



# LAWS OF MALAYSIA

REPRINT

**Act 5**

## **ELECTION OFFENCES ACT 1954**

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### ELECTION OFFENCES ACT 1954

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**LAWS OF MALAYSIA****Act 5****ELECTION OFFENCES ACT 1954**

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## LAWS OF MALAYSIA

## Act 5

## ELECTION OFFENCES ACT 1954

An Act to prevent electoral offences and corrupt and illegal practices at elections; to provide for the establishment of enforcement teams and for matters connected therewith; to provide for the appointment of election agents and to control election expenses; and to provide for election petitions.

[*Peninsular Malaysia, \*Federal Territory of Putrajaya—30 April 1954;*  
*†Sabah, \*\*Federal Territory of Labuan—1 August 1965, P.U. 176/1966;*  
*††Sarawak—1 November 1966, P.U. 227/1967]*

## PART I

## PRELIMINARY AND INTERPRETATION

**Short title and application**

1. This Act may be cited as the Election Offences Act 1954 and shall apply throughout Malaysia.

**Interpretation**

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

“authorized” means authorized by or under any written law relating to an election;

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\*NOTE—see section 6 of Act A1095.

\*\*NOTE—see section 6 of Act A585.

†NOTE—For extension and modification of Act to Sabah, see P.U. 56/1966, P.U. 144/1966, P.U. 498/1966, P.U. 348/1967.

††NOTE—For extension and modification of Act to Sarawak, see P.U. 497/1966, P.U. 349/4967, P.U. 55/1968.

“campaign period”, in relation to an election, means the period during which any candidate or his election agent is allowed to hold election campaign in the candidate’s constituency, being the period commencing from the time the returning officer declares that a poll will be taken in the constituency for which he is appointed and ending on the expiration of the day before polling day;

“constituency” means an area prescribed under the provisions of any written law for the purpose of an election;

“election” means an election held in accordance with the provisions of any written law relating to the election of persons to be members of the Dewan Rakyat, a Legislative Assembly or a local authority;

“election agent” means the person appointed under section 12 by a candidate for election to be his agent for such election;

“Election Judge” means the Chief Judge or any Judge nominated by the Chief Judge under section 33;

“enforcement team” means an enforcement team established under section 27B;

“entitled” means entitled by or under any written law relating to an election;

“polling day”, in relation to an election, means the period, which may extend over one or more days, commencing from the commencement of the day on which the taking of polls in that election is scheduled to commence and ending at the time of the declaration by the returning officer of the result of the election;

“proper officer” means the officer or person appointed by or under any written law relating to an election to be in charge, or to have the conduct, thereof;

“returning officer” has the same meaning as in the Elections Act 1958 [*Act 19*].

(2) Any word or expression used in this Act, the meaning of which is defined in any written law relating to any election, shall have the same meaning in this Act, for the purposes of and



with reference to such election, as it has in the said written law; and any reference in this Act to any person or official shall be construed, for the purposes of and with reference to any election, as a reference to any equivalent person or official appointed under or by virtue of any written law relating to such election.

PART II

ELECTORAL OFFENCES

**Offences by any person**

**3. (1) Any person who—**

- (a) knowingly makes any false statement on or in connection with any application to be placed on any register of electors;
- (b) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to a returning officer any nomination paper knowing the same to be forged;
- (c) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper;
- (d) without due authority supplies any ballot paper to any person;
- (e) sells or offers to sell any ballot paper to any person or purchases or offers to purchase any ballot paper from any person;
- (f) not being a person entitled to be in possession of any ballot paper which has been marked with any authorized mark has any such ballot paper in his possession;
- (g) puts into any ballot box anything other than the ballot paper which he is authorized by law to put in;
- (h) without due authority takes out of the polling station any ballot paper or is found in possession of any ballot paper outside a polling station;

- (i) without due authority destroys, takes, opens, or otherwise interferes with any ballot box, ballot paper or packet of ballot papers in use or intended to be used for the purposes of an election;
- (j) without due authority prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;
- (k) for the purposes of an election, manufactures, constructs, imports, has in his possession, supplies or uses, or causes to be manufactured, constructed, imported, supplied or used, any appliance, device or mechanism by which a ballot paper may be extracted, affected or manipulated after having been deposited in a ballot box during the polling at any election;
- (l) votes at any election when he is not entitled to vote thereat;
- (m) prints any advertisement, handbill, placard or poster which refers to an election and contains a reproduction of a ballot paper, or of what purports to be a ballot paper, to be used or likely to be used at such election;
- (n) obstructs or prevents a voter who is otherwise entitled to vote from voting at an election; or
- (o) votes in an election at more than one polling station in the same constituency or a different constituency,

shall be liable, on conviction, to imprisonment for a term not exceeding two years or to a fine not exceeding five thousand ringgit or to both such imprisonment and fine and, subject to any provision to the contrary in any written law relating to any election, shall until the expiration of five years from such conviction, be incapable of being registered or listed as an elector or of voting at any election or of being elected at any election, and if at that date he has been elected at any election, his seat shall be vacated from the date of such conviction:

Provided that nothing in paragraph (m) shall be deemed to prohibit, during the campaign period, the printing in any such advertisement, handbill, placard or poster of the name or symbol of one candidate only, together with a reproduction of a cross or other mark indicating approval of any such name or symbol.

(2) Any person who has been convicted of an offence under subsection 4(1) of the Sedition Act 1948 [*Act 15*], which is an offence by reason of paragraph 3(1)(f) of that Act shall, until the expiration of five years from such conviction, be incapable of being elected at any election, and if at that date of such conviction he has been elected at any election, his seat shall be vacated from that date.

**Offences by election officers**

**4.** Any officer, clerk, interpreter or other person having any duty to perform pursuant to any written law relating to any election who—

- (a) makes, in any record, return or other document which he is required to keep or make under such written law, any entry which he knows or has reasonable cause to believe to be false, or does not believe to be true;
- (b) permits any person whom he knows or has reasonable cause to believe not to be a blind person or an incapacitated person to vote in the manner provided for blind persons or incapacitated persons, as the case may be;
- (c) refuses to permit any person whom he knows or has reasonable cause to believe to be a blind person or an incapacitated person to vote in the manner provided for blind persons or incapacitated persons, as the case may be;
- (d) wilfully prevents any person from voting at the polling station at which he knows or has reasonable cause to believe such person is entitled to vote;
- (e) wilfully rejects or refuses to count any ballot paper which he knows or has reasonable cause to believe is validly cast for any candidate in accordance with the provisions of such written law;
- (f) wilfully counts any ballot paper as being cast for any candidate, which he knows or has reasonable cause to believe was not validly cast for such candidate; or
- (g) is without reasonable cause guilty of any act or omission in breach of his official duty,

shall be liable, on conviction, to imprisonment for a term not exceeding two years or to a fine not exceeding five thousand ringgit or to both such imprisonment and fine and, subject to any specific provision to the contrary in any written law relating to any election, shall until the expiration of five years from such conviction, be incapable of being registered or listed as an elector or of voting at any election or of being elected at any election, and if at that date he has been elected at any election, his seat shall be vacated from the date of such conviction.

#### **Offence of promoting feelings of ill-will or hostility**

**4A.** (1) Any person who, before, during or after an election, directly or indirectly, by himself or by any other person on his behalf, does any act or makes any statement with a view or with a tendency to promote feelings of ill-will, discontent or hostility between persons of the same race or different races or of the same class or different classes of the population of Malaysia in order to induce any elector or voter to vote or refrain from voting at an election or to procure or endeavour to procure the election of any person shall be liable, on conviction, to imprisonment for a term not exceeding five years or to a fine not exceeding ten thousand ringgit or to both such imprisonment and fine.

(2) Subject to any specific provision to the contrary in any written law relating to an election, any person who is convicted of an offence under this section shall, until the expiration of five years from such conviction, be incapable of being registered or listed as an elector or of voting at an election or of being elected at an election, and if at that date he has been elected at an election, his seat shall be vacated from the date of such conviction.

#### **Maintenance of secrecy at elections**

**5.** (1) Every officer, clerk, interpreter, candidate, agent and any other person (hereinafter in this section referred to as an “authorized person”) authorized to attend any proceedings connected with the issue or receipt of postal ballot papers, or at a polling station, or at the counting of the votes, shall, before so attending make an oath of secrecy substantially in Form A in the First Schedule.

(2) Every officer, clerk, interpreter, candidate, agent and authorized person in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in such station, and shall not communicate, except for some purpose authorized by law, before the poll is closed, to any person any information as to the name or number on the register of electors of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark, but the total number of voters who have voted at any station at any time before the poll is closed may, in the discretion of the presiding officer, be divulged to a candidate or his agent or a police officer authorized to attend or on duty at the polling station.

(3) No such officer, clerk, interpreter, candidate, agent, police officer or authorized person and no person whosoever shall attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number of the ballot paper given to any voter at such station.

(4) Every officer, clerk, interpreter, candidate, agent, police officer and authorized person, in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting, and shall not attempt to communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper.

(5) No person, except a presiding officer acting for a purpose authorized by any written law relating to any election or a person authorized by the presiding officer and acting for such purpose as aforesaid, shall communicate or attempt to communicate with any voter after such voter has received a ballot paper and before he has placed the same in a ballot box.

(6) Every person attending any proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain, and aid in maintaining, the secrecy of the voting and shall not without lawful excuse—

(a) communicate, before the poll is closed, to any person any information obtained at those proceedings as to any official perforation, stamp or mark to be used in connection with any ballot paper;

- (b) communicate to any person at any time any information obtained at those proceedings as to the number of the ballot paper sent to any person;
- (c) attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number on any ballot paper; or
- (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.

(7) Any person who contravenes any of the provisions of this section shall be liable, on conviction, to imprisonment for a term not exceeding one year or to a fine not exceeding three thousand ringgit or to both such imprisonment and fine.

#### **Offences against this Part**

6. (1) Every person who abets the commission of or attempts to commit an offence specified in this Part shall be liable, on conviction, to the punishment and disqualifications prescribed for that offence.

(2) Every offence under this Part shall be a seizable offence within the meaning of the Criminal Procedure Code [*Act 593*].

(3) In a prosecution for an offence in relation to a nomination paper, ballot box, ballot paper or marking instrument at an election, the property in such nomination paper, ballot box, ballot paper or marking instrument, as well as the property in the counterfoil of any ballot paper, may be stated to be in the returning officer at that election.

(4) A prosecution for an offence under this Part shall not be instituted without the sanction of the Public Prosecutor.

PART III

CORRUPT PRACTICES

**Personation**

7. Every person who at an election applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person or who, having voted once at any such election, applies at the same election for a ballot paper in his own name, shall be guilty of the offence of personation.

**Treating**

8. Every person who, corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides or causes to be given or provided, or is accessory to the giving or providing, or pays or engages to pay wholly or in part, the expense of giving or providing any food, drink, refreshment or provision, or any money or ticket or other means or device to enable the procuring of any food, drink, refreshment or provision, to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at such election or on account of any such person or any other person having voted or refrained from voting or being about to vote or refrain from voting at such election, and every elector or voter who corruptly accepts or takes any such food, drink, or refreshment or provision or any such money or ticket or who adopts such other means or device to enable the procuring of such food, drink, refreshment or provision shall be guilty of the offence of treating.

**Undue influence**

9. (1) Every person who, before, during or after an election, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account

of such person having voted or refrained from voting, at any election, or who by abduction, duress, or any fraudulent device or contrivance impedes or prevents the free exercise of the franchise of any elector or voter, or thereby compels, induces, or prevails upon any elector or voter either to give or refrain from giving his vote at any election, or who directly or indirectly interferes or attempts to interfere with the free exercise by any person of any electoral right shall be guilty of the offence of undue influence.

(2) A person shall be deemed to interfere with the free exercise of the electoral right of a person within the meaning of this section who induces or attempts to induce such person to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure.

### **Bribery**

**10.** The following persons shall be deemed guilty of the offence of bribery:

- (a) every person who, before, during or after an election, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money or valuable consideration to or for any elector or voter, or to or for any person on behalf of any elector or voter or to or for any other person, in order to induce any elector or voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such elector or voter having voted or refrained from voting at any election;
- (b) every person who, before, during or after an election, directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure, any office, place or employment to or for any elector or voter, or to or for any person on behalf of any elector or voter, or to or for any other person, in order to induce such elector or voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector or voter having voted or refrained from voting at any election;



- (c) every person who, before, during or after an election, directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the election of any person, or the vote of any elector or voter at any election;
- (d) every person who, either before or during an election, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure, the election of any person, or the vote of any elector or voter at an election;
- (e) every person who, either before or during an election, advances or pays or causes to be paid any money to, or to the use of, any other person with the intent that such money or any part thereof shall be expended in bribery at any election or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election;
- (f) every elector or voter who, before or during any election directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election;
- (g) every person who, after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or to refrain from voting at any such election;
- (h) every person who, after an election, directly or indirectly, by himself or by any other person on his behalf, on account of and as payment for voting or for having voted or for agreeing or having agreed to vote for any candidate at an election, or on account of and as payment for his having assisted or agreed to assist any candidate

at an election, applies to such candidate, or to his agent or agents, for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration or for any office, place or employment or for the promise of any office, place or employment; and

- (i) every person who, either before or during an election, directly or indirectly, by himself or by any person on his behalf, in order to induce any other person to agree to be nominated as a candidate or to refrain from becoming a candidate or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure or to endeavour to procure any office, place or employment, to or for such other person, or gives or lends, or agrees to give or lend, or offers, or promises to procure or to endeavour to procure any money or valuable consideration to or for any person or to or for such other person, or to or for any person on behalf of such other person.

### **Punishment and incapacities for corrupt practice**

**11.** (1) Every person who—

- (a) commits the offence of personation, or aids, abets, counsels or procures the commission of the offence of personation;
- (b) commits the offence of treating, undue influence or bribery;
- (c) prints, publishes, distributes or posts up or causes to be printed, published, distributed or posted up any advertisement, handbill, placard or poster which refers to any election and which does not bear upon its face the names and addresses of its printer and publisher;
- (d) makes or publishes, before or during any election, for the purpose of affecting the return of any candidate, any false statement of fact in relation to the personal character or conduct of such candidate;

- (e) makes or publishes, before or during any election, for the purpose of promoting or procuring the election of any candidate, any false statement of the withdrawal of any other candidate at such election; or
- (f) being a candidate or election agent knowingly makes the declaration as to election expenses required by section 23 falsely,

shall be guilty of a corrupt practice, and shall, on conviction by a Sessions Court, be liable, in the case referred to in paragraphs (a) and (b), to imprisonment for a term not exceeding two years and to a fine of not less than one thousand ringgit and not more than five thousand ringgit, and, in any other case, to imprisonment for a term not exceeding one year and to a fine not exceeding two thousand ringgit. Offences under paragraphs (a) and (b) shall be seizable offences within the meaning of the Criminal Procedure Code.

(2) Every person who is convicted of a corrupt practice shall, subject to any specific provision to the contrary in any written law relating to any election, by conviction become incapable of being registered or listed as an elector or of voting at any election or of being elected at any election, and if at that date he has been elected at any election, his seat shall be vacated from the date of such conviction:

Provided that such disability shall cease on the expiry of five years from such conviction.

(3) A prosecution for a corrupt practice except any corrupt practice as defined in paragraphs (1)(d) and (e) shall not be instituted without the sanction of the Public Prosecutor.

#### PART IV

##### ELECTION AGENT, ELECTION EXPENSES AND ILLEGAL PRACTICES

#### **Nomination of election agent**

**12.** (1) On or before the day of nomination at an election, a person shall be named in writing by or on behalf of each candidate as his agent for such election.

(2) A candidate may name himself as election agent, and thereupon shall, so far as circumstances admit, be subject to this Act, both as a candidate and as an election agent, and any reference in this Act to an election agent shall be construed to refer to the candidate acting in his capacity of election agent.

(3) On or before the day of nomination, the name and address of the election agent of each candidate shall be declared in writing by the candidate or some other person on his behalf to the returning officer, and the returning officer shall forthwith, by affixing a notice in a conspicuous place outside his office, give public notification of the name and address of every election agent so declared.

(4) One election agent only shall be appointed for each candidate, but the appointment, whether the election agent appointed be the candidate himself or not, may be revoked and in the event of such revocation or of his death, whether such event is before, during or after the election, then forthwith another election agent shall be appointed, and his name and address declared in writing to the returning officer, who shall forthwith give public notice of the same in the manner aforesaid.

(5) If no person's name and address has been declared as required by subsection (3), the candidate shall be deemed at that time to have named himself as election agent and to have revoked any appointment of another person as his election agent.

(5A) Until the name and address of another election agent has been declared as required by subsection (4), the candidate shall be deemed, as from the time of the revocation of appointment or death of the election agent concerned, to have appointed himself as election agent.

(6) Every election agent shall have, within the constituency in which he is an election agent, an office to which all claims, notices, writs, summonses and documents may be sent and the address of such office shall be declared at the same time as the appointment of the agent to the returning officer, and shall be stated in the public notification under subsection (3) with the name of the election agent and his address.

(6A) Where a candidate is deemed under subsection (5) or (5A) to be his own election agent, his correspondence address, as stated in his nomination paper, shall be deemed for the purposes of subsection (6) to be the address of his office as election agent.

**Disqualification for appointment as election agent, etc.**

**13.** (1) Subject to subsection 12(2), a person is disqualified for being appointed as an election agent, polling agent or counting agent if—

- (a) he is not a citizen;
- (b) he is less than twenty-one years of age;
- (c) he has, within the period of five years immediately preceding the day of nomination at the election, been convicted of any offence involving violence or dishonesty by a court of law in any part of Malaysia and has not received a free pardon;
- (d) he has, within the period of five years immediately preceding the day of nomination at the election, been convicted of or been released from prison after serving a sentence of imprisonment for any offence under this Act;
- (e) he is a person whose name is registered under the Prevention of Crime Act 1959 [Act 297];
- (f) he has, within the period of five years immediately preceding the day of nomination at the election, been convicted of an offence under subsection 52(3) of the Societies Act 1966 [Act 335], or the corresponding provision of any other law relating to societies in force, in the case of an election in Sabah and Sarawak, in any part of Malaysia, and in the case of an election in Peninsular Malaysia, in any part of Malaysia or the Republic of Singapore;
- (g) he is a person in respect of whom an order has been made under subsection 66(4) of the Societies Act 1966, or the corresponding provision of any other law relating to societies in force, in the case of an election in Sabah and Sarawak, in any part of Malaysia, and in the case of an election in Peninsular Malaysia, in any part of Malaysia or the Republic of Singapore;  
or
- (h) he is an undischarged bankrupt.

(1A) In paragraphs (1)(c), (f) and (g), “part of Malaysia” means any place which is, or which at the date of the conviction or order therein mentioned was, a part of Malaysia.

(2) No officer, clerk, interpreter or other person having any duty to perform pursuant to any written law relating to any election shall be appointed as an election agent or act as an agent of a candidate in the conduct or management of any election.

### **Making of appointments and contracts through election agent**

**14.** (1) The election agent of a candidate shall at an election—

- (a) appoint every polling agent, counting agent, clerk and messenger employed, whether for payment or not, on behalf of the candidate;
- (b) hire every committee-room hired on behalf of the candidate;
- (c) inform the presiding officer at each polling station in writing of the name and address of—
  - (i) the polling agent or agents appointed to act at that station; and
  - (ii) the counting agent or agents appointed to attend the counting of votes at that station; and
- (d) inform the returning officer of the constituency or electoral ward concerned in writing of the name and address of the counting agent or agents appointed to attend the counting of the votes of postal voters and the official addition of votes.

(1A) Every polling agent or counting agent of a candidate appointed under subsection (1) shall act or be present at the polling station or shall attend the counting of votes at the polling station for at least two hours and his replacement shall only be admitted to that polling station on the expiration of the two-hour period.

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

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

**Payment of expenses through election agent**

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

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

(2) A person who makes any payment, advance, or deposit in contravention of this section or pays in contravention of this section any money so provided as aforesaid shall be guilty of an illegal practice.

**Prohibition of certain expenses during campaign period**

**15A.** (1) No expenses shall, with a view to promoting or procuring the election of a candidate, be incurred during the campaign period, by any person other than the candidate, his election agent and persons authorized in writing by the election agent on account—

- (a) of holding, convening or organizing any open public meeting, open public rally, open public display or open public entertainment or giving open public address or lecture;

- (b) of printing or issuing advertisements, circulars or publications; or
- (c) of otherwise presenting to the electors the candidate or his views or the extent or nature of his backing, or disparaging another candidate:

Provided that this paragraph shall not—

- (i) restrict publication in a newspaper or other periodical of any matter relating to the election;
- (ii) apply to expenses incurred by any person in travelling or in living away from home, or to similar personal expenses.

(2) Where a person incurs any expenses required to be authorized by an election agent under subsection (1), he shall within fourteen days after the date of publication of the result of the election in the *Gazette* send to the election agent a return, accompanied by a declaration made by him (or in the case of an association or body of persons, a director, general manager, secretary or other similar officer thereof) verifying the return and giving particulars of the matters for which the expenses were incurred:

Provided that this subsection shall not apply to any person engaged or employed for payment or promise of payment by the candidate or his election agent.

(3) The expenses shown in the return referred to in subsection (2) shall be included in the return made by the election agent in accordance with subsection 23(1), and the authority received from the election agent shall be annexed to and deemed to form part of such return.

(4) Any person who incurs any expenses in contravention of this section, or who makes any declaration required by subsection (2) which is false and which he either knows or believes to be false or does not believe to be true, shall be guilty of an illegal practice.



**Period for sending in claims and making payments for election expenses**

**16.** (1) Every payment made by an election agent in respect of any expenses incurred on account of or in respect of the conduct and management of an election shall, except where less than ten ringgit or where, from the nature of the case, such as travel by rail or postage, a receipt is not obtainable, be vouched for by a bill stating the particulars and by a receipt.

(2) Every claim against a candidate at an election or his election agent in respect of any expenses incurred on account of or in respect of the conduct or management of such election, which is not sent in to the election agent within the time limited by this Act, shall be barred and shall not be paid; and subject to such exception as may be allowed in pursuance of this Act, an election agent who pays a claim in contravention of this section shall be guilty of an illegal practice.

(3) Except as by this Act permitted, the time limited by this Act for sending in claims shall be fourteen days after the date of publication of the result of the election in the Gazette.

(4) All expenses incurred by or on behalf of a candidate at an election, which are incurred on account of or in respect of the conduct or management of such election, shall be paid within the time limited by this Act; and, subject to such exception as may be allowed in pursuance of this Act, an election agent who makes a payment in contravention of this provision shall be guilty of an illegal practice.

(5) Except as by this Act permitted, the time limited by this Act for the payment of such expenses as aforesaid shall be twenty-eight days after the date of publication of the result of the election in the Gazette.

(6) Where it has been proved to the satisfaction of the Election Judge by a candidate that any payment made by an election agent in contravention of this section was made without the sanction or connivance of such candidate, the election of such candidate shall not be void, nor shall he be subject to any incapacity under this Act by reason only of such payment having been made in contravention of this section.

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

(8) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court; and any sum paid by the candidate or his agent in pursuance of the judgment or order of such court shall be deemed to be paid within the time limited by this Act, and to be an exception from the provisions of this Act, requiring claims to be paid by the election agent.

(9) On cause shown to the satisfaction of a Judge of the High Court, such Judge on application by the claimant or by the candidate or his election agent may, by order, give leave for the payment by a candidate or his election agent of a disputed claim or of a claim for any such expenses as aforesaid, although sent in after the time in this section mentioned for sending in claims, or although the same was sent in to the candidate and not to the election agent.

(10) Any sum specified in the order of leave may be paid by the candidate or his election agent; and when paid in pursuance of such leave shall be deemed to be paid within the time limited by this Act.

#### **Remuneration of election agent**

17. So far as circumstances admit, this Act shall apply to a claim for his remuneration by an election agent and to the payment thereof in like manner as if he were any other creditor, and if any difference arises respecting the amount of such claim, the claim shall be a disputed claim within the meaning of this Act, and be dealt with accordingly.

18. *(Deleted by Act A5).*

#### **Expenses in excess of maximum to be illegal practice**

19. (1) Subject to such exception as may be allowed in pursuance of this Act, no sum shall be paid and no expense shall be incurred by a candidate at an election or by his election agent, after the

date of publication of the notice of the election in the Gazette, during or after an election, on account of or in respect of the conduct or management of such election, in excess of—

- (a) two hundred thousand ringgit in the case of an election to the Dewan Rakyat;
- (b) one hundred thousand ringgit in the case of an election to a Legislative Assembly;
- (c) ten thousand ringgit in the case of an election to a local authority other than a local council;
- (d) three thousand ringgit in the case of an election to a local council:

Provided that paragraphs (c) and (d) shall have no application in Sabah and Sarawak.

(2) Any candidate or election agent who knowingly acts in contravention of this section shall be guilty of an illegal practice.

### **Certain expenditure to be illegal practice**

**20.** (1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made—

- (a) on account of the conveyance of electors or voters to or from the poll, whether for the hiring of vehicles, vessels or animals of transport of any kind whatsoever, or for railway fares, or otherwise; or
- (b) to or with an elector or voter on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill or notice.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is knowingly made in contravention of this section either before, during, or after an election, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment or being a party to any such contract, knowing the same to be in contravention of this section, shall also be guilty of an illegal practice.

(3) A person shall not let, lend, or employ for the purpose of conveyance of electors or voters to and from the poll any vehicle, vessel or animal of transport of any kind whatsoever which he keeps or uses for the purpose of letting out for hire, and if he lets, lends, or employs such vehicle, vessel or animal of transport knowing that it is intended to be used for the conveyance of electors or voters to and from the poll he shall be guilty of an illegal practice.

(4) A person shall not hire, borrow, or use for the purpose of conveyance of electors or voters to and from the poll any vehicle, vessel or animal of transport of any kind whatsoever which he knows the owner thereof is prohibited by subsection (3) to let, lend, or employ for that purpose, and if he does so he shall be guilty of an illegal practice.

(5) Nothing in subsection (3) or (4) shall prevent a vehicle, vessel or animal of transport of any kind being let to, or hired, employed, or used by an elector or voter or several electors or voters at their joint cost for the purpose of being conveyed to or from the poll.

(6) Notwithstanding anything in the preceding provisions of this section—

(a) where it is the ordinary business of an elector or voter as an advertising agent to exhibit for payment, bills and advertisements, a payment to or contract with such elector or voter, if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section;

(b) where electors or voters are unable at an election to reach their polling stations from their place or residence without crossing the sea or a branch or arm thereof or a river, means may be provided for conveying such electors or voters to their polling stations, or to enable them to cross the river in order to reach their polling stations, and the amount of payment for such means of conveyance may be in addition to the maximum amount of expenses allowed by this Act:

Provided always that such means of conveyance shall be made available equally to all such electors or voters who wish to avail themselves thereof.

**Certain employment to be illegal**

**21.** (1) No person shall, for the purpose of promoting or procuring the election of a candidate at any election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for the purpose or in the capacities following:

- (a) one election agent and no more;
- (b) not more than one polling agent at any one time for each polling area or polling district:

Provided that where more than one polling station is provided in any polling area or polling district, an additional polling agent may be employed in respect of each polling station; and

- (c) a reasonable number of clerks and messengers having regard to the area of the constituency or electoral ward and the number of electors on the register or list of electors for such constituency or electoral ward.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any person is engaged or employed in contravention of this section, either before, during, or after an election, the person engaging or employing him shall be guilty of an illegal practice.

**Saving for creditors**

**22.** The provisions of this Act prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of expenses in excess of a certain maximum, shall not affect the right of any creditor, who when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Act.

**Exemption from stamp duty**

**22A.** Any instrument made on oath or affirmation pursuant to section 5 or 23 in any form specified in the First Schedule shall be exempt from payment of stamp duty under any written law for the time being in force relating to stamp duties.

**Return and declaration respecting election expenses**

**23.** (1) Within thirty-one days after the date of publication of the result of an election in the *Gazette* every candidate at that election or his election agent shall deposit with the State Elections Director a true return, in this Act referred to as the “return respecting election expenses” in Form B in the First Schedule, containing detailed statements as respects that candidate of—

- (a) (*Deleted by Act A5*);
- (b) (*Deleted by Act A5*);
- (c) the disputed claims so far as the candidate or his election agent is aware;
- (d) all unpaid claims, if any, of which the candidate or his election agent is aware in respect of which application has been made or is about to be made to an Election Judge or Judge of the High Court;
- (e) all money, securities and other valuable consideration received by or promised to the candidate or his election agent from or by any other candidate or person for the purpose of expenses incurred or to be incurred on account or in respect of the management of the election, naming every person from whom the sum may have been received or by whom such sum may have been promised, showing as to each sum whether it was received as contribution, loan, deposit or otherwise;
- (f) the amount of expenses, if any, incurred by any person authorized by the candidate or his election agent under subsection 15A(1).

(2) The return respecting election expenses shall be signed by the candidate or his election agent and shall be accompanied by a statement made by the candidate and his election agent, which shall be respectively in Forms C and D in the First Schedule and shall be on oath before the Chairman or a member of the Election Commission, a Magistrate, a Justice of the Peace, a Commissioner for Oaths, or the State Elections Director:

Provided that where the candidate has named himself as election agent under subsection 12(2) such statement shall be made only in Form C of the First Schedule.

(3) If the said return and statements are not transmitted before the expiration of the time limited for the purpose, the candidate shall not after the expiration of such time sit or vote until either such return and statements have been transmitted or until the date of the allowance of such authorized excuse for failure to transmit the same as in this Act mentioned and if he sits or votes in contravention of this Act, he shall be liable on conviction, to a penalty of one thousand ringgit for every day on which he so sits or votes.

(4) If any candidate or election agent fails to comply with the requirements of subsection (1) or (2) he shall be guilty of an illegal practice and this section shall be in addition to and not in derogation of section 11.

**Publication of deposit of return, etc.**

**24.** (1) When any return respecting election expenses and the statements made in respect thereof have been received by the State Elections Director, he shall, as soon as may be, cause a notice of the date on which the return and statements in question were received by him and of the time and place at which they can be inspected to be fixed in some conspicuous place in his office and published in the *Gazette*.

(2) The State Elections Director shall preserve all such returns and statements with the bills and vouchers relating thereto and at all reasonable times during six months next after the publication in the *Gazette* of the notice mentioned in this section shall permit any person to inspect them and to make extracts therefrom on payment of a fee of ten ringgit and shall, on payment of two ringgit for each folio of one hundred words, supply a copy or copies of any part thereof; and after the expiration of the said period of six months the said documents may be destroyed or returned to the candidate if application for their return is made by the candidate before they are destroyed.

**Limitation of political propaganda on nomination day**

**24A.** (1) No person shall, on nomination day or days—

- (a) furnish or supply any musical instrument or loud speaker to any person with intent that it shall be used by any person in any way or used in or upon any vessel, animal, motor car, truck or other vehicle; or

- (b) use himself or use in or upon any vessel, animal, motor car, truck or other vehicle any such musical instrument or loud speaker,

as, or for the purpose of, political propaganda.

(2) No person shall, on nomination day or days, wait or loiter within a distance of fifty metres from the limit of any place of nomination.

(3) Any person who contravenes any of the provisions of this section shall be liable, on conviction, to imprisonment for a term not exceeding one year or to a fine not exceeding three thousand ringgit or to both such imprisonment and fine.

#### **Election campaign and limitation thereof**

**24b.** (1) Subject to the provisions of this Act, a candidate or his election agent may hold election campaign during the campaign period.

(2) A candidate or his election agent may, during the campaign period, open or establish or maintain offices in the constituency in which the candidate seeks election for purposes of his campaign at an election.

(3) A candidate or his election agent may, during the campaign period—

- (a) hold, convene or organize any open public meeting, open public rally, open public display or open public entertainment; or

- (b) give any open public address or open public lecture,

in the constituency in which the candidate seeks election but only if he holds a permit to do so issued to him by the police officer in charge of the district where the meeting, rally, display or entertainment is to be held or the address or lecture is to be given.



(4) A candidate or his election agent may, during the campaign period, display, furnish or distribute election campaign materials to members of the public in the constituency in which the candidate seeks election but only if he—

(a) holds a permit to do so issued to him by the State Elections Director, subject to such terms and conditions as the State Elections Director may determine; and

(b) has paid to the State Elections Director a deposit of five thousand ringgit in the case of an election to the Dewan Rakyat and three thousand ringgit in the case of an election to a Legislative Assembly.

(5) On receipt of a deposit under subsection (4), the State Elections Director shall deal with the sum so paid in accordance with the current Government financial regulations.

(6) Subject to the by-laws of any local authority, election campaign materials include any advertisement, leaflet, brochure, flag, ensign, banner, standard, poster, placard, handbill, label or any form of temporary billboard.

(7) No person shall, during the campaign period, display or affix any election campaign material within a distance of fifty metres from the limits of any polling station.

(8) Any election campaign material displayed or affixed shall be removed by a candidate or his election agent within fourteen days after polling day and if the candidate or his election agent fails to comply with this subsection—

(a) the deposit paid pursuant to subsection (4) shall be forfeited and paid to the Federal Consolidated Funds; and

(b) the State Elections Director shall cause all the materials to be removed within a reasonable time and the cost for the removal of such materials shall be paid out of the sum forfeited under paragraph (a).

(9) Where the cost of removing the materials referred to in paragraph (8)(b) exceeds the deposit forfeited under paragraph (8)(a), the difference shall be a debt due from the candidate to the Federal Government and may be recovered from the candidate accordingly.

(10) Any person who contravenes subsection (3), (4) or (7) shall be liable, on conviction, to imprisonment for a term not exceeding one year or to a fine not exceeding three thousand ringgit or to both such imprisonment and fine.

(11) An offence under this section shall be a seizable offence within the meaning of the Criminal Procedure Code.

### **Employers to allow employees reasonable period for voting**

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

(2) This section shall extend to employees of the successor company as defined in section 2 of the Railways (Successor Company) Act 1991 [*Act 464*] and the Sabah Railway except such as are actually engaged in the running of trains and to whom such time cannot be allowed without interfering with the manning of the trains; and the General Manager, shall, in each case, be deemed to be the employer of such employees.

(3) Any employer who, directly or indirectly, refuses, or by intimidation, undue influence, or in any other manner, interferes with the granting to any elector in his employ, of a reasonable period for voting, as in this section provided, shall on summary conviction be liable to a fine of five thousand ringgit or to imprisonment for one year.

(4) This section shall not extend to such categories of employees as the Election Commission may from time to time by notification in the *Gazette* designate.

(5) This section shall be binding on the Government of Malaysia and the Government of each State.

(6) In this section, “employer” has the same meaning as in the Employment Act 1955 [*Act 265*].

**Limitation on polling day**

**26.** (1) No person shall on polling day—

- (a) hold, convene or organize in any place any form of meeting, rally, display or entertainment or give any form of address or lecture whether or not such meeting, rally, display, entertainment, address or lecture is open to or involves members of the public or otherwise;
- (b) furnish or supply any musical instrument or loud speaker to any person with intent that it shall be used by any person in any way or used in or upon any vessel, animal, motor car, truck or other vehicle as, or for the purpose of, political propaganda or use himself or use in or upon any vessel, animal, motor car, truck or other vehicle any such musical instrument or loud speaker;
- (c) open or establish or maintain an office or a booth within the constituency in which a candidate seeks election for any purpose connected with an election other than the offices opened or established or maintained pursuant to subsection 24B(2) or committee-room hired pursuant to paragraph 14(1)(b);
- (d) use any dwelling house, shop house, hut, hall or any premises as an office or a centre of any political party in the constituency;
- (e) within a distance of fifty metres from the limits of any polling station—
  - (i) endeavour to establish the identity of any person entering a polling station;
  - (ii) check on any list the name of any person entering or leaving a polling station;
  - (iii) solicit or persuade or attempt to persuade any person to abstain from voting at the election, or to vote or to abstain from voting for any candidate at the election;

- (iv) wait or loiter except for the purpose of gaining entry to the polling station to cast his vote but nothing in this paragraph shall prevent the proper officer or any person authorized by the proper officer from carrying out his duties in relation to the conduct of an election;
- (f) on behalf of any candidate, canvass for the votes of electors in any constituency for or against any candidate or political party at an election by whatever means including visiting electors at their homes or places of work or interviewing members of the public; or
- (g) within a distance of fifty metres from the limits of any polling station and in a polling station wear, hold or carry any form or type of clothing, head covering, ornament, rosette, water bottle or umbrella on which the name of a candidate or the name, emblem or symbol of any political party is printed or imprinted.

(2) Any person who contravenes any of the provisions of subsection (1) shall be liable, on conviction, to imprisonment for a term not exceeding one year or to a fine not exceeding five thousand ringgit or to both such imprisonment and fine.

(3) An offence under subsection (1) shall be a seizable offence within the meaning of the Criminal Procedure Code.

#### **Booth to be provided by Election Commission**

**26A.** (1) The Election Commission shall, on polling day, provide such number of booths situated at such places as it thinks necessary for the purpose of assisting electors to ascertain their electoral numbers in the electoral roll.

(2) The election agent of a candidate shall appoint not more than four persons to act as booth observers on behalf of the candidate, and shall, before the opening of the poll inform the presiding officer at each polling station in writing of the name and address of the booth observers appointed to be present at the booths in respect of the polling station.

(3) Every booth observer of a candidate appointed under subsection (2) shall be present at the booth for at least two hours and his replacement shall only be admitted to the booth on the expiration of the two-hour period.

**26B.** *(Deleted by Act A1177).*

**Punishment for conviction for illegal practice**

**27.** (1) Every person who commits an illegal practice shall, on conviction by a Sessions Court, be liable to a fine of five thousand ringgit and, subject to any specific provision to the contrary in any written law relating to any election, shall by conviction until the expiration of five years from such conviction become incapable of being registered or listed as an elector or of voting at any election under this Act or of being elected at any election, and if at that date he has been elected at any election, his seat shall be vacated from the date of such conviction.

(2) A prosecution for an illegal practice shall not be instituted without the sanction of the Public Prosecutor.

PART IVA

ENFORCEMENT TEAM

**Interpretation in relation to this Part**

**27A.** In this Part, unless the context otherwise requires—

“area of control”, in relation to an enforcement team, means the area referred to in section 27D;

“candidate” includes an election agent of a candidate and any person appointed by a candidate or his election agent;

“political party’s representative” means the representative of a political party taking part in the election, appointed by the candidate or his election agent to be a member of the enforcement team under paragraph 27C(1)(d) and includes his replacement appointed under subsection 27F(4).

**Establishment of enforcement team**

**27B.** The Election Commission may, if the Commission considers it necessary, establish an enforcement team or any number of enforcement teams for the purpose of monitoring and controlling the activities of the candidates during the campaign period until the expiration of the polling day.

**Membership of the enforcement team**

**27C.** (1) An enforcement team shall consist of—

- (a) an enforcement officer appointed under paragraph 3(d) of the Elections Act 1958;
- (b) a representative, who is not below the rank of Inspector, of the Commanding Officer of the police district in the area of control, or if the area of control covers more than one police district, of the Commanding Officer of each of the police districts;
- (c) a representative of the local authority in the area of control, or if the area of control covers more than one local authority area, of each of the local authorities; and
- (d) a political party's representative who is appointed by a candidate or his election agent in writing.

(2) The enforcement officer referred to in paragraph (1)(a) shall be the leader of the enforcement team.

**Area of control of the enforcement team**

**27D.** An enforcement team shall perform its functions in the Parliamentary constituency for which the team is established, including the State constituencies within the Parliamentary constituency.

**Functions of the enforcement team**

**27E.** The functions of the enforcement team are—

- (a) to patrol, and to monitor the activities of the candidates, in its area of control to ensure that written laws relating to elections are being complied with;

- (b) to bring down or cause to be brought down immediately any campaign material in its area of control which contravenes or does not comply with any written laws relating to elections;
- (c) to stop or cause to be stopped any open public address or lecture held in its area of control which contravenes or does not comply with any written laws relating to elections, and, if it is necessary to detain any person involved with the open public address or lecture, to request a police officer to detain such person; and
- (d) to control and coordinate the carrying out of any campaign activity specified in any written law relating to elections in its area of control.

**Appointment of the representative of the political party**

**27F.** (1) For the purpose of paragraph 27c(1)(d), a candidate or his election agent shall notify in writing the name of the political party's representative appointed by him or his election agent to the returning officer on nomination day.

(2) Subject to subsection (4), the person appointed as the political party's representative shall remain as such representative throughout the campaign period until the expiration of the polling day.

(3) The returning officer shall give a written notice to every political party's representative that has been appointed informing him to present himself at such time and such place as are specified in the notice in order to carry out his duties as a member of the enforcement team.

(4) If the person appointed to be a political party's representative dies, becomes ill or for any other reason is incapable of carrying out his duties as a member of the enforcement team, the candidate or his election agent may appoint another person to replace the first-mentioned person as a political party's representative and shall immediately notify the name of the replacement to the returning officer.

(5) If a political party's representative does not present himself at the time and place as are specified in the notice given by

the returning officer under subsection (3), the enforcement team shall continue to perform its function without the presence of such representative and any decision made by the members of the enforcement team who are present shall be deemed to have been agreed to by the member who is not present.

#### **Decision of the enforcement team**

**27G.** (1) Every decision or action to be taken by the enforcement team in the performance of its function shall be by mutual agreement between all members of the enforcement team who are present.

(2) If a mutual agreement between all members of the enforcement team who are present cannot be obtained, the leader of the enforcement team shall have the power to make any decision or to direct any action to be taken by the enforcement team.

(3) Before making any decision or issuing any direction under subsection (2), the leader of the enforcement team shall previously obtain the advice of the State Elections Director, or if the State Elections Director is not available, of the returning officer.

(4) A decision or direction of the leader of the enforcement team shall be final and binding upon all members of the enforcement team.

(5) No decision or action to be taken by the enforcement team shall be questioned on the ground of any non-attendance of any member of the enforcement team.

#### **Complaint to the returning officer**

**27H.** (1) Subject to subsection (2), any person or political party may make any complaint on the activities of a candidate during the campaign period to the returning officer.

(2) The returning officer shall direct the enforcement team to patrol the area in respect of which the complaint is made for the purpose of ensuring that written laws relating to elections are being complied with.



PART V

EXCUSE FOR CORRUPT OR ILLEGAL PRACTICE

**Report exonerating candidate in certain cases of corrupt and illegal practice by agents**

**28.** Where, upon the trial of an election petition respecting an election, the Election Judge reports that a candidate of such election has been guilty by his agents of the offence of treating or undue influence or of any other corrupt or illegal practice in reference to such election, and the Election Judge further reports, after giving the Attorney General, or in the case of an election to the Legislative Assembly in Sabah and Sarawak, the State Attorney General, an opportunity of being heard, that the candidate has proved to the Court—

- (a) that no corrupt or illegal practice was committed at such election by the candidate or his election agent and the offences mentioned in the said report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent;
- (b) that such candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at such election;
- (c) that the offences mentioned in the said report were of a trivial, unimportant and limited character; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents,

then the election of such candidate shall not, by reason of the offences mentioned in such report, be void, nor shall the candidate be subject to any incapacity under this Act.

**Power to except innocent act from being illegal practice, etc.**

**29.** Where, on application made, it is shown to an Election Judge or to a Judge of the High Court by such evidence as seems to the Judge sufficient—

- (a) that any act or omission of a candidate at any election, or of his election agent or of any other agent or person,

would, by reason of being the payment of a sum or the incurring of expense in excess of any maximum amount allowed by this Act, or of being a payment, engagement, employment, or contract in contravention of this Act, or of otherwise being in contravention of any of the provisions of this Act, be, but for this section, an illegal practice; and

- (b) that any such act or omission arose from inadvertence or from accidental miscalculations or from some other reasonable cause of a like nature, and, in any case, did not arise from any want of good faith,

and in the circumstances it seems to the Judge, after giving the candidates, the returning officer, and any elector within the constituency or electoral ward an opportunity of being heard, to be just that the candidate in question and the said election and other agent and person, or any of them, should not be subject to any of the consequences under this Act of the said act or omission, the Judge may make an order allowing such act or omission to be an exception from the provisions of this Act which would otherwise make the same an illegal practice, payment, employment, or hiring, and thereupon such candidate, agent or person shall not be subject to any of the consequences under this Act of the said act or omission.

**Authorized excuse for non-compliance with provisions as to return and declaration respecting election expenses**

**30.** (1) Where the return and statements respecting election expenses of a candidate at an election have not been transmitted as required by this Act, or being transmitted contain some error or false statement, then—

- (a) if the candidate applies to an Election Judge or a Judge of the High Court and shows that the failure to transmit such return and declarations, or any of them, or any part thereof, or any error or false statement therein, has arisen by reason of his illness, or of the absence, death, illness, negligence or misconduct of his election agent or of any clerk or officer of such agent, or by reason of inadvertence or any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant; or

- (b) if the election agent of the candidate applies to an Election Judge or a Judge of the High Court and shows that the failure to transmit the return and statements which he was required to transmit, or any part thereof, or any error or false statement therein, arose by reason of his illness, or of the death, illness, negligence or misconduct of any prior election agent of the candidate, or of the absence, death, illness or misconduct of any clerk, or officer of an election agent of the candidate, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant,

the Judge may, after such notice of the application, and on production of such evidence of the grounds stated in the application and of the good faith of the application, and otherwise, as to the Judge seems fit, and after giving the other candidates, the State Elections Director and any elector within the constituency or electoral ward an opportunity of being heard, make such order for allowing an authorized excuse for the failure to transmit such return and statements, or for an error or false statement in such return and statements, as to the Judge seems just.

(2) Where it appears to the Judge that any person, being or having been election agent, has refused or failed to make such return or supply such particulars as will enable the candidate and his election agent, respectively, to comply with the provisions of this Act as to the return and statements respecting election expenses, the Judge before making an order allowing the excuse as in this section mentioned shall order such person to attend before the Judge, and shall, unless he attends and shows cause to the contrary, order him to make the return and statements, or to deliver a statement of the particulars required to be contained in the return, as to the Judge seems just, and to make or deliver the same within such time and to such person and in such manner as the Judge may direct, or may order him to be examined with respect to such particulars, and, in default of compliance with any such order, such person shall be guilty of an illegal practice.

(3) The order may make the allowance conditional upon the making of the return and statements in a modified form or within an extended time, and upon the compliance with such other terms as to the Judge seems best calculated for carrying into effect the objects of this Act, and an order allowing an authorized excuse

shall relieve the applicant for the order from any liability or consequences under this Act in respect of the matter excused by the order; and where it is proved by the candidate to the Judge that any act or omission of the election agent in relation to the return and statements respecting election expenses was without the sanction or connivance of the candidate, and that the candidate took all reasonable means for preventing such act or omission, the Judge shall relieve the candidate from the consequences of such act or omission on the part of his election agent.

(4) The date of the order, or, if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Act as the date of the allowance of the excuse.

#### **Period for making application for excuse**

**30A.** An application for an authorized excuse under section 30 shall be made before the expiration of the period of thirty-one days that is specified in section 23 and a copy of the application shall be served on the State Elections Director.

### PART VI

#### GROUND FOR AVOIDING ELECTIONS

#### **Avoidance by conviction of candidate**

**31.** (1) The election of a candidate at any election is avoided by his conviction for any corrupt or illegal practice at such election.

(2) Within fourteen days of the conviction by a Sessions Court of a candidate for any corrupt or illegal practice at an election, the Sessions Court Judge or the Registrar of the Sessions Court shall certify the Court's determination—

- (a) to the Election Commission in the case of an election of a person to be a member of the Dewan Rakyat, a Legislative Assembly, a local authority under the jurisdiction of the Federal Government or of any other election that the Election Commission may be authorized to conduct; or
- (b) in the case of any other election, to the State Authority.

**Avoidance of election on election petition**

**32.** The election of a candidate at any election shall be declared to be void on an election petition on any of the following grounds only which may be proved to the satisfaction of the Election Judge:

- (a) that general bribery, general treating or general intimidation have so extensively prevailed that they may be reasonably supposed to have affected the result of the election;
- (b) non-compliance with the provisions of any written law relating to the conduct of any election if it appears that the election was not conducted in accordance with the principles laid down in such written law and that such non-compliance affected the result of the election;
- (c) that a corrupt practice or illegal practice was committed in connection with the election by the candidate or with his knowledge or consent, or by any agent of the candidate;
- (d) that the candidate personally engaged a person as his election agent, or as a canvasser or agent, knowing that such person had within seven years previous to such engagement been convicted or found guilty of a corrupt practice by a Sessions Court, or by the report of an Election Judge; or
- (e) that the candidate was at the time of his election a person disqualified for election.

PART VII

ELECTION PETITIONS

**Appointment and powers of Election Judge**

**33.** (1) Every election petition shall be tried by the Chief Judge or by a Judge of any High Court nominated by the Chief Judge for the purpose:

Provided that the Chief Judge shall not nominate a Judge of a High Court of which he is not Chief Judge without consulting the Chief Judge of that High Court.

(2) Witnesses shall be subpoenaed and sworn in the same manner as nearly as circumstances admit as in a trial by the High Court in the exercise of its original civil jurisdiction and shall be subject to the same penalties for the giving of false evidence.

(3) On the trial of an election petition under this Act the Election Judge may, by order under his hand, compel the attendance of any person as a witness who appears to him to have been concerned in the election to which the petition refers, and any person refusing to obey such order shall be guilty of contempt of court. The Election Judge may examine any witness so compelled to attend or any person in Court, although such witness is not called and examined by any party to the petition. After the examination of a witness as aforesaid by the Election Judge, such witness may be cross-examined by or on behalf of the petitioner and respondent, or either of them.

(4) Unless otherwise ordered by the Chief Judge, all interlocutory matters in connection with an election petition may be dealt with and decided by any Judge of the High Court whose decision shall be final.

#### **Who may present petition**

**34.** An election petition may be presented to the High Court by any one or more of the following persons:

- (a) some person who voted or had a right to vote at the election to which the petition relates;
- (b) some person claiming to have had a right to be returned or elected at such election; or
- (c) some person alleging himself to have been a candidate at such election.

#### **Relief which may be claimed**

**35.** All or any of the following reliefs to which the petitioner may be entitled may be claimed in an election petition:

- (a) a declaration that the election is void;

- (b) a declaration that the person was not duly elected or ought not to have been returned;
- (c) *(Deleted by Act A1177)*;
- (d) where the seat is claimed for an unsuccessful candidate on the ground that he had a majority of lawful votes, a scrutiny.

### **Time for completion of trial of election petition**

**35A.** The trial of every election petition shall be completed not later than six months from the date of the presentation of the election petition.

### **Determination of Election Judge**

**36.** (1) At the conclusion of the trial of an election petition, the Election Judge shall—

- (a) determine whether the candidate whose return or election is complained of was duly returned or elected or whether the election is void; and
- (b) pronounce such determination in open court.

(2) The Election Judge shall within fourteen days of making his determination under subsection (1) certify his determination—

- (a) to the Election Commission in the case of an election of a person to be a member of the Dewan Rakyat, a Legislative Assembly, a local authority under the jurisdiction of the Federal Government or of any other election that the Election Commission may be authorized to conduct; or
- (b) in the case of any other election, to the State Authority.

### **Appeal**

**36A.** (1) The petitioner or a candidate whose return or election is complained of may appeal against the determination of an Election Judge to the Federal Court.

(2) Every appeal under this section shall be presented within fourteen days from the date of the determination of the Election Judge under section 36 and such appeal shall be presented in accordance with the rules of court applicable to appeals to the Federal Court.

(3) The Registrar of the Federal Court shall, within fourteen days from the date of the decision of the Federal Court certify such decision—

- (a) to the Election Commission in the case of an election of a person to be a member of the Dewan Rakyat, a Legislative Assembly, a local authority under the jurisdiction of the Federal Government or of any other election that the Election Commission may be authorized to conduct; or
- (b) in the case of any other election, to the State Authority.

#### **Time for completion of hearing of appeal**

**36b.** Notwithstanding any other law to the contrary, an appeal against the determination of an Election Judge shall be heard and decided upon by the Federal Court within six months from the date of presentation of the appeal.

#### **Effect of decision of Election Judge or Federal Court**

**36c.** At the end of the period specified in subsection 36A(2), if there is no appeal to the Federal Court, or upon the certificate being given under subsection 36A(3), if there is an appeal to the Federal Court, the determination of the Election Judge or the decision of the Federal Court, as the case may be, shall be final, and the return or election shall be confirmed or the election shall be void and in such case within thirty days from the end of such period or from the date the certificate is given, the Election Commission or the State Authority, as the case may be, shall give notice of election in the constituency or electoral ward concerned in accordance with the certificate given under subsection 36A(2) or (3).



**Report of Judge or Registrar as to corrupt or illegal practice**

**37.** (1) At the conclusion of the trial of an election petition or of the hearing of an appeal against the determination of an Election Judge, the Election Judge or the Registrar of the Federal Court, as the case may be, shall also report in writing—

(a) to the Election Commission, in the case of an election of a person to be a member of the Dewan Rakyat, a Legislative Assembly, the city council of the federal capital or of any other election that the Election Commission may be authorized to conduct; or

(b) in the case of any other election, to the State Authority—

(i) whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, or by his agent, and the nature of such corrupt or illegal practice, if any; and

(ii) the names and descriptions of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice.

(2) Before any person, not being a party to an election petition nor a candidate on behalf of whom the seat is claimed by an election petition, is reported by an Election Judge or the Registrar of the Federal Court under this section, the Election Judge or the Registrar of the Federal Court shall give such person the right to be represented by counsel and an opportunity of being heard and of giving and calling evidence to show why he should not be so reported.

(3) When an Election Judge or the Registrar of the Federal Court reports that a corrupt or illegal practice has been committed by any person, that person shall be subject to the same incapacities as if at the date of the said report he had been convicted of that practice and a person shall be subject to the same incapacities if he was a candidate at the election and the Election Judge or the Registrar of the Federal Court reports that such corrupt or illegal practice was committed with his knowledge and consent or by his agent.

(4) The Election Commission or the State Authority, as the case may be, shall cause a copy of such report to be published in the *Gazette*, and it shall be the duty of every registering officer forthwith to peruse the report and forthwith to delete from the register or list of electors assigned to him the name of every person appearing from the report to be incapable of voting at an election.

### **Time for presentation**

**38.** (1) Every election petition shall be presented within twenty-one days of the date of publication of the result of the election in the *Gazette*:

Provided that—

- (a) an election petition questioning the return or the election upon the ground of a corrupt practice and specifically alleging a payment of money or other act to have been made or done since the date aforesaid by the person whose election is questioned or by an agent of the person or with the privity of the person or his election agent in pursuance or in furtherance of such corrupt practice may, so far as respects such corrupt practice, be presented at any time within twenty-eight days after the date of such payment or act;
- (b) an election petition questioning the return or the election upon an allegation of an illegal practice may, so far as respects such illegal practice, be presented within the time following:
  - (i) at any time before the expiration of fourteen days immediately after the date of the publication in the *Gazette* of the notice required by section 24 as to the election expenses of the person whose election is questioned;
  - (ii) if the election petition specifically alleges a payment of money or other act to have been made or done since the said date by the person whose election is questioned or by an agent of the person or with the privity of the person or of

his election agent in pursuance or in furtherance of the illegal practice alleged in the petition, the petition may be presented at any time within twenty-eight days immediately after the date of such payment or other act.

(2) An election petition presented in due time may, for the purpose of questioning the return or the election upon an allegation of a corrupt or illegal practice, be amended with the leave of a Judge of the High Court within the time within which an election petition questioning the return or the election upon that ground may be presented.

(3) For the purposes of this section, where there is an authorized excuse for failing to make and transmit the return and statements respecting election expenses, the date of the allowance of the excuse or, if there was a failure in two or more particulars and the excuse was allowed at different times, the date of the allowance of the last excuse shall be substituted for the date of the publication of the notice mentioned in the proviso to paragraph (1)(b).

#### **Prohibition of disclosure of vote**

**39.** No elector who has voted at any election shall, in any proceeding to question the election, be required to state for whom he has voted.

#### **Votes to be struck off at a scrutiny**

**40.** (1) On a scrutiny at the trial of an election petition the following votes only shall be struck off:

- (a) the vote of any person whose name was not on the register or list of electors assigned to the polling station at which the vote was recorded or who has not been authorized to vote at such station;
- (b) the vote of any person whose vote was procured by bribery, treating, or undue influence;
- (c) the vote of any person who committed or procured the commission of personation at the election;

- (d) where the election was an ordinary election, the vote of any person proved to have voted at such ordinary election in more than one constituency or electoral ward;
- (e) the vote of any person, who, by reason of a conviction of a corrupt or illegal practice or by reason of the report of an Election Judge or the Registrar of the Federal Court, or by reason of his conviction of an offence under section 3 was incapable of voting at the election; and
- (f) votes given for a disqualified candidate by a voter knowing that the candidate was disqualified or the facts causing the disqualification, or after sufficient public notice of the disqualification, or when the disqualification or the facts causing it were notorious.

(2) The vote of a registered elector shall not, except in the case specified in paragraph (1)(e), be struck off at a scrutiny by reason only of the voter not having been or not being qualified to have his name entered on the register or list of electors.

(3) *(Deleted by Act A1177).*

#### **Rejection of ballot paper by returning officer or presiding officer to be final**

41. On an election petition the decision of a returning officer or presiding officer, whether or not a ballot paper shall be rejected, under any written law relating to the election, shall not be questioned.

#### **Procedure and practice on election petitions**

42. (1) The procedure and practice on election petitions shall be regulated by the Election Petition Rules 1954 as provided for in the Second Schedule.

(2) When any matter is not expressly provided for in the Election Petition Rules 1954, the \*Rules of Court 2012 [*P.U. (A) 205/2012*] shall apply.

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\*NOTE—The Rules of High Court 1980 [*P.U. (A) 50/1980*] has been repealed by the Rules of Court 2012 [*P.U. (A) 205/2012*] w.e.f. 1 August 2012—see Order 94 rule 1 *P.U. (A) 205/2012*.

FIRST SCHEDULE

ELECTION OFFENCES ACT 1954

FORM A

[Subsection 5(1)]

FORM OF OATH OF SECRECY

I, .....Identity Card No. ....of  
.....swear  
that I will not at this election for the .....  
constituency/electoral ward do anything forbidden by section 5\* of the Election  
Offences Act 1954 [*Act 5*], which has been read to me.

Dated ..... 20 .....

.....  
*Signature of person taking the oath*

Before me

.....  
*Signature*

*Chairman or Member of the Election Commission  
Secretary to the Election Commission  
State Elections Director  
Proper Officer*

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\*This section must be read to the declarant by the person taking the declaration.

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ELECTION OFFENCES ACT 1954

FORM B

[Subsection 23(1)]

RETURN RESPECTING ELECTION EXPENSES

Constituency } .....  
 Electoral ward }

Name of candidate.....

Name of election agent.....

Date of publication of the result of the election in the *Gazette*  
 .....

RECEIPTS. Note 1. Give details of any money, security, or valuable consideration received or promised in respect of expenses incurred on account of or in connection with or incidental to the election. Details of money or security supplied by the candidate must be included.

Name of donor	Description (Association, Club, Society or Individual)	Type of donation (Contribution, Loan, Deposit, etc.)	Amount	
			RM	s.
TOTAL				

ELECTION EXPENSES. Note 2. All payments are to be vouched for by a bill stating the particulars, except as provided by section 16 of the Election Offences Act 1954 [Act 5].

ELECTION EXPENSES INCURRED			
Description	Details as in List No.	Amount RM s.	
Payment to agents, clerks and messengers			
Travelling expenses of above			
Travelling expenses of other persons			
Printing			
Advertising			
Stationery			
Postage, telegrams and telephone charges			
Hire of rooms for public meeting or as committee-rooms			
Licences			
Miscellaneous expenditure			
Expenses by person authorized			
Disputed claims			
Unpaid claims			
	TOTAL		

DECLARATION

To be completed by candidate or his election agent.

To be completed by candidate acting as his own agent.

I,.....being the \*candidate/election agent, make the foregoing return respecting \*my election expenses/election expenses of the said candidate in the said election and certify that to the best of my knowledge and belief it is complete and correct.

I,.....acting as my own election agent, make the foregoing return respecting my election expenses in the said election and certify that to the best of my knowledge and belief it is complete and correct.

Signature.....

Signature.....

Date .....

Date .....

\* Delete whichever is inapplicable.

\_\_\_\_\_

ELECTION OFFENCES ACT 1954

FORM C

[Subsection 23(2)]

STATEMENT ON OATH BY CANDIDATE

I, ..... Identity Card No. ....  
of ..... being  
a candidate for election in the .....  
constituency/electoral ward, do hereby solemnly affirm (or swear) that the  
accompanying return respecting election expenses is, to the best of my  
knowledge and belief, true, and that, except the expenses therein set forth,  
no expenses of any nature whatsoever have to my knowledge or belief been  
incurred in, or for the purpose of, my candidature.

Dated ..... 20 .....

.....  
*Candidate*

Solemnly affirmed (or sworn to) before me

.....  
*Chairman or Member of the Election Commission*  
*Magistrate*  
*Justice of the Peace*  
*Commissioner for Oaths*  
*State Elections Director*

\_\_\_\_\_



ELECTION OFFENCES ACT 1954

FORM D

[Subsection 23(2)]

STATEMENT ON OATH BY AN ELECTION AGENT

I, ..... Identity Card No. ....  
of ..... being  
appointed election agent for ..... a candidate  
for election in the .....  
constituency/electoral ward, do hereby solemnly affirm (or swear) that the  
accompanying return respecting election expenses is, to the best of my  
knowledge and belief, true, and that, except the expenses therein set forth,  
no expenses of any nature whatsoever have to my knowledge or belief been  
incurred in, or for the purpose of, the candidature of .....

Dated ..... 20 .....

.....  
*Election Agent*

Solemnly affirmed (or sworn to) before me

.....  
*Chairman or Member of the Election Commission*  
*Magistrate*  
*Justice of the Peace*  
*Commissioner for Oaths*  
*State Elections Director*

\_\_\_\_\_

FORM E

*(Deleted by Act A1177)*

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## SECOND SCHEDULE

[Subsection 42(1)]

## ELECTION OFFENCES ACT 1954

## ELECTION PETITION RULES 1954

**Citation**

1. These rules may be cited as the **Election Petition Rules 1954**.

**Interpretation**

2. In these Rules, unless the context otherwise requires—

“advocate” includes, in the State of Terengganu, a pleader;

“Judge” means the Election Judge as defined in section 2 of the Election Offences Act 1954;

“Registrar” means the Registrar of the High Court and includes the Deputy Registrar and the Senior Assistant Registrar of the High Court.

**Manner of presentation of petition**

3. (1) The presentation of an election petition shall be made by delivering it at the office of the Registrar, and the Registrar or the officer of his department to whom the petition is delivered shall, if required, give a receipt in the following form:

Received on the ..... 20 .....  
at the Registry of the High Court, a petition touching the election of  
A.B., ..... for ..... purporting  
to be signed by ..... (insert the names of petitioners).

C.D.,  
*Registrar, or other officer to whom  
the petition is delivered*

- (2) There shall also be left with the petition two copies thereof.

**Contents and form of election petition**

4. (1) An election petition shall contain the following statements:

(a) it shall state the right of the petitioner to petition within section 34 of the Act; and

(b) it shall state the holding and result of the election, and shall briefly state the facts and grounds relied on to sustain the prayer.

(2) The petition shall be divided into paragraphs, each of which, as nearly as may be, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively, and no costs shall be allowed for drawing or copying any petition not substantially in compliance with this rule, unless otherwise ordered by the Court or a Judge.

(3) The petition shall conclude with a prayer as, for instance, that some specified person should be declared duly returned or elected, or that the election should be declared void, and shall be signed by all the petitioners.

(4) The following form, or one to the like effect, shall be sufficient:

IN THE HIGH COURT OF.....

Election Offences Act 1954

Election for ..... (state the constituency or electoral ward) held on ..... 20 .....

The petition of A., of ..... (or of A., of ..... and B., of ..... , as the case may be) whose names are subscribed.

(1) Your petitioner A., is a person who voted (or had a right to vote, as the case may be) at the above election (or claims to have had a right to be returned at the above election or was a candidate at the above election), and your petitioner B. (*here state in like manner the right of each petitioner*);

(2) And your petitioners state that the election was held on ..... 20 ....., when A.B., C.D., and E.F. were candidates, and the Returning Officer has returned A.B. as being duly elected.

(3) And your petitioners say that (*here state the concise facts and grounds on which the petitioners rely*).

Wherefor your petitioners pray that it might be determined that the said A.B. was not duly elected or returned, and that the election was void (or that the said E.F. was duly elected and ought to have been returned).

(Signed) A  
B

**Evidence not to be stated in petition but particulars may be ordered**

5. Evidence need not be stated in the petition, but the Judge may, upon application in writing by a respondent, order such particulars as may be necessary to prevent surprise and unnecessary expense, and to ensure a fair and effectual trial upon such terms as to costs and otherwise as may be ordered.

**Where more than one petition is presented in relation to same election**

6. Where more petitions than one are presented relating to the same election or return, all such petitions shall be dealt with as one petition, so far as the inquiry into the same is concerned.

**List of votes objected to where seat claimed by unsuccessful candidates**

7. When a petitioner claims the seat for an unsuccessful candidate, alleging that he had a majority of lawful votes, the party complaining of or defending the election or return shall, six days before the day appointed for trial, deliver to the Registrar, and also at the address, if any, given by the petitioners and respondent, as the case may be, a list of the votes intended to be objected to, and of the heads of objection to each such vote, and the Registrar shall allow inspection and office copies of such lists to all parties concerned; and no evidence shall be given against the validity of any vote, nor upon any head of objection not specified in the list, except by leave of the Judge, upon such terms as to amendment of the list, postponement of the inquiry, and payment of costs, as may be ordered.

**List of objections in recriminatory case**

8. The respondent in a petition complaining of an undue return and claiming the seat for some person may lead evidence to prove that the election of such person was undue, and in such case such respondent shall, six days before the day appointed for trial, deliver to the Registrar, and also at the address, if any, given by the petitioner, a list of the objections to the election upon which he intends to rely, and the Registrar shall allow inspection of office copies of such lists to all parties concerned; and no evidence shall be given by a respondent of any objection to the election not specified in the list, except by leave of the Judge, upon such terms as to amendments of the list, postponement of the inquiry, and payments of costs, as may be ordered.

**Appointment of advocate by petitioner**

9. With the petition the petitioner or petitioners shall leave at the office of the Registrar a writing, signed by him or them, giving the name of an advocate whom he or they authorize to act as his or their advocate or stating that he or they act for himself or themselves, as the case may be, and in either case giving an address within Malaysia at which notices may be left. Every such writing shall be stamped with the duty payable thereon under the law for the time being in force.

10. *(Deleted by Act A1177).*

11. *(Deleted by Act A1177).*

**Security by petitioner for costs, etc., of election petition**

12. (1) At the time of the presentation of the petition, security for the payment of all costs, charges, and expenses that may become payable by the petitioner shall be given on behalf of the petitioner.

(2) The security required by this rule shall be given by a deposit of money of not less than ten thousand ringgit, and the Judge, in the course of the trial, may require the petitioner to deposit an additional sum of money by way of security as the Judge may think fit.

(3) If security as provided in this rule is not given by the petitioner, no petition shall be registered at such Court.

**Security by deposit of money**

13. (1) The deposit of money by way of security for payment of costs, charges, and expenses payable by the petitioner shall be made by payment to the Registrar which shall be vested in and drawn upon from time to time by the Chief Judge for the purposes for which security is required by these Rules. A receipt shall be given by the Registrar for the same.

(2) The Registrar shall keep a book open to the inspection of all parties concerned, in which shall be entered from time to time the amount of deposit, the number and date of the receipt therefor, and the petition to which it is applicable.

**Return of money so deposited**

14. (1) Money so deposited shall, if and when the same is no longer needed for securing payment of such costs, charges and expenses, be returned or otherwise disposed of as justice may require by order of the Judge.

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

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

**Notice of petition and copy of petition to be served on respondent**

**15.** (1) Notice of the presentation of a petition, accompanied by a copy of the petition, shall, within fifteen days of the presentation of the petition, be served by the petitioner—

- (a) on the respondent personally which shall be effected by delivering the notice and a copy of the petition to the respondent;
- (b) by sending the notice and a copy of the petition by pre-paid registered post addressed to the respondent at his usual or last known place of residence or business; or
- (c) by posting a notice on the notice board of the High Court in the State in which that constituency or electoral ward is situated and by publishing a notice in a national language newspaper and in any other newspaper circulating within the constituency or electoral ward in which the election was held stating that such petition has been presented and that a copy of the notice of presentation of the petition and a copy of the petition may be obtained by the respondent free of charge on application at the office of the Registrar.

(2) If the respondent to whom there has been addressed a pre-paid registered post referred to in subrule (1)—

- (a) is informed that there is such a letter awaiting him at a post office but he refuses or neglects to take delivery of that letter; or
- (b) refuses to accept delivery of that letter when tendered to him,

the notice and a copy of the petition shall be deemed to have been served on him on the date on which he is informed that there is such a letter awaiting him or when the letter is tendered to him, as the case may be.

(3) For the purpose of subrule (2), a statement by the officer in charge of a post office stating that to the best of his knowledge and belief—

- (a) there has been delivered to the address appearing on the pre-paid registered letter a post office notification informing the addressee that there is such a letter awaiting him; or
- (b) there has been tendered for delivery to the addressee such a letter,

shall, until the contrary is proved, be evidence that the addressee has been so informed or that the registered letter has been tendered to him, as the case may be.

(4) An affidavit of service of the documents referred to in subrule (1) stating by whom the documents were served, the day of the week and date on which the documents were served, where they were served and how they were served must be filed in the Court in which the petition was presented.

**When petition to be deemed at issue**

16. On the expiration of the time limited for making petitions, the petition shall be deemed to be at issue.

**List of petitions**

17. The Registrar shall make out the election petition list. In it he shall insert the names of the advocates of the petitioners appointed under rule 9 and of the respondents, and the addresses to which notices may be sent, if any. The list may be inspected at the office of the Registrar at any time during office hours, and shall be posted for that purpose upon a notice board appropriated to proceedings under these Rules, and headed "Election Offences Act 1954".

**Time and place of trial of election petition**

18. The time and place of the trial of each election petition shall be fixed by the Judge and not less than fourteen days' written notice thereof shall be given to the petitioner and the respondent.

**Postponement of trial**

19. The Judge may, from time to time, by order made on the application of a party to the petition, postpone the beginning of the trial to such day as he may name.

**Adjournment and continuation of trial**

20. No formal adjournment of the Court for the trial of an election petition shall be necessary, but the trial is to be deemed adjourned, and may be continued from day to day until the inquiry is concluded; and in the event of the Judge who begins the trial being disabled by illness or otherwise, it shall be continued and concluded by another Judge.

**Withdrawal of election petition**

21. (1) An election petition shall not be withdrawn without the leave of the Judge. Such leave may be given upon such terms as to the payment of costs and otherwise as the Judge may think fit.

(2) Before leave for the withdrawal of an election petition is granted, there shall be produced affidavits, as required by this rule, by all the parties to the petition and their advocates, and by the election agents of all the said parties who were candidates at the election:

Provided that a Judge of the High Court may, on cause shown, dispense with the affidavit of any particular person if it seems to such Judge on special grounds to be just so to do.

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

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

**Form of application to withdraw petition**

**22.** (1) An application for leave to withdraw a petition shall be in writing signed by the petitioner or petitioners or his or their advocate or advocates. It shall state the ground on which the application is supported.

(2) The following form shall be sufficient:

Election Offences Act 1954

Constituency/Electoral Ward of .....  
petition of ..... (*state name of petitioner*)  
presented .....20 .....

The petitioner applies to withdraw his petition upon the following ground (*here state the ground*), and prays that a day may be appointed for hearing his application.

Dated this ..... 20 .....

(Signed).....

(3) The application for leave to withdraw shall be left at the office of the Registrar.

**Copy of application to be given to respondent**

**23.** A copy of such application shall be given by the petitioner to the respondent, and a notice in the following terms signed by the petitioner shall be published forthwith in the *Gazette* by the petitioner at his own expense:

Election Offences Act 1954

In the election petition for ..... in which .....  
is petitioner and ..... respondent.

Notice is hereby given the above petitioner did on the.....  
20..... lodge at the office of the Registrar of the High Court an application for leave to withdraw the petition, of which application the following is a copy:

(Set it out.)



And take notice that under the Election Petition Rules 1954, any person who might have been a petitioner in respect of the said election may, within five days after the date of publication of this notice, give notice in writing to the Registrar of the High Court of his intention on the hearing of the application to be substituted as a petitioner.

(Signed).....

**Application to be substituted as petitioner on withdrawal**

24. Any person who might have been a petitioner in respect of the election to which the petition relates may, within five days after such notice is published by the petitioner, give notice in writing signed by him or on his behalf, to the Registrar, of his intention to apply at the hearing to be substituted for the petitioner, but the want of such notice shall not defeat such application, if in fact made at the hearing.

**Time and place of hearing of application**

25. The time and place of hearing the application shall be fixed by the Judge but shall not be less than a week after the application for leave to withdraw has been left at the office of the Registrar as herein before provided, and notice of the time and place appointed for the hearing shall be given to such person, if any, as shall have given notice to the Registrar of an intention to apply to be substituted as petitioners, and otherwise in such manner and such time as the Judge directs.

**Substitution of another petitioner**

26. (1) On the hearing of the application for withdrawal, any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Judge to be substituted as a petitioner for the petitioner so desirous of withdrawing the petition.

(2) The Judge may, if he thinks fit, substitute as a petitioner any such applicant as aforesaid; and may further, if the proposed withdrawal is, in the opinion of the Judge, induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in such security the original petitioner shall be liable to pay the costs of the substituted petitioner.

(3) If no such order is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition, and within three days after the order of substitution.

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

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

(6) Where there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

#### **Abatement of petition by death**

**27.** (1) Subject to rule 28, an election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2) The abatement of a petition shall not affect the liability of the petitioner or of any other person to the payment of costs previously incurred.

#### **Application to be substituted as petitioner on abatement**

**28.** (1) Notice of abatement of a petition, by death of the petitioner or surviving petitioner, shall be given by the party or person interested in the same manner as notice of an application to withdraw a petition.

(2) Any person who might have been a petitioner in respect of an election to which the petition relates may apply to the Judge to be substituted as a petitioner and such application shall be made within one calendar month from the day of filing of the notice of abatement or such other time as, upon consideration of any special circumstances, the Judge may allow.

(3) The Judge may, if he thinks fit, substitute as a petitioner any such applicant who is desirous of being substituted and on whose behalf security to the same amount is given as is required in the case of a new petition.

(4) Any person substituted as a petitioner under this rule shall stand in the same position, as nearly as may be, and shall be subject to the same liabilities, as the original petitioner.

#### **On death, resignation, or notice not to oppose of respondent the petition to continue**

**29.** (1) If before the trial of an election petition a respondent dies or resigns, or gives notice in writing to the Registrar that he does not intend to oppose the petition, the petition shall not be abated but shall continue whether or not any person applies to be admitted as respondent as hereinafter provided.

(2) Notice of the fact that a respondent has died, or resigned, or that he has given notice in writing that he does not intend to oppose the petition, shall be posted on the notice board of the Court appropriated to proceedings under these Rules referred to in rule 17 by the Registrar.

(3) Any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Judge to be admitted as a respondent to oppose the petition within ten days after such notice has been posted on the notice board of the Court appropriated to proceedings under these Rules referred to in rule 17 or such further time as the Judge may allow.

(4) The manner and time of the respondent's giving notice to the Registrar that he does not intend to oppose the petition, shall be by leaving notice thereof in writing at the office of the Registrar, signed by the respondent not less than six days before the day appointed for trial, exclusive of the day of leaving such notice.

**Respondent not opposing petition not to appear as party**

**30.** A respondent who has given notice of his intention not to oppose a petition shall not be allowed to appear or act as a party against such petition in any proceedings thereon.

**Countermanding notice of trial where petition abated, etc.**

**31.** After receiving the petitioner's application for leave to withdraw or notice of the respondent's intention not to oppose, or of the abatement of the petition by death, or of the happening of any of the events mentioned in rule 29, if such notice is received after notice of trial shall have been given, and before the trial has commenced, the Registrar shall forthwith countermand the notice of trial. The countermand shall be given in the same manner, as near as may be, as the notice of trial.

**Costs**

**32.** All costs of and incidental to the presentation of a petition and to the proceedings consequent thereon shall be defrayed by the parties to the petition in such manner and in such proportions as the Judge may determine, regard being had to the disallowance of any costs which may, in the opinion of the Judge, have been caused by vexatious conduct, unfounded allegations, or unfounded objections, on the part either of the petitioner or the respondent and regard being had to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether such parties are or are not on the whole successful.

**Taxation and recovery of costs**

**33.** (1) Costs shall be taxed by the Registrar upon the order by which the costs are payable in the same manner as costs are taxed in the High Court, but subject to such express direction, either general or specific, as the Judge may give; and costs when taxed may be recovered in the same manner as the costs of an action at law.

(2) The Judge may direct that the whole or any part of any moneys deposited by way of security under rules 12 and 13 may be applied in the payment of taxed costs.

(3) The office fees payable for inspection, office copies and other proceedings under these Rules shall be such as may be prescribed by the Chief Judge.

**Notice of appointment of advocate**

**34.** An advocate shall, immediately upon his appointment as such, leave written notice thereof at the office of the Registrar.

**Service of notices on advocates**

**35.** Service of notices and proceedings upon such advocates shall be sufficient for all purposes under these Rules.

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**LAWS OF MALAYSIA**

**Act 5**

**ELECTION OFFENCES ACT 1954**

LIST OF AMENDMENTS

Amending law	Short title	In force from
Ord. 10/1955	Election Offences (Amendment) Ordinance 1955	20-04-1955
Ord. 10/1959	Election Offences (Amendment) Ordinance 1959	01-04-1959
Act 19/1961	Local Government Elections (Amendment) Act 1961	Malacca: 25-05-1961 Terengganu: 29-05-1961 Johore, Selangor: 01-01-1962 Kedah, Pahang: 01-02-1962 Negeri Sembilan, Perlis, Perak: 01-03-1962 Kelantan: 01-04-1962
Act 33/1961	Election Offences (Amendment) Act 1961	21-09-1961
Act 6/1964	Election Offences (Amendment) Act 1964	30-01-1964
Act 7/1964	Courts of Judicature Act 1964	16-09-1963
P.U. 56/1966	Modification of Laws (Election Offences and Elections) (Extension to Sabah) Order 1966	01-08-1965

Amending law	Short title	In force from
P.U. 144/1966	Modification of Laws (Election Offences and Elections) (Extension to Sabah) Order 1966	01-08-1965
P.U. 497/1966	Modification of Laws (Election Offences and Elections) (Extension to Sarawak) Order 1966	01-11-1966
P.U. 498/1966	Modification of Laws (Election Offences and Elections) (Extension to Sabah) (Amendment) Order 1966	01-08-1965
P.U. 348/1967	Modification of Laws (Election Offences and Elections) (Extension to Sabah) (Amendment) Order 1967	01-08-1965
P.U. 349/1967	Modification of Laws (Election Offences and Elections) (Extension to Sarawak) (Amendment) Order 1967	01-11-1966
P.U. 55/1968	Modification of Laws (Election Offences and Elections) (Extension to Sarawak) (Amendment) Order 1968	01-11-1966
P.U. 104/1968	Rules of Court (Election Petition) (Amendment) Rules 1968	15-03-1968
Act A5	Election Offences (Amendment) Act 1969	27-02-1969
P.U. (A) 282/1970	Emergency (Essential Powers) Ordinance No. 45, 1970	11-08-1970
Act 59	City of Kuala Lumpur Act 1971	01-02-1972
Act A245	Election Offences (Amendment) Act 1974	15-03-1974
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
P.U. (A) 357/1980	Subordinate Courts Act (Extension) Order 1980	01-06-1981

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Amending law	Short title	In force from
P.U. (B) 57/1982	Notification under Titles of Office Ordinance 1949	03-12-1981
Act A640	Election Offences (Amendment) Act 1986	02-05-1986
Act A769	Election Offences (Amendment) Act 1990	15-06-1990
Act 464	Railways (Successor Company) Act 1991	01-08-1992
Act A885	Constitution (Amendment) Act 1994	24-06-1994
Act A890	Election Offences (Amendment) Act 1994	08-07-1994
Act A996	Interpretation (Amendment) Act 1997	24-07-1997
Act A1177	Election Offences (Amendment) Act 2002	16-01-2003
Act A1204	Election Offences (Amendment) Act 2003	15-12-2003
P.U. (B) 127/2005	Notification under Titles of Office Act 1949	16-02-2005

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**LAWS OF MALAYSIA**

**Act 5**

**ELECTION OFFENCES ACT 1954**

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Long title	Act A1204	15-12-2003
2	Ord. 10/1959 Act 19/1961	01-04-1959 Malacca: 25-05-1961 Terengganu: 29-05-1961 Johore, Selangor: 01-01-1962 Kedah, Pahang: 01-02-1962 Negeri Sembilan, Perlis, Perak: 01-03-1962 Kelantan: 01-04-1962
	Act 33/1961	21-09-1961
	Act 7/1964	16-09-1963
	Act 59	01-02-1972
	Act A640	02-05-1986
	Act A885	24-06-1994
	Act A1177	16-01-2003
	Act A1204	15-12-2003
3	Ord. 10/1955 Ord. 10/1959 P.U. (A) 282/1970 Act 160 Act A1177	20-04-1955 01-04-1959 11-08-1970 29-08-1975 16-01-2003



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Section	Amending authority	In force from
4	Act 160 Act A1177	29-08-1975 16-01-2003
4A	Act A1177	16-01-2003
5	Ord. 10/1955 Ord. 10/1959 Act A5 Act 160 Act A1177	20-04-1955 01-04-1959 27-02-1969 29-08-1975 16-01-2003
6	Act A1177	16-01-2003
7	Ord. 10/1955	20-04-1955
9	Act 6/1964 Act A1177	30-01-1964 16-01-2003
10	Act A1177	16-01-2003
11	Ord. 10/1955 Act A5 Act 160 Act A1177	20-04-1955 27-02-1969 29-08-1975 16-01-2003
12	Act A640 Act A1177	02-05-1986 16-01-2003
13	Ord. 10/1959 Act A5 Act A640 Act A996	01-04-1959 27-02-1969 02-05-1986 24-07-1997
14	Ord. 10/1955 Act A890 Act A1177	20-04-1955 08-07-1994 16-01-2003
15A	Ord. 10/1959 Act A1177	01-04-1959 16-01-2003
16	Act 160	29-08-1975
18	Act A5	27-02-1969
19	Ord. 10/1959 Act 33/1961 Act A5 Act 160 Act A640 Act A1177	01-04-1959 21-09-1961 27-02-1969 29-08-1975 02-05-1986 16-01-2003

Section	Amending authority	In force from
22A	Ord. 10/1959	01-04-1959
23	Ord. 10/1955 Ord. 10/1959 Act 7/1964 Act A5 Act 160 P.U. (B) 57/1982 Act A640 Act A885 Act A1177 P.U. (B) 127/2005	20-04-1955 01-04-1959 16-09-1963 27-02-1969 29-08-1975 03-12-1981 02-05-1986 24-06-1994 16-01-2003 16-02-2005
24	Act 160 P.U. (B) 57/1982 Act A640 Act A1177 P.U. (B) 127/2005	29-08-1975 03-12-1981 02-05-1986 16-01-2003 16-02-2005
24A	Act A1177	16-01-2003
24B	Act A1177 Act A1204 P.U. (B) 127/2005	16-01-2003 15-12-2003 16-02-2005
25	Ord. 10/1959 Act A5 Act 160 Act 464 Act A1177	01-04-1959 27-02-1969 29-08-1975 01-08-1992 16-01-2003
26	Ord. 10/1955 Ord. 10/1959 Act 160 Act A640 Act A1177 Act A1204	20-04-1955 01-04-1959 29-08-1975 02-05-1986 16-01-2003 15-12-2003
26A	Ord. 10/1959 Act 6/1964 Act A5 Act A640 Act A1177	01-04-1959 30-01-1964 27-02-1969 02-05-1986 16-01-2003
26B	Act A640 Act A1177	02-05-1986 16-01-2003
27	Act 160 Act A1177	29-08-1975 16-01-2003

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Section	Amending authority	In force from
27A—27H	Act A1204	15-12-2003
27G	P.U. (B) 127/2005	16-02-2005
30	P.U. (B) 57/1982 Act A640 P.U. (B) 127/2005	03-12-1981 02-05-1986 16-02-2005
30A	Act A1204 P.U. (B) 127/2005	15-12-2003 16-02-2005
31	Act A1177	16-01-2003
32	Act A1177	16-01-2003
33	Act 7/1964 Act A640 Act A885	16-09-1963 02-05-1986 24-06-1994
35	Act A1177	16-01-2003
35A	Act A1177	16-01-2003
36	Ord. 10/1959 Act A1177	01-04-1959 16-01-2003
36A-36C	Act A1177	16-01-2003
37	Ord. 10/1959 Act 7/1964 Act 59 Act A885 Act A996 Act A1177	01-04-1959 16-09-1963 01-02-1972 24-06-1994 24-07-1997 16-01-2003
40	Act 7/1964 Act A885 Act A1177	16-09-1963 24-06-1994 16-01-2003
41	Act A769	15-06-1990
42	Act A1177	16-01-2003
First Schedule	Ord. 10/1959 Act 6/1964 Act A5 Act A245 Act 160 P.U. (A) 357/1980	01-04-1959 30-01-1964 27-02-1969 15-03-1974 29-08-1975 01-06-1981

Section	Amending authority	In force from
	P.U. (B) 57/1982	03-12-1981
	Act A640	02-05-1986
	Act A1177	16-01-2003
	P.U. (B) 127/2005	16-02-2005
Second Schedule	Act 7/1964	16-09-1963
	P.U. 104/1968	15-03-1968
	Act 160	29-08-1975
	P.U. (A) 357/1980	01-06-1981
	Act A640	02-05-1986
	Act A885	24-06-1994
	Act A1177	16-01-2003

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