

## ELECTORAL ACT, 1962



### ARRANGEMENT OF SECTIONS

#### PART I—REGISTRATION OF ELECTORS

##### Section

1. Elections.
2. Ordinary residence.
3. Qualifying date.
4. Control of elections by Electoral Commission.
5. Registration officers and assistants.
6. Preliminary lists.
7. Display of preliminary lists.
8. Claims and objections.
9. Revising officers for hearing of claims, etc.
10. Power to make rules and hearing of claims, etc.
11. Completion of preliminary list.
12. Publication of preliminary list.
13. Register of electors.
14. Correction of register of electors.

#### PART II—PROCEDURE AT ELECTIONS

15. Election date.
16. Issue of writs. Table.
17. Notice of election and time for nominations.
18. Nomination papers.
19. Nominations.
20. Deposits.
21. Validity of nominations.
22. Publication of list of nominations.
23. Death of candidate.
24. When poll required.
25. Uncontested elections.
26. Failure of nominations.
27. Ballot where election contested.
28. Appointment of polling stations.
29. Electoral officers and assistants.
30. Returning officers and assistants.
31. Poll clerks.
32. Supervision of returning officers and others.
33. Clerks at polling stations.
34. Facilities at polling stations.
35. Symbols.
36. Allocation of symbols.

37. Ballot boxes.
38. Ballot papers.
39. Polling agents.
40. Notice of ballot.
41. Hours at polling stations.
42. Preparation of ballot boxes.
43. Questions to be put to voters.
44. Issue of ballot papers.
45. Marking of thumb, etc., and recording of vote.
46. Plural voting prohibited.
47. Ballot paper not to be marked by voter for identification.
48. Accidental destruction or marking of ballot papers.
49. Blind and incapacitated voters.
50. Personal attendance.
51. Voting at appropriate polling station.
52. Officers not to be appointed where entitled to vote.
53. Voting by officers on duty.
54. Use of certified extract of register in special cases.
55. Impersonation in polling station.
56. Tendered ballot papers.
57. Power to exclude unauthorised persons, etc.
58. Misconduct, etc., at polling station.
59. Interruption of election.
60. Closing of poll.
61. Ballot boxes and papers at close of poll.
62. Counting agents.
63. Counting of votes.
64. Method of counting.
65. Statement of rejected papers.
66. Dealing with ballot papers by returning officer.
67. Re-count.
68. Decision by lot.
69. Declaration of result of election.
70. Return of writs and publication of results.
71. Safe custody of records.

#### PART III—ELECTORAL OFFENCES

72. Offences as to registration, etc.
73. Offences in respect of nomination, etc.

ARRANGEMENT OF SECTIONS—*continued**Section*

74. Dereliction of official duty.
75. Disorderly behaviour at political meetings.
76. Improper use of registration cards.
77. Improper use of vehicles.
78. Corrupt practice.
79. Personation.
80. Treating.
81. Undue influence.
82. Bribery.
83. Disqualification for certain corrupt practices.
84. Requirement of secrecy.
85. Wrongful voting and false statements.
86. Voting by unregistered person.
87. Disorderly conduct at elections.
88. Offences on election day.
89. Electoral Commission to be notified of certain convictions.

## PART IV—ELECTION PETITIONS

90. Election petition.
91. Presentation of petition.
92. Grounds for petition.
93. Substantial compliance with electoral provisions.
94. Decision as to vacancy for High Court.
95. Time for appeal and security for costs.
96. Priority in respect of election petitions.
97. Effect on election return of notice of appeal.
98. Application to court for preliminary order as to costs.
99. Presentation of election petition.
100. Contents of election petition.
101. Further particulars.
102. Security.
103. Recognizances.
104. Objection to security.
105. Form of order.
106. Election petition at issue.
107. Variation of security.
108. Address for service.
109. Service of notice, etc., of election petition.
110. Personal service of notice, etc.
111. Entry of appearance.
112. Default of appearance by respondent.
113. Notice of appearance to be served.
114. Reply by respondent.
115. Amendment of election petitions.
116. List of objections to votes.
117. List of objections to election.
118. Further particulars or directions.
119. Time and place of hearing of petition.
120. Notice of trial.
121. Postponement of trial of petition.
122. Non-arrival of judge.

123. Continuance of trial.
124. Adjournment.
125. Powers of judge.
126. Effect of determination.
127. Withdrawal, etc., of petition.
128. Affidavits in support to be filed.
129. Motion for leave to withdraw.
130. Hearing of motion.
131. Abatement on death of petitioners.
132. Withdrawal of opposition.
133. Default in appearance or reply.
134. Countermand of notice of trial.
135. Discretion of court if no appearance, etc.
136. Information as to seat becoming vacant.
137. Fees.
138. Allocation of costs.
139. Return of security.
140. Payment of costs out of security.
141. Calling of witnesses.
142. Privilege.
143. Evidence by respondent.
144. Abridgment or enlargement of time.
145. Service of summons, etc.
146. Several candidates as respondents in same petition.
147. Multiple petitions.
148. Complaint as to conduct of returning officer.
149. Duplicate of documents for court.
150. Avoidance of proceedings.
151. Rules of court.
152. Cases for the Director of Public Prosecutions.

## PART V—MISCELLANEOUS

153. Persons ineligible for appointment or nomination.
154. Loss of registration card.
155. Election publications to show printer's name and address, etc.
156. Special power to postpone election.
157. Remuneration and expenses.
158. Use of public buildings by a candidate.
159. Secrecy of ballot.
160. Corrupt withdrawal of election petition.
161. Prosecution of offences disclosed on petition.
162. Time limit for certain prosecutions.
163. Order for inspection of records.
164. Regulations.
165. Interpretation.
166. Repeals.
167. Short title, application and commencement.

## SCHEDULES.

## 1962, No. 31

AN ACT TO CONSOLIDATE AND AMEND THE LAW AS TO THE CONDUCT OF PARLIAM-  
MENTARY ELECTIONS AND FOR OTHER PURPOSES CONNECTED THEREWITH.

[By notice, section 167]

Commence-  
ment.

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows :—

PART I.—REGISTRATION OF ELECTORS

Elections.

1.—(1) Subject to the provisions of this Act, the persons entitled to vote as electors at an election in any constituency within the meaning of that expression as used in the Constitution of the Federation shall be those ordinarily resident there on the qualifying date who, on that date and on the date of the poll are citizens of Nigeria of the age of twenty-one years or upward and are not subject to any legal incapacity to vote :

Provided that a person shall not be entitled to vote as an elector in any constituency unless registered there in the register of electors to be used at the election.

(2) No person shall vote as an elector at any election in more than one constituency or more than once in the same constituency.

(3) In this section, "legal incapacity" in its application to electors includes,—

(a) the acknowledgment of allegiance, obedience or adherence by the personal act of an elector to any foreign power or state ;

(b) the imposition of sentence of death or imprisonment (by whatever name called) for a term exceeding six months or such other punishment as may lawfully be substituted therefor, and the elector has not at the date of election suffered punishment or received a free pardon ;

(c) disqualification under this Act in respect of corrupt practices and other electoral offences at elections ;

(d) being a female person in Northern Nigeria.

Ordinary  
residence.

2.—(1) A person shall be deemed to be ordinarily resident in a place for the purpose of this Act if, whether or not he has his meals there or is employed elsewhere,—

(a) it is the place where he usually lives or sleeps ; or

(b) he has or usually has his home in that place ; or

(c) he intends to return thereto when away from it.

(2) Where for the purposes of registration or objection to registration residence is a matter for doubt, a revising officer shall decide it on the evidence before him.

(3) A person shall have only one of the foregoing places of ordinary residence ; and the place nominated by him shall be his place of ordinary residence for the purposes of this section, and it shall not be lost to him,—

(a) if at any time when absent for a period of less than six months he has the intention to return to that place of residence ; or

(b) until he replaces it by another.

Qualifying  
date.

3. The expression "qualifying date" as used in this Act shall in respect of,—

(a) any register of electors compiled under this Act on the basis of a census, mean as to residence the date of the census, and as to age, the date of publication of the register ;

(b) any revision of a register of electors, mean such date as the Electoral Commission may appoint.

Control of  
elections by  
Electoral  
Commission.

4. The general supervision of the registration of voters and the conduct of elections shall continue to be vested in the Electoral Commission.

Registration  
Officers and  
Assistants.

5.—(1) Subject to the provisions of this section, the Federal Public Service Commission on the recommendation of the Electoral Commission shall appoint a fit person (in this Act referred to as a "registration officer") for each constituency, and a registration officer shall hold office until his appointment is revoked.

(2) If the Electoral Commission so recommends, more than one registration officer may be appointed in respect of any constituency, or a registration officer may be appointed for more than one constituency ; and any appointment of a registration officer shall have effect whether or not a date has been appointed for the holding of an election in respect of a constituency. Where more registration officers than one are appointed in respect of a constituency their respective appointments shall relate to specified areas in the constituency ; and one of the registration officers may in addition be appointed to exercise supervisory functions in respect of the whole constituency.

(3) The Federal Public Service Commission may on the like recommendation of the Electoral Commission appoint assistant registration officers in respect of any constituency, and assistant registration officers so appointed shall be subject to the authority and control of the registration officer for the constituency or part of a constituency in respect of which they are appointed ; and subject thereto any assistant registration officer appointed in respect of a constituency shall have and may exercise the powers and duties of the registration officer in that constituency.



6.—(1) There shall be a register of electors for each constituency to be compiled from a preliminary list prepared as prescribed ; and subject to the provisions of this section, the first register of electors shall be compiled from a preliminary list prepared under the general supervision of the Electoral Commission from the records of the census taken on the thirteenth day of May, nineteen hundred and sixty-two.

Preliminary  
lists.

(2) Every preliminary list under this Act shall be displayed in the constituency to which it refers in such manner and places as the Electoral Commission may direct ; and no register of electors shall be printed or used for the purposes of any election until all claims and objections have been dealt with in the prescribed manner.

(3) The register shall contain in respect of every person the principal name and such one or more further names by which a person is usually or may be known and his address, which for the purposes of this subsection may be the name of a village or in the case of a town, the name of the street, if the Electoral Commission thinks fit ; but no person shall be registered under a principal name alone being a single name or without his address. Except in a constituency situate in Northern Nigeria, the register shall indicate the sex of the elector.

(4) When all claims and objections to a preliminary list have been dealt with as required by this Act, it shall be printed as directed by the Electoral Commission and be published as the register of electors.

(5) A new register of electors shall be compiled after the taking of every census after the year nineteen hundred and sixty-two ; and subject thereto the register of electors in a constituency shall be revised in every third, sixth and ninth year after the taking of a census.

(6) The Electoral Commission shall in any area in which a revision is to be made and in such manner as it thinks fit invite applications for inclusion in the register of electors from persons claiming to be entitled because of age, change of residence or other sufficient reason. Applications within the time prescribed in this Act shall be in the Form numbered one in Part I of the First Schedule to this Act and shall be made in person by the applicant ; and if he is illiterate, any person who is literate may assist him, or the registration officer may complete the form at the request of the applicant. The registration officer shall include the names in a list to be known as the supplementary list ; and the supplementary list shall with the existing register of electors comprise a new preliminary list, and the provisions of this Act as to preliminary lists shall apply and have effect accordingly.

(7) The Electoral Commission may authorise the issue in such form as it thinks fit of registration cards to persons included in the preliminary list compiled from any census returns. Registration cards shall be numbered and bear the stamp of the registration officer. For the purposes of this subsection, a voter's registration card shall, if signed by an enumerator in the course of any census, be deemed to be duly stamped.

7.—(1) Where it is necessary to display any list under this Act, the registration officer shall prepare copies of the whole or any part of the list necessary for the purpose, and shall display the list in such places within a constituency as the Electoral Commission thinks fit ; and each list shall bear the date of its display.

Display of  
preliminary  
list.

(2) The registration officer shall on each copy of the list attach a notice stating,—

(a) that within fifteen days of the display thereof, claims in respect of omissions or for correction of any item in the list may be made; and

(b) that within the same period, objections may be made under this Act to the inclusion of any name in the list; and

(c) that forms of claim or objection may be obtained at local authority offices and such other public places throughout the constituency as shall be stated in the notice.

(3) Copies of the list or the part thereof as displayed shall be available for inspection free of charge by members of the public at such local authority offices and public places throughout the constituency as the registration officer may prescribe, and copies may be inspected at such places during normal office hours for not less than fifteen days after the display of the preliminary list.

Claims and  
objections.

8.—(1) Any person qualified to be registered may if his name or address is omitted or is incorrectly stated in the preliminary list claim within fifteen days of the publication of the preliminary list by notice in writing to the registration officer in the Form numbered two in Part I of the First Schedule to this Act to have his name and address inserted or to have any such entry deleted.

(2) Any person qualified to vote whose name appears in the preliminary list may within fifteen days of the publication of the preliminary list, by notice in writing to the registration officer in the Form numbered three in Part I of the First Schedule to this Act object to the inclusion of any other name appearing therein, as being the name of a person not entitled to inclusion in that list. Every notice of objection under this subsection shall be accompanied by a deposit of ten pounds which shall be refunded if the objection is sustained, or if the Electoral Commission after considering the report of the revising officer is satisfied that the objection was made in good faith; but otherwise the amount deposited shall be paid into the Consolidated Revenue Fund by the registration officer.

Revising  
Officers for  
hearing of  
claims, etc.

9.—(1) The Federal Public Service Commission may appoint as a revising officer any registration officer or other fit person to hear and determine claims and objections to registration on the preliminary list; and may appoint any other person to assist the revising officer.

(2) Any person appointed as a revising officer shall have the powers of a registration officer and may for the purposes of his duties under this Act administer any oath necessary at a hearing.

Power to  
make rules  
and hearing  
of claims, etc.

10.—(1) The Electoral Commission may make rules prescribing the time for hearing any claim or objection and the procedure at the hearing.

(2) Where a claim is made under this Part of this Act, the revising officer, after hearing the applicant and any evidence in support, shall if he is satisfied that the claim has been established, enter the name and address of the applicant in the preliminary list or make such other corrections as may be necessary.

(3) Where objection is made under this Part of this Act, the revising officer shall give notice of the objection in such manner as he thinks fit; and if after hearing the applicant and any evidence in support the revising officer is satisfied that the objection is sustained, he shall delete the entry.

11.—(1) The registration officer shall amend the preliminary list,—

Completion  
of preliminary  
list.

- (a) to give effect to a decision on any claim or objection; or
- (b) to delete any duplicated entry; or
- (c) to delete the names of persons who are dead or disqualified.

(2) Where a preliminary list is amended to give effect to a decision to include the name of a voter, the registration officer shall at the same time issue to the person whose name is included in that list a registration card in the prescribed form.

(3) If the registration officer has reasonable cause to believe that a person is registered or likely to be registered in another part of the same constituency, he shall make such other alterations or corrections in the preliminary list as are necessary; but no correction under this subsection shall be made without notice to the person affected and the giving of reasonable time for the receipt of objections to the proposed correction and, if necessary, for any hearing in respect thereof.

(4) Every notice under this section shall be in writing, and may be served upon the person affected by delivering it at or posting it to his address as shown in the preliminary list, or as the registration officer thinks fit by exhibiting it at such local authority offices or public places in the vicinity of the ordinary residence of the person as shown on the preliminary list.

12.—(1) The registration officer shall not later than sixty days from the date when the preliminary list was first exhibited or within such extended period as the Electoral Commission may allow, make such entries in the preliminary list as are necessary, and shall number the names in the preliminary list in such manner as the Electoral Commission may direct; and after endorsing and signing a certificate of verification on the preliminary list, the registration officer shall forward the preliminary list to the Electoral Commission.

Publication  
of preliminary  
list.

(2) The preliminary list shall be printed and published by the Electoral Commission on such date as the Prime Minister may direct after considering any alterations or amendments recommended by the Electoral Commission.

(3) For the purposes of this section and the avoidance of doubt, the preliminary list shall be deemed to be printed if it is produced in a visible form by lithography or photography.

13.—(1) The preliminary list in respect of each constituency when printed and published by the Electoral Commission shall be the register of electors in that constituency; and a copy of the register of electors when published may be inspected free of charge by members of the public during normal office hours at such place or places in the constituency as a returning officer in writing shall appoint.

Register of  
electors.

(2) Copies of the register of electors shall be made available by the Electoral Commission for sale to the public at such cost as it thinks reasonable.

Correction  
of register of  
electors.

14.—(1) Where the Electoral Commission is satisfied that there is a mistake in the register of voters the Electoral Commission shall not later than seven clear days before the date appointed for an election give notice in such manner as it thinks fit of its intention to correct the mistake; and the amendment may be made accordingly.

(2) Nothing in this section as to limitation of time or the giving of notice shall apply where the Electoral Commission is satisfied that it is in the public interest to make the amendment without waiting any time or giving any notice.

#### PART II—PROCEDURE AT ELECTIONS

Election  
date.

15.—(1) Where there is a dissolution of Parliament and a general election is to be held the Speaker shall inform the Governor-General, and the Governor-General shall appoint a date for the return of the writs and direct the Clerk of the Parliaments to give notice thereof to the Electoral Commission. The Electoral Commission shall publish in the Gazette notice of the date appointed for the election, which shall be not later than seven clear days before the date appointed for the return of the writs.

(2) In the case of a by-election to the House of Representatives the Speaker after consultation with the Prime Minister shall appoint a date not later than three months after notice of the vacancy has been given to the Speaker for the return of the writ, and direct the Electoral Commission accordingly; and the Electoral Commission shall give notice in the Gazette of the date appointed for the election in the Gazette, which shall be not later than seven clear days before the date appointed for the return of the writ.

(3) Notwithstanding the provisions of the foregoing subsections, the Electoral Commission, if it thinks it expedient, may appoint a substituted date for the holding of an election in any constituency and the writ shall be amended in respect of that constituency and be returnable accordingly.

(4) Nothing in this section shall be construed to require the holding of a by-election where less than six months remains before dissolution of Parliament.

Issue of  
writs.

16.—(1) Writs for parliamentary elections shall be sealed with the public seal and be issued by or on behalf of to the Speaker of the House of Representatives and be returnable to the Clerk of the Parliaments.

(2) Each writ shall be in the form in the Table to this section and shall be directed to the Electoral Commission and be conveyed to the Electoral Commission by such means as the Clerk of the Parliaments may prescribe.

## TABLE

To the Electoral Commission,

You are hereby commanded that, due notice being first given, you do cause election to be made according to law of a member to serve in Parliament for the constituency of \_\_\_\_\_ \*(in the place of \_\_\_\_\_) and that you do cause the name of such member when so elected, whether he be present or absent, to be certified to me in my office without delay.

As witness my hand and the public seal at \_\_\_\_\_  
the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

\_\_\_\_\_  
*Speaker of the House of Representatives*

*Endorsement*

Received the writ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

\_\_\_\_\_  
*Secretary of the Electoral Commission*  
(or as the case may be)

*Certificate endorsed on writ*

I hereby certify that the member elected for the Constituency of \_\_\_\_\_ in pursuance of the within written writ  
(here insert name)

is \_\_\_\_\_  
(here insert name of member)

of \_\_\_\_\_  
(here state the full address of the member elected including the Region)

Dated \_\_\_\_\_ 19\_\_\_\_

\_\_\_\_\_  
*Secretary of the Electoral Commission*

\*Except in a general election insert here in the place of A B deceased or otherwise, stating the cause of the vacancy.

17.—(1) Not less than twenty-one days before the date appointed for the election, the electoral officer in each constituency shall in the name of the Electoral Commission publish a notice stating,—

- (a) the date of the election ; and
- (b) the place at and time by which the nomination papers are to be delivered to the electoral officer, which time shall be on a day not later than seven clear days before the date of the election.

(2) Nomination papers may be lodged at any time during normal office hours at such place or places so appointed by the electoral officer.

Notice of  
election and  
time for  
nominations.



Nomination  
papers.

18.—(1) The nomination paper shall be in the Form numbered four in Part I of the First Schedule to this Act and shall be signed by the candidate and by the persons nominating him. The nomination paper shall contain the following particulars—

- (a) the name, address and occupation of the candidate ;
- (b) the names, addresses and occupations of the nominators of the candidate ;
- (c) a statement by the candidate that he is willing and qualified to stand for election ;
- (d) a statement by the candidate as to his preference of symbol (whether or not it is available for use under this Act) for the purpose of any contested election,—

and shall, if the candidate wishes photographs to be used on the ballot boxes, be accompanied by such number of photographs not exceeding in size six inches by six inches as the electoral officer may require for the purpose of display on the ballot boxes on the day of election.

(2) The electoral officer shall provide and supply to an elector such number of nomination papers as the elector may require ; and the electoral officer shall if a candidate so requests and the nominators of the candidate are present, complete any such nomination paper on behalf of the candidate.

(3) A candidate or one of the persons nominating him shall not later than the date and time prescribed, personally present the nomination paper to the electoral officer at the place appointed by the electoral officer.

## Nominations.

19.—(1) Every candidate shall be nominated by two persons whose names appear on the register of electors for the constituency in respect of which the nomination is made.

(2) No person shall sign as a nominator more than one nomination paper for use at the same election, and if he does so his signature shall be inoperative on any second or subsequent nomination paper which he signs as a nominator ; but nothing in this subsection shall apply in respect of any nomination by the nominator of a candidate who has died or whose nomination has not been accepted as valid before the delivery of the second nomination paper.

(3) If a nomination paper when signed by a candidate and the persons nominating him is lodged in more than one constituency, the candidature shall be void in each constituency in which the nomination paper is lodged.

## Deposits.

20.—(1) Every candidate shall, before his nomination paper is delivered to the electoral officer pay into the Consolidated Revenue Fund by way of deposit the sum of twenty-five pounds. The candidate shall at the time of the delivery of his nomination paper produce to the electoral officer the official receipt for the sum so paid ; and no nomination shall be valid without production of the receipt to the electoral officer for noting.

(2) The deposit shall be returned to the candidate or to his personal representatives if,—

- (a) the nomination of the candidate is invalid for any reason other than that a nomination form was lodged by him or on his behalf in more than one constituency ;

- (b) the candidate dies before the date of the election ;
- (c) there is no contested election ;
- (d) a contested election is declared void ; or
- (e) in any contested election the candidate is successful or obtains not less than one-fifth of the total number of votes cast in the constituency.

(3) A deposit shall not be returned if the candidature of a person nominated in more than one constituency is void in each constituency under this Act.

(4) All deposits which are not returnable shall be retained in the Consolidated Revenue Fund.

21.—(1) If after delivery to him of a nomination paper an electoral officer is satisfied that the prescribed deposit has been paid and all other requirements of this Part of this Act have been complied with, the acceptance within the time required by this section of the nomination paper on the form prescribed in subsection (3) of this section shall be *prima facie* evidence of the validity of the nomination.

Validity of nominations.

(2) If after such delivery and proof of payment of the deposit the electoral officer is not satisfied, the rejection within the time required by this section of the nomination paper on any of the following grounds that is to say,—

(a) that the particulars of the candidate or his nominators are not as required by law ;

(b) that the nomination paper is not signed as required by law ;

(c) that the candidate has been nominated in more than one constituency ;

(d) that the nominators of the candidate or any of them are not persons whose names appear on the register of electors in respect of the constituency to which the nomination relates,—

shall be *prima facie* evidence that the nomination paper was properly rejected as invalid.

(3) The electoral officer shall within twenty-four hours of the delivery to him of a nomination paper notify his decision to the candidate or any of his nominators in the Form numbered five in Part I of the First Schedule to this Act ; and if a nomination paper is rejected, the candidate may deliver to the electoral officer a fresh nomination paper as a candidate within the time prescribed for the delivery of nomination papers.

(4) No candidate after delivery of his nomination paper to the electoral officer may withdraw his candidature.

(5) The acceptance or rejection of a nomination paper shall not be questioned in any court other than a court trying an election petition under this Act.

22. The electoral officer shall prepare a statement setting out the full names of all persons standing nominated and of the persons nominating them and their respective addresses and occupations ; and the statement shall be displayed at least nine days before the date appointed for the election at the place or places appointed for the delivery of nomination papers.

Publication of list of nominations.

Death of  
candidate.

23. If a nominated candidate dies after expiry of the time for delivery of nomination papers but before the commencement of the poll, and satisfactory evidence of the death of the candidate is produced to the electoral officer, the electoral officer shall countermand the poll in the constituency affected; and the Electoral Commission or the Chairman of that Commission if no quorum is available at the time shall, when notified by the electoral officer, appoint some other convenient date for the election in that constituency.

When poll  
required.

24. If after the expiry of the time for delivery of nomination papers there is more than one person standing nominated, a poll shall take place in accordance with the provisions of this Act.

Uncontested  
elections.

25.—(1) If after the expiry of the time for delivery of nomination papers there is only one person whose name is validly nominated, that person shall be declared elected.

(2) Where a person is declared elected under the provisions of this section, the writ shall be endorsed and returned, and the result of the election shall be published as prescribed by this Act.

Failure of  
nominations.

26.—(1) Where on the date appointed for the election there is no candidate validly nominated, the Electoral Commission, or the Chairman if no quorum is available at the time, shall fix a date for another election.

(2) The Electoral Commission or the Chairman as the case may be shall inform the Clerk of the Parliaments before any action is taken under this section.

Ballot where  
election  
contested.

27. In any contested election, the votes shall be given by ballot in each constituency and the results shall be ascertained by counting the votes given to each candidate; and the candidate to whom the majority of votes has been given shall be declared elected.

Appointment  
of polling  
stations.

28.—(1) If an election is to take place, the electoral officer shall appoint a sufficient number of polling stations in the constituency and shall allot the electors in the constituency amongst such polling stations.

(2) Not more than five hundred electors shall be required to vote at any one polling station, unless the electoral officer satisfies the Electoral Commission or the Chairman of the Electoral Commission where no quorum is available at the time, that it is unnecessary or impracticable, as the case may be, to provide other polling stations.

Electoral  
officers and  
assistants.

29.—(1) Subject to the provisions of this section, the Federal Public Service Commission shall, as the case may require and as recommended by the Electoral Commission, on a dissolution of Parliament or when a by-election is necessary appoint a fit person (in this Act referred to as an "electoral officer") for each constituency.

(2) If the Electoral Commission so recommends, more than one electoral officer may be appointed in respect of any constituency, or an electoral officer may be appointed for more than one constituency. Where more electoral officers than one are appointed in respect of a constituency, their respective appointments shall relate to specified areas in the constituency; and one of the electoral officers shall in addition be appointed to exercise supervisory functions in respect of the whole constituency.

(3) There may likewise be appointed from time to time assistant electoral officers for the purposes of the election and in respect of any constituency as the Electoral Commission thinks fit. An assistant electoral officer appointed under this subsection shall be subject to the authority and control of the electoral officer for the constituency or part of a constituency in respect of which he is appointed; and subject thereto and to any direction of the Electoral Commission, an assistant electoral officer shall have and may exercise the powers and duties of an electoral officer.

30.—(1) The Federal Public Service Commission may appoint for an election a fit person to be a returning officer for each constituency, or if it thinks fit may appoint a returning officer to function in respect of more than one constituency.

Returning  
Officers and  
assistants.

(2) There may likewise be appointed for an election such number of assistant returning officers as are necessary; and subject to the direction of the Electoral Commission, an assistant returning officer shall have the powers and may perform the duties of a returning officer but shall be subject to the authority and control of the returning officer appointed in respect of the same constituency or part thereof.

31. An electoral officer may with the approval of the Electoral Commission appoint for any election in his constituency such poll clerks as appear to the electoral officer to be necessary.

Poll clerks.

32. The returning officer and poll clerks shall in the constituency to which they are appointed be subject to the control of the electoral officer who may, unless otherwise required by the Electoral Commission, give such directions as he thinks necessary for the performance of their duties.

Supervision  
of returning  
officers and  
others.

33.—(1) There shall be appointed for each polling station such number of poll clerks as may be necessary to assist at the taking of the poll.

Clerks at  
polling  
station.

(2) The electoral officer shall nominate one of such poll clerks to be in charge of the polling station; and where a poll clerk is in charge he shall be known as the presiding officer.

(3) The presiding officer may authorise a poll clerk to do any act which the presiding officer is required or authorised to do at the polling station, other than order the search of or arrest of any person, or the exclusion or removal of a person from the polling station.

34. The electoral officer shall,—

Facilities at  
polling  
stations.

(a) provide in each polling station a compartment in which voters may cast their votes screened from observation;

(b) supply to each presiding officer an adequate number of ballot boxes and (where candidates provide them) photographs for use on such ballot boxes;

(c) provide such number of ballot papers under sealed covers as may be necessary;

(d) provide each polling station with instruments for making an official mark on the ballot papers and with pads impregnated with indelible ink of distinctive colour;

(e) provide each polling station with copies as certified by the electoral officer of the register of electors for the constituency or with the part of the register which contains the names of the electors allotted to vote at the polling station; and

(f) do such other acts and things as the Electoral Commission may prescribe for conducting the election as required by this Act.

**Symbols.**

35.—(1) There shall continue to be a register of symbols kept by the Electoral Commission for use at elections.

(2) The symbol allotted to a political party and in use immediately before the coming into operation of this Act shall continue to be available to and be used by that political party without payment of any further fee; and subject thereto the secretary to a political party may apply to the Electoral Commission for entry in the register of symbols of a symbol to be used by his political party at elections.

(3) The Electoral Commission shall register the symbol of a political party upon payment of the prescribed fee if it is satisfied,—

(a) that no other symbol of the same design is registered;

(b) that the symbol is distinctive from any other symbol already registered; and

(c) that its use will not be offensive or otherwise objectionable howsoever.

(4) The Electoral Commission shall without payment of any fee remove a symbol from the register of symbols if,—

(a) the political party in whose name it is registered requests the removal, or

(b) the Electoral Commission is of opinion that the political party in whose name the symbol is registered has ceased to exist or to use the symbol.

(5) The fee for registration of a symbol shall be twenty pounds and the fee shall be paid into the Consolidated Revenue Fund.

(6) Nothing in this section shall authorise the allotment or registration for use at an election of a symbol or material part of a symbol, if it portrays,—

(a) the Coat of Arms of the Federation or any Region of Nigeria;

(b) the Royal Arms or the Arms of any other Commonwealth country;

(c) any device or emblem which in the opinion of the Electoral Commission is normally associated with,—

(i) the official acts of Government, or

(ii) the regalia of a chief, or

(iii) any tribe, or

(iv) any religion or cult;

(d) any representation of a person living or dead; or

(e) any symbol or part of a symbol which under the provisions of this section continues to be registered by another political party.

**Allocation  
of symbols.**

36.—(1) The electoral officer shall allot a distinctive symbol to each candidate having regard as far as possible to the preference expressed by such candidate; and where a symbol is registered by a political party in accordance with this Act, the electoral officer shall allot the registered symbol to any candidate sponsored by the political party.



(2) Where there is doubt as to whether a candidate is sponsored by a political party the doubt shall be referred to the Electoral Commission and the Electoral Commission shall as far as practicable consult the leader or secretary of the political party concerned; and the decision of the Electoral Commission shall be final.

(3) If no quorum of the Electoral Commission is available at the time, the power conferred by subsection (2) of this section may be exercised by the Chairman.

37. Ballot boxes shall be so constructed that a ballot paper may be put in a ballot box by a voter, but may not be withdrawn by him or by any voter thereafter using the ballot box.

Ballot Boxes.

38. Every ballot paper shall be in a form to be prescribed by the Electoral Commission and shall,—

Ballot papers.

(a) have a serial number printed or stamped on the back; and

(b) be attached to a counterfoil bearing the same serial number as printed or stamped on the back of the ballot paper.

39.—(1) Every candidate may by notice in writing signed by him and addressed to the electoral officer appoint two persons (in this Act referred to as "polling agents") to attend at each polling station in the constituency for which he is a candidate; and the notice shall set out the names and addresses of the polling agents and be given by the candidate to the electoral officer not later than ten days before the date fixed for the election.

Polling agents.

(2) Notwithstanding the requirements of subsection (1) of this section,—

(a) an electoral officer, if satisfied, may permit not more than two polling agents claiming to be the representatives of a candidate to attend a polling station in the interest of the candidate; and

(b) a candidate shall not be precluded from doing any act or thing which he has appointed a polling agent to do on his behalf under this Act.

(3) Polling agents shall have such powers as the Electoral Commission may allow for the purposes of this Act.

40. The electoral officer shall not later than the sixth day before the day of the election cause to be published in such manner as he may think fit, a notice specifying the following matters that is to say,—

Notice of ballot.

(a) the day and hours fixed for the poll;

(b) the full names arranged in alphabetical order of surnames or last name and places of residence and occupations of the candidates remaining nominated, together with the symbols allotted to such candidates;

(c) by way of indication the persons entitled to vote.

(d) the location of the polling station or polling stations.

41. Polling stations shall be open to voters at seven o'clock in the forenoon of the day fixed for the poll, and unless interrupted under the provisions of this Act, shall close not later than six o'clock in the evening of that day.

Hours at polling stations.

42.—(1) The presiding officer at the polling station shall place in the polling station such number of ballot boxes as there are candidates remaining nominated.

Preparation of Ballot boxes.

(2) Every ballot box shall be clearly and durably marked with the name of the candidate and display on all sides thereof the symbol allotted to the candidate; and if the candidate has provided a photograph of himself, the photograph shall likewise be prominently displayed on the ballot box.

(3) Ballot boxes shall be empty and shown in the polling station to be in that condition to persons present, and forthwith thereafter they shall be locked and sealed; and before any voting commences the presiding officer shall direct the placing of ballot boxes in the compartment in the polling station so that they are clearly visible to electors entering the compartment to record their votes, and when so placed they shall be secured there and not be removed during the hours of voting. The sealed packet of ballot papers shall after the placing of the ballot boxes be opened in the presence of any persons entitled to inspect the ballot papers.

(4) For the purposes of any marking or display under this section of the name of the candidate and symbol allotted, the Electoral Commission may approve all or any of the following that is to say,—

(a) the stencilling in white or in colour on black boxes without the addition of any further background;

(b) the application with adhesive of paper labels bearing coloured symbols on a white or coloured background;

(c) the application of white or coloured transfers.

Questions  
to be put  
to voters.

43. A poll clerk may, and if required by a candidate or a polling agent shall, at the time of his application for a vote but not afterwards, put to the voter the following questions or either of them that is to say,—

(a) "Are you the person who is on the register of electors as follows . . . ?" (reading the copy of the entry in the register);

(b) "Have you already voted at the present election at this or any other polling station?"

Issue of  
ballot  
papers.

44.—(1) Every person intending to vote shall present himself to a poll clerk at the polling station in the constituency in which he is registered as being entitled to vote. The poll clerk after satisfying himself that the name of the person intending to vote appears on the register of electors, and that such person has not already voted, shall prepare a ballot paper for use by the voter in manner following that is to say,—

(a) the ballot paper shall be marked or punched with an official secret mark, and be shown to polling agents who are present;

(b) the number, name and address of the voter as set out in the register of electors or the part thereof in the custody of the poll clerk shall be called out; and

(c) the number of the voter in such register of electors or part thereof shall be marked on the counterfoil, and the number of the voter in the register of electors or part thereof shall be marked in such manner as to denote that a ballot paper has been received by the voter, but without indicating the serial number of the ballot paper as issued to the voter.

(2) Before delivering the ballot paper to the voter the voter's registration card if produced shall be marked in such a way as to indicate that it has been presented and used at the election; and in addition the

(3) The tonnage of that space shall be ascertained by a surveyor of ships or an officer of customs in the manner directed as to the measurement of poops or other closed-in spaces by rule I in the Third Schedule, and, when so ascertained, shall be entered by him in the ship's official log book, and also in a memorandum, which he shall deliver to the master; and the master shall, when those dues are demanded, produce that memorandum in like manner as if it were the certificate of registry, or, in the case of a foreign ship, the document equivalent to a certificate of registry, and, in default, shall be liable to the same penalty as if he had failed to produce that certificate or document.

374.—All duties in relation to the survey and measurement of ships shall be performed by surveyors of ships in accordance with such regulations as may be prescribed.

Duties of surveyors as to measurement of ships.

## CHAPTER 80 MISCELLANEOUS

375.—When, under this Part, any person is required to make a declaration on behalf of himself or of any corporation, or any evidence is required to be produced to the Registrar, and it is shown to the satisfaction of the Registrar that from any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the Registrar may, with the approval of the Minister, and on the production of any such other evidence and subject to such terms as the Minister thinks fit, dispense with the declaration or evidence.

Power of Registrar to dispense with declarations and other evidence.

376.—(1) Declarations required by this Part shall, when made in Nigeria, be made before magistrate or registrar, and, when made out of Nigeria, shall be made and subscribed—

Mode of making declarations.

(a) in the form prescribed by the Statutory Declarations Act, 1835 of the Parliament of the United Kingdom; or

5 & 6 Will IV. c.62.

(b) if the declaration is made in any Commonwealth country, before any registrar of ships at a port of registry in that country, or, if the declaration is made in a foreign country, before a proper officer.

(2) Declarations required by this Part may be made on behalf of a corporation by the secretary, or by any other officer of the corporation authorized by it for the purpose.

377.—(1) Any register book under this Part, and any declaration made in pursuance of this Part in respect of any ship, shall be admissible in evidence.

Evidence of other Commonwealth registers.

(2) A copy or transcript of the register of ships kept by the registrar of ships at any port of registry in any Commonwealth country, or a copy or transcript of any master register of ships kept under the authority of the Government of any such country, shall be admissible in evidence, and shall have the same effect to all intents as the original register of which it is a copy or transcript.

378.—(1) A Registrar shall not be compelled without the special direction of the Minister, to receive and enter in the register book any bill of sale, mortgage or other instrument for the disposal or transfer of any ship or share, or any interest therein, which is made in any form other than that for the time being required under this Part, or which contains any particulars other than those contained in that form.

Forms of documents and instructions as to registry.

(2) The Minister may, for the carrying into effect of this Part, give such instructions as he thinks fit to Registrars as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence required for identifying any person, as to the referring to him of any question involving doubt or difficulty and generally as to any act or thing to be done in pursuance of this Part.

Forgery of documents and false declarations.

379.—(1) Every person shall be guilty of an offence who forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any of the following documents, namely, any register book, builder's certificate, surveyor's tonnage certificate, certificate of registry, declaration, bill of sale, instrument of mortgage or certificate of sale or mortgage under this Part, or any document signifying the Minister's consent to any transaction under this Part, or any entry or endorsement required by this Part to be made in or on any of those documents.

(2) Every person shall be guilty of an offence who, in the case of any declaration made in the presence of, or produced to, a Registrar or proper officer under this Part, or in any document or other evidence produced to a Registrar or proper officer—

(a) wilfully makes, or assists in making, or procures to be made, any false statement concerning the title to, or ownership of, or the interest existing in, any ship, or any share in a ship; or

(b) utters, produces or makes use of any declaration or document containing any such false statement, knowing the same to be false.

(3) Every person shall be guilty of an offence who wilfully makes a false declaration touching the qualification of himself, or of any other person, or of any corporation, to own a registered Nigerian ship, or any share therein; and that ship or share shall be liable to forfeiture under this Act to the extent of the interest therein of the declarant, and also, unless it is proved that the declaration was made without authority, of any person or corporation on behalf of whom the declaration is made.

(4) Any person guilty of an offence against subsection (1), (2) or (3) shall on conviction be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both.

## PART X

### CHAPTER 81

#### NIGERIAN LICENSED SHIPS

Nigerian licensed ships.

380.—(1) A Nigerian ship may be licensed under this Part; and when licensed, the ship shall be known as a Nigerian licensed ship and be subject to such conditions as may be prescribed in the licence.

(2) There shall be conditions in every licence in respect of a Nigerian licensed ship that the ship is owned by a person or body corporate ordinarily resident in Nigeria and that the licence shall become void if the ship, or any share therein, is transferred, mortgaged or charged to any person or body corporate without the written permission of the Minister.

(3) No Nigerian licensed ship shall, unless express provision to the contrary is contained in her licence or unless such action is necessary due to stress of weather or other cause beyond the control of the master proceed outside Nigeria.



(4) Any master contravening subsection (3), and any person aiding or abetting such master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds; and, in addition, the licence of the ship may be revoked by the Minister.

(5) The Minister may make regulations regarding the licensing of ships and such regulations may specify the manning, and the safety and fire fighting equipment required to be carried by such ships, and any other provisions which may appear to him to be necessary for the carrying into effect of this section.

## PART XI.—GENERAL LIABILITY OF SHIPOWNERS AND OTHERS

### CHAPTER 82

#### LIMITATION OF LIABILITY

381.—(1) In this Chapter, unless the context otherwise requires—  
“Convention” means the International Convention relating to the limitation of the liability of owners of sea-going ships signed in Brussels on the 10th day of October, 1957;

Interpreta-  
tion and  
application.

“Convention country” means any country in respect of which the Convention is in force, including any country to which the Convention extends by virtue of Article 14 thereof; and, for the purpose of this definition, an Order made or deemed to have been made under subsection (2) declaring a country to be a Convention country shall be conclusive evidence that that country is a Convention country.

“owner” includes—

(a) where it occurs in section 382, every person whose liability is excluded by subsection (3); and

(b) elsewhere, except in the second place where it occurs in section 387, every person whose liability is limited by subsection (3) or extended by subsection (4);

“relevant port”—

(a) in relation to any claim, means the port where the event giving rise to the claim occurred, or, if that event did not occur in a port, the first port of call after the event occurred; and

(b) in relation to a claim for loss of life or personal injury, or for damage to cargo, includes the port of disembarkation or discharge;

“ship” includes every description of lighter, barge or like vessel used in navigation in Nigeria and however propelled, and any structure, whether completed or in the course of construction, launched and intended for use in navigation as a ship or part of a ship; and the tonnage of any such structure shall, for the purposes of this Chapter be ascertained as provided by subsection (2) of section 383 with regard to foreign ships.

(2) If the Minister declares, by Order, that any country specified in the Order is a Convention country, within the meaning of this Chapter, the Order shall, while in force, be conclusive evidence that the country is a Convention country.

(3) (a) The persons whose liability in connection with a ship is excluded or limited by this Chapter shall include any charterer, any person interested in, or in possession of, the ship and, in particular, any manager or operator of the ship.



(b) In relation to a claim arising from the act or omission of any person in his capacity as master or member of the crew or, otherwise than in that capacity, in the course of his employment as a servant of the owners or of any such person as is mentioned in paragraph (a)—

(i) the person whose liability is excluded or limited as aforesaid shall also include the master, member of the crew or servant and, in the case where the master or member of the crew is the servant of a person whose liability would not be excluded or limited apart from this sub-paragraph, the person whose servant he is; and

(ii) the liability of the master, member of the crew or servant himself shall be excluded or limited as aforesaid notwithstanding his actual fault or privity in that capacity, except in the cases mentioned in paragraph (b) of section 382.

(4) For the purposes of this section, where any person contracts as hirer to take over the sole charge and management of a lighter, barge, or like vessel within the definition of "ship" as used in this section, in such circumstances that he shall be responsible for the navigation, and equipment thereof, the definition of "owner" in this section shall have an extended meaning so as to include any such hirer; and this Chapter also applies to a Nigeria licensed ship and to any ship qualified to be registered as a Commonwealth ship notwithstanding that it has not been registered.

(5) Nothing in this Chapter shall apply in relation to any liability arising from an occurrence which took place before the commencement of this Act.

Limitation of shipowner's liability in certain cases of loss of or damage to goods.

382. The owner of a Commonwealth ship, or any share therein, shall not be liable to make good to any extent whatever any loss or damage happening without his actual fault or privity in the following cases—

(a) where any goods, merchandise or other thing whatsoever taken in or put on board his ship are lost or damaged by reason of fire on board the ship; or

(b) where any gold, silver, diamonds, watches, jewels or precious stones taken in or put on board his ship, the true nature and value of which have not at the time of shipment been declared by the owner or shipper thereof to the owner or master of the ship in the bills of lading, or otherwise in writing, are lost or damaged by reason of any robbery, embezzlement, making away with or secreting thereof.

Limitation of owner's liability in certain cases of loss of life, injury or damage.

383.—(1) No owner of a Commonwealth ship or foreign ship shall, where all or any of the following occurrences take place without his actual fault or privity—

(a) where any loss of life or personal injury is caused to any person being carried in the ship;

(b) where any damage or loss is caused to any goods, merchandise or other things whatsoever on board the ship;

(c) where any loss of life or personal injury is caused to any person not carried in the ship through the act or omission of any person, whether on board the ship or not, in the navigation or management of the ship, or in the loading, carriage or discharge of her cargo, or in the embarkation, carriage or disembarkation of her passengers, or through any other act or omission of any person on board the ship; ..

(d) where any loss or damage is caused to any property, other than any property mentioned in paragraph (b), or any rights are infringed through the act or omission of any person, whether on board the ship or not, in the navigation or management of the ship, or in the loading, carriage or discharge of her cargo, or in the embarkation, carriage or disembarkation of her passengers, or through any other act or omission of any person on board the ship,—

be liable to damages beyond the following amounts—

(i) in respect of loss of life or personal injury, either alone or together with such loss, damage or infringement as is mentioned in paragraphs (b) and (d), an aggregate amount not exceeding an amount equivalent to three thousand one hundred gold francs for each ton of their ship's tonnage ;

(ii) in respect of such loss, damage or infringement as is mentioned in paragraphs (b) and (d), whether there is in addition loss of life or personal injury or not, an aggregate amount not exceeding an amount equivalent to one thousand gold francs for each ton of their ship's tonnage.

(2) For the purposes of this section—

(a) a gold franc shall be taken to be a unit consisting of sixty-five and a half milligrams of gold of millesimal fineness nine hundred ;

(b) the Minister may, by Order, specify the amounts which, for those purposes, are to be taken as equivalent to three thousand one hundred and one thousand gold francs respectively ;

(c) where money has been paid into court in respect of any liability to which a limit is set as aforesaid, the ascertainment of that limit shall not be affected by a subsequent variation of the amounts specified under paragraph (b) unless the amount paid or consigned was less than that limit as ascertained in accordance with the Order then in force under that paragraph ;

(d) the tonnage of a Commonwealth ship, other than a sailing ship, shall be her registered or licensed tonnage with the addition of an amount equal to the allowance for engine room space deducted for the purpose of ascertaining that tonnage, and the tonnage of a Nigerian sailing ship shall be her registered or licensed tonnage ;

(e) where a ship built at any port or place in any part of the Commonwealth but not registered or licensed under this Act or the law of any other country, or a foreign ship, has been, or can be, measured under this Act, her tonnage as ascertained by that measurement shall, for the purposes of this section, be deemed to be her tonnage ;

(f) where a ship built at any port or place in any part of the Commonwealth but not registered or licensed under this Act or the law of any other country, or a foreign ship, has not been and cannot be measured in accordance with the tonnage regulations, the Minister shall, on receiving from, or by the direction of, the court hearing the case in which the tonnage of the ship is in question such evidence concerning the dimensions of the ship as it is practicable to furnish, give a certificate under his hand stating what would, in his opinion, have been the tonnage of the ship if she had been duly measured in accordance with the tonnage regulations, and the tonnage so stated

in that certificate shall, for the purposes of this section, be deemed to be the tonnage of the ship; and

(g) in the case of paragraph (i) of subsection (1), a ship of less than three hundred tons shall be deemed to be a ship of three hundred tons.

(3) The limits set by this section to the liabilities mentioned therein shall apply to the aggregate of such liabilities which are incurred on any distinct occasion and shall so apply in respect of each distinct occasion without regard to any liability incurred on another occasion.

(4) The application of this section to any liability shall not be excluded by reason only that the occurrence giving rise to the liability was not due to the negligence of any person.

(5) Nothing in this section shall apply to any liability in respect of loss of life or personal injury caused to, or loss of, or damage to, any property or infringement of any right of, a person who is on board or employed in connection with the ship under a contract of service with all or any of the persons whose liabilities are limited by this section, if that contract is governed by the law of any country outside Nigeria and that law either does not set any limit to that liability or sets a limit exceeding that set to it by this section.

(6) For the purposes of subsection (1) of this section, where any obligation or liability arises—

(a) in connection with the raising, removal or destruction of any ship which is sunk, stranded or abandoned or anything on board such a ship, or

(b) in respect of any damage (however caused) to harbour works, basins or navigable waterways,

the occurrence giving rise to the obligation or liability shall be treated as one of the occurrences mentioned in paragraphs (b) and (d) of that subsection, and the obligation or liability as a liability to damages.

Release of  
ship, etc.

384.—(1) Where a ship or other property is arrested in connection with a claim which appears to the court to be founded on a liability to which a limit is set by section 383, or security is given to prevent or obtain release from such an arrest, the court may, and in the circumstances mentioned in subsection (3) shall, order the release of the ship, property or security if the conditions specified in subsection (2) are satisfied; but, where the release is ordered, the person on whose application it is ordered shall be deemed to have submitted to the jurisdiction of the court to adjudicate on the claim.

(2) The conditions referred to in subsection (1) are—

(a) that security which, in the opinion of the court, is satisfactory (in this section referred to as "guarantee") has previously been given, whether in Nigeria or elsewhere, in respect of such liability or any other liability incurred on the same occasion, and the court is satisfied that, if the claim is established, the amount for which the guarantee was given, or such part thereof as corresponds to the claim, will be actually available to the claimant; and

(b) that either the guarantee is for an amount not less than such limit or further security is given which, together with the guarantee, is for an amount not less than that limit.

(3) The circumstances mentioned in subsection (1) are that the guarantee was given in a port which, in relation to the claim, is the relevant port, or, as the case may be, a relevant port, and that that port is in a Convention country.

(4) For the purposes of this section—

(a) a guarantee given by the giving of security in more than one country shall be deemed to have been given in the country in which security was last given ;

(b) any question whether the amount of any security is, either by itself or together with any other amount, not less than any limit set by section 383 shall be decided as at the time at which the security is given ; and

(c) where part only of the amount for which a guarantee was given will be available to a claimant, that part shall not be taken to correspond to his claim if any other part may be available to a claimant in respect of a liability to which no limit is set as mentioned in subsection (1).

385.—(1) No judgment or decree for a claim founded on a liability to which a limit is set by section 383 shall be enforced, except so far as it is for costs, if security for an amount not less than that limit has been given, whether in Nigeria or elsewhere, in respect of the liability or any other liability incurred on the same occasion, and the court is of opinion that the security is satisfactory, and is satisfied that the amount for which it was given, or such part thereof as corresponds to the claim, will be actually available to the person in whose favour the judgment or decree was given or made.

Restriction on enforcement after giving of security.

(2) For the purposes of this section—

(a) any question whether the amount of any security is not less than any limit set by section 383 shall be decided as at the time at which the security is given ; and

(b) where part only of the amount for which security has been given will be available to the person in whose favour the judgment or decree was given or made, that part shall not be taken to correspond to his claim if any other part may be available to a claimant in respect of a liability to which no limit is set as mentioned in subsection (1).

386.—(1) Where any liability is alleged to have been incurred by the owner of a Commonwealth or foreign ship in respect of any occurrence in respect of which his liability is limited under section 383, and several claims are made or apprehended in respect of that liability, then, the owner may apply to a court of competent jurisdiction, and that court may determine the amount of the owner's liability, and may distribute that amount rateably among the several claimants, and may stay any proceedings pending in any other court in relation to the same matter, and may proceed in such manner and subject to such directions as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the owner, and as to payment of any costs, as the court thinks just.

Power of Court to consolidate claims against owners, etc.

(2) In making any distribution in accordance with this section, the court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court in any country outside Nigeria.



(3) No lien or other right in respect of any ship or property shall affect the proportions in which, under this section, any amount is distributed amongst several claimants.

Part owners  
to account in  
respect of  
damage.

387.—All sums paid for or on account of any loss or damage in respect whereof the liability of owners is limited under this Chapter, and all costs incurred in relation thereto, may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

Insurances of  
certain risks  
not invalid.

388.—An insurance effected against the happening, without the owner's fault or privity, or any or all of the events in respect of which the liability of owners is limited under this Chapter shall not be invalid by reason of the nature of the risk.

Proof of  
passengers  
on board  
ship.

389.—In any proceeding under this Chapter against the owner of a ship or share therein with respect to loss of life, any prescribed passenger list shall be received as evidence that the person upon whose death proceedings are taken under this Chapter was a passenger on board the ship at the time of death.

### CHAPTER 83

#### GENERAL RULES AS TO LIABILITY

Interpreta-  
tion.

390.—(1) This Chapter shall apply to any person as if the expression "owner" included the person responsible for the fault of any ship; but without prejudice thereto, where by virtue of any charter or demise or for any other reason, the owner is not responsible for the navigation and management of the ship, the expression shall be read and construed as though there were substituted therefor references to the charterer or other person so responsible.

(2) References in this Chapter to damage or loss caused by the fault of a ship, shall be construed as including references to any salvage or other expenses consequent upon that fault recoverable at law by way of damages.

(3) For the purposes of this section, "ship" means every description of vessel used or intended for use in navigation, however propelled, and whether completed or in the course of construction or completion.

Rule as to  
division of  
loss.

391.—(1) Where, by the fault of two or more ships, damage or loss is caused to one or more of them, or to their cargo or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was in fault:

Provided that—

(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;

(b) nothing in this section shall operate so as to render any ship liable for any loss or damage to which her fault has not contributed; and

(c) nothing in this section shall affect the liability of any person under a contract of carriage, or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(2) This section shall apply in the case of ships belonging to the Government of the Federation as it applies in the case of other ships.



392.—(1) Where loss of life or personal injury is suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships shall be joint and several.

Damages for personal injury.

(2) Nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured or any person entitled to sue in respect of that loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

393.—(1) Subject to the provisions of this section, where loss of life or personal injury is suffered by any person on board a ship owing to the fault of that ship and any other ship or ships, and a proportion of the damages is recovered against the owners of one of the ships which exceeds the proportion in which she was in fault, they may recover, by way of contribution, the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively in fault. No amount shall be so recovered which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not, for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

Right of contribution.

(2) The persons entitled to contribution under this section shall, subject to the provisions of this Act, have in addition to any other remedy for the purposes of recovering the contribution, the same rights and powers as the persons entitled to sue for damages in the first instance.

394.—(1) Subject to the provisions of this section, no action shall be maintainable to enforce any claim or lien against a ship or her owners in respect of any damage or loss to another ship, her cargo or freight, or any property on board, or damages for loss of life or personal injuries suffered by any person on board, caused by the fault of the former ship, whether such ship is wholly or partly in fault, or in respect of any salvage services, unless proceedings therein are commenced within two years from the date when the damage or loss or injury was caused or the salvage services were rendered; and an action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment.

Limitation of actions.

(2) Any court of competent jurisdiction may extend the period on such conditions as it thinks fit and shall, if satisfied that during the period there has not been a reasonable opportunity of arresting the defendant ship at any port in Nigeria, or within three miles of the coast thereof, or locally within the jurisdiction of the country to which the ship of the plaintiff belongs or in which the plaintiff resides or has his principal place of business, extend the period to the extent necessary to give such a reasonable opportunity.

(3) Nothing in this section shall affect the provisions of the Workmen's Compensation Act.

Cap. 222.

## PART XII.—LEGAL PROCEEDINGS

## CHAPTER 84

## PROSECUTION OF OFFENCES

Institution of  
Prosecutions.

395.—Save in respect of offences relating to discipline and order on board a ship, no prosecution for an offence under this Act shall be instituted, or if instituted shall be continued, without the consent of a law officer.

## CHAPTER 85

## JURISDICTION

Provision as  
to jurisdic-  
tion in case  
of offences.

396.—For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose or in any place in which the offender or person complained against may be.

Jurisdiction  
over ships  
lying off the  
coasts.

397.—Where any area within which any court has jurisdiction under this Act for any purpose whatever is situate on the coast of any sea, or abutting on or projecting into any bay, channel or other navigable water, such court shall have jurisdiction of the purposes of this Act over any vessel being on, or lying or passing off, that coast, or being in or near that bay, channel or navigable water, and over all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the court.

Jurisdiction  
in case of  
offences on  
ships of other  
Common-  
wealth  
countries.

398.—(1) Where the Governor-General is satisfied that the Government of any Commonwealth country other than Nigeria desires that the provisions of this Act which prescribe offences or which prescribe the circumstances in which any ship shall become liable to forfeiture, or any of those provisions, should, in accordance with their terms or subject to any limitation, apply in respect of foreign-going ships registered in or belonging to that country when those ships are not locally within the jurisdiction of Nigeria, the Governor-General may, by Order, declare that those provisions of this Act, or such of those provisions as are specified in the Order, shall, subject to any limitation set out in the Order, so apply.

(2) Notwithstanding anything in this Act, no court shall, by virtue only of any provision of this Act, have jurisdiction—

(a) to try for any offence committed outside Nigeria any master, seaman or apprentice belonging to, or connected with, any foreign-going ship registered in or belonging to any Commonwealth country other than Nigeria;

(b) to try any owner or any other person for any offence committed outside Nigeria on board, or in relation to, any such ship as aforesaid; or

(c) to adjudge the forfeiture of any such ship as aforesaid, or any share therein, if that liability to forfeiture was incurred outside Nigeria,—

unless it has been declared, by Order under this section, that the provisions of this Act, which prescribe that offence, or, as the case may be, that liability to forfeiture, apply in respect of foreign-going ships registered in or belonging to the Commonwealth country in which that ship is registered, or to which she belongs, or otherwise than in conformity with the provisions of any such Order.

(3) For the purposes of determining liability for infringement to the collision rules, this section shall apply in the case of aircraft registered in or belonging to any Commonwealth country, and in the case of the owners and pilots or other persons on duty in charge of those aircraft, as it applies in the case of ship registered in or belonging to that country, and in the case of the owners and masters of those ships respectively :

Provided that no Order under this section shall be deemed to refer to aircraft unless that Order so provides, or may be implied under this Act.

(4) Nothing in this Act shall be construed to be in derogation of any rightful jurisdiction of the Government of the Federation under the law of nations ; or, subject to the provisions of this section be construed to affect or prejudice any jurisdiction conferred by any other enactment having the force of law in Nigeria.

399.—(1) Whenever any complaint is made to any proper officer in a foreign country—

(a) that any person who is, or within three months previously has been, employed as a master, seaman or apprentice on any Nigerian ship, or on any unregistered ship which is by Part IX required to be registered either in Nigeria or in some other Commonwealth country, has committed an offence against property or persons at any place outside Nigeria and every other Commonwealth country, whether on shore or afloat ; or

(b) that any master, seaman or apprentice belonging to any such ship as aforesaid has committed an offence on the high seas,—

that proper officer may inquire into the case upon oath or affirmation, and may, if the case so requires, take any steps in his power for the purpose of placing the person alleged to have committed the offence under the necessary restraint and of sending him as soon as practicable in safe custody to Nigeria or, if any court in a Commonwealth country other than Nigeria is capable of taking cognizance of that offence, to that Commonwealth country, in any Commonwealth ship, or in any aircraft registered or licensed in any Commonwealth country, to be there proceeded against according to law.

(2) The proper officer may—

(a) in any case to which subsection (1) refers ; or

(b) at the request of a local representative of any Commonwealth country other than Nigeria acting in pursuance of the corresponding provisions of the law of that country,—

order the master of any Nigerian ship, not being a ship of the Royal Nigerian Navy or its Reserve bound to Nigeria or to any other Commonwealth country to receive on board and afford a passage and subsistence

Offences committed in foreign ports or on the high seas by officers and seamen of Nigerian ships.

during the voyage to the person alleged to have committed the offence, and to any witnesses; but the master shall not be required to receive more than one alleged offender for every one thousand tons of his ship's tonnage or more than one witness for every five hundred tons of that tonnage.

(3) Where a proper officer requires the master of a ship to receive any alleged offender or any witness as aforesaid, he shall endorse upon the agreement of that ship such particulars with respect to every person so sent on the ship as the Minister may require.

(4) Any master of a ship to whose charge any person alleged to have committed an offence has been so committed shall, on the ship's arrival at a port in Nigeria or, as the case may be, in the other Commonwealth country to which she is bound, give the alleged offender into the custody of some police officer or constable.

(5) If any master of a Nigerian ship, when required by any proper officer to receive and afford a passage and subsistence to any alleged offender or to any witness, does not receive him and afford a passage and subsistence to him, or does not deliver any alleged offender committed into his charge into the custody of some police officer or constable as in this section directed, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(6) The expense of placing any person referred to in subsection (1) under restraint, and of conveying him and any witnesses to Nigeria or any other Commonwealth country in any manner other than on board the ships to which they respectively belong, shall, where not paid as part of the costs of the prosecution, be paid by the Minister out of moneys appropriated by Parliament.

Jurisdiction  
in personam  
of courts in  
collision and  
other similar  
cases.

400.—(1) (a) No court in Nigeria shall entertain an action *in personam* to enforce a claim to which this section applies unless—

(i) the defendant has his habitual residence or a place of business within Nigeria;

(ii) the cause of action arose within the inland waters of Nigeria, or within the limits of a port of Nigeria; or

(iii) an action arising out of the same incident or series of incidents is proceeding in the court, or has been heard and determined in the court.

(b) In this subsection—

“inland waters” includes any part of the sea adjacent to the coast of Nigeria certified by the Minister to be waters falling by international law to be treated as within the territorial sovereignty of Nigeria apart from the operation of that law in relation to territorial waters;

“port” means any place in Nigeria declared by the Minister by order under the Ports Act to be a port, and includes any navigable channel leading into such place likewise so declared to be an approach thereto;

"charges" means any charges with the exception of light dues, local light dues and any other charges in respect of lighthouses, buoys or beacons and of charges in respect of pilotage.

(2) No court in Nigeria shall entertain an action *in personam* to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside Nigeria against the same defendant in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.

(3) The provisions of subsections (1) and (2) shall apply to counter-claims, not being counter-claims in proceedings arising out of the same incident or series of incidents, as they apply to actions *in personam*, but as if the references to the plaintiff and the defendant were respectively references to the plaintiff on the counter-claim and the defendant to the counter-claim.

(4) The provisions of subsections (1), (2) and (3) shall not apply to any action or counter-claim if the defendant thereto submits or has agreed to submit to the jurisdiction of the court.

(5) Subject to the provisions of subsection (2), where a court has jurisdiction for the purposes of this Act, the jurisdiction shall extend to entertain an action *in personam* to enforce a claim to which this section applies whenever any of the conditions specified in paragraph (a) of subsection (1) is satisfied; and the rules of court relating to the service of process outside the jurisdiction shall make such provision as may appear to the Chief Justice of the relevant court to be appropriate having regard to the provisions of this subsection.

(6) Nothing in this section shall,—

(a) prevent an action or counter-claim which is brought under this section from being transferred to some other court of competent jurisdiction, or

(b) affect proceedings in respect of any cause of action arising before the coming into operation of this section.

(7) The claims to which this section applies are claims for damage loss of life or personal injury arising out of a collision between ships, or out of the carrying out of, or omission to carry out, a manoeuvre, in the case of one or more of two or more ships, or out of non-compliance, on the part of one or more of two or more ships, with the collision rules.

(8) For the avoidance of doubt, it is hereby declared that this section shall apply in relation to the jurisdiction of any court, not being Admiralty jurisdiction, as well as in relation to its Admiralty jurisdiction, if any.

401.—(1) Notwithstanding the provisions of any Act or written law, a magistrates' court shall have such jurisdiction to try any offence under this Act as may be conferred upon it by the Minister after consultation with the Federal Minister charged with responsibility for justice, by order.

Jurisdiction  
of magistra-  
tes' courts.



(2) In trying an offence, a magistrates' court,—

(a) shall not impose any higher sentence than it would be entitled to impose under its ordinary jurisdiction, and

(b) may, and if so required by a party shall sit with any person experienced in maritime affairs as assessor.

(3) Any assessor sitting with a magistrate shall, if he is not a public officer, be paid such fees and allowances for his services as the Federal Minister charged with responsibility for finance may approve.

(4) The question as to what and if any consultation was held shall not be inquired into by any court.

## CHAPTER 86

### INQUIRIES INTO DEATHS

Inquiry into  
cause of  
death on  
board ship.

402.—(1) Where death occurs on board any Nigerian ship arriving at any port in Nigeria, the Superintendent at the port where the crew of the ship is discharged, or if the crew is on a running agreement, the Superintendent at the port at which the voyage terminates after the death occurred, shall inquire into the cause of the death, and shall make in the official log book an endorsement to the effect, that the statement of the cause of death in the log book is, in his opinion, true or untrue according to the result of the inquiry.

(2) Where the death occurs of a member of the crew of a Nigerian ship during the currency of the voyage, whether on board or not, the master shall report the fact and the circumstances to the proper officer at the port where the death occurred, or if the death took place at sea then at the first port where the ship remains more than forty-eight hours. The proper officer concerned shall make an investigation into the cause of the death and shall report his finding to the Minister on such form as may be approved by the Minister.

Powers of  
Superinten-  
dent in case  
of inquiries  
into death.

403.—The Superintendent shall, for the purpose of an inquiry under section 402, have all the powers of an inspector under this Act; and if, in the course of any such inquiry, it appears to the Superintendent that any such death has been caused on board the ship by violence or other improper means, he shall report the matter to the Minister or, in an emergency do all he can for bringing the offender or offenders to justice.

## CHAPTER 87

### DEPOSITIONS

Depositions  
as evidence  
when wit-  
ness cannot  
be produced.

404.—(1) Subject to the provisions of this section, where in the course of any proceedings instituted under this Act before any court or person authorized to receive evidence, the testimony of any witness is required in relation to the subject matter of the proceedings, and the witness cannot be found in Nigeria, any deposition that the witness has previously made on oath in relation to the same subject matter before any judge or magistrate in any Commonwealth country other than Nigeria, or before any diplomatic or consular officer of Nigeria or of any other Commonwealth country in any foreign country, shall be admissible in evidence.

(2) No deposition shall be admissible in criminal proceedings unless the deposition was taken in the presence of the person accused, and the judge, magistrate or diplomatic or consular officer when authenticating the deposition made before him certifies that the accused was present at the taking thereof.

(3) A deposition admissible for the purposes of this section shall be deemed to be duly authenticated if it purports to have been signed by the judge, magistrate or diplomatic or consular officer before whom it was taken.

(4) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding, a certificate purporting to have been signed by the judge, magistrate or diplomatic or consular officer before whom the deposition was taken that the accused was present at the taking of the deposition shall, unless the contrary is proved, be sufficient evidence of the fact.

(5) Nothing in this section shall affect any case in which depositions taken in any proceedings are rendered admissible in evidence by any other written law.

## CHAPTER 88

### DETENTION OF SHIP AND DISTRESS ON SHIP

405.—(1) Where, under this Act, a ship is to be, or may be, detained, any commissioned officer on full pay in any of the armed forces of Nigeria, or any person thereto generally or specially authorized by this Act or by the Minister, may detain the ship; and, if the ship, after detention or after service on the master of any notice or order for detention, proceeds to sea before it is released by competent authority, the master of the ship, and also the owner and any person who sends the ship to sea, if that owner or person is party or privy to the master's offence, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds.

Enforcing  
detention of  
ship.

(2) Where a ship so proceeding to sea takes to sea and has on board thereof in the execution of his duty any officer authorized to detain the ship, or any surveyor or officer appointed under this Act, or any officer of customs, the owner and master of the ship shall be liable to pay all the expenses of, and incidental to, the officer or surveyor being so taken to sea, and they shall also be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds, or ten pounds for every day until the officer or surveyor returns or until such time as would enable him after leaving the ship to return to the port from which he is taken, whichever is the greater; and the expenses ordered to be paid may be recovered in like manner as the fine.

(3) Where under this Act a ship is to be detained, the Collector of Customs shall refuse to grant port clearance; and in any other case authorising the detention of a ship, the Collector of Customs may refuse port clearance.

Notice to be given to consular officer where proceedings taken in respect of foreign ships.

Cost of detaining ship.

Sums ordered to be paid leviable by distress on ship.

Proof of attestation not required.

Admissibility of documents in evidence.

406.—Where any foreign ship is detained under this Act, and any proceedings are taken under this Act against the owner or master of any such ship, notice shall forthwith be given to the consular officer for the country to which the ship belongs at or nearest to the port where the ship is for the time being, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

407.—Where a ship is held under any provision of this Act requiring detention until the happening of a certain event, the ship shall be deemed to be finally detained for the purposes of Chapter 51 (which relates to unseaworthy ships); and the owner of the ship shall be liable to pay to the Government of the Federation the costs of and incidental to the detention and survey if any of such ship, and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

408.—Where any court may make an order under this Act directing payment to be made of any seaman's wages, fines or other sums of money, then, if the party so directed to pay the same is the owner or master of a ship, and the same is not paid at the time or in the manner prescribed in the order, the court which made the order may, in addition to any other powers it may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel; or the order may be removed into any other court for the purpose.

## CHAPTER 89

### EVIDENCE AND SERVICE OF DOCUMENTS

409.—Notwithstanding anything in any other Act or rule of Law, where any document is required by this Act to be executed in the presence of, or to be attested by, any witness the document may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witness.

410.—(1) Where a document is under this Act declared to be admissible in evidence, such document shall on its production from proper custody, be admissible in evidence in any court or before any person having proper authority to receive evidence, and unless admission is refused on any other ground, shall be evidence of the matters stated therein in pursuance of this Act or by any officer in pursuance of his duties as such officer.

(2) A copy of any such document or extract therefrom shall also be admissible in evidence if proved to be a copy or extract made from or compared with the original, or if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted.

(3) Any person having authority to receive evidence shall have the same powers as a court to impound any document to which this section applies, which has a false or counterfeit seal, stamp or signature attached thereto, and the restrictions which apply for the admission of secondary evidence shall have effect accordingly.

411.—(1) Where, for the purposes of this Act, a document is to be served on any person, that document may be served in any manner following that is to say—

Service of documents.

(a) in any case, by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode ;

(b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship with the person being, or appearing to be, in command or charge of the ship ;

(c) if the document is to be served on the master of a ship, where there is no master, and the ship is within Nigeria, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in Nigeria, or where no such agent is known or can be found, by affixing a copy thereof in some conspicuous place in the ship.

(2) If any person obstructs the service on the master of a ship of any document under the provisions of this Act relating to the detention of ships as unseaworthy, that person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds ; and, if the owner or master of the ship is party or privy to the obstruction, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years, or both.

#### CHAPTER 90

#### PROTECTION OF OFFICERS, ETC.

412.—Every officer or other person appointed or authorized under this Act, shall when acting for the purposes of this Act, be or be deemed to be a public officer.

All officers, etc., to be public officers.

413.—No suit shall be maintained against any public officer for or in respect of anything done or omitted to be done by him in good faith in the exercise or performance, or in the purported exercise or performance, of any power, authority or duty conferred or imposed on him under this Act.

Protection of public officers.

#### PART XIII.—SUPPLEMENTAL

#### CHAPTER 91

#### ADMINISTRATION OF ACT

414.—(1) Subject to the provisions of this Act, the Minister shall have the general superintendence of the matters to which this Act relates, and is hereby authorized to carry the provisions thereof into effect.

Administration of Act, and delegation of powers.

(2) The Minister may, by a delegation notified in the Gazette by writing under his hand depute to any officer or officers of the Marine Division of the Ministry any of his powers or duties under this Act of a routine nature ; and any power or duty lawfully exercised by an officer to whom it has been delegated under this subsection, shall be deemed to have been exercised as fully as if it had been exercised by the Minister himself.

(3) Nothing in this section shall be construed to allow the delegation of any power to make regulations or any order for the purposes of this Act.

Returns as to merchant shipping, etc. the Minister.

415.—All consular officers of Nigeria abroad, the Nigerian Ports Authority, officers of Customs, and all superintendents shall make and send to the Minister such returns or reports on any matter relating to Nigerian merchant shipping and seamen as the Minister may require.

## CHAPTER 92

### APPOINTMENT OF OFFICERS

Appointment of officers.

416.—There may be appointed such persons, in addition to any officers who may be appointed under any other provision of this Act, as may from time to time be necessary for the purpose of giving effect to the provisions of this Act.

Power for seeing that Act is complied with.

417.—(1) Where any officer authorized by the Minister for the of this Act, or of any other enactment for the time being in force relating to merchant seamen or navigation are not complied with, that officer may—

(a) require the owner, master or any of the crew of any Commonwealth ship to produce any official log book or other document relating to the crew or any member thereof in their respective possession or control;

(b) require any such master to produce a list of all persons on board his ship, and take copies of any official log book or document, or of any part thereof;

(c) muster the crew of any such ship; and

(d) summon the master to appear and give any explanation concerning the ship or her crew, or any official log book or document produced or required to be produced.

(2) If any person, on being duly required by an officer authorized under subsection (1), fails, without reasonable cause, to produce to that officer any such official log book or document as he is required to produce under that subsection, or refuses to allow the same to be inspected or copied, or impedes any muster of the crew required under that subsection, or refuses or neglects to give any explanation which he is required under that subsection to give, or knowingly misleads or deceives any officer authorized under that subsection to demand any such explanation, that person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds.

## CHAPTER 93

### INSPECTORS

Appointment of inspectors to report on accidents, etc.

418.—There may be authorised for the purposes of this Act in any proper case, as and when the Minister thinks necessary, fit persons to act as Inspectors to report to the Minister,—

(a) upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused;

(b) whether the provisions of this Act have been complied with; or



(c) whether the hull and machinery of any ship are sufficient and in good condition.

419.—(1) An inspector so authorised, and any person having the powers of such an inspector, may—

Powers of inspectors.

(a) go on board any ship and inspect the same, or any part thereof or any of the machinery, boats, equipments or articles on board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage;

(b) enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purposes of the report which he is directed to make;

(c) by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for the purpose of his report, and may require answers or returns to any inquiries he thinks fit to make;

(d) require and enforce the production of all books, papers or documents which he considers important for the purpose of his report; and

(e) administer oaths, or in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration, which shall be free from stamp duty, of the truth of the statements made by him in his examination.

(2) Every witness summoned under subsection (1) shall be allowed such expenses as would be allowed to a witness attending on summons to give evidence before a court of competent jurisdiction; and, in case of any dispute as to the amount of those expenses, the dispute shall be referred to a Registrar of that court, and that Registrar shall, on request being made to him for that purpose under the hand of the inspector or person having the powers of an inspector, ascertain and certify the proper amount of those expenses.

(3) If after having been required to do so as prescribed by subsection (1) any person refuses to attend as a witness before an inspector or before any person having the powers of an inspector, or having attended he refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declaration, which an inspector or person having the powers of an inspector is hereby empowered to require, that person shall be guilty of an offence, and on conviction shall be liable to a fine not exceeding twenty pounds.

420.—If any person wilfully impedes an inspector or any person having the powers of an inspector in the execution of his duty, whether on board a ship or elsewhere, that person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds, and any such person may be seized and detained by the inspector or person having the powers of an inspector, or by any person or persons whom that inspector or person may call to his assistance, until he can be conveniently taken before a magistrate.

Penalty for obstructing inspectors in the execution of their duty.

## CHAPTER 94

## TRANSMISSION OF DOCUMENTS

Notices, etc.  
in writing  
and  
provision for  
posting.

421.—(1) Any notice, authority, order, certificate, direction or other communication required or authorised by this Act, to be given or made by the Minister to any person not being an officer appointed under this Act, shall be given or made in writing.

(2) Where any notice or document is by this Act required to be transmitted or sent, the notice or document may be transmitted or sent by post.

## CHAPTER 95

## RECIPROCITY WITH OTHER COMMONWEALTH COUNTRIES

Reciprocal  
provisions as  
to jurisdic-  
tion, and  
duties of  
Nigerian  
officials  
under law of  
other Com-  
monwealth  
countries.

422.—(1) Where it is provided by the law of any Commonwealth country other than Nigeria, before or after the commencement of this Chapter, that any act or duty may or shall be done or performed in relation to ships registered in or belonging to that country by the Minister or by the Superintendent, or by any surveyor, Registrar, Collector of Customs, commissioned officer on full pay in any of the armed forces of Nigeria or diplomatic consular officer of Nigeria in any foreign country, or by any other officer or person who is by this Act authorized or required to do or perform any act or duty in relation to Nigerian ships, and that act or duty is an act or duty of the same nature as any act or duty which that officer or person is, by this Act, authorised or required to do or perform in relation to Nigerian ships, and the doing or performing of that act or duty is not contrary to the law of Nigeria, then the Minister, or as the case may be, that Superintendent, surveyor, Registrar, Collector of Customs or other officer or person as aforesaid, shall do or perform that act or duty in like manner as if the provisions of the law of that Commonwealth country so authorizing or requiring him were enacted by this Act.

(2) Where it is provided by the law of any Commonwealth country other than Nigeria, before or after the commencement of this Chapter that any deposition may or shall be taken in relation to ships registered in or belonging to that country before any court, judge or magistrate, that deposition may be so taken in the manner required by the laws of Nigeria for the taking of depositions and, in other respects, as if the provisions of the law of that country authorizing or requiring the taking thereof were enacted by this Act.

(3) Nothing in subsections (1) or (2) shall derogate from any other provision of this Act.

(4) Where, under this Act the jurisdiction of any court, judge or magistrate in Nigeria extends to ships registered in or belonging to any Commonwealth country other than Nigeria, while those ships are locally within the jurisdiction of Nigeria or while they are elsewhere, any court, judge or magistrate in that Commonwealth country, and any naval Court of that Commonwealth country, shall, subject to the law of that country, have the like jurisdiction in respect of Nigerian ships while they are locally within the jurisdiction of that Commonwealth country or, as the case may be, while they are elsewhere :

Provided that nothing in this subsection shall derogate from the provisions of any other Act or rule of law in any proceedings where any conflict of law arises; and, in any such proceedings, the conflict shall be resolved as if the foregoing provisions of this subsection had not been enacted.

(5) Any reference in this section to ships registered in or belonging to any Commonwealth country shall be construed to include a reference to the owners of those ships and any other persons for the time being responsible for the navigation and management thereof, and to the masters, seamen and apprentices of those ships and any other persons in the service thereof, and to all other persons who are or have been on board those ships or connected therewith.

## CHAPTER 96

### EXEMPTION OF CERTAIN SHIPS, ETC.

423.—Unless otherwise specially provided in this Act or by regulations under this Act, nothing in this Act shall apply—

Exemption of Government of Nigeria ships.

(a) to ships belonging to the Government of the Federation or of a Region;

(b) to ships of the Royal Nigerian Navy or the Royal Nigerian Naval Reserve;

(c) to ships of the naval forces of any Commonwealth country, other than Nigeria, or ships which belong to the Government of any such Commonwealth country;

(d) to aircraft of the Government of the Federation or of a Region; or

(e) to any aircraft which belongs to the Government of any Commonwealth country, other than Nigeria, or are employed in the service of any such Government.

424.—Subject, in the case of foreign-going or home trade ships, to the provisions of any Convention which the Government of the Federation has ratified or to which that Government has acceded, the Minister may, in his discretion and upon such conditions as he may think fit to impose, exempt any vessel or class of vessels, or any person or class of persons from all or any of the provisions of this Act.

Minister may exempt vessel, etc.

## CHAPTER 97

### SPECIAL PROVISIONS FOR COASTAL-TRADE AND INLAND WATERS SHIPS

425.—The provisions of this Act may be modified in their application to coastal-trade and inland waters ships in such manner and to such extent as the Minister may, by Order provide.

Special provisions for coastal-trade and inland waters ships.

426.—(1) Where the Minister is satisfied that regulations for the measurement or registration of lighters, barges or like vessels which provide for measurement of their tonnage in substantial agreement with the provisions of this Act and for an adequate system of identification

measurements of and use of lighters, etc.

of lighters, barges or like vessels used in navigation in Nigeria are in force in any port under any Act, the Minister may by order declare that any lighter barge, or like vessel used in navigation in Nigeria measured or registered in accordance with such regulations shall, for the purposes of this Act, be deemed to be measured or registered under Part IX of this Act.

(2) If any person uses or causes or permits to be used in navigation any lighter, barge or like vessel when through the defect of hull or equipment or by reason of overloading or improper loading, or through undermanning it is so unsafe that human life is likely to be thereby endangered, he shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months.

(3) Nothing in the foregoing subsections shall affect the liability under subsection (1) of section 383 of this Act of the owners of any such lighter, barge or like vessel in respect of loss of life or personal injury caused to any person carried therein.

(4) No prosecution for an offence under this section shall be instituted without the approval of the Attorney-General.

## CHAPTER 98

### SUBSIDIARY LEGISLATION

#### Regulations.

427.—The Minister may make regulations generally for carrying this Act into effect, and in particular and without prejudice to the generality of the foregoing, such regulations may provide for—

(a) anything which is required to be, or may be, prescribed under this Act;

(b) the carriage of passengers and cargo and the keeping and transmission of lists relating thereto;

(c) the qualifications for officers, able seamen and ship's cooks, and the issue of certificates of competency in respect thereof;

(d) the manning of ships with certificated officers, able seamen and ships cooks, and the keeping and transmission of lists of the crews;

(e) the manning and survey of fishing vessels;

(f) the engagement and discharge outside Nigeria of seamen for and of Nigerian ships;

(g) the dealing with, accounting for and disposal of the property of deceased seamen and apprentices on Nigerian ships in cases to which section 83 does not apply;

(h) the dealing with, accounting for and disposal of the property of seamen and apprentices left behind outside Nigeria;

(i) the making of complaints by seamen and apprentices when outside Nigeria;

(j) the operation of schools of navigation;

(k) the operation by the Government of the Federation or a Region of cargo and passenger ships, and the insurance by the Government of the Federation of cargo;

(l) the control of foreign-going pleasure yachts;

(m) the control of pleasure boats;

(n) the control of vessels operating within Nigeria (other than naval vessels of the Government of the Federation, or of the Government of any part of the Commonwealth, or of a foreign Government) for which the Minister is satisfied that no other adequate provision has been made in this Act or by any other written law, or which has been generally or partially exempted from the provisions of this Act;

(o) the procedure to be followed in any preliminary inquiry or by a Marine Board under Part VII;

(p) the application to aircraft, with or without modification, of such of the provisions of this Act as the Minister considers appropriate;

(q) the classification of coastal trade and inland waters ships, either in relation to the seaworthiness of such ships or the manning thereof, restricting the area within which any class of such ships may ply;

(r) fees including stamp duty and other charges;

(s) documents and forms and their exemption from stamp duty;

(t) the prevention of pollution, by oil, of navigable waters;

(u) the construction of ships' gangways;

(v) the prohibition or restriction of navigation in any waters over which the Government of the Federation has control.

428.—(1) The subsidiary legislation specified in the Fourth Schedule to this Act to the extent only to which it is in force in the United Kingdom on the commencement of this Part of this Act and anything to the contrary in the Interpretation Act or any other Act notwithstanding, shall be deemed to have been made under this Act and have effect accordingly.

Applied  
legislation.  
Fourth  
Schedule.  
Cap. 89.

(2) The subsidiary legislation shall be read subject to such alterations therein as local circumstances render necessary, and to any variations, revocations or suspensions made by subsidiary legislation under the appropriate provisions of this Act.

(3) The Minister may from time to time by Order amend the Fourth Schedule to this Act.

(4) Until regulations are made for the purposes of paragraphs (d), (f), (g), (h) and (i) of section 427, the appropriate provisions of the Shipping Laws shall with such alterations therein as local circumstances render necessary, be deemed to be regulations made therefor.

(5) Until regulations are made for the purposes of paragraph (d) of section 427 the provisions of paragraph (b) of subsection (1) of section 40 of the Shipping and Navigation Act (which relate to the manning of vessels being used only in the navigation of inland waters) shall notwithstanding the repeal of that Act by this Act, continue to apply to vessels being used only in the navigation of inland waters, as if the Shipping and Navigation Act had not been repealed; and upon the making of such regulations, that Act shall cease to have effect for the purposes of this subsection.

Cap. 190.

(6) For the avoidance of doubt, references in any applied subsidiary legislation to "seaplanes" shall unless the context otherwise requires, be construed as references to "aircraft" under this Act.



Penalties in subsidiary legislation.

429.—Subject to the provisions of this Act any subsidiary legislation made or deemed to have been made may provide penalties for contravention of such subsidiary legislation not exceeding a fine of one hundred pounds or imprisonment for a term of six months, or both.

Rules and regulations to be laid before Parliament.

430.—All orders, rules and regulations made under this Act shall be laid upon the table of each House of Parliament as soon as possible after the commencement of the next meeting thereof following the publication of such orders, rules and regulations; and may at any time during that meeting be amended by resolution passed by both Houses of Parliament. If any orders, rules or regulations are not so laid they shall be inoperative but without prejudice to the validity of anything purporting to have been done thereunder.

## CHAPTER 99

### REPEAL AND CONSEQUENTIAL AMENDMENTS

Repeals and Savings.

431.—(1) Subject to the provisions of Chapter 98 of this Act, the Acts mentioned in the Fifth Schedule to this Act and to the extent therein set out are hereby repealed.

(2) The Shipping Laws to the extent of their application to Nigeria shall on the coming into operation of this Act cease to have effect in Nigeria except to the extent necessary to give effect to this Act; and nothing in the Shipping Laws shall thereafter apply to any ship which is registered as a Nigerian ship under this Act.

Consequential amendments.

432.—(1) Reference in any other Act or written law to the Shipping Laws or any subsidiary legislation made thereunder shall, unless the context otherwise requires, be construed as references to the same or similar provisions of this Act or, as the case may be, of any subsidiary legislation made or deemed to be made thereunder or therefor.

(2) References in any other Act or written law to a ship registered in Nigeria shall, unless the context otherwise requires, be deemed to include references to a Nigerian licensed ship.

(3) References in any other Act or written law to a British ship shall unless the context otherwise requires, be construed as references to a Commonwealth ship other than a Nigerian ship.

## CHAPTER 100

### TRANSITIONAL PROVISIONS

Transitional Provisions.

433. The Minister may, by Order, provide for any transitional provisions which he may consider necessary for enabling this Act to be brought into force as expeditiously and effectively as possible; but no Order under this section shall be made after the expiry of twelve months from the passing of this Act.

## SCHEDULES

### FIRST SCHEDULE

#### Section 2 (1)

#### HOME TRADE LIMITS

HOME TRADE LIMITS means the west coast of Africa between Cape Verde in the north and the mouth of the River Congo in the south.

SECOND SCHEDULE *Section 40*PROVISIONS APPLICABLE WHERE SEAMAN OR APPRENTICE IS LEFT  
BEHIND ABROAD BY REASON OF DESERTION OR ABSENCE WITHOUT LEAVE

(1) The master of the ship shall—

(a) as soon as may be, enter in the official log-book a statement of the effects left on board by the seaman or apprentice and of the amount due to the seaman or apprentice on account of wages at the time he was left behind; and

(b) on the termination of the voyage during which the seaman or apprentice was left behind, furnish to the proper officer within forty-eight hours after the arrival of the ship at the port at which the voyage terminates, accounts in a form approved by the Minister; one, of the wages and effects, and the other, of any expenses caused to the master or owner of the ship, by the absence of the seaman or apprentice by reason of any offence under section 112 or section 113, and if required by the proper officer, furnish such vouchers as may be reasonably required to verify the accounts.

(2) The master of the ship shall deliver to the proper officer the effects of the seaman or apprentice as shown in the delivery account, and subject to any deductions allowed under this Schedule, the amount due on account of wages as shown in that account, and the officer shall give to the master a receipt, in a form approved by the Minister, for any effects or amount so delivered.

(3) (a) The master of the ship shall be entitled to be reimbursed out of the wages or effects any sums shown in the reimbursement account which appear to the proper officer or, in the case of an appeal under this paragraph, to a court of competent jurisdiction to be properly chargeable, and for that purpose the officer or, if necessary, in the case of an appeal, the Minister, shall allow those sums to be deducted from the amount due on account of wages shown in the delivery account, and, so far as that amount is not sufficient, to be repaid to the master out of the effects:

(b) The proper officer, before allowing any sums to be deducted or repaid under this paragraph, may require such evidence as he thinks fit as to the sums being properly chargeable to be given by the master of the ship, either by statutory declaration or otherwise:

(c) Where the master of a ship whose voyage terminates in Nigeria is aggrieved by the decision of the proper officer as to the sums to be allowed as properly chargeable on his reimbursement account, and the amount in dispute exceeds ten pounds he may appeal from the decision of the proper officer to a court.

(4) Where during the voyage of a ship two or more seamen or apprentices have been left behind by reason of any offence under section 112 or section 113, the delivery and reimbursement accounts furnished as respects each seaman or apprentice may at the option of the master of the ship be dealt with, as between him and the proper officer, collectively instead of individually, and in that case the master of the ship shall be entitled to be reimbursed out of the total amount of the wages and effects of the seamen or apprentices left behind, the total of the amounts allowed under this paragraph as properly chargeable on the

reimbursement accounts, and shall be required to deliver to the proper officer on account of wages only the sum by which the total of the amount shown on the delivery accounts to be due on account of wages exceeds the total of the amounts allowed as properly chargeable on the reimbursement accounts.

(5) The proper officer shall (subject to any repayment made under this Schedule) remit the effects, and any amount received by him on account of wages under this section, at such time and in such manner as the Minister may require, and shall render such accounts in respect thereof as the Minister may direct.

(6) In this Schedule the expression "effects" includes the proceeds of any sale of the effects if the effects are sold under this Schedule; and the effects shall be sold by the proper officer in such manner as he thinks fit when they are delivered to him, unless the Minister directs to the contrary, and, if not so sold, shall be sold by the Minister as and when he thinks fit unless they are delivered to the seaman or apprentice.

(7) The master shall be under no liability for any loss of effects or for any damage to the effects if he proves to the proper officer that the loss or damage occurred without his neglect or privity after the seaman or apprentice left the ship.

(8) (a) The Minister shall not be under any liability with respect to anything done under this Schedule, except that, if, after the wages or effects of a seaman or apprentice have been dealt with under this Schedule, any legal proceedings are taken in respect of those wages or effects, or involving the forfeiture of those wages or effects, or of any sum out of the wages, by the seaman or apprentice against the master or owner of the ship, or by the master or owner of the ship against the seaman or apprentice, the Minister shall, if notice is given to him of the proceedings, and a reasonable opportunity afforded to him of appearing, comply with any order of the court made as respects the wages or effects, so far as he can do so out of the wages and effects remitted to him in respect of the voyage of the ship, and, so far as those wages or effects are not required for reimbursing any expenses incurred by or on behalf of the Government of the Federation, or incurred by the Government of a foreign country and repaid to that Government by or on behalf of the Government of the Federation as expenses of a distressed seaman or apprentice on behalf of the seaman or apprentice:

(b) The Minister shall be entitled to appear and be heard in any such proceedings by any of his officers, and for the purpose of this Schedule, notice to any Superintendent shall be deemed to be notice to the Minister:

(c) The Minister may, if and so far as he thinks fit, meet any claim made by a seaman or apprentice against the master or owner of the ship in respect of any wages or effects dealt with under this Schedule, although legal proceedings are not actually taken in respect thereof, provided that he has given notice to the master or the owner of the ship, and the master or owner has not given written notice of objection within ten days of the notice being given:

(d) For the purposes of this paragraph, any legal proceedings taken or any claim made by a person in whose favour an allotment note has been made, or who claims reimbursement of expenses, shall be treated as proceedings taken or a claim made by the seaman or apprentice.

(9) Any sums remitted under this Schedule, or arising from the sale of effects under this Schedule, shall be paid into the Consolidated Revenue Fund, and any sums payable by the Minister under this Schedule shall be paid out of moneys provided by Parliament.

(10) If the master of a ship fails without reasonable cause to comply with any of the provisions of this Schedule he shall (without prejudice to any other liability) be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds; and if he delivers a false account or makes a false statement or representation for the purposes of this Schedule, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years, or both.

(11) This Schedule shall not apply in the case of an absent seaman or apprentice—

(a) where the master of the ship satisfies the proper officer that none of the effects of the seaman or apprentice has to his knowledge been left on board the ship, and that he has paid all wages due to the seaman or apprentice; or

(b) where the amount of wages earned by the seaman or apprentice (after taking into account any deductions made in respect of allotments or advances for which provision is made by the agreement with the crew) appears from the agreement to be less than five pounds, and the master does not exercise his option to deal with the delivery and reimbursement accounts collectively; or

(c) where the master of the ship satisfies the proper officer that the net amount due to the seaman or apprentice on account of wages (after taking into account any deductions lawfully made in respect of allotments, advances or otherwise) is less than three pounds, and the master does not exercise his option to deal with the delivery and reimbursement accounts collectively; or

(d) where the question of the forfeiture of the wages and effects of the seaman or apprentice has been dealt with in legal proceedings lawfully instituted before the termination of the voyage, or within forty-eight hours of the arrival of the ship at the port at which the voyage terminates.

### THIRD SCHEDULE

sections 366, 370 and 373

#### RULES FOR MEASUREMENT OF TONNAGE

##### Rule I

(1) Measure the length of the ship in a straight line along the upper side of the tonnage deck from the inside of the inner plank (average thickness) at the side of the stem to the inside of the midship stern timber or plank there, as the case may be (average thickness), deducting from this length what is due to the rake of the bow in the thickness of the deck, and what is due to the rake of the stern timber in the thickness of the deck and also what is due to the rake of the stern timber in one third of the round of the beam; divide the length so taken into the number of equal parts required by the following table, according to the class in the table to which the ship belongs—

Measure-  
ment of ships  
to be regis-  
tered and  
other ships of  
which the  
hold is clear.



TABLE

*Class 1.*—Ships of which the tonnage deck is according to the above measurement 50 feet long or under, into four equal parts ;

*Class 2.*—Ships of which the tonnage deck is according to the above measurement above 50 feet long and not exceeding 120 feet long into six equal parts ;

*Class 3.*—Ships of which the tonnage deck is according to the above measurement above 120 feet long and not exceeding 180 feet long into eight equal parts ;

*Class 4.*—Ships of which the tonnage deck is according to the above measurement above 180 feet long and not exceeding 225 feet long into ten equal parts ;

*Class 5.*—Ships of which the tonnage deck is according to the above measurement above 225 feet long, into twelve equal parts.

Transverse  
areas.

(2) Then the hold being first sufficiently cleared to admit of the required depths and breadths being properly taken, find the transverse area of the ship at each point of division of the length as follows :—

Measure the depth at each point of division, from a point at a distance of one third of the round of the beam below the tonnage deck or, in the case of a break, below a line stretched in continuation thereof, to the upper side of the floor timber at the inside of the limber strake, after deducting the average thickness of the ceiling which is between the bilge planks and limber strake (subject, however, to the provisions of this Act in the case of a ship constructed with a double bottom for water ballast) ; then, if the depth at the midship division of the length does not exceed 16 feet, divide each depth into four equal parts ; then measure the inside horizontal breadth at each of the three points of division, and also at the upper and lower points of the depth, extending each measurement to the average thickness of that part of the ceiling which is between the points of measurement ; number these breadths from above—i.e., numbering the upper breadth one, and so on down to the lowest breadth ; multiply the second and fourth by four and the third by two ; add these products together, and to the sum add the first breadth and the fifth ; multiply the quantity thus obtained by one third of the common interval between the breadths, and the product shall be deemed the transverse area ; but if the midship depth exceeds 16 feet, divide each depth into six equal parts instead of four, and measure as before directed the horizontal breadths at the five points of division, and also at the upper and lower points of the depth ; number them from above as before ; multiply the second, fourth and sixth by four, and the third and fifth by two ; add these products together, and to the sum add the first breadth and the seventh ; multiply the quantity thus obtained by one third of the common interval between the breadths, and the product shall be deemed the transverse area.

Computation  
from areas.

(3) Having thus ascertained the transverse area at each point of division of the length of the ship as required by the above table, proceed to ascertain the register tonnage under the tonnage deck in the following manner :—



Number the areas respectively 1, 2, 3, etc., No. 1 being at the extreme limit of the length at the bow, and the last number at the extreme limit at the length at the stern; then, whether the length is divided according to the table into four or twelve parts as in classes 1 and 5, or any intermediate number as in classes 2, 3, and 4, multiply the second and every even-numbered area by four, and the third and every odd-numbered area (except the first and last) by two; add these products together, and to the sum add the first and last if they yield anything; multiply the quantity thus obtained by one third of the common interval between the areas, and the product will be the cubical contents of the space under the tonnage deck; divide this product by one hundred, and the quotient, being the tonnage under the tonnage deck, shall be deemed to be the register tonnage of the ship, subject to any additions and deductions under this Act.

(4) If the ship has a third deck, commonly called a spar deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows:—

In case of  
decks above  
the tonnage  
deck.

Measure in feet the inside length of the space at the middle of its height from the plank at the side of the stem to the lining on the timbers at the stern, and divide the length into the same number of equal parts into which the length of the tonnage deck is divided as above directed; measure (also at the middle of its height) the inside breadth of the space at each of the points of division, also the breadth at the stem and the breadth at the stern; number them successively 1, 2, 3, etc., commencing at the stem; multiply the second and all the other even-numbered breadths by four, and the third and all the other odd-numbered breadths (except the first and last) by two; to the sum of these products add the first and last breadths; multiply the whole sum by one third of the common interval between the breadths, and the result will give in superficial feet the mean horizontal area of the space; measure the mean height of the space, and multiply by it the mean horizontal area, and the product will be the cubical contents of the space; divide this product by one hundred, and the quotient shall be deemed to be the tonnage of the space and shall be added to the tonnage of the ship ascertained as aforesaid. If the ship has more than three decks, the tonnage of each space between decks above the tonnage deck shall be severally ascertained in the manner above described, and shall be added to the tonnage of the ship ascertained as aforesaid.

(5) If there is a break, a poop or any other permanent closed-in space on the upper deck, available for cargo or stores, or for the berthing or accommodation of passengers or crew, the tonnage of that space shall be ascertained as follows:—

Poop, deck  
house,  
forecastle  
and any  
other  
closed-in  
space.

Measure the internal mean length of the space in feet, and divide it into two equal parts; measure at the middle of its height three inside breadths—namely, one at each end and the other at the middle of the length; then to the sum of the end breadths add four times the middle breadth, and multiply the whole sum by one-third of the common

interval between the breadths, the product will give the mean horizontal area of the space; then measure the mean height, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the tonnage of the space, and shall be added to the tonnage under the tonnage deck ascertained as aforesaid:

Provided that no addition shall be made in respect of any building erected for the shelter of deck passengers, and approved by the Minister.

### Rule II

Measurement of ships not requiring registry with cargo on board and ships which cannot be measured under Rule I.

(1) Measure the length on the uppermost deck from the outside of the outer plank at the stem to the afterside of the stern post, deducting therefrom the distance between the afterside of the stern post and the rabbet of the stern post at the point where the counter plank crosses it; measure also the greatest breadth of the ship to the outside of the outer planking or wales, and then, having first marked on the outside of the ship on both sides thereof the height of the upper deck at the ship's sides, girth the ship at the greatest breadth in a direction perpendicular to the keel from the height so marked on the outside of the ship on the one side to the height so marked on the other side by passing a chain under the keel; to half the girth thus taken add half the main breadth; square the sum; multiply the result by the length of ship taken as aforesaid; then multiply this product by the factor 0.0017 (seventeen thousandths) in the case of ships built of wood, and 0.0018 (eighteen thousandths) in the case of ships built of iron, and the product shall be deemed the register tonnage of the ship, subject to any additions and deductions under this Act.

Poop, deck house, fore-castle, and other closed-in spaces on upper deck.

(2) If there is a break, a poop or other closed-in space on the upper deck, the tonnage of that space shall be ascertained by multiplying together the mean length, breadth, and depth of the space, and dividing the product by one hundred, and the quotient so obtained shall be deemed to be the tonnage of the space, and shall be added to the tonnage of the ship ascertained as aforesaid.

### Rule III

Measurement of allowance for engine room in steamships.

(1) Measure the mean depth of the space from its crown to the ceiling at the limber strake, measure also three, or, if necessary, more than three, breadths of the space at the middle of its depth, taking one of those measurements at each end, and another at the middle of the length; take the mean of those breadths; measure also the mean length of the space between the foremost and aftermost bulkheads or limits of its length, excluding such parts, if any, as are not actually occupied by or required for the proper working of the machinery; multiply together these three dimensions of length, breadth and depth, divide the product of one hundred, and the result shall be deemed the tonnage of the space below the crown; then find the cubical contents of the space or spaces, if any, above the crown aforesaid, which are framed in for the machinery or for the admission of light and air, by multiplying together the length, depth and breadth thereof; add such contents to the cubical contents of the space below the crown; divide the sum by one hundred; and the quotient shall, subject to the provisions hereinafter contained, be deemed to be the tonnage of the space.

(2) If, in any ship in which the space for propelling power is to be measured, the engines and boilers are fitted in separate compartments, the contents of each shall be measured severally in like manner, according to the above rules, and the sum of their several results shall be deemed to be the tonnage of that space.

(3) In the case of screw steamers in which the space for propelling power is to be measured, the contents of the shaft trunk shall be ascertained by multiplying together the mean length, breadth and depth of the trunk and dividing the product by one hundred.

(4) If, in any ship in which the space aforesaid is to be measured, any alteration is made in the length or capacity of the spaces, or if any cabins are fitted in the space, the ship will be deemed to be a ship not registered until re-measurement.

#### Rule IV

In ascertaining the tonnage of open ships, the upper edge of the upper strake is to form the boundary line of measurement, and the depth shall be taken from an athwartship line, extended from upper edge to upper edge of that strake at each division of the length.

Measure-  
ment of open  
ships.

### FOURTH SCHEDULE

Section 428

#### APPLIED SUBSIDIARY LEGISLATION

#### United Kingdom Subsidiary Legislation

Relevant  
section  
of this Act

#### PART I—MASTERS AND SEAMEN

1. Regulations as to Distressed Seamen (S.R. and O.1921/642)	45
2. Distressed Seamen (Amendment) Regulations 1943, (S.R. and O. 1943/642) .. .. .	45
3. Distressed Seamen (Amendment) Regulations, 1952. (S.I. 1952/989) .. .. .	45
4. Merchant Shipping Medical Scales Order, 1953. (S.I. 1953/998) .. .. .	97
5. Merchant Shipping Medical Scales (Amendment) Order, 1953. (S.I. 1953/1446) .. .. .	97
6. Merchant Shipping Medical Scales (Amendment) Order, 1955. (S.I. 1955/1157) .. .. .	97

## FOURTH SCHEDULE—continued

Relevant  
section  
of this Act

## United Kingdom Subsidiary Legislation

## PART II—CONSTRUCTION, EQUIPMENT AND SURVEY

7. Merchant Shipping (Construction) Rules, 1952 (S.I. 1952/1948) .. .. .	144
8. Merchant Shipping (Fire Appliances) Rules, 1951. (S.I. 1952/1950) .. .. .	153
9. Merchant Shipping (Musters) Rules, 1952. (S.I. 1952/1951) .. .. .	153
10. Merchant Shipping (Pilot Ladders) Rules, 1952. (S.I. 1952/1952) .. .. .	153
11. Merchant Shipping (Life-Saving Appliances) Rules, 1958. (S.I. 1958/602) .. .. .	153
12. Merchant Shipping (Life-Saving Appliances) (Amendment) Rules, 1959. (S.I. 1959/978) .. .. .	153
13. Merchant Shipping (Radio) Rules, 1952. (S.I. 1952/1956) .. .. .	159
14. Merchant Shipping (Direction Finders) Rules, 1952. (S.I. 1952/1957) .. .. .	160
15. Merchant Shipping (Accepted Safety Convention Certificates) Regulations, 1952. (S.I. 1952/1954) .. .. .	180 (1)
16. Merchant Shipping (Closing of Openings in Hulls and Watertight Bulkheads) Rules, 1952. (S.I. 1952/1953) .. .. .	186

## PART III—LOAD LINES AND LOADING

17. Load Line Rules, 1959. (S.I. 1959/2238) .. .. .	201
18. Load Line (Particulars of Depth of Loading, etc) Rules, 1932. (S.R. and O. 1932/108) .. .. .	210 (3)
19. Merchant Shipping (Load Line Convention Certificates Validity) Regulations, 1932. (S.R. and O. 1932/921) .. .. .	216 and 226
20. Timber Cargo Regulations, 1958. (S.I. 1958/621) .. .. .	225
21. Collision Regulations (Ships and Seaplanes on the Water) and Signals of Distress (Ships) Order, 1953. (S.I. 1953/1557) .. .. .	230 and 237
22. Merchant Shipping (Signals of Distress) Rules, 1954. (S.I. 1954/105) .. .. .	237
23. Merchant Shipping (Distress Messages and Navigational Warnings) Rules, 1932. (S.R. and O. 1932/1036) .. .. .	240
24. Merchant Shipping (Navigational Warnings) Rules, 1954. (S.I. 1954/104) .. .. .	240
25. Merchant Shipping (Dangerous Goods) Rules, 1952. (S.I. 1952/1977) .. .. .	251
26. Merchant Shipping (Grain) Rules, 1952. (S.I. 1952/1959) .. .. .	253 (3)

## FOURTH SCHEDULE—continued

Relevant  
section  
of this Act

## United Kingdom Subsidiary Legislation

## PART IV—REGISTRATION OF SHIPPING

27. Merchant Shipping (Registration of Federation of Nigeria Government Ships) Order, 1957. (S.I. 1957/1878) ..	306 (2)
28. Regulations as to ships' Names. (S.R. and O. 1907/740) ..	357 (2)
29. Merchant Shipping (Ships' Names) (Amendment) Regulations, 1922. (S.R. and O. 1922/729) .. ..	357 (2)
30. Merchant Shipping (Ships' Names) (Amendment) Regulations, 1936. (S.R. and O. 1936/390) .. ..	357 (2)

## PART V—GENERAL LIABILITY OF SHIPOWNERS AND OTHERS

31. Merchant Shipping (Limitation of Liability) (Sterling Equivalents) Order, 1958. (S.I. 1958/1287) .. ..	383 (2) (b)
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## FIFTH SCHEDULE

Section 431

## REPEALS

Chapter or Number	Short title	Extent of repeal
Cap. 49. ..	Desertion from Ships Act ..	The whole Act
Cap. 190. ..	Shipping and Navigation Act ..	The whole Act
Cap. 223. ..	Wrecks and Salvage Act ..	The whole Act
No. 34 of 1958.	Shipping and Navigation (Amendment) (Deck Passengers) Act, 1958	The whole Act
No. 37 of 1959.	Shipping and Navigation (Amendment) Act, 1959 .. ..	The whole Act



presiding officer or any poll clerk authorised by the presiding officer may require the voter to submit to being searched in private to ensure that no ballot paper relating to the election is already in his possession. If the voter fails or refuses to submit to a search the ballot paper to be issued under this section shall be retained by the presiding officer; but the fact that a female voter refuses to be searched by any male shall not be construed so as to authorise the retention of the ballot paper.

(3) The presiding officer shall comply with such directions as the electoral officer may give for the avoidance of undue delay in the recording of votes; and if provision is made so as to entitle the holder of a registration card to be accorded priority over a voter unable to present a registration card, the holder of a registration card shall be dealt with accordingly.

45. When a voter receives his ballot paper he shall,—

(a) submit to having the ball of his left thumb or the full edge of the lower part of his left fore-finger (whichever the electoral officer may direct) marked with ink sufficiently indelible to leave a mark for a period of approximately ten hours; and

(b) go immediately into the compartment in the polling station provided for the purpose, and there secretly cast his vote by placing his ballot paper in the ballot box of his choice,—

and the voter shall thereupon leave the polling station.

46. No voter shall vote for more candidate than one, or record more than one vote in favour of any candidate.

47.—(1) A voter shall not place on the ballot paper any writing or mark by which he may be identified.

(2) For the avoidance of doubt, a print resulting from the staining of the thumb or forefinger of the voter in the polling station shall not be or be deemed to be a mark of identification under this section.

48. A voter who by accident deals with his ballot paper in such a manner that it may not be conveniently used as a ballot paper, may deliver it to the presiding officer. If the presiding officer is satisfied that the ballot paper was spoilt by accident he may issue another ballot paper to the voter in place of the ballot paper delivered up, and the spoilt ballot paper shall be immediately marked as cancelled by the presiding officer.

49. A voter who is blind or is otherwise unable to distinguish symbols, or who suffers any other physical disability may be accompanied into the polling station by a friend or relative chosen by him; and the friend or relative shall, after informing the presiding officer of the disability, be permitted in the presence of the voter alone, to place the ballot paper in the ballot box nominated by the voter.

50. No elector shall record his vote otherwise than by personally attending at the polling station and recording his vote in the manner prescribed by this Act.

Marking of thumb, etc., and recording of vote.

Plural voting prohibited.

Ballot paper not to be marked by voter for identification.

Accidental destruction or marking of ballot papers.

Blind and incapacitated voters.

Personal attendance.

Voting at appropriate polling station.

Officers not to be appointed where entitled to vote.

Voting by officers on duty.

Use of certified extract of register in special cases.

51. Subject to the provisions of this Part of this Act, no person shall be permitted to vote at any polling station other than at the one to which he is allotted.

52.—(1) No election officer or police officer shall without the approval of the Electoral Commission be appointed for duty at any polling station at which the election officer or police officer is entitled to vote. If the election officer or police officer is on duty at a polling station at which the election officer or police officer is entitled to vote he shall inform the presiding officer who shall supervise the casting of the vote of such election officer or police officer.

(2) Where a presiding officer is appointed for duty at a polling station at which he is registered as entitled to vote, he shall before the day of the election inform the electoral officer; and the electoral officer shall supervise the casting of the vote of such presiding officer or nominate some other person to act as supervisor.

53. Where an election officer or police officer is on duty at a polling station, such officer shall, if the polling station at which he is registered as entitled to vote is not an unreasonable distance away and the presiding officer considers it to be reasonable and convenient for the work in the polling station, be permitted to leave the polling station at which he is on duty in order to cast his vote.

54.—(1) Where election officers and police officers are appointed for duty elsewhere than at a station at which they are entitled to vote and it is not possible to release such officers to vote during the day for the polling, and polling stations are within the same constituency, the presiding officer at the polling station where an election officer or police officer is on duty shall issue a certificate of polling duties in the Form numbered six in Part I of the First Schedule to this Act. On presentation of the form to the presiding officer in charge of the polling station where such officer is registered as being entitled to vote, the last-mentioned presiding officer may issue in exchange a certified extract in the Form numbered seven in Part I of the First Schedule to this Act of the register of electors or the part thereof in his custody.

(2) If a presiding officer issues a certified extract of the register of electors he shall mark the register of electors or the part thereof in his custody with some appropriate mark and proceed as though the officer concerned had cast his vote; and the presiding officer shall retain the certificate of polling duties delivered to him and deal with it in the manner prescribed by this Part of this Act for dealing with election papers at the close of the poll.

(3) If a presiding officer receives a certified extract of the register of electors from another polling station, he shall treat the particulars in the certified extract as an addition to the register of electors or part thereof already in his custody; and the procedure prescribed for the day of the election by this Part of this Act shall have effect so as to enable any officer on duty in the polling station who is named in the certified extract, to vote at that polling station. The presiding officer shall retain the certified extract and deal with it in the manner prescribed by this Part of this Act for dealing with election papers at the close of the poll.

55.—(1) If at the time a person applies for a ballot paper, or after he has applied and before he leaves the polling station, a polling agent informs the presiding officer that he has reasonable cause to believe that the applicant for the ballot paper is not the person named in the register of electors, and the polling agent undertakes to substantiate a charge of personation in a court of law, the presiding officer may order a police officer to arrest such person; and the order of the presiding officer shall be sufficient authority for the arrest.

Impersonation in polling station.

(2) Any applicant for a ballot paper affected by subsection (1) of this section shall not be prevented from voting if he denies the charge, or is not informed of it; but the presiding officer shall cause the words "*protested against for impersonation*" to be placed against the name of the applicant in the marked copy of the register of electors. If any such person admits to the presiding officer that he is not the person he holds himself out to be, he shall not be permitted to vote; and if he has already voted, the presiding officer shall note the number of the ballot paper delivered to such person, and upon count being taken, that ballot paper shall be invalid.

(3) Any person arrested under this section shall be deemed to be a person taken into custody by a police officer for an offence in respect of which he may be arrested without a warrant.

56.—(1) If a person claiming to be entitled to vote applies for a ballot paper after some other person has voted in the name given by the claimant he shall, upon giving satisfactory answers to any questions put to him by a poll clerk be entitled to receive a ballot paper in the same manner as any other elector; but the ballot paper (in this Act referred to as "*the tendered ballot paper*") shall be of a colour different from the ordinary ballot papers. The presiding officer shall require the voter to deliver the tendered voting paper to him instead of allowing it to be put in the ballot box, and the presiding officer shall endorse on it the name of the voter and his number in the register of electors. The ballot paper shall on delivery to the presiding officer and in the presence only of the voter be set aside by the presiding officer in one of a number of separate packets, each of which shall correspond to and bear the same symbol as the appropriate ballot boxes. No tendered voting paper shall be counted by the returning officer.

Tendered ballot papers.

(2) The presiding officer shall when he tenders a ballot paper under this section, enter the name of the voter and his number in the register of electors on a list to be called the tendered votes list; and the tendered votes list shall be produced in any legal proceedings arising out of the election.

57. The presiding officer shall regulate the admission of voters to the polling station and shall exclude all persons other than candidates, polling agents, poll clerks and persons lawfully entitled to be admitted, and the presiding officer shall keep order and comply with the requirements of this Act at the polling station.

Power to exclude unauthorised persons, etc.

58.—(1) If any person misconducts himself at a polling station or fails to obey any lawful order of the presiding officer, the presiding officer may order the removal from the polling station of the person so misconducting himself or failing to obey a lawful order; and such person may be dealt with as for an offence for which he may be arrested without warrant, and may be removed accordingly.

Misconduct, etc., at polling station.

(2) No person so removed shall without the permission of the presiding officer again enter the polling station during the day of the election ; but nothing in this section shall be construed so as to prohibit a voter from recording his vote.

Interruption  
of election.

59.—(1) If the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer may adjourn the proceedings until later in the day or until the following day ; and, after taking such precautions as are necessary to safeguard the ballot boxes and ballot papers and other election requisites, shall thereupon notify the electoral officer of the fact and the electoral officer shall inform the Electoral Commission.

(2) When the poll is adjourned at any polling station, the hours of polling on the day to which it is adjourned shall be the same as for the original day ; and any reference in this Part of this Act to the closing of the poll shall be construed accordingly.

Closing of  
poll.

60.—(1) When it is time for the closing of the poll, the presiding officer shall not allow into the polling station any persons other than those already inside and those in the immediate vicinity waiting to enter and vote.

(2) No voter having thereafter recorded his vote shall be permitted to remain in the polling station unless otherwise authorised under this Act.

Ballot boxes  
and papers  
at close of  
poll.

61.—(1) As soon as practicable after the termination of the voting, the presiding officer shall in the presence of any polling agents in attendance, make up into separate packets to be sealed with his own seal and marked for identification,—

(a) each ballot box in use at his polling station unopened and sealed so as to prevent introduction of additional ballot papers ;

(b) the marked copy of the register of electors together with any certified extracts of the register which he has received from any other presiding officers under this Part of this Act ;

(c) the counterfoils of the used ballot papers ;

(d) the tendered ballot papers in separate packets relating to each candidate ;

(e) the tendered votes list ;

(f) the unused and spoilt ballot papers placed together ;

(g) the statement of the ballot papers which were noted as invalid ;

(h) any certificates of polling officers duties he has received from other presiding officers under this Part of this Act,—

and when so made up and sealed the presiding officer shall deliver the packets to the returning officer.

(2) Any ballot papers which are left in the voting compartment and not inserted in a ballot box shall be cancelled by the presiding officer and when sealed up separately shall be delivered by him to the returning officer.



(3) The presiding officer shall at the same time prepare a statement (in this section called "the ballot papers account") to accompany the packets stating,—

- (a) (i) the number of ballot papers entrusted to him,
- (ii) the number of spoilt ballot papers,
- (iii) the number of unused ballot papers, and
- (iv) the number of ballot papers cancelled as being found in the voting compartment outside the ballot boxes ;
- (b) the number of tendered ballot papers ;
- (c) the number of persons marked on the register of electors (including any additions deemed to be made thereto in accordance with this Part of this Act) as having been issued with ballot papers.

(4) A candidate or his polling agent may at any time after the making up of the ballot papers account and before sealing for delivery verify the ballot papers account ; and if he verifies that account, the candidate or his polling agent as the case may be shall sign his name on the ballot papers account.

62.—(1) Each candidate may appoint such number of persons (in this Act called "counting agents") as the returning officer may approve ; and so far as practicable the number of counting agents approved shall be sufficient to allow each candidate to be represented by a counting agent at any place and time at which any part of the counting of votes is taking place.

Counting  
Agents.

(2) Notice in writing of the appointment stating the names and addresses of the counting agents shall be given by the candidate to the returning officer not later than one day before the day of the election ; and if the notice has not been given the returning officer may refuse to admit to the place where the votes are counted any person claiming to be a counting agent.

(3) If a counting agent dies, or becomes incapable of acting as a counting agent, a candidate may appoint another counting agent in his place, and the candidate shall immediately give notice in writing to the returning officer of the name and address of the counting agent so appointed.

63.—(1) The returning officer shall make arrangements for counting the votes at such place as the Electoral Commission may direct, and the counting shall as soon as practicable after the termination of the voting take place in the presence of any candidates or counting agents who wish to be present ; and when commenced, the counting of the votes shall proceed continuously until it is completed, but subject to the allowance of a reasonable time for refreshment.

Counting of  
votes.

(2) The returning officer may if he thinks fit authorise any of his assistants to supervise the counting of the votes and certify the same ; but nothing in this subsection shall authorise the appointment of any candidate or counting agent as a supervisor.

(3) The returning officer shall have sole charge of the counting, and no person other than the electoral officers, the returning officer, his assistants, the candidates and their counting agents, may without the consent of the returning officer, be present at the counting of the votes.



Method of  
counting.

64.—(1) The returning officer shall in the presence of any candidates or counting agents who are there, open the ballot boxes one at a time; and as a box is opened the returning officer shall count the ballot papers in the box. The ballot papers shall be kept face upwards when being counted, and when all boxes have been opened and the counting is completed, the returning officer shall record the total number of votes cast in favour of each candidate according to the symbol marked on the ballot box concerned.

(2) Any ballot paper without the official mark of the polling station or marked so as to identify a voter shall be endorsed by the returning officer as rejected; and the ballot paper shall be set aside and shall not be included in the count. If a counting agent objects to the rejection, the returning officer shall add the words "rejection objected to" on the ballot paper, but the count by the returning officer shall proceed as if objection had not been taken by the counting agent.

(3) The decision of the returning officer on any question arising in respect of a ballot paper shall be subject to review only on an election petition under this Act.

Statement of  
rejected  
papers.

65. The returning officer shall when the counting is completed prepare a statement showing the number of ballot papers rejected, and shall on request allow any counting agent to copy the statement; but no candidate or counting agent shall interrupt the count so as to record the number of any ballot paper whether rejected or not which he sees during the counting.

Dealing  
with ballot  
papers by  
returning  
officer.

66. The sealed packet of tendered ballot papers, the sealed packet containing the marked copy of the register of electors and the sealed packet containing the counterfoils of used ballot papers, shall not at any time be opened by the returning officer; and when the counting of the votes is completed he shall seal up in separate packets the counted and rejected ballot papers. In the presence of any counting agents who wish to be present, the returning officer shall then verify the ballot paper account given by the presiding officer by comparing it with the total number of ballot papers recorded, and with the number of unused spoilt and invalid papers delivered to him. When verified the returning officer shall prepare a statement of the result and after allowing any counting agent wishing to do so to copy the statement, the returning officer shall re-seal the packets containing the unused spoilt and invalid ballot papers, and shall pack and seal those papers which he has rejected.

## Recount.

67. A candidate or his counting agent may, if present when the counting is concluded, require the returning officer to make a recount, and if the returning officer considers the request to be reasonable he shall make the recount; but no further count shall thereafter be made except at the direction of a court of competent jurisdiction on an election petition under this Act.

Decision by  
lot.

68. When an equality of votes is found to exist between any candidates so that the addition of a vote would entitle anyone of the candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and shall proceed as if the candidate on whom the lot falls had received one additional vote. The returning officer shall thereupon declare such candidate to be elected.

69. After counting the votes and ascertaining the result of the polls the returning officer shall,—

Declaration of result of election.

(a) complete the certificate of return in the Form numbered eight in Part I of the First Schedule to this Act ;

(b) declare the result of the poll by reading the completed certificate of return aloud in the place of counting ; and

(c) cause to be delivered to the Electoral Commission the original of the certificate of return.

70. The Electoral Commission shall publish in such place or places as it thinks fit a notice of the result of the election ; and shall cause the name of the successful candidate to be endorsed on the writ and shall return the writ. When the return of the writ is made to the Clerk of the Parliaments he shall publish the result in the *Gazette*.

Return of writs and publication of results

71.—(1) The returning officer shall deliver all documents relating to the conduct of the election to the electoral officer who shall be responsible for their safe custody.

Safe custody of results.

(2) Subject to any direction of the Electoral Commission, the electoral officer shall retain for a period of six months all documents relating to an election forwarded to him as required by this Act ; and unless otherwise ordered by a court of competent jurisdiction or notified of legal proceedings pending in respect of such election, he shall at the end of that period cause the documents to be destroyed.

(3) Documents in the custody of the electoral officer shall not be available for any purpose except as required under an order for inspection made by a court on an election petition.

(4) In this section, "documents" includes any completed form numbered one, two or three in the First Schedule to this Act.

### PART III—ELECTORAL OFFENCES

72. Any person who—

(a) without proper authority destroys, mutilates, defaces or removes or makes any alteration in any notice or document required for the purposes of registration under this Act ; or

(b) knowingly gives false information or makes a false statement with reference to any application for registration of his name or with reference to any objection to the retention of the name of a person on, the register of electors ; or

(c) procures himself to be, or does any act whereby he is by what name or description soever, included in the register of electors for more than one constituency or more than once in the register of electors for a constituency in which he is entitled to be registered ; or

(d) publishes any statement, rumour or report which he knows to be false or does not believe to be true so as to prevent persons who are qualified to register from registering as electors ; or

Offences as to registration, etc.

(e) makes in any record, register or document which he is required to prepare, publish or keep for the purpose of registration, any entry or statement which he knows to be false or does not believe to be true,—

shall be guilty of an offence and liable on conviction to a fine of one hundred pounds or to imprisonment for a term of twelve months, or to both.

Offences in  
respect of  
nomination,  
etc.

73.—(1) Every person commits an offence who does any of the following that is to say,—

(a) forges any nomination paper ;

(b) wilfully defaces or destroys any nomination paper ;

(c) delivers to an electoral officer any nomination paper knowing it to be forged ;

(d) signs a nomination paper as a candidate in more than one constituency ;

(e) forges any ballot paper or official mark on any ballot paper or any certificate or return ;

(f) wilfully destroys any ballot paper or official mark on any ballot paper or any certificate or return ;

(g) without proper authority supplies a ballot paper to any person ;

(h) wilfully places in any ballot box any unauthorised paper ;

(i) wilfully removes from a polling station any ballot paper whether or not the ballot paper was issued to him in that polling station ;

(j) without proper authority, destroys or in any other manner interferes with a ballot box or its contents or any packet of ballot papers then in use for the purpose of the election,—

and shall be liable on conviction to a fine of two hundred pounds or to imprisonment for a term of two years, or to both.

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

(3) Where any person is convicted of an offence under this section he shall in addition to any penalty imposed on conviction be deemed to be guilty of a corrupt practice under section eighty-three of this Act and that section shall have effect accordingly.

(4) In any prosecution for an offence under this section it shall be sufficient evidence of ownership if the property in the papers, boxes and instruments is stated to be with the Electoral Commission, until the contrary is proved.

Dereliction  
of official  
duty.

74. Any officer appointed for the purposes of this Act, who without lawful excuse is guilty of any act or omission in breach of his official duty commits an offence against this Act and shall be liable on conviction to a fine of one hundred pounds or to imprisonment for a term of twelve months, or to both.

Disorderly  
behaviour at  
political  
meetings.

75. Any person who, at a political meeting held in any constituency after the date when an election has been announced—

(a) acts or incites another to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was convened ; or

(b) has in his possession any offensive weapon or missile,—  
shall be guilty of an offence and liable on conviction to a fine of one hundred pounds or to imprisonment for a term of twelve months, or to both.

76. Any person who—

(a) being entitled to a registration card hands it when received by him to some person other than an officer appointed and acting in the course of his duty under this Act ; or

(b) not being an officer appointed and acting in the course of his duty under this Act, receives any registration card in the name of some other person ; or

(c) has in his possession more than one registration card,—  
shall be guilty of an offence and liable on conviction to a fine of fifty pounds or to imprisonment for a term of six months, or to both.

Improper  
use of regis-  
tration cards.

77.—(1) No person shall provide for the purpose of conveying any person to a registration office or to a polling station any Government or local government or local authority vehicle or boat, or any vehicle or boat belonging to a public corporation except in respect of a person who, upon payment of any usual charge, is ordinarily entitled to use such vehicle or boat.

(2) Notwithstanding the provisions of subsection (1) of this section, the Electoral Commission may by notice in the Gazette restrict or limit the use of vehicles of any particular description or any water transport at an election.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine of fifty pounds or to imprisonment for a term of six months, or to both.

Improper  
use of  
vehicles.

78.—(1) If at an election, a candidate commits or is deemed under this Act to have committed any offence whereby he is guilty of any corrupt practice and that candidate is elected, his election shall be invalid.

(2) For the purposes of this section, a candidate shall be deemed to have committed corrupt practice, if it was committed with his knowledge and consent, or with the knowledge and consent of any person acting under the general or special authority of the candidate with reference to the election.

(3) Every corrupt practice shall be an offence under this Act.

Corrupt  
practice.

79.—(1) Any person who at an election applies for a ballot paper or votes in the name of some other person living or dead, or a fictitious person, shall be guilty of a corrupt practice and commits the offence of personation.

(2) Any person who commits the offence of personation, or who aids, abets, counsels or procures the commission of that offence shall be liable on conviction to a fine of fifty pounds or to imprisonment for a term of six months, or to both ; and for any second or subsequent offence may be imprisoned for a term of twelve months.

(3) No person charged with the offence of personation shall be convicted except on the evidence of at least two witnesses.

Personation.

(4) For the purposes of this section, a person commits or shall be deemed to commit the offence of personation if, having voted once at an election, he applies during that election for a second ballot paper in his own name, whether at the same polling station or elsewhere in the constituency, or while disqualified for a previous offence, he applies under any name other than that by which he is usually known to be registered or votes at an election.

**Treating.**

80. Every person shall be guilty of a corrupt practice and commits the offence of treating who,—

(a) corruptly by himself or by any other person at any time between the dissolution of Parliament and the return of the writs, or the issue of and return of the writ in the case of a by-election, or as the case may be in any other election directly or indirectly gives or provides or pays wholly or in part, the expense of giving or providing any food, drink, entertainment or provision to or for any person for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election ; or

(b) being an elector, corruptly accepts or takes any such food, drink, entertainment, or provision during any such period,—

and shall be liable on conviction to a fine of one hundred pounds or to imprisonment for the term of twelve months, or to both.

**Undue influence.**

81. Any 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 who 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 anyone to vote or refrain from voting, or on account of anyone 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 use of the vote by any elector or thereby compels, induces or prevails upon any elector either to give or refrain from giving his vote at any election, shall be guilty of a corrupt practice and commits the offence of undue influence, and shall be liable on conviction to a fine of one hundred pounds or to imprisonment for the term of twelve months, or to both.

**Bribery.**

82.—(1) Any person shall be guilty of a corrupt practice and commits the offence of bribery who,—

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

(b) 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 to or for any person



on behalf of any elector, or to or for any other person, in order to induce any elector to vote 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 ; or

(c) directly or indirectly, by himself or by any other person on his behalf, makes any gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person, in order to induce such person to procure or to endeavour to procure, the return of any person as a member of the House of Representatives or the vote of any elector at any election ; or

(d) upon or in consequence of any gift, loan, offer, promise, procurement or agreement as aforesaid, procures, or engages, or promises or endeavours to procure, the return of any person as a member of the House of Representatives or the vote of any elector at any election ; or

(e) advances or pays, or causes to be paid any money to or for the use of any other person, with the intent that such money or any part thereof, shall be expended in bribery at any election, or who knowingly pays, or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election ; or

(f) 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.

(2) Any elector shall be guilty of a corrupt practice and commits the offence of bribery who before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election.

(3) Nothing in this section shall extend or apply to money paid or agreed to be paid for or on account of any legal expenses *bona fide* incurred at or concerning any election.

(4) Any person who commits the offence of bribery, shall be liable on conviction to a fine of one hundred pounds or to imprisonment for a term of twelve months, or to both.

83. Any person guilty of a corrupt practice who is convicted of the offence of personation, treating, undue influence, or bribery or is convicted of aiding, abetting, counselling or procuring the commission of the offence of personation or, being convicted of any other offence under this Part of this Act is deemed for the purposes of this section to be guilty of a corrupt practice shall, in addition to any other penalty, be disqualified during a period of five years from the date of his conviction,—

(a) from being registered as an elector or voting at any election ; or

(b) from being elected under this Act or if elected before his conviction, or retaining his seat as a member of the House of Representatives.

Disqualifica-  
tion for  
certain  
corrupt  
practices.

Requirement  
of secrecy.

84.—(1) Every officer charged with the conduct of an election in a constituency and his assistants, and every polling agent, counting agent and candidate in attendance at a polling station or at the counting of the votes, as the case may be, shall maintain and aid in maintaining the secrecy of the voting.

(2) No person in attendance at a polling booth under this section shall, except for some purpose authorised by law, the proof whereof shall lie upon him, communicate before the poll is closed to any person information as to the name or number on the register of electors of any elector who has or has not voted at the place of voting.

(3) No person shall—

(a) interfere with an elector recording his vote, or by any other means obtain or attempt to obtain in a polling station information as to the candidate for whom an elector in that place is about to vote or has voted; or

(b) communicate at any time to any other person information obtained in a polling station as to the candidate for whom an elector in that place is about to vote or has voted.

(4) Any person acting contrary to the provisions of this section commits an offence and shall be liable upon conviction to a fine of fifty pounds or to imprisonment for a term of six months, or to both; and shall in addition to the penalty imposed on conviction be deemed to be guilty of a corrupt practice for the purposes of section eighty-three of this Act, and that section shall have effect accordingly.

Wrongful  
voting and  
false state-  
ments.

85. Any person who—

(a) votes at an election or induces or procures any person to vote at an election, knowing that he or such person is prohibited from voting thereat; or

(b) before or during an election, publishes any statement of the withdrawal of a candidate at such election knowing it to be false or recklessly as to its truth or falsity, and the statement is likely to promote or procure the election of another candidate; or

(c) before or during an election publishes any statement as to the personal character or conduct of a candidate calculated to prejudice the chance of election of the candidate and to promote or procure the election of another candidate and such statement is false and was published without reasonable grounds for belief by the person publishing it that the statement was true,—

shall be guilty of an illegal practice and liable on conviction to a fine of fifty pounds or to imprisonment for a term of six months, or to both; and shall in addition to any penalty imposed on conviction, be deemed to be guilty of a corrupt practice for the purposes of section eighty-three of this Act, and that section shall have effect accordingly.

Voting by  
unregistered  
person.

86.—(1) Any person who knowingly votes or attempts to vote in a constituency in respect of which his name is not on the register of electors shall be guilty of an offence and liable on conviction to a fine of fifty pounds or to imprisonment for a term of six months, or to both.

(2) Any person who at an election brings into a polling station a ballot paper issued to another person shall be guilty of an offence and liable on conviction to a fine of fifty pounds or to imprisonment for six months or to both.

(3) Where any person is convicted of an offence under this section he shall in addition to any penalty imposed on conviction, be deemed to be guilty of a corrupt practice for the purposes of section eighty-three of this Act, and that section shall have effect accordingly.

87. Any person who at an election acts or incites others to act in a disorderly manner for the purpose of preventing or obstructing the conduct of such election shall be guilty of an offence and be liable on conviction to a fine of fifty pounds or to imprisonment for a term of six months, or to both.

Disorderly  
conduct at  
elections.

88.—(1) No person shall on the date on which an election is held do any of the following acts or things in a polling station or within a distance of two hundred yards of a polling station that is to say,—

Offences on  
election day.

(a) canvass for votes;

(b) solicit the vote of any elector ;

(c) persuade any elector not to vote for any particular candidate ;

(d) persuade any elector not to vote at the election ;

(e) shout slogans concerning the election ;

(f) be in possession of any offensive weapon or wear any dress or have any facial or other decoration which in any event is calculated to intimidate voters ;

(g) exhibit, wear or tender any notice, symbol, photograph or party card referring to the election ;

(h) use any vehicle bearing the colours or symbol of a political party by any means whatsoever other than by way of a flag kept furled so as not to disclose the colours or symbol ;

(i) display by any means on a vehicle the name or photograph of a candidate ;

(j) loiter without lawful excuse after voting or being refused a vote.

(2) No person shall in a constituency on the date on which an election is held,—

(a) convene, hold or attend any public meeting ; or

(b) unless appointed under this Act to make official announcements, operate any megaphone, amplifier or public address apparatus for the purpose of making announcements concerned with the election ;  
or

(c) wear or carry any badge, poster, banner, flag or symbol relating to a party or to the election.

(3) Any person acting contrary to any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine of one hundred pounds or imprisonment for a term of one year or to both, for every such offence.

89. Where any person is convicted of an offence under this Part of this Act, the effect of which is to disqualify such person from being registered as an elector, or from being elected as a member of the House of Representatives, the court by which he is convicted shall notify the Electoral Commission of the conviction ; and in the event of an appeal the court hearing the appeal shall give notice of the result of such appeal to the Electoral Commission.

Electoral  
Commission  
to be notified  
of certain  
convictions.

## PART IV.—ELECTION PETITIONS

Election  
petition.

90. No election and no return to the House of Representatives in respect of a constituency shall be questioned except by a petition complaining about the election or the return, presented to the High Court of the Region where the constituency is, not later than twenty-one days after the date of the election.

Presentation  
of petition.

91.—(1) A petition may be presented by one or more of the following persons—

(a) a person whose name is in the register of electors ;

(b) a person claiming to have had a right to be elected or to be returned at the election, or

(c) a person alleging himself to have been a candidate at the election.

(2) The Electoral officer in the constituency affected shall in any proper case be joined as a party to the petition.

Grounds for  
petition

92.—(1) An election may be questioned on any of the following grounds, that is to say,—

(a) that a person whose election is questioned was, at the time of the election, not qualified, or was disqualified from being elected as a member of the House of Representatives ;

(b) that the election was invalid by reason of corrupt practices or non-compliance with the provisions of Part II of this Act ;

(c) that the respondent was, at the time of the election, not duly elected by a majority of lawful votes at the election ;

(d) that the petitioner was validly nominated but was unlawfully excluded from the election.

(2) An act or omission which is contrary to an instruction or direction of the Electoral Commission or of any officer appointed for the purpose of the election, but which is not contrary to Part II of this Act, shall not of itself be grounds upon which an election may be questioned.

Substantial  
compliance  
with electoral  
provisions.

93.—(1) An election shall not be invalidated by reason of non-compliance with Part II of this Act if it appears to the court having cognizance of the question that the election was conducted substantially in accordance with the provisions of the said Part II and that the non-compliance did not affect the result of the election.

(2) An election shall not be questioned by reason of a defect in the title or want of a title of the person conducting election, if that person was then in actual possession of, or acting in, the office giving the right to conduct an election.

Decisions as  
to vacancy  
for High  
Court.

94.—(1) Any question as to whether the seat of any member of the House of Representatives has become vacant shall be referred to and be decided by the High Court in accordance with the procedure prescribed for the trial of a petition.

(2) Proceedings under this section in relation to a question as to whether the seat of a member of the House of Representatives has become vacant may be instituted by any person who is qualified as an elector in the constituency which the elected member represents.

(3) The court shall certify its decision in writing to the Electoral Commission.



95.—(1) An appellant may, notwithstanding the provisions of any other Act as to the requirement of notice, appeal to the Federal Supreme Court by notice of motion from a decision on a petition or from a decision under section ninety-four of this Act as the case may be, within twenty-one days of the decision.

Time for  
appeal and  
security for  
costs.

(2) Every appellant under this section shall pay into the Consolidated Revenue Fund by way of deposit and as security for costs the sum of five hundred pounds, and the receipt for the sum so deposited shall be exhibited with any affidavit filed in support of the appeal.

96. Appeals from decisions on petitions and from decisions under section ninety-four of this Act shall, in respect of any hearing by the Federal Supreme Court, enjoy precedence over all civil proceedings other than those which are part heard.

Priority in  
respect of  
election  
petitions.

97.—(1) If the court determines that a candidate returned as elected was not duly elected, the candidate declared by it as elected shall, from the time of the decision of the court unless the Federal Supreme Court on appeal otherwise decides, be duly elected.

Effect on  
election  
return of  
notice of  
appeal.

(2) If the court determines that a candidate returned as elected was not duly elected and that the election was void, and notice of appeal from such determination is given within twenty one days, the candidate returned as elected shall, notwithstanding the decision of the court, be deemed to have been duly elected for the period until the determination of the Federal Supreme Court is given on the appeal or the appeal is abandoned, as the case may be.

98.—(1) Before presenting a petition the intending petitioner shall apply to the court by motion *ex parte* accompanied by a copy of the intended petition, for an order as to the amount of the security to be given by him, and as to the manner in which it is to be given. If the petitioner is for any sufficient reason unable to give the security at the time of presenting the petition, he shall set out the reason in an affidavit to be filed with the motion, and the application shall include a request as to the time at or within which the security is to be given.

Application  
to court for  
preliminary  
order as to  
costs.

(2) The application shall, in respect of the right to priority of hearing by the court, enjoy precedence over all other proceedings, whether civil or criminal, and whether part heard or not.

(3) Upon the hearing of the application, the court with or without requiring the intending petitioner to give further particulars or produce evidence, shall make an order fixing the amount of the security in the sum of one hundred pounds or such greater amount as it thinks fit and stating whether the security is to be given by depositing the amount in court, or by recognizance for that amount, or partly by deposit and partly by recognizance, and by the same or any further order the court may fix the time within which the security is to be given.

99.—(1) A petition shall be deemed to be filed if left with the registrar by the petitioner or his solicitor; and the registrar shall, if required, give a receipt in the Form numbered nine in Part II of the First Schedule to this Act. The petitioner or his solicitor shall leave with the petition, a copy for each respondent and seven other copies.

Presentation  
of election  
petition.



(2) The petition shall be substantially the same in form and content as the copy of the intended petition accompanying the application as to security for costs made under section ninety-eight of this Act; and if not in that form, the court may refuse to accept it or may receive it subject to such conditions as it thinks fit.

(3) The registrar shall compare the copies with the original of the petition left with him and shall certify each as a true copy.

(4) The fees for the service and publication, and for certifying the copies shall be paid at the time of filing the petition; and the petitioner shall pay into court, pending the direction of the court as to publication of the petition, by way of deposit an amount sufficient to defray the expenses of publishing the petition in a local newspaper. No petition shall be received without payment of the fees and the deposit unless the court otherwise orders.

Contents of  
election  
petition.

100.—(1) A petition shall be in the Form numbered ten in Part II of the First Schedule to this Act or to the like effect and shall include brief statements,—

(a) of the right of the petitioner to present the petition; and

(b) of the holding and result of the election and of the facts and grounds relied upon to sustain the prayer of the petition.

(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, without the approval of the court, be allowed for drawing up or copying any petition which does not substantially comply with the requirements of this subsection.

(3) The petition shall conclude with a prayer that the person specified therein may be declared duly returned or elected, or that the election may be declared void, as the case may be; and the petition shall be signed by the petitioner or if he has a solicitor by his solicitor named at the foot of the petition.

(4) At the end of the petition there shall be stated an address for service within a radius of three miles of a post office in the area of jurisdiction of the court, and the name of its occupier, at which address documents intended for the petitioner may be left. There shall also be added a note signed by the petitioner, giving the name of his solicitor, or stating that he acts for himself, as the case may be; and if an address for service and its occupier are not stated in the petition, it shall not be filed unless the court otherwise orders.

Further  
particulars.

101. The court may order further particulars to be included in a petition so as to prevent surprise and unnecessary expense and to ensure a fair and effectual trial as if the petition were a civil action in the High Court, and the order may be made upon such terms as to costs and otherwise as the court thinks fit; but subject thereto it shall not be necessary to include evidence in the petition.

Security.

102.—(1) At the time of filing the petition, or within such extended time as may be thereafter allowed by the court upon application made *ex parte* or on notice as the court may direct under this Part of this Act, the petitioner shall give security for the amount fixed by the court; and as directed by the court, the petitioner shall deposit the amount in court or give security by recognizance for the amount, or secure the amount partly by deposit and partly by recognizance.

(2) Security for the amount fixed by the court shall, unless the court otherwise orders, be sufficient even where two or more petitioners join in the petition.

103.—(1) A recognizance in the Form numbered eleven in Part II of the First Schedule to this Act may be entered into by any number of sureties not exceeding four, none of whom shall be the petitioner or any one of the petitioners. The recognizance shall contain the name and usual place of abode of each surety, with such sufficient description as shall enable him to be found or ascertained.

Recognizances.

(2) The recognizance may be acknowledged before the court or the registrar or a magistrate, and there may be one recognizance acknowledged by all the sureties, or separate recognizances by one or more, as may be convenient.

(3) At the time of filing any recognizance there shall be left for each respondent a copy thereof and a copy of every affidavit of sufficiency of a surety which it is desired to file for the purposes of this Part of this Act, as well as three other copies of any recognizance and of every affidavit of sufficiency of a surety; and the registrar shall compare all copies with the original and shall certify each as a true copy of the original. The fees for certifying each copy and for service shall be paid by the petitioner when filing the recognizance.

(4) The certified copy of the recognizance, and of any affidavit of sufficiency of a surety which has been filed for the purposes of this Part of this Act, or a notice in the Form numbered twelve in Part II of the First Schedule to this Act of the making and amount of any deposit, or both such certified copy or copies and notice, as the case may be, shall be served on or furnished to the respondent at the expense of the petitioner, and the original recognizance and affidavit may be inspected by the respondent at the Registry on payment of the appropriate fees.

104.—(1) The respondent, within six days after being served or furnished with the documents mentioned in section one hundred and three of this Act may object to the security by motion on notice to the petitioner, and the motion shall, unless the court otherwise orders, be set down for hearing on the first available day.

Objection to security.

(2) An objection to the security shall set out, as the case may require, that the security is insufficient because the amount is inadequate or that the sureties to a recognizance or any and which of them, are insufficient, or that a surety is dead, or cannot be found, or that a recognizance is invalid as not having been duly acknowledged by some person named therein, or is otherwise invalid.

(3) At the hearing of the motion the petitioner shall produce any surety to whom objection is taken to the court for examination if required, or shall account for his failure to produce such surety; and the hearing and decision may be on affidavit or personal examination of witnesses or both, as the court may think fit.

105.—(1) The court hearing the motion may make such order as it thinks fit on the objection, but the security ordered shall not be less than one hundred pounds.

Form of order.

(2) If the court hearing the motion allows the objection it shall direct in what amount the security will be sufficient and in what manner and within what time the objection is to be removed; and if the peti-

tioner fails to comply with the terms of any order made by the court, no further proceedings shall, without the authority of the court, be heard on the petition.

(3) The order made on the motion may affix liability for the costs; but if the petitioner has failed to file an affidavit of sufficiency of any surety in the Form numbered thirteen in Part II of the First Schedule to this Act at the time of presenting any recognizance, the petitioner shall be liable for such costs. Where no provision is made for costs, then subject to this subsection they shall form part of the general costs of the petition.

Election  
petition]  
at issue.

106. When the time limited for objecting to the security has expired and all objections have been dealt with the petition shall be at issue.

Variation  
of security.

107.—(1) The respondent may, at any time after the time limited for objecting to the security has expired and all objections have been dealt with, apply to the court by motion upon notice to the petitioner, for an order to vary the security or for further or better security, upon the grounds that new evidence has come to his knowledge after the expiry of the time for objecting which might render the security insufficient.

(2) At the hearing of the motion the petitioner shall produce any surety to whom objection is taken to the court for examination if required, or shall account for his failure to produce such surety; and the hearing and decision may be either on affidavit or personal examination of witnesses or both, as the court may think fit.

(3) The court hearing the motion may make an order varying the security or may direct further or better security, or may refuse to make the order desired; and where an order is made and the petitioner fails to vary the security or give further or better security, as the case may be, no further proceedings shall be heard on the petition.

(4) The order made on the motion may affix liability for the costs; and if no provision is made in the order as to costs, they shall form part of the general costs of the petition.

Address for  
service.

108. The petitioner shall, for the purpose of service of the petition on the respondent, give to the registrar the address of the respondent; or if that address is not within a radius of three miles of the court house, he shall give such other addresses within that radius where personal service can be effected on the respondent, if known to the petitioner.

Service of  
notice, etc.,  
of election  
petition.

109.—(1) If a petition is filed and the fees are paid, the registrar shall—

(a) serve notice in the Form numbered fourteen in Part II of the First Schedule to this Act of the presentation of the petition, together with a certified copy of the petition on the respondent;

(b) post up on the court notice board a certified copy of the petition;

(c) send a certified copy of the petition to the Electoral Commission; and

(d) where the court so directs, cause a certified copy to be published in the Gazette or in newspaper published in Nigeria and circulating in the constituency, or in both the Gazette and such newspaper.

(2) In the notice of presentation of the petition the registrar shall state a time, not being less than five days or more than fifteen days after the date of service of the notice, within which the respondent shall enter an appearance. The registrar shall, in fixing such time, take into consideration the need for early trial of the petition, and the distance from the Registry of the address for service on the respondent given by the petitioner under this Part of this Act.

110.—(1) Subject to the provisions of this section, the notice and copy of the petition and any other documents to be delivered to the respondent before he enters an appearance, shall be served on him personally and service shall not be effected in any other manner.

Personal  
service of  
notice, etc.

(2) If personal service is not able to be effected on the respondent because he cannot be found at the address or addresses given to the registrar, an *ex parte* application by the petitioner supported by affidavit showing what has been done may be made to the court, and the court if satisfied that all reasonable efforts have been made to effect personal service, may give such directions as it thinks fit for substituted service under the rules of court; and any such substituted service shall be sufficient service for the purposes of this section.

(3) The proceedings under the petition shall not be avoided by reason only of the fact that the respondent has not been served personally or that any document of which substituted service has been effected pursuant to any direction of the court under subsection (2) of this section did not reach the respondent; and the proceedings may be had and continued as if the respondent had been served personally with any such document and shall be valid and effective for all purposes.

111.—(1) Where the respondent intends to oppose the petition he shall, within the time limited in the notice of presentation of the petition, or if an order for substituted service has been made under section one hundred and ten of this Act then within the time prescribed by the court, enter an appearance by filing in the Registry a memorandum of appearance stating that he intends to oppose the petition and giving the name and address of his solicitor, or stating that he acts for himself, as the case may be. The respondent shall also give an address for service within a radius of three miles of a post office in the area of jurisdiction of the court, and the name of its occupier, at which documents intended for the respondent may be left. If no address for service is given or the name of the occupier at the address for service is omitted, the memorandum of appearance shall not be filed without the leave of the court.

Entry of  
appearance.

(2) The memorandum of appearance shall be signed by the respondent, and may be filed by him or by any solicitor acting for him.

(3) On the filing of the memorandum of appearance the respondent or his solicitor shall leave a duplicate of the memorandum with the registrar for every other party to the petition together with three additional duplicates, and shall at the same time pay to the registrar the fees for service. If the duplicates are not so left and the fees paid, the memorandum shall not be filed without the leave of the court.

112. If the respondent fails to enter an appearance, any document intended for the respondent may be affixed to the court notice board and the fact that it is on such notice board shall be sufficient notice for any of the purposes of this Part of this Act.

Default of  
appearance  
by respon-  
dent.



Notice of  
appearance to  
be served.

Reply by  
respondent.

113. The registrar shall serve a duplicate of the memorandum of appearance upon, or give notice of it to all other parties to the petition.

114.—(1) The respondent shall within six days of entering an appearance file a reply in the Registry; and the reply, shall state the facts and grounds alleged in the petition which the respondent admits or denies, and the facts and grounds on which he relies to oppose the petition.

(2) Where the respondent to a petition complaining of an undue return and claiming the seat or office for some person intends to prove that the election of such person was undue, the respondent in his reply shall state that intention and set out the facts and grounds on which he relies in support thereof. The reply may be signed and filed by the solicitor for the respondent.

(3) When the respondent or his solicitor files the reply he shall leave with the registrar a duplicate for every other party to the petition together with three further duplicates and shall at the same time pay the fees for service. If the duplicates are not so left and the fees paid the reply shall not be filed without the leave of the court.

(4) The registrar shall serve a duplicate of the reply upon all other parties to the petition.

Amendment  
of election  
petitions.

115.—(1) Subject to the provisions of this section,—

(a) no petition shall be amended except by leave of the court, and the court may on any application for leave to amend grant the same if it appears that the respondent will not be prejudiced by the amendment; but otherwise the court may refuse leave or grant the same on such terms as to notice, postponement of trial or costs as the case may require:

(b) any variance between the terms contained in the petition and the items proved at the hearing may be amended at the hearing, either at once or on such terms as to a notice, adjournment or costs as the case may require:

(c) the court may at any stage of the proceedings either of its own motion or on the application of either party, order the petition or the reply if any, to be amended, whether the defect or error be that of the party applying to amend or not; and all such amendments as may be necessary or proper for the purpose of eliminating all statements which may tend to prejudice, embarrass or delay the fair trial of the suit, and for the purpose of determining in the existing suit the real questions or question in controversy between the parties shall be so made, but the order shall be made upon such terms as to costs or otherwise as shall seem just.

(2) After the expiry of the time limited by this Part of this Act for presenting a petition, no amendment shall be made for the purpose of introducing any fresh prayer into the petition, or effecting any alteration of substance in the prayer or, save as to anything which may be done under the provisions of the next succeeding subsection, for the purpose of effecting any substantial alteration in or addition to the statement of facts and grounds relied upon to sustain the prayer.

(3) After the time limited by this Part of this Act for filing the reply, no amendment shall be made thereto alleging that the election of the person for whom the seat or office is claimed in the petition was undue or,



save as to anything which may be done under the provisions of subsection (2), effecting any substantial alteration in or addition to the admissions or the denials contained or the facts and grounds set out in the reply.

(4) The court in the trial and determination of the petition shall not be obliged to confine its inquiry or findings to the issues raised by the petition and the reply; and subject to the provisions of this Part of this Act as to time for presentation of a petition, may, with or without ordering or allowing the amendment to any statement of the facts and grounds relied upon in support of the petition or the amendment of any admission or denial contained or facts or grounds set out in the reply, inquire into any other issue otherwise raised or apparent or any matter otherwise appearing, as to the court may seem necessary for the proper determination of the petition.

116.—(1) When a petitioner claims the seat for an unsuccessful candidate, alleging that he had a majority of lawful votes, any party complaining of and any party defending the election shall, within six days after the filing of the reply, or where no appearance is entered, not less than six days before the day fixed for trial, file in the Registry a list of the votes intended to be objected to by him and of the heads of objection to each such vote. No evidence shall be given to challenge the validity of any vote or upon any head of objection not specified in the list except by leave of the court given upon such terms as to amendment of the list, postponement of the trial and payment of costs as the court may think fit.

List of  
objections  
to votes.

(2) The party filing the list shall at the same time deliver to the registrar a duplicate for every other party to the petition together with three other duplicates and shall pay the appropriate fees for service; and if default is made in the delivery of the duplicates and in the payment, the list shall not be filed without the leave of the court.

(3) The registrar shall cause a duplicate of the list to be served on every other party forthwith.

117.—(1) When the respondent in a petition complaining of an undue return and claiming the seat for some person intends to give evidence to prove that the election of such person was undue, the respondent shall, within six days after the filing of the reply, file in the Registry a list of the objections to the election upon which he intends to rely. No evidence shall be given by a respondent of any objection to the election not specified in the list, except by leave of the court given upon such terms as to amendment of the list, postponement of the trial, and payment of costs as the court may think fit.

List of  
objections  
to election.

(2) The party filing the list shall at the same time deliver to the registrar a duplicate of the list for every other party to the petition together with three other duplicates, and shall pay the appropriate fees for service. If the party filing the list fails to deliver the necessary duplicates or to pay the fee, the list shall not be filed without the leave of the court.

(3) The registrar shall forthwith after the filing of the list cause a duplicate of the list to be served on every other party.

Further particulars or directions.

118.—(1) Where a party to a petition seeks further particulars or other directions of the court, he may, at any time after the entry of appearance, but not later than ten days after the filing of the reply, apply to the court by motion and shall specify in his notice the further particulars or other directions sought; and the motion shall, unless the court otherwise directs, be set down for hearing on the first available day.

(2) The party applying shall give notice of his motion to the other parties, and where he relies on any facts which are not apparent on the face of the documents already filed, he shall file an affidavit in support of his motion.

(3) If a party does not so apply, he shall be deemed to require no further particulars or other directions; and no application shall be received or filed after the expiry of the time prescribed in subsection (1) except with the leave of the court, given on a motion supported by affidavit after notice to the other parties, in any proper case, and on such terms as to costs and otherwise as the court thinks fit.

Time and place of hearing of petition.

119.—(1) Every petition shall be tried in open court and petitions under this Act shall have precedence over proceedings other than those part heard; and subject to the provisions of this section the time and place of the trial of a petition shall be fixed by the court. Notice of the time and place of the trial in the Form numbered fifteen in Part II of the First Schedule to this Act shall be given by the registrar at least fourteen days before the day fixed for the trial—

(a) by posting the notice on the court notice board; and

(b) by sending a copy of the notice by registered post or messenger to the petitioner's address for service, and to the respondent's address for service if known, and by delivering a copy to the Electoral Commission.

(2) Notwithstanding the provisions of subsection (1), if all the parties to the petition consent to the holding of the trial of the petition at a place of sessions other than the place described in subsection (1), the place of the trial of the petition may in the discretion of the court be that place of sessions.

(3) If the election was held in a place ordinarily visited for sitting of the court (in this subsection referred to as a "place of sessions"), the place of trial of the petition shall be the place where the election was held. If the election was not held in a place of sessions, the place of trial shall be a place of sessions within the constituency, and if there are more than one place of sessions within the constituency, shall be the one nearest to, or most conveniently accessible from, the place where the election was held; and where there is in the constituency no place of sessions, the place of trial shall be the place of sessions outside the constituency nearest to, or most accessible from, the place where the election was held.

Notice of trial.

120.—(1) The Electoral Commission shall, if it thinks fit, give notice of the trial of the petition by causing the copy delivered to it under section one hundred and nineteen of this Act to be affixed at the place appointed for the delivery of nomination papers, or at some conspicuous place within the constituency; but failure to affix such copy shall not affect the proceedings.

(2) The posting of the notice of trial on the court notice board shall be sufficient notice notwithstanding that any other copies dispatched under section one hundred and nineteen of this Act may not have been delivered.

121.—(1) If application for postponement of the trial is made on the motion of any party supported by affidavit after notice to the other parties the court shall take into consideration the precedence to be accorded petitions, and may by order or notice in such form as it thinks fit, postpone the beginning of the trial to some more convenient day.

Postponement of trial of petition.

(2) A copy of any order or notice postponing the beginning of the trial shall be sent by the registrar by registered post or messenger to the Electoral Commission, and the Electoral Commission shall publish the order or notice in the manner prescribed by this Part of this Act for the publication by it of the notice of trial; but the failure to publish the order or notice shall not affect the proceedings.

(3) If the court of its own motion directs postponement, a copy of the direction shall be sent by the registrar by registered post or messenger to the address for service given by the petitioner and to the address for service, if any, given by the respondent.

(4) The registrar shall post or cause to be posted on the court notice board a copy of any order, notice or direction under this section; and the posting of a copy of the order, notice or direction by the registrar shall be sufficient notice notwithstanding that any other copies may not have been delivered.

122. If the judge fails to arrive at the time appointed for the trial of the petition, or at the time to which the trial is postponed, the trial shall stand adjourned to the following day, and so from day to day.

Non-arrival of judge.

123. No formal adjournment of the court for the trial of a petition shall be necessary, but the trial shall be deemed adjourned and may be continued from day to day until the inquiry is concluded; and if the judge who begins the trial is disabled by illness or otherwise, the trial may be recommenced and concluded by another judge.

Continuance of trial.

124. If for any reason after the trial begins the inquiry cannot be continued on the next ensuing day the trial shall not be adjourned *sine die* but to a definite day to be announced before the rising of the court, and notice of the day to which the trial is adjourned shall forthwith be posted by the registrar on the court notice board.

Adjournment.

125.—(1) All interlocutory questions and matters shall be heard and disposed of before a judge, who shall have the same control over the proceedings as a judge in the ordinary proceedings of the court.

Powers of judge.

(2) If the judge before whom the petition was tried has prepared his judgment but is unable to deliver it through illness or otherwise, his judgment may be delivered by another judge and the judgment so delivered shall be the judgment of the court; and the judge delivering the judgment shall certify the determination of the petition to the Electoral Commission.

126. The court shall determine what person was duly returned or elected, or whether the election was void, as the case may be, and shall certify its determination to the Electoral Commission; and unless an appeal is made to the Federal Supreme Court, the election shall stand confirmed or a fresh election shall be held on a date to be appointed by the Electoral Commission.

Effect of determination.

Withdrawal,  
etc., of  
petition.

127.—(1) No petition shall be withdrawn without the leave of the court; and where there are more petitioners than one, the application for leave to withdraw a petition shall not be made except with the consent of all the petitioners.

(2) Application for leave to withdraw a petition shall be made by motion in the Form numbered sixteen in Part II of the First Schedule to this Act or to the like effect after notice to the respondent and to the Attorney-General; and the notice of motion shall state the ground on which the application is intended to be supported, and shall be signed by the petitioners or their solicitor in the presence of the registrar.

(3) At the time of filing the notice the petitioners shall leave a duplicate for each respondent and two duplicates for the Attorney-General, and shall file affidavits required under this Part of this Act and leave duplicates thereof for each respondent and two duplicates for the Attorney-General, and shall pay the fees prescribed for service and for the making of a copy of the proceedings for the use of the Attorney-General.

Affidavits  
in support  
to be filed.

128.—(1) Before leave to withdraw a petition is granted, affidavits by all parties to the petition and their solicitors shall be filed in support of the application for withdrawal; but the court on cause shown, may if satisfied, dispense with the affidavit of any particular person.

(2) Every affidavit for the purposes of this section shall state the grounds for withdrawal of the petition and shall include a statement 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 agreement has been made with respect to the withdrawal of the petition, the affidavit shall disclose the agreement, and the deponent shall swear or affirm accordingly.

(3) Where more than one solicitor acts for the petitioner or respondent, whether as agent for another solicitor or otherwise, affidavits shall be made by all such solicitors.

Motion for  
leave to  
withdraw.

129.—(1) The Court shall, when fixing the time for hearing the motion for leave to withdraw a petition, allow sufficient time for the Attorney-General to intervene in the petition if he thinks fit; and the registrar shall give notice to the Attorney-General and the respondents of the time fixed for the hearing, and shall post on the court notice board a copy of the notice of motion and of the time fixed for the hearing.

(2) When the notice of motion is filed, the registrar shall prepare a copy of the proceedings and deliver a certified copy thereof to the Attorney-General not less than fourteen days before the day appointed for the hearing.

Hearing of  
motion.

130. On the hearing of the motion for leave to withdraw a petition the Attorney-General may appear to oppose the motion; and if the petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.



131.—(1) Subject to the provisions of this section, if all petitioners die, no further proceedings shall be had upon the petition; but the death of any petitioner shall not affect his liability for the payment of costs incurred before his death.

Abatement  
on death  
of peti-  
tioners.

(2) Where notice, with a duplicate for each other party, supported by the affidavit of two witnesses testifying to the death is given to the registrar, the registrar shall notify the parties, and any party affected may apply to the Court by motion *ex parte* for directions; and the court or judge may give such directions as to notice and other matters as the case may require.

132.—(1) If before the trial of a petition, the respondent gives notice to the court in writing signed by him or his solicitor before the registrar that he does not intend to oppose the petition, the registrar shall notify the other parties and the Attorney-General, and shall post a notice thereof on the court notice board.

Withdrawal  
of opposi-  
tion.

(2) The respondent shall file with the notice a duplicate for every other party and two duplicates for the Attorney-General not less than six days before the day appointed for trial.

(3) A respondent who gives notice of his intention not to oppose the petition shall not appear or act as a party against the petition in any proceedings upon it: but he shall not cease to be a respondent by reason only of the giving of such notice.

(4) The registrar shall as soon as possible deliver a certified copy of the proceedings to the Attorney-General; and the Attorney-General may, within twenty-one days of the sending of such copy, apply to be substituted or added as a respondent, and the court may substitute or add the Attorney-General accordingly.

133. Where the respondent within the prescribed time or such extended time as the court may allow fails to enter an appearance or to file a reply, the registrar shall notify the Attorney-General; and the Attorney-General may, within twenty-one days from the receipt of the notice, apply to be substituted or added as a respondent, and the court may substitute or add the Attorney-General accordingly.

Default in  
appearance  
or reply.

134. If the registrar is notified of the intention of the petitioner to apply for leave to withdraw his petition, or of the death of the petitioner, or of the intention of the respondent not to oppose the petition, or of the occurrence of any event whereby the seat of the respondent otherwise becomes vacant, he shall forthwith countermand the trial; and notice thereof shall be given as nearly as may be as if it were a notice of trial.

Counter-  
mand of  
notice  
of trial.

135. Where the respondent fails to enter an appearance, or to file his reply within the prescribed time or within such extended time as the court may allow, or gives notice that he does not intend to oppose the petition, and,—

Discre-  
tion of  
court if  
no appear-  
ance, etc.

(a) there remains no more than one other candidate in the election in the constituency who was not returned, and

(b) the petition contains no prayer for a determination that the election was void, and

(c) there are no facts or grounds stated in the petition or in any reply thereto, or in any further particulars filed in the proceedings, or otherwise appearing, upon proof of which it ought to be determined that the election was void, and



(d) the petition is one complaining of an undue return and claiming the seat for the candidate who was not returned, but the respondent has not filed a list of objections under the provisions of section one hundred and seventeen of this Act,—

the court if it thinks fit and after hearing the Attorney-General if he appears, may determine the proceedings upon the petition without hearing evidence or further evidence as the case may be; but otherwise the proceedings shall, whether or not the Attorney-General is heard, be continued, and the court may determine the petition upon such evidence as it deems necessary.

Information as to seat becoming vacant.

136.—(1) Where the court is informed of the occurrence of any event the effect of which would be that if the determination of the petition is that the respondent was duly elected the seat of the respondent would become vacant, the court may fix a day for inquiry, and if the court is satisfied as to the occurrence of the event, the Attorney-General may, within fourteen days of the conclusion of the inquiry, apply to the court to be substituted or added as a respondent, and, the court may substitute or add the Attorney-General as a respondent accordingly.

(2) The registrar shall give to the parties and to the Attorney-General notice of the information received and of the day fixed for the inquiry in such form as the court may direct, and shall deliver a similar notice to the returning officer for publication in the constituency; and where the court so directs shall cause a similar notice to be published in the Gazette.

(3) If upon the inquiry the court is satisfied of the occurrence of any event the effect of which would be that the seat of the respondent would become vacant in the circumstances mentioned in subsection (1), of this section, the court shall have the same discretion as in the case of the failure of the respondent to enter an appearance or for any other cause as prescribed in section one hundred and thirty-five of this Act.

Fees.

137.—(1) The fee payable on the filing of a petition shall be twenty-five pounds; and the petitioner shall at the same time deposit the sum of seven pounds as a hearing fee.

(2) The cost of the hearing shall not exceed the amount deposited, and shall be payable for the trial at the rate of one pound for each day thereof; but the court in its discretion may direct a lower fee to be charged for any day of the trial.

(3) All other fees payable in connection with a petition shall be paid at the rates prescribed for fees in civil proceedings in a High Court; but no fees shall be payable by the Attorney-General or in respect of the summoning of witnesses by the court on its own motion, and any charges payable for the service of subpoenas on any witnesses summoned by the court may be paid by the registrar in the same way as the expenses of a crown witness are paid.

Allocation of costs.

138.—(1) All costs, charges and expenses of and incidental to the presentation and trial of a petition unless otherwise provided for in this Part of this Act shall, if allowed by the court, be paid by the parties to the petition in such manner and in such proportions as the court may determine; and the court may disallow costs, charges or expenses which in the opinion of the court were caused by the vexatious conduct or unfounded allegations or objections of the petitioner or the respondent, or may affix with costs a successful party in any proper case.

(2) Where the court declares an election to be void, and the court is satisfied that in whole or in part, the invalidity was caused by the wilful default of any officer responsible for the conduct of the election in the performance of his duties under this Act, it may order that the costs awarded to the successful petitioner shall be paid wholly or partly by that officer.

139. When any money deposited as security for costs is no longer required as security therefor, any balance after payment of costs shall be returned to the person in whose name it was deposited, or to any other person entitled to receive it under any order of the court. The application for the return of the deposit may be made upon motion after notice; and the deposit shall be returned if the court is satisfied that all costs, charges and expenses are sufficiently provided for, or have been met, as the case may be.

Return of  
security.

140.—(1) On the application of any person to whom any costs, charges or expenses are payable and after notice to the party depositing security for the costs of and incidental to the trial of the petition or to the party who is surety or gave recognizance, as the case may be, requiring the party to file objection within the time prescribed in the notice, the court on hearing the party notified and after considering any objections filed, may order payment to the applicant of the costs, charges, or expenses out of the deposit or by the surety as the case may require, or may refuse to make any order.

Payment of  
costs out of  
security.

(2) Any notice to be given under this section may be given by the registrar handing the notice to the person concerned or by sending the notice by registered letter—

(a) to the address for service in the case of a party;

(b) to the address of the place of business or residence of a surety as given in the recognizance in the case of a surety; and

(c) in the case of the applicant for payment, to the address given in his application.

(3) Notwithstanding the provisions of subsection (2) of this section, notice may be given in any other manner authorized by the court, and when so given shall have effect accordingly.

(4) Execution may be levied under any order for payment made by the court under this section in the same manner and to the same extent as execution may be levied under a judgment for the payment of money.

141.—(1) On the trial of a petition the court may summon any person as a witness who appears to the court to have been concerned in the election. The court may examine any witness so summoned or any person in court although such witness or person is not called and examined by any party to the petition, and thereafter he may be cross-examined by or on behalf of the petitioner and the respondent. The expenses of any witness called by the court of its own motion shall, unless the court otherwise orders, be deemed to be costs of the petition; and such expenses may, with the leave of the court, be paid in the first instance by the registrar in the same way as expenses of a crown witness are paid and they may be recovered in such manner as the court directs.

Calling of  
witnesses.

(2) Where the court issues a summons for the attendance of a person as a witness and that person fails to attend to give evidence or to produce documents, or having attended refuses to give evidence or to produce documents, such failure or refusal shall, unless that person excuses his failure or refusal to the satisfaction of the court, be treated as a contempt of court and be punishable either by a fine or imprisonment, or both, as the court thinks fit.

(3) In making and carrying into effect any order for the production and inspection of documents used in the election and relating to the way in which the votes of particular persons were given, and in the examination of any witness who produces or is required to produce any such documents, the court shall ensure that the way in which the vote of any particular person has been given shall not be disclosed until it has been proved that the vote was given, and the vote has been declared by the court to be invalid.

**Privilege.**

142.—(1) Subject to the provisions of this section, any person called as a witness in proceedings under this Part of this Act shall not be excused from answering any question relating to any offence at or connected with an election on the grounds that the answer thereto may incriminate or tend to incriminate the witness, or on the ground of privilege.

(2) If a witness answers truly all questions which he is required by the court to answer he shall receive a certificate of indemnity under the hand of the judge stating that such witness has so answered; and no answer by a person to a question before the court shall, except in the case of any criminal proceedings for perjury in respect of such evidence, be admissible in any proceedings civil or criminal in evidence against him.

(3) If a person receives a certificate of indemnity under this section and any legal proceedings are at any time brought against him for an offence under this Part of this Act committed by him previously to the date of the certificate at or in relation to the election, the court having cognisance of the case shall, on production of the certificate, stay the proceedings and may, at its discretion, award to that person such costs as he may have been put to in the proceedings.

**Evidence by respondent.**

143. On the trial of a petition complaining of an undue return and claiming the seat for some person, if the respondent has in his reply stated his intention to prove the undue return and has filed a list of the objection on which he relies, he may give evidence to prove that the election of such person was undue in the same manner as if he had presented a petition complaining of the election.

**Abridgment and enlargement of time.**

144.—(1) The court may abridge or enlarge the time appointed by this Part of this Act for doing any act or taking any proceedings upon such terms (if any) as the justice of the case may require other than the time for giving notice of appeal, and any enlargement of time may be ordered although application is not made until after the expiration of the time appointed or allowed; and if the time for delivering any pleading or document or filing any affidavit, answer, or document, or doing any act is or has been fixed or limited under this Part of this Act,

or by any direction or order of the court, the costs of any application under this subsection, and of any order for abridgment or enlargement of time shall be borne by the party making such application, unless the court otherwise orders.

(2) Every application for abridgment or enlargement of time shall be supported by affidavit, and if it is for abridgment of time may be made *ex parte*, unless the court requires notice thereof to be given to any other party. The application for enlargement of time shall be made by motion after notice to the other party but the court may, for good cause shown by affidavit or otherwise, dispense with such notice.

(3) A copy of any order made for abridgment or enlargement of time shall be filed or delivered together with any document filed or delivered as required by the order.

145.—(1) Where any summons, notice, or document not being a notice or copy of the petition or any other document required to be served on a respondent before entry of appearance, is required to be served on any person for any purpose connected with a petition it may be served either by delivering it to such person or by leaving it at his last known place of abode in the constituency with any person there found who is a resident thereof and appears to be twenty-one years of age or more.

Service of  
summons,  
etc.

(2) After a party has given an address for service it shall be sufficient if, instead of serving him personally with any document intended for him, such document is served,—

(a) on the person appearing on the paper last filed on his behalf as his solicitor wherever such person may be found or, if such person is not found at his office, on the clerk there found apparently in charge ;  
or

(b) on the person named as occupier of his address for service wherever such person may be found or, if such person is not found at such address, on—

(i) the person there found apparently in charge, if such address is a place of business, or

(ii) any person, other than a domestic servant, there found who is a resident thereof and appears to be twenty-one years of age or more.

(3) A party may change his address for service by giving notice of his new address for service and its occupier to the registrar and to every other party ; but until such notice is received by the registrar, his old address for service shall continue to be his address for service.

(4) Where service in one of the modes in this section has proved impracticable, the court, upon hearing an application supported by affidavit showing what has been done and being satisfied that all reasonable efforts have been made to effect service, may dispense with such service or notice ; or if the court thinks fit, it may order that service under any of the following modes shall be sufficient service that is to say,—

(a) by delivery to any person where it is proved that there is reasonable probability that the document would in the ordinary course, through that person, come to the knowledge of the person to be served ;



(b) by advertisement in the Gazette or in some newspaper printed in Nigeria and circulating within the jurisdiction of the court;

(c) by notice put up at some place of public resort in the constituency to which the petition relates or at the usual or last known place of abode or business of the person to be served;

(d) by notice put up on the court notice board.

Several candidates as respondents in same petition.

146. Two or more candidates may be made respondents to the same petition and their case may for convenience be tried at the same time; but every petition so tried shall for all purposes, including the taking of security, be deemed to be a separate petition made against every candidate as a respondent named therein.

Multiple petitions.

147. Where more petitions than one are presented in relation to the same election or return, all such petitions shall be bracketed together and be dealt with as one petition unless the court otherwise directs.

Complaints as to conduct of returning officer.

148. Where a petition complains of the conduct of a returning officer, he shall for all purposes be deemed to be a respondent; and except with the consent in writing of the Attorney-General he may not withdraw from the trial of the petition. If the consent of the Attorney-General is withheld, the returning officer shall, where the misconduct was not wilful, incur no personal liability for costs which may be awarded against him upon the trial of the petition, and this section shall be a sufficient indemnity accordingly.

Duplicates of documents for court.

149. Unless otherwise prescribed by this Part of this Act, every party required to leave copies of documents with the court shall leave with the registrar such number of copies or duplicate for distribution as he directs or requires.

Avoidance of proceedings.

150. No failure to comply with this Part of this Act as to the time for the giving of notice or the doing of any act, matter, or thing other than as to the time for filing a petition or lodging an appeal shall avoid any proceedings, and in any proper case the proceeding may with the consent of the court, be amended or otherwise dealt with so as to give proper effect thereto; but if any proceedings are avoided they shall, if commenced, be set aside in whole or in part, as the case may require.

(2) An application may be made at any reasonable time to set aside any proceedings for irregularity, and the application shall be by motion of which notice shall be given to any other party setting out the objections intended to be insisted upon; but no application shall be heard if the party moving has done any act, matter, or thing with knowledge of the irregularity, or if the irregularity objected to is merely as to form, or as to the use of certified copies instead of duplicates.

Rules of court.

151. The practice and procedure of the court in relation to a petition or to an appeal from the determination of a petition shall as far as possible be assimilated to the practice and procedure of the court concerned; and accordingly the rules of that court shall, unless the Chief Justice thereof otherwise directs, apply with such modifications as are necessary to render them conveniently applicable, as if the petitioner and the respondent were parties in a civil action.



152. Where it appears to the judge after consideration of the papers filed or during the course of the trial of any petition that an offence under this Act or any other Act has been committed, the court shall on the determination of the trial refer all relevant papers in the case to the Director of Public Prosecutions, with such recommendation thereon as it may think fit.

Cases for the Director of Public Prosecutions.

#### PART V—MISCELLANEOUS

153. No member of either House of Parliament or of any House of Assembly or House of Chiefs in a Region shall be eligible for or be appointed to carry out the duties of a returning officer, an electoral officer, registration officer, revising officer, or a poll clerk; and any officer appointed to carry out any of those duties shall be ineligible for nomination as a candidate for election while he continues to hold any such appointment.

Persons ineligible for appointment or nomination.

154. If the registration card of a voter is lost or accidentally destroyed the voter may attend in person at the office of the registration officer and make application for an official copy of the registration card. The registration officer shall make such enquiries as the Electoral Commission may prescribe for the purpose; and where the registration officer is satisfied as to the loss or accidental destruction of the registration card, he may issue an official copy of it to the voter.

Loss of registration card.

155.—(1) A person shall not—

(a) print or publish or cause to be printed or published any bill, placard or poster having reference to an election or any printed document distributed for the purpose of promoting the election of a candidate, or

(b) post or cause to be posted any bill, placard or poster as aforesaid, or,

(c) distribute or cause to be distributed any printed document for such purpose,—

unless the bill, placard, poster or document bears upon its face the name and address of the printer and publisher.

Election publications to show printer's name and address, etc.

(2) Any candidate, or other person who contravenes the provisions of this section shall be guilty of an illegal practice and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

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

156.—(1) Where a date is appointed for holding an election and there is reasonable cause to apprehend that a serious breach of the peace is likely to occur if the election is held on that date, the Electoral Commission may postpone the election until some later date to be appointed by the Electoral Commission, after consultation with the Clerk of the Parliaments.

Special power to postpone election.

(2) If the Electoral Commission is satisfied that there has been a substantial failure to comply with the requirements of this Act before the date fixed for holding the election in respect of nominations or otherwise however, the Electoral Commission may postpone the election until such time as such requirements are satisfied.

(3) Where an election is postponed before the last day for the delivery of nomination papers and a new date is appointed for the election, the electoral officer shall do all things necessary for the holding of the election as required by this Act on the new date so appointed.

(4) Where an election is postponed on or after the last day for the delivery of nomination papers and thereafter a new date is appointed for the election, the time for the delivery of nomination papers shall not be extended; and the electoral officer shall do all things necessary for the holding of the election as required by this Act on the new date so appointed in respect of the candidates remaining nominated.

(5) For the avoidance of doubt, any election postponed under this section may in like manner be further postponed.

Remuneration and expenses.

157.—(1) The Electoral Commission after consultation with the Federal Minister charged with responsibility for finance shall decide the fees or other remuneration to be paid to officers appointed under this Act, and may prescribe scales of remuneration for such officers, and the maximum allowances in respect of expenses incurred by such officers and the method of authorization of such allowances.

(2) All fees and other remuneration approved under subsection (1) shall be a charge upon the Consolidated Revenue Fund and shall be paid in such manner as the Accountant-General, after consultation with the Director of Audit of the Federation, may approve.

Use of public buildings by a candidate.

158. Subject to the provisions of this section, if reasonable notice is given and the normal use thereof is not interfered with, any suitable room in the premises of a school or public building in the constituency and vested in a local authority or local council in which public meetings are from time to time held, may be used at reasonable times between the date of announcement of an election and the day before the date fixed for the election by a candidate for the purpose of holding public meetings in furtherance of his candidature. If any such room or building is so used by a candidate he shall pay for any damage done during a meeting to the furniture and fittings, and if required shall pay actual expenses incurred incidental to the preparation and cleaning of the room or building both before and after any meeting.

Secrecy of ballot.

159. No person who has voted in any election under this Act shall, in any legal proceeding arising out of the election, be required to state for whom he voted.

Corrupt withdrawal of election petition.

160. If any person makes any agreement or terms or enters into any undertaking in relation to the withdrawal of an election petition, and such agreement, terms or undertaking is or are for the withdrawal of the election petition in consideration of any payment, or that the seat shall at any time be vacated, or that any other election petition will be withdrawn, and the agreement is not mentioned in any affidavit filed in support of the withdrawal of the election petition, that person shall be guilty of an offence and on conviction shall be liable to a fine of two hundred pounds or to imprisonment for a term of twelve months, or to both.

161. The Director of Public Prosecutions shall consider any recommendation made to him by a court with respect to the prosecution by him of any person for an offence disclosed on an election petition ; and if it appears to him that any person who has not received a certificate of indemnity has been guilty of a corrupt or illegal practice he may, in his discretion, prosecute that person for the offence before any competent court.

Prosecutions of offences disclosed on petition.

162.—(1) Proceedings against a person in respect of any offence to which this section applies shall be commenced within one year after the offence was committed, or if it was committed in reference to an election with respect to which an election petition is filed, shall be commenced within one year after the offence was committed or within three months after the determination by the court whichever period last expires, so that it be commenced within two years after the offence was committed, and the time so limited shall be substituted for any limitation of time contained in any other Act.

Time limit for certain prosecutions.

(2) This section applies to any corrupt or illegal practice, any illegal payment, employment or hiring and any offence under section one hundred and fifty-five or section one hundred and sixty of this Act.

163. Where the court at any time during the trial of an election petition or for the purposes of any prosecution for an offence in relation to ballot papers is satisfied that the inspection of rejected ballot papers or the opening of any sealed packet of counterfoils relating to counted ballot papers is necessary it may, upon such terms as it thinks fit, order the electoral officer in whose custody they are to produce rejected ballot papers for inspection or to open any sealed packet of counterfoils relating to counted ballot papers for such purposes as the court may require.

Order for inspection of records.

164. The Minister, after consultation with the Electoral Commission, may make regulations for the purposes of giving effect to the provisions of this Act and for the due administration thereof.

Regulations.

165.—(1) In this Act, unless the context otherwise requires,—  
“the Attorney-General” means the Attorney-General of the Federation or the Attorney-General of a Region as the case may be ;

Interpretation.

“corrupt practice” means any of the following offences namely, bribery, personation, treating, and undue influence, and includes aiding, abetting, counselling, and procuring any such offence ;

“the court” means the High Court of a Region or of Lagos as the case may be and includes a judge of a High Court ;

“the Director of Public Prosecutions” means the Director of Public Prosecutions of the Federation and where authority has been conferred upon any regional director of public prosecutions under the provisions of section ninety-seven of the Constitution of the Federation, includes that officer ;

“election” means a parliamentary election ;

“Electoral Commission” means the Electoral Commission of the Federation ;

“petition” means an election petition under this Act ;

“prescribed” means prescribed by this Act or by regulations or directions made or issued under this Act ;

"rules of court" means as to an election petition under this Act the rules of the High Court where the election petition is tried, and in respect of any appeal, includes the rules of the Federal Supreme Court.

(2) In this Act, the Federal territory shall be deemed to be a Region.

(3) For the avoidance of doubt, any registration card issued for the purposes of this Act shall be deemed to be a document in any criminal proceedings instituted under any criminal code in Nigeria in respect of a document alleged to be false.

Repeals.  
1961 No.  
16.

166.—(1) The Electoral (Transitional Provisions) Act, 1961 is hereby repealed.

(2) The regulations referred to in the Second Schedule to this Act and made or deemed to have been made under the Act hereby repealed are revoked.

(3) The direction published as Legal Notice 243 of 1959 and the delegation of powers published as Legal Notice 97 of 1962 are revoked.

Cap. 89.

(4) Notwithstanding the provisions of the Interpretation Act, all other notices made or given under any Act or regulations repealed or revoked by this Act, shall cease to have effect on the coming into operation of this Act.

Short title  
application  
and  
commence-  
ment.

167.—(1) This Act may be cited as the Electoral Act, 1962 and shall apply throughout the Federation.

(2) This Act shall come into operation on a date to be appointed by the Minister by Order.

## SCHEDULES

### FIRST SCHEDULE

#### PART I

#### FORM 1

Section 6 (6)

#### Electoral Act, 1962

#### Application for Inclusion in Register of Electors

To The Registration Officer,

..... Constituency Date ..... 19.....

I, .....

of .....  
apply to be included in the Preliminary List for the Register of Electors  
for the above Constituency upon the grounds:—

1. THAT I am a citizen of Nigeria.

\*2. THAT I attained the age of 21 years after the last revision of the register, and I am male/female.

\*3. THAT since the last revision of the register of electors I have changed my address and I am now ordinarily resident at.....

(here state town or village and if possible the street and street number if known)

\*4. THAT my former address for the register of electors was/is.....

(here state the address)

AND I declare that the above particulars are true to the best of my belief and that \*I am not already registered in this or any other Preliminary List or Register of Electors under the above Act (or I request that my name be now entered in the appropriate List).

Signed .....

or

Right thumb print impressed in the presence of—

Witness to thumb print.....

Address and occupation of such witness.....

\* Delete or amend where necessary.

FORM 2

Section 8 (1)

Electoral Act, 1962

Claim for Correction of or Insertion of Name in Preliminary List

To The Registration Officer,

.....Constituency. Date .....19.....

I, .....  
of .....

declare :—

\* 1. That I applied for inclusion in the Preliminary List for the Register of Electors for the above Constituency on the.....19.....and that my particulars have been (omitted/inaccurately stated).

2. I am a citizen of Nigeria.



3. I am 21 years of age or over, and male/female.

4. I am ordinarily resident at the above address (or

5. I hereby apply for the Preliminary List to be (completed/corrected) accordingly.

6. I declare that the above particulars are true to the best of my belief and that I am not already registered in this or any other Preliminary List or Register of Electors under the above Act.

Signed \_\_\_\_\_

or

Right thumb print impressed in the presence of—

Witness to thumb print \_\_\_\_\_

Address and occupation of such witness \_\_\_\_\_

*\*This may be amended to suit the circumstances*

FORM 3

Section 8 (2)

Electoral Act, 1962

Objection to Name in Preliminary List

To The Registration Officer

\_\_\_\_\_ Constituency. Date \_\_\_\_\_ 19\_\_\_\_\_

I, \_\_\_\_\_  
of \_\_\_\_\_

whose name appears in the Preliminary List for the above Constituency hereby give notice:—

1. That I object to the inclusion in such list of the name of \_\_\_\_\_

whose address is given as \_\_\_\_\_

\_\_\_\_\_ on the following grounds—

(here insert the grounds)

2. I wish to produce the following witnesses \_\_\_\_\_

3. I tender herewith the sum of ten pounds (£10) as a deposit as required by the above Act.

Signed \_\_\_\_\_

Objector

## FORM 4

## Section 18

## Electoral Act, 1962

## Form of Nomination

To THE ELECTORAL OFFICER,

.....Constituency.

Date.....19.....

I,.....

of.....(occupation).....hereby state:—  
(here state address)

1. I am the candidate to whom this nomination paper relates.
2. I am willing to stand for election to the House of Representatives as member for the above Constituency.
3. I am a citizen of Nigeria and otherwise qualified for election.
4. I am not disqualified for election by virtue of any provision of the above Act.
5. In the event of a contested election my preference of symbol is.....
- \*6. In the event of a contested election I wish to have my photograph displayed on each ballot box and I deliver herewith such number of photographs [not exceeding in size 6" x 6"] as may be required for that purpose.

Signed.....  
Candidate

We, being registered as electors in the above Constituency, do nominate the above candidate—

- (1) Name
- (2) Address
- (3) Occupation

Signed.....  
First Nominator

- (1) Name
- (2) Address
- (3) Occupation

Signed.....  
Second Nominator

\*Delete if not applicable.

FORM 5

Section 21 (3)

Electoral Act, 1962

Electoral Officer's Ruling as to Validity of Nomination

To— (Prospective Candidate)

Take notice that a nomination paper received by me on \_\_\_\_\_  
 in your favour [has been accepted by me as appearing to be valid] or [has been  
 rejected by me as appearing to be invalid] upon the following grounds—

Dated \_\_\_\_\_

Signed \_\_\_\_\_  
*Electoral Officer*

FORM 6

Section 54 (1)

Electoral Act, 1962

Certificate of Polling Duties

To The Presiding Officer,

\_\_\_\_\_ Polling Station (*where proposed elector is registered*)

\_\_\_\_\_ Constituency. Date \_\_\_\_\_

I certify :—

1. That \_\_\_\_\_

of \_\_\_\_\_

is employed at the Polling Station named below as \_\_\_\_\_  
 and that in my opinion he cannot reasonably and conveniently be released to  
 vote at another Polling Station.

2. Such person states that he is included in the part of the Register of Electors appropriate to your Polling Station which is in the same Constituency as that named beneath.

3. A certified extract of the Register containing particulars relating to the above person is accordingly requested in accordance with section 54 of the Electoral Act 1962.

Signed .....

*Presiding Officer*  
(where proposed elector is employed)

.....  
*Polling Station*

.....  
*Constituency*

I certify that the particulars relating to myself in paragraph 1 above are to the best of my belief correct.

Signed .....

(Proposed Elector)

FORM 7

Electoral Act, 1962

Section 54 (1)

Certified Extract of Register

To The Presiding Officer,

..... Polling Station (where proposed elector is employed)

..... Constituency      Date .....

I certify :—

1. That the following particulars are contained in the part of the Register of Electors relating to the above Polling Station—

Name .....

Address .....

Occupation .....

Sex .....

Number in Register .....

2. I have no reason to suppose that such particulars do not relate to the person in respect of whom you have issued a Certificate of Polling Duties.

3. No person has cast a vote at the Polling Station named below in respect of this entry in the Register.

4. I have marked the Register appropriately and the elector will be treated in this Polling Station as though he has cast his vote.

Signed.....

*Presiding Officer*  
(where proposed elector is registered)

.....  
*Polling Station*

.....  
*Constituency*

To the best of my belief the particulars in paragraph 1 above relate to me, and I wish to vote at the polling station at which I am on duty.

Signed.....

*Proposed Elector*

FORM 8

Section 69

Electoral Act, 1962

Declaration of Result of Poll

.....  
*Constituency*

I certify that having carried out my duties and the formalities required by the Elections (House of Representatives) Regulations, 1958, the result of the poll carried out in the.....  
Constituency on the ..... day of ..... 19..... is as follows in order of the number of votes each candidate received—

- |                   |                     |
|-------------------|---------------------|
| 1. Candidate..... | Votes received..... |
| 2. Candidate..... | Votes received..... |
| 3. Candidate..... | Votes received..... |
| 4. Candidate..... | Votes received..... |

DATED this....., 19.....

Signed.....

*Returning Officer*



## PART II

## FORM 9

Section 99 (1)

## Receipt of Petition

Received on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the  
office of the Registrar, the High Court, \_\_\_\_\_, a  
petition touching the election under the Electoral Act, 1962, of \_\_\_\_\_

\_\_\_\_\_  
(insert name of person elected)

as member of the House of Representatives for the \_\_\_\_\_  
of the Constituency purporting to be signed by \_\_\_\_\_  
(insert name of petitioner)

\_\_\_\_\_  
Registrar

## FORM 10

Section 100 (1)

## Petition

IN THE HIGH COURT OF \_\_\_\_\_

The election under the Electoral Act, 1962, for \_\_\_\_\_

\_\_\_\_\_ held on the \_\_\_\_\_ day of \_\_\_\_\_  
(state the Constituency)

\_\_\_\_\_, 19\_\_\_\_

Between { A.B. \_\_\_\_\_ } Petitioner(s)  
              { C.D. \_\_\_\_\_ }

and

{ E.F. \_\_\_\_\_ } Respondent(s)  
              { G.H. \_\_\_\_\_ }

The Petition of A.B. of \_\_\_\_\_ (or of A.B., of \_\_\_\_\_

and C.D., of \_\_\_\_\_ or as the case may be) whose names  
are subscribed.

1. Your petitioner A.B. 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

or elected at the above election, or was a candidate at the above election ; and your petitioner C.D. (*here state in the manner the right of each petitioner*).....

.....

.....

.....

2. And your petitioner(s) state(s) that the election was held on the..... day of....., 19....., when A.B., C.D., (and) E.F. (and G.H.) were candidates, and the returning officer has returned E.F. and (G.H.) 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 may be determined that the said E.F. (and G.H.) was (were) not duly elected (or returned) (*or* duly elected or returned), (and that the (*or* his) election was void) (*or* that the said A.B. (and C.D.) (was (were) duly elected and) ought to have been returned, *or as the case may be*).

(Signed) { ..... A.B.  
..... C.D.

Address for Service (*within three miles of a post office within the area of jurisdiction of the High Court for the*.....

.....*Region*)

.....

Occupier.....

The name of my (*or* our) solicitor is.....

*or*  
I (*or* we) am (*or* are) acting for myself (*or* ourselves)

(Signed) { ..... A.B.  
..... C.D.

SIGNED before me this..... day of....., 19.....

.....  
*Registrar*

## FORM 11

## Section 103 (1)

## Recognizance

Be it remembered that on the ..... day of ....., 19....., before me (*name and description*) came J. K., of (*place of abode and description*) and acknowledged himself (*or severally acknowledged themselves*) to owe to the Government of the Federation the sum of £..... (*or the following sums (that is to say) the said J.K., the sum of £..... ; the said L.M., the sum of £..... ; the said N.O., the sum of £..... ; and the said P.Q., the sum of £.....*), to be levied on his (*or their respective*) goods and chattels, land and tenements.

The condition of this recognizance is that if (*here insert the names of all the petitioners and if more than one, add, or any of them*) shall well and truly pay all costs, charges, and expenses in respect of the election petition signed by A.B., (*or A.B. and C.D., or as the case may be*) relating to the constituency of ..... which shall become payable by the said petitioner (*or petitioners or any of them*) under the Electoral Act, 1962.

.....  
.....  
to any person or persons, then this recognizance to be void, otherwise to stand in full force.

(Signed) { ..... } signature of  
sureties

TAKEN and ACKNOWLEDGED by the above-named (*names of sureties*) on the

..... day of ....., 19....., at .....,  
before me,

.....  
*Judge (or Registrar), High Court, (or Magistrate)*

FORM 12

Section 103 (4)

## Notice of Deposit

IN THE HIGH COURT OF \_\_\_\_\_

The election under the Electoral Act, 1962 for \_\_\_\_\_

\_\_\_\_\_ held on the \_\_\_\_\_ day of \_\_\_\_\_  
(state the Constituency)

\_\_\_\_\_, 19\_\_\_\_

Between { A.B. \_\_\_\_\_ }  
                  { C.D. \_\_\_\_\_ }      Petitioner(s)

and

{ E.F. \_\_\_\_\_ }  
                  { G.H. \_\_\_\_\_ }      Respondent(s)

The Petition of A.B. of \_\_\_\_\_ (or of A.B., of \_\_\_\_\_  
and C.D., of \_\_\_\_\_ or as the case may be) whose names  
are subscribed.

TAKE NOTICE that (name) of (address of place of abode) has this day deposited  
in the High Court of the (here state name of Region or Lagos) the sum of  
£\_\_\_\_\_ as security for the payment of all costs, charges and expenses  
which may become payable by him to any witnesses summoned on his  
behalf (or on behalf of the above-named petitioner(s)) or to any respondent  
to the above petition.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Registrar

## FORM 13

## Section 105 (3)

## Affidavit of Sufficiency

IN THE HIGH COURT OF \_\_\_\_\_

The election under the Electoral Act, 1962 for \_\_\_\_\_

\_\_\_\_\_ (state the place) held on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_, 19\_\_\_\_

Between { A.B. \_\_\_\_\_ } Petitioner(s)  
 { C.D. \_\_\_\_\_ }  
 and

{ E.F. \_\_\_\_\_ } Respondent(s)  
 { G.H. \_\_\_\_\_ }

The Petition of A.B. of \_\_\_\_\_ (or of A.B., of \_\_\_\_\_  
 and C.D., of \_\_\_\_\_ or as the case may be) whose names  
 are subscribed.

I, J.K., of (as in recognizance) make oath and say that I am seized or  
 possessed of real (or personal) estate above what will satisfy my debts of the  
 clear value of £ \_\_\_\_\_ Sworn, etc.

## FORM 14

## Section 109 (1)

## NOTICE OF PRESENTATION OF PETITION

IN THE HIGH COURT OF \_\_\_\_\_

The election under the Electoral Act, 1962 for \_\_\_\_\_

\_\_\_\_\_ (state the place) held on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_, 19\_\_\_\_

Between { A.B. \_\_\_\_\_ } Petitioner(s)  
 { C.D. \_\_\_\_\_ }  
 and

{ E.F. \_\_\_\_\_ } Respondent(s)  
 { G.H. \_\_\_\_\_ }



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

TAKE NOTICE that the petition a duplicate whereof is attached hereto has this day been presented in the Registry at \_\_\_\_\_ of the High Court of \_\_\_\_\_ in the \_\_\_\_\_ Judicial Division and that you are to enter an appearance to the petition in the said Registry within \_\_\_\_\_ days of the date of service of this notice on you (or within \_\_\_\_\_ days of the date of posting hereof, or within \_\_\_\_\_ days of the date when this notice was left at your address set out below, or as the Court may direct by order under section 145 of the above Act,) otherwise proceedings upon the petition may be continued and determined in default of your appearance, and any document relating to such proceedings, and intended for you may be posted up on the court notice board, which shall be sufficient notice thereof.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

*Registrar*

To E.F. of.....

FORM 15

**Section 119 (1)**

## Notice of Trial

IN THE HIGH COURT OF.....

The election under the Electoral Act, 1962 for .....

.....(state the place) held on the.....day of.....

....., 19.....

Between { A.B. .... } Petitioner(s)  
 { C.D. .... }

and

{ E.F. .... } Respondent(s)  
 { G.H. .... }

The Petition of A.B. of.....(or of A.B., of.....)

and C.D., of .....or as the case may be) whose names  
are subscribed.

TAKE NOTICE that the above petition will be tried at.....  
 on the.....day of.....19.....  
 and on such other subsequent days as may be useful.

DATED the.....day of.....,19.....

Registrar

FORM 16

Section 127 (2)

Notice of Motion to withdraw Petition

IN THE HIGH COURT OF.....

The election under the Electoral Act, 1962 for.....

.....(state the place) held on the.....day of.....  
 .....,19.....

Between { A.B. .... }  
 { C.D. .... } } Petitioner(s)

and

{ E.F. .... }  
 { G.H. .... } } Respondent(s)

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

(Write out the Notice of Motion in the manner usual in civil proceedings and  
 conclude as follows :—)

The petitioner proposes to apply to withdraw his petition on the following  
 grounds :—

.....  
 .....

(Here state the ground)

(Petitioner or Solicitor)

Signed before me this.....day of.....,19.....

Registrar

## SECOND SCHEDULE

Section 166

<i>Regulations affected</i>	<i>Serial Number</i>
Elections (House of Representatives) Regulations, 1958..	L.N. 117 of 1958
Elections (House of Representatives) (Amendment) Regulations, 1958 .. .. .	L.N. 139 of 1958
Elections (House of Representatives) (Amendment No. 2) Regulations, 1958 .. .. .	L.N. 195 of 1958
Elections (House of Representatives) (Amendment No. 3) Regulations, 1958 .. .. .	L.N. 3 of 1959
Elections (House of Representatives) (Amendment) Regulations, 1959 .. .. .	L.N. 177 of 1959
Elections (House of Representatives) (Amendment No. 2) Regulations, 1959 .. .. .	L.N. 217 of 1959
Federal Legislative Houses (Disputed Seats) Regulations, 1959 .. .. .	L.N. 247 of 1959
Federal Legislative Houses (Disputed Seats) (Amendment) Regulations, 1959 .. .. .	L.N. 259 of 1959
Elections (House of Representatives) (Amendment) Regulations, 1962 .. .. .	L.N. 50 of 1962

MARRIAGES IN WESTERN NIGERIA  
(VALIDATION) ACT, 1962

A 391



1962, No. 32

AN ACT TO VALIDATE CERTAIN MARRIAGES IN WESTERN NIGERIA AND FOR  
CONNECTED MATTERS.

[By notice section 2 (2)]

Commence-  
ment.

Preamble.

WHEREAS by reason of changes in designation of officials and for other causes during the period hereinafter set out doubts have arisen as to the validity of sundry marriages purporting to have been celebrated in Western Nigeria and it is expedient and necessary to resolve such doubts:

BE IT THEREFORE ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows:—

1.—(1) Subject to the provisions of this section, all marriages celebrated during or at any time after the year nineteen hundred and fifty-four and before the coming into operation of this Act in Western Nigeria and not otherwise validated by any act, which would have been valid if celebrated before duly appointed registrars or as the case may be in places designated for the purposes of the Marriage Act, shall be and be deemed always to have been valid in law as if they had been celebrated before duly appointed registrars or, as the case may be, with the due observance otherwise required by the law.

Validation of  
certain mar-  
riages in  
Western  
Nigeria.

Cap 115.

(2) The certificate of any marriage validated by subsection (1) shall be received by all courts and persons as evidence of the marriage to the same extent as any certificate under the Marriage Act is receivable.

(3) Nothing in this section shall,—

(a) apply to any moslem marriage or customary law marriage; or

(b) render valid any marriage if before the coming into operation of this Act,—

(i) the marriage has been declared invalid by any court of competent jurisdiction, or

(ii) either of the parties to the marriage has during the life of the other, lawfully intermarried with any other person; or

(c) affect any right dependent before the coming into operation of this Act on the validity or invalidity of the marriage.

2.—(1) This Act may be cited as the Marriages in Western Nigeria (Validation) Act 1962 and shall apply throughout the Federation.

Short title,  
application  
and com-  
mencement.

(2) This Act shall come into operation on a date to be appointed by the Minister by notice in the Gazette.