for whom a



This version is out of date

voter or proxy voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter or proxy voter at that station; or

- (d) directly or indirectly induce a voter or proxy voter to display their ballot paper after they have marked it so as to make known to any person the name or names of the candidate or candidates for whom the voter has voted.

(4) No person having undertaken to assist a blind voter, or a person appointed as the proxy of a voter, or a person making a postal vote, under rules made pursuant to section 25, shall communicate at any time to any person any information as to the candidate or candidates for whom that voter or proxy as the case may be intends to vote or has voted, or as to the number on the back of the ballot paper given for the use of that voter or proxy.

(5) A person who acts in contravention of this section is guilty of an offence and is liable on summary conviction to imprisonment for six months and to a fine of £100.

#### **Breaches of Official duty.**

49. (1) A person to whom this section applies, or who is for the time being under a duty to discharge any of the functions of such person, who is, without reasonable cause, guilty of any act or omission in breach of his official duty is, subject to subsection (4), liable on summary conviction to imprisonment for six months and to a fine of £100.

(2) No person to whom this section applies is liable for breach of his official duties to any penalty at common law or under any enactment except as provided by this section, nor shall any action for damages lie in respect of the breach by any such person of his official duty.

(3) The persons to whom this section applies are any registration officer, returning officer, presiding officer or clerk or assistant employed by such an officer in connection with his official duties; and the expression “official duty” shall for the purposes of this section be construed accordingly but shall not include duties imposed otherwise than by the law relating to elections or the registration of electors.

(4) Nothing in this section shall affect any person’s criminal liability under section 48.

*Miscellaneous.*

#### **Limitation.**

50.(1) A proceeding against a person in respect of the offence of a corrupt or illegal practice or any other offence under this Act shall be commenced within one year after the offence was committed, or if it was committed in reference to an election in respect to which an election petition is presented shall be commenced within one year after the offence was committed or within three months after the determination of such election petition, whichever period last expires, so that it be commenced within two years after the offence was committed, and the time so limited by this section shall, in the case of any proceeding under the Criminal Procedure Act for any such offence, be substituted for any limitation of time contained in the last mentioned Act.

(2) For the purposes of this section the issue of a summons, warrant, writ, or other process shall be deemed to be a commencement of a proceeding where the service or execution of the same on or against the alleged offender is prevented by the absconding or concealment or act of the alleged offender, but save as aforesaid the service or execution of the same on or against the alleged offender, and not the issue thereof, shall be deemed to be the commencement of the proceeding.

#### **Duties of Attorney-General.**

51. Where information is given to the Attorney-General that any corrupt or illegal practice has occurred in reference to any election, it shall be his duty to make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require.

#### **Removal of incapacity.**

52. Where a person has become subject to any incapacity under this Act by reason of a conviction and any witness who gave evidence against such incapacitated person upon the proceeding for such conviction is convicted of perjury in respect of that evidence, the incapacitated person may apply to the court, and the court, if satisfied that the conviction so far as respects such person was based upon perjury, may order that such incapacity shall thenceforth cease and the same shall cease accordingly.

### **PART IV.**

#### **ELECTION PETITIONS**

#### **Grounds for petitioning.**

53. (1) An election may be questioned by a petition (hereinafter referred to as an “election petition”) on the ground—

---

This version is out of date

- (a) that offences under this Act committed in reference to the election for the purpose of promoting or procuring the election of a person thereat have so extensively prevailed that they may reasonably be supposed to have affected the result;
- (b) that the election was avoided by corrupt practices or offences against this Act committed at the election;
- (c) that the person whose election is questioned was at the time of the election disqualified; or
- (d) that he was not duly elected in accordance with the provisions of this Act.

(2) An election shall not be questioned on any of these grounds except by an election petition.

#### **Application of English law.**

54.(1) Every election petition shall be heard by the court and, subject to the provisions of this Act and any rules of court made under the powers conferred by this section, every election petition shall, as nearly as circumstances admit, be presented, heard and determined according to the law for the time being in force in England with respect to election petitions.

(2) Rules for the regulation of the practice, procedure and costs of election petitions and the trial thereof may be made in the like manner as rules made under and for the purpose of the Supreme Court Act.

#### **Who may petition.**

55.(1) An election petition may be presented either by four or more persons who voted or had a right to vote at the election or by a person alleging himself to have been a candidate at the election.

(2) Any person whose election is questioned by the petition, and any returning officer of whose conduct a petition complains, may be made respondent to such petition.

(3) The petition shall be signed by the petitioner or all the petitioners if more than one.

(4) Subject to any other provisions of this section an election petition shall be presented within twenty-one days after the day on which the result of the election has been declared.

(5) An election petition complaining of the election on the grounds of any corrupt or illegal practice and specifically alleging that a payment of money or other reward has been made or promised since the election by a person elected at the election, or on his account or with his privity, in pursuance or in furtherance of such corrupt or illegal practice may be presented at any time within twenty-eight days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.

(6) An election petition complaining of the election on the ground of an illegal practice may be presented at any time before the expiration of fourteen days after the day on which the returning officer receives the return and declaration respecting election expenses by the candidate to whose election the petition relates:

Provided that this subsection shall apply notwithstanding that the illegal practice is also a corrupt practice.

#### **Security for costs.**

56.(1) At the time of presenting an election petition or within three days thereafter, the petitioner shall give security for all costs, charges and expenses which may become payable by him to any witness summoned on his behalf, or to any respondent.

(2) The security shall be to such amount, not exceeding £100, as the Chief Justice may direct and shall be given either by a deposit of money into court or by recognizance entered into before the Registrar of the Supreme Court by not more than four sureties, or partly in one way and partly in the other.

(3) If no security is so given no further proceedings shall be had on the petition.

#### **Trial of petitions.**

57.(1) An election petition shall be heard in open court.

(2) At the conclusion of the trial the court shall determine whether the person whose election is complained of, or any and if so, what other person was duly elected, or whether the election was void and such determination shall be final to all intents as to the matters at issue on the petition.

(3) On the trial of a petition, unless the court otherwise directs, any charge of a corrupt practice or offence against this Act may be enquired into and evidence in relation thereto received before any proof has been given of

This version is out of date

agency on behalf of any candidate in respect of the corrupt practice or offence.

(4) On the trial of a petition complaining of an undue election and claiming the seat for some other person, the respondent may give evidence to prove that that person was not duly elected in the same manner as if he had presented a petition against the election of such person.

(5) The trial of a petition shall be proceeded with notwithstanding that the respondent has ceased to hold the seat his election to which is questioned by the petition.

(6) On every trial of an election petition the Attorney-General shall by himself or by his representative attend at the trial and it shall be his duty to obey any directions given to him by the court with respect to the summoning and examination of any witness to give evidence on such trial and with respect to the prosecution by him of offenders.

(7) It shall also be the duty of the Attorney-General, without any direction from the court, if it appears to him that any person is able to give material evidence as to the subject of the trial, to cause such person to attend the trial and with the leave of the court to examine such person as a witness.

(8) It shall also be the duty of the Attorney-General without any direction from the court, if he thinks it expedient in the interests of justice so to do, to prosecute any person who appears to him to have been guilty of a corrupt or illegal practice at an election.

### **Withdrawal of election petition.**

58.(1) A petitioner shall not withdraw an election petition without the leave of the court.

(2) Before leave for the withdrawal of an election petition is granted there shall be produced affidavits by all the parties to the petition and their solicitors, but the court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds to be just so to do.

(3) Each affidavit shall state that to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made and no undertaking has been entered into, in relation to the withdrawal of the petition; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement and shall make the foregoing statement subject to what appears from the affidavit.

(4) The affidavits of the applicant and his solicitor shall further state the ground on which the petition is sought to be withdrawn.

(5) A person who makes any agreement or terms, or enters into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms or undertaking is or are for the withdrawal of the election petition in consideration of any payment, or in consideration that the seat shall at any time be vacated, or in consideration of the withdrawal of any other election petition, or is or are (whether lawful or unlawful) not mentioned in the affidavits is guilty of an offence and is liable on summary conviction to imprisonment for twelve months and to a fine of £200.

(6) Copies of the affidavits shall be delivered to the Attorney-General a reasonable time before the application for the withdrawal is heard and the court may hear the Attorney-General or his representative in opposition to the allowance of the withdrawal of the petition and shall have power to receive the evidence on oath of any person or persons whose evidence the Attorney-General or his representative may consider material.

(7) On the hearing of the application any person who might have been a petitioner in respect of the election may apply to the court to be substituted as a petitioner, and the court may, if it thinks fit, substitute him accordingly.

(8) If the proposed withdrawal is in the opinion of the court—

- (a) the result of any agreement, terms or undertaking prohibited by this section; or
- (b) induced by any corrupt bargain or consideration, the court may by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in the security, the original petitioner and his sureties be liable to pay the costs of the substituted petitioner.

(9) If the court does not so direct, then security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition and within the prescribed time after the order of substitution.

(10) Subject as aforesaid, a substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities as the original petitioner.

This version is out of date

(11) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

**Exoneration of candidate where agent guilty of offence.**

59. Where upon the trial of an election petition, the court finds that a candidate at such election has been guilty by his agents of the offence of treating, undue influence or illegal practice in reference to such election, and the candidate proves to the court –

- (a) that no corrupt or illegal practice was committed at such election by the candidate or with his knowledge or consent, and the offences committed were committed without the sanction or connivance of such candidate;
- (b) that all reasonable means for preventing the commission of corrupt and illegal practices were taken by and on behalf of the candidate;
- (c) that the offences committed were of a trivial, unimportant and limited character; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agent,

then the election of such candidate shall not, by reason of the offences found to have been committed, be void, nor shall the candidate be subject to any incapacity under this Act.

**No obligation on voter to disclose vote.**

60. No person who has voted at an election shall, in any legal proceeding for the purpose of questioning the validity of the election or return, be required to state for whom he has voted.

**PART V.**

**POWERS AND PRIVILEGES OF THE PARLIAMENT.**

*Privileges.*

**Freedom of speech and debate.**

61. There shall be freedom of speech and debate in the Parliament. Such freedom of speech and debate shall not be liable to be questioned in any court or place outside the Parliament.

**Immunity from legal proceedings.**

62. No civil or criminal proceedings may be instituted against any member for words spoken before, or written in a report to, the Parliament or to a committee thereof or by reason of any matter or thing brought by him therein by petition, Bill, resolution, motion or otherwise.

**Power to exclude strangers.**

63.(1) No stranger shall be entitled, as of right, to enter or remain within the precincts of the Parliament Chamber and the Speaker or any officer authorized in that behalf by the Speaker may at any time order any stranger to withdraw therefrom.

(2) The Speaker may issue such orders as he may in his discretion deem necessary or desirable for the regulation of the admittance of strangers to, and the conduct of strangers within the precincts of the Parliament Chamber.

(3) The exhibition in a conspicuous position in the precincts of the Parliament Chamber of a copy, duly authenticated by the Clerk, of any orders made by the Speaker under this section shall be deemed to be sufficient notice to all persons affected thereby.

**No evidence of proceedings to be given without leave.**

64.(1) No member or officer and no person employed to take or transcribe minutes of evidence before the Parliament or any committee shall give evidence elsewhere respecting the contents of such minutes of evidence or of the contents of any document laid before the Parliament or committee, as the case may be, or respecting any proceedings or examination held before the Parliament or committee, as the case may be, without the special leave of the Parliament first had and obtained.

(2) The special leave referred to in subsection (1) may be given during a recess or adjournment by the Speaker.

**Immunity from process within the precincts.**

65. Notwithstanding anything to the contrary, no process issued by any court in Gibraltar or outside Gibraltar in exercise of its civil jurisdiction shall be served or executed within the precincts of the Parliament Chamber while the Parliament or a committee is sitting or through the Speaker or any officer of the Parliament, nor shall any member be arrested on civil process, save by leave of the Speaker first obtained, while he is within the precincts of the Parliament Chamber and while the Parliament or a committee is sitting.



*Procuring of evidence.*

**Power to order attendance of witness.**

66.(1) The Parliament or any standing committee may, subject to the provisions of sections 69, 70 and 72, order any person to attend before the Parliament or before such committee and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

(2) The powers conferred by subsection (1) on a standing committee may be exercised by any other committee which is specially authorized by the Parliament to exercise such powers.

**Issue of summons.**

67. (1) Any order to attend to give evidence or to produce documents before the Parliament or an authorized committee shall be notified to the person required to attend or to produce documents by a summons under the hand of the clerk issued by the direction of the Speaker.

(2) In every summons under subsection (1) there shall be stated the time when and the place where the person summoned is required to attend and the particular documents which he is required to produce. The summons shall be served on the person mentioned therein by delivering to him a copy thereof or by leaving a copy thereof at his usual or last known place of abode in Gibraltar with some adult person; and there shall be paid or tendered to the person so summoned, such sum for his expenses as may be specified by standing order.

(3) A summons under this section may be served by an officer or by a police officer.

**Examination on oath.**

68.(1) The Parliament or any authorized committee may require that any facts, matters and things relating to the subject of inquiry before the Parliament or such committee be verified or otherwise ascertained by the oral examination of witnesses, and may cause any such witnesses to be examined upon oath.

(2) An oath required to be taken under the provisions of this section may be administered by the Clerk or by any other person appointed by the Parliament for that purpose, or, in the case of a witness before a committee,

by the chairman of the committee or by the member presiding in the absence of the chairman, or by the clerk to the committee.

**Objections to answering questions or producing papers.**

69.(1) Where any person ordered to attend to give evidence or to produce any paper, book, record or document before the Parliament refuses to answer any question that may be put to him or to produce any such paper, book, record or document on the ground that the same is of a private nature and does not affect the subject of inquiry, the Speaker may excuse the answering of such question or the production of such paper, book, record or document, or may order the answering or production thereof.

(2) Where a person ordered to attend to give evidence or to produce any paper, book, record or document before any authorized committee refuses to answer any question that may be put to him or to produce any such paper, book, record or document on the ground that the same is of a private nature and does not affect the subject of inquiry, the chairman of the committee may report such refusal to the Speaker with the reasons therefor; and the Speaker may thereupon excuse the answering of such question or the production of such paper, book, record or document or may order the answering or production thereof.

**Privileges of witnesses.**

70. (1) Every person summoned to attend to give evidence or to produce any paper, book, record or document before the Parliament or an authorized committee shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document, to the same rights and privileges as before a court of law.

(2) Except with the general or special consent of the Governor, no public officer shall –

- (a) produce before the Parliament or a committee any paper, book, record or document; or
- (b) give before the Parliament or a committee evidence on any matter,

which relates to the correspondence of any naval, military, air force or civil department or to any matter affecting the public service. Secondary evidence shall not be received by or produced before the Parliament or a committee of the contents of any such paper, book, record or document.

**Issue of certificates to protect witnesses.**

71.(1) Every witness before the Parliament or an authorized committee who shall answer fully and faithfully any questions put to him by the Parliament or such committee to its satisfaction shall be entitled to receive a certificate stating that such witness was upon his examination so required to answer and did answer any such questions.

(2) Every certificate under subsection (1) shall, in the case of a witness before the Parliament, be under the hand of the Speaker, and in the case of a witness before a committee, be under the hand of the chairman thereof.

(3) On production of such certificate to any court of law such court shall stay any proceedings, civil or criminal, except for a charge under section 244 of the Criminal Offences Act<sup>1</sup>, against such witness for any act or thing done by him before the time and revealed by the evidence of such witness, and may, in its discretion, award to such witness the expenses to which he may have been put.

#### **Usage of Parliament.**

72. Where at any time any question arises in the Parliament or in a committee regarding –

- (a) the right or power of the Parliament or committee to hear, admit or receive oral evidence; or
- (b) the right or power of the Parliament or committee to peruse or examine any paper, book, record or document or to summon, direct or call upon any persons to produce any paper, book, record or document before the Parliament or committee; or
- (c) the right or privilege of any person (including a member of the Parliament or committee) to refuse to produce any paper, book, record or document or to lay any paper, book, record or document before the Parliament or committee,

that question shall, subject to the preceding provisions of this Act, and except in so far as express provision is made in those provisions for the determination of that question, be determined in accordance with the usage and practice of the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland.

*Offences.*

---

<sup>1</sup> 1960-17

**False evidence.**

73. A person who before the Parliament or any authorized committee intentionally gives a false answer to any question material to the subject of inquiry which may be put to him during the course of any examination is guilty of an offence against section 244 of the Criminal Offences Act<sup>1</sup>.

**False documents.**

74. A person who presents to the Parliament or to any committee any false, untrue, fabricated or falsified document with intent to deceive the Parliament, where such presentation does not constitute an offence under section 73, is, liable on summary conviction to imprisonment for six months and to a fine of £100.

**Interference with witnesses.**

75. A person who –

- (a) tampers with, deters, threatens, molests, beguiles or in any way unduly influences any witness in regard to any evidence to be given by him before the Parliament or any committee; or
- (b) threatens, molests or in any way punishes, damnifies or injures or attempts to punish, damnify or injure any person for having given evidence before the Parliament or any committee or on account of any evidence which he has given before the Parliament or any committee,

is guilty of an offence and is liable on conviction to imprisonment for twelve months and to a fine of £500.

**Corrupt and improper practices.**

76.(1) A person who offers to any member or officer or to any person who is an employer, a partner or in the service of any member, either directly or indirectly, any bribe, fee, compensation, gift or reward in order to influence such member or officer in his conduct as such member or officer or for or in respect of the promotion of or opposition to any Bill, resolution, matter, rule or thing submitted to, or intended to be submitted to, the Parliament, is guilty of an offence.

(2) A member or officer or any person who is an employer, a partner or in the service of any member who demands, accepts or receives, directly or indirectly, any bribe, fee, compensation, gift or reward the offering of which is or would be an offence under this section is likewise guilty of an offence.

(3) A person who commits an offence against this section is liable on conviction to imprisonment for three years and to a fine of £500.

(4) In any proceedings against any person for an offence against this section, the court may, if it finds the offence proved –

- (a) order that the value or the amount of any bribe, fee, compensation, gift or reward offered or accepted or received in contravention of this section shall be forfeit; or
- (b) order that the amount or the value of any bribe, fee, compensation, gift or reward accepted or received in contravention of this section shall be repaid by the person accepting or receiving the same, or by the person on whose behalf the same was accepted or received, to the person from whom it was accepted or received, or to the person on whose behalf such latter person was acting.

## **Contempt.**

77. A person who–

- (a) having been called upon to give evidence before the Parliament or an authorized committee thereof refuses to be sworn or make an affirmation; or
- (b) being a witness misconducts himself; or
- (c) causes an obstruction or disturbance within the precincts of the Parliament Chamber during a sitting of the Parliament or of a committee thereof; or
- (d) shows disrespect in speech or manner towards the Speaker or person presiding; or
- (e) commits any other act of intentional disrespect to or with reference to the proceedings of the Parliament or of a committee of the Parliament or to any person presiding at such proceedings,

is guilty of an offence.

## **Disobedience.**

78. A person who wilfully and without lawful cause fails to comply with, or contravenes, any order made under section 63 or section 66, or who wilfully fails to obey any other order of the Parliament whereby the Parliament is obstructed in the performance of its functions is guilty of an offence;

Provided that no offence is committed under this section unless the Speaker or an officer has drawn to the attention of the person concerned the fact that such failure or contravention is contrary to such order, and the person thereafter continues in such failure or contravention.

**Breaches of confidence, etc.**

79. A person who—

- (a) publishes, save by the general or special leave of the Parliament, a report of any proceedings of the Parliament or any committee when such proceedings have not been held in public; or
- (b) publishes any false or scandalous libel on the Parliament or any report which wilfully misrepresents in any way any proceedings of the Parliament or any committee; or
- (c) publishes, save by the general or special leave of the Parliament, any paper, report or other document prepared expressly for submission to the Parliament before the same has been laid on the Table of the Parliament; or
- (d) prints or causes to be printed a copy of any Act now or hereafter in force or a copy of any report, paper or journals of the Parliament as purporting to have been printed by the Government Printers, or by or under the authority of the Parliament, or of the Speaker, and the same is not so printed; or
- (e) tenders in evidence any such copy as purporting to be so printed knowing the same was not so printed, is guilty of an offence and is liable, on conviction, to imprisonment for twelve months and to a fine of £250.

**Assaulting, etc., members and officers.**

80. A person who –

- (a) assaults, obstructs or insults any member or officer going to or from the precincts of the Parliament Chamber; or

This version is out of date

- (b) endeavours to compel either directly or indirectly any member by force, insult or menace to declare himself in favour of or against, any Bill, resolution, matter, rule or thing submitted to, or intended to be submitted to, the Parliament; or
- (c) assaults, interferes with, resists or obstructs any officer while in the execution of his duty as such officer; or
- (d) sends to any member any threatening letter, or challenges any member to a fight, on account of his conduct as such member; or
- (e) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Parliament while it is sitting; or
- (f) publishes or prints any libel on any member concerning his character or conduct as a member and with regard to actions performed or words uttered by him in the course of the transaction of the business of the Parliament,

is guilty of an offence.

## **Penalties.**

81. For every offence under this Part for which no other penalty is specially provided the offender is liable on summary conviction to imprisonment for three months and to a fine of £50.

## **Sanction of Attorney-General.**

82. No prosecution shall be instituted for an offence under this Part, other than an offence under paragraph (c) of section 77 or paragraph (a), (c) or (e) of section 80, except by the Attorney-General upon information given to him in writing by the Speaker.

## **Powers of the Parliament in cases of contempt.**

83.(1) Where any member commits any contempt of the Parliament whether specified in section 77 or otherwise, the Parliament may, by resolution, either direct the Speaker to reprimand such member or suspend him from the service of the Parliament for such period as it may determine:

Provided that such period shall not extend beyond the last day of the meeting next following that in which the resolution is passed, or of the session in which the resolution is passed, whichever shall first occur.

(2) No salary or allowance payable to a member of the Parliament for his service as such shall be paid in respect of any period during which he is suspended from the service of the Parliament under the provisions of this section.

(3) If any person not being a member commits a contempt whether specified in section 77 or otherwise, the Parliament may, by resolution, direct that the Speaker shall order such person to appear before the Parliament and that he shall, upon such attendance, reprimand him at the Bar of the Parliament.

*Miscellaneous.*

**Commons journals as evidence.**

84. Subject to the provisions of this Act, a copy of the journals of the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland printed or purporting to be printed by the order or by the printer of such Commons House shall be received as prima facie evidence without proof of its being such copy upon any inquiry touching the privileges, immunities and powers of the Parliament or of any member thereof.

**Journals, etc., of the Parliament as evidence.**

85. Upon any inquiry touching the privileges, immunities and powers of the Parliament or of any member, any copy of the journals, reports or Standing Orders of the Parliament printed or purporting to be printed by the Government Printers, or any copy of the journals, reports or Standing Orders duly authenticated as such under the hand of the clerk, shall be admitted as evidence of such journals, reports or Standing Orders in all courts and places without any further proof being given.

**Absence of the Speaker.**

86. The powers and privileges vested in the Speaker by this Act shall, in the absence of the Speaker for a reason other than a reason mentioned in section 26(5) of the Constitution, be vested during a sitting of the Parliament in the person appointed by the Parliament to preside at that sitting of the Parliament (and any such person may be a member of the Parliament).

**Suspension of members.**

87. A member who has been suspended from the service of the Parliament shall not enter or remain within the precincts of the Parliament Chamber



whilst such suspension remains in force, and if any member is found within the precincts of the Parliament Chamber in contravention of this section, he may be forcibly removed therefrom by any officer of the Parliament and no proceedings shall lie against such officer in respect of such removal.

### **Powers supplementary.**

88. The powers of the Parliament and the Speaker under this Act shall be supplementary to any powers conferred by the Gibraltar Constitution Order 2006 or any Order in Council amending or replacing it or by Standing Orders.

### **Exclusion of court's jurisdiction.**

89. Neither the Parliament, the Speaker nor any officer shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in the Parliament the Speaker or such officer by or under this Part.

## **PART VI. PENSIONS.**

### **Application.**

89A. This Part does not apply to a person who, after 20 October 2015, has become an elected member for the first time.

### **Alternative pension scheme.**

89B. A person who, but for the operation of section 89A would be entitled to a pension under this Part shall be offered, by the Chief Secretary an opportunity to join such pension scheme as may be available to officers in the public service.

### **Interpretation.**

90.(1) In this Part, unless the context otherwise requires—

“allowance”, in relation to an elected member, in respect of any service by him as such, means the amount that he was entitled to receive by way of personal remuneration for service, as Speaker, ordinary elected member, Chief Minister, minister, or Leader of the Opposition; but does not in any case include any allowance by way of payment or reimbursement for his expenses;

“elected member” means the Speaker of the Parliament, an ordinary elected member of the Parliament, the Chief Minister, any minister, or the Leader of the Opposition;

“notional annual allowance”, in relation to any person, means the notional annual allowance of that person as an elected member, computed in accordance with section 93, immediately before the last day on which he ceases for the time being to be an elected member;

“pension” includes a pension that is re-computed under section 95.

- (2) In this Part, references to service as an elected member include—
- (a) service as an elected member at any time before the 20th day of December, 1979; and
  - (b) service as an elected member of the Legislative Council on or after the 1st day of August, 1964—

but do not include service before the 1st day of August, 1964.

(3) For the purposes of this Part, where an elected member vacates his seat in the Parliament by operation of section 29(1)(b) of the Constitution, he shall be deemed to have ceased to be an elected member with the expiration of the last day on which he has previously attended a meeting of the Parliament.

(4) For the purposes of this Part, a person becomes entitled to a pension when he qualifies under section 91(1), notwithstanding that by reason of section 91(2) the pension is not for the time being payable to him.

**Entitlement to pension.**

- 91.(1) Subject to the provisions of this Part, every person who—
- (a) has served as an elected member for a period or periods (whether continuous or not and whether before or after the 20th day of December, 1979) being in the aggregate not less than 90 months; and
  - (b) has served as an elected member in the third or any subsequent Assembly of the Parliament—

shall, on ceasing to be an elected member be entitled to a pension under this Act.

(2) Notwithstanding subsection (1), no pension shall become payable under this Act before the person who is entitled to it has attained the age of 55 years.

**Computation of pension.**

92.(1) Subject to subsection (2), the pension to which a person shall be entitled under this Act shall, in respect of each completed month during which he has served as an elected member be at the rate per annum of  $1/504$  of his notional annual allowance as an elected member.

(2) No pension under this Act shall exceed a rate per annum of  $2/3$  of the notional annual allowance of the person who is entitled to the pension.

**Computation of notional annual allowance.**

93.(1) Subject to subsections (2), (3), and (4), the notional annual allowance of an elected member shall be—

$$\frac{a}{b} \times 12$$

where—

“a” is the sum of all allowances that he has received in respect of his service; and

“b” is the number of completed months that he has served.

(2) For the purposes of subsection (1), before the notional annual allowance of an elected member is computed, the allowances that he has received in respect of his service shall be first converted to the corresponding rates of allowance for such service that are payable immediately before he ceases to be an elected member.

(3) In subsection (1), in any case where a person has served as an elected member for more than 336 completed months—

(a) the factor “a” shall be the greatest sum that he has received in any period of 336 completed months of his service (the allowances actually received being first converted in accordance with subsection (2)); and

(b) the factor “b” shall be 336

(4) So long as any allowance is exempt from the payment of income tax it shall, in being taken into account under this section in the computation of the notional annual allowance, after being converted under this section, be increased by  $33\frac{1}{3}$  per cent.

**Reduced pension and gratuity.**

94.(1) A person may, at his option, exercisable in accordance with subsection (2), be paid in lieu of a pension computed under section 92—

- (a) a reduced pension together with a gratuity equal to twelve and a half times the amount by which such pension is reduced; or
- (b) a gratuity equal to twelve and a half times the amount of such pension.

(2) An option exercisable in accordance with this section—

- (a) shall be exercisable and, if exercised, may be revoked on or before the date on which the person becomes entitled to the pension under this Act or at any time before he begins to receive the pension under this Act; and
- (b) shall be exercised or revoked by notice in writing addressed to the Clerk; and
- (c) shall be deemed to have been exercised or revoked on the day on which such notice is received by the Clerk.

**Effect of re-election.**

95.(1) Where a person who is entitled to a pension under this Act is subsequently re-elected as an elected member, the pension shall cease to be payable to him during the period that he continues to be an elected member.

(2) Where a person to whom subsection (1) applies next ceases again to be an elected member the pension to which he was entitled before his re-election shall be re-computed *ab initio* to take into account the further period of service, and he shall be entitled to the pension as re-computed but in any event being at a rate not less than that which he was entitled before his re-election.

(3) Where, in respect of the pension to which he was entitled before his re-election, a person did not exercise the option referred to in section 94, he may not exercise that option in respect of any re-computation under this section.

(4) Where, in respect of the pension to which he was entitled before his re-election, a person did exercise the option referred to in section 94, he shall be deemed also to have exercised the same option in respect of the period of his service after his re-election and before he next ceases to be an elected member.

(5) This section shall apply in respect of any subsequent re-election of a person in the same manner as it applies to his first re-election after he becomes entitled to a pension under this Act.

#### **Gratuity on death.**

96.(1) Where a person who has served as an elected member for not less than 90 months dies before attaining the age of 55 years (whether or not he is serving as an elected member at the date of his death), there shall be payable to his legal personal representative a sum equal to the maximum gratuity to which the deceased person would have been entitled if he had not died but had on the day following the actual date of his death exercised the option referred to in section 94.

(2) For the purposes of subsection (1), a person who dies in service shall be deemed to have ceased to be an elected member on the day following the actual date of his death.

#### **Members dying of injuries or diseases contracted on duty.**

97.(1) Where—

(a) an elected member—

- (i) is injured in the actual discharge of his duty as or while travelling on duty as an elected member and the injury is not wholly or mainly caused or seriously aggravated by his own serious and culpable negligence or misconduct; or
- (ii) contracts a disease to which he is exposed by the nature of his duty and which is not wholly or mainly caused or seriously aggravated by his own serious and culpable negligence or misconduct; and

(b) in either case, the injury has occurred or the disease has been contracted on or after the 1st day of August, 1964—

and the elected member dies as a direct result thereof, and such death occurs within 7 years of the date when he was injured or contracted the disease, there shall be payable to his legal personal representative, in lieu of any sum under section 96, a sum equal to the maximum gratuity to which the deceased elected member would have been entitled if—

- (i) he had not died but had ceased to be an elected member on the day following the actual date of his death, and had exercised the option referred to in section 94; and
- (ii) the reference in section 91(1)(a) to 90 months were a reference to the actual length of time that he has served as an elected member; and
- (iii) the reference in section 91(2) to 55 years were a reference to his actual age at the date of his death—

or a sum equal to his notional annual allowance, whichever is the greater sum.

(2) In addition to the sum payable under subsection (1), the Governor may grant in respect of the dependants of the deceased elected member the pensions which could have been granted under the Pensions Act to the corresponding dependants of an officer in public service under the Government dying as a result of injuries received or disease contracted in the discharge of his duty (not being injuries received while travelling by air in pursuance of official instructions), subject to the following modifications;

- (a) references to the elected member's notional annual allowance shall be substituted for references to annual pensionable emoluments; and
- (b) if the deceased elected member leaves a widow, the rate of pension granted to her shall not exceed 10/60 of his notional annual allowance at the date of his injury or £1000, whichever is the greater, and the pensions that may be granted to other dependants shall be calculated accordingly; and
- (c) no regard shall be had to the Oversea Superannuation Scheme or to other public service; and
- (d) the Governor shall have the same powers with respect to granting, withholding, reducing and re-granting, and otherwise in relation to such pensions, as he has in corresponding circumstances in the case of dependants of the officers referred to above.

**Members injured or contracting diseases on duty.**

98.(1) Where—

- (a) an elected member—
  - (i) is injured in the actual discharge of his duty as or while travelling on duty as an elected member and the injury is not wholly or mainly caused or seriously aggravated by his own serious and culpable negligence or misconduct; or
  - (ii) contracts a disease to which he is exposed by the nature of his duty and which is not wholly or mainly caused or seriously aggravated by his own serious and culpable negligence or misconduct; and
- (b) the injury has occurred or the disease has been contracted on or after the 1st day of August, 1964; and
- (c) he has ceased or ceases to be an elected member; and
- (d) his condition is such that he is no longer reasonably able to perform the functions of an elected member; and
- (e) his condition was caused or materially accelerated by the injury or disease—

he shall, on so ceasing to be an elected member, be entitled to a pension under this Act to the same extent as he would be if the reference in section 91(1)(a) to 90 months were a reference to the actual length of time that he has served as an elected member and the reference in section 91(2) to 55 years were a reference to his actual age at the date on which he ceases to be an elected member.

(2) Where an elected member has become or becomes entitled to a pension by virtue of subsection (1), he shall be entitled to an additional pension calculated by reference to the degree by which his capacity to contribute to his own support is impaired, at the annual rate of the appropriate proportion of his notional annual allowance at the date of his injury according to the following scale:

- (a) slight impairment:  $\frac{5}{60}$
- (b) impairment:  $\frac{10}{60}$

- (c) material impairment:  $15/60$
- (d) total destruction:  $20/60$ .

(3) The additional pension specified in subsection (2) may be reduced to such extent as the Governor thinks reasonable where the injury or disease is not the cause or sole cause of the person's ceasing to be an elected member.

(4) Where any benefit is payable to an elected member to whom this section applies, under the Social Security (Employment Injuries Insurance) Act, in consequence of an injury or disease for which he receives an additional pension under subsection (2), the Governor may withhold any such additional pension or reduce it to such extent as he thinks reasonable.

(5) Where the Governor is satisfied that damages have been or will be recovered by an elected member to whom this section applies in respect of an injury or disease for which he receives an additional pension under subsection (2), the Governor may withhold the additional pension or reduce it to such extent as he thinks reasonable having regard to the amount of those damages, whether or not—

- (a) proceedings have been instituted to enforce the claim; or
- (b) the damages have been paid pursuant to a judgment or order of a court, or by way of settlement or compromise of the claim.

(6) Section 94 shall apply in respect of any pension payable under this section.

#### **Pension not assignable.**

99. A pension or gratuity under this Act shall not be assignable or chargeable with debts or other liabilities.

#### **Cessation of pension on disqualification.**

100. Where any person who is entitled to a pension under this Act subsequently ceases to be qualified to be elected as an elected member, by reason of any ground specified in either of paragraphs (f) and (i) of section 28(1) of the Constitution, the pension and any gratuity under section 94 shall cease to be payable to him for so long as he is so disqualified.

#### **Increase of pension.**



---

This version is out of date

101.(1) Every pension to which a person is entitled under this Act shall be increased in accordance with this section where there has been an increase in the cost of living after he has become entitled to the pension.

(2) The rate of every pension to which a person is entitled under this Act shall be reviewed by the Financial Secretary as soon as may be on or after the 1st day of October in every year.

(3) Where the Financial Secretary determines that the cost of living has risen by 2 per cent or more from the 1st day of July in the preceding year, the rate of the pension shall be increased with effect from the 1st day of July in the year of review or, as the case may require, from such later date in the year of review as the entitlement actually arises, in the proportion (to the nearest  $\frac{1}{10}$  of one per cent) in which the cost of living has risen during that period.

(4) For the purposes of this section, the question whether there has or has not been a rise in the cost of living shall be determined solely by reference to the index of retail price as shown in the index produced by the Government of Gibraltar.

(5) The amount of any increase awarded in accordance with the provisions of this section shall not be taken into account for the purposes of section 92(2).

(6) Notwithstanding the preceding subsections of this section, where a pension becomes payable to a person who has attained the age of 55 years, it shall not thereafter be increased in accordance with this section until he attains the age of 60 years.

#### **Charge on Consolidated Fund.**

102. There shall be charged upon and paid out of the Consolidated Fund, without further appropriation than this section, all such sums of money as become payable under this Part.

**SCHEDULE 1.**

Section 9

**CLASSES OF PUBLIC OFFICERS WHO MAY BE  
ELECTED AS MEMBERS.**

1. Holders of any public office under the Crown in right of Her Majesty's Government in the United Kingdom.

**SCHEDULE 2**

Section 10(1)

**CLASSES OF PUBLIC OFFICERS WHO MAY BE  
CANDIDATES FOR ELECTION.**

1. Holders of any public office under the Crown in right of its Government of Gibraltar, being—

- (a) *Deleted*
- (b) employment in any of the following grades, namely—
  - (i) the administrative and executive grades,
  - (ii) the messengerial grades,
  - (iii) *Deleted*
  - (iv) typist, personal secretary, senior personal secretary,
  - (v) *Deleted*
  - (vi) professional and technology officer grades,
  - (vii) helper, Medical and Public Health Department (Physiotherapy and Speech Therapy Centre),
  - (viii) resident supervisor, John Mackintosh Hall,
  - (ix) fire control operator, senior fire control operator,
  - (x) seaman/mechanic, coxswain, engine driver 'A', Port Department,
  - (xi) junior medical laboratory scientific officer,
  - (xii) *Deleted*
  - (xiii) technical grade 1,
  - (xiv) enrolled nurse,
  - (xv) vehicle escort/welfare assistant, Education Department,

- (xvi) *Deleted*
- (xvii) radiography helper,
- (xviii) *Deleted*
- (xix) nursing auxiliary,
- (xx) nursery assistant, Education Department,
- (xxi) postman/postwoman,
- (xxii) *Deleted*
- (xxiii) telephonist,
- (xxiv) *Deleted*
- (xxv) *Deleted*
- (xxvi) the teaching grades.

This version is out of date

**SCHEDULE 3.**

Section 10(2)

**FORM OF UNDERTAKING.**

Parliament Act.

I, *(full name)*, of *(residential address)*, *(occupation)*, being the holder of *(or acting as the holder of)\** the following public office, namely *(specify public office)*, undertake pursuant to section 10 of the Parliament Act, to relinquish and cease to act in any public office as defined in section 78(1) of the Constitution (other than any public office referred to or of a class referred to in section 9 of the Act) if I am elected as an elected member of the Parliament.

Dated this                    day of                    20   .

Signature:.....

Witness:.....

(Head of Department or senior public officer).

*\* Delete as appropriate.*