

Conduct Of Elections Rules, 1961

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title and commencement
2. Interpretation

CHAPTER 2 :- GENERAL PROVISIONS

3. Public notice of intended election
4. Nomination paper
- 4A. Form Of Affidavit To Be Filed At The Lime Of Delivering Nomination Paper
5. Symbols for elections in Parliamentary and Assembly constituencies
6. Authentication of certificates issued by the Election Commission
7. Notice of nominations
8. List of validly nominated candidates
9. Notice of withdrawal of candidature
10. Preparation of list of contesting candidates
11. Publication of list of contesting candidates and declaration of result in uncontested election
12. Appointment of election agent
13. Appointment of polling agents
14. Revocation of the appointment of a polling agent
15. Publication of the hours fixed for polling
16. Voting normally to be in person

CHAPTER 3 :- POSTAL BALLOT

17. Definitions
18. Persons entitled to vote by post
19. Intimation by special voters
20. Intimation by voters on election duty
21. Electors under preventive detention
22. Form of ballot paper
23. Issue of ballot paper
24. Recording of vote
25. Assistance to illiterate or infirm voters
26. Re-issue of ballot paper
27. Return of ballot paper
- 27M. Definition
- 27N. Appointment Of Proxy By A Classified Service Voter
- 27O. Intimation Of Name Of Proxy By The Classified Service Voter
- 27P. Action By Returning Officer On Intimation Of Name Of Proxy
- 27Q. Recording Of Votes Of Proxy

CHAPTER 4 :- VOTING IN PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES

28. Definitions
29. Design of ballot boxes
30. Form of ballot papers
31. Arrangements at polling stations
32. Admission to polling stations
33. Preparation of ballot boxes for poll
- 33A. Marked Copy Of Electoral Roll
34. Facilities for women electors
35. Identification of electors
- 35A. Facilities For Public Servants On Election Duty
36. Challenging of identity
37. Safeguards against personation
38. Issue of ballot papers to electors
39. Maintenance of secrecy of voting by electors within polling station and voting procedure
40. Recording of votes of blind or infirm electors
41. Spoilt and returned ballot papers
42. Tendered votes
43. Closing of poll
44. Sealing of ballot boxes after poll
45. Account of ballot papers
46. Sealing of other packets
47. Transmission of ballot boxes, etc., to the returning officer

48. Procedure on adjournment of poll
49. Voting by ballot at notified polling stations
- 49A. Design Of Electronic Voting Machines
- 49B. Preparation Of Voting Machine By The Returning Officer
- 49C. Arrangements At The Polling Stations
- 49D. Admission To Polling Stations
- 49E. Preparation Of Voting Machine For Poll
- 49F. Marked Copy Of Electoral Roll
- 49G. Facilities For Women Electors
- 49H. Identification Of Electors
- 49I. Facilities For Public Servants On Election Duty
- 49J. Challenging Of Identity
- 49K. Safeguards Against Personation
- 49L. Procedure For Voting By Voting Machines
- 49M. Maintenance Of Secrecy Of Voting By Electors Within The Polling Station And Voting Procedures
- 49N. Recording Of Votes Of Blind Or Infirm Electors
- 49O. Elector Deciding Not To Vote
- 49P. Tendered Votes
- 49Q. Presiding Officers Entry In The Voting Compartment During Poll
- 49R. Closing Of Poll
- 49S. Account Of Votes Recorded
- 49T. Sealing Of Voting Machine After Poll
- 49U. Sealing Of Other Packets
- 49V. Transmission Of Voting Machines, Etc., To The Returning Officer
- 49W. Procedure On Adjournment Of Poll
- 49X. Closing Of Voting Machine In Case Of Booth Capturing

CHAPTER 5 :- COUNTING OF VOTES IN PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES

50. Definitions
51. Time and place for counting of votes
52. Appointment of counting agents and revocation of such appointments
53. Admission to the place fixed for counting
54. Maintenance of secrecy of voting
- 54A. Counting Of Votes Received By Post
55. Scrutiny and opening of ballot boxes
56. Counting of votes.
57. Sealing of used ballot papers
58. Counting of ballot papers transferred to bags or covers under Rule 44
59. Counting of votes at notified polling stations
- 59A. Counting Of Votes In Specified Constituencies
60. Counting to be continuous
61. Recommencement of counting after fresh poll
62. Section 62
63. Re-count of votes
64. Declaration of result of election and return of election
65. Counting at two or more places
66. Grant of certificate of election to returned candidate
- 66A. Counting Of Votes Where Electronic Voting Machines Have Been Used

CHAPTER 6 :- VOTING AT ELECTIONS BY ASSEMBLY MEMBERS AND IN COUNCIL CONSTITUENCIES

67. Definition
68. Notification as to postal ballot
69. Notice to electors at election by assembly members
70. Rules for conduct of poll

CHAPTER 7 :-COUNTING OF VOTES AT ELECTIONS BY ASSEMBLY MEMBERS OR IN COUNCIL CONSTITUENCIES

71. Definitions
72. Application of certain rules
73. Scrutiny and opening of ballot boxes and packets of postal ballot papers
74. Arrangement of valid ballot papers in parcels
75. Counting of votes where only one seat is to be filled
76. Ascertainment of quota
77. General instruction
78. Candidates with quota elected
79. Transfer of surplus
80. Exclusion of candidates lowest on the poll
81. Filling the last vacancies
82. Provision for re-counts
83. Illustration of the procedure as to the counting of votes under Rules 76 to 81
84. Declaration of result and return by returning officers

- 85. Grant of certificate of election to returned candidate
- 85A. Definitions
- 85B. Form Of Contributions Report
- 85C. Allocation Of Equitable Sharing Of Time On Electronic Media
- 85D. Supply Of Material By The Government

CHAPTER 8 :- ELECTION EXPENSES

- 86. Particulars of account of election expenses
- 87. Notice by district election officer for inspection of accounts
- 88. Inspection of account and the obtaining of copies thereof
- 89. Report by the district election officer as to the lodging of the account of election expenses and the decision of the Election Commission thereon
- 90. Maximum election expenses

CHAPTER 9 :- MISCELLANEOUS

- 91. Resignation of seats in case of election to more seats than one in a House
- 92. Custody of ballot boxes and papers relating to election
- 93. Production and inspection of election papers
- 94. Disposal of election papers
- 94A. Form Of Affidavit To Be Filed With Election Petition
- 95. Power of the Election Commission to issue directions
- 96. List of Members of State Assemblies and electoral colleges
- 97. Number of votes sufficient to secure the return of a candidate in relation to return of forfeiture of deposits in certain cases
- 98. Manner of serving the order of requisition of premises, vehicles, etc
- 99. Time for application for reference to arbitration under Section 161

SCHEDULE 1 :- SCHEDULE 1

Conduct Of Elections Rules, 1961

CHAPTER 1 PRELIMINARY

1. Short title and commencement :-

(1) These rules may be called the Conduct of Elections Rules, 1961 .

(2) They shall come into force on the 25th day of April, 1961 :

Provided that these rules shall not apply to or in relation to any election called but not completed before that date and the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, shall continue to apply to or in relation to any such election as if these rules had not been made.

2. Interpretation :-

(1) In these rules, unless the context otherwise requires,-

(a) "Act" means the Representation of the People Act, 1951 (43 of 1951) ;

(b) "ballot box" includes any box, bag or other receptacle used for the insertion of ballot paper by voters ;

1[(ba) "counterfoil" means the counterfoil attached to a ballot paper printed under the provisions of these rules ;]

clause (bb) 2[omitted.]

(c) "election by assembly members" means an election to the Council of States by the elected members of the Legislative Assembly of a State by the members of the electoral college of a Union territory, or an election to the Legislative Council of a State by the members of the Legislative Assembly of that State ;

(d) "elector", in relation to an election by assembly members, means any person entitled to vote at that election ;

(e) "electoral roll", in relation to an election by assembly members, means the list maintained under Section 152 by the returning officer for that election ;

(f) "electoral roll number" of a person means-

(i) the serial number of the entry in the electoral roll in respect of that person ;

(ii) the serial number of the part of the electoral roll in which such entry occurs ; and

(iii) the name of the constituency to which the electoral roll relates ;

(g) "Form" means a Form appended to these rules and in respect of any election in a State, includes a translation thereof in any of the languages used for official purposes of the State ;

3 (gg) "marked copy of the electoral roll" means the copy of the electoral roll set apart for the purpose of marking the names of electors to whom ballot papers are issued at an election ;]

(h) "polling station", in relation to an election by assembly members, means the place fixed under Section 29 for taking the poll at that election ;

(i) "presiding officer" includes-

(i) any polling officer performing any of the functions of a presiding officer under sub-section (2) or sub-section (3) of Section 26 ; and

(ii) any returning officer while presiding over an election under sub-section (2) of Section 29 ;

(j) "returning officer" includes any assistant returning officer performing any function he is authorised to perform under sub-section (2) of Section 22 ; (A) "section" means a section of the Act.

(2) For the purposes of the Act or these rules, a person who is unable to write his name shall, unless otherwise expressly provided in these rules, be deemed to have signed an instrument or other paper if-

(a) he has placed a mark on such instrument or other paper in the presence of the returning officer or the presiding officer or such other officer as may be specified in this behalf by the Election Commission, and

(b) such officer on being satisfied as to his identity has attested the mark as being the mark of that person.

(3) Any requirement under these rules that a notification, order, declaration, notice or list issued or made by any authority shall be published in the Official Gazette shall, unless otherwise expressly provided in these rules, be construed as a requirement that it shall be published in the Gazette of India if it relates to an election to, or membership of, either House of Parliament or an electoral college, and in the Official Gazette of the State, if it relates to an election to or membership of, the House or either House of the State Legislature.

(4) The General Clauses Act, 1897 (10 of 1897) shall apply for the interpretation of these rules as it applies for the interpretation of an Act of Parliament.

1. Inserted by S.O.5573, dt. 23-12-1971.

2. Omitted by Conduct of Elections (Fourth Amendment) Rules, 2003., published in the Gazette of India, Extra., Part II, Section 3(ii), dated 11th November, 2003, p. 1, No. 1015

3. Substituted by S.O, 5573, dt 23-12-1971.

CHAPTER 2 GENERAL PROVISIONS

3. Public notice of intended election :-

The public notice of an intended election referred to in Section 31 shall be in Form 1 and shall, subject to any directions of the Election Commission, be published in such manner as the returning officer thinks fit,

4. Nomination paper :-

Every nomination paper presented under sub-section (1) of Section 33 shall be completed in such one of the Forms 2-A to 2-E as may be appropriate :

Provided that a failure to complete or defect in completing, the declaration as to symbols in a nomination paper in Form 2-A or Form 2-B shall not be deemed to be a defect of a substantial character within the meaning of sub-section (4) of Section 36.

4A. Form Of Affidavit To Be Filed At The Time Of Delivering Nomination Paper :-

The candidate or his proposer, as the case may be, shall, at the time of delivering to the Returning Officer the nomination paper under sub-section (1) of Section 33 of the Act, also deliver to him an affidavit sworn by the candidate before a Magistrate of the first class or a Notary in Form 26."

5. Symbols for elections in Parliamentary and Assembly constituencies :-

(1) The Election Commission shall, by notification in the Gazette of India, and in the Official Gazette of each State, specify the symbols that may be chosen by candidates at elections in Parliamentary or Assembly constituencies and the restrictions to which their choice shall be subject.

(2) 1 [Subject to any general or special direction issued by the Election Commission either under sub-rule (4) or sub-rule (5) of Rule 10, where at any such election], more nomination papers than one are delivered by or on behalf of a candidate, the declaration as to symbols made in the nomination paper first delivered, and no other declaration as to symbols, shall be taken into consideration under Rule 10 even if that nomination paper has been rejected.

1. Substituted by S.O.5573, dt. 23-12-1971, for certain words.

6. Authentication of certificates issued by the Election Commission :-

A certificate issued by the Election Commission under sub-section (2) of Section 9 or under sub-section (3) of Section 33 shall be signed by the Secretary to the Election Commission and shall bear its official seal.

7. Notice of nominations :-

The notice of nominations under Section 35 shall be in such one of the Forms 3-A to 3-C as may be appropriate.

8. List of validly nominated candidates :-

(1) The list of validly nominated candidates referred to in sub-section (8) of Section 36 shall be in Form 4.

(2) The name of every such candidate shall be shown in the said list as it appears in his nomination paper : Provided that if a candidate considers that his name is incorrectly spelt or is otherwise incorrectly shown in his nomination paper or is different from the name by which he is popularly known, he may, at any time before the list of contesting candidates is prepared, furnish in writing to the returning officer the proper form and spelling of his name and the returning officer shall, on being satisfied as to the genuineness of the request, make the necessary correction or alteration in the list in Form 4 and adopt that form and spelling in the list of contesting candidates.

9. Notice of withdrawal of candidature :-

(1) A notice of withdrawal of candidature under sub-section (1) of Section 37 shall be in Form 5 and shall contain the particulars set out therein ; and on receipt of such notice, the returning officer shall note thereon the date and time at which it was delivered.

(2) The notice under sub-section (3) of Section 37 shall be in Form 6.

10. Preparation of list of contesting candidates :-

(1) The list of contesting candidates referred to in sub-section (1) of Section 38 shall be in Form 7-A or Form 7-B as may be appropriate and shall contain the particulars set out therein and shall be prepared in such language or languages as the Election Commission may direct.

(2) [Omitted]

(3) If the list is prepared in more languages than one, the names of candidates therein shall be arranged alphabetically according to the script of such one of those languages as the Election Commission may direct.

(4) At an election in a Parliamentary or Assembly constituency, where a poll becomes necessary, the returning officer shall consider the choice of symbols expressed by the contesting candidates in their nomination papers and shall, subject

(a) allot a different symbol to each contesting candidate in conformity, as far as practicable, with his choice ; and

(b) if more contesting candidates than one have indicated their preference for the same symbol decide by lot to which of such candidates the symbol will be allotted.

(5) The allotment by the returning officer of any symbol to a candidate shall be final except where it is inconsistent with any directions issued by the Election Commission in this behalf in which case the Election Commission may revise the allotment in such manner as it thinks fit.

(6) Every candidate or his election agent shall forthwith be informed of the symbol allotted to the candidate and be supplied with a specimen thereof by the returning officer.

11. Publication of list of contesting candidates and declaration of result in uncontested election :-

(1) The returning officer shall, immediately after its preparation, cause a copy of the list of contesting candidates to be affixed in some conspicuous place in his office and where the number of contesting candidates is equal to, or less than, the number of seats to be filled, he shall, immediately after such affixation, declare under sub-section (2) or, as the case may be, sub-section (3) of Section 53 the result of the election in such one of the Forms 21 to 21-B as may be appropriate and send signed copies of the declaration to the appropriate authority, the Election Commission and the chief electoral officer.

(2) If a poll becomes necessary under sub-section (1) of Section 53 , the returning officer shall supply a copy of the list of contesting candidates to each such candidate or his election agent, and then shall also publish the list in the Official Gazette.

12. Appointment of election agent :-

(1) Any appointment of an election agent under Section 40 shall be made in Form 8 and the notice of such appointment shall be given by forwarding the same in duplicate to the returning officer who shall return one copy thereof to the election agent after affixing thereon his seal and signature in token of his approval of the appointment.

(2) The revocation of the appointment of an election agent under sub-section (1) of Section 42 shall be made in Form 9.

13. Appointment of polling agents :-

(1) The number of polling agents that may be appointed under Section 46 shall be one agent and two relief agents.

(2) Every such appointment shall be made in Form 10 and shall be made over to the polling agent for production at the polling station or the place fixed for the poll, as the case may be.

(3) No polling agent shall be admitted into the polling station or the place fixed for the poll unless he has delivered to the presiding officer the instrument of his appointment under sub-rule (2) after duly completing and signing before the presiding officer the declaration contained therein.

14. Revocation of the appointment of a polling agent :-

(1) The revocation of the appointment of a polling agent under sub-section (1) of Section 48 shall be made in Form 11 and lodged with the presiding officer.

(2) In the event of any such revocation the candidate or his election agent may, at any time before the poll is closed, make a fresh appointment in the manner specified in Rule 13 and the provisions of that rule shall apply to every such agent.

15. Publication of the hours fixed for polling :-

The hours fixed for polling under Section 56 shall be published by notification in the Official Gazette.

16. Voting normally to be in person :-

Save as hereinafter provided, all electors voting at an election shall do so in person at the polling station provided for them under Section 25 or, as the case may be, at the place of polling fixed under Section 29 .

CHAPTER 3 POSTAL BALLOT

17. Definitions :-

In this Part,-

(a) "service voter" means any person specified in clause (a) or clause (b) of Sec. 60, but does not include "classified service voter" defined in Rule 27M;

(b) "special voter" means any person holding an office to which the provisions of sub-section (4) of Section 20 of the Representation of the People Act, 1950 are declared to apply or the wife of such person, if he or she has been registered as an elector by virtue of a statement made under sub-section (5) of the said section ;

(c) "voter on election duty" means any polling agent, any polling officer, presiding officer or other public servant, who is an elector in the constituency and is by reason of his being on election duty unable to vote at the polling station where he is entitled to vote.

18. Persons entitled to vote by post :-

The following persons shall, subject to their fulfilling the requirements hereinafter specified, be entitled to vote by post, namely :-

(a) at an election in a Parliamentary or Assembly constituency-

(i) special voters ;

- (ii) service voters ;
- (iii) voters on election duty ; and
- (iv) electors subjected to preventive detention ;
- (b) at an election in a Council constituency-
 - (i) voters on election duty ;
 - (ii) electors subjected to preventive detention ; and
 - (iii) electors in the whole or any specified parts, of the constituency if directed by the Election Commission in this behalf under clause (b) of Rule 68 ;
- (c) at an election by assembly members-
 - (i) electors subjected to preventive detention ; and
 - (ii) all electors if directed by the Election Commission in this behalf under clause (a) of Rule 68.

19. Intimation by special voters :-

A special voter who wishes to vote by post at an election shall send an intimation in Form 12 to the returning officer so as to reach him at least ten days before the date of poll ; and on receipt of the intimation the returning officer shall issue a postal ballot paper to him.

20. Intimation by voters on election duty :-

(1) A voter on election duty who wishes to vote by post at an election shall send an application in Form 12 to the returning officer so as to reach him at least seven days or such shorter period as the returning officer may allow before the date of poll; and if the returning officer is satisfied that the applicant is a voter on election duty, he shall issue a postal ballot paper to him.

(2) Where such voter, being a polling officer, presiding officer or other public servant, on election duty in the constituency of which he is an elector, wishes to vote in person at an election in a Parliamentary or Assembly constituency and not by post, he shall send an application in Form 12-A to the returning officer so as to reach him at least four days, or such shorter period as the returning officer may allow, before the date of poll; and if the returning officer is satisfied that the applicant is such public servant and voter on election duty in the constituency, he shall-

- (a) issue to the applicant an election duty certificate in Form 12-B,
- (b) mark EDC against his name in the marked copy of the electoral roll to indicate that an election duty certificate has been issued to him, and
- (c) ensure that he is not allowed to vote at the polling station where he would otherwise have been entitled to vote.

21. Electors under preventive detention :-

(1) The appropriate Government shall, within 15 days of the calling of an election, ascertain and intimate to the returning officer the names of the electors, if any, subjected to preventive detention together with their addresses and electoral roll numbers and the particulars about their places of detention.

(2) Any elector subjected to preventive detention may, within 15 days of the calling of an election, send an intimation to the returning officer that he wishes to vote by post, specifying his name, address, electoral roll number and place of detention.

(3) The returning officer shall issue a postal ballot paper to every elector subjected to preventive detention whose name has been intimated to him under sub-rule (1) or under sub-rule (2).

22. Form of ballot paper :-

[

(1) Every postal ballot paper shall have a counterfoil attached thereto, and the said ballot paper and the counterfoil shall be in such form, and the particulars therein shall be in such language or languages, as the Election Commission may direct.]

(2) The names of the candidates shall be arranged [on the postal ballot paper] in the order in which they appear in the list of contesting candidates.

(3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

23. Issue of ballot paper :-

- (1) A postal ballot paper shall be sent by post under certificate of posting to the elector together with-
 - (a) a declaration in Form 13-A ;
 - (b) a cover in Form 13-B ;
 - (c) a large cover addressed to the returning officer in Form 13-C ; and
 - (d) instructions for the guidance of the elector in Form 13-D : Provided that the returning officer may, in the case of a special voter or a voter on election duty, deliver the ballot paper and forms, or cause them to be delivered, to such voter personally.
- [(2) The returning officer shall at the same time-
 - (a) record on the counterfoil of the ballot paper the electoral roll number of the elector as entered in the marked copy of the electoral roll ;
 - (b) mark the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him, without however recording therein the serial number of the ballot paper issued to that elector ; and
 - (c) ensure that that elector is not allowed to vote at a polling station.]
- (3) Before any ballot paper is issued to an elector at an election in a local authorities constituency or by assembly members, the serial number of the ballot paper shall be effectively concealed in such manner as the Election Commission may direct.
- (4) Every officer under whose care or through whom a postal ballot paper is sent shall ensure its delivery to the addressee without delay.
- (5) After ballot papers have been issued to all the electors entitled to vote by post, the returning officer shall-
 - (a) at an election in a Parliamentary or Assembly constituency, [subject to the provisions of Rule 27-P, seal up in a packet] that part of the marked copy of the electoral roll which relates to service voters and record on the packet a brief description of its contents and the date on which it was sealed and send the other relevant parts of the marked copy to the several presiding officers [or marking the names of electors to whom ballot papers are issued at the polling stations without I however recording therein the serial numbers of the ballot papers issued to the electors] ; and
 - (b) at any other election, seal up in a packet the marked copy of the electoral roll and record on the packet a brief description of its contents and the date on which it is sealed.
- [(6) The returning officer shall also seal up in a separate packet the counterfoils of the ballot papers issued to electors entitled to vote by post and record on the packet a brief description of its contents and the date on which it was sealed.]

24. Recording of vote :-

- (1) An elector who has received a postal ballot paper and desires to vote shall record his vote on the ballot paper in accordance with the directions contained in Part I of Form 13-D and then enclose it in the cover in Form 13-B.
- (2) The elector shall sign the declaration in Form 13-A in the presence of, and have the signature attested by, a stipendiary magistrate or such other officer specified below, as may be appropriate, to whom he is personally known or to whose satisfaction he has been identified-
 - (a) in the case of a service voter, such officer as may be appointed in this behalf by the Commanding Officer of the unit, ship or establishment in which the voter or her husband, as the case may be, is employed or such officer as may be appointed in this behalf by the diplomatic or consular representative of India in the country in which such voter is resident ;
 - (b) in the case of a special voter, an officer not below the rank of a Deputy Secretary to Government ;
 - (c) in the case of a voter on election duty, any gazetted officer or the presiding officer of the polling station at which he is on election duty ;
 - (d) in the case of an elector under preventive detention, the Superintendent of the Jail or the Commandant of the detention camp in which the elector is under detention ; and
 - (e) in any other case, such officer as may be notified in this behalf by the Election Commission,

25. Assistance to illiterate or infirm voters :-

- (1) If an elector is unable through illiteracy, blindness or other physical infirmity to record his vote on a postal ballot paper and sign the declaration, he shall take the ballot paper, together with the declaration and the covers received by him to an officer competent to attest his signature under sub-rule (2) of Rule 24 and request the officer to record his vote and sign his declaration on his behalf.
- (2) Such officer shall thereupon mark the ballot paper in accordance with the wishes of the elector in his presence, sign the declaration on his behalf and complete the appropriate certificate contained in Form

13-A.

26. Re-issue of ballot paper :-

(1) When a postal ballot paper and other papers sent under Rule 23 are for any reason returned undelivered, the returning officer may re-issue them by post under certificate of posting or deliver them or cause them to be delivered to the elector personally on a request being made by him.

(2) If any elector has inadvertently dealt with the ballot paper or any of the other papers sent to him under Rule 23 in such a manner that they cannot conveniently be used, a second set of the papers shall be issued to him after he has returned the spoiled papers and satisfied the returning officer of the inadvertence.

(3) The returning officer shall cancel the spoiled papers so returned and keep them in a separate packet after noting thereon the particulars of the election and the serial numbers of the cancelled ballot papers.

27. Return of ballot paper :-

(1) After an elector has recorded his vote and made his declaration under Rule 24 or Rule 25, he shall return the ballot paper and declaration to the returning officer in accordance with the instructions communicated to him in Part 11 of Form 13-D so as to reach the returning officer before 1 [the hour fixed for the commencement of counting of votes].

(2) If any cover containing a postal ballot paper is received by the returning officer after the expiry of the time fixed in sub-rule (1), he shall note thereon the date and time of its receipt and shall keep all such covers together in a separate packet.

(3) The returning officer shall keep in safe custody until the commencement of the counting of votes all covers containing postal ballot papers received by him.

1. Substituted by S.O.479-A, dt. 27-1-1971, for certain words.

Chapter 3B VOTING BY CLASSIFIED SERVICE VOTERS THROUGH PROXY

27M. Definition :-

1. In this Part, unless the context otherwise requires,

(a) "classified service voter" means any person specified in clause (a) of Sec. 60, who opts to give his vote by proxy;

(b) "proxy" means the person appointed by a classified service voter as his proxy under Rule 27-N to give vote on his behalf and in his name;

(c) "service voter" means any person specified in clause (a) of Sec. 60 and registered as an elector in the last part of the electoral roll for the constituency.

1. INSERTED BY THE Conduct of Elections (Amendment) Rules, 2003. [Noti. No. F. No.H-11019(34)-Leg. II, dt. 5.8.2003Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 704, dt. 5.8.2003, p. 12.]

27N. Appointment Of Proxy By A Classified Service Voter :-

1 (1) A service voter may opt to give his vote by proxy appointed in the manner provided in sub-rules (2) to (4)

(2) Any service voter opting to a vote by proxy may appoint any person as his proxy to give vote on his behalf and in his name at an election in a parliamentary or assembly constituency:

Provided that such proxy shall be an ordinary resident in the constituency concerned and of not less than 18 years of age and shall not be disqualified for registration as an elector in an electoral roll under Sec. 16 of the Representation of the People Act, 1950 (43 of 1950).

(3) The appointment of proxy under sub-rule (2) shall be made by the classified service voter in Form 13F.

(4) Any appointment of proxy made under sub-rule (3) shall be deemed to be valid so long as the person making it continues to be a service voter or till the date he revokes such appointment, or dies, whichever is earlier :

Provided that any revocation of appointment shall be made in Form 13G and shall be effective from the date on which it is received by the returning officer :

Provided further that where he revokes such appointment, or the proxy appointed by him dies, while he remains a service voter, he may appoint another person as proxy under these rules, as a substitute proxy in Form 13G and the substitute proxy so appointed shall be the proxy appointed by such classified service voter under sub-rule (3) from the date of receipt of the Form 13G by the returning officer.

1. INSERTED BY THE Conduct of Elections (Amendment) Rules, 2003. [Noti. No. F. No.H-11019(34)-Leg. II, dt. 5.8.2003Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 704, dt. 5.8.2003, p. 12.]

27O. Intimation Of Name Of Proxy By The Classified Service Voter :-

1 (1) The name of the proxy appointed by a classified service voter under sub-rule (3), or, as the case may be, under the second proviso to sub-rule (4), of Rule 27-N shall be intimated by him to the returning officer as soon as may be after such appointment is made, and such intimation must reach the returning officer not later than the last date for making nominations for the earliest election in the constituency after such appointment.

(2) Notwithstanding anything contained in sub-rule (1), if any intimation under that sub-rule reaches the returning officer after the last date for making nominations in the constituency, such intimation shall not be valid for the election then in progress, but shall, subject to the provisions of sub-rule (4) of Rule 27-N, be valid for any future election in the constituency.

1. INSERTED BY THE Conduct of Elections (Amendment) Rules, 2003. [Noti. No. F. No. H-11019(34)-Leg. II, dt. 5.8.2003Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 704, dt. 5.8.2003, p. 12.]

27P. Action By Returning Officer On Intimation Of Name Of Proxy :-

1 (1) On receipt of intimation under Rule 27-O from a classified service voter in regard to his proxy, the returning officer shall mark "CSV" against the name of such voter in the last part of the electoral roll containing the names of all service voters so as to indicate that the said voter has appointed his proxy, and the returning officer shall

(a) \if it is an intimation received before the last date for making nominations in the constituency, ensure that no postal ballot paper is issued to such classified service voter; and

(b) \if it is an intimation received after the said last date, ensure that a postal ballot paper is issued to such classified service voters for the election then in progress, in accordance with the provisions contained in Part III of these rules.

(2) \The returning officer shall also prepare, and maintain up-to-date, a separate list of all classified service voters who have given intimation of their proxies under Rule 27-O, and also of all such proxies with their complete addresses, in such form and such manner as the Election Commission may specify from time to time

(3) \As soon as may be after the last date for making nominations in the constituency, the returning officer shall, on the basis of the list maintained under sub-rule (2) and subject to such further direction as the Election Commission may give in this behalf, prepare or cause to be prepared polling station wise sub lists of all classified service voters and their proxies having regard to the residential address of each such classified service voter as given in the electoral roll.

(4) \Each sub-list prepared under sub-rule (3) shall thereafter be caused to be added by the returning officer at the end to the relevant part of the electoral roll pertaining to each polling station concerned, and such relevant part of the electoral roll together with the said sub-list shall be deemed to be the copy of the electoral roll to be used as the marked copy of the electoral roll under Rule 33-A or, as the case may be, under Rule 49-F during the poll at the polling station concerned.

1. INSERTED BY THE Conduct of Elections (Amendment) Rules, 2003. [Noti. No. F. No. H-11019(34)-Leg. II, dt. 5.8.2003Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 704, dt. 5.8.2003, p. 12.]

27Q. Recording Of Votes Of Proxy :-

1 (1) A person voting as proxy for a classified service voter shall do so in person at the polling station concerned in the electoral roll of which the name of such classified service voter is added under sub-rule (4) of rule 27-P.

(2) The person voting as proxy shall record the vote on behalf of the classified service voter at the said polling station, in the same manner as any other elector assigned to that polling station and the provisions of Rules 34, 35 and 36 to 43 or, as the case may be, rules 49G, 49H, 49J to 49R shall apply in relation to the recording of vote by such proxy as they apply to any other elector at the polling station :

Provided that any reference to left forefinger in Rule 37 or, as the case may be, Rule 49-K shall be construed as reference to left middle finger of the person voting as a proxy under this rule..

1. INSERTED BY THE Conduct of Elections (Amendment) Rules, 2003. [Noti. No. F. No. H-11019(34)-Leg. II, dt. 5.8.2003Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 704, dt. 5.8.2003, p. 12.]

CHAPTER 4 VOTING IN PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES

28. Definitions :-

[In this Chapter and Chapter II], unless the context otherwise requires,-

- (a) "candidate" means a contesting candidate ;
- (b) "constituency" means a Parliamentary or Assembly constituency ; and
- (c) "polling agent", in relation to a polling station, means a polling agent of a candidate duly appointed under Section 46 for the polling station and includes a candidate and the election agent of a candidate when present at the polling station.

29. Design of ballot boxes :-

Every ballot box shall be of such design as may be approved by the Election Commission.

30. Form of ballot papers :-

[

- (1) Every ballot paper shall have a counterfoil attached thereto, and the said ballot paper and the counterfoil shall be in such form, and the particulars therein shall be in such language or languages, as the Election Commission may direct.]
- (2) The names of the candidates shall be arranged on the ballot paper in the same order in which they appear in the list of contesting candidates.
- (3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

31. Arrangements at polling stations :-

- (1) Outside each polling station there shall be displayed prominently-
 - (a) a notice specifying the polling area the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled ; and
 - (b) a copy of the list of contesting candidates.
- (2) At each polling station, there shall be set up [one or more voting compartments] in which electors can record their votes screened from observation.
- (3) The returning officer shall provide at each polling station a sufficient number of ballot boxes, copies of the relevant part of the electoral roll, ballot papers, instruments for stamping the distinguishing mark on ballot papers and articles, necessary for electors to mark the ballot papers.

32. Admission to polling stations :-

The presiding officer shall regulate the number of electors, to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than-

- (a) polling officers ;
- (b) public servants on duty in connection with the election ;
- (c) persons authorised by the Election Commission ;
- (d) candidates, their election agents and, subject to the provisions of Rule 13, one polling agent of each candidate ;
- (e) a child in arms accompanying an elector ;
- (f) a person accompanying a blind or infirm elector who cannot move without help ; and
- (g) such other persons as the returning officer or the presiding officer may employ under sub-rule (2) of Rule 34 or sub-rule (1) of Rule 35.

33. Preparation of ballot boxes for poll :-

- (1) Where a paper seal is used for securing a ballot box, the presiding officer shall affix his own signature on the paper seal and obtain thereon the signatures of such of the polling agents present as are desirous of affixing the same.
- (2) The presiding officer shall thereafter fix the paper seal so signed in the space meant therefor in the ballot box and shall then secure and seal the box in such manner that the slit for the insertion of ballot paper thereinto remains open.
- (3) The seals used for securing a ballot box shall be affixed in such manner that after the box has been closed it is not possible to open it without breaking the seals.
- (4) Where it is not necessary to use paper seals for securing the ballot boxes, the presiding officer shall secure and seal the ballot box in such manner that the slit for the insertion of ballot papers remains open and shall allow the polling agents present to affix, if they so desire, their seals.
- (5) Every ballot box used at a polling station shall bear labels, both inside and outside, marked with-

- (a) the serial number, if any, and name of the constituency ;
 - (b) the serial number and name of the polling station ;
 - (c) the serial number of the ballot box (to be filled in at the end of the poll on the label outside the ballot box only) ; and
 - (d) the date of poll.
- (6) Immediately before the commencement of the poll, the presiding officer shall demonstrate to the polling agents and other persons present that the ballot box is empty and bears the labels referred to in sub-rule (5).
- (7) The ballot box shall then be closed, sealed and secured and placed in full view of the presiding officer and the polling agents.

33A. Marked Copy Of Electoral Roll :-

Immediately before the commencement of the poll the presiding officer shall also demonstrate to the polling agents and others present that the marked copy of the electoral roll to be used during the poll does not contain-

- (a) any entry other than that made in pursuance of clause (b) of sub-rule (2) of Rule 20 ; and
- (b) any mark other than the mark made in pursuance of clause (b) of sub-rule (2) of Rule 23.]

34. Facilities for women electors :-

- (1) Where a polling station is for both men and women electors, the presiding officer may direct that they shall be admitted into the polling station alternately in separate batches.
- (2) The returning officer or the presiding officer may appoint a woman to serve as an attendant at any polling station to assist women electors and also to assist the presiding officer generally in taking the poll in respect of women electors, and, in particular, to help in searching any woman elector in case it becomes necessary.

35. Identification of electors :-

- (1) The presiding officer may employ at the polling station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.
- (2) As each elector enters the polling station, the presiding officer or the polling officer authorised by him in this behalf shall check the electors name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.
- (3) Where the polling station is situated in a constituency, electors of which have been supplied with identity cards under the provisions of the Registration of Electors Rules, 1960 , the elector shall produce his identity card before the presiding officer or the polling officer authorised by him in this behalf.
- (4) In deciding the right of a person to obtain a ballot paper the presiding officer or the polling officer, as the case may be, shall overlook merely clerical or printing errors in an entry in the electoral roll, if he is satisfied that such person is identical with the elector to whom such entry relates.

35A. Facilities For Public Servants On Election Duty :-

- (1) The provisions of Rule 35 shall not apply to any person who produces at the polling station an election duty certificate in Form 12-B and asks for the issue of a ballot paper to him although the polling station is different from the one where he is entitled to vote.
- (2) On production of such certificate the presiding officer shall-
 - (a) obtain thereon the signature of the person producing it ;
 - (b) have the persons name and electoral roll number as mentioned in the certificate entered at the end of the marked copy of the electoral roll ; and
 - (c) issue to him a ballot paper, and permit him to vote, in the same manner as for an elector entitled to vote at that polling station

36. Challenging of identity :-

- (1) Any polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of two rupees in cash with the presiding officer for each such challenge.
- (2) On such deposit being made, the presiding officer shall-
 - (a) warn the person challenged of the penalty for personation ;
 - (b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in

that entry ;

(c) enter his name and address in the list of challenged votes in Form 14 ; and

(d) require him to affix his signature in the said list.

(3) The presiding officer shall thereafter hold a summary inquiry into the challenge and may for that purpose-

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity ;

(b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath ; and

(c) administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the inquiry, the presiding officer considers that the challenge has not been established he shall allow the person challenged to vote ; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

(5) If the presiding officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to Government, and in any other case, he shall return to the challenger at the conclusion of the inquiry.

37. Safeguards against personation :-

(1) Every elector about whose identity the presiding officer or the polling officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the presiding officer or polling officer and an indelible ink mark to be put on it.

(2) If any elector-

(a) refuses to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already/such a mark on his left forefinger or does any act with a view to removing the ink mark, or

(b) fails or refuses to produce his identity card as required by sub-rule (3) of Rule 35 he shall not be supplied with any ballot paper or allowed to vote.

(3) Where a poll is taken simultaneously in a Parliamentary constituency and an Assembly constituency, an elector whose left forefinger has been marked with indelible ink or who has produced his identity card at one such election shall, notwithstanding anything contained in sub-rules (1) and (2), be supplied with a ballot paper for the other election.

(4) Any reference in this rule to the left forefinger of an elector shall, in the case where the elector has his left forefinger missing, be construed as a reference to any other finger of his left hand, and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger or any other finger of his right hand, and shall in the case where all his fingers of both the hands are missing be construed as a reference to such extremity of his left or right arm as he possesses.

38. Issue of ballot papers to electors :-

[1

(1) Every ballot paper before it is issued to an elector, and the counterfoil attached thereto shall be stamped on the back with such distinguishing mark as the Election Commission may direct, and

(2) At the time of issuing a ballot paper to an elector, the polling officer shall-

(a) record on its counterfoil the electoral roll number of the elector as entered in the marked copy of the electoral roll ;

2[(b) obtain the signature or thumb impression of that elector on the said counterfoil ; and]

(c) mark the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him, without however recording therein the serial number of the ballot paper issued to that elector : 2 [Provided that no ballot paper shall be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper.

(3) Notwithstanding anything contained in sub-rule (2) of Rule 2, it shall not be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the elector on the counterfoil.]

(4) No person in the polling station shall note down the serial numbers of the ballot papers issued to particular electors.]

1. Substituted by S.O. 5573, dt. 23-12-1971.

2. Inserted by S.O. 518(E),dt. 7-9-1979.

39. Maintenance of secrecy of voting by electors within polling station and voting procedure :-

- (1) Every elector to whom a ballot paper has been issued under Rule 38 or under any other provision of these rules, shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure here- inafter laid down.
- (2) The elector on receiving the ballot paper shall forthwith-
 - (a) proceed to one of the voting compartments ;
 - (b) there make a mark on the ballot paper with the instrument supplied for the purpose on or near the symbol of the candidate for whom he intends to vote ;
 - (c) fold the ballot paper so as to conceal his vote ;
 - (d) if required, show to the presiding officer the distinguishing mark on the ballot paper ;
 - (e) insert the folded ballot paper into the ballot box ; and
 - (f) quit the polling station.
- (3) Every elector shall vote without undue delay.
- (4) No elector shall be allowed to enter a voting compartment when another elector is inside it.
- (5) If an elector to whom a ballot paper has been issued, refuses, after warning given by the presiding officer, to observe the procedure as laid down in sub-rule (2), the ballot paper issued to him shall, whether he has recorded his vote thereon or not, be taken back from him by the presiding officer or a polling officer under the direction of the presiding officer.
- (6) After the ballot paper has been taken back, the presiding officer shall record on its back the words "Cancelled : voting procedure violated" and put his signature below those words.
- (7) All the ballot papers on which the words "Cancelled : voting procedure violated" are recorded, shall be kept in a separate cover which shall bear on its face the words "Ballot papers : voting procedure violated".
- (8) Without prejudice to any other penalty to which an elector, from whom a ballot paper has been taken back under sub-rule (5), may be liable, the vote, if any, recorded on such ballot paper shall not be counted.

40. Recording of votes of blind or infirm electors :-

(1) If the presiding officer is satisfied that owing to blindness or other physical infirmity an elector is unable to recognise the symbols on the ballot paper or to make a mark thereon without assistance, the presiding officer shall permit the elector to take with him a companion of not less than 1 [eighteen] years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and, if necessary, for folding the ballot paper so as to conceal the vote and inserting it into the ballot box :

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day :

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule, the person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any polling station on that day.

(2) The presiding officer shall keep a record in Form 14-A of all cases under this rule.

1. Substituted by S.O. 542(E), dt. 13-7-1989.

41. Spoilt and returned ballot papers :-

(1) An elector who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on returning it to the presiding officer and on satisfying him of the inadvertence, be given another ballot paper, and 1[the ballot paper so returned and the counterfoil of such ballot paper] shall be marked "Spoilt : cancelled" by the presiding officer.

(2) If an elector after obtaining a ballot paper decides not to use it, he shall return it to the presiding officer, and 2 [the ballot paper so returned and the counterfoil of such ballot paper] shall be marked as "Returned : cancelled" by the presiding officer.

(3) All ballot papers cancelled under sub-rule (1) or sub-rule (2) shall be kept in a separate packet.

1. Substituted by S.O. 5573, dt. 23-12-1971.

2. Substituted by S.O. 5573, dt. 23-12-1971.

42. Tendered votes :-

(1) If a person representing himself to be a particular elector applies for a ballot paper after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the presiding officer may ask, be entitled, subject to the following provisions of this rule, to mark a ballot paper (hereinafter in these rules referred to as a "tendered ballot paper") in the same manner as any other elector.

(2) Every such person shall, before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in Form 15.

1[(3) A tendered ballot paper shall be the same as the other ballot papers used at the polling except that-

(a) such tendered ballot paper shall be serially the last in the bundle of ballot papers issued for use at the polling station ; and

(b) such tendered ballot paper and its counterfoil shall be endorsed on the back with the words "tendered ballot paper" by the presiding officer in his own hand and signed by him.]

(4) The elector, after marking a tendered ballot paper in the voting compartment and folding it, shall, instead of putting it into the ballot box, give it to the presiding officer, who shall place it in a cover specially kept for the purpose. 2 Provided that where such elector is a member of a political party in an election to fill a seat or seats in the Council of States, the presiding officer shall, before placing the tendered ballot paper in the said cover, allow the authorised agent of that political party to verify as to which candidate the elector has cast his vote.

Explanation. For the purposes of this rule, "authorised agent", in respect of a political party, means an authorised agent appointed, under sub-rule (2) of Rule 39-AA as made applicable, by clause (if) of Rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of Rule 68, by that political party.;

1. Substituted by S.O. 5573, dt. 23-12-1971.

2. Inserted by Conduct of Elections (Amendment) Rules, 2004, Published in the Gazette of India, Extra., Part II, Section 3(ii), dated 27th February, 2004, pp. 7-10, No. 215

43. Closing of poll :-

(1) The presiding officer shall close a polling station at the hour fixed in that behalf under Section 56 and shall not thereafter admit any elector into the polling station : Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether an elector was present at the polling station before it was closed, it shall be decided by the presiding officer and his decision shall be final.

44. Sealing of ballot boxes after poll :-

(1) As soon as practicable after the closing of the poll, the presiding officer shall close the slit of the ballot box, and where the box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any polling agent present to affix his seal.

(2) The ballot box shall thereafter be sealed and secured.

(3) Where it becomes necessary to use a second ballot box by reason of the first ballot box getting full, the first box shall be closed, sealed and secured as provided in sub-rules (1) and (2) before another ballot box is put into use.

(4) The foregoing provisions of this rule shall not apply at a polling station to the presiding officer of which the Election Commission has issued a direction asking him to proceed in accordance with sub-rule (5).

(5) At any such polling station, as soon as practicable after the close of poll, the presiding officer shall-

(a) transfer all the ballot papers contained in the ballot box or boxes used at that polling station, without examining or counting them and with due regard to the secrecy of the ballot, into a cloth bag or cloth-lined cover after demonstrating to the polling agents present that the bag or cover is empty ;

(b) allow the polling agents present to inspect each ballot box and demonstrate to them that it has been emptied ;

(c) record on the bag or cover the name of the constituency, the name of the polling station and the date of the poll ; and

(d) seal the bag or cover and allow any polling agent present to affix his seal thereon.

45. Account of ballot papers :-

(1) The presiding officer shall at the close of the poll prepare a ballot paper account in Form 16 and enclose it in a separate cover with the words "Ballot Paper Account" superscribed thereon.

1 [(2) The presiding officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in the ballot paper account after obtaining a receipt from the said polling agent therefor and shall also attest it as a true copy.]

1. Substituted by S.O. 229(E), dt. 26-5-1975.

46. Sealing of other packets :-

- (1) The presiding officer shall then make into separate packets-
- (a) the marked copy of the electoral roll ;
 - 1 [(aa) the counterfoils of the used ballot paper ;]
 - (b) the ballot papers signed in full by the presiding officer under sub-rule (1) of Rule 38 but not issued to the voters ;
 - (bb) any other ballot papers not issued to the voters ;
 - (c) the ballot papers cancelled for violation of voting procedure under Rule 39 ;
 - (cc) any other cancelled ballot papers ;]
 - (d) the cover containing the tendered ballot papers and the list in Form 15 ;
 - (e) the list of challenged votes ; and
 - (f) any other papers directed by the Election Commission to be kept in a sealed packet.
- (2) Each such packet shall be sealed with the seals of the presiding officer and with the seals either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seals thereon.
1. Inserted by S.O. 5573, dt. 23-12-1971.

47. Transmission of ballot boxes, etc., to the returning officer :-

- (1) The presiding officer shall then deliver or cause to be delivered to the returning officer at such place as the returning officer may direct-
- (a) the ballot boxes or, as the case may be, the bags or covers referred to in Rule 44 ;
 - (b) the ballot paper account ;
 - (c) the sealed packets referred to in Rule 46 ; and
 - (d) all other papers used at the poll.
- (2) The returning officer shall make adequate arrangements for the safe transport of all ballot boxes, packets and other papers and for their safe custody until the commencement of the counting of votes.

48. Procedure on adjournment of poll :-

- (1) If the poll at any polling station is adjourned under sub-section (1) of Section 57 , the provisions of Rule 44, Rule 45, Rule 46 and Rule 47 shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under Section 56 .
- (2) When an adjourned poll is recommenced under sub-section (2) of section 57 , the electors who have already voted at the poll so adjourned shall not be allowed to vote again.
- (3) The returning officer shall provide the presiding officer of the polling station at which such adjourned poll is held, with the sealed packet containing the marked copy of the electoral roll and a new ballot box.
- (4) The presiding officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the electoral roll 1 [for marking the names of the electors to whom the ballot papers are issued at the adjourned poll, without however recording therein the serial number thereof].
- (5) The provisions of Rule 28, Rule 29, Rule 30, Rule 31, Rule 32, Rule 33, Rule 34, Rule 35, Rule 36, Rule 37, Rule 38, Rule 39, Rule 40, Rule 41, Rule 42, Rule 43, Rule 44, Rule 45, Rule 46, and Rule 47 shall apply in relation to the conduct of an adjourned poll as they apply in relation to the poll before it was so adjourned.
1. Substituted by S.O. 5573, dt. 23-12-1971, for certain words.

49. Voting by ballot at notified polling stations :-

- (1) Notwithstanding any- thing contained in the preceding provisions of this Part, the Election Commission may, by notification published in the Official Gazette at least 15 days before the date, or the first of the dates, of poll appointed for an election, direct that the method of voting by ballot shall be followed in that election at such polling stations as may be specified in the notification.
- (2) Every such polling station is hereafter in these rules referred to as a "notified polling station".
- (3) The provisions of Rules Rule 28, Rule 29, Rule 30, Rule 31, Rule 32, Rule 33, Rule 34, Rule 35, Rule 36, Rule 37, Rule 38, Rule 39, Rule 40, Rule 41, Rule 42, Rule 43, Rule 44, Rule 45, Rule 46, Rule 47 and Rule 48 shall apply in relation to every notified polling station subject to the following modifications, namely :-
- (a) in lieu of Rule 30, the following rule shall apply :- "30-A. Form of ballot paper Every ballot paper shall be of such design as the Election Commission may decide." ;
 - (b) in lieu of sub-rules (2) and (3) of Rule 31, the following sub-rules shall apply:-
- "(2) At each notified polling station there shall be set up one voting compartment in which the ballot

boxes, one for each candidate, shall be placed for the reception of ballot papers during the poll and which shall be so designed that an elector can insert a ballot paper in any of the ballot boxes without being observed by any person outside the compartment.

(3) The returning officer shall provide at each notified polling station a sufficient number of ballot boxes, copies of the relevant part of the electoral roll, ballot papers and such other election materials as may be required for taking the poll." ;

(c) in lieu of sub-rules (5), (6) and (7) of Rule 33, the following sub-rules shall apply :-

(5) The symbol allotted to each candidate under Rule 10 shall be printed on labels which shall be affixed both inside and outside the ballot box and such ballot box shall thereafter be deemed to have been allotted to that candidate. 1

Provided that where the person referred to in sub-rule (3) is a member of a political party in an election to fill a seat or seats in the Council of States, the presiding officer, notwithstanding anything contained in sub-rule (3), shall, before the tendered ballot paper is placed in the said cover, allow the authorised agent of that political party to verify as to whom such person has cast his vote.

Explanation. For the purposes of this rule, "authorised agent", in respect of a political party, means an authorised agent appointed, under sub-rule (2) of Rule 39-AA as made applicable, by clause (if) of Rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of Rule 68, by that political party.;

(6) Each ballot box shall also be marked with such other distinguishing marks as the Election Commission may direct.

(7) Immediately before the commencement of the poll, the presiding officer shall allow inspection of each ballot box by the polling agents present and demonstrate to them that (a) it is empty, (b) proper labels have been

(8) After all the ballot boxes have been labelled, secured and sealed, they shall be placed in the voting compartment side by side in the same order in which the names of the candidates to whom they have respectively been allotted appear in the list of contesting candidates." ;

2[(cc) in lieu of Rule 38, the following rule shall apply :-

"38-B. Issue of ballot papers to electors

(1) Every ballot paper shall before issue to an elector be-

(a) stamped with such distinguishing mark as the Election Commission may direct ; and

(b) signed in full on its back by the presiding officer.

(2) At the time of issuing a ballot paper to an elector, the polling officer shall record the serial number thereof against the entry relating to the elector in the marked copy of the electoral roll.

(3) Save as provided in sub-rule (2), no person in the polling station shall note down the serial numbers of the ballot papers issued to particular electors." ;]

(d) in lieu of sub-rule (2) of Rule 39, the following sub-rule shall apply :-

"(1) On receiving the ballot paper, the elector shall forthwith go into the voting compartment and insert the ballot paper through the slit into the ballot box allotted to the candidate for whom he wishes to vote." ;

(e) in lieu of sub-rule (1) of Rule 40, the following sub-rule shall apply -

"(1) If the presiding officer is satisfied that owing to blindness or other physical infirmity an elector is unable to recognise the symbols on the ballot boxes or to insert the ballot paper into a ballot box, the presiding officer shall permit the elector to take with him a companion of not less than 3[eighteen] years of age to the voting compartment for ascertaining from him the name of the candidate for whom he wishes to vote and for inserting the ballot paper into the ballot box of such candidate in accordance with the wishes of such elector : Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day : Provided further that before any person is permitted to act as the companion of an elector on any day under this rule, the person shall be required to declare that he will keep secret the name of the candidate for whom the elector has voted and that he has not already acted as the companion of any other elector at any polling station on that day."

(F) in lieu of Rule 42, the following rules shall apply :-

"42-A. Tendered votes

(1) If a person representing himself to be a particular elector applies for a ballot paper after another person has already voted as such elector, he shall, on satisfactorily answering such questions

(2) Every such person shall, before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in Form 15.

(3) Such person shall thereafter record on the tendered ballot paper the name of the candidate for whom he wishes to vote ; but if owing to illiteracy, blindness, physical infirmity or any other reason he is unable to make such record, the presiding officer shall do so in accordance with his wishes.

(4) The procedure laid down in sub-rule (3) shall be followed with due regard to secrecy.

(5) Every such tendered ballot paper shall forthwith be placed in a cover specially kept for the purpose.

42-B. Presiding Officers entry into voting compartment during poll

(1) The presiding officer may, whenever he considers it necessary to do so, enter the voting compartment during poll and take such steps as may be necessary to ensure that the ballot boxes therein are not tampered or interfered with in any way.

(2) If the presiding officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with any ballot box or has remained inside the voting compartment unduly long, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and prompt progress of the poll.

(3) Whenever the presiding officer enters the voting compartment under this rule he shall permit the polling agents present to accompany him.

42-C. Disposal of ballot papers found wholly or partly outside ballot boxes

(1) If any ballot paper which has been issued to an elector has not been inserted by him into any ballot box but is found anywhere in or near the polling station, whether within or outside the voting compartment it shall be deemed to have been returned to the presiding officer under sub-rule (2) of Rule 41 and dealt with accordingly.

(2) If a ballot paper is found partly inserted into the ballot box of a candidate, it shall be presumed that the intention of the elector was to cast that vote for that candidate and the presiding officer shall accordingly push the ballot paper into that ballot box. ;

(g) in lieu of Rule 44, the following rule shall apply :-

"44-A. Sealing of ballot boxes after poll

(1) As soon as practicable after the closing of the poll, the presiding officer shall close the slit of each ballot box and where the boxes do not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any polling agent present to affix his seals.

(2) All the ballot boxes shall thereafter be sealed and secured." ; 4[* * *]

5 [(i) clause (aa) of sub-rule (1) of Rule 46 shall not apply ; and

(j) in lieu of sub-rules (3) and (4) of Rule 48, the following sub-rule shall apply :-

"(3) The returning officer shall provide the presiding officer of the polling station at which such adjourned poll is held with the sealed packet containing the marked copy of the electoral roll and a set of new ballot boxes.

(4) The presiding officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the electoral roll for recording the serial numbers of the ballot papers issued to electors at the adjourned poll."].

1. Inserted Conduct of Elections (Amendment) Rules, 2004 Published in the Gazette of India, Extra., Part II, Section 3(ii), dated 27th February, 2004, pp. 7-10, No. 215 3

2. Inserted by S.O. 5573, dt. 23-12-1971.

3. Substituted by S.O. 542(E), dt. 13-7-1989.

4. Cl. (h) omitted by S.O. 518(E), dt. the 7-9-1979.

5. Substituted by S.O. 5573, dt. 23-12-1971.

2 VOTING BY ELECTRONIC VOTING MACHINES

49A. Design Of Electronic Voting Machines :-

Every electronic voting machine (hereinafter referred to as the voting machine) shall have a control unit and a balloting unit and shall be of such designs as may be approved by the Election Commission.

49B. Preparation Of Voting Machine By The Returning Officer :-

The balloting unit of the voting machine shall contain such particulars and in such language or languages as the Election Commission may specify.

(2) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.

(3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

(4) Subject to the foregoing provisions of this rule, the returning officer shall,-

(a) fix the label containing the names and symbols of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same ;

(b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

49C. Arrangements At The Polling Stations :-

- (1) Outside each polling station there shall be displayed prominently-
 - (a) a notice specifying the polling area, the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled ; and
 - (b) a copy of the list of contesting candidates.
- (2) At each polling station there shall be set up one or more voting compartments in which the electors can record their votes free from observation.
- (3) The returning officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.
- (4) Without prejudice to the provisions of sub-rule (3), the returning officer may, with the previous approval of the Election Commission, provide one common voting machine for two or more polling stations located in the same premises.

49D. Admission To Polling Stations :-

The presiding officer shall regulate the number of electors, to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than-

- (a) polling officers ;
- (b) public servants on duty in connection with the election ;
- (c) persons authorised by the Election Commission ;
- (d) candidates, their election agents and subject to the provisions of Rule 13, one polling agent of each candidate ;
- (e) a child in arms accompanying as elector ;
- (f) a person accompanying a blind or infirm elector who cannot move without help ; and
- (g) such other person as the returning officer or the presiding officer may employ under sub-rule (2) of Rule 49G or sub-rule (1) or Rule 49H.

49E. Preparation Of Voting Machine For Poll :-

- (1) The control unit and balloting unit of every voting machine used at polling station shall bear a label marked with-
 - (a) the serial number, if any, and the name of the constituency ;
 - (b) the serial number and name of the polling station or stations as the case may be ;
 - (c) the serial number of the unit ; and
 - (d) the date of poll.
- (2) Immediately before the commencement of the poll, the presiding officer shall demonstrate to the polling agents and Other persons present that no voter has been already recorded in the voting machine and it bears the label referred to in sub-rule (4).
- (3) A paper seal shall be used for securing the control unit of the voting machine, and the presiding officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the polling agents present as are desirous of affixing the same.
- (4) The presiding officer shall thereafter fix the paper seal so signed in the space meant therefor in the control unit of the voting machine and shall secure and seal the same.
- (5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed, it is not possible to press the "result button" without breaking the seal.
- (6) The control unit shall be closed and secured and placed in full view of the presiding officer and the polling agents and the balloting unit placed in the voting compartment.

49F. Marked Copy Of Electoral Roll :-

Immediately before the commencement of the poll, the presiding officer shall also demonstrate to the polling agents and others present that the marked copy of the electoral roll to be used during the poll does not contain-

- (a) any entry other than that made in pursuance of clause (b) of sub-rule (2) of Rule 20 ; and
- (b) any mark other than the mark made in pursuance of clause (b) of sub-rule (2) of Rule 23.

49G. Facilities For Women Electors :-

- (1) Where a polling station is for both men and women electors, the presiding officer may direct that

they shall be admitted into the polling station alternately in separate batches.

(2) The returning officer or the presiding officer may appoint a woman to serve as an attendant at any polling station to assist women electors and also to assist the presiding officer generally in taking the poll in respect of women electors, and in particular, to help/frisking any woman elector in case it becomes necessary.

49H. Identification Of Electors :-

(1) The presiding officer may employ at the polling station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.

(2) As each elector enters the polling station, the presiding officer or the polling officer authorised by him in this behalf shall check the electors name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector.

(3) Where the polling station is situated in a constituency electors of which have been supplied with identity cards under the provisions of the Registration of Electors Rules, 1960 , the elector shall produce his identity card before the presiding officer or the polling officer authorised by him in this behalf.

(4) In deciding the right of a person to cast his vote, the presiding officer or the polling officer, as the case may be, shall overlook the clerical or printing errors in an entry in the electoral roll if he is satisfied that such person is identical with the elector to whom such entry relates.

49I. Facilities For Public Servants On Election Duty :-

(1) The provisions of Rule 49H shall not apply to any person who produces at the polling station an election duty certificate in Form 12-B and seeks permission to cast his vote at that polling station although it is different from the one where he is entitled to vote.

(2) On production of such certificate, the Presiding Officer shall-

(a) obtain thereon, the signature of the person producing it ;

(b) have the persons name and electoral roll number as mentioned in the certificate entered at the end of the marked copy of the electoral roll ; and

(c) permit him to cast his vote in the same manner as for an elector entitled to vote at that polling station.

49J. Challenging Of Identity :-

(1) Any polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of two rupees in cash with the presiding officer for each such challenge.

(2) On such deposit being made, the presiding officer shall-

(a) warn the person challenged of the penalty for personation ;

(b) read the relevant entry in the electoral roll in full and ask him whether he is the .person referred to in that entry ;

(c) enter his name and address in the list of challenged votes in Form 14 ; and

(d) require him to affix his signature in the said list.

(3) The presiding officer shall thereafter hold a summary inquiry into the challenge and may for that purpose-

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity ;

(b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath ; and

(c) administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the inquiry, the presiding officer considers that the challenge has not been established he shall allow the person challenged to vote ; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

(5) If the presiding officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to Government and in any other case, returned to the challenger at the conclusion of the inquiry.

49K. Safeguards Against Personation :-

(1) Every elector about whose identity the presiding officer or the polling officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the presiding officer or polling officer and an

indelible ink mark to be put on it.

(2) If any elector-

(a) refuses to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, or
(b) fails or refuses to produce his identity card as required by sub-rule (3) of Rule 49H, he shall not be allowed to vote.

(3) Where a poll is taken simultaneously in a Parliamentary constituency and an assembly constituency, and elector whose left forefinger has been marked with indelible ink or who has produced his identity card at one such election, shall notwithstanding anything contained in sub-rules (1) and (2) be permitted to cast his vote for the other election.

(4) Any reference in this rule to the left forefinger of an elector shall, in the case where the elector has his left forefinger missing, be construed as a reference to any other finger on his left hand, and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger or any other finger of his right hand, and shall in the case where all his fingers of both the hands are missing be construed as a reference to such extremity of his left or right arm as he possesses.

49L. Procedure For Voting By Voting Machines :-

(1) Before permitting an elector to vote, the polling officer shall-

(a) record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a register of voters in Form 17-A.

(b) obtain the signature or the thumb impression of the elector on the said register of votes ; and

(c) mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote: Provided that no elector shall be allowed to vote unless he has his signature or thumb impression on the register of voters.

(2) Notwithstanding anything contained in sub-rule (2) of Rule 2, it shall be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the elector on the register of voters.

49M. Maintenance Of Secrecy Of Voting By Electors Within The Polling Station And Voting Procedures :-

(1) Every elector who has been permitted to vote under Rule 49L shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) Immediately on being permitted to vote the elector shall proceed to the presiding officer or the polling officer in charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit ; for recording of electors vote.

(3) The elector shall thereafter forthwith-

(a) proceed to the voting compartment;

(b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote ; and

(c) come out of the voting compartment and leave the polling station.

(4) Every elector shall vote without undue delay.

(5) No elector shall be allowed to enter the voting compartment when another elector is inside it.

(6) If an elector who has been permitted to vote under Rule 49L or Rule 49P refuses after warning given by the presiding officer to observe the procedure laid down in sub-rule (3) of the said rules, the presiding officer or a polling officer under the direction of the presiding officer shall not allow such elector to vote.

(7) Where an elector is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated shall be made against the electors name in the register of voters in Form 17-A by the presiding officer under his signature.

49N. Recording Of Votes Of Blind Or Infirm Electors :-

(1) If the presiding officer is satisfied that owing to blindness or other physical infirmities an elector is unable to recognise the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance the presiding officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes : Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day : Provided further that before any person is permitted to act as the companion of an elector on any day

under this rule that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day.

(2) The presiding officer shall keep a record in Form 14-A of all cases under this rule.

49Q. Elector Deciding Not To Vote :-

If an elector, after his electoral roll number has been duly entered in the register of voters in Form 17-A and has put his signature or thumb impression thereon as required under sub-rule (1) of Rule 49L, decided not to record his vote, a remark to this effect shall be made against the said entry in Form 17-A by the presiding officer and the signature or thumb impression of the elector shall be obtained against such remark.

49P. Tendered Votes :-

(1) If a person representing himself to be a particular elector seeks to vote after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the presiding officer may ask, be, instead of being allowed to vote through the balloting unit, supplied with a tendered ballot paper which shall be of such design, and the particulars of which shall be in such language or languages as the Election Commission may specify.

(2) Every such elector shall before being supplied with tendered ballot paper write his name against the entry relating to him in Form 17-B.

(3) On receiving the ballot paper he shall forthwith-

(a) proceed to the voting compartment ;

(b) record there his vote on the ballot paper by placing a cross mark X with the instrument or article supplied for the purpose on or near the symbol of the candidate for whom he intends to vote;

(c) fold the ballot paper so as to conceal his vote;

(d) show to the presiding officer, if required, the distinguishing mark on the ballot paper;

(e) give it to the presiding officer who shall place it in a cover specially kept for the purpose ; and

(f) leave the polling station.

(4) If owing to blindness or physical infirmities, such elector is unable to record his vote without assistance ; the presiding officer shall permit him to take with him a companion, subject to the same conditions and after following the same procedure as laid down in Rule 49N for recording the vote in accordance with his wishes.

49Q. Presiding Officers Entry In The Voting Compartment During Poll :-

(1) The presiding officer may whenever he considers it necessary so to do, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.

(2) If the presiding officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.

(3) Whenever the presiding officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

49R. Closing Of Poll :-

(1) The presiding officer shall close a polling station at the hour fixed in that behalf under Section 56 and shall not thereafter admit any elector into the polling station : Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the presiding officer and his decision shall be final.

49S. Account Of Votes Recorded :-

(1) The presiding officer shall at the close of the poll prepare an account of votes recorded in Form 17-C and enclose it in a separate cover with the words Account of Votes Recorded superscribed thereon.

(2) The presiding officer shall furnish to every polling agent present at the close of the poll a true copy

of the entries made in Form 17-C after obtaining a receipt from the said polling agent therefor and shall attest it as a true copy.

49T. Sealing Of Voting Machine After Poll :-

- (1) As soon as practicable after the closing of the poll, the presiding officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.
- (2) The control unit and the balloting unit shall thereafter be sealed, and secured separately in such manner as the Election Commission may direct and the seal used for securing them shall be so affixed that it will not be possible to open the units without breaking the seals.
- (3) The polling agents present at the polling station, who desire to affix their seals, shall also be permitted to do so.

49U. Sealing Of Other Packets :-

- (1) The presiding officer shall then make into separate packets,-
 - (a) the marked copy of the electoral roll ;
 - (b) the register of voters in Form 17-A ;
 - (c) the cover containing the tendered ballot papers and the list in Form 17-B;
 - (d) the list of challenged votes ; and
 - (e) any other papers directed by the Election Commission to be kept in a sealed packet.
- (2) Each packet shall be sealed with the seal of the presiding officer and with the seal either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seal thereon.

49V. Transmission Of Voting Machines, Etc., To The Returning Officer :-

- (1) The presiding officer shall then deliver or cause to be delivered to the returning officer at such place as the returning officer may direct,-
 - (a) the voting machine ;
 - (b) the account of votes recorded in Form 17-C ;
 - (c) the sealed packets referred to in Rule 49U ; and
 - (d) all other papers used at the poll.
- (2) The returning officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers for their safe custody until the commencement of the counting of votes.

49W. Procedure On Adjournment Of Poll :-

- (1) If the poll at any polling station is adjourned under sub-section (1) of Section 57 , the provisions of Rule 49S to Rule 49V shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under Section 56
- (2) When an adjourned poll is recommended under sub-section (2) of section 57 , the electors who have already voted at the poll so adjourned shall not be allowed to vote again.
- (3) The returning officer shall provide the presiding officer of the polling station at which such adjourned poll is held, with the sealed packet containing the marked copy of the electoral roll, register of voters in Form 17-A and a new voting machine.
- (4) The presiding officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the electoral roll for marking the names of the electors who are allowed to vote at the adjourned poll.
- (5) The provisions of Rule 28 and Rule 49A to Rule 49V shall apply in relation to the conduct of an adjourned poll before it was so adjourned.

49X. Closing Of Voting Machine In Case Of Booth Capturing :-

Where the presiding officer is of opinion that booth capturing is taking place at a polling station or at a place fixed for the poll, he shall immediately close the control unit of the voting machine to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.]

CHAPTER 5 COUNTING OF VOTES IN PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES

50. Definitions :-

In this Part, unless the context otherwise requires,-

- (a) "candidate" means a contesting candidate ;
- (b) "constituency" means a Parliamentary or Assembly constituency ;
- (c) "counting agent" means a counting agent duly appointed under section 47 and includes a candidate and the election agent of a candidate when present at the counting ;
- (d) "notified polling station" means a polling station notified under Rule 49;
- (e) "polling station" means a polling station provided under Section 25 other than a notified polling station.

51. Time and place for counting of votes :-

The returning officer shall, at least one week before the date, or the first of the dates, fixed for the poll, appoint the place or places where the counting of votes will be done and the date and time at which the counting will commence and shall give notice of the same in writing to each candidate or his election agent : Provided that if for any reason the returning officer finds it necessary so to do, he may alter the date, time and place or places so fixed, or any of them, after giving notice of the same in writing to each candidate or his election agent.

52. Appointment of counting agents and revocation of such appointments :-

- (1) The number of counting agents that a candidate may appoint under Section 47 shall, subject to such general or special directions as the Election Commission may issue in this behalf, not exceed sixteen at the place or each of the places, fixed for counting under Rule 51.
- (2) Every such appointment shall be made in Form 18 in duplicate, one copy of which shall be forwarded to the returning officer while the other copy shall be made over to the counting agent for production before the returning officer not later than one hour before the time fixed for counting under Rule 51.
- (3) No counting agent shall be admitted into the place fixed for counting unless he has delivered to the returning officer the second copy of his appointment under sub-rule (2) after duly completing and signing the declaration contained therein and receiving from the returning officer an authority for entry into the place fixed for counting.
- (4) The revocation of appointment of a counting agent under sub-section (2) of Section 48 shall be made in Form 19 and lodged with the returning officer.
- (5) In the event of any such revocation before the commencement of the counting of votes, the candidate or his election agent may make a fresh appointment in accordance with sub-rule (2).

53. Admission to the place fixed for counting :-

- (1) The returning officer shall exclude from the place fixed for counting of votes all persons except-
 - (a) such persons (to be known as counting supervisors and counting assistants) as he may appoint to assist him in the counting ;
 - (b) persons authorised by the Election Commission ;
 - (c) public servants on duty in connection with the election ; and
 - (d) candidates, their election agents and counting agents.
- (2) No person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election shall be appointed under clause (a) of sub-rule (1).
- (3) The returning officer shall decide which counting agent or agents shall watch the counting at any particular counting table or group of counting tables.
- (4) Any person who during the counting of votes misconducts himself or fails to obey the lawful directions of the returning officer may be removed from the place where the votes are being counted by the returning officer or by any police officer on duty or by any person authorised in this behalf by the returning officer.

54. Maintenance of secrecy of voting :-

The returning officer shall, before he commences the counting, read out the provisions of Section 128 to such persons as may be present.

54A. Counting Of Votes Received By Post :-

- (1) The returning officer shall first deal with the postal ballot papers in the manner hereinafter provided.

(2) No cover in Form 13-C received by the returning officer after the expiry of the time fixed in that behalf shall be opened and no vote contained in any such cover shall be counted.

(3) The other covers shall be opened one after another and as each cover is opened, the returning officer shall first scrutinise the declaration in Form 13-A contained therein.

(4) If the said declaration is not found, or has not been duly signed and attested, or is otherwise substantially defective, or if the serial number of the ballot paper as entered in it differs from the serial number endorsed on the cover in Form 13-B, that cover shall not be opened, and after making an appropriate endorsement thereon, the returning officer shall reject the ballot paper therein contained.

(5) Each cover so endorsed and the declaration received with it shall be replaced in the cover in Form 13-C and all such covers in Form 13-C shall be kept in a separate packet which shall be sealed and on which shall be recorded the name of the constituency, the date of counting and a brief description of its content.

(6) The returning officer shall then place all the declarations in Form 13-A which he has found to be in order in a separate packet which shall be sealed before any cover in Form 13-B is opened and on which shall be recorded the particulars referred to in sub-rule (5).

(7) The covers in Form 13-B not already dealt with under the foregoing provisions of this rule shall then be opened one after another and the returning officer shall scrutinise each ballot paper and decide the validity of the vote recorded thereon.

(8) A postal ballot paper shall be rejected-

1[(a) if it bears any mark (other than the mark to record the vote) or writing by which the elector can be identified ; or]

2 [(aa)] if no vote is recorded thereon ; or

(b) if votes are given on it in favour of more candidates than one ; or

(c) if it is a spurious ballot paper ; or

(d) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established ; or

(e) if it is not returned in the cover sent along with it to the elector by the returning officer.

(9) A vote recorded on a postal ballot paper shall be rejected if the mark indicating the vote is placed on the ballot paper in such manner as to make it doubtful to which candidate the vote has been given.

(10) A vote recorded on a postal ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(11) The returning officer shall count all the valid votes given by the postal ballot in favour of each candidate, record the total thereof in the result sheet in Form 20 and announce the same.

(12) Thereafter, all the valid ballot papers and all the rejected ballot papers shall be separately bundled and kept together in a packet which shall be sealed with the seals of the returning officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereon and on the packet so sealed shall be recorded the name of the constituency, the date of counting and a brief description of its contents.

1. Inserted by S.O. 5573, dt. 23-12-1971.

2. Cl. (a) relettered as Cl. (aa) by *ibid*.

55. Seutiny and opening of ballot boxes :-

1[(1) The returning officer may have the ballot box or boxes used at more than one polling station opened and the ballot papers found in such box or boxes counted simultaneously.]

2 [* * *]

(2) Before any ballot box is opened at a counting table, the counting agents present at that table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon and to satisfy themselves that it is intact.

(3) The returning officer shall satisfy himself that none of the ballot boxes has in fact been tampered with.

(4) If the returning officer is satisfied that any ballot box has in fact been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in Section 58 in respect of that polling station.

1. Substituted by S.O. 518(E), dt. 7-9-1979, for sub-rule (1).

2. Sub-rule (1-A) omitted, by S.O. 518(E), dt. 7-9-1979.

56. Counting of votes. :-

1[(1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinized.]

(2) The returning officer shall reject a ballot paper-

(a) if it bears any mark or writing by which the elector can be identified, or
2[(b) If it bears no mark at all or, to indicate the vote, it bears a mark elsewhere than on or near the symbol of one of the candidates on the face of the ballot paper or, it bears a mark made otherwise than with the instrument supplied for the purpose, or]
(c) if votes are given on it in favour of more than one candidate, or
(d) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given, or
(e) if it is a spurious ballot paper, or
(f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established, or
(g) if it bears a serial number, or is of a design, different from the serial numbers, or, as the case may be, design, of the ballot papers authorised for use at the particular polling station, or
(h) if it does not bear both the mark and the signature which it should have borne under the provisions of sub-rule (1) of Rule 38 : Provided that where the returning officer is satisfied that any such defect as is mentioned in clause (g) or clause (h) has been caused by any mistake or failure on the part of a presiding officer or polling officer, the ballot paper shall not be rejected merely on the ground of such defect : Provided further that a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(3) Before rejecting any ballot paper under sub-rule (2), the returning officer shall allow each counting agent present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.

3[(4) The returning officer shall endorse on every ballot paper which he rejects the word "Rejected" and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp and shall initial such endorsement.]

(5) All ballot papers rejected under this rule shall be bundled together.

(6) Every ballot paper which is not rejected under this rule shall be counted as one valid vote : Provided that no cover containing tendered ballot papers shall be opened and no such paper shall be counted.

4[(P) After the counting of all ballot papers contained in all the ballot boxes used at a polling station has been completed,-

(a) the counting supervisor shall fill in and sign Part II-Result of Counting, in Form 16, which shall also be signed by the returning officer ; and

(b) the returning officer shall make the entries in a result sheet in Form 10 and announce the particulars.]

5 [, * *]

1. Substituted by S.O. 518(E), dt. 7-9-1979, for sub-rule (1).

2. Substituted by S.O. 505(E), dt. the 18-9-1973

3. Substituted by S.O.479-A, dt. 27-1-1971, for sub-rule (4).

4. Substituted by S.O. 518(E), dt. 7-9-1979, for sub-rule (7).

5. Explanation omitted by ibid.

57. Sealing of used ballot papers :-

The valid ballot papers of each candidate and the rejected ballot papers shall thereafter be bundled separately and the several bundles made up into a separate packet which shall be sealed with the seals of the returning officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereon ; and on the packets so sealed shall be recorded the following particulars, namely :-

(a) the name of the constituency ;

1 [(b) the particulars of the polling station where the ballot papers have been used ; and]

(c) the date of counting.

1. Inserted by S.O. 518(E), dt. 7-9-1979. The former Cl. (b) was omitted by S.O. 5573, dt. 23-12-1971.

58. Counting of ballot papers transferred to bags or covers under Rule 44 :-

The provisions of Rule 55, Rule 56 and Rule 57 shall apply so far as may be in relation to counting of ballot papers and votes, if any, which have been transferred from ballot boxes to cloth bags or cloth-lined covers under sub-rule (5) of Rule 44 : Provided that every reference in the said rules to a ballot box shall be construed as a reference to a bag or cover to which the contents of a ballot box have been transferred.

59. Counting of votes at notified polling stations :-

In relation to the counting of ballot papers found in ballot boxes used at notified polling stations,

1[Rule 50 to Rule 54] and, in lieu of Rule 55, Rule 56 and Rule 57, the following Rules shall apply, namely:- "55-A. Scrutiny and opening of ballot boxes(1) All ballot boxes used at a notified polling station shall be opened at the same time but every ballot box shall be dealt with in such manner that its contents do not get mixed up with the contents of any other ballot box.

(2) Subject to the provisions of sub-rule (1), the returning officer may have the ballot boxes used at more notified polling stations than one opened and their contents counted simultaneously.

(3) Before any ballot box is opened, the counting agents present shall be allowed to inspect the paper seal or any other seal that might have been affixed thereon and to satisfy themselves that it is intact.

(4) The returning officer shall satisfy himself that none of the ballot boxes has in fact been tampered with.

(5) If the returning officer is satisfied that any of the ballot boxes has in fact been tampered with, he shall not count the ballot papers contained in any of the ballot boxes used at the polling station at which such box was used and shall proceed as laid down in Section 58 in respect of that polling station.

(6) After each ballot box is opened, the counting agents present shall be allowed to inspect the ballot box and satisfy themselves that it bears the proper symbol inside and has been duly marked in accordance with the provisions of sub-rule (6) of Rule 33 as modified by clause (c) of sub-rule (3) of Rule 49.

(7) If any question arises as to the candidate to whom a particular ballot box was allotted at the poll, the returning officer shall decide such question by a reference to the symbol inside the box : Provided that-

(a) if there is no symbol inside the box, or

(b) if the symbol inside the box has been damaged or mutilated beyond recognition, or

(c) if the same symbol is found on two or more boxes used at the same polling station, the returning officer, shall, wherever possible, decide the question by reference to all relevant circumstances including the distinguishing marks on the ballot box, and where he does not consider it possible to decide the question, he shall immediately refer it to the Election Commission for its decision.

56A. Counting of votes

(1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinised.

(2) The returning officer shall reject a ballot paper-

(a) if it bears any mark or writing by which the elector can be identified, or

(b) if it is a spurious ballot paper, or

(c) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established, or

(d) if it bears a serial number, or is of a design, different from the serial numbers or, as the case may be, design, of the ballot papers authorised for use at the particular polling station, or

(e) if it does not bear both the mark and the signature which it should have borne under the provisions of sub-rule (1) of Rule 38 : Provided that where the returning officer is satisfied that any such defect as is mentioned in clause (d) or clause (e) has been caused by any mistake or failure on the part of a presiding officer or polling officer, the ballot paper shall not be rejected merely on the ground of such defect.

(3) Before rejecting any ballot paper under sub-rule (2), the returning officer shall allow the counting agents present a reasonable opportunity to inspect the ballot paper but shall not allow them to handle it or any other ballot paper.

(4) The returning officer shall record on every ballot paper which he rejects the letter R and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp.

(5) All ballot papers taken out of any one ballot box and rejected under this Rule shall be made into a separate bundle.

(6) Every ballot paper which is not rejected under this Rule shall be counted as one valid vote : Provided that no cover containing tendered ballot papers shall be opened and no such ballot paper shall be counted.

(7) After the counting of all ballot papers contained in all the ballot boxes used at a polling station has been completed,-

(a) the counting supervisor shall fill in and sign Part II-Result of Counting in 2 [Form 16] which shall also be signed by the returning officer ; and

(b) the returning officer shall make the entries in a result sheet in Form 20 and announce the particulars.

57A. Sealing of used ballot papers

(1) The valid ballot papers found in each ballot box, shall thereafter be bundled together and kept along with the bundle of rejected ballot papers, if any found in that box in a separate packet which shall be sealed with the seals of the returning officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereon and on the packet so sealed there shall be

recorded the following particulars, namely :-

- (a) the name of the constituency,
- (b) the particulars of the polling station where the ballot papers have been used,
- (c) the name of the candidate to whom the ballot box was allotted, and
- (d) the date of counting.

(2) The returning officer shall then place together all the packets made up under sub-rule (1) in respect of each candidate in a separate container which shall be sealed with the seals of the returning officer and of such of the candidates, their election agents or their counting agents as may desire to affix their seals thereon and on the container so sealed shall be recorded the following particulars, namely :-

- (a) the name of the constituency,
- (b) the names of the candidates, and
- (c) the date of counting."

1. Substituted by S.O. 5573, dt. 23-12-1971.

2. Substituted by S.O. 518(E), dt. 7-9-197.

59A. Counting Of Votes In Specified Constituencies :-

Where the Election Commission apprehends intimidation and victimisation of electors in any constituency and it is of the opinion that it is absolutely necessary that the ballot papers taken out of all boxes used in that constituency should be mixed before counting, it may, by notification in the Official Gazette, specify such constituency and for counting of such ballot papers, in lieu of Rule 55, Rule 56, Rule 57 and Rule 59, the following rules shall apply], namely :-

"55-B. Scrutiny and opening of ballot boxes

(1) The returning officer shall open, or cause to be opened, simultaneously the ballot box or boxes used at more than one polling station and shall have the total number of ballot papers found in such box or boxes counted and recorded in Part II of Form 16 : Provided that discrepancy, if any, between the total number of such ballot papers recorded as aforesaid and the total number of ballot papers shown against item No. 5 of Part I shall also be recorded in Part II of Form 16.

(2) Before any ballot box is opened at a counting table, the counting agents present at that table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon and to satisfy themselves that it is intact.

(3) The returning officer shall satisfy himself that none of the ballot boxes has in fact been tampered with.

(4) If the returning officer is satisfied that any ballot box has in fact been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in Section 58 in respect of that polling station.

56-B. Counting of votes

(1) Subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, the ballot papers taken out of all boxes 1 [used at more than one polling station in a constituency] shall be mixed together and then arranged in convenient bundles and scrutinised.

(2) The returning officer shall reject a ballot paper-

(a) if it bears any mark or writing by which the elector can be identified, or

(b) if it bears no mark at all or, to indicate the vote, it bears a mark elsewhere than on or near the symbol of one of the candidates on the face of the ballot paper or, it bears a mark made otherwise than with the instrument supplied for the purpose, or

(c) if votes are given on it in favour of more than one candidate, or

(d) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given, or

(e) if it is a spurious ballot paper, or

(f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established, or

(g) if it bears a serial number, or is of a design, different from the serial numbers, or, as the case may be, design, of the ballot papers authorised for use at the particular polling station, or (h) if it does not bear both the mark and the signature which it should have borne under the provisions of sub-rule (1) of Rule 38 : Provided that where the returning officer is satisfied that any such defect as is mentioned in clause (g) or clause (h) has been caused by any mistake or failure on the part of a presiding officer or polling officer, the ballot paper shall not be rejected merely on the ground of such defect : Provided further that a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(3) Before rejecting any ballot paper under sub-rule (2), the returning officer shall allow each counting agent present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.

(4) The returning officer shall endorse on every ballot paper which he rejects the word "Rejected" and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp and shall initial such endorsement.

(5) All ballot papers rejected under this rule shall be bundled together.

(6) Every ballot paper which is not rejected under this rule shall be counted as one valid vote : Provided that no cover containing tendered ballot shall be opened and no such paper shall be counted.

(7) After the counting of all ballot papers contained in all the ballot boxes used in a constituency has been completed, the returning officer shall make the entries in a result sheet in Form 20 and announce the particulars. Explanation For the purpose of this Rule, the expression "constituen- cy" shall, in relation to an election from a Parliamentary constituency, mean the Assembly constituency comprised therein.

57-B. Sealing of used ballot papers The valid ballot papers of each candidate and the rejected ballot papers shall thereafter be bundled separately and the several bundles made up into a separate packet which shall be sealed with the seals of the returning officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereon: and on the packets so sealed shall be recorded the following particulars, namely :-

(a) the name of the constituency; and

(b) the date of counting.]

1. Substituted by S.O. 105(E),dt. 15-2-1993.

60. Counting to be continuous :-

The returning officer shall, as far as prac- ticable, proceed continuously with the counting and shall, during any intervals when the counting has to be suspended, keep the ballot papers, packets and all other papers relating to the election sealed with his own seal and the seals of such candidates or election agents as may desire to affix their seals and take sufficient precaution for their safe custody during such intervals.

61. Recommencement of counting after fresh poll :-

(1) If a fresh poll is held under Section 58 , the returning officer shall, after completion of that poll, recommence the counting of votes on the date and at the time and place which have been fixed by him in that behalf and of which notice has been previously given to the candidates and their election agents.

(2) The provisions of Rule 56 and Rule 57 shall apply so far as may be to such further counting.

62. Section 62 :-

[Omitted]

63. Re-count of votes :-

(1) After the completion of the counting, the returning officer shall record in the result sheet in Form 20 the total number of votes polled by each candidate and announce the same.

(2) After such announcement has been made, a candidate or, in his absence, his election agent or any of his counting agents may apply in writing to the returning officer to re-count the votes either wholly or in part stating the grounds on which they demand such re-count.

(3) On such an application being made the returning officer shall decide the matter and may allow the application in whole or in part or may reject it in toto if it appears to him to be frivolous or unreasonable.

(4) Every decision of the returning officer under sub-rule (3) shall be in writing and contain the reasons therefor.

(5) If the returning officer decides under sub-rule (3) to allow a re-count of the votes either wholly or in part, he shall-

(a) do the re-counting in accordance with Rule 54A, Rule 56 or Rule 56A, as the case may be ;

(b) amend the result sheet in Form 20 to the extent necessary after such re-count ; and

(c) announce the amendments so made by him.

(6) After the total number of votes polled by each candidate has been announced under sub-rule (1) or sub-rule (5), the returning officer shall complete and sign the result sheet in Form 20 and no application for a re-count shall be entertained thereafter : Provided that no step under this sub-rule shall be taken on the completion of the counting until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-rule (2).

64. Declaration of result of election and return of election :-

The returning officer shall, subject to the provisions of Section 65 if and so far as they apply to any particular case, then-

(a) declare in Form 21-C or Form 21-D, as may be appropriate, the candidate to whom the largest number of valid votes have been given, to be elected under Section 66 and send signed copies thereof to the appropriate authority, the Election Commission and the chief electoral officer ; and

(b) complete and certify the return of election in Form 21-E and send signed copies thereof to the Election Commission and the chief electoral officer.

65. Counting at two or more places :-

If ballot papers are counted at more places than one, the provisions of Rule 53, Rule 54 and Rule 55 to Rule 60 shall apply to the counting at each such place, but the provisions of Rule 54A, Rule 63 and Rule 64 shall apply only to the counting at the last of such places.

66. Grant of certificate of election to returned candidate :-

As soon as may be after a candidate has been declared by the returning officer under the provisions of Section 53 , or Section 66 , to be elected, the returning officer shall grant to such candidate a certificate of election in Form 22 and obtain from the candidate an acknowledgment of its receipt duly signed by him and immediately send the acknowledgment by registered post to the Secretary of the House of the People or, as the case may be, the Secretary of the Legislative Assembly.

66A. Counting Of Votes Where Electronic Voting Machines Have Been Used :-

[1 In relation to the counting of votes at a polling station, where voting machine has been used,-

(f) the provisions of Rule 50, Rule 51, Rule 52, Rule 53 and Rule 54 and in lieu of Rule 55, Rule 56 and Rule 57, the following Rules shall respectively apply, namely :- "55-C. Scrutiny and inspection of voting machines

(1) The returning officer may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.

(2) Before the votes recorded in any control unit of a voting machine are counted under sub-rule (1), the candidate or his election agent or his counting agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.

(3) The returning officer shall satisfy himself that none of the voting machines has in fact been tampered with.

(4) If the returning officer is satisfied that any voting machine has in fact been tampered with he shall not count the votes recorded in that machine and shall follow the procedure laid down in Section 58 , or Section 58A or Section 64A , as may be applicable in respect of the polling stations where that machine was used.

56-C. Counting of votes

(1) After the returning officer is satisfied that a voting machine has in fact not been tampered with, he shall have the votes recorded therein counted by pressing the appropriate button marked "Result" provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit.

(2) As the votes polled by each candidate are displayed on the control unit, the returning officer shall have,-

(a) the number of such votes recorded separately in respect of each candidate in Part-11 of Form 17-C ;

(b) Part II of Form 17-C completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present and

(c) corresponding entries made in a result sheet in Form 20 and the particulars so entered in the result sheet announced.

57-C. Sealing of voting machines

(1) After the result of voting recorded in a control unit has been ascertained candidatewise and entered in Part II of Form 17-C and Form 20 under Rule 56C, the returning officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix their seals thereon so, however, that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result.

(2) The control unit so sealed shall be kept in specially prepared boxes on which the returning officer shall record the following particulars, namely:-

(a) the name of the constituency ;

(b) the particulars of polling station or stations where the control unit has been used ;

- (c) serial number of the control unit ;
- (d) date of poll ; and
- (e) date of counting" ;

(ii) the provisions of Rule 60, Rule 61, Rule 62, Rule 63, Rule 64, Rule 65 and Rule 66 shall, so far as may be, apply in relation to voting by voting machines and any reference in those Rules to,-

(a) ballot paper shall be construed as including a reference to such voting machine ;

(b) any rule shall be construed as a reference to the corresponding rule in Chapter II of Part IV or, as the case may be, to Rule 55C or Rule 56C or Rule 57C.]

1. Inserted by S.O. 230(E), dt. 24-3-1992.

CHAPTER 6 VOTING AT ELECTIONS BY ASSEMBLY MEMBERS AND IN COUNCIL CONSTITUENCIES

67. Definition :-

1 Unless the context otherwise requires, in this Part

(a) and in Rule 84, "authorised agent", in respect of a political party, means an authorised agent appointed, under sub-rule (2) of Rule 39-AA as made applicable, by clause (ii) of Rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of Rule 68, by that political party;

(b) "election" means an election by assembly members or an election in a council constituency.;

1. Substituted by Conduct of Elections (Amendment) Rules, 2004 Published in the Gazette of India, Extra., Part II, Section 3(ii), dated 27th February, 2004, pp. 7-10, No. 215

68. Notification as to postal ballot :-

The Election Commission may, by notification published in the Official Gazette at any time before the last date for the withdrawal of candidatures at an election, direct that the method of voting by postal ballot shall be followed:-

(a) at that election, if it is an election by assembly members ; or

(b) in the whole or any specified parts of the constituency, if it is an election in a Council constituency.

69. Notice to electors at election by assembly members :-

At an election by assembly members where a poll becomes necessary, the returning officer for such election shall, as soon as may be after the last date for the withdrawal of candidatures, send to each elector a notice informing him of the date, time and place fixed for polling.

70. Rules for conduct of poll :-

The provisions of Rule 28 to Rule 35 and Rule 36 to Rule 48 shall apply-

(a) to every election by assembly members in respect of which no direction has been issued under clause (a) of Rule 68, and

(b) to every election in a Council constituency unless voting by postal ballot has been directed in the whole of that constituency under clause (b) of Rule 68, subject to the following modifications, namely :-

(i) clause (a) of sub-rule (1) of Rule 31 shall not apply to an election by assembly members ;

(ii) in lieu of Rule 37, Rule 38, Rule 39 and Rule 40, the following rules shall apply :-

"37-A. Method of voting(1) Every elector has only one vote at an election irrespective of the number of seats to be filled.

1[(1-A) The provisions of sub-rules (1), (2) and (4) of Rule 37 shall apply in relation to electors in the graduates constituencies and teachers constituencies as they apply in relation to electors in the Parliamentary constituencies and Assembly constituencies.] (2) An elector in giving his vote-

(a) shall place on his ballot paper the figure 1 in the space opposite the name of the candidate for whom he wishes to vote in the first instance; and

(b) may, in addition, place on his ballot paper the figure 2 or the figures 2 and 3, or the figures 2, 3 and 4 and so on, in the space opposite the names of the other candidates in the order of his preference.

ExplanationThe figures referred to in clauses (a) and (b) of this sub-rule may be marked in the international form of Indian numerals or in the Roman form or in the form used in any Indian language but shall not be indicated in words.

2[38-A. Issue of ballot papers to electors-

(1) Every ballot paper, before it is issued to an elector, and the counterfoil attached thereto shall be stamped on the back with such distinguishing mark as the Election Commission may direct, and every ballot paper, before it is issued, shall be signed in full on its back by the presiding officer.

(2) At the time of issuing a ballot paper to an elector, the polling officer shall-

- (a) record on its counterfoil the electoral roll number of the elector as entered in the marked copy of the electoral roll ;
 - (b) obtain the signature or thumb impression of that elector on the said counterfoil ; and
 - (c) mark the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him,
 - (i) and record in the marked copy of the electoral roll, the serial number of the ballot paper issued to that elector, in the case of an election to fill a seat or seats in the Council of States;
 - (ii) without recording therein the serial number of the ballot paper issued to that elector, in the case of an election to fill a seat or seats in the Legislative Council of a State;"
- "Provided that no ballot paper shall be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper.";
- (3) Notwithstanding anything contained in sub-rule (2) of Rule 2, it shall not be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the elector on the counterfoil.

(4) "Subject to Rule 39-AA, no person" in the polling station shall note down the serial numbers of the ballot papers issued to particular electors.

"(5) Before any ballot paper is delivered to an elector at an election to fill a seat or seats in the Legislative Council of a State by assembly members or in a local authorities constituency, the serial number of the ballot papers shall be effectively concealed in such manner as the Election Commission may direct.";

3[39-A. Maintenance of secrecy of voting by electors within polling station and voting procedure

(1) Every elector, to whom a ballot paper has been issued under Rule 38A or under any other provision of these rules, shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) The elector on receiving the ballot paper shall forthwith-

- (a) proceed to one of the voting compartments ;
- (b) record his vote in accordance with sub-rule (2) of Rule 37A with the article supplied for the purpose ;
- (c) fold the ballot paper so as to conceal his vote ;

4[(d) if required, show to the presiding officer, the distinguishing mark on the ballot paper ;]

5[(e)] insert the folded paper into the ballot box ; and 6[50] quit the polling station.

(3) Every elector shall vote without undue delay.

(4) No elector shall be allowed to enter a voting compartment when another elector is inside it.

(5) If an elector to whom a ballot paper has been issued, refuses, after warning given by the presiding officer to observe the procedure as laid down in sub-rule (2), the ballot paper issued to him shall, whether he has recorded his vote thereon or not, be taken back from him by the presiding officer or a polling officer under the direction of the presiding officer.

(6) After the ballot paper has been taken back, the presiding officer shall record on its back the words "Cancelled : voting procedure violated" and put his signature below those words.

(7) All the ballot papers on which the words "Cancelled : voting procedure violated" are recorded, shall be kept in a separate cover which shall bear on its face the words "Ballot papers : voting procedure violated".

(8) Without prejudice to any other penalty to which an elector, from whom a ballot paper has been taken back under sub-rule (5), may be liable, vote, if any, recorded on such ballot paper shall not be counted.]

39-AA. Information regarding casting of votes

(1) Notwithstanding anything contained in Rule 39-A, the presiding officer shall, between the period when an elector being a member of a political party records his vote on a ballot paper and before such elector inserts that ballot paper into the ballot box, allow the authorised agent of that political party to verify as to whom such elector has cast his vote:

Provided that if such elector refuses to show his marked ballot paper to the authorised agent of his political party, the ballot paper issued to him shall be taken back by the presiding officer or a polling officer under the direction of the presiding officer and the ballot paper so taken back shall then be further dealt with in the manner specified in sub-rules (6) to (8) of Rule 39-A as if such ballot paper had been taken back under sub-rule (5) of that rule.

(2) Every political party, whose member as an elector casts a vote at a polling station, shall, for the purposes of sub-rule (1), appoint, in Form 22-A, two authorised agents.

(3) An authorised agent appointed under sub-rule (2) shall be present throughout the polling hours at the polling station and the other shall relieve him when he goes out of the polling station or vice versa.";

40-A. Recording of votes of illiterate, blind or infirm electors

(1) If an elector is unable to read the ballot paper or to record his vote thereon in accordance with Rule 37A by reason of illiteracy, blindness or other infirmity, the presiding officer shall, on being satisfied

about such illiteracy, blindness or infirmity, permit the elector to take with him a companion of not less than 7[eighteen] years of age who is able to read the ballot paper and record the vote thereon on behalf of, and in accordance with the wishes of, the elector and, if necessary, to fold the ballot paper so as to conceal the vote and insert it into the ballot box : Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day: Provided further that before any person is permitted to act as the companion of an elector or any day under this Rule, the person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any polling station on that day : 8[Provided also that at an election by assembly members no such companion shall be an elector at that election.]

(2) The presiding officer shall keep a record in Form 14-A of all the cases under this Rule.

(3) The presiding officer shall, when he is so requested by the companion of an elector, explain to him the instructions for the recording of votes.]; (iii) in lieu of Rule 44, the following rule shall apply :-

"44-B. Sealing of ballot box after pollAs soon as practicable after the close of the poll, the presiding officer shall, in the presence of any polling agents who may be present, close the slit for insertion of ballot papers of each ballot box or where the box does not contain any mechanical device for closing the slit, seal up the slit and secure the ballot box : Provided that it shall not be necessary to seal the slit or secure the ballot box if the counting of votes is to begin immediately after the close of the poll.";

9 [(iv) in Rule 46, in sub-rule (1), in lieu of clauses (b) and (c), the following clauses shall apply :-

"(b) the ballot papers signed in full by the presiding officer under sub-rule (1) of Rule 38A but not issued to the voters ;

(c) the ballot papers cancelled for violation of voting procedure under Rule 39A."].

1. Inserted by S.O. 335(E), dt. 23-4-1990.

2. Substituted by S.O. 5573, dt. 23-12-1971.

3. Substituted by S.O. 286(E), dt. 8-5-1974.

4. Ins.by S.O.340(E),dt.4-6-1986.

5. CIs. (d) and (e) retettered as CIs. (e) and (f) respectively by ibid.

6. CIs. (d) and (e) relettered as CIs. (e) and (f) respectively by ibid.

7. Substituted by S.O. 542(E), dt. 13-7-1989.

8. Addedby S.O. 5573, dt. 23-12-1971.

9. Substituted by S.O. 286(E), dt. 8-5-1974.

CHAPTER 7 COUNTING OF VOTES ATELECTIONS BY ASSEMBLY MEMBERS OR IN COUNCIL CONSTITUENCIES

71. Definitions :-

In this Part,-

(1) "continuing candidate" means any candidate not elected and not excluded from the poll at any given time ;

(2) "count" means-

(a) all the operations involved in the counting of the first preferences recorded for candidates ; or

(b) all the operations involved in the transfer of the surplus of an elected candidate ; or

(c) all the operations involved, in the transfer of the total value of votes of an excluded candidate ;

(3) "exhausted paper" means a ballot paper on which no further preference is recorded for a continuing candidate, provided that a paper shall also be deemed to have become exhausted whenever-

(a) the names of two or more candidates, whether continuing or not, are marked with the same figure and are next in order of preference ; or

(b) the name of the candidate next in order of preference, whether continuing or not is marked by a figure not following consecutively after some other figure on the ballot paper or by two or more figures ;

(4) "first preference" means the figure 1 set opposite the name of a candidate; "second preference" means the figure 2 set opposite the name of a candidate; "third preference" means the figure 3 set opposite the name of a candidate, and so on ;

(5) "original vote", in relation to any candidate, means a vote derived from a ballot paper on which a first preference is recorded, for such candidate ;

(6) "surplus" means the number by which the value of the votes, original and transferred, of any candidate exceeds the quota ;

(7) "transferred vote", in relation to any candidate, means a vote the value or the part of the value of which is credited to such candidate and which is derived from a ballot paper on which a second or a subsequent preference is recorded for such candidate ; and

(8) "unexhausted paper" means a ballot paper on which a further preference is recorded for a continuing candidate.

72. Application of certain rules :-

The provisions of Rule 51, Rule 52, Rule 53 and Rule 54 shall apply to the counting of votes at any election by assembly members or in a Council constituency as they apply to the counting of votes at an election in a Parliamentary or Assembly constituency.

73. Scrutiny and opening of ballot boxes and packets of postal ballot papers :-

(1) The returning officer shall-

(a) first deal with the covers containing the postal ballot papers, if any, in the manner provided in sub-rules (2) to (7) of Rule 54A ;

(b) then open the ballot boxes, take out from each box and count the ballot papers contained therein, and record their number in a statement.

(c) scrutinise the ballot papers taken out of the ballot boxes as well as the postal ballot papers taken out from the covers ; and

(d) separate the ballot papers which he deems valid from those which he rejects endorsing on each of the latter the word "Rejected" and the ground of rejection.

(2) Subject to Rule 38-A as made applicable, by clause (ii) of Rule 70, to election, in a council constituency and, by assembly members other than by postal ballot under clause (a) of Rule 68, a ballot paper shall be invalid on which-

(a) the figure 1 is not marked ; or

(b) the figure 1 is set opposite the name of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply; or

(c) the figure 1 and some other figures are set opposite the name of the same candidate ; or

(d) there is any mark or writing by which the elector can be identified ; 1[or]

2 [(e) there is any figure marked otherwise than with the article supplied for the purpose : Provided that this clause shall not apply to a postal ballot paper : Provided further that where the returning officer is satisfied that any such defect as is mentioned in this clause has been caused by any mistake or failure on the part of a presiding officer or polling officer, the ballot paper shall not be rejected, merely on the ground of such defect.]

Explanation The figures referred to in clauses (a), (b) and (c) of this sub-rule may be marked in the international form of Indian numerals or in the Roman form or in the form used in any Indian language, but shall not be indicated in words.

1. Inserted by S.O. 286(E), dt. 8-5-1974.

2. Substituted by S.O. 795(E), dt. 14-12-1976.

74. Arrangement of valid ballot papers in parcels :-

After rejecting the ballot papers which are invalid, the returning officer shall-

(a) arrange the remaining ballot papers in parcels according to the first preference recorded for each candidate ;

(b) count and record the number of papers in each parcel and the total number; and

(c) credit to each candidate the value of the papers in his parcel.

75. Counting of votes where only one seat is to be filled :-

(1) At any election where only one seat is to be filled, every valid ballot paper shall be deemed to be of the value of 1 at each count, and the quota sufficient to secure the return of a candidate at the election shall be determined as follows :-

(a) add the values credited to all the candidates under clause (c) of Rule 74;

(b) divide the total by 2 ; and

(c) add 1 to the quotient ignoring the remainder, if any, and the resulting number is the quota.

(2) If, at the end of the first or any subsequent count, the total value of the ballot papers credited to any candidate is equal to, or greater than, the quota or there is only one continuing candidate, that candidate shall be declared elected.

(3) If, at the end of any count, no candidate can be declared elected, the returning officer shall-

(a) exclude from the poll the candidate who up to that stage has been credited with the lowest value ;

(b) examine all the ballot papers in his parcels and sub-parcels, arrange the unexhausted papers in sub-parcels according to the next available preferences recorded thereon for the continuing candidates, count the number of papers in each such sub-paragraph and credit it to the candidate for whom such preference is recorded, transfer the sub-paragraph to that candidate, and make a separate sub-paragraph of all the exhausted papers ; and

(c) see whether any of the continuing candidate has, after such transfer and credit, secured the quota.
(4) If, when a candidate has to be excluded under clause (a) of sub-rule (3), two or more candidates have been credited with the same value and stand lowest on the poll, the candidate for whom the lowest number of original votes are recorded shall be excluded, and if this number also is the same in the case of two or more candidates, the returning officer shall decide by lot which of them shall be excluded. Counting of votes when more than one seat is to be filled

76. Ascertainment of quota :-

At any election where more than one seat is to be filled, every valid ballot paper shall be deemed to be of the value of 100, and the quota sufficient to secure the return of a candidate at the election shall be determined as follows :-

- (a) add the values credited to all the candidates under clause (c) of Rule 74;
- (b) divide the total by a number which exceeds by 1 the number of vacancies to be filled ; and
- (c) add 1 to the quotient ignoring the remainder, if any, and the resulting number is the quota.

77. General instruction :-

In carrying out the provisions of Rule 78, Rule 79, Rule 80, Rule 81 and Rule 82, the returning officer shall disregard all fractions and ignore all preferences recorded for candidates already elected or excluded from the poll.

78. Candidates with quota elected :-

If at the end of any count or at the end of the transfer of any parcel or sub-parcel of an excluded candidate the value of ballot papers credited to a candidate is equal to, or greater than the quota, that candidate shall be declared elected.

79. Transfer of surplus :-

(1) If at the end of any count the value of the ballot papers credited to a candidate is greater than the quota, the surplus shall be transferred, in accordance with the provisions of this rule, to the continuing candidates indicated on the ballot papers of that candidate as being next in order of the electors preference.

(2) If more than one candidate have a surplus, the largest surplus shall be dealt with first and the others in order of magnitude : Provided that every surplus arising on the first count shall be dealt with before those arising on the second count and so on.

(3) Where there are more surpluses than one to distribute and two or more surpluses are equal, regard shall be had to the original votes of each candidate and the candidate for whom most original votes are recorded shall have his surplus first distributed ; and if the values of their original votes are equal, the returning officer shall decide by lot which candidate shall have his surplus first distributed.

(4)

(a) If the surplus of any candidate to be transferred arises from original votes only, the returning officer shall examine all the papers in the parcel belonging to that candidate, divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon and make a separate sub-parcel of the exhausted papers.

(b) He shall ascertain the value of the papers in each sub-parcel and of all the unexhausted papers.

(c) If the value of the unexhausted papers is equal to or less than the surplus, he shall transfer all the unexhausted papers at the value at which they were received by the candidate whose surplus is being transferred.

(d) If the value of the unexhausted papers is greater than the surplus, he shall transfer the sub-parcels of unexhausted papers and the value at which each paper shall be transferred shall be ascertained by dividing the surplus by the total number of unexhausted papers.

(5) If the surplus of any candidate to be transferred arises from transferred as well as original votes, the returning officer shall re-examine all the papers in the sub-parcel last transferred to the candidate, divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon, and then deal with the sub-parcels in the same manner as is provided in the case of sub-parcels referred to in sub-rule (4).

(6) The papers transferred to each candidate shall be added in the form of a sub-parcel to the papers already belonging to such candidate.

(7) All papers in the parcel or sub-parcel of an elected candidate not transferred under this rule shall be set apart as finally dealt with.

80. Exclusion of candidates lowest on the poll :-

- (1) If after all surpluses have been transferred as hereinbefore provided, the number of candidates elected is less than the required number, the returning officer shall exclude from the poll the candidate lowest on the poll and shall distribute his unexhausted papers among the continuing candidates according to the next preferences recorded thereon ; and any exhausted papers shall be set apart as finally dealt with.
- (2) The papers containing original votes of an excluded candidate shall first be transferred, the transfer value of each paper being one hundred.
- (3) The papers containing transferred votes of an excluded candidate shall then be transferred in the order, of the transfers in which, and at the value at which, he obtained them.
- (4) Each of such transfers shall be deemed to be a separate transfer but not a separate count.
- (5) If, as a result of the transfer of papers, the value of votes obtained by a candidate is equal to or greater than the quota, the count then proceeding shall be completed but no further papers shall be transferred to him.
- (6) The process directed by this rule shall be repeated on the successive exclusions one after another of the candidates lowest on the poll until such vacancy is filled either by the election of a candidate with the quota or as hereinafter provided.
- (7) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of votes and are the lowest on the poll, regard shall be had to the original votes of each candidate and the candidate for whom fewest original votes are recorded shall be excluded ; and if the values of their original votes are equal the candidates with the smallest value at the earliest count at which these candidates had unequal values shall be excluded.
- (8) If two or more candidates are lowest on the poll and each has the same value of votes at all counts the returning officer shall decide by lot which candidate shall be excluded.

81. Filling the last vacancies :-

- (1) When at the end of any count the number of continuing candidates is reduced to the number of vacancies remaining unfilled, the continuing candidates shall be declared elected.
- (2) When at the end of any count only one vacancy remains unfilled and the value of the papers of some one candidate exceeds the total value of the papers of all the other continuing candidates together with any surplus not transferred, that candidate shall be declared elected.
- (3) When at the end of any count only one vacancy remains unfilled and there are only two continuing candidates and each of them has the same value of votes and no surplus remains capable of transfer, the returning officer shall decide by lot which of them shall be excluded ; and after excluding him in the manner aforesaid, declare the other candidate to be elected.

82. Provision for re-counts :-

- (1) Any candidate or, in his absence, his election agent or counting agent may, at any time during the counting of the votes either before the commencement or after the completion of any transfer of votes (whether surplus or otherwise) request the returning officer to re-examine and re-count the papers of all or any candidates (not being papers set aside at any previous transfer as finally dealt with), and the returning officer shall forthwith re-examine and re-count the same accordingly.
- (2) The returning officer may in his discretion re-count the votes either once or more than once in any case in which he is not satisfied as to the accuracy of any previous count : Provided that nothing in this sub-rule shall make it obligatory on the returning officer to re-count the same votes more than once.

83. Illustration of the procedure as to the counting of votes under Rules 76 to 81 :-

An illustration of the procedure as to the counting of votes in accordance with the provisions of Rule 76, Rule 77, Rule 78, Rule 79, Rule 80 and Rule 81 is given in the schedule to these rules.

84. Declaration of result and return by returning officers :-

- (1) Upon the completion of counting, the returning officer shall, subject to the provisions of sub-rule (3) of Rule 81,-
 - (a) declare the result under Section 66 in Form 23 or Form 23-A as may be appropriate, and send signed

copies thereof to the appropriate authority, the Election Commission and the chief electoral officer ;
(b) prepare and certify a return of the election in Form 23-B and after reporting the result of the election under Section 67 , send signed copies of the said form to the Election Commission and the chief electoral officer; and
(c) permit any candidate or his election agent or counting agent to take a copy of, or extract from, such return in Form 23-B.

(2) The returning officer shall thereafter-

(a) place the valid ballot papers in one packet and the rejected ballot papers in another ;
(b) seal with the seals of the returning officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals, each of the packets referred to in clause (a) and the packet containing the declarations by electors and attestations of their signatures ; and
(c) record on each of the sealed packets the description of its contents and the date of election.

Provided that where such counting relates to an election to fill a seat or seats in the Council of States, the returning officer shall, before sealing the packets under clause (b), allow the authorised agent of a political party to verify as to whom the electors being members of that political party have cast their votes.

85. Grant of certificate of election to returned candidate :-

As soon as may be after a candidate has been declared to be elected the returning officer shall grant to such candidate a certificate of election Form 24 and obtain from the candidate an acknowledgment of its receipt duly signed by him and immediately send the acknowledgment by registered post to the Secretary of the Council of States or, as the case may be, the Secretary of the Legislative Council.

85A. Definitions :-

1 In this Part, unless the context otherwise requires,-

(a) "cable television network" and "cable operator" have the meanings respectively assigned to them in clause (b) of Explanation to Section 39-A;
(b) "electronic media" has the meaning assigned to it in clause (a) of Explanation to Section 39-A;
(c) "political party" has the meaning assigned to it in clause (f) of sub- section (1) of Section 2;
(d) "recognized political party" has the meaning assigned to it in the Election Symbols (Reservation and Allotment) Order, 1968.

1. Inserted by Conduct of Elections (Third Amendment) Rules, 2003, Published in the Gazette of India, Extra., Part II, Section 3(ii), dated 10th November, 2003

85B. Form Of Contributions Report :-

1 The report for a financial year under sub- section (1) of Section 29-C shall be submitted in Form 24-A by the treasurer of a political party or any other person authorised by the political party in this behalf, before the due date for furnishing a return of its income of that financial year under Section 139 of the Income Tax Act, 1961 (43 of 1961), to the Election Commission.

1. Inserted by Conduct of Elections (Third Amendment) Rules, 2003, Published in the Gazette of India, Extra., Part II, Section 3(ii), dated 10th November, 2003

85C. Allocation Of Equitable Sharing Of Time On Electronic Media :-

1 (1) The Election Commission shall, for the purposes of allocating equitable sharing of time on the cable television network and other electronic media under sub-section (1) of Section 39-A, categorise the cable television networks and electronic media into the two separate categories that is to say one category which is owned or controlled or financed wholly or substantially by funds provided to them by the Central Government and the other which is not owned or controlled or financed wholly or substantially by funds provided to them by the Central Government.

(2) For allocating equitable sharing of time on the cable television network and other electronic media owned or controlled or financed wholly or substantially by funds provided to them by the Central Government referred to in sub-rule (1), the Election Commission shall determine, in consultation with the Ministry of the Government of India dealing with the concerned subject, the maximum time period available on such cable television network and other electronic media and allocate such time period proportionately among the recognized political parties contesting the election on the basis of their past performances for the purposes of displaying or propagating any election matter or to address public in connection with the election under sub-section (1) of Section 39-A.

(3) For the purposes of this rule, "past performance of a recognized political party" shall be calculated,-

(i) in relation to the election to fill a seat or seats in the House of the People, on the basis of the

percentage of votes cast in the last preceding general election in favour of that recognized political party with reference to the total votes cast in that general election, to fill the seats in that House;

(ii) in relation to the election to fill a seat or seats in the Legislative Assembly of a State (except the State of Jammu and Kashmir), on the basis of the percentage of the votes cast in the last preceding general election in favour of that recognized political party with reference to the total votes cast in that general election, to fill the seats in that Assembly.

1. Inserted by Conduct of Elections (Third Amendment) Rules, 2003, Published in the Gazette of India, Extra., Part II, Section 3(ii), dated 10th November, 2003

85D. Supply Of Material By The Government :-

1 The Central Government shall, at the time of any general election to be held for the purposes of constituting the House of the People or the Legislative Assembly of a State provide to the Election Commission such number of copies of electoral roll, as finally published under the Representation of the People Act, 1950 (43 of 1950), as the Election Commission may require for supplying the same free of cost to the candidate of recognized political parties through such officers as may be specified by the Election Commission and such officer shall act in accordance with such general or special directions as may be issued by the Election Commission in this behalf.

1. Inserted by Conduct of Elections (Third Amendment) Rules, 2003, Published in the Gazette of India, Extra., Part II, Section 3(ii), dated 10th November, 2003

CHAPTER 8 ELECTION EXPENSES

86. Particulars of account of election expenses :-

(1) The amount of election expenses to be kept by a candidate or his election agent under Section 77 shall contain the following particulars in respect of each item of expenditure from day to day, namely :-

- (a) the date on which the expenditure was incurred or authorised ;
- (b) the nature of the expenditure (as for example, travelling, postage or printing and the like) ;
- (c) the amount of the expenditure-
- (i) the amount paid ;
- (ii) the amount outstanding ;
- (d) the date of payment ;
- (e) the name and address of the payee ;
- (f) the serial number of vouchers, in case of amount paid ;
- (g) the serial number of bills, if any, in case of amount outstanding ;
- (h) the name and address of the person to whom the amount outstanding is payable.

(2) A voucher shall be obtained for every item of expenditure unless from the nature of the case, such as postage, travel by rail and the like, it is not practicable to obtain a voucher.

(3) All vouchers shall be lodged along with the amount of election expenses, arranged according to the date of payment and serially numbered by the candidate or his election agent and such serial numbers shall be entered in the account under item (f) of sub-rule (1).

(4) It shall not be necessary to give the particulars mentioned in item (e) of sub-rule (1) in regard to items of expenditure for which vouchers have not been obtained under sub-rule (2).

87. Notice by district election officer for inspection of accounts :-

The district election officer shall, within two days from the date on which the account of election expenses has been lodged by a candidate under Section 78 , cause a notice to be affixed to his notice-board, specifying-

- (a) the date on which the account has been lodged ;
- (b) the name of the candidate ; and
- (c) the time and place at which such account can be inspected.

88. Inspection of account and the obtaining of copies thereof :-

-Any person shall on payment of a fee of one rupee be entitled to inspect any such account and on payment of such fee as may be fixed by the Election Commission in this behalf be entitled to obtain attested copies of such account or of any part thereof.

89. Report by the district election officer as to the lodging of the account of election expenses and the decision of the Election Commission thereon :-

- (1) As soon as may be after the expiration of the time specified in Section 78 for the lodging of the accounts of election expenses at any election, the district election officer shall report to the Election Commission-
- (a) the name of each contesting candidate ;
- (b) whether such candidate has lodged his account of election expenses and if so, the date on which such account has been lodged ; and
- (c) whether in his opinion such account has been lodged within the time and in the manner required by the Act and these rules.
- (2) Where the district election officer is of the opinion that the account of election expenses of any candidate has not been lodged in the manner required by the Act and these rules, he shall with every such report forward to the Election Commission the account of election expenses of that candidate and the vouchers lodged along with it.
- (3) Immediately after the submission of the report referred to in sub-rule (1) the district election officer shall publish a copy thereof by affixing the same to his notice-board.
- (4) As soon as may be after the receipt of the report referred to in sub-rule (1) the Election Commission shall consider the same and decide whether any contesting candidate has failed to lodge the account of election expenses within the time and in the manner required by the Act and these- rules.
- (5) Where the Election Commission decides that a contesting candidate has failed to lodge his account of election expenses within the time and in the manner required by the Act and these rules it shall by notice in writing call upon the candidate to show cause why he should not be disqualified under Section 10A for the failure.
- (6) Any contesting candidate who has been called upon to show cause under sub-rule (5) may within twenty days of the receipt of such notice submit in respect of the matter a representation in writing to the Election Commission, and shall at the same time send to the district election officer a copy of his representation together with a complete account of his election expenses if he had not already furnished such an account.
- (7) The district election officer shall, within five days of the receipt thereof, forward to the Election Commission the copy of the representation and the account (if any) with such comments as he wishes to make thereon.
- (8) If, after considering the representation submitted by the candidate and the comments made by the district election officer and after such inquiry as it thinks fit, the Election Commission is satisfied that the candidate has no good reason or justification for the failure to lodge his account, it shall declare him to be disqualified under Section 10A for a period of three years from the date of the order, and cause the order to be published in the Official Gazette.

90. Maximum election expenses :-

The total of the expenditure of which account is to be kept under Section 77 and which is incurred or authorized in connection with an election in a State or Union territory mentioned in Column 1 of the Table below shall not exceed-

- (a) in any one Parliamentary constituency of that State or Union territory, the amount specified in the corresponding Column 2 of the said Table ; and
- (b) in any one assembly constituency, if any, of that State or Union territory, the amount specified in the corresponding Column 3 of the said

SI. No.	Name of State or Union Territory	Maximum limit of election expenses in any one	
		Parliamentary constituency	Assembly constituency
1	2	3	4
<i>I. States</i>			
1.	Andhra Pradesh	25,00,000	10,00,000
2.	Arunachal Pradesh	17,00,000	6,00,000
3.	Assam	25,00,000	10,00,000
4.	Bihar	25,00,000	10,00,000
5.	Goa	14,00,000	5,00,000
6.	Gujarat	25,00,000	10,00,000
7.	Haryana	25,00,000	10,00,000
8.	Himachal Pradesh	25,00,000	7,00,000
9.	Jammu and Kashmir	25,00,000	-----
10.	Karnataka	25,00,000	10,00,000
11.	Kerala	25,00,000	10,00,000
12.	Madhya Pradesh	25,00,000	10,00,000

13.	Maharashtra	25,00,000	10,00,000
14.	Manipur	22,00,000	5,00,000
15.	Meghalaya	22,00,000	5,00,000
16.	Mizoram	20,00,000	5,00,000
17.	Nagaland	25,00,000	5,00,000
18.	Orissa	25,00,000	10,00,000
19.	Punjab	25,00,000	10,00,000
20.	Rajas than	25,00,000	10,00,000
21.	Sikkim	17,00,000	5,00,000
22.	Tamil Nadu	25,00,000	10,00,000
23.	Tripura	25,00,000	5,00,000
24.	Uttar Pradesh	25,00,000	10,00,000
25.	West Bengal	25,00,000	10,00,000
26.	Chhattisgarh	25,00,000	10,00,000
27.	Uttaranchal	25,00,000	7,00,000
28.	Jharkhand	25,00,000	10,00,000
II. Union Territories			
1.	Andaman and Nicobar Islands	17,00,000	
2.	Chandigarh	14,00,000	
3.	Dadra and Nagar Haveli	10,00,000	_____
4.	Daman and Diu	10,00,000	
5.	Delhi	25,00,000	9,00,000
6.	Lakshadweep	10,00,000	_____
7.	Pondicherry	20,00,000	5,00,000"

1. Substituted by S.O. 767(E), dt. the 29-11-1979, for Rule 90.

2. Substituted by Conduct of Elections (Second Amendment) Rules, 2003, Published in the Gazette of India, Extra., Part II, Section 3(ii), dated 24th October 2003, pp. 3-4, No. 971

CHAPTER 9 MISCELLANEOUS

91. Resignation of seats in case of election to more seats than one in a House :-

(1) The time within which a person may resign all but one of the seats in either House of Parliament or in the House or either House of the Legislature of a State, to which he has been elected shall be-

(a) fourteen days from the date of his election under Section 67A ; or

(b) where the dates of his election are different in respect of different seats, fourteen days from the last of those dates.

(2) Such resignation shall be addressed-

(a) to the Speaker or the Chairman of the House concerned ; or

(b) where the office of the Speaker or Chairman is for the time being vacant or is, or is deemed to be, in abeyance, to the Deputy Speaker or the Deputy Chairman of the House concerned ; or

(c) where the post of the Deputy Speaker or Deputy Chairman is also for the time being vacant or is deemed to be, in abeyance, to the Election Commission.

(3) Where the resignation has been addressed to the Election Commission under sub-rule (2) the Election Commission shall, as soon as may be after the receipt of the resignation, send a copy thereof to the Secretary of the House concerned.

92. Custody of ballot boxes and papers relating to election :-

(1) All ballot boxes used at an election shall be kept in such custody as the chief electoral officer may direct.

1[(1-A) All voting machines used at an election shall be kept in the custody of the district election officer concerned.]

2[(2) The district election officer shall keep in safe custody-

(a) the packets of unused ballot papers with counterfoils attached thereto ;

(b) the packets of used ballot papers whether valid, tendered or rejected ;

(c) the packets of the counterfoils of used ballot papers ;

(d) the packets of the marked copy of the electoral roll or, as the case may be, the list maintained under sub-section (1) or sub-section (2) of Section

3 [(dd) the packets containing registers of voters in Form 17-A].

(e) the packets of the declarations by electors and the attestation of their signatures; and

(f) all other papers relating to the election : Provided that in the case of an election in an Assembly constituency or a Parliamentary constituency or a Council constituency which extends over more districts than one, the said papers shall be kept in the custody of such one of the district election officers having jurisdiction over the constituency as the Election Commission may direct : Provided further that in the case of an election by assembly members the said papers shall be kept in the custody of the returning officer.]

1. Inserted by S.O. 230(E), dt. 24-3-1992.

2. Substituted by S.O. 5573, dt. 23-12-1971.

3. Inserted by S.O. 230(E), dt. 24-3-1992.

93. Production and inspection of election papers :-

[. 1

(1) While in the custody of the district election officer or, as the case may be, the returning officer-

(a) the packets of unused ballot papers with counterfoils attached thereto ;

(b) the packets of used ballot papers whether valid, tendered or rejected ;

(c) the packets of the counterfoils of used ballot papers ;

(d) the packets of the marked copy of the electoral roll or, as the case may be, the list maintained under sub-section (1) or sub-section (2) of section 152 ; and

2[(dd) the packets containing registers of voters in Form 17-A;]

(e) the packets of the declarations by electors and the attestation of their signatures ; shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of a competent court.

3 [(1-A) The control units sealed under the provisions of Rule 57C and kept in the custody of the district election officer shall not be opened and shall not be inspected by, or produced before, any person or authority except under the orders of a competent court.]

(2) Subject to such conditions and to the payment of such fee as the Election Commission may direct,-

(a) all other papers relating to the election shall be open to public inspection; and

(b) copies thereof shall on application be furnished.

(3) Copies of the returns by the returning officer forwarded under Rule 64 or, as the case may be, under clause (b) of sub-rule (1) of Rule 84 shall be furnished by the returning officer, district election officer, chief electoral officer or the Election Commission on payment of a fee of two rupees for each copy.]

1. Substituted by S.O. 5573, dt. 23-12-1971.

2. Inserted by S.O. 230(E), dt. 24-3-1992.

3. Inserted by S.O. 230(E), dt. 24-3-1992.

94. Disposal of election papers :-

. Subject to any direction to the contrary given by the Election Commission or by a competent court or tribunal-

1[(a) the packets of unused ballot papers shall be retained for a period of six months and shall thereafter be destroyed in such manner as the Election Commission may direct ;]

2[(aa) the voting machines kept in the custody of the district election officer under sub-rule (1-A) of Rule 92 shall be retained intact for such period as the Election Commission may direct and shall not be used at any subsequent election without the previous approval of the Election Commission ;]

(b) the other packets referred to in sub-rule (1) or Rule 93 shall be retained for a period of one year and shall thereafter be destroyed : 3 [Provided that packets containing the counterfoils of used ballot papers shall not be destroyed except with the previous approval of the Election Commission;]

(c) all other papers relating to the election shall be retained for such period as the Election Commission may direct.

1. Substituted by S.O. 5573, dt. 23-12-1971.

2. Inserted by Noti. 230(E), dt. 24-3-1992.

3. Added by S.O.5573, dt. 23-12-1971.

94A. Form Of Affidavit To Be Filed With Election Petition :-

The affidavit referred to in the proviso to sub-section (1) of Section 83 shall be sworn before a magistrate of the first class or a notary or a commissioner of oaths and shall be in Form 25.

95. Power of the Election Commission to issue directions :-

[. 1 Subject to the other provisions of these rules, the Election Commission may issue such directions as it may consider necessary to facilitate the proper use and operation of the voting machines.]

1. Inserted by S.O. 230(E),dt. 24-3-1992.

96. List of Members of State Assemblies and electoral colleges :-

(1) The returning officer for an election by the members of the Legislative Assembly of a State, to fill a seat or seats in the Council of States or in the Legislative Council of a State, shall maintain a list of members of that Assembly with their addresses corrected up-to-date in such form as the Election Commission may direct.

Explanation In this sub-rule any reference to the members of the Legislative Assembly of a State shall, in relation to an election to the Council of States, be construed as a reference to the elected members of that Legislative Assembly.

(2) The returning officer for an election by the members of the electoral college of a Union territory to fill a seat or seats in the Council of States shall maintain a list of members of that electoral college with their addresses corrected up-to-date in such form as the Election Commission may direct.

97. Number of votes sufficient to secure the return of a candidate in relation to return of forfeiture of deposits in certain cases :-

For the purpose of the proviso to sub-Section (4) of Section 158 -

(a) a candidate who is not elected shall be deemed to get,-

(i) if he is a continuing candidate, the votes obtained by him at the end of the final count, and

(ii) if he is a candidate excluded from the poll, the votes obtained by him at the end of the count immediately preceding his exclusion ;

(b) the quota referred to in Rule 75 or Rule 76 shall be deemed to be the number of votes sufficient to secure the return of a candidate.

98. Manner of serving the order of requisition of premises, vehicles, etc :-

An order of requisition under Section 160 shall be served-

(a) where the person to whom such order is addressed is a corporation or firm, in the manner provided for the service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the Code of Civil Procedure, 1908 (Act 5 of 1908) ; and

(b) where the person to whom such order is addressed is an individual-

(i) personally by delivering or tendering the order, or

(ii) by registered post, or

(iii) if the person cannot be found, by leaving an authentic copy of the order with any adult member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain.

99. Time for application for reference to arbitration under Section 161 :-

The time within which any person interested who is aggrieved by the amount of compensation determined under sub-section (1) of Section 168 or within which the owner of a vehicle, vessel or animal who is aggrieved by the amount of compensation determined under sub-section (2) of that Section may make an application for referring the matter to arbitration shall be fourteen days from the date of determination of the amount of such compensation or where the amount of such compensation has been determined in the absence of the person interested or, as the case may be, the owner, fourteen days from the date on which the intimation of such determination is sent to that person or owner.

SCHEDULE 1

SCHEDULE 1

Schedule (See Rule 83) Illustration of the procedure as to the counting of votes at an election on the single transferable vote system when more than one seat is to be filled. Assume that there are seven members to be elected, sixteen candidates, and one hundred and forty electors. The valid ballot papers are arranged in separate parcels according to the first preference recorded for each candidate, and the papers in each parcel counted. Let it be assumed that the result is as follows :-

.....	12	B	.....	8	C	.....	6	D	.....	9	E	.....	10	F	.....	7	G	.....	
4	H	.....	19	I	.....	13	J	.....	5	K	.....	14	L	.....	8	M	.....	10	N	.....
.....	6	0	.....	4	P	.....	5												TOTAL	140

Each valid ballot paper is deemed to be of the value of one hundred and the values of the votes obtained by the respective candidates are as shown in the first column of the result sheet. The values of all the papers are added together and the total 14,000 is divided by eight (i.e. the number which exceeds by one the number of vacancies to be filled) and 1,751 (i.e. the quotient 1,750 increased by one) is the number sufficient to secure the return of a member and is called the quota. The operation may be shown thus :- $Quota \times 14000 + 1.750 + 1 = 1,751$ \ ----- 8 The candidate H, the

N	600		600		600		600		
O	400		400	WO					
P	500		500		500	500			
Loss of value by neglect of fraction		+5	5		5		5	+1	
TOTAL	14,000		14,000		14,000		14,000		
Result	Distribution of votes of C and N	Result	Distribution of surplus of I and A	Result	Distribution of Fs votes	Result	Distribution of Ms votes	Result	Result of Election
10	11	12	13	14	15	16	17	18	19
1,500	+300	1,800	+49	1,751		1,751		1,751	Hected
1,072	+200	1,272	+32	1,304	+300	1,604	+300	1,904	Elected
600	-600								Not elected
1,132	+200	1,332	+65	1,397	+300	1,697	+00	1,99	Elected
1,232	+200	1,432	+16	1,448	+200	1,648	+200	1,848	Elected
740	+100	840		840	-840				Not Elected
									Not Elected
1,751		1,751		1,751		1,751		1,751	Elected
1,716	+100	1,816	-65	1,751		1,751		1,751	Elected
									Not Elected
1,751		1,751		1,751		1,751		1,751	Elected
900	+100	1,000		1,000	+24	1,024	+200	1,224	Not Elected
1,000		1,000		1,000	+16	1,016	1,000	+16	Not Elected
600	-600								Not Elected
									Not Elected
									Not Elected
6		6	+1	7		7		7	
14,000		14,000		14,000		14,000		14,000	