

**LAWS OF BRUNEI**

**REVISED EDITION 1984**

**CHAPTER 26**

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**ARRANGEMENT OF SECTIONS**

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## ELECTION OFFENCES ACT

**An act to prevent electoral offences and illegal practices at elections; to provide for the appointment of election agents and to control election offences; to provide for election petitions** 2 of 1962

*Commencement: 28th April 1962*

### PART I

#### PRELIMINARY

1. This Act may be cited as the Election Offences Act. Short title
2. (1) In this Act, unless the context otherwise requires— Interpretation

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

“constituency” means an area prescribed under the provisions of any written law for the purpose of electing one or more representatives to a council or board and includes an electoral college;

“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 Legislative Council;

“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 Justice or any Judge nominated by the Chief Justice under section 36;

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

(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. Any person who —

(a) knowingly makes any false statement on or in connection with any application to be placed on any register of electors; or

(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; or

(c) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(d) without due authority supplies any ballot paper to any person; or

(e) sells or offers to sell any ballot paper to any person or purchases or offers to purchase any ballot paper from any person; or

(f) not being a person entitled to be in possession of any ballot paper which has been marked with any authorised mark has any such ballot paper in his possession; or

(g) puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(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; or

(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; or

(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; or

(k) for the purposes of an election, manufactures, constructs, imports into Brunei, has in his possession, supplies or uses, or causes to be manufactured, constructed, imported into Brunei, 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; or

(l) votes at any election when he is not entitled to vote thereat; or

(m) prints any advertisement, hand-bill, 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:

Provided that nothing in this paragraph shall be deemed to prohibit the printing in any such advertisement, hand-bill, 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 such name or symbol;

shall be guilty of an offence: Penalty, imprisonment for 3 years and a fine of \$10,000 and, subject to any provision to the contrary in any written law relating to any election, shall until the expiration of 5 years from conviction or release from such imprisonment, whichever shall be the later, 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.

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; or

(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 man-

ner provided for blind persons or incapacitated persons, as the case may be; or

(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; or

(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; or

(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; or

(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 guilty of an offence: Penalty, imprisonment for 3 years and a fine of \$10,000 and, subject to any specific provision to the contrary in any written law relating to any election, shall until the expiration of 5 years from conviction or release from such imprisonment, whichever shall be the latter, 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.

5. (1) Every officer, clerk, interpreter, candidate, agent and any other person (hereinafter in this section referred to

Maintenance  
of secrecy at  
elections

as an “authorised person”) authorised to attend at a polling station, or at the counting of the votes, shall, before so attending make an Oath of Secrecy, substantially as in Form A in the First Schedule.

(2) Every officer, clerk, interpreter, candidate, agent and authorised 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 authorised 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 authorised to attend at the polling station.

(3) No such officer, clerk, interpreter, candidate, agent or authorised person and no person whomsoever 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 and authorised 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 authorised by any written law relating to any elec-

tion or a person authorised 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 who acts in contravention of the provisions of this section shall be guilty of an offence: Penalty, imprisonment for 2 years and a fine of \$5,000.

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

(2) Every offence under this Part shall be a seizable offence within the meaning of the Criminal Procedure Code. Cap. 7

(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

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 Personation

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. Every person who, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel 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, shall be guilty of the offence of undue influence.

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

(a) every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money or valuable consideration to or for any 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, 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 having voted or refrained from voting at any election;

(c) every person who, directly or indirectly by himself or by any other person on his behalf, makes any 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 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 any election;

(e) every person who advances or pays or causes to be paid any money to, or to the use of, any other person with the intent that 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 persons, 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, 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 any election, or on account of and as payment for his having assisted or agreed to assist any candidate at any election, applies to such candidate, or to his agent or agents, for the gift or loan of 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;

(i) every person who, 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 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.

11. (1) Every person who —

(a) commits the offence of personation, or aids, abets, counsels or procures the commission of the offence of personation; or

(b) commits the offence of treating, undue influence or bribery; or

(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; or

(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 rela-

Punishment  
and incapacities  
for corrupt  
practice

tion to the personal character or conduct of such candidate; or

(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 25 falsely;

shall be guilty of a corrupt practice, and shall, on conviction by a magistrate, be liable, in the case referred to in paragraph (a) of this subsection, to imprisonment for 2 years and to a fine of not less than \$3,000 and not exceeding \$10,000, and, in any other case, to imprisonment for 2 years and to a fine of \$5,000.

(2) Offences under paragraphs (a) and (b) of the preceding subsection shall be seizable offences within the meaning of the Criminal Procedure Code.

Cap. 7

(3) 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 5 years from conviction or release from imprisonment, whichever shall be the later.

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

## PART IV

ELECTION AGENT, ELECTION EXPENSES AND  
ILLEGAL PRACTICES

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. Nomination of election agent

(2) A candidate may name himself as election agent, and thereupon shall, so far as circumstances admit, be subject to the provisions of 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) hereof, 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.

(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) hereof with the name of the election agent and his address.

Disqualifica-  
tion for  
appointment  
as election  
agent, etc.

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

(a) he is not a subject of His Majesty the Sultan and Yang Di-Pertuan;

(b) he is less than 21 years of age;

(c) he has within the period of 5 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 Brunei and has not received a free pardon;

(d) he has within the period of 5 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 has within the period of 5 years immediately preceding the day of nomination at the election been convicted of an offence under the Societies Act;

(f) he is a person in respect of whom an order has been made under the Societies Act.

(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.

14. (1) The election agent of a candidate shall appoint every polling agent, counting agent, clerk and messenger employed, whether for payment or not, on behalf of the candidate at an election, and hire every committee-room hired 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 polling agent or agents appointed to act at that station and 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:

Making of  
appointments  
and contracts  
through elec-  
tion agent

Provided that the returning officer may limit the number of counting agents, so however that the number shall be the same in the case of each candidate and the number allowed to a candidate shall not, except in special circumstances, be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates.

(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 elec-  
tion 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 the provisions of 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 ex-  
penses

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

(a) of holding any public meeting or public entertainment, or organising any public display;

(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 authorised by an election agent under subsection (1) of this section, he shall within 14 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) of this section shall be included in the return made by the election agent in accordance with subsection (1) of section 25, 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) of this section 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 pay-  
ments for  
election ex-  
penses

17. (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 \$10 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 14 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 28 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 28 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.

**18.** 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.

Remuneration of election agent

Personal expenses of candidate and petty expenses

**19.** (1) The candidate at an election may pay any personal expenses incurred by him on account of or in connection with or incidental to such election to an amount not exceeding \$1,000, but any further personal expenses so incurred by him shall be paid by his election agent.

(2) The candidate shall send to the election agent within the time limited by this Act for sending in claims a written statement of the amount of personal expenses paid as aforesaid by such candidate.

(3) The personal expenses of a candidate include his reasonable travelling expenses, and the reasonable expenses of his living at hotels or elsewhere for the purposes of the election.

(4) Any person may, if so authorised in writing by the election agent of the candidate, pay any necessary expenses for stationery, postage, telegrams, and other petty expenses to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.

(5) A statement of the particulars of payment made by any person so authorised shall be sent to the election agent within the time limited by this Act for the sending in of claims, and shall be vouched for by a bill containing the receipt of that person.

Expenses in excess of maximum to be illegal practice

**20.** (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 any 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 \$5,000 or of an amount equal to 10 cents for each elector on the register or list of the constituency, electoral ward or electoral district, whichever amount shall be the larger:

Provided that there shall not be included in such amount any expenditure incurred by the candidate for his personal expenses, nor the fee, if any, paid to the election agent not exceeding \$500.

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

21. (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 — Certain expenditure to be illegal practice

(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, 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) of this section 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 subsection (4) of this section 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 of 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 con-

veyance 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.

22. (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:

Certain employment to be illegal

(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;

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

(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.

23. 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,

Saving for creditors

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

**24.** Any instrument made on oath or affirmation pursuant to the provisions of section 5 or 25 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 ex-  
penses

**25.** (1) Within 31 days after the date of publication of the result of an election in the *Gazette* the election agent of every candidate at that election shall deposit with the proper officer a true return, in this Act referred to as the “return respecting election expenses,” in the Form B in the First Schedule, containing detailed statements as respects that candidate of —

(a) all payments made by the election agent together with all the bills and receipts referred to in subsection (1) of section 18, which bills and receipts are in this Act included in the expression “return respecting election expenses” and the dates of payment of all sums for which no receipt is attached;

(b) the amount of personal expenses, if any, paid by the candidate;

(c) the disputed claims so far as the election agent is aware;

(d) all unpaid claims, if any, of which the 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 considerations received by or promised to the election agent from or by any candidate or any other per-

son 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 authorised by the election agent under subsection (1) of section 16.

(2) The return respecting election expenses shall be signed by the 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 Commissioner for Oaths, or the Supervisor of Elections:

Provided that where the candidate has named himself as election agent under subsection (2) of section 12 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 authorised 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 \$1,000 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 subsection (2) of this section he shall be guilty of an illegal practice and the provisions of this section shall be in addition to and not in derogation of the provisions of section 11.

Publication  
of deposit of  
return, etc.

**26.** (1) When any return respecting election expenses and the statements made in respect thereof have been received by the proper officer, 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 proper officer shall preserve all such returns and statements with the bills and vouchers relating thereto and at all reasonable times during 6 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 \$5 and shall on payment of \$1 per page or part thereof, supply a copy or copies of any part thereof; and after the expiration of the said period of 6 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.

Employers to  
allow em-  
ployees  
reasonable  
period for  
voting

**27.** (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) 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 be guilty of an offence: Penalty, a fine of \$3,000 and imprisonment for 12 months.

(3) This section shall not extend to such categories of employees as His Majesty in Council may from time to time by notification in the *Gazette* designate.

(4) The provisions of this section shall be binding on the Government of Brunei.

28. (1) No person shall 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 vessels, animals, motorcars, trucks, or other vehicles as or for the purpose of political propaganda on polling day and no person shall with any such intent use himself or use in or upon any vessel, animal, motorcar, truck, or other vehicle any such musical instrument or loud speaker on polling day.

Limitation of  
political  
propaganda

(2) Subject to the provisions of subsection (5) of this section no person shall furnish or supply any flag, ensign, banner, standard, poster or label to or for any person with intent that it be worn, carried or used by any person within any constituency, on polling day, as a party badge to distinguish the wearer as the supporter of any candidate, or of the political or other opinions entertained or supposed to be entertained by such candidate; and no person shall wear, carry or use any flag, ensign, banner, standard, poster or label as such badge, within any constituency, on polling day.

(3) No person shall on polling day, within a distance of 50 yards from the limits of any polling station —

(a) endeavour to establish the identity of any person entering a polling station;

(b) check on any list the name of any person entering or leaving a polling station;

(c) place any desk or table or establish any office or booth for any purpose connected with an election;

(d) 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;

(e) wait or loiter except for the purpose of gaining entry to the polling station to cast his vote;

(f) congregate or move in any public place in any electoral ward in a group of five or more persons with the intention of showing support for or opposition to any candidate or political party:

Provided that nothing herein shall prevent the proper officer or any person authorised by the proper officer from carrying out his duties in relation to the conduct of any election.

(4) Subject to the provisions of subsection (5) of this section no flag, ensign, banner, standard, poster or label shall at any time be publicly displayed as or for the purpose of political propaganda on polling day; and the proper officer shall remove or cause to be removed any such flag, ensign, banner, standard, poster or label displayed in contravention of this subsection.

(5) Nothing contained in subsection (2) or subsection (4) of this section shall be deemed to extend to the furnishing or supplying of any rosette or favour not exceeding 7 square inches in superficial area bearing the symbol allotted to any candidate or of any label not exceeding 50 square inches in superficial area bearing such symbol or to the wearing upon the person of one such rosette or favour or to the display of one such label on any vehicle or vessel.

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

(7) Any person who contravenes any of the provisions of this section shall be guilty of an offence: Penalty, a fine of \$6,000 and imprisonment for 2 years.

**29.** (1) No person shall, between the date on which the candidates for election are nominated and the time of the declaration by the returning officer of the result of the elections, on behalf of any candidate canvass for votes or address any public meeting held in the constituency, electoral ward or electoral district, as the case may be, unless he is —

Appointment  
of canvassers

(a) not disqualified for appointment as an election agent under subsection (1) of section 13; and

(b) in possession of a written authority, in the Form E in the First Schedule, signed by an election agent.

(2) Every election agent shall, within 48 hours of issuing any authority under subsection (1) of this section, lodge 3 copies of such authority with the proper officer.

(3) In this section “canvass” means soliciting on behalf of any candidate the votes of electors in any constituency, electoral ward or electoral district for or against any candidate or political party at an election by —

(a) visiting electors at their homes or places of work;

(b) convening or organising or assisting in convening or organising any public meeting, procession or demonstration;

(c) interviewing members of the public; or

(d) distributing or causing to be distributed any written or printed appeal in favour of or against any candidate or political party.

(4) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an

offence: Penalty, a fine of \$6,000 and imprisonment for 2 years.

Punishment  
for conviction  
for illegal  
practice

**30.** (1) Every person who commits an illegal practice shall, on conviction by a magistrate, be liable to a fine of \$3,000 and, subject to any specific provision to the contrary in any written law relating to any election, shall by conviction until the expiration of 5 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 V

### EXCUSE FOR CORRUPT OR ILLEGAL PRACTICE

Report ex-  
onerating  
candidate in  
certain cases  
of corrupt  
and illegal  
practice by  
agents

**31.** Where, upon the trial of an election petition respecting an election, the Election Judge reports that a candidate at 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 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; and

(b) that such candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at such election; and

(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.

**32.** 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 —

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

(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, electoral ward or electoral district 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 and thereupon such candidate, agent or person shall not be subject to any of the consequences under this an illegal practice, payment, employment, or hiring Act of the said act or omission.

Authorised  
excuse for  
non-  
compliance  
with provi-  
sions as to re-  
turn and dec-  
laration re-  
specting elec-  
tion expenses

**33.** (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 of 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 proper officer and any elector within the constituency, electoral ward or electoral district an opportunity of being heard, make such order for allowing an authorised 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 an 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 authorised 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.

## PART VI

### GROUND FOR AVOIDING ELECTIONS

Avoidance by  
conviction of  
candidate

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

Avoidance of  
election on  
election peti-  
tion

**35.** The election of a candidate at any election shall be declared to be void on an election petition on any of the following grounds which may be proved to the satisfaction of the Election Judge, namely —

(a) that general bribery, general treating or general intimidation or other misconduct or other circumstances whether similar to those before enumerated or not 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 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 7 years previous to such engagement been convicted or found guilty of a corrupt practice by a magistrate or by the report of an Election Judge;

(e) that the candidate was at the time of his election a person disqualified for election.

## PART VII

### ELECTION PETITIONS

36. (1) Every election petition shall be tried by the Chief Justice or by a Judge of the High Court nominated by the Chief Justice for the purpose.

Appointment  
and powers  
of Election  
Judge

(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 a 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 Justice, all interlocutory matters in connection with an election petition may be dealt with and decided by any Judge of the High Court.

Who may  
present peti-  
tion

**37.** An election petition may be presented to the High Court by any one or more of the following persons, namely —

- (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;
- (c) some person alleging himself to have been a candidate at such election.

Relief which  
be claimed

**38.** All or any of the following reliefs to which the petitioner may be entitled may be claimed in an election petition, namely —

- (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) a declaration that any candidate was duly elected and ought to have been returned;

(d) where the seat is claimed for an unsuccessful candidate on the ground that he had a majority of lawful votes, a scrutiny.

**39.** At the conclusion of the trial of an election petition the Election Judge shall determine whether the candidate whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void, and shall certify such determination to His Majesty. Upon such certificate being given, such determination shall be final; and the return shall be confirmed or altered, or His Majesty shall within one month of such determination give notice of election in the constituency, electoral ward or electoral district concerned, as the case may require, in accordance with such certificate.

Certificate of  
Judge as to  
validity of  
election

**40.** (1) At the conclusion of the trial of an election petition the Election Judge shall also report to His Majesty in writing —

Report of  
Judge as to  
corrupt or  
illegal practice

(a) 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

(b) 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 under this section, the Election Judge shall give such person 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 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 reports that such corrupt or illegal practice was committed with his knowledge and consent or by his agent.

(4) His Majesty 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

**41.** (1) Every election petition shall be presented within 21 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 28 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, that is to say —

- (i) at any time before the expiration of 14 days immediately after the date of the publication in the *Gazette* of the notice required by section 26 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 28 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 authorised 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 subparagraph (i) of paragraph (b) of the proviso to subsection (1) of this section.

**42.** 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.

Prohibition  
of disclosure  
of vote

Votes to be  
struck off at  
scrutiny

**43.** (1) On a scrutiny at the trial of an election petition the following votes only shall be struck off, namely —

(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 authorised 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, electoral ward or electoral district;

(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 by reason of his conviction of an offence under section 3 was incapable of voting at the election;

(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 (e) of subsection (1) of this section, 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) On a scrutiny, any tendered vote proved to be a valid vote shall, on the application of any party to the petition, be added to the poll.

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

Rejection of  
ballot paper  
by returning  
officer to be  
final

45. The procedure and practice on election petitions shall be regulated by rules of court.

Procedure  
and practice  
on election  
petitions

46. Until varied or revoked by rules of court, the rules contained in the Second Schedule shall be in force.

Rules



**SUBSIDIARY LEGISLATION**

*NOTE. There is no subsidiary legislation.*

**FIRST SCHEDULE**

**FORM A**

**(Section 5(1))**

**ELECTION OFFENCES ACT, CAP. 26  
FORM OF OATH OF SECRECY**

I swear that I will not at this election for the .....  
..... constituency/electoral ward/electoral district  
do anything forbidden by section 5\* of the Election Offences Act, which  
has been read to me.

Dated this ..... day of ..... 19

.....  
Signature of person taking the oath

Before me,

.....  
Signature

Chairman or Member of the Election Commission  
Magistrate  
Commissioner for Oaths  
Supervisor of Elections

---

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

FORM B

(Section 25(1))

**ELECTION OFFENCES ACT, CAP. 26  
RETURN OF ELECTION EXPENSES**

Constituency Electoral ward Electoral district	}	.....	Name of candidate .....
			Name of election agent .....

RECEIPTS. Note 1. Give details of any money, security, or valuable consideration received 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	
			\$	¢
		Total		

**LAWS OF BRUNEI**

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**CAP. 26**

*Election Offences*

PERSONAL EXPENSES PAID BY CANDIDATE. Note 2. All payments are to be vouched for by a bill stating the particulars, except as provided by section 17 of the Election Offences Act.

Name of payee	Description of service paid for	State whether bill attached. Yes/No (See Note 2)	Amount	
			\$	¢
		Total		

OTHER EXPENSES. Please see Note 2 above.

Description	Serial No. of attached list	Amount	
		\$	¢
Payments to agents, clerks and messengers, as listed			
Travelling expenses of above, as listed			
Travelling expenses of other persons, as listed			
Printing			
Advertising			
Stationery			
Postage, telegrams and telephone charges			
Hire of rooms for public meetings or as Committee rooms			
Licences			
Miscellaneous expenditure, as listed			
Expenses by person authorised, as listed			
Disputed claims, as listed			
Unpaid claims, as listed			
	Total		

**DECLARATION**

To be completed by agent.

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

Signature .....

Date .....

To be completed by candidate  
acting as his own agent.

I, .....  
acting as my own election agent, make  
the above return respecting my elec-  
tion expenses at the said election and  
certify that to the best of my belief  
they are complete and correct.

Signature .....

Date .....

FORM C

(Section 25(2))

**ELECTION OFFENCES ACT, CAP. 26**

**STATEMENT ON OATH BY CANDIDATE**

I, .....  
being a candidate for election in the .....  
constituency/electoral ward/electoral district, do hereby solemnly affirm  
(or swear) that the above return of election expenses is true to the best  
of my knowledge and belief, 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 purposes of, my candidature.

Dated this ..... day of ..... 19

.....  
Candidate

Solemnly affirmed (or sworn to) before me,

.....  
Chairman or Member of the Election Commission  
Magistrate  
Commissioner for Oaths  
Supervisor of Elections

FORM D  
(Section 25(2))

ELECTION OFFENCES ACT, CAP. 26

STATEMENT ON OATH BY AN ELECTION AGENT

I, .....  
being appointed election agent for .....  
a candidate for election in the .....  
constituency/electoral ward/electoral district, do hereby solemnly affirm  
(or swear) that the above return of election expenses is true to the best  
of my knowledge and belief, 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 purposes of, .....  
..... candidature.

Dated this ..... day of ..... 19

.....  
Election Agent

Solemnly affirmed (or sworn to) before me,

.....  
Chairman or Member of the Election Commission  
Magistrate  
Commissioner for Oaths  
Supervisor of Elections

FORM E  
(Section 29)

ELECTION OFFENCES ACT, CAP. 26

AUTHORITY UNDER SECTION 29

I, .....  
being the election agent of .....  
a candidate for election in the .....  
constituency/electoral ward/electoral district, do hereby authorise  
..... of ..... to canvass  
and address public meetings on behalf of the aforesaid candidate.

Dated this ..... day of ..... 19

.....  
Election Agent

SECOND SCHEDULE

(Section 45(2))

ELECTION OFFENCES ACT, CAP. 26  
ELECTION OFFENCES RULES

- Citation 1. These Rules may be cited as the Election Petition Rules.
- Interpretation 2. In these Rules, unless the context otherwise requires —  
 22 of 1957 “the Act” means the Election Offences Act;  
 “advocate” means a person who has been registered under the Advocates Enactment 1957;  
 “Judge” means the Election Judge as defined in section 2 of the Act;  
 “Registrar” means the Registrar of the Supreme Court and includes an Assistant Registrar.
- 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 ..... day of ..... 19.....,  
 at the Registry of the Supreme 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 with-  
in section 34 of the Act;
- (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 SUPREME COURT OF BRUNEI**

**ELECTION OFFENCES ACT, CAP. 26**

Election for..... (state the constituency, electoral ward or electoral district) holden on the ..... day of ..... 19

The petition of A., of ..... (or of A., of ..... and B., of ....., as the case may be) whose name/s is/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 holden on the ..... day of ..... 19....., 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 facts and grounds on which the petitioners rely).

Wherefore 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 Particulars

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 candidate

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, 6 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, 6 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 to 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 authorise 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 Brunei at which notices may be left; and if no such writing be left or address given, then all notices may be given by leaving the same at the office of the Registrar. Every such writing shall be stamped with the duty payable thereon under the law for the time being in force.

10. Any person returned may at any time, after he is returned, send or leave at the office of the Registrar a writing signed by him on his behalf, appointing an advocate to act as his advocate in case there should be a petition against him, or stating that he intends to act for himself, and in either case giving an address within Brunei at which notices addressed to him may be left; and if no such writing be left or address given, all notices and proceedings may be given or served by leaving the same at the office of the Registrar. Every such writing shall be stamped with the duty payable thereon under the law for the time being in force.

Appointment of advocate by respondent

11. The Registrar shall cause to be kept a book at his office in which shall be entered all addresses and the names of advocates given under Rule 9 or 10 of these Rules which book shall be open to inspection by any person during his office hours.

Registrar to keep book with addresses and names of advocates

12. (1) At the time of the presentation of the petition, or within 3 days afterwards, security for the payment of all costs, charges, and expenses that may become payable by the petitioner shall be given on behalf of the petitioner.

Security by petitioner for costs etc., of election petition

(2) The security shall be to an amount of not less than \$3,000. If the number of charges in any petition shall exceed 3, additional security to an amount of \$1,500 shall be given in respect of each charge in excess of the first 3. The security required by this Rule shall be given by a deposit of money.

(3) If security as in this Rule provided is not given by the petitioner, no further proceedings shall be had on the petition, and the respondent may apply to the Judge for an order directing the dismissal of the petition and for the payment of the respondent's costs. The costs of hearing and deciding such application shall be paid as ordered by the Judge, and in default of such order shall form part of the general costs of the petition.

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 proper officer which shall be vested in and drawn upon

Security by deposit of money

from time to time by the Chief Justice for the purposes for which security is required by these Rules. A receipt shall be given by the proper officer for the same, which shall forthwith be left at the office of the Registrar by the petitioner.

(2) The Registrar shall file such receipt and keep a book open to the inspection of all parties concerned, in which shall be entered from time to time the amount 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. Notice of the presentation of a petition, accompanied by a copy thereof, shall, within 10 days of the presentation of the petition, be served by the petitioner on the respondent. Such service may be effected either by delivering the notice and copy aforesaid to the advocate appointed by the respondent under Rule 10 of these Rules or by posting the same in a registered letter to the address given under Rule 10 of these Rules at such time that, in the ordinary course of post, the letter would be delivered within the time above mentioned, or if no advocate has been appointed, or no such address given, by a notice published in the *Gazette* stating that such petition has been presented, and that a copy of the same may be obtained by the respondent on application at the office of the Registrar.

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 and respondents appointed under Rules 9 and 10 of these Rules, respectively, 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 affixed for that purpose upon a notice board appropriated to proceedings under the Order, and headed "Election Offences Act, Cap. 26".

18. The time and place of the trial of each election petition shall be fixed by the Judge, and not less than 14 days' notice thereof shall be given to the petitioner and respondent by letter directed to the address left by such petitioner or respondent with the Registrar, or, if no such address has been left, by notice in the *Gazette*.

Time and place of trial of election petition

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; and such order, when made, shall forthwith be published by the Registrar in the *Gazette*.

Postponement 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 may be recommenced and concluded by another Judge.

Adjournment and continuation of trial

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.

Withdrawal of election petition

(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 Supreme 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 affidavits of the applicant and his advocate shall further state the ground on which the petition is sought to be withdrawn.

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.

Form of application to withdraw petition

(2) The following form shall be sufficient —

“ELECTION OFFENCES ACT, CAP. 26

Constituency/Electoral Ward/Electoral District of .....  
petition of ..... (state name of petitioner) pre-  
sented..... day of ....., 19.....

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 ..... day of ....., 19.....

(Signed) .....”

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

Copy of ap-  
plication 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, CAP. 26

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

Notice is hereby given that the above petitioner did on the .....  
..... day of ....., 19..... lodge at the office of the  
Registrar of the Supreme 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 any person  
who might have been a petitioner in respect of the said election may,  
within 5 days after the date of publication of this notice, notice in writing  
to the Registrar of the Supreme Court of his intention on the hearing of  
the application to be substituted as a petitioner.

(Signed) .....”

24. Any person who might have been a petitioner in respect of the election to which the petition relates may, within 5 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.

Application to be substituted as petitioner on withdrawal

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 hereinbefore provided, and notice of the time and place appointed for the hearing shall be given to such person or persons, 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.

Time and place of hearing of application

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.

Substitution of another petitioner

(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 3 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) 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, and the time within which application may be made to a Judge to be substituted as a petitioner shall be one calendar month, from the day of the publication of the notice of abatement or such further time as, upon consideration of any special circumstances, the Judge may allow.

(2) 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.

(3) The Judge may, if he thinks fit, substitute as a petitioner or 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.

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 published in the *Gazette* 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 10 days after such notice has been published in the *Gazette* 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 6 days before the day appointed for trial, exclusive of the day of leaving such notice.

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.

Respondent not opposing petition not to appear as party

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 of these Rules, if such notice be 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.

Counter-mand notice of trial where petition abated, etc.

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.

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 Supreme Court, but subject to such express directions, 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.

Taxation and recovery of costs

(2) The Judge may direct that the whole or any part of any moneys deposited by way of security under the provisions of Rules 12 and 13 of these Rules 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 Justice.

**LAWS OF BRUNEI**

66

**CAP. 26**

*Election Offences*

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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  
notice on  
advocates

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