CHAPTER 363

LOCAL GOVERNMENT ACT

To make provision for the setting up of Local Councils.

23rd July, 1993
1st January, 1994
lix.

1st April, 1995
1st April, 1996

ACT XV of 1993, as amended by Legal Notice 53 of 1995, Act XII of 1995; Legal Notices 170 of 1995, 28, 97 of 1996; Acts: VIII, XIII, XV of 1996; Legal Notice 205 of 1996; Act XVI of 1997; Legal Notices 107 of 1997, 87, 255 of 1998, Act XXI of 1999; Legal Notices 7, 19, 77 of 2001, 48, 79, 153 of 2002; Act XII of 2002; Legal Notice 117 of 2003; Acts XVI of 2003, III of 2004; Legal Notice 326 of 2004; Act I of 2005; Legal Notices 76, 158, 272 of 2005, 111, 181 of 2006; Acts II, XXI of 2007; Legal Notices 82, 96, 372, 425 of 2007, 26, 128, 161 of 2008; Acts XVI of 2008, XVI of 2009; Legal Notice 179 of 2010; Act V of 2011; Legal Notices 230, 231, 313 of 2011, 213, 426 of 2012, 36 of 2013; Acts VII, XVI of 2014; Legal Notice 157 of 2014; Acts XXIV, XL of 2015, and Legal Notices 268 of 2017 and 81 of 2020 and Acts XIX , XXVIII,and XL of 2018 ,XI and XIV of 2019 and XXI and LIX of 2020 and Legal Notice 12 of 2023 and Act XLI of 2023.

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PART I

Title and Interpretation

1. The short title of this Act is Local Government Act.

Short title. *Substituted by: XIV.2019.4.*

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

Interpretation. *Amended by: XV. 1996.67; XVI. 1997.8; XXI. 1999.2,3; XVI. 2003.24; I. 2005.2; XVI. 2008.47; XVI. 2009.3; L.N. 426 of 2012; XXVIII.2018.39; XI.2019.18; XIV.2019.5; LIX.2020.2.*

"advertisement" means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purposes of advertisement, announcement or direction, including any boarding or similar structure used or adapted for use for the display of advertisements;

"Association" means the Association representing the Local Councils and Regional Councils recognized as such by the provisions of article 37(3);

"Auditor General" means the Auditor General appointed in terms of article 108 of the Constitution;

"Commissioner for Justice" means any person appointed to such office according to article 3 of the Commissioners for Justice Act; Cap. 291.

"community" means any village as indicated in the Ninth Schedule;

"councillor" means a member elected to the Local Council under the provisions of this Act;

"Department" means the Department responsible for the monitoring and support of Local Government;

"Director" means the Director General responsible for Local Government;

"Electoral Commission" means the Electoral Commission established by article 60 of the Constitution;

"Electronic Counting System" means the process, computer program and/or computer hardware, other equipment, data and services as may be necessary in order to:

(*a*) maintain relevant data in relation to the election being held;

(*b*) take an image of each ballot paper and interpret the preferences;

(*c*) establish a link between each vote stored electronically and the equivalent ballot papers by means of a unique identifier;

(*d*) process the collected data and ballots in such manner as to calculate the number of votes cast for each candidate at the election and determine the final result in terms of this Act and Local Councils (Elections) Regulations, 1993; and

(*e*) ensure the retention of proper records.

"Electoral Register" means the Electoral Register published in accordance with the provisions of the General Elections Act;

Cap. 354.

"European Union Electoral Register" has the same meaning assigned to it by article 2 of the European Parliament Elections Act;

Cap. 467.

"Executive Secretary" means the person occupying the post of an Executive Secretary of a Local Council or Regional Council in accordance with this Act;

"financial year" means a twelve month period starting from the 1st of January and ending on the last day of December:

Provided that the Minister may, after consultation with the Auditor General, by regulations provide a different interpretation to financial year;

"Governance Board" means the Local Governance Board established by means of regulations issued by the Minister;

"an identification document" means an identification document issued under the Identity Card and other Identity Documents Act;

Cap. 258.

"Information and Data Protection Commissioner" means the official appointed in terms of article 11 of the Data Protection Act;

Cap. 586.

"Local Government" includes both the Regional Councils as well as Local Councils;

"Infrastructure Malta" means Agency for Infrastructure Malta as established by the Agency for Infrastructure Malta Act;

Cap.588.

"locality" means an area within set boundaries as designated in the Second Schedule; sohowever that when a set boundary so designated passes through a road dividing two localities, both sides of such road shall form part of the locality as indicated by arrows;

"Local Council" means Local Council established under this Act;

"local road" shall have the same meaning assigned to it in article 2 of the Agency for Infrastructure Malta Act;

Cap.588.

"Malta" has the same meaning assigned to it by article 124 of the Constitution;

"Mayor" means the Mayor of a Council elected in accordance with the provisions of this Act;

"Minister" means the Minister responsible for Local Government;

"most senior councillor" means that councillor who has been continuously serving in office and who belongs to that party or organisation which in the last Local Election elected the majority of councillors;

"motion" means any proposal or recommendation made by a Councillor as provided in this Act, which shall be so registered and discussed;

"the period of time reserved for viewing" means the period of time

which starts from such time when the Commission grants access to the party delegates to the images of each Electronic Ballot together with their interpretation and to the complete data set containing the preferences of voters as shown in the Electronic Ballots, and which expires four hours after the time the Commission forwards a copy of the Draft Result to party delegates in terms of regulation 13;

"political party" means, except as otherwise provided for in this Act, any person or any group of persons contesting the elections of a Local Council as one group bearing the same name;

"population of a locality" means the population, published by the Minister responsible for statistics in terms of article 73;

"President" means the President of the Republic;

"private road" shall have the same meaning assigned to it in article 2 of the Agency for Infrastructure Malta Act; Cap. 588.

"public body" includes a corporation set up by an Act of Parliament, any agency that may be set up by the Government and any limited liability company in which the Government of Malta has a controlling interest;

"public officer" shall have the same meaning assigned to it by article 124 of the Constitution;

"public service" shall have the same meaning assigned to it by article 124 of the Constitution;

"Regional Council" shall have the same meaning as assigned to it in the Regional Councils Regulations; S.L. 363.160

"resolution" means a motion which was discussed and approved during a Local Council or Regional Council meeting, and which is so registered in the minutes of the same meeting;

"road" shall have the same meaning assigned to it under article 2 of the Agency for Infrastructure Malta Act and for the purposes of this Act, where applicable, it shall also include any local road, alley, square, bridge, shore front, quay, or other place of public passage or access; Cap. 588.

"structure plan" has the meaning assigned to it by articles 44 and 72 of the Development Planning Act. Cap. 552.

PART II

Constitution of Local Councils

Substituted by: XIV.2019.6.

Establishment of Local Councils. *Amended by: XXI.1999.4; XVI. 2003.24; XVI. 2009.4; XIV.2019.7.*

3. (1) Every locality shall have a Local Council which shall have all such functions as are granted to it by this Act.

(2) The Local Council shall be a statutory local government authority having a distinct legal personality and capable of entering into contracts, of suing and being sued, and of doing all such things and entering into such transactions as are incidental or conducive to the exercise and performance of its functions as are allowed under this Act:

Provided that the Council shall not have the power to:

(*a*) borrow or lend any monies except with the authority in writing of the Minister with the concurrence of the Minister responsible for finance;

(*b*) enter into any form of commercial partnership in furtherance of its functions or otherwise, unless authorised to do so in writing by the Minister;

(*c*) delegate any of its functions in a manner other than that established by or under this Act;

(*d*) a Local Council may enter into public private partnerships both with the private sector or with non-governmental organisations, following approval by the Director who shall grant such approval after evaluating the request, and after having obtained the approval of the Minister responsible for Finance and of the Minister responsible for Local Government.

(2A) The Minister shall, after agreement with the Association, draw up a written policy regarding Local Government. No decision taken by a Local Council shall go against that established policy.

(3) Changes in the boundaries of localities shall be made only in exceptional circumstances and only by the Electoral Commission, after consultation with the Minister, the Local Councils concerned and, wherever possible, with the local residents. The Electoral Commission shall effect such changes through a legal notice in the Gazette.

(4) Any such change shall be effected in the Electoral Register or in the European Union Electoral Register, as the case may require, and, for the purposes of article 55, such change shall have effect from the first day of April of the year following such change.

(5) Each locality shall be referred to by the name as designated in the Second Schedule and any reference to that locality shall be by the name so designated.

(6) A Local Council proposing to finance a project by means of a loan, shall submit its proposal for the approval of the Minister.

Work plan.
Added by: XIV.2019.8.

3A. By not later than three months from the start of the working of the legislature, a public meeting shall be summoned wherein the Council's Work Plan shall be discussed. For this purpose, an invite shall be sent in every residence and the meeting shall be held in a suitable place.

Candidature of sixteen (16) year old persons.
Added by: XIV.2019.8. Substituted by: XLI.2023.2.

3B. Persons who attain sixteen (16) years of age shall have the right to contest local council elections.

Constitution of the Council.
Amended by: XXI.1999.5; XVI.2009.5.

4. (1) The number of councillors for each locality shall be determined by the following criteria:

(*a*) in the case where the population of a locality is under five thousand, the number of councillors shall be five;

(*b*) in the case where the population of a locality is five thousand and over but less than ten thousand, the number of councillors shall be seven;

(*c*) in the case where the population of a locality is ten thousand and over but less than fifteen thousand, the number of councillors shall be nine;

(*d*) in the case where the population of a locality is fifteen thousand and over but less than twenty thousand, the number of councillors shall be eleven; and

(*e*) in the case where the population of a locality is twenty thousand or more, the number of councillors shall be thirteen.

(2) For the purposes of sub-article (1), the population of a locality shall be as defined in article 2 and as published prior to the election of a Local Council.

(3) The Council shall be presided by a Mayor to be elected in accordance with the Seventh Schedule.

(4) A Deputy Mayor shall also be elected in accordance with the Seventh Schedule. The Deputy Mayor shall preside in the absence of the Mayor.

(5) For the purposes of sub-article (1) article both the Mayor and the Deputy Mayor shall be deemed to be councillors.

Persons entitled to vote.
Amended by: XV.1996.67; XVI. 2003.24. Substituted by: XVI. 2014.2 Amended by: XL.2018.2. Substituted by: XIV.2019.9.

5. (1) Every citizen of Malta who, after the publication of the last revised Local Councils electoral register, attained or shall attain the age of sixteen years up to the day and including the day preceding the 2015 elections, and who has not been convicted of any offence connected with the election of members of Local Councils shall be entitled to vote in elections of the Local Councils.

(2) Every person who is a national of a Member State of the European Union who, after the publication of the last revised European electoral register, and every person who is of a United Kingdom nationality, who attained or shall attain the age of sixteen years and who has not been convicted of any offence connected with the election of members of Local Councils shall be entitled to vote in election of the Local Councils.

Special Register.
Added by: XV.1996.67.

6. *Repealed by Act XVI. 2003.24.*

Persons entitled to vote in a particular locality.
Amended by: XV.1996.67; XVI. 2003.24.

7. The persons entitled to vote at an election of Local Councils shall be the persons who are registered as voters in that part of the Electoral Register or the European Union Electoral Register which relates to the locality for which local councillors are to be elected.

Election of councillors.
Amended by: XXI.1999.6; XVI. 2003.24; XVI. 2009.6; XL. 2015.2; XIV.2019.10.

8. (1) The elections of councillors shall be held every five years by means of the system of proportional representation using the single transferable vote, and this by means of manual voting as well as electronically:

Provided that:

(*a*) the first elections of councillors to be held after the 11th April, 2015 shall be held in the year 2019 and shall, as much as possible, be held on the same day as the election of members of the European Parliament held in terms of the European Parliament Elections Act;

(*b*) all councillors who are in office immediately after the publication of the result of the elections of councillors held on the 11th April, 2015 shall, even if they have been elected at an election other than that held on the 11th April, 2015, remain in office until the holding of the next elections of councillors in terms of this proviso;

(*c*) where at any time prior to the holding of elections of councillors in 2019 a local council is dissolved an election of councillors shall be held in the locality of any such dissolved council prior to 2019 notwithstanding the provisions of paragraph (*a*) of this proviso:

Provided further that the Prime Minister may postpone the election of Local Councils or the election of councillors to be held following the dissolution of a Local Council by a period of not more than one year if during that period an election for Members of the European Parliament, the General Election or the referendum is due to be held, and this solely in order that the Local Councils elections may be held on the same day as the election for the European Parliament or the General Election.

(2) The conduct of the elections shall be the sole responsibility of the Electoral Commission which shall conduct such election and count the votes cast in accordance with the provisions of the Third Schedule.

(3) If no candidates are nominated to contest the election of a Local Council in accordance with the Third Schedule, the Minister shall appoint a Committee of Management chaired by the President of the Association or his representative, which shall perform all such duties as are competent on the Council until a new Council is elected:

Provided that the Electoral Commission shall, at a date determined by the Minister, but in any case within twelve months of the date on which the election was due to be held, hold an election for a new Council:

Provided further that any new Council shall serve for such term of office as would have been served by any councillor who would have been elected in the election for which no candidates had been nominated.

(4) Whenever, in accordance with the Third Schedule, a co-option has to be effected, such co-option shall be made by the elected councillors at their first sitting and, if applicable, immediately after having elected the Mayor and Deputy Mayor.

(4A) The eligibility and qualifications criteria established for the election of a member of a Council under articles 11 and 12 shall also apply to a person nominated for co-option.

(4B) When a member is so co-opted to the Council the Executive Secretary shall cause the name of such Councillor to be published in the Gazette.

(4C) The provisions of this Act shall apply to co-opted Councillors in the same manner that they apply to elected Councillors.

(5) If elections for councillors are due to be held within four months of the holding of general elections, European Parliament elections or referenda, the election of councillors may be postponed or brought forward to a date determined by the Minister, but in any case not later or earlier than four months of the holding of such general elections, European Parliament elections or referenda:

Provided that, in the event that the elections are so postponed or brought forward, the term of office of councillors in office at the time of such postponement or bringing forward shall be extended or reduced by the same period by which the elections are postponed or brought forward and that of the councillors subsequently elected shall be reduced or extended by the same period by which the term of office of the previous councillors has been extended or reduced.

(6) Elections shall be held on the same day of the Elections for the European Parliament.

(7) The councillors whose mandate expires on 31 May 2019 shall have their mandate extended till 30 June 2019, and the councillors elected in the elections held on 25 May 2019 shall assume office as from 1 July 2019.

Casual vacancies. *Amended by: XXI.1999.3; XVI. 2009.7.*

9. Whenever a casual vacancy occurs in the membership of a Local Council, written notification of such vacancy shall be sent to the Minister and to the Chief Electoral Commissioner by the Executive Secretary within two working days after the vacancy has occurred, and a casual election to fill the vacancy shall be held in accordance with the provisions of the Third Schedule on a day to be fixed by the Electoral Commission being not more than thirty days after the date on which such vacancy has occurred:

Provided that if a casual vacancy occurs as aforesaid within three months before the expiration of the term of office of the Council, no casual election shall be held and the Council shall be deemed to be fully constituted for the purposes of this Act.

Vacancy not to invalidate proceedings.

10. Until such time as a casual vacancy is duly filled, the Council shall be deemed to be fully constituted for the purposes of this Act and any proceedings, actions and decisions of the Council

shall be deemed valid.

Eligibility for Election as councillors. *Amended by: XV.1996.67; XXI.1999.7; XII. 2002.2; XVI. 2003.24; I. 2005.5.*

11. A person shall be qualified to be elected as a member of any Council if such person is registered as a voter in the Electoral Register or the European Union Electoral Register:

Provided that no person may contest the election of more than one locality in any local election:

Provided that in the case of public officers, Public Service Management Code may from time to time restrict any class or classes of public officers from contesting the elections for councillors and that for the purposes of this proviso "Public Service Management Code" means the body of regulations from time to time applicable in the public service.

Persons not qualified to stand for Council. *Amended by: XV.1996.67; XII. 2002.3; XVI. 2003.24; I. 2005.6; XVI. 2009.9; VII. 2014.11; XIV.2019.11.*

12. No person shall be qualified to stand for election as a member of a Council or to remain a member thereof if:

(*a*) he is a member of the House of Representatives or of any similar institution in another Member State of the European Union;

(*aa*) he is a member of the European Parliament;

(*b*) he is a member of any disciplined force as defined in article 47(1) of the Constitution of Malta;

(*c*) (*deleted by Act I. 2005.6*);

(*d*) he is a person in the employment of the Council for which elections are to be held or Executive Secretary in any one of the Local Councils or Regional Councils;

(*e*) he is a person who holds any office the functions of which involve any responsibility for or in connection with the conduct of any election of members of the Council or the compilation of or revision of any electoral register;

(*f*) he is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in Malta;

(*g*) he is interdicted or incapacitated for any mental infirmity or for prodigality by a court in Malta, or is otherwise determined to be of unsound mind;

(*h*) he is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by any court in Malta;

(*i*) he is a member of the judiciary;

(*j*) he is disqualified from membership of the Council by or under this Act or any other law for the time being in force in Malta:

Provided that no councillor shall remain in office if at any time during his term of office he is elected or chosen as Councillor of any other Local Council or of any similar institution in any other member state:

Provided further that in the event of any of the circumstances mentioned in this article, the Minister shall be informed and shall declare the office as vacant.

Councillor ceasing to be qualified to stand for Council.

13. (1) No councillor duly elected shall without his consent be transferred by Government or otherwise placed in a position which disqualifies him from holding the office of councillor, Mayor or Deputy Mayor.

(2) If a councillor ceases to be qualified by reason of any provision of this Act, he shall thereupon cease to be a member and the provisions of article 9 shall apply.

Term of office of councillors. *Amended by: XXI. 1999.8; I. 2005.7.*

14. (1) Elected councillors shall hold office from the first day of the month immediately following their election, provided that councillors elected or co-opted to fill a casual vacancy shall hold office from the day they are so elected or co-opted, and they shall remain in such office until the expiration of the term of the Council or until such time as the councillor shall have resigned or shall have been removed from office before the lapse of the term or disqualified from remaining in office in accordance with this Act.

(2) Elected councillors shall, on the termination of their term of office, if otherwise qualified, be eligible for re-election.

(3) The term of office of any person -

(*a*) elected or co-opted to fill a casual vacancy in a Council; or

(*b*) elected or co-opted to a Council where that Council's election had been, in whole or in part, postponed for any reason,

shall be the remaining period of the term of office stipulated in article 8.

Penalty for unqualified persons acting as councillors. *Amended by: L.N. 425 of 2007; XVI. 2009.10.*

15. (1) A councillor shall be liable to a fine (*ammenda*) of two hundred euro (€200) for every occasion on which he attends a Council meeting knowing or having reasonable grounds to believe that he is disqualified or acting as councillor when his seat has become vacant:

Provided that the Minister may, from time to time, by notice in the Gazette specify higher penalties which in no case shall exceed a fine (*ammenda*) of two thousand euro (€2,000) for each occasion.

(2) The fine (*ammenda*) contemplated in sub-article (1) shall be recoverable by the Minister as a civil debt and paid into the Consolidated Revenue Fund.

(3) A councillor acting in the manner contemplated in sub-article (1) shall be liable to refund any sums disbursed by the Council or any other body on his behalf, or benefits acquired in connection with his office from such time when the cause for disqualification arises.

(4) The foregoing sub-articles of this article shall be applied and construed without prejudice to any criminal action which may

be taken by the competent authorities.

Validity of acts done by unqualified councillor.

16. (1) Any acts and proceedings entered into by an unqualified person holding the office of councillor as provided in the foregoing articles and any obligations binding the Council in consequence thereof shall be honoured by the Council where the person in whose favour such obligation is entered was in good faith.

(2) The Council shall have the right to sue such unqualified person for any damages resulting from any transaction it has to honour unless such councillor proves that he had acted in good faith.

Resignation of Council members. *Amended by: XXI.1999.17; XIV.2019.12.*

17. (1) A member of the Local Council may, at any time, resign his office in the Local Council by notice in writing signed by him and delivered to the Executive Secretary and his resignation shall take effect from the date of the receipt of the notice by the Executive Secretary, which date shall be immediately registered by the Executive Secretary, and his office shall become vacant as of such date. The Executive Secretary shall give a registered receipt containing the date and time of resignation, and shall immediately inform all the councillors and the Director.

(2) The Executive Secretary shall act in accordance with the provisions of article 9.

Councillors to attend all meetings. *Amended by: XXI. 1999.3, 18; I. 2005.8; XVI. 2009.11.*

18. Councillors shall attend all meetings as provided under this Act and the Minister shall, after he has been informed by the Executive Secretary, by notice under his hand addressed to the Executive Secretary, declare a seat to be vacant on failure of the councillor to attend four meetings or in the aggregate more than one-third of the meetings called within a period of six months and in the opinion of the Minister such absence was not justified:

Provided that when a Councillor has so absented himself, and before informing the Minister as aforesaid, the Executive Secretary shall inform the Mayor of such an event and the Mayor shall thereupon insert an item on the agenda for the first Council meeting to discuss whether the absence of such Councillor was due to a justifiable cause.

Provided further that if the Council has resolved that the absence is due to a justifiable cause, the Executive Secretary in informing the Minister of the councillor's failure shall also transmit the recommendation of the Council for the Minister not to declare the seat vacant:

Pecuniary interest. *Amended by: L.N. 425 of 2007; XVI. 2009.12; XIV.2019.13.*

19. (1) It shall be the duty of every councillor who has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter and is present at any meeting of the Council at which that contract, proposed contract or other matter is, or is to be, considered to disclose openly to the meeting and as soon as practicable after the commencement thereof the nature of his interest and -

(*a*) not to preside over or take any part in the

consideration or discussion of, or to vote on any question with respect to, that contract, proposed contract or other matter; and

(*b*) unless the contract, proposed contract or other matter is under consideration by the Council merely as part of a report of a committee or sub-committee thereof and does not itself become the subject of separate debate, to withdraw from the meeting while that matter is being considered.

(2) It shall be the duty of every Council to record in the minutes of a meeting particulars of any disclosure made to that meeting under sub-article (1) and of any subsequent withdrawal from the meeting.

(3) Any person who knowingly acts in contravention of sub-article (1) shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding one year or to a fine (*multa*) not exceeding two thousand five hundred euro (€2,500) or fifty *per centum* of the contract, proposed contract or other matter, whichever is the greater or to both such fine and imprisonment, and any person found guilty of such an offence shall cease to be qualified to hold the office of councillor for a period of five years from such conviction.

(4) For the purposes of sub-article (1) the word "indirect" includes any pecuniary interest which a councillor may have through his wife or husband, spouse in marriage, partners in a civil union, children, parents, persons having or who had children in common, siblings or through any company (not being a public company) of which he or any one or more of them is a shareholder or through any company of which he or any one or more of them is a director.

Relatives of councillors. *Amended by: XXI. 1999.3; L.N. 425 of 2007; XVI. 2009.13; XIV.2019.14.*

20. (1) Every councillor shall disclose to the Council in writing any relevant family relationship known to him to exist between himself and any person who he knows either holds, or is a candidate for appointment to, any office under the Council.

(2) All disclosures made under sub-article (1) shall as soon as practicable be brought by the Executive Secretary to the notice of the Council and:

(*a*) it shall be the duty of the Council to record in its minutes particulars of the disclosure; and

(*b*) if the councillor required to make the disclosure is present at any meeting of the Council at which any question relating to or affecting the appointment, remuneration, tenure or conditions of service, promotion, status, conduct, dismissal, suspension, retirement or superannuation of the person to whom he stands in a relevant family relationship is under consideration, he shall withdraw from that meeting while that question is being considered and his withdrawal shall be duly recorded in the minutes of the proceedings of that meeting.

(3) Any councillor who acts in contravention of sub-article (1) or sub-article (2)(*b*) shall be guilty of an offence and shall be liable on summary conviction to a fine (*multa*) not exceeding seven hundred euro (€700) and, moreover, any person found guilty of such an offence shall be liable to be disqualified from holding office of councillor for a period of five years from such conviction:

Provided that the Minister may, from time to time, by notice in the Gazette specify higher penalties which in no case shall exceed a fine (*multa*) of seven thousand euro (€7,000).

(4) For the purposes of this article, a relevant family relationship shall be deemed to exist between a councillor and an officer or candidate if they are married, partners in a civil union or if the officer or candidate, or the husband or wife of the officer or the candidate, are the -

(*a*) parents;

(*b*) grandparents;

(*c*) grandson or granddaughter;

(*d*) son or daughter;

(*e*) siblings;

(*f*) uncle or aunt;

(*g*) nephew or niece; or

(*h*) first cousin,

of the councillor or of the husband or wife, partner in a civil union of the councillors.

Immunity from legal proceedings in certain cases.

21. Where a Council supplies to any member of the public attending a meeting of the Council, or supplies for the benefit of the media, copies of the agenda, statements, particulars and copies of other documents, the publication of any defamatory matter contained in the agenda, statements, particulars or documents so supplied shall be privileged unless the publication thereof is proved to have been made with malice.

Dissolution of Council.
Amended by; XVI. 1997.8; XIV.2019.15.

22. The President shall, by order in the Gazette acting in accordance with the advice of the Prime Minister, dissolve a Council upon:

(*a*) a report of the Auditor General for persistent breach of financial responsibilities, and after a formal notice has been given by the Minister; or

(*b*) persistent non-regard to the provisions of this Act on report by the Governance Board and after a formal notice has been given by the Minister; or

(*c*) lack of agreement in electing the Mayor; or

(*d*) lack of agreement by the Council in approving its annual estimates; or

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(e) a recommendation to that effect in a report by a board appointed under the Inquiries Act. to the Minister.

Elections to follow dissolution of Council.
Amended by: XXI.1999.3; XVI. 2009.14; XIV.2019.16.

23. (1) Upon the dissolution of the Council in accordance with article 22, or if all the elected councillors have resigned and no other councillors can be elected in accordance with the Third Schedule, or if the Council cannot function for whatever reason, the Electoral Commission shall, within thirty days, hold an election for the new Council:

Provided that no election shall be held where the remaining term of office of the dissolved Council is less then six months.

(2) The Minister shall within fifteen days from the dissolution of the Council, appoint a Committee of Management chaired by the President of the Association or his representative which shall perform all such duties as are competent on the Council until a new Council is elected:

Provided that until a Committee of Management is appointed, the Executive Secretary shall perform all such duties as are competent on the Local Council.

(3) The newly elected Council shall hold office for the remainder of the term applicable to the dissolved Council.

Oaths of Office.
Amended by: I. 2005.9; XVI. 2009.15; XIV.2019.17.

24. (1) Councillors elected in accordance with article 8, and Mayors and/or Deputy Mayors elected in accordance with article 25 shall take and subscribe the oath of office in the form stipulated in the Fifth Schedule before any Commissioner for Justice who is hereby being empowered to administer such oaths.

(2) Any Mayor, Deputy Mayor or councillor who undertakes a function incompatible with his oath of office shall be dismissed by the President, acting in accordance with the advice of the Prime Minister, unless within thirty days from the receipt of a written notice by the Minister, such member shall have renounced to the incompatible function.

(3) A breach of the Code of Ethics for Local Councillors may result in a referral of his case to the Governance Board which is to be established by the Minister to deal with cases of breaches of ethics. The Governance Board shall be constituted and conducted in accordance with regulations made by the Minister. The same Governance Board shall have the authority to deal with the public complaints vis-à-vis the Council.

(4) The Mayor, the Executive Secretary or any member of the Council shall report to the Department for Local Government any breach of the Code of Ethics committed by any councillor. Following the verification by the Board mentioned in sub-article (3) of such reports and following a persistent breach of the Code of Ethics, a formal notice shall be issued by the Minister, which formal notice shall be published within such time as may be provided by regulation under this Act.

(5) Any member of the public may also make a claim to the Administrative Tribunal set up in accordance with the Administrative Justice Act whenever he feels aggrieved by an administrative act of a Local Council, that shall include the issue of

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any orders, licence, permit, warrant, authorization, concession, decisions or refusal of any request made by applicant.

PART III

The Office of Mayor

Election of Mayor and Deputy Mayor.
Amended by: XXI. 1999.12. Substituted by: I. 2005.10. Amended by: XVI. 2009.16; XIV.2019.18. XLI.2023.3.

25. (1) Without prejudice to the provisions of article 29, the office of Mayor in any Local Council shall be occupied by such elected councillor who at the last local election of that locality shall have obtained the highest number of votes in the first count amongst the candidates of the political party which at such elections obtained the absolute majority of councillors in such Council. Such councillor shall assume the office of Mayor at the first sitting of the Council after such local election. If for any reason such councillor refuses to occupy the office of Mayor, the councillor with the second highest number of votes from the aforesaid political party shall assume office, and so on, until the office of Mayor is filled:

Provided that if the Mayor vacates office during the Council's term, the office of Mayor shall be occupied by such person belonging to the same political party who had obtained the highest number of votes in the first count after the Mayor who is vacating office:

Provided further that where the law does not provide otherwise, the Mayor shall be chosen from amongst the councillors.

(1A) In any case where two or more persons who were elected in the first count obtain the same amount of votes among Councillors belonging to that party having the majority of Councillors, the office of Mayor shall be filled by the person with the longest experience as Councillor and who therefore has served longest on the Council among the two:

Provided that if the two Councillors have the same length of service in office, the office of Mayor shall be filled by the Councillor who is the more senior:

Provided further that in the case that both obtain the same amount of votes but are not elected in the first count, the office of the Mayor shall be filled by whoever is elected first.

(2) (*a*) The office of Deputy Mayor shall be occupied by such elected Councillor from the political party mentioned in the preceding sub-article who, under the conditions and in accordance with the provisions of such sub-article, shall have obtained, apart from the Mayor, the highest number of votes in the local elections and the provisions of such sub-article shall *mutatis mutandis* apply to the election of Deputy Mayor.

(*b*) In the case where the office of Deputy Mayor shall become vacant, the office of Deputy Mayor shall be filled by that Councillor belonging to the party that has obtained the absolute majority of Councillors in the

Local Council and who obtained the majority of first preference votes after the Councillor whose office of Deputy Mayor has become vacant.

(3) Where no political party obtains an absolute majority of seats in such Council or where, for any reason whatsoever, the office of Mayor or Deputy Mayor is not filled in virtue of the provisions of the preceding sub-articles of this article, the Council shall, at its first sitting, and after the Councillors have taken their oath of office, proceed with the election of the Mayor and subsequently of Deputy Mayor from among its members in accordance with the Seventh Schedule.

(4) The first sitting of each Council shall be summoned by the most senior Councillor (or else if he refuses or does not answer within a week, by the next senior Councillor and so on) and such meeting shall be held not later than one week from the first day when the Councillors may hold office under article 14. The agenda for this first meeting shall be prepared by the Executive Secretary and shall be published not later than four working days before the date fixed for such meeting.

(5) By not later than the third meeting after the Local Council election, each Councillor shall be assigned a specific sector as specified in the Fourteenth Schedule which he shall monitor and report on to the Local Council. That Councillor may also set up a committee, over which the Councillor will preside in order to work in that sector. In such case the members of such committee shall be approved by the Council before those members commence their functions. This matter shall be included in the meetings' agenda as aforesaid specified.

(6) In the event that a circumstance arises where the office of the Mayor and Deputy Mayor are vacant, the subsequent meeting wherein there shall be held the elections for the Mayor and Deputy Mayor shall be summoned by the most senior councillor, and the provisions of sub-article (4) apply *mutatis mutandis*.

A person eligible to contest in accordance with article 3B is eligible to occupy the post of Mayor and Deputy Mayor.
Added by: XIV.2019.19. Substituted by: XLI.2023.4.

25A. (1) Any person who contests a local election, is elected a councillor, and gets the highest number of votes from among the candidates of the party that has obtained the highest number of votes in the first count, even if this person is under eighteen (18) years of age, is eligible to be declared Mayor and is eligible to hold the office of Mayor, and this shall apply *mutatis mutandis* to the office of Deputy Mayor.

(2) Notwithstanding that stipulated in any law, when a person who is under eighteen (18) years of age is declared Mayor, that person shall have the capacity to do all acts of civil life limitedly to when that person is acting in the office of Mayor, and this shall apply *mutatis mutandis* in those circumstances when the person who is under eighteen (18) years of age and is occupying the office of Deputy Mayor is acting in the role of Mayor according to law.

(3) When a vacancy in the office of Mayor or Deputy Mayor arises, a councillor, even if he is under eighteen (18) years of age, shall be eligible to hold the office of Mayor or Deputy Mayor if that councillor qualifies to hold the office of Mayor or Deputy Mayor in accordance with this Act.

The role of the Mayor. *Substituted by: XLI.2023.5.*

26. (1) The Mayor shall be the representative of the Council for all effects under this Act and shall preside over all meetings of the Council and supervise all functions of the Council.

(2) The Mayor shall be responsible for the furtherance of the objects and provisions of this Act in the locality and Mayors shall co-operate between themselves for the better welfare of the localities which they represent.

(3) In fulfilling this role, the Mayor shall be assisted by the Executive Secretary.

Legal and juridical representation. *Amended by: XXI.1999.3. Substituted by: XLI.2023.6.*

27. The legal and juridical representation of the Council shall be jointly vested in the Mayor and the Executive Secretary, who may sue and be sued on behalf of the Council even when the case refers to acts done before the commencement of their term of office or appointment as the case may be.

Term of Office. *Amended by: I. 2005.11.*

28. The Mayor and Deputy Mayor shall hold office from the day of their election and they shall remain in such office until the expiration of the term of the Council or until such time as the Mayor or Deputy Mayor shall have resigned or shall have been removed from office before the lapse of their term or disqualified from remaining in office in accordance with this Act.

Vote of no confidence. *Amended by: XXI. 1999.13; I. 2005.12.*

29. (1) The Mayor or Deputy Mayor shall cease to hold their office upon a vote of no confidence delivered by a majority of the Councillors in office.

(2) The motion proposing a vote of no confidence in the Mayor or Deputy Mayor shall be signed by at least one third of the Councillors in office and shall specify the reason for such motion and propose another Councillor to be elected as Mayor or Deputy Mayor as the case may be.

(3) The motion shall be discussed after at least five days have elapsed from its presentation as provided in sub-article (2) but not later than ten days from such date; so however that if for any reason such meeting does not take place, or no decision is taken on such motion within such time, the proponents of such motion may fix a date and agenda for such meeting to be held, and after due notification is made to all Councillors, such meeting shall be held on such date for the sole purpose of debating and deciding such motion of no confidence.

29A. The Mayor, or at least one-third of the councillors, shall have the right to request an urgent meeting. The urgent meeting shall only discuss the urgent matter for which the meeting has been convened and no other. The subsequent meeting shall still be held on the same day as agreed in the last regular meeting. The Executive Secretary shall be obliged to convene the urgent meeting by not later than three working days from the receipt of the request, and all the applicable procedures for local council meetings shall be adopted, including the time at which the meeting shall be convened:

Convening of urgent Council meeting.
Added by: I. 2005.13. Substituted by: XVI. 2009.17; XIV.2019.20.

Provided that when a councillor requests an urgent meeting, he shall be bound to indicate the nature of the urgency and why the matter in question cannot wait to be put on the agenda of the next meeting in accordance with the ordinary conduct of the meetings. The decision whether the request for an urgent meeting be acceded to shall be taken by the Mayor in accordance with the guidelines issued by the Director after consultation with the Association.

30. When a vote of no confidence as provided in article 29 is carried, it shall be communicated to the Director and the Minister by the Executive Secretary without delay.

Vote of no confidence to be notified to Minister.
Amended by: XXI.1999.3. Substituted by: XIV.2019.21.

31. (1) On a vacancy in the office of Mayor, or where the Mayor is for any reason unable to perform the functions of his office, the Deputy Mayor shall perform all such functions until such time as another Mayor is elected from among the councillors in the first meeting of the Council held after the vacancy.

Casual vacancy in the Office of Mayor.
Amended by: XXI.1999.14; V. 2011.24; XIV.2019.22.

(2) If for the purposes of sub-article (1) the Deputy Mayor is unable to perform the functions of Mayor, for any reason whatsoever, such function shall be performed by the most senior councillor provided that he shall by not later then three working days from the occurrence of the circumstance mentioned in this sub-article, provide to the Executive Secretary his acceptance in writing, and in case that this does not happen, the Minister shall have the faculty to appoint a member from the Association to chair the meetings.

32. (1) The Council shall pay an honorarium to the Mayor of its locality as follows:

Allowances to the Councillors and Honorarium to the Mayor.
Amended by: XXI.1999.15; I. 2005.14. Substituted by: XVI. 2009.18. Amended by: XL. 2015.3; XIV.2019.23.

(*a*) in localities having five councillors, an amount equivalent to forty-five percent (45%) of the honorarium payable to a member of parliament;

(*b*) in localities having between seven and nine councillors, an amount equivalent to sixty five percent (65%) of the honorarium payable to a member of parliament;

(*c*) in localities having more then nine councillors, an amount equivalent to eighty five percent (85%) of the honorarium payable to a member of parliament;

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(1A) The honorarium of the Mayor shall be deemed to be income for the purposes of the Social Security Act:

Provided that, if the Mayor so chooses, that honorarium should not be deemed as income for the purposes of the Social Security Act and the said choice may also be made with reference to a period which precedes the coming into force of this sub-article and even if at the time when the choice is made the person making that choice no longer occupies the office of Mayor.

(2) The Minister may, by regulations, establish the allowance that Local Councils may pay to Councillors, which allowance shall be paid every month:

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Provided that such allowance shall not be deemed to be income for the purposes of the Social Security Act:

Provided further that no payments for reimbursement of expenses shall be allowed.

(3) Each Councillor shall, at his own expense, be obliged to install an e-mail service in his residence. Any correspondence, minutes or documents shall be sent to the Councillors by e-mail and for the purposes of service shall be deemed to have been duly served.

(4) Any Councillor employed with the public sector shall be entitled to attend official Council meetings during office hours without prejudice to his leave entitlement.

The notification shall be made by the Executive Secretary to the Head of Department and shall specify that such activity is an official council activity.

PART IV

Functions of Local Councils, Procedure and Meetings

Functions of Local councils.
Amended by: XXI. 1999.16; I. 2005.15; XVI. 2009.19; XXVIII.2018.40. XIV.2019.24.
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33. (1) Subject to sub-article (2) and to the provisions of any other law for the time being in force, the functions of each Local Council shall be:

(*a*) to provide, with respect to any road, other than any road the responsibility for which vests in Infrastructure Malta in terms of the Agency for Infrastructure Malta Act or any regulations made thereunder, for its upkeep and maintenance, or improvements therein, and to provide and maintain proper road signs and road markings, in conformity with national and international standards:

Provided that maintenance in relation to any road referred to under this paragraph includes the patching and resurfacing thereof, but does not include its reconstruction;

(*b*) with respect to any road, to provide for sweeping, cleaning and weed cutting, cleaning of road signs and road lights, the collection and removal of all refuse, for

the maintenance of cleanliness and for the upkeep and maintenance of all public conveniences, dustbins and other receptacles for the temporary deposit and collection of waste and to ensure that these are all accessible to all persons, including persons using a wheel-chair;

(*c*) to provide for the establishment, upkeep and maintenance of children's playgrounds, public gardens and sport, cultural or other leisure centres, and as part of a national scheme to administer local libraries and to ensure that these are, as far as possible, accessible to all persons, including persons using a wheel-chair;

(*d*) to propose measures which relate to the maintenance and repair of local roads, pedestrian areas, parking areas, road signs and road markings within the locality, to provide for the installation and maintenance of bus shelters in accordance with standards and specifications laid down by the competent transport authority, pedestrian and parking areas and provide for the protection of school children in the vicinity of schools;

(*e*) to propose to and, where applicable be consulted by, any competent authority or agency prior to the competent authority or agency making any changes in traffic schemes directly affecting the locality;

(*f*) to make recommendations to any competent authority or agency for or in relation to any planning or building scheme and to be a full participant in any decisions on the naming or renaming of roads;

(*g*) within the parameters of any national plan, to issue guidelines to be followed in the upkeep, restoration, design or alteration of the facade of any building or of any building or any part of a building normally visible from a road, including the type of lighting and materials used, advertisements and shop fronts, and in the case of premises which are open to the public, to ensure that such premises are, as far as possible, accessible to all persons, including persons who use a wheel-chair;

(*h*) to assist citizens by providing, where applicable in conjunction with any competent authority, information relating to the rights of citizens in general, including information on consumers' rights, transport, communications, tourist facilities, taxation, social security, public health and other matters of public utility and interest;

(*i*) to advise and, be consulted by, any authority empowered to take any decisions directly or indirectly affecting the Council and the residents it is responsible for;

(*j*) as part of a national scheme, to provide in conjunction with any competent authority, for the establishment, upkeep and maintenance of Child Care Centres,

kindergartens and other educational services or buildings;

(*k*) as part of a national scheme, to provide in conjunction with any competent authority for the establishment, upkeep and maintenance of health and rehabilitation centres, government dispensaries, health district offices and Homes for Senior Citizens, Day Centres for Senior Citizens and Night Care Centres;

(*l*) to propose to the Minister responsible for education, persons to be appointed as presidents of primary school councils;

(*m*) within the context of a national action plan, Councils shall promote social policy initiatives within their locality. A Council shall work with people having special needs, with children and young people having literacy problems, with the elderly, persons with mental health problems, in community care as well as initiatives in the area of preventive care;

(*n*) safeguard local identity and for this purpose take the necessary iniatives to safeguard the local historical and cultural heritage, traditions and folklore;

(*o*) in the framework of regulations made by the Minister, extend assistance to artists, musicians and sports persons from their locality in order that they may develop their talents;

(*p*) organise cultural activities that promote the locality in every possible way;

(*q*) protect the natural and urban environment of the locality and take all necessary measures to ensure the more efficient use of energy, good waste management and climate change iniatives;

(*r*) in agreement with the education authorities to make the best use of facilities already existing in schools in the locality after normal school hours such as sports facilities, school halls, information technology laboratories, and other public facilities in the locality;

(*s*) organise sports or physical activities for all residents of all ages, co-operate closely with the sports associations from the locality, to provide good sports facilities and organise such sports activities as are not normally organised by local sports associations;

(*t*) ensure to give effect to the concept of life long learning with all residents, particularly adults and the elderly, by providing such service within the same locality;

(*u*) provide and maintain the service of a local library;

(*v*) to promote an entrepreneurial policy whereby the interests of shop owners and the needs of the residents and the consumer in the community are catered for.

The Council is to encourage activities which promote trade and to facilitate Council procedures to lessen bureaucracy so that commercial activities can improve the services they provide;

(*w*) to enter into agreements with any agency or public body or Government department for the delegation to the local council of any of the functions of that agency, public body or department:

Provided that any such delegation shall only come into effect after the Minister has made the relevant order in the Gazette;

(*x*) to perform any other function which shall be delegated to it by the Government through the Minister by means of an order published in the Government Gazette;

(*z*) to provide for all such other works, things, matters and services which are not excluded from a Council's competence by any law for the time being in force nor assigned to any other authority.

(2) National monuments, national parks or gardens, industrial estates, ports, airports and other national territories, establishments, buildings and items listed in the Fourth Schedule to this Act are the responsibility of the Government, except as provided in terms of sub-article (1)(w) or (x), and are totally excluded from the competence of local councils.

(3) (*a*) Various other new functions may be vested in Local Councils. Each function shall be devolved when the Central Government will be convinced that Local Councils are prepared to take on such responsibility.

(*b*) In the case of devolution of new functions, such new functions will first be devolved on to a small number of Local Councils, possibly of various sizes, to serve as a test.

(4) The Minister responsible for transport retains the right to, at any point in time as may be determined by the Minister responsible for transport, transfer all and any rights previously pertaining to Infrastructure Malta in relation to a local road in terms of the Agency for Infrastructure Malta Act or any other law, to a local council.

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Responsibilities assigned to councillors. *Added by: XIV.2019.25.*

33A. (1) In the first meeting of the Local Council held after the election, the Mayor shall assign to each Councillor any one of the responsibilities listed in the Fourteenth Schedule. For this purpose, each councillor has the right to appoint a sub-committee, and from amongst the members of the said sub-committee there shall be appointed a secretary.

(2) At the end of each year, each councillor shall submit a report on his work in the sector of which he is responsible, which reports shall be included in the Administrative Report.

(3) Apart from those subject matters listed in the Fourteenth Schedule, the Mayor shall have the right to assign amongst the

councillors other responsibilities as he deems fit and according to the localities' needs.

(4) The Executive Secretary shall immediately inform the Director once the responsibilities are assigned to the councillors.

Council to make Bye-laws. *Amended by: XII.1995.16; XIV.2019.26; LIX.2020.3.*

34. (1) A Local Council may make, amend or revoke bye-laws for the purpose of carrying out its functions and for the prevention and suppression of nuisances in its locality and to increase funds other than those allocated to it in terms of article 55.

(2) Notwithstanding the provisions of sub-article (1), the Minister may under article 72, make regulations of general application for the purposes for which a Council may make bye-laws under this Act and such regulations shall, for the purposes of this Act and of any other law, be deemed to be bye-laws enacted by all the Councils:

Provided that any such regulations may only make provisions of a general nature and shall be without prejudice to the making of further bye-laws by any Council for the same purpose making special provision for its locality.

Provided further that when regulations of general application are made by the Minister as stipulated herein, any bye-laws regarding the same subject-matter shall be *ipso jure* repealed, and specific conditions relevant to the Local Council shall be published as a schedule to the said regulations by general application.

Procedure for making Bye-laws. *Amended by: XXI. 1999.3,17; XVI. 2009.20; XIV.2019.27.*

35. (1) A Local Council shall, on application, furnish to any person a copy of the proposed bye-laws, or of any part thereof, without payment.

(2) The Executive Secretary shall submit to the Director a copy of the proposed Bye-Laws after these have been discussed and approved by the Council.

(3) If within eight weeks from the receipt of the proposed Bye-Laws by the Director, the Minister decides to propose any amendments he shall inform the Council in writing of any such amendments.

(4) After discussing the amendments proposed by the Minister, if any, the Council may either approve or not approve the Bye-Laws. If the Council so approves, the Executive Secretary shall forward a copy of the approved Bye-Laws to the Minister.

(5) The Minister shall have the right to object to any bye-law approved by any Council and shall signify such objection and the justification thereof in writing to the Council by not later than eight weeks.

Penalties for contravention of Bye-laws. *Amended by: XXI. 1999.3,18; L.N. 425 of 2007; XVI. 2009.21; XIV.2019.28.*

36. (1) Except as provided by any other law, a person who contravenes a bye-law shall be guilty of a contravention and shall be liable to the punishment of a fine (*ammenda*) not exceeding seventy euro (€70) and, in the case of a continuing offence, a further fine (*ammenda*) not exceeding fifteen euro (€15) for each day on which the offence continues after conviction:

Provided that the Minister may, from time to time, by notice in the Gazette prescribe higher penalties which in no case shall exceed a fine (*ammenda*) of two thousand euro (€2,000) and, in the case of a continuing offence, a further fine (*ammenda*) not exceeding five hundred euro (€500) for each day.

(2) Unless otherwise provided by this article, the contraventions referred to in sub-article (1) shall be deemed to be scheduled offences for the purposes of the Commissioners for Justice Act and the provisions of the said Commissioners for Justice Act shall apply *mutatis mutandis* to any proceedings in respect of such contraventions under this Act. Cap. 291.

(3) A Commissioner for Justice shall, where he is to consider charges regarding any infringement of any Bye-laws, sit in the Local Tribunal established in terms of the Commissioners for Justice Act, which shall either be the administrative offices of the Council concerned or any other place so designated by the Minister after consultation with the Council.

(4) The Executive Secretary shall be the prosecutor in any such hearing and shall have the same powers assigned to the Executive Police under the Commissioners for Justice Act. Service of any summons shall be effected by the Executive Secretary in the manner provided in article 6(2) of the Commissioners for Justice Act or by the Executive Police or by a community officer as provided in sub-article (1) of the said article: Cap. 291.

Provided that the functions of the Executive Secretary under this sub-article and under sub-article (6) may be delegated to any other person or persons as the Council may by resolution determine.

(5) The amount of any fine (*ammenda*) shall be due to the Council of the locality where the contravention occurs and shall be paid to the Executive Secretary.

(6) The Minister may by order in the Gazette direct that the provisions of sub-articles (2), (3), (4) and (5) shall apply to one or more of the offences listed in the Schedule to the Commissioners for Justice Act and whenever any such order is made prosecution in relation to such infringements shall be conducted by the Executive Secretary before the Commissioner for Justice who shall sit in any place as designated under sub-article (3). Cap. 291.

Abrogative referenda. *Added by: VIII. 1996.10. Amended by: XIV.2019.29.* Cap. 237. Cap. 237.

36A. (1) Subject to the provisions of this article, Part V of the Referenda Act shall apply to any bye-law made by any Local Council under the provisions of this Act.

(2) The provisions of Part V of the Referenda Act shall, for the purposes of this article, be applicable as follows:

(*a*) article 14 of Part V shall apply as if the reference therein to ten per cent of the total number of persons registered as voters in sub-article (1) thereof were a reference to ten per cent of the total number of persons registered as voters in elections for local councillors for the locality which has made the bye-law to which

the declaration applies;

(*b*) article 15 of Part V shall apply as if the reference in sub-article (1) thereof to the electoral district wherein the voter is registered were a reference to a locality for the election of whose local councillors the voter is registered;

(*c*) article 16 of Part V shall apply -

(i) as if the reference to any person registered as a voter for the election of members of the House of Representatives in sub-article (1) thereof were a reference to any person registered as a voter for the election of local councillors for the Local Council of the locality making the relative bye-law;

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(ii) as if the reference in sub-article (1) of article 14 of the Referenda Act in paragraph (*a*) of sub-article (1) thereof were a reference to that sub-article as applicable in accordance with paragraph (*a*) hereof;

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(iii) as if the reference to the Constitution and the European Convention Act in paragraph (*c*) of sub-article (1) thereof were also a reference to this Act; and

(iv) as if sub-article (3) thereof required service of any application also on the mayor of the Local Council making the bye-law, which service shall, for the purposes of sub-article (5) thereof, be made at the office of the relative Local Council; and

(*d*) paragraph (*b*) of sub-article (1) of article 19 shall not apply.

Co-operation with other Councils. *Amended by: XXI.1999.19; XVI. 2009.22; V. 2011.25.*

37. (1) Two or more Local Councils may discharge any of their functions jointly and they may also arrange for the discharge of these functions by a joint committee of theirs or by an officer of one of them.

(2) Local Councils having an arrangement as provided in sub-article (1) may meet in joint session to discuss the discharge of the functions to which the arrangement relates and all councillors shall be entitled to participate and vote where required unless the arrangement otherwise provides.

(3) Local Councils shall form part of an association recognised as such by the Government for the protection and promotion of their common interests as well as belong to international associations of local government authorities.

Regional Councils. *Added by: V. 2011.26. Amended by: XIV.2019.30.*

37A. (1) There shall be six regions as established in the Eleventh Schedule.

(2) (*a*) Each Regional Council shall be chaired by a Chairman to be elected from among all Councillors of the

localities forming that Region.

(*b*) A candidate is eligible to contest for the office of President of the Region if he is a resident in a locality forming part of the same region or is an elected councillor in a Local Council which forms part of that region, or is the President in office up to the date of the opening of nominations for the election.

(*c*) Each Mayor forming part of that Region shall appoint its representative to form part of the Regional Council.

(*d*) The Regional Deputy Chairman shall be appointed from among the members of the Regional Council appointed by the Local Councils.

(*e*) The President of the Region and the President of the Association shall not be councillors, and if a councillor in office is elected to any of such offices, he shall resign from being a councillor.

(3) The Regional Council is another level of Local Government.

(4) The geographical distribution of the regions as established in the Eleventh Schedule shall be officially recognized by any entity whether governmental or not.

(5) The Regional Council shall appoint a person to act Executive Secretary to the same Council.

(6) Any change of a locality from one region to another may be made by the Minister after consultation with the Local Councils Association and shall be effected after considering the geographical aspect, the total population in each region and the number of Local Councils in each region.

(7)The functions of Regional Councils shall be those established by the Minister by regulations to be made following consultation with the Local Councils Association.

(8) The Regional Councils may also make bye-laws according to articles 34, 35, 36 and 36A which shall *mutatis mutandis* apply to the making of such bye-laws.

(9) The Regional Councils shall be appointed for such time as provided for in the Local Councils (Association) Regulations. S.L 363.06.

(10) The Minister may also by regulations establish the practice and procedure relating to the working of the Regional Council.

(11) The Presidents of the Regional Committees whose mandate expires in 2022 will continue to retain such mandate even if any one of them is not elected as a councillor in the Local Elections held on 25 May 2019:

Provided that the Regional Presidents whose mandate expires in 2022 shall renounce to the office of councillor if they are re-elected to the council in the local elections held on 25 May 2019, in the event that the Regional Presidents want to hold the office of Regional Council Presidents, such condition to resign shall not be

applicable to the President of the Association and the members of the Association elected from the general list:

Provided further that the provisions mentioned in the proviso of this article shall be with effect from 24 June 2019.

(12) Each year the Minister responsible for finance shall allocate a provision under the Appropriation Act which will serve for the exercise of the functions of Regional Councils. The amount appropriated shall be established according to a formula determined by regulations issued by the Minister.

Functions of Regional Councils. *Added by: XIV.2019.31.*

37B. The functions of Regional Councils shall be the following:

(*a*) the issuance of a call for tenders for the service to local councils within them for waste management and this shall come into effect from the year 2022, and this without prejudice to the functions of the local councils in terms of article 33(1)(b);

(*b*) the social aspect, which includes researches and report of social impact evaluations, which report shall be made within the first year of each legislature;

(*c*) the provision of assistance to local councils within the region, which assistance includes the provision of professional services including the environmental sector, social, cultural, touristic and information technology;

(*d*) the provision of assistance to local councils within the region to benefit and successfully manage programmes which are funded by the European Union;

(*e*) the provision of subsidy to students for researches regarding aspects relating to the region;

(*f*) the coordination with local councils of sports and physical activities and initiatives, including those relating to welfare;

(*g*) the coordination with ministries, departments and Government entities to facilitate the work of local councils, including coordination with the maintaining order sections;

(*h*) to give an opinion regarding the Local Plan and the same opinion will be attached to the report submitted to the House;

(*i*) the preparation, on an annual basis, of a Work Plan which includes the Region's financial needs and human resources.

Right of Local Councils to a judicial remedy. *Amended by: XIV.2019.32.*

38. Local Councils and Regional Councils shall have the right to challenge in court any decision which in any way interferes with the free exercise of their powers granted by this Act.

Competition. *Amended by: XXI. 1999.20; L.N. 425 of 2007; XVI. 2009.23. Substituted by: XIV.2019.33.*

39. For the purpose of discharging any functions in pursuance of any matter under this Part of the Act, a Local or Regional Council, shall contract out and expose to competition any of the functions assigned to it, any person employed in terms of articles 52 and 53 or by another Local Council or Regional Council which has exposed or is to expose the carrying out of the functions to competition:

Provided that no councillor or a Local Council or Regional Council employee or any company in which such councillor or employee has a majority shareholding or controlling interest, shall tender or submit quotations for any works, goods or services or for the transfer of any land for which a call for tenders or quotations has been issued by the Council of which he is such a member or employee:

Provided further that with the approval of the Minister, a Local Council or Regional Council may make arrangements with any public body, government department or other Local Council or Regional Council, for -

(*a*) the supply by one party to the other of any goods;

(*b*) the provision by one party to the other of any administrative, professional or technical services;

(*c*) the use by one party of any vehicle, plant or apparatus belonging to the other and the placing at the disposal of the first-mentioned party of the services of any person employed in connection with the vehicle, plant or apparatus in question; and

(*d*) the provision or maintenance by one party of any works, facility, amenity, equipment or thing for the provision or maintenance of which the other is responsible,

on such terms as may be agreed according to arrangements reached between the parties.

Acquisitions. S.L. 363.186 *Amended by: XXI. 1999.21; XVI. 2009.24. Substituted by: XIV.2019.34.*

40. Any acquisition by the Local Council or Regional Council shall be made in accordance with the Local Government Procurement Regulations.

Projects co-financed by the European Union. S.L. 363.186 *Repealed by: XXI. 1999.22. Added by: XVI. 2009.25. Substituted by: XIV.2019.35.*

41. With respect to projects co-financed by the European Union, the tendering procedures shall be in accordance with the rules of the European Union and in accordance with the Local Government Procurement Regulations.

Arrangements for the supply of goods and services or interchange of staff.

42. *Repealed by XXI.1999.22.*

Standing Orders. *Amended by: XVI. 2009.26. Substituted by: XIV.2019.35.*

43. (1) During the meetings the Local Councils and the Regional Councils shall follow the standing orders in the Sixth Schedule to this Act.

(2) Local Council and Regional Council meetings shall be held at least once a month.

(3) Local Council meetings which shall be held once a month and urgent meetings shall start not before 5.00 pm and not later then 7.00 pm and shall not last for more than three (3) hours, unless otherwise unanimously agreed to.

(4) Other meetings may be convened as unanimously agreed to by the councillors:

Provided that the times established for statutory meetings of the Local Council may be set otherwise if for reasons of convenience all the councillors agreed to this.

Admission of public to meetings and streaming on the internet. *Amended by: XL. 2015.4; XIV.2019.37.*

44. (1) Every meeting of a Local Council and a Regional Council shall be open to the public and it shall be streamed and kept on demand on the internet in an audiovisual form on the Local Council's and Regional Council's website.

(2) Where at a meeting of a Local Council or a Regional Council the Council resolves itself into committee, the proceedings in committee shall for the purposes of this Act be treated as forming part of the proceedings of the meeting of the Local Council or the Regional Council.

(3) Nothing in this article or in article 46 shall affect or derogate from any power of excluding persons from a meeting for the purpose of suppressing or preventing disorderly conduct or other misbehaviour at, or disturbance of, the meeting.

Information to be given as to meetings. *Amended by: XXI. 1999.23; XVI. 2008.47; XVI. 2009.27; XIV.2019.38.*

45. (1) The Executive Secretary shall, if so requested and upon payment of required fee for the supply of any such permissible information, furnish –

(*a*) a copy of the agenda and accompanying documents directly related to the agenda and which are to be discussed at the meeting as circulated to members of the Local Council or Regional Council; and

(*b*) such further statements or particulars and copies of such other documents as are necessary to indicate the nature of any item included in the copy of the agenda so supplied.

(2) Any person who requests information from a Local Council in accordance with sub-article (1) and who is dissatisfied with the Council's response to his request may apply to the Information and Data Protection Commissioner for a decision whether, in any specified respect, his request has been dealt with in accordance with the requirements of this Act and any regulations made hereunder.

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(3) Part IV of the Freedom of Information Act, other than article 26, as well as articles 39, 40 and 43 of the same Act, shall apply *mutatis mutandis* to requests for information under this

article, save that references to a code of practice in Part IV of the Freedom of Information Act shall be construed as referring to any code of practice on the disclosure of information that may be issued by the Minister through regulations under this Act; but the application of the Freedom of Information Act in terms of this sub-article shall not be dependent on the issue of such a code.

Facilities for media representatives. *Amended by: XVI. 2009.28; XIV.2019.39.*

46. The Executive Secretary shall cause to be made available to duly accredited representatives of the media attending for the purpose of reporting proceedings at the meeting reasonable facilities for taking reports of these proceedings and, on payment by those representatives or their media of any expenses which may be incurred, for transmitting such reports to their media.

Committees of Councils. *Amended by: XXI. 1999.24; XVI. 2009.29; XIV.2019.40.*

47. (1) Subject to the provisions of this article, the Local Council or the Regional Council may appoint committees for the purpose of assisting Local Councils and Regional Councils in the execution of their functions.

(2) Committees established under sub-article (1) shall consist of a Chairperson from among the councillors.

(3) Committees shall remain in office until they are dissolved by the Council or until the term of office of the Council expires.

(4) Members of committees shall not be entitled to any wage, salary or attendance allowances.

(5) The Chairperson of the committee shall present the minutes in the first meeting of the Council.

(6) The Executive Secretary shall be an *ex officio* member of the Financial Committee.

Communities. *Added by: XXI. 1999.25. Amended by: XVI. 2003.24. Substituted by: XVI. 2009.30. Amended by: XL. 2015.5; XIV.2019.41.*

47A. (1) The communities shall be those listed in the Ninth Schedule, which Schedule shall also determine the boundaries of each community and the roads included therein.

(2) The Minister may add or subtract from the list of communities listed in the Ninth Schedule according to procedures established in sub-articles (3) and (4).

(3) The Minister may from time to time after consulting the Local Council of the locality declare an area within the locality as a community for the purposes of the law and accordingly such community shall be added by regulations to the Ninth Schedule.

(4) The residents of any area not included in the Ninth Schedule may make a request to their Local Council for the inclusion of such zone in the Ninth Schedule. The Council shall, within one month from the receipt of the request, discuss it and make its recommendation to the Minister who shall, within two months from the receipt of the Council's recommendation, take a decision on the request.

(5) The Mayor shall assign the responsibility of the community found within the locality to the councillor having his residence in this community. If more than one councillor resides in that community, the councillors shall vote for one of the councillors

who resides in that community and who shall be assigned the responsibility of that community. If none of the councillors resides in that community, the Mayor shall assign this responsibility to the councillor who he deems merits this responsibility:

Provided that for the Swatar Community there shall be assigned two councillors, one from the locality of Birkirkara and another from the locality of l-Imsida.

(6) There shall be a financial allocation for Communities, which shall be part of the Local Council allocation and this shall be computed on the basis of the same funding formula, for the Local Council, found in the Eighth Schedule. Any decision on the use of these funds shall be implemented after ratification by the Local Council of the locality.

Council premises. *Amended by: XII. 2002.4; XVI. 2009.31; XIV.2019.42; XXI of 2020; LIX.2020.4.*

48. (1) The Council shall have its administrative offices at a place to be selected by it, and these offices shall be accessible to all persons.

(2) The administrative offices of the Local Council shall be open to the public on all working days including Saturday during normal office hours as established by directives issued by the Minister after consultation with the Association.

(3) Any meetings of the Local Council shall be held at the Local Council's administrative offices unless provided otherwise by a directive of the Director after consultation with the Association only in exceptional circumstances.

(4) All meetings held by any Local Council not in the Council's administrative office during the pandemic period, as from the declaration of the National State of Emergency due to Health Reasons, shall not be deemed as Council meetings held against the law.

PART V

Officers and Employees

Appointment of Executive Secretary and Deputy Executive Secretary. *Amended by: XXI. 1999.3; I. 2005.16; XVI. 2009.32. XIV.2019.43; XXI of 2020; LIX.2020.5.*

49. (1) Every Local Council shall have an Executive Secretary and a Deputy Executive Secretary.

(2) The appointment of the Executive Secretary shall be made by the Local Council, which nomination would have been made under the following sub-article.

(3) The Executive Secretary shall be a public officer during the performance of his duties, who is chosen according to those procedures and criteria established by the Director as approved by the Public Service Commission, without prejudice to the pool established for this purpose.

(4) Where a Local Council fails to appoint an Executive Secretary or Deputy Executive Secretary, the Director shall appoint an Acting Executive Secretary or Acting Deputy Executive Secretary.

(5) An Executive Secretary may be removed or transferred from one Council to another or in the Department in accordance with provisions of sub-article (6) after the request is evaluated by a board appointed for such purpose by the Minister. This board shall be a

statutory board of not less than three (3) persons.

(6) An Executive Secretary may be removed or transferred in accordance with the provisions of sub-article (5) for one of the following reasons:

(*a*) at the request of the Local Council or Regional Council, after a motion has been put forward stating the justified and substantiated reasons for his removal and after approval by the Local Council or Regional Council; or

(*b*) at the request of the Executive Secretary himself providing the reasons why he wants to terminate his office within the Council or;

(*c*) at the request of the Director following shortcomings shown in the local auditors' report or following a reconnaissance by the Director, it results that the Executive Secretary has committed any abuse or permitted the commission of abusive practices and contraventions of the law and of local council regulations:

Provided that in each case removal from office or the transfer of an Executive Secretary shall not preclude the taking of disciplinary action under the Public Administration Act: Cap. 595.

Provided also that when a motion is put forward as provided in paragraph (a), the Executive Secretary shall be suspended from office with right of pay until a decision or otherwise is take with regards to his suspension. During this period of time the Executive Secretary shall report for work at the Department.

Appointment of deputy Executive Secretary. *Amended by: XXI.1999.3, 26. XIV.2019.44.*

50. Subject to the provisions of articles 49 and 53, a Local Council shall designate a Deputy Executive Secretary from the employees in scale 11 and above of the Council to exercise the functions of the Executive Secretary whenever the office of Executive Secretary is vacant or the Executive Secretary is for any reason unable to act. The Executive Secretary shall give due notice to the Council in writing of any instance where he is unable to act:

Provided that if in that particular Local Council none of the employees are of the scale required, the Deputy Executive Secretary shall be designated from another Local Council as long as he has the required qualifications.

Full-time Executive Secretary. *Amended by: XIII. 1996.27; XXI. 1999.3. Substituted by: XIV.2019.45.*

51. An Executive Secretary shall only act on a full-time basis.

Functions of Executive Secretary.
Amended by: XXI. 1999.3, 27; I. 2005.17; XVI. 2009.33; XIV.2019.46.

52. (1) The Executive Secretary shall be the executive, administrative and financial head of the Council.

(2) Without prejudice to any provision of this Act, the Executive Secretary shall -

(*a*) issue all notices, prepare the agenda in consultation with the Mayor and attend all meetings;

(*b*) draw up and sign the minutes of Council and committee meetings:

Provided that the Executive Secretary may nominate and the Council may approve, another person to act instead of the Executive Secretary in relation to any committee appointed by the Council;

(*c*) submit a detailed annual administrative report to the Mayor who shall submit it to the Council for its approval;

(*d*) cause to be submitted to the Council estimates of the income and expenditure of the Council during the next following financial year;

(*e*) carry out any other administrative duties as may be detailed by the Mayor, in accordance with policies decided and delegated by the Council;

(*f*) issue all orders bearing an expense as approved by the Council;

(*g*) execute the legitimate decisions of the Council and stop any activity or initiative planned by the Council and which is in breach of the law, regulations, national or local strategies or policies, or any activity or initiative which has not been approved by a Council decision.

(*h*) be responsible for the management both of the employees of the Local Council and Regional Council as well as of the workers assigned to the Local Council and Regional Council; and

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(*i*) perform those other duties as stipulated in the Local Government (Human Resources) Regulations.

Appointment and qualification of Council employees.
Amended by: XXI.1999.3, 28; XII. 2002.5; XVI. 2009.34; XIV. 2019.47.

53.(1) (*a*) Subject to the provisions of article 110(6) of the Constitution, the Local Council may appoint such other employees as the Council thinks necessary for the efficient discharge of functions of the Council and this following the approval of the Department.

(*b*) The Council shall not purchase any clerical services.

Qualifications of Executive Secretaries and Council employees.

53A. The Minister may, by regulations, and after consultation with the Association prescribe the qualifications to be possessed by, the remuneration payable to and the technical administrative and office procedures to be followed by -

(*a*) any person appointed to the office of the Executive

Secretary or Deputy Executive Secretary of a Council; and

(*b*) any person appointed to such other post as may be prescribed.

Removal, suspension and reinstatement of Executive Secretaries and employees of the Council. *Amended by: XXI of 2020.*

53B. (1) The removal from office, suspension or re-instatement, or any withholding of the remuneration, of the Executive Secretary or the Deputy Executive Secretary of a Council and of any other employees for whom qualifications are prescribed under article 53A shall be subject to the approval of the Director:

Provided that such removal, suspension or withholding shall only become effective from such date as may be determined by the Director.

(2) A Council shall not, without the approval of the Minister, remove from office or suspend, or withhold the remuneration of an Acting Executive Secretary or Deputy Executive Secretary appointed by the Minister under article 49(4).

(3) Employees of the Council shall be appointed for a period of three years and their contract may be renewed for successive three year periods under such terms and conditions as may be prescribed under article 53A.

(4) A Council shall not, without the approval of the Minister, remove from office or suspend, or withhold the remuneration of an Acting Executive Secretary appointed by the Minister under article 49(4).

(5) Employees of the Council shall be appointed for a period of three years and their contract may be renewed for successive three year periods under such terms and conditions as may be prescribed under sub-article (2).

Data protection.

53C. Unless there is a court order to the contrary, information relating to a particular employee or office-holder, former employee or former office-holder, or job applicant shall be treated as confidential and shall not be made available to persons other than the members of the Council, members of staff as delegated by the Executive Secretary, the Minister in the exercise of his functions under this Act and the individual concerned.

Status of public officers detailed on duty with Local Councils.

54. For the avoidance of doubt it is hereby declared that for superannuation purposes service rendered by a public officer with respect to whose temporary transfer arrangements are in force is service rendered to the department by which he was employed before the transfer and he shall not forfeit any pension, gratuity or benefit under the Pensions Ordinance and the Widows' and Orphans' Pensions Act.

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PART VI

Finance

Financial allocation to Councils. *Amended by: XII. 2002.6; XVI. 2009.35; XIV.2019.48.*

55. (1) Each year the Minister responsible for finance shall allocate a provision under the Appropriation Act which shall serve for the exercise of the functions of Local Councils and Regional Councils as appear under this Act.

(2) The amount appropriated shall be allocated by the Minister to each Local Council on the basis of the formula determined in terms of the Eighth Schedule to this Act.

(3) In allocating the appropriated amount to a Local Council, the Minister may retain any portion of such amount after having the:

(*a*) advice of the Governance Board; or

(*b*) advice of the Director; or

(*c*) a recommendation from the Board appointed to investigate any irregularity of the Local Council or Regional Council.

(4) The Minister responsible for finance may each year allocate a fund to compensate for the co-financing of European Union projects.

Annual budget. *Amended by: XXI.1999.29; XII. 2002.7. Substituted by: XIV.2019.49.*

56. Every Council shall once during the month of January in each financial year approve and make available its financial estimates for the following financial year.

Method of supply of funds for ordinary administration. *Amended by: XXI. 1999.3, 30. Substituted by: XIV.2019.50.*

57. The allocation mentioned in article 55 shall be made available to Local Councils by the Minister after consultation with the Association.

Method of supply of funds for special needs.| *Substituted by: XVI. 2009.36.*

58. The Minister may, after the approval of the Minister of Finance, estabish special funds and make such funds available to Local Councils. These funds shall be distributed by means of regulations to be made by the Minister.

Five-year business and financial plan. *Amended by: XXI.1999.3; XIV.2019.52.*

59. (1) At the end of the first year of its term, a Local Council shall prepare and discuss a Working Plan which covers a five-year plan on Local Council operation, projects and finances so as to provide a framework for the Local Council's annual budgets.

(2) The Council shall revise or confirm the five year plan every year during its discussion on its annual budget.

(3) Copies of business and financial plans and revisions thereof, shall be forwarded by the Executive Secretary to the Minister and to the Minister responsible for finance within two weeks of their approval by the Council.

Councils may raise additional funds.

60. Deleted by Act XIV.2019.52

61. The Local Council shall not authorise any works, services and provisions the value of which exceeds the annual provision allotted to it for that financial year and other provisions resulting from the previous year taking into consideration the amount forecast for payment of acts of ordinary administration:

Payments in excess of voted funds. *Amended by: XXI.1999.3; XII. 2002.8; XIV.2019.53.*

Provided that a Local Council shall prepare a plan of recovery to address its liquidity and shall only commit itself to the statutory functions provided for in article 33.

62. (1) The Minister responsible for finance may approve a supplementary provision to be made available to Councils after due consultation with the Minister if it results that the amount appropriated by the Appropriation Act is insufficient. Such supplementary provision shall nevertheless be allocated to Councils in accordance with the provisions of article 55.

Approval of supplementary funds. *Amended by: XXI.1999.3.*

(2) Where Councils receive a supplementary provision in terms of sub-article (1), the Executive Secretary shall prepare the necessary supplementary estimates.

(3) Any monies declared to be a surplus in any financial year shall not be set off against the sum being voted in the Appropriation Act for the next financial year.

63. The Council shall be responsible for the receipt of all monies as are under this Act required but the Council shall have no power to hold or invest in any commercial undertaking unless authorised to do so in writing by the Minister.

Limitation on investments and donations. *Amended by: XXI.1999.31; XII. 2002.9.*

63A. Any donation whether of money or in kind by a Local Council or Regional Council is prohibited unless it is related to a function established by article 33 or by a directive of the Director.

No donationb by Councils. *Added by: XII. 2002.10. Amended by: L.N. 425 of 2007. Substituted by: XVI. 2009.37; XIV. 2019.54.*

64. Without prejudice to any other provision of this Act, the Minister may, either of his own accord or at the request of the Minister responsible for finance, by notice in writing, require the Executive Secretary to produce such books of account, records and any other document as may appear to him to be necessary without giving any reason for such demand.

Minister may order production of books of accounts and other documents. *Amended by: XXI. 1999.3.*

65. (1) The Auditor General shall appoint persons (to be known as "local government auditors") to audit the accounts of a Local Council subject to such conditions as he may deem fit. The appointment shall be for a period of one year, renewable each year, for a total period of not more than five consecutive years.

Appointment of local government auditors. *Amended by; XVI. 1997.8; XII. 2002.11; I. 2005.18; XIV.2019.55.*

(2) A person shall not be qualified for appointment as a local government auditor unless he is an individual who holds a warrant to act as auditor issued under the Accountancy Profession Act, or is a partnership of auditors duly registered under the said Act and -

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(*a*) in the case of an individual, he is not -

(i) a councillor of the locality whose books he is auditing; or

(ii) in the employment of the Council of the locality or a person who is rendering a service to the same Local Council; or

(iii) related by consanguinity or affinity or by civil union in the direct line, or, up to the third degree, in the collateral line, to any councillor of that locality;

(*b*) in the case of a partnership, the partners between them possess the necessary qualifications according to article 10 of the Accountancy Profession Act.

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(3) In the exercise of their duties local government auditors shall have access to all books, records, returns and other documents relating to the accounts of Local Councils and may require any person holding or accountable for any such books or documents to appear before them at the audit.

(4) The Auditor General may appoint, either temporarily or otherwise, persons to assist local government auditors in the performance of their duties.

(5) The remuneration and expenses of local government auditors, including the remuneration and expenses of persons appointed to assist local government auditors, to such amount as is sanctioned by the Auditor General, shall be paid out of the annual provision made available to the Auditor General.

(6) Local government auditors shall submit their reports not later than the end of June of each year to the Auditor General who shall forthwith transmit copies of those reports to the Minister, to the Director and to the respective Council. A copy of this report shall be laid on the Table of the House by the Minister within six weeks after receipt thereof by him.

Additional auditing responsibilities. *Amended by: XVI. 2009.38; XIV.2019.56.*

66. (1) The Minister shall, after consultation with the Minister responsible for finance, prescribe indicators to measure the performance of local council services, where such indicators are to facilitate comparisons of cost, economy, efficiency and effectiveness between Local Councils over time. Performance Indicators for Local Councils shall be established by the Minister and regular appraisals by the Director on the basis of such indicators shall be made and such appraisal shall be published.

(2) In addition to duties specified in terms of or under this Act, local government auditors are required to satisfy themselves that a Local Council has made proper arrangements for securing economy, efficiency and effectiveness.

Precedence for funds and special schemes. *Added by: XIV.2019.57.*

66A. Local Councils shall be given precedence for the application of funds and special schemes issued from time to time by the Minister or the Local Government Division on the basis of financial indicators and results, within a period of three years. This shall be done to give note and recognition to Local Council and Regional Councils who abide to the financial regulations.

67. The Minister responsible for finance may, in conjunction with the Minister, make regulations under this Part of the Act for the purpose of regulating the financial functions of the Council, including the keeping of records and reporting.

Regulations by Minister responsible for finance.

68. The provisions of this Part of the Act shall not prejudice the power given to Parliament to provide for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance to make advances from the Fund in urgent and unforeseen cases in accordance with article 105 of the Constitution of Malta.

Powers of Minister responsible for finance under the Constitution.

PART VII

Miscellaneous

69. (1) The Minister responsible for finance shall, from time to time by warrant under his hand addressed to the responsible public officer, authorise and direct that all such monies as are reasonably required for meeting any lawful expense required to be incurred for the holding of elections of Local Councils be paid out of the Consolidated Fund without any further appropriation under this Act.

Appropriation of monies required to hold Council Elections.

(2) A statement of the expenses so paid shall, so soon as practicable, be laid on the Table of the House of Representatives.

70. (1) Local Councils shall call two annual locality meetings–

Locality Meeting. *Amended by: XXI. 1999.3, 32; XVI. 2009.39; XIV.2019.58; LIX.2020.6.*

(*a*) an annual meeting which shall be held not later than the fifteenth (15) December so as to present the financial estimates prior to the Council meeting in which the Council shall consider the estimates for the following financial year; and

(*b*) another annual meeting is to be held not later than the fifteenth (15) April of every year in which there shall be presented the administrative report, the financial report and the Work Plan.

The first item on the agenda of every annual meeting shall be the reading of the minutes of the previous meeting.

(2) The annual locality meetings shall be held at such place as the Local Council may determine and which is accessible to all persons. A notice for such meetings shall be made by means of a letter sent to every residence, business, and associations of the locality and on the website and published on the Council's social media not later than 15 days before the date of the meeting:

Provided that such meetings may be held otherwise as provided by a directive of the Director after consultation with the Association, and this measure shall be taken only in exceptional circumstances.

(3) The Mayor shall be the Chairman at such meeting and the Executive Secretary shall keep a record of the proceedings of the meeting including any complaints or suggestions made during that meeting. The minutes of such meeting shall be discussed by the Council during the first Council meeting following the locality meeting and the Council shall take action upon any such complaints and suggestions related to the meeting as it may consider fit.

Public consultation.

71. A Council shall hold a public consultation about any issue which falls within its competence either at its own instance or whenever so requested by the electors listed as voters for the locality in the last Local Councils' Electoral Register:

Provided that a petition requesting such consultation has been signed by at least one-fifth of the electors listed as voters for that locality in the last Local Councils' Electoral Register where the population of registered voters is of 3,000 or more, or by at least one-fourth of the said electors where the population of registered voters is less than 3,000.

Power of Minister to make regulations. *Amended by: XIII. 1996.27; XXI. 1999.33; XVI. 2003.24; III. 2004.10; I. 2005.19; Amended by: XL. 2015.6; XIV.2019.72.*

72. (1) Without prejudice to any power to make regulations conferred by this Act, the Minister may make regulations not inconsistent with or repugnant to this Act, generally for carrying the provisions of this Act into effect.

(2) Without prejudice to the generality of the foregoing, the Minister may in particular by regulations amend the First Schedule subject to the provisions of article 74, and from the Fourth to the Ninth Schedule and from the Twelfth to the Fourteenth Schedule inclusive and any forms set out therein.

(3) The Minister may also, in addition to such regulations, make or authorise the making of such forms, procedures, guidelines and directions as he may deem necessary or expedient, in relation to any function vested in or delegated to Local Councils and Regional Councils by or under this Act, so as to secure a uniform level of operation, and the procurement of other services and goods, or to establish minimum standards or to provide for such other matter as may be ancillary or incidental to the exercise of such functions.

(4) The Minister may also, after consulting the Local Councils Association, make regulations providing for the representation of Maltese Local Councillors on the Committee of Regions of the European Union and on any other international forum or institution requiring representation of local Councillors.

Official Population Statistics. *Substituted by: XIV.2019.60.*

73. The Director shall every year obtain the official population statistics of every locality, which shall be made available to all Local Councils.

Coats-of-arms. *Amended by: XXI.1999.34.*

74. (1) The Council shall be vested with the ownership of the Coat of Arms but *bona fide* local associations may use the Coat of Arms of their locality provided that such use is not for a commercial purpose.

(2) Local Councils shall have the right to petition the Minister

for changes in the design of the coat-of-arms after a resolution to that effect has been carried by a two-thirds majority of the Council and the Minister shall consider such request.

(3) The Minister shall thereupon appoint an *ad hoc* committee of three persons, one from the Local Council concerned, one representing the Minister and an expert in heraldry to advise him on the proposed changes. The Minister's decision shall be final.

(4) Localities which are historically known as cities shall be distinguished as such by a distinctive mark in their coat-of-arms as shown in the First Schedule:

Provided that a Council of such a locality may apply to the Minister for approval to use a motto. An approved motto shall be published by notice in the Gazette.

(5) Localities may display a square flag showing their coat-of arms or some other design approved by the Minister.

Seals.
Amended by: L.N. 425 of 2007; XIV.2019.61.

75. (1) Each Council shall have an official seal which shall include the coat-of arms of the locality for which it is responsible.

(2) Any person making unauthorised use of the seal shall commit an offence and shall be liable on conviction to a fine (*ammenda*) of two hundred euro (€200):

Provided that the Minister may, from time to time, by notice in the Gazette specify higher penalties which in no case shall exceed a fine (*ammenda*) of two thousand and five hundred euro (€2,500).

Councils may adopt historical names.

76. A Council may petition the Minister to be allowed to adopt and use any name historically used for representatives of the particular locality, or of a city which forms part of the locality.

Councils not to have broadcasting facilities.

77. (1) Notwithstanding the provisions of any other law, Councils shall not have the right to apply for any licence to broadcast any programme.

(2) For the purposes of sub-article (1), "broadcast" has the same meaning assigned to it by article 2 of the Broadcasting Act.

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Publication of the First, Second and Ninth Schedules.
Amended by: XXI.1999.35; XVI. 2003.24. Substituted by: XIV.2019.62.

78. The First, Second, Ninth and Twelfth to the Fourteenth Schedule shall be published with the Maltese text only and such Schedules shall apply also to the English text of this Act.

Twinning.
Added by: XXI. 1999.36. Amended by: I. 2005.20; XVI. 2009.40.

79. (1) A Local Council shall have the right to make twinning arrangements with any city, town, village or other locality in any other country:

Provided that any twinning between a city, town or village and another locality in any other country shall require the approval of the Minister which shall be given after the Association has given the Minister its opinion on such proposed twinning.

(2) The Minister may make regulations to regulate twinning

agreements between Local Councils.

Functions of the Director.
Added by: XXI. 1999.36. Amended by: XVI. 2009.41; XIV.2019.63.

80. The Director shall -

(*a*) facilitate the effective and efficient functioning of Local Councils in full respect of the autonomy granted to Local Councils by this Act;

(*b*) assist the Minister in carrying out the functions assigned to him by this Act and for such purpose to issue forms, procedures, guidelines, directions or other instruments as may be necessary;

(*c*) perform such other functions, not being incompatible with the autonomy granted to Local Councils by this Act, as the Minister may from time to time direct;

(*d*) manage the Department and ensure that the necessary support from the Department is given to Local Councils;

(*e*) ensure that the Department provides training for Councillors and for Local Council employees;

(*f*) monitors the operations of the Local Government.

When a Council fails to conduct a function.
Added by: XVI. 2009.42. Amended by: XIV.2019.81.

81. In any case where a Local Council fails to carry out any function within its responsibility as provided in article 33, and the Council persists in not carrying out such function notwithstanding a warning given by the Director, such function may be carried out by any department, authority or agency at the expense of the said Local Council, and such expenses shall be deducted from the financial allocation of that Local Council and transferred to the entity which has carried out such function instead of the Council.

Local and Regional Protocol.
Added by: XIV.2019.65.

82. The precedence, status and behaviour towards the President of the Region, Mayor, Deputy Mayor and Local Councillors shall be regulated by the Twelfth Schedule of this Act.

Code of Ethics.
Added by: XIV.2019.65.

83. The behaviour expected from every person elected to Local Government shall be regulated by the Code of Ethics of Elected Representatives to Local Government which is provided for in the Thirteenth Schedule of this Act.

Protection and privacy of personal data.
Added by: XIV.2019.65.

84. Due to reasons of protection and privacy of personal data, the names of third parties who are not directly involved in the operations of the Council shall not be published or broadcasted during meeting of the Council. This also includes the reasons given in writing by a councillor as to why he is not able to attend a meeting of the Local Council, where such reasons have only been given to the Executive Secretary, the Mayor and the councillors.

FIRST SCHEDULE*

(Article 74)

Coat of Arms

Amended by:
L.N. 170 of 1995;
L.N. 28 of 1996;
L.N. 97 of 1996;
L.N. 205 of 1996;
L.N. 107 of 1997;
XXI. 1999.37;
L.N. 7 of 2001;
L.N. 158 of 2005;
L.N. 96 of 2007;
L.N. 28 of 2008;
XVI. 2009.43;
L.N. 230 of 2011;
L.N. 12 of 2023.

SECOND SCHEDULE*

(Article 2)

Localities and their Boundaries

Amended by:
L.N. 87 of 1998;
XXI. 1999.38;
XVI. 2009.44.

See Maltese text.

Amended by:
XXI. 1999.3, 41;
XVI. 2003.24;
I. 2005.21;
L.N. 181 of 2006;
II. 2007.30;
XXI. 2007.8;
L.N. 425 of 2007;
L.N. 426 of 2012;
L.N. 36 of 2013;
L.N. 157 of 2014;
XXIV. 2015.53;
XIX.2018.19;
XI.2019.19.

THIRD SCHEDULE
(Articles 5, 8, 9, 23)

Local Councils (*Elections*) *Regulations, 1993*

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TENTH SCHEDULE	Form of Oath to be taken by Principal Assistant Electoral Commissioners and Assistant Electoral Commissioners
ELEVENTH SCHEDULE	Form of Oath which an Assistant Commissioner may administer to a Voter
TWELFTH SCHEDULE	Declaration of Result of Poll
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PART I

General Provisions

Short Title.

1. These regulations may be cited as the Local Councils (Elections) Regulations, 1993.

Interpretation.
Amended by: L.N. 426 of 2012; XIX.2018.19.

2. (1) In these regulations, unless the context otherwise requires:

Cap. 363.

"Act" means the Local Government Act;

"Commission" shall mean the Electoral Commission established by article 60 of the Constitution;

"election" means an election for Local Councils;

Cap. 354.

"Electoral Office" means the Electoral Office established by article 11(1) of the General Elections Act;

"House" means the House of Representatives established by the Constitution;

Cap. 258.

"an identification document" means a document which is an identification document for the purposes of the Identity Card and other Identity Documents Act;

Cap. 363.

"Local Council" shall mean the Local Councils established by the Local Government Act;

"political party" shall, for the purposes only of regulation 6, mean any person or group of persons who, having contested the general elections for members of the House of Representatives under one name, is represented in the House by at least one member, and in all other cases "political party" shall mean any person or any group of persons contesting the election of a Local Council as one group bearing the same name provided that the rights and obligations of such party shall be limited to the election of the Local Council for which such party is contesting;

"polling booth" means the room wherein voters attend on the day of the poll to receive and mark a ballot paper and insert the same in a ballot box;

"polling day" means the proper day established for voting in the Notice referred to in regulation 15;

"polling place" means the school, building or other complex or structure wherein one or more polling booths are situated and shall include the grounds, if any, of such complex or structure;

"the first voting day" means the Saturday before polling day when advanced voting takes place according to the particular provisions of this Act, by voters being abroad or who shall be recovered in a hospital on polling day, by residents in homes for the elderly, by members of the Commission and by residents of the Corradino Correctional Facility;

"the second voting day" means the Tuesday before polling day when voting takes place according to the particular provisions of this Act, by voters who are assigned as Assistant Electoral

Commissioners;

"the third voting day" means the Thursday before polling day when voting takes place according to the particular provisions of this Act, by voters recovered in hospitals;

"voting document" means the voting document which is to be forwarded to voters in terms of regulation 17.

(2) Whenever by these regulations a penalty is attached to the performance of any act "before, during or after", an election, no account shall be taken of anything done earlier than:

(*a*) in the case of any election held in consequence of the dissolution of the Local Council in terms of article 22 of the Act, the issue of the notice setting the date of the election;

(*b*) in the case of any election held in consequence of the expiry of the term of the Local Council in terms of article 8 of the Act, three months before the date of such expiry.

Extension of periods of time. *Amended by: XIX.2018.19.*

3. Where any period of time prescribed by any of the provisions of these regulations for carrying into effect any procedure is, in the opinion of the Electoral Commission, insufficient for the purpose, the Electoral Commission may, by notice published in the Gazette, extend such period as it may deem necessary.

Oath to be taken by commissioners.

4. The commissioners shall, on their appointment, take before the Attorney General the oath of office set out in the First Schedule.

Powers of commissioners.

5. (1) In the execution of their duties under these regulations, the commissioners shall, in the absence of any express provision contained in these regulations, do all such things as appear to them to be necessary for the performance of their duties.

(2) In the execution of their duties under these regulations, the commissioners shall have the powers conferred by law on the Courts of Magistrates for the purpose of enforcing order at their sittings and ensuring the respect due to them.

Party Delegates.

6. (1) Every political party shall have the right to nominate two delegates (hereinafter referred to as the "party delegates") to the Commission.

(2) Party delegates shall represent the political party nominating them with the Commission and shall have the right in general to be informed of all sittings of the Commission and decisions taken thereat.

(3) The party delegates shall notwithstanding the provisions of any other law, have full and free right of access to the Electoral Office, to all records kept therein and to check, verify and obtain any information regarding the work of the Electoral Office; provided that the Commission shall have the right to nominate an official of the Commission to accompany such delegates at all times.

(4) The party delegates shall continue in office until removed by the political party nominating them.

(5) Party delegates shall have the right to seek and obtain from the commissioners as well as from any other official connected with the running, supervising or security of the elections or of any aspect thereof, information showing whether or not such persons are taking adequate measures to comply with the provisions of these regulations in the forthcoming elections, and the commissioners or such other persons shall, notwithstanding any other law or regulation, be bound to furnish such information immediately.

(6) Notwithstanding any provision in these regulations granting party delegates and political parties the right to seek and obtain information or their right to be given copies of documents and lists by the Commission or by government departments, such right shall not include the right of access to medical records or to adoption records of voters and the right to be made aware prior to the day of the poll of security features relating to ballot papers, voting documents and the official mark used by the Commission on ballot papers. Where the information, documents or lists are of a confidential nature the party delegates shall have the same obligations as to secrecy as the person from whom such information, documents or lists are obtained.

(7) Party delegates shall have the right to ask that information, documents and lists which the Commission should forward to them, be forwarded in such electro-magnetic format as the Commission can reasonably supply through the use of its equipment.

PART II

The Local Councils' Electoral Register

Regulations 7 to 14 were revoked by Act XXI.1999.41

PART III

Election Notices, Voting Documents and Ballot Papers

Election Notice.

15. (1) Whenever an election is to be held, the Electoral Commission shall issue a Notice, hereinafter referred to as "the Notice" in the form set out in the Sixth Schedule.

(2) The Commission shall issue such Notice at least thirty-five days before the day fixed for the election and shall cause it to be published in the Gazette.

Notice to be published by commissioners. *Amended by: XIX.2018.19; XI.2019.19.*

16. Within three days of the publication of the Notice, the commissioners shall further cause a notice or notices to be published in the Gazette stating:

(*a*) the website and/or manner in which candidates may submit their nominations electronically; the place where, and date and time when, the commissioners will be in attendance to receive nominations of candidates for election as councillors, and any objections to such nominations, such place being referred to in the General Elections Act as the Electoral Office. The time during which nominations of candidates for election may be made shall be five days and shall not commence to run before six days from the date of the publication of the notice referred to in this regulation, and the time during which objections to such nominations may be made shall be one day from the expiration of the time fixed for the receipt of nominations;

Cap. 354.

(*b*) the places where, and the days and hours when voting shall be held. Voting shall not take place before the expiration of three days from the date of the publication of the notice referred to in regulation 24(3);

(*c*) the place to which the ballot boxes shall be taken by the assistant commissioners after the close of voting, which shall also be the place where the Commission shall store the ballot boxes and count the votes cast, such place being, as far as practicable, in the locality itself and, if possible, the place used as the polling place or one of the polling places in that locality;

(*d*) the date and time when the ballot boxes shall be opened and the counting of votes shall take place.

(*e*) whether the Commission has decided to use an Electronic Counting System:

Provided that a published decision to use an Electronic Counting System shall not operate so as to prevent the Commission, in its considered opinion, from rescinding or retracting at any time, its decision to use an Electronic Counting System to revert to the manual system as outlined in Schedule Three.

Voting document. *Amended by: I. 2005.21; L.N. 426 of 2012; XIX.2018.19.*

17. (1) Within nineteen days of the publication of the Notice, the Commission shall forward to each voter, whose name appears in the last revised Local Councils' Electoral Register, a document hereinafter referred to as the "voting document" in the form set out in the Seventh Schedule and made of such material and in such manner as in the opinion of the Commission provides adequate security against forgery. Voting documents shall be numbered consecutively, each document having such distinctive number stamped on the face of it:

Provided that wherever the Commission is satisfied that a person whose name appears on the Local Councils' Electoral Register is dead, the relative voting document shall not be

forwarded, and where such voting document has been forwarded the Commission shall withdraw it:

However the voting documents of the persons listed in the list of residents of the Corradino Correctional Facility according to regulation 48A(3)(d) shall be kept by the Commission and shall be distributed to the voting residents in the mentioned Facility on the polling day established in regulation 48(4)(d)(ii)(cc):

Provided further that the Commission shall not forward a voting document to any voter in respect of whom the Commission does not possess a photograph, and in respect of such voters the Commission shall follow the following procedure:

(i) within three days of the publication of the Notice, the Commission shall publish in the Gazette a list of the said voters stating their name, surname, place of residence and a legally valid identification document number;

(ii) the names of such voters shall not be published in the list mentioned in sub-regulation (5);

(iii) the voting document of such voters shall only be issued if the voter satisfies the requirements of regulation 18 and shall be in accordance with the provisions of that regulation.

(2) The political parties shall be granted all reasonable facilities to watch the printing of all voting documents, to check the exactness thereof and generally to ensure that only voting documents of voters entitled to receive them are printed.

(3) The voting documents printed in accordance with the previous paragraph of this regulation shall, until such time as they are forwarded to voters, be kept in boxes sealed with the seal of the Commission. The party delegates shall have the right to affix their own seals to such boxes and to be present whenever such seals are broken. This regulation shall *mutatis mutandis* also apply with regard to the voting documents which remain undistributed, in terms of sub-regulation (4), when voting documents are issued in terms of sub-regulation (6), and to the voting documents which remain undistributed.

(4) The voting document shall be served on each voter by registered post so however that in urgent or exceptional cases, the Electoral Commission may order that any or all voting documents shall be served by a police officer or any other person approved for the purpose by the Commission.

(4A) (a) Any voter who is registered as a voter in Gozo may, in the period of ten days after the publication of the Notice, inform in writing the Commission that such voter desires that his document is collected by himself from the office of the Commission in Malta in the period starting from when undelivered voting documents can be collected in terms of sub-regulation (6) up to the Thursday before polling day.

(b) In such event the Commission shall, unless such voting document had already been delivered prior to the receipt of such

request, ensure that such voting document is withheld or retrieved, and made available for collection by the voter personally from the office of the Commission in Malta on the days appointed for collection in terms of this sub-regulation.

(c) Any voter who is registered as a voter in Malta may, in the period of ten days after the publication of the Notice, inform in writing the Commission that such voter desires that his document is collected by himself from the office of the Commission in Gozo in the period starting from when undelivered voting documents can be collected in terms of sub-regulation (6) up to the Thursday before polling day.

(d) In such event the Commission shall, unless such voting document had already been delivered prior to the receipt of such request, ensure that such voting document is withheld or retrieved, and made available for collection by the voter personally from the office of the Commission in Gozo on the days appointed for collection in terms of this sub-regulation.

(e) The Commission shall keep a written record of all requests made by virtue of this sub-regulation and shall provide the parties with a list of such requests received, with such list being supplied first within two days after the publication of the Notice and updated every two days thereafter.

(f) Any voter, who is registered as a voter in Malta or Gozo, may request the Commission to retrieve such voting document from either Malta or Gozo, as the case may be. Such requests shall reach the Commission before 6.00 p.m. of the Thursday before polling day in terms of sub-regulation (6).

(5) When the commissioners are unable to effect service of the document aforesaid they shall as soon as possible, and in no case later than six days from the time established in sub-regulation (1), publish in the Gazette a list containing the names, a legally valid identification document number and addresses of the persons on whom the voting document has not been served, and shall state the reason why service has not been effected.

(6) Any person on whom the voting document has not been served and whose name appears in the list published in accordance with the preceding paragraph, may up to the Thursday immediately preceding the day of the voting, appear personally before one of the commissioners or any other person delegated by them and claim delivery of the document:

Provided that the document aforesaid shall not be delivered to him unless he produces his legally valid identification document to the commissioners or the person delegated by them.

(7) Any of the commissioners or other person delegated by them may examine on oath any person for the purpose of ascertaining his identity and of establishing his claim to receive the document.

Special voting document.
Amended by: L.N. 426 of 2012; XIX.2018.19.

18. Where a person whose name appears in the last revised Local Councils' Electoral Register, but not in the list published under regulation 17(5), has not received the voting document or, after the receipt of such document, has lost or destroyed such document, such person may not later than 9.00 p.m. of the Wednesday immediately preceding the commencement of voting, appear before one of the commissioners, and if -

(*a*) he proves his identity by the production of his legally valid identification document; and

(*b*) makes a declaration on oath before any such commissioner that he has not received the voting document or that, after the receipt of such document, he has lost or destroyed it, and such further declarations on oath as the commissioner may require,

he shall be given a voting document issued specially for the purpose; and in any such case:

(i) the name of such person appearing on the list referred to in regulation 34(1) shall be marked "SPECIAL"; and

(ii) a list of all the persons to whom a voting document is issued under this paragraph shall be kept at the Electoral Office and shall be open to inspection by any candidate, party agent or party delegate at all reasonable times until the poll closes.

Number of voting documents.
Amended by: L.N. 426 of 2012.

19. (1) Not later than the Friday before the start of the poll, the commissioners shall cause to be published in the Gazette a list indicating the number of voting documents printed, the number distributed in terms of regulation 17(1), the names and addresses of the persons who up to that time have claimed delivery thereof in terms of regulation 17(6), the number of voting documents issued in terms of regulation 18 and the name, address and a legally valid identification document number of the persons to whom such documents have been delivered, the number and reasons for voting documents withheld and the names, addresses and the legally valid identification document numbers of the voters concerned and the number of voting documents remaining uncollected and the names, addresses and the legally valid identification document numbers of the voters concerned.

(2) Any political party shall have the right to nominate representatives to be present during the issuing of the voting documents in terms of regulation 17(6) and regulation 18 and for this purpose the said parties shall be provided by the Commission with all such information as is required by them and as they may deem necessary for the better performance of their duties.

Ballot Paper.
Amended by: XXI. 2007.8; XIX.2018.19; XI.2019.19.

20. (1) Two days prior to the commencement of voting, the Commission shall cause to be published in the Gazette the number of ballot papers printed for each locality and the number to be distributed to each individual polling booth.

(1A) The Commissionshall not earlier than twenty-one days but not

later than ten days before the poll print according to the Eighth Schedule such number of ballot papers as may be necessary for the poll in such form and on such material as may be provided for in this Act. This does not apply to the printing on the rear of ballot papers according to Schedule 8A. Not later than five days from the printing of the ballot papers, the Commission shall produce a Braille template for use as a guide on the ballot paper as well as a playback listening device, by which a blind person may recognize the political parties and their candidates in the same manner as they are printed, and such documents and materials shall be available for reasonable scrutiny by the representatives of the political parties contesting the poll to ascertain the transparency of the procedure, which scrutiny shall be exercised not later than five days before the first poll. Should no objection be raised the materials shall be deemed to have been approved by the Commission:

Provided that any objection raised by the political party representatives shall be decided upon by the Commission within twenty four hours of it being raised and should the objection be accepted by the Commission any alteration or amendment to the materials shall be made within twenty-four hours of the decision of the Commission and communicated to the political party representatives.

(2) The Commission shall ensure as far as is practically possible that ballot papers are made of such security paper and carry such markings as to ensure that they may not be duplicated, and not later than two days prior to the commencement of the voting, the Commission shall cause to be published in the Government Gazette the number of ballot papers printed for each electoral division and the number to be distributed to each individual polling booth.

(3) The ballot paper of each voter shall consist of a paper in the form set out in the Eighth Schedule, containing a list of candidates described by the name (including any nickname), address and profession or occupation as given in their respective nomination paper and with the facial image of each candidate taken in black on a white background and as approved by the Electoral Commission. The photograph shall be submitted to the Commission by electronic means by the fifth day after the established time for objections to a nomination. In the case where the candidate does not conform himself, the Commission shall be authorised to use the photograph which the candidate has on his identity card.

(4) Within each locality candidates shall be arranged by political party and, within each party group alphabetically in the order of their surname. If there are two or more candidates of one party with the same surname, they will be arranged in order of their other name or names.

(5) Every political party contesting the election shall provide the Commission with the names of the candidates contesting the election in its own interest in each locality. The list shall be conclusive evidence as to whether a particular candidate belongs to that political party and such list shall be delivered to the Commission

by the last day of the day fixed for the receipt of nominations.

(6) If supplied by the party to which he belongs, there may be printed on the ballot paper immediately preceding the name of each candidate belonging to that party any badge or device, approved by the Electoral Commission, indicating the political party, if any, to which the candidate belongs, or otherwise calculated to assist the identification of the candidate by the voter.

(7) Parties will be placed on the ballot paper in alphabetical order.

Distribution of Ballot Papers. *Amended by; XIX.2018.19.*

21. (1) On the day or days as near as practicable to the day of voting, the Commission shall prepare in different packets the ballot papers and all other documents and materials to be consigned to the assistant commissioners on polling day.

(2) The Electoral Commission shall retain possession of all packets until the day of the poll when it shall deliver the same to the assistant commissioners prior to the start of voting.

(3) Representatives of the political parties shall be granted all reasonable facilities to oversee the printing and checking of all ballot papers, the packing thereof and their distribution to the assistant commissioners, and to affix their seals to all packets prepared by the Electoral Commission for delivery to the assistant commissioners.

PART IV

Nomination of Candidates

Nomination of Candidates. *Amended by; XIX.2018.19; XI.2019.19.*

22. (1) A candidate for election shall be nominated in writing or by electronic means:

(*a*) where a candidate is nominated in writing, the nomination paper, which shall be in the form set out in the Ninth Schedule, shall be signed by the candidate himself, (or, in the event of his absence from Malta, by a duly appointed representative), and by, at least, four voters registered in the locality for which the candidate is nominated. The nomination paper shall be delivered to one of the Commissioners at the Electoral Office by the candidate himself or if he is prevented by illness or absence from Malta by his lawful representative within the period specified in the notice referred to in regulation 16;

(*b*) where a candidate is nominated by electronic means, the nomination form, which shall be in the form set out in the Ninth Schedule to this Act, shall be filled in through a website prepared for that purpose by the Commission which nomination shall be electronically signed by the candidate. The nomination will also include an attestation to the nomination by at least four voters registered in the electoral division for which the

candidate is nominated, which attestation shall be provided through the said website in the manner and form established by the Commission. The nomination is to be submitted within the period specified in the notice referred to in regulation 16.

(2) Immediately after a nomination has been delivered to the Commission the name of the candidate shall be shown at the entrance of the Electoral Office with an indication of the locality for which the candidate was nominated.

(3) Objections may be made to a nomination on the ground that the description of the candidate is insufficient to identify the candidate, that the nomination does not comply with, or was not delivered in accordance with the provisions of the Act or of these regulations or that the deposit prescribed by regulation 23 has not been paid:

Provided that no such objection may be made after the expiration of the time fixed for the making of such objection in the notice referred to in regulation 16.

(4) Every objection shall be in writing and signed by the objector and shall specify the ground of the objection. The Commission itself may lodge an objection.

(5) The Commissioners shall, not later than two days following the expiration of the time fixed for the receipt of objections, decide on the validity of every objection and inform the candidate to whose nomination the objection relates or his lawful representative of their decision and, if the objection is allowed, of the ground of their decision. The decision of the commissioners, if disallowing an objection, shall be final, but if allowing an objection shall be subject to appeal to the Court of Appeal by sworn application filed in contestation with the commissioners not later than twenty-four hours after the Commission has communicated its decision to the candidates and the Court of Appeal shall deal with such sworn application with the utmost urgency.

(6) For the purpose of this regulation, any voter may ask the commissioners to be allowed to see and examine any nomination paper accepted by them.

Deposit by candidates at elections. *Amended by: L.N. 425 of 2007.*

23. (1) A candidate at any election shall deposit, or cause to be deposited on his behalf, with the Commission, before his nomination can be accepted, the sum of ninety euro (€90), and if he fails to do so, the nomination shall not be accepted by the commissioners:

Provided that the Minister may, from time to time, by notice in the Gazette specify a higher amount which in no case shall exceed seven hundred euro (€700).

(2) If after the deposit is made the candidature is withdrawn in pursuance of the provisions of these regulations, the deposit shall be returned to the person by whom it was made; and if the candidate dies after the deposit is made and before the voting has commenced, the deposit, if made by him, shall be returned to his

heirs and if not made by him, shall be returned to the person by whom it was made.

(3) If a candidate who has made the required deposit is not elected, and the number of votes polled by him does not exceed one-tenth of the number of votes polled divided by the number of councillors to be elected for that locality, the amount deposited shall be forfeited and paid by the commissioners into the Consolidated Fund but in any other case the amount shall be returned to the candidate, where the candidate is elected, as soon as he has taken the oath as a councillor, and where the candidate is not elected, as soon as practicable after the result of the election is declared.

(4) For the purpose of this regulation the number of votes polled by a candidate shall be the highest number of votes credited to him at any time during the counting of the votes.

Uncontested and contested elections.

24. (1) If at the expiration of the time fixed for the receipt of nominations, the number of candidates nominated for a locality is equal to or less than the number of councillors that the voters in such locality are entitled to return, the commissioners shall declare the candidates so nominated as elected councillors to represent that locality and such return shall be published in the Gazette.

(2) If the number of candidates nominated for a locality is less than that which the voters in that locality are entitled to return, the Commission shall issue a new Notice for the election of councillors to fill the remaining vacant seats in that locality, and if thereupon no further candidates are nominated, or if the number of candidates nominated is less than the number of vacant seats, the seats thereafter remaining vacant may be filled by the co-option of a councillor or councillors by the elected councillor or councillors of the locality and the Commission shall not issue a new Notice in respect thereof. The councillor or councillors so co-opted must have the qualifications established in article 11 of the Act.

(3) If more than such number of candidates as aforesaid be nominated for a locality, the commissioners shall cause a notice to be published in the Government Gazette over their signature stating the names of the candidates and the locality for which they have been nominated. No person whose name has not been published in the said notice may be elected as a councillor.

Withdrawal of candidature. *Amended by; XIX.2018.19; XI.2019.19.*

25. (1) A candidate may, up to fourteen days prior to polling day, withdraw his candidature by giving notice to the Commission to that effect. Such notice shall be signed by the candidate or if he is absent from Malta, by his duly appointed representative.

(2) In the case when a candidate dies after the ballot papers have been printed, the candidacy shall be deemed to remain valid for all intents and purposes of the law. Provided that a candidate as referred to in this sub-article may still be declared to be elected but in such case the Commission shall, as soon as possible, give notice of an election to fill the said vacancy.

Threatening the secrecy of the vote. *Added by: XI.2019.19.*

25A. Any person who, having been given access to the images of the Electronic Ballots together with their interpretation and/or the data set containing the preferences of voters as shown in the Electronic Ballots, uses the said data for any purpose other than that provided in regulation 14(1) of Schedule Three-A or otherwise retains or fails to remove the said data following the conclusion of the verification process shall be guilty of the offence of threatening the secrecy of the vote.

PART V

Assistant Commissioners

Appointment of assistant commissioners. *Amended by; XIX.2018.19.*

26. (1) Subject to the provisions of the following regulations of these regulations the Commission shall appoint as many assistant electoral commissioners hereinafter referred to as "assistant commissioners" as may be necessary, to supervise the election in the manner herein prescribed. No assistant commissioner shall be appointed to supervise the poll in a locality in which he resides, or in a locality bordering that in which he resides or where he habitually works or exercises his profession or calling.

(2) The Commission may appoint one official referred to as "Polling Place Officer" for each polling place containing more than two polling booths. This officer or officers who will have the exclusive role of coordinator between the Electoral Commission and the Chairpersons, nominated in accordance with regulation 27(4), to follow instructions of the Commission and they shall in no way take any decisions regarding any situations which may arise, which decisions shall remain the exclusive responsibility of the Electoral Commission.

(3) The assistant commissioners shall take the oath of office as set out in the Tenth Schedule, before one of the commissioners and shall follow the instructions which they may receive from the Electoral Commission for the discharge of their duties.

Nomination of assistant commissioners. *Amended by; XIX.2018.19.*

27. (1) Every political party shall, within twelve days of publication of the Notice, be entitled to nominate a number of persons, equal to one and one-third the number of polling booths, to act as assistant commissioners, and to the extent that such persons have the necessary ability to perform the functions of assistant commissioner and are not disqualified from so acting by the provisions of these regulations, the Commission shall appoint assistant commissioners from amongst such persons.

(2) The Commission shall moreover itself nominate as assistant commissioners such number of persons as is necessary in order that in each of the polling booths there be in attendance at all times at least one person nominated by the Commission to act as assistant commissioner.

(3) In no case shall there be less than three assistant commissioners nominated to supervise the poll in each polling

booth and should all or any of the political parties fail to nominate all or any assistant commissioners in terms of and within the time established in sub-regulation (1), the Commission shall itself nominate other assistant commissioners in order to ensure that, at least, three assistant commissioners are in attendance in each polling booth.

(4) The Assistant Commissioner nominated by the Commission shall act as Chairperson at the polling booth to which each group of Assistant Commissioners are assigned and during voting only the Chairperson shall, when required, communicate with the voters.

(5) For the purpose of the time established in sub-regulation (1), the Commission shall not later than two days after the publication of the Notice inform the parties of the number of assistant commissioners that each party will be required to nominate.

Disqualifications and publication of names of assistant commissioners. *Amended by: L.N. 426 of 2012.*

28. (1) A person shall not be an assistant commissioner if he is a candidate for election to the Local Councils, or is a relative by consanguinity or affinity up to the second degree to any candidate for election, or is manifestly in the opinion of the Commission, after consulting the party delegates, unsuitable to perform the functions of assistant commissioner.

(2) Within two days following the day mentioned in regulation 27(1) the Commission shall deliver to the political parties a list of all persons nominated to act as assistant commissioners indicating their names, the legally valid identification document numbers, addresses and occupation.

Objection to assistant commissioners. *Amended by; XIX.2018.19.*

29. (1) The political parties, not later than four days after the day mentioned in regulation 28(2), shall have the right to object in writing to the Commission with respect to the appointment of any person as assistant commissioner on any of the grounds mentioned in regulation 28(1).

(2) Where an objection is received by the Commission in terms of the preceding paragraph of this regulation, it shall, not later than the next following day, call a meeting of the party delegates to discuss such objections.

(3) Any objection made in accordance with the preceding paragraphs shall be determined by the Commission. The determination by the Commission shall be final and binding on all concerned. Where after hearing such objections the Commission determines that a person nominated by a political party to be appointed as an assistant commissioner shall not be so appointed, the political party which had nominated that person shall have the right to nominate another person in his stead.

(4) The fresh nominations mentioned in the preceding paragraph of this regulation shall be made immediately after the determination of all the objections: The times mentioned in sub-regulations (1) and (2) shall apply to objections to persons nominated as assistant commissioners in terms of sub-regulation (3), and if any objection is received and upheld by the Commission,

the Commission itself shall appoint another person to be assistant commissioner in his stead and such appointment shall be final and no objection may be made in respect thereof.

(5) Upon final determination of all objections the Commission shall assign the assistant commissioners to the various polling booths; such distribution shall be made in such manner as to ensure that in each polling booth there is, at least, one assistant commissioner nominated by the Commission and one assistant commissioner nominated by each party contesting the election in that locality:

Provided that where a political party has not nominated a sufficient number of persons to be appointed assistant commissioners, the Commission shall only be required to assign, in respect of that political party, such assistant commissioners as have been nominated by it and appointed assistant commissioners.

(6) The Commission shall, within two days of the final determination referred to in the preceding sub-regulation, cause a list to be published in the Gazette showing the name, address, identity card number and occupation of each assistant commissioner appointed, the polling booths to which each has been assigned, and indicating the assistant commissioners who are assigned but held in reserve.

(7) After the final distribution of all assistant commissioners and up to the end of voting, the Commission alone shall have the right to substitute assistant commissioners and then only for grave and sufficient reasons and in such manner as to ensure that where the assistant commissioner substituted is one nominated by a political party, his substitute shall be a person nominated by the same party, provided a sufficient number of assistant commissioners have been nominated by that party.

PART VI

Voting

Appointment of party agents.

30. (1) Every political party shall have the right to nominate as its agents such number of persons as is equal to the number of ballot boxes and such persons are in these regulations referred to as "party agents".

(2) The party agents so nominated shall have the right to be present in the polling booths prior to the start and at the close of the poll for the purposes provided for in these regulations.

(3) Political parties exercising the right granted to them by sub-regulation (1) shall forward a list to the Commission containing the names of the persons nominated by them as its agents not later than the day appointed for the nomination of assistant commissioners in terms of regulation 27.

(4) Notwithstanding anything contained in these regulations, the political parties may nominate as party agents the same person or persons whom they have nominated as assistant commissioners.

Persons guilty of corrupt practices not to be appointed agents.
Cap. 354.

31. No person shall be appointed party agent who has within seven years previous to such appointment been found guilty of any corrupt practice under these regulations or under the General Elections Act, or is determined by the Commission to be manifestly unsuitable to act as such.

Identification of party agent.
Amended by: L.N. 426 of 2012. Substituted by: XIX.2018.19.

32. (1) The Commissioners shall not later than seven days before the start of the voting forward to such agent a tamper proof identity document bearing the photograph of the agent franked with the seal of the Commission and indicating the name, address and a legally valid identification document number of the agent and by whom he has been nominated. The identity documents as issued shall be progressively numbered, shall be of a different colour so as to easily distinguish election, transport and party agents and shall be worn in a conspicuous manner by the agent concerned in the exercise of his functions.

(2) The Commission shall forward to each political party which asks for them in writing the lists of all agents submitted by all the other political parties as well as all candidates' agents submitted by the candidates and by whom they have been nominated within two days of the receipt thereof and the political parties may make objections thereto within four days thereof.

Polling places.

33. (1) The Commission shall, whenever practical, provide not more than one polling place for each locality and shall ensure that, as far as possible, that polling place is within the locality. In each polling place, the Commission shall provide as many polling booths as possible.

(2) The Commission shall, as far as possible, provide facilities so that handicapped persons, including persons in wheelchairs, may vote in comfort.

Polling booths and polling days.
Amended by: I. 2005.21; L.N. 426 of 2012; XIX.2018.19.

34.(1)(*a*) In each polling booth a list of voters entitled to vote in that polling booth together with copies of the photograph of each voter shall be kept by the assistant commissioners. Every page of such list and every correction or cancellation thereon shall be signed by a commissioner and a party delegate of each political party, or persons nominated by them in writing.

(*b*) Copies of such lists without photographs shall be forwarded by the Commission to all political parties contesting the election at least fifteen days prior to the day fixed for voting and the Commission shall keep the political parties informed of all changes effected to such lists. The lists shall identify the polling booth where each voter entitled to vote shall exercise his right to vote, shall list the voters who are to vote in each polling booth in alphabetical order according to the surnames of the voters, assigning to each voter a distinct and consecutive number and indicating the name, surname, address and a legally valid identification document number of each voter as well as the registered number of the respective voting

document of each voter.

(*c*) The name of every voter who delivers a valid voting document and to whom a ballot paper is delivered by the assistant commissioners shall be marked on such list kept for the purpose by the assistant commissioners and in such manner as is directed by the Commission.

(2) Voting shall be held on a Saturday. Voting shall start at 7.00 a.m. and shall close at 7.00 p.m.:

Provided that every voter who at the close of time of voting is present in a polling place for the purpose of voting, shall be entitled to receive a ballot paper and to vote:

Provided further that, where the Commission are satisfied that the time allowed for voting has been, or will be, for any reason beyond their control, reduced at all or in any one or more of the places, they may, whether before or after the poll has commenced, extend the time fixed for the poll at such polling place or places so as to make good for the time lost, as aforesaid:

Provided moreover that, where all persons who have had a voting document delivered to them, such voting document not having been withdrawn, have voted in a polling booth or locality, the Commission may close the voting in that polling booth or locality before the stipulated time:

Provided further that where such election shall coincide with a general election, referendum or European Parliament election, the time of closure of voting shall be extended and be the same as the time of closure of voting for general elections, referenda or European Parliament elections as the case may be.

(3) In each polling booth the Electoral Commission shall provide a number of separate cubicles wherein each voter may record his vote in secret, and in each cubicle shall provide such facilities as it deems necessary including, however, a notice in the form specified in the Fourteenth Schedule.

Maintenance of order within 50 metres of each polling place. *Amended by: I. 2005.21; XIX.2018.19.*

35. During the time fixed for voting at any polling place, no person, other than a person waiting to vote, shall loiter within a distance of fifty metres from that polling place nor shall any person within the said distance of fifty metres make political propaganda in any manner. Any political party club within the distance of fifty metres from the centre of the width of the door used as an entrance to the polling place shall be kept closed on polling day:

Provided that the Electoral Commission and the Commissioner of Police may order the closure of any club, shop or other public establishment within such distance of fifty metres if in their opinion, such closure is necessary to maintain public order or prevent undue influence on voters during voting in any locality.

Maintenance of order at a distance of more than 50 metres of each polling place.

36. No person shall congregate during voting, in any road, square or other place, leading from the place of residence of any voter to any polling place, in such numbers or otherwise in such

manner as to be likely to intimidate any voter, or to obstruct his approach to or from a polling place, or to lead to a breach of the peace.

Ballot boxes and documents for polling booths.

37. The Commission shall on the day of the poll deliver to the assistant commissioners for each polling booth one or more ballot boxes, a sufficient number of ballot papers, lists of the voters entitled to vote at that polling booth and other relevant documents and materials.

Checking of ballot boxes by party agents and party delegates.

38. (1) Immediately prior to the start of voting the assistant commissioners shall, in the presence of any candidate or party agent or party delegate as may be present, check that the ballot boxes consigned to them are empty by opening the ballot box and shall thereupon seal the lid thereof with the seal of the Commission and allow any candidate, party agent or party delegate to affix his own seal thereto.

(2) For the purpose of this regulation, where the assistant commissioners determine that because of lack of space, not all the seals may be conveniently placed, they may direct that not all seals shall be so affixed ensuring however that each political party will be given the opportunity to affix at least one seal on each ballot box.

Voting.

39. (1) Any voter wishing to vote shall attend at the polling booth, specified in the voting document received by him and shall deliver such document to an assistant commissioner at such polling booth during the hours appointed for voting.

(2) No person shall be allowed to vote unless he produces and delivers the voting document to the assistant commissioners.

(3) No inquiry shall be permitted at the time of voting as to the right of any person to vote, so long as the name of such person is included in the list referred to in regulation 34(1), but the assistant commissioners may, before the delivery of the ballot paper to a voter, put to him such questions as they may deem proper to satisfy themselves of the identity of such voter.

(4) The assistant commissioners, upon the production and delivery to them of the voting document and having satisfied themselves of the identity of the voter, shall strike out the name of the voter from the list aforesaid and shall deliver to him, after marking it with official marks, a ballot paper. For the purposes of these regulations, "official mark" shall mean the stamp which the Commission shall direct the assistant commissioners to use; so however that each political party may direct the assistant commissioner nominated by it to use a stamp of its own to mark the ballot papers, provided that an imprint of the stamp so used is deposited with the Commission prior to the start of the poll; such stamp shall not be necessary for the validity of the ballot paper.

(5) The assistant commissioners may at their discretion administer an oath to any voter in the form set out in the Eleventh Schedule to these regulations.

(6) Any person refusing to answer any questions put to him under sub-regulation (3) or to take the oath referred to in sub-

regulation (5) shall not be permitted to vote.

(7) The assistant commissioners shall not refuse a ballot paper to any person whose name is included in the list referred to in regulation 34(1) and otherwise satisfies the requirements of this regulation, unless the person so claiming to vote, upon being questioned under this regulation, appears to the assistant commissioners not to be the person whose name is on the aforesaid list or to have previously voted at the same election.

(8) The assistant commissioners shall keep a written record of the taking of any oath administered to any person under this regulation, and of their refusal to allow any person to vote.

(9) No voter shall be allowed to vote except at the polling booth specified in the voting document produced by him for purposes of voting.

(10) A voter, who has inadvertently spoilt his ballot paper may, on delivering the spoilt ballot paper to the assistant commissioner, and proving the fact of inadvertence to the satisfaction of the assistant commissioner, obtain another ballot paper in its place and the spoilt ballot paper shall be immediately cancelled.

Method of voting.

40. (1) Each voter shall have one transferable vote.

(2) A voter, in recording his vote:

(*a*) must place on his ballot paper the figure 1 opposite the name of the candidate for whom he votes; and

(*b*) may in addition indicate the order of his choice or preference for as many other candidates as he pleases by placing against their respective names the figure 2, 3, 4, 5 and 6 and so on in consecutive numerical order.

(3) A ballot paper shall be invalid in which:

(*a*) the figure 1 standing alone indicating a first preference for one candidate is not placed; or

(*b*) the figure 1 standing alone indicating a first preference is set opposite the name of more than one candidate; or

(*c*) the figure 1 standing alone indicating a first preference and some other number is set opposite the name of the same candidate; or

(*d*) it cannot be determined with certainty for which candidate the first preference of the voter is expressed; or

(*e*) any writing or mark is made by which the voter can be identified; or

(*f*) the official mark as defined in regulation 39(4) is not made.

(4) A voter shall record his vote secretly inside a cubicle in the booth provided for this purpose and constructed in such a manner as not to allow the voter to be seen when marking his ballot paper. After marking his ballot paper the voter shall fold the ballot paper so as to conceal his vote and shall then put the ballot paper in the

ballot box in the presence of the assistant commissioners.

Illiterate or incapacitated voters.
Amended by: XXI. 2007.8.

41. (1) Any voter who declares to, and shows to the satisfaction of, the assistant commissioners that he is unable by reason of blindness, other physical cause or illiteracy to mark his ballot paper, may request an assistant commissioner to mark the paper on his behalf indicating for which candidate or candidates he wishes to vote and the order in which he wishes to record his vote:

Provided that the voter may not ask for any particular assistant commissioner to mark the ballot paper on his behalf:

Provided further that a person who is unable to vote independently by reason of blindness may either request an Assistant Commissioner to mark the paper on his behalf indicating for which candidate or candidates he wishes to vote and the order in which he wishes to record his vote or request the provision of a Braille template as well as a playback listening device as approved under the provision of regulation 20(1A).

(2) The assistant commissioners are bound to secrecy with regard to the voting of persons whom they have assisted to vote.

(3) There shall be not less than two assistant commissioners present when the vote is being recorded under the provisions of sub-regulation (1), but no other person shall be allowed in the polling booth.

(4) When an assistant commissioner is authorised to assist a voter to record his vote, the assistant commissioner shall require such voter to confirm his declaration on oath, and on satisfying himself of the correctness of such declaration he shall record the vote of such voter on the ballot paper, in accordance with the indication made by such voter and following the procedure set down hereunder:

(*a*) The assistant commissioner shall ask the voter: "Which of the candidates do you most desire to see elected?" and shall place the figure 1 on the ballot paper opposite the name of the candidate indicated by the voter.

(*b*) The assistant commissioner shall then ask the voter: "For which of the candidates do you desire to express a second choice?" and shall place the figure 2 on the ballot paper opposite the name of the candidate indicated by the voter.

(*c*) The assistant commissioner shall repeat the operation in reference to a third or any subsequent preference until the voter shall declare that he does not desire to express any further choice.

(*d*) In order to assist such voters in indicating their preferences, the electoral commissioners shall permit the display in the polling places of photographs of the candidates, if the same are supplied by the candidates themselves or by a political party on their behalf. Each photograph may bear, in addition to the name of the

candidate represented, the badge and name of the party, if any, to which he belongs.

Such photographs shall be of such size and description as the electoral commissioners may require and shall be displayed in such manner as they shall direct and in the order in which the candidates' names appear on the ballot paper.

(*e*) At the commencement of these operations and at any subsequent stage the assistant commissioner shall, if desired by the voter, read out in the order in which they appear on the ballot paper, the names of all candidates for whom a choice has not already been expressed by the voter.

(*f*) If any such voter, however, shall request the assistant commissioner to read out the names of the candidates of one particular political party only, the assistant commissioner shall do so by reading in alphabetical order the names of the candidates who have supplied an indication of their adhesion to that political party and omitting the names of the other candidates.

Assistant commissioners not to see vote recorded.

42. While a voter is recording his vote, the assistant commissioners shall keep at sufficient distance so as not to be able to see the vote recorded.

Ballot paper not to be removed from polling place.

43. The assistant commissioners shall in no case permit any person to take his ballot paper out of the room or out of their sight until it is inserted into the ballot box.

Assistant commissioners not to make suggestions as to manner of voting.

44. Saving the provision of regulation 41, no assistant commissioner or any other person shall record the vote for any voter, or shall, at any polling place make any suggestion to him directly or indirectly regarding the candidate or candidates for whom he should vote or regarding his choice of preference.

No unauthorised person to enter polling place.

45. Except where otherwise stated in these regulations the assistant commissioners shall not allow any person not being a police officer on duty, or a person lawfully entrusted with some duty in connection with the elections, or a person entitled to vote at that polling place, to enter such polling place; nor shall they permit any voter or other person to remain in the polling place longer than necessary.

Closure of voting. *Amended by: XIX.2018.19.*

46. (1) After the expiration of the time fixed for voting or where, in terms of the proviso to regulation 34(2) voting in a polling booth or a locality has closed, the assistant commissioners shall seal the opening of the ballot box, shall place in a packet all unused and spoilt ballot papers and all printed or written records kept by them, affixing their seal thereto, after stating and signing on the said packet the number thereof, and shall place in a separate packet all voting documents delivered to them. The official marks used by the assistant commissioners including those used by the assistant commissioners nominated by the political parties shall be put in a separate packet which shall be sealed with the seal of the Commission after all assistant commissioners have affixed their

signature thereto.

(2) For the purposes of the previous paragraph of this regulation the assistant commissioners shall physically count and reconcile the number of unused and spoilt ballot papers, the number of persons marked as having voted on the list referred to in regulation 34(1) and the number of voting documents delivered to them.

(3) After the close of the poll and before the ballot boxes are removed from the polling booths, the assistant commissioners shall affix a notice on the door of each polling booth and signed by all the assistant commissioners stating the number of voters entitled to vote at that polling booth, the number of ballot papers received by them from the Commission, the number of voting documents delivered to them distinguishing as to whether they are ordinary or special, the number of spoilt ballot papers and the number of unused ballot papers being returned by them to the Commission and the number of persons who have voted in that polling booth. The said notice shall in this regulation be henceforth referred to as the "ballot paper account".

A copy of the ballot paper account shall be delivered by the assistant commissioners to each political party by handing it to any candidate, party delegate or party agent representing such party as may be present, and shall also be delivered to the Commission at the place specified in regulation 16(*c*) and the Commission shall immediately thereon provide a copy to the party delegates.

(4) On completion of all the duties mentioned in the preceding sub-regulation, the assistant commissioners shall deliver the ballot box or boxes and all documents and packets entrusted to them to the Commission at the place specified in regulation 16(*c*).

(5) Party delegates, candidates and party agents shall have the right to attend at the reconciliation and sealing of papers and sealing of ballot boxes, mentioned in the preceding sub-regulations, to affix their own personal seals to the packages containing the papers and to the ballot boxes and shall, subject to the provision of the following sub-regulations, be granted facilities to watch and accompany the transportation of the ballot boxes from the polling place up to their delivery to the Commission.

(6) (*a*) No more than one party agent from each political party may be present in each polling booth at any one time during the procedure for the sealing of ballot boxes.

(*b*) The assistant commissioners shall ensure that candidates, party agents or party delegates as may be present shall be called in prior to their starting the procedures outlined in the previous paragraphs of this regulation for the sealing of ballot boxes and packets and reconciliation.

(*c*) The candidates, party agents and party delegates that may be present shall be granted all reasonable facilities to oversee, record and request recounts of all the operations undertaken by the assistant

commissioners in terms of the previous paragraphs of this regulation and without prejudice to the generality of the above:

(i) to reconcile the number of persons who have voted as stated in the ballot paper account with the number of persons which the assistant commissioners have struck off the list referred to in regulation 34 and the number of voting documents received by the assistant commissioners;

(ii) to reconcile the names of the voters which the assistant commissioners have struck off the list referred to in regulation 34 with the names or the voting documents received by them;

(iii) to record the names, the legally valid identification document numbers and, or, the particulars of the persons who have not voted;

(*d*) If a vehicle is to be used for the transportation of the ballot box, and after all the procedures indicated in the previous paragraph of this paragraph have been completed, the assistant commissioners shall keep the ballot box and all documents and packets in the polling booth until such time as the vehicle designated by the Commission for the transfer of the ballot boxes arrives at the polling place. Any candidate, party agent or party delegate as may be present shall also have the right to remain at such polling booth.

(*e*) During the transportation from the polling place to the place designated by the Commission for the delivery of ballot boxes in terms of paragraph (3) of regulation 16 no more than one representative from each of the political parties may board the vehicle designated by the Commission for transportation.

(*f*) The representatives mentioned in the previous paragraph of this paragraph shall be designated by the political parties within seven days of being notified by the Commission of the number of persons to be appointed, and shall be duly authorised by the Commission and shall bear an identification document similar to that required by regulation 32(1) and shall have these names published in terms of regulation 32(2).

(*g*) If no vehicle is to be used in the transportation of the ballot box, the assistant commissioners, accompanied by any candidate, party delegate or party agent as may be present, shall, after all procedures indicated in the previous paragraphs of this regulation have been completed, carry the ballot box and deliver it to the Commission in the place indicated in regulation 16(*c*).

(*h*) The refusal by any assistant commissioner to sign any declaration or document shall not of itself invalidate

the contents thereof.

Assistant commissioners responsible for the maintenance of order.

47. The assistant commissioners shall keep order in the polling place under their charge and shall be responsible for any irregularity in the voting in that place in so far as such irregularity could have been prevented by them.

PART VII

Substituted by: L.N. 36 of 2013.

Voting in Retirement Homes and Hospitals

Retirement home and hospitals. *Substituted by: L.N. 36 of 2013.*

48. For the purpose of this Part, "a retirement home" means such place or places principally used for the care of elderly persons in which at least fifty voters reside and "hospitals" means Mater Dei Hospital, Karen Grech Hospital and Mount Carmel Hospital in Malta, and the General Hospital in Gozo:

Provided that the provisions of regulation 49(3)(*a*), of regulation 50(1)(*b*) and of regulation 51 shall not apply to retirement homes not run or administered by the Government.

Mixed polling places at residential homes and hospitals. *Added by: L.N. 36 of 2013. Amended by: L.N. 157 of 2014; XIX.2018.19.*

48A. (1) Notwithstanding anything to the contrary contained in these regulations, the Commission shall provide mixed polling places for the purposes and in the manner provided for by this regulation.

(2) A mixed polling place is a polling place which contains one or more mixed ballot boxes for different localities, as the case may be, and where the voters mentioned in sub-regulation (4)(*a*), (*b*) and (*c*) shall vote independently of the locality where they may be registered in the last published Local Councils' Electoral Register by casting their vote in the mixed ballot box appertaining to the locality where they are registered.

(3) The Commission shall only provide mixed polling places in the following sites:

(*a*) at Saint Vincent de Paule;

(*aa*) at a place in Malta for voters registered in Malta and at a place in Gozo for voters registered in Gozo that the Commission establishes in the Gazette according to regulation 16;

(*b*) at Mater Dei Hospital Msida, Karen Grech Hospital Gwardamanġa, Mount Carmel Hospital Attard, and Gozo General Hospital;

(*c*) at such places designated for the casting of votes by voters who are resident at retirement homes as defined in regulation 48 on the Saturday prior to polling day, as the Commission may, by notice in the Gazette published within ten days from the publication of the writ for the election, establish:

Provided that the Commission shall, wherever possible, designate as such mixed polling places the retirement homes themselves:

Provided further that for the purposes of this paragraph every person who is resident in a retirement home fourteen days before polling day shall be deemed to be a resident at the retirement home:

Provided further that regulation 51 shall *mutatis mutandis* apply to mixed polling places designated in terms of this paragraph.

(*d*) all the voters residing at the Corradino Correctional Facility shall vote in the place indicated in this regulation and it shall be the duty of the person responsible of the mentioned Facility to submit to the Commission a list with the name, surname, identity card number and the date of birth of such voters within three days of the publication of the Notice for the election, which list must continue to be updated everyday up to fourteen days prior to the polling day. Every person residing at the Corradino Correctional Facility listed in the list shall be deemed to be a person residing at the same Facility.

(4) (*a*) All voters who fourteen days before polling day shall be resident, but not registered as voters, at Saint Vincent de Paule shall vote at the place indicated in sub-regulation (3)(*a*), and it shall be the duty of the sub-committee set up under regulation 49 to determine who these voters shall be.

(*b*) All voters who four days before polling day shall be registered as patients at Mater Dei Hospital, Karen Grech Hospital, Mount Carmel Hospital, and at the Gozo General Hospital, shall vote in the place indicated in sub-regulation (3)(*b*) and it shall be the duty of the sub-committee set up under regulation 49 to determine who these voters shall be.

(*c*) All the voters, as provided in sub-regulation (3)(*c*), who are resident at retirement homes as defined in regulation 48 shall vote at the place indicated in the same regulation and the subcommittee established under regulation 49 shall be bound to determine who the voters shall be.

(*d*) Notwithstanding the other provisions of these regulations:

(i) voters who vote in a hospital in accordance with sub-regulation (3)(*b*) shall vote on the Thursday prior to polling day between 7.00 am and 10.00 pm;

(ii) voters -

(*aa*) who are residing at Saint Vincent de Paule; or

(*bb*) who are residing in retirement homes as defined in regulation 48 and who are entitled to vote at such places designated in accordance with sub-regulation (3)(*c*),

(*cc*) who are residing in the Corradino Correctional Facility,

shall vote on the Saturday prior to polling day between 7.00 am and 10.00 pm.

(*e*) Notwithstanding any other provision of these regulations, every person who shall have been selected to serve as an Assistant Electoral Commissioner, including those selected to serve as reserves, shall cast their vote at the place in Malta, if he is a registered voter in Malta, and at the place in Gozo if he is a registered voter in Gozo, as indicated in sub-regulation (3)(aa), and shall do so on Tuesday prior to the polling day between 7.00 a.m. and 10.00 p.m:

Provided that the Assistant Commissioners and the reserves chosen to serve in Malta and in Gozo on the day allocated for the Assistant Commissioners to vote, shall cast their vote on the first polling day at the place established in regulation 48A(3)(aa) between 7.00 a.m. and 10.00 p.m.

(*f*) For all effects and purposes of this regulation, the persons who shall vote in accordance with paragraph (e) shall be all those whose name is published in the list referred to in regulation 29(6), even if any one of such persons shall have resigned his appointment after the publication of that list.

(5) For all effects and purposes of these regulations a mixed polling place shall be considered as an ordinary polling place and the rights and duties imposed on the Commission and persons appointed by it, political parties, agents and candidates shall *mutatis mutandis* apply.

(6) In the case of those voters voting at the place indicated in sub-regulation (3)(*a*) and (*c*), a copy of the list of persons entitled to vote in such mixed polling place shall be given by the Electoral Commission to the political parties, at least four days prior to polling day. The list of the persons entitled to vote at the place indicated in sub-regulation (3)(*b*) shall be given by the Electoral Commission to the political parties by not later than midnight of the Thursday preceding the polling date.

(7) A medical consultant having in his care any voter resident at a hospital or retirement home may, by issuing a medical certificate to that effect, draw the attention of the Commission to any dangers inherent to the health of his patient should he be moved for the purposes of being taken to vote. Such certificate will, however, in no way effect the right of that voter, to ignore the medical warning and decide to cast his vote.

Sub-committee for retirement homes and hospitals. *Amended by: L.N. 36 of 2013.*

49. (1) Within twenty-four hours of the publication of the Notice for the election of councillors, the Commission shall form a sub-committee consisting of a commissioner, who shall act as chairperson, and a representative of each of the political parties and the Electoral Commission shall delegate to the sub-committee the

running of the election in all retirement homes and hospitals.

(2) The sub-committee shall have the duty to ensure that no undue pressure is brought to bear on voters in retirement homes and hospitals, that proper and adequate facilities are given to all political parties to canvass such voters, that adequate arrangements for voting are made in view of the special needs of such voters and that no political party enjoys any unfair advantage.

(3) Without prejudice to the generality of the above provisions, the sub-committee shall ensure that:

(*a*) immediate steps are taken to temporarily remove and substitute members of staff gravely suspected to have attempted to influence voters;

(*b*) arrangements are made for the receipt and proper delivery of propaganda material and for canvassing during visiting hours by candidates and political parties contesting that locality;

(*c*) complaints by political parties and/or candidates are speedily investigated and rectified when found to be justified.

Duties of persons responsible for the administration of retirement homes and hospitals. *Amended by: L.N. 426 of 2012; L.N. 36 of 2013; L.N. 157 of 2014.*

50. (1) Within three days of the publication of the Notice the person responsible for the administration of a retirement home shall send to the sub-committee:

(*a*) a list of all persons resident at such retirement home, indicating the name, a legally valid identification document number, last known address, age, ward or room number, name and address of next of kin and whether registered as a voter in the home address or otherwise;

(*b*) a list of all staff at the retirement home indicating the name, a legally valid identification document number, address, grade and working hours up to the day following the day fixed for voting.

(2) Fourteen days before polling day the person responsible for the administration of hospitals shall send to the sub-committee:

(*a*) a list of all patients currently in the hospitals indicating the name, a legally valid identification document number, last known address, ward number, name and address of the next of kin. The person responsible for the administration shall send updated lists of the patients on a daily basis to the sub-committee until the day preceding the Thursday prior to polling day; and

(*b*) a list of all staff at the hospital indicating the name, a legally valid identification document number, address, grade and working hours up to the day following the day fixed for voting.

(3) On receipt thereof the sub-committee shall immediately provide the political parties with copies of such lists.

(4) The administrator of every retirement home and hospital shall keep such lists updated and shall immediately send to the sub-committee any amendments thereto and the sub-committee shall immediately inform the political parties of such amendments.

(5) Members of the staff in retirement homes and hospitals are expressly prohibited from engaging in propaganda for any political party or candidate and any employee contravening this regulation shall be guilty of an offence and shall on conviction be liable to the penalty of general interdiction for a period of ten years and the provisions of the Probation Act and of article 22 of the Criminal Code shall not apply.

Cap. 446.
Cap. 9.

Voting at retirement homes and hospitals.
Amended by: L.N. 36 of 2013.

51. (1) The voting documents of voters registered in retirement homes shall be delivered to the voters personally in the retirement home. Unless delivered to the voter prior to admittance as a patient into a hospital, the voting documents of patients in hospitals shall be delivered to the voter personally in the hospitals. The voter may opt to deliver the voting document to the Chairperson of the sub-committee for safekeeping, and such Chairperson shall return the same to the voter on the day fixed for voting or on such earlier day as may be requested by the voter.

(2) Voters in retirement homes and hospitals shall have the option to proceed to the polling place -

(*a*) without the assistance of any person;

(*b*) with the assistance of members of the staff;

(*c*) with the assistance of members of their families;

and it shall be the responsibility of the sub-committee to ascertain the option chosen by each voter.

(3) Voters opting to be assisted by members of the staff shall be accompanied by members of the staff chosen from a pool thereof nominated in equal numbers by all the political parties, such nominations being made at least ten days before the start of the poll. Political parties shall have the right to demand, and the Commission shall have the duty to ensure, that if the ordinary staff at such homes and hospitals is not sufficient for the purposes of this regulation other persons are transferred to such homes and hospitals for such purpose.

(4) Voters opting to be assisted by members of the staff or by members of their families shall, notwithstanding any other provision of these regulations be so accompanied up to the door of the relative polling booth.

(5) During the day fixed for voting no person other than members of the sub-committee, members of the staff and relatives of patients who have been previously authorised to accompany voters to vote, shall without the express authority of the Commission, be allowed to enter retirement homes and hospitals.

(6) Except with the special authorisation of the sub-committee, no voter in a retirement home and hospital who has chosen the option to vote on his own or to be accompanied by members of his

family may be taken to vote by members of the staff.

Direction by Electoral Commission.

52. The sub-committee appointed in terms of regulation 49 of these regulations shall function under the general direction of the Commission and shall be bound to implement the decisions of the Commission.

PART VIII

Counting of Votes

Start of counting of votes.

53. The counting of votes for each locality shall take place at the place and time specified in notices referred to in regulation 16(*c*) and (*d*) and shall be conducted in accordance with the provisions of these regulations. Counting shall commence for a locality when all ballot boxes for that locality have been deposited in the room designated for the purpose by the Commission, all packets containing the papers and other material used by the assistant commissioners have been delivered to the Commission and neither ballot boxes nor packets have been declared to be in a state that gives rise to the suspicion that they have been tampered with.

Tampering with ballot boxes.

54. (1) Political parties contesting the elections shall have the right to nominate a sufficient number of agents, to be determined by the Commission, to oversee at all times the receipt of the ballot boxes, documents and packets, by the Commission from the assistant commissioners and the storage of the said ballot boxes, documents and packets after the receipt thereof. These agents shall henceforth in these regulations be referred to as "delivery agents".

(2) Party delegates, candidates and delivery agents shall have the right to monitor the receipt of the ballot boxes by the Electoral Commission from the assistant commissioners and to make representations thereon.

(3) If any of the commissioners or any party delegate, candidate or delivery agent claims that any ballot box or package is received in a state that it gives rise to suspicion that it may have been tampered with, the Commission shall order such box or packet to be dealt with separately from the other boxes or packets, and shall immediately call a meeting of the Commission and at such meeting the Commission shall have the power to hear such evidence under oath as it deems necessary.

(4) Where the Commission decides that there is no evidence that justifies the suspicion that the box or packet has been tampered with, its decision shall be final and no appeal shall lie therefrom.

(5) Any claim as is referred to in the previous paragraphs of this regulation shall be made as soon as the ballot box or packet is delivered by the assistant commissioners to the Commission and for this purpose the Commission shall ensure that the party delegates, candidates or delivery agents are given adequate facilities to attentively inspect the ballot boxes, documents or packets.

(6) It shall be the duty of the Commission to ensure the mathematical accuracy of the ballot paper account and that this tallies with the declared number of voting documents returned by the assistant commissioners. Political parties shall have the right to demand that the Commission shall for this purpose open all packets containing voting documents relative to not more than ten per cent of all boxes in order to physically check the accuracy of such returns.

(7) Political parties shall select the ballot boxes in relation to which the packets containing voting documents are to be opened during delivery of the ballot boxes to the Commission and prior to the storage of the ballot boxes.

(8) As each ballot box is received and cleared by the Commission in terms of this regulation it shall be transferred to the room designated by the commissioners for the storage of all ballot boxes in terms of regulation 16.

(9) As soon as practicable after all ballot boxes have been received and cleared in terms of this regulation and prior to the start of the counting process the Electoral Commission shall publicly declare the total number of votes declared to be cast in accordance with the ballot paper accounts delivered by the assistant commissioners as well as the number of votes in each ballot box as resulting from the same account.

(10) The Commission shall preserve until the publication of the official results of the next following election all papers delivered to them by the assistant commissioners, as well as the unused ballot papers and the voting documents, in separate sealed packets indicating on each packet the nature of the documents contained therein, and the locality to which they appertain.

(11) On every packet as is referred to in the preceding paragraph there shall be affixed the seal of the Electoral Commission and the signature of at least two commissioners, and of any party delegate, candidate or delivery agent who may wish to sign it.

Counters, supervisors and calculators.

55. (1) The Commission shall appoint a number of persons to act as counters, supervisors and calculators to assist it in the counting and transfer of votes within each locality which shall be effected under the direct supervision of the Commission.

(2) The provisions of paragraph (1) of regulation 28 shall *mutatis mutandis* apply to the office of the counter, supervisor and calculator as it applies to the office of assistant commissioner.

(3) A list of the persons appointed as counters, supervisors and calculators shall be published by the Commission in the Gazette, together with the list of persons appointed as assistant commissioners and the procedure established for the nomination by political parties and for objections to assistant commissioners shall *mutatis mutandis* apply to supervisors and counters.

(4) All counters, supervisors and calculators shall be issued with identity documents specifying the details provided for party agents. The identity documents shall he worn at all times by the

counters, supervisors and calculators whilst in the precincts of the building where the counting of votes is held.

(5) The calculators shall perform all mathematical calculations connected with the counting of votes and the Commission shall ensure that the persons so chosen are proficient in mathematical calculations.

(6) Supervisors shall be responsible for a number of counters and shall oversee the opening of ballot boxes, and the sorting and counting of ballot papers for every counting table. The Electoral Commission shall ensure that at all times during the counting of votes there are no less than two supervisors for each counting table and that the political parties are adequately represented in the choice of persons to act as supervisors for each counting table.

(7) Counters shall work under the direction of the supervisors; they shall physically sort and count the ballot papers. The Electoral Commission shall ensure that there are a sufficient number of counters on each counting table to ensure a quick and efficient counting process and that the political parties are adequately represented at all times during the counting of votes in the choice of persons to act as counters at each counting table.

Commissioners may appoint persons to assist them in the counting of votes.

56. (1) The Commission may authorise any one or more of its members or any other person or persons appointed by it to do anything on its behalf in connection with the receipt and storage of ballot boxes and the counting and transfer of votes and anything done by virtue of such authority shall be deemed to have been done by the Commission.

(2) Notwithstanding anything contained in any other part of these regulations, the Electoral Commission may for the purposes of the counting of votes appoint any number of principal assistant electoral commissioners to act on its behalf as the Commission deems fit to supervise the counting of votes within each locality and anything done by the principal assistant electoral commissioners shall be deemed to have been done by the Electoral Commission.

(3) The commissioners or any one or more of them shall administer to every person authorised to act for the Commission under the provisions of this regulation, an oath for the faithful discharge of the duties assigned to him.

Candidates and counting agents. *Amended by: I. 2005.21; L.N. 426 of 2012; XIX.2018.19.*

57. (1) Unless these regulations otherwise provide, candidates and party delegates shall have free access to the building where the counting of votes will take place, and to the counting hall, at all times.

(2) Every political party shall moreover have the right to nominate a number of agents equal to the number of candidates presented by it to contest the election and such agents shall at all times have access to the said building and to the counting hall at all times. These agents shall henceforth in these regulations be referred to as "counting agents".

The list of such agents shall, at least, seven days prior to the

start of the poll be sent to the political parties and shall be published by the Commission in the Gazette indicating the name, address and a legally valid identification document number of each agent and the party nominating him.

The list of such agents shall, at least, seven days prior to the start of the poll, be forwarded by the Commission to the political parties and posted at the entrance of the Electoral Office indicating the name, address and a legally valid identification document number of each agent and the party nominating him.

(3) The party delegates, candidates and counting agents shall be issued with an identity document and such identity document is to be worn at all times on entry into and inside the building or complex wherein the votes are counted.

Building where counting of votes will take place.

58. With respect to the building designated by the Commission for the counting of votes the Commission shall ensure that:

(*a*) adequate facilities are provided for media coverage as well as for the political parties;

(*b*) an area adjacent and communicating with the counting hall shall be provided for the storage of the ballot boxes and that during the time the boxes are stored in such area they shall at all times be visible from all parts of the counting hall;

(*c*) in the counting hall itself counters shall be separated from the candidates and agents and except in the cases expressly provided for in these regulations, access to the area designated by the Commission for the counting of votes shall only be allowed to candidates and agents with the express consent of the Commission; provided that the party delegates and two substitutes thereof for each locality in which an election is held, previously nominated by such delegates, shall have free access to the counting area at all times;

(*d*) the disposition of the counting area shall be such that as far as possible all the counting process can be closely viewed by candidates, agents and party delegates;

(*e*) adequate back up facilities for services failure are provided especially with respect to lighting;

(*f*) reasonable security measures are taken at all times in and around the building, that entry is restricted to authorised persons only and that no lethal instruments or instruments which may be rendered lethal are introduced in the building;

(*g*) at least fifteen days before the start of voting the commissioners shall show the party delegates how they propose to allocate and separate the different areas of the said building and shall consider suggestions made by the said delegates in this regard;

(*h*) notwithstanding anything else contained in these regulations, the party delegates and their substitutes, shall at all times have access to any part of the building for the purpose of ensuring that the provisions of these regulations are being enforced.

Broadcasting coverage.

59. The Commission shall ensure that as far as practicable full and constant press and broadcasting coverage is allowed of the counting and transfer of votes and for such purpose shall allow entry into the building to *bona fide* press and broadcasting personnel and apparatus.

Extraordinary circumstances.

60. In extraordinary circumstances the Commission may allow entry into the building and the counting hall to such other persons as they think fit but in no case shall entry be allowed to the public generally.

Representations to commissioners.

61. Notwithstanding anything else contained in these regulations, candidates and the counting agents shall at all times have access to the commissioners for the purpose of making representations on their own behalf or on behalf of the candidate or party represented by them.

Direction of building.

62. The Commission shall have the sole direction of the building designated for the counting and transfer of votes and shall have the right to give such orders as are necessary for the maintenance of order and security within the building.

PART IX

Ballot Paper Account Reconciliation

Counting of votes.

63. The Commission shall proceed to count all the votes cast in a locality in order to establish the total number of votes cast in that locality.

Removal of ballot boxes from strong room.

64. (1) Prior to the removal of each ballot box from the room designated by the Commission to hold all the ballot boxes in terms of regulation 16, the party delegates or their substitutes shall have the right to examine the seals affixed to each ballot box.

(2) Any objection raised by the party delegates or their substitutes as to the integrity of such seals shall be examined by the Commission whose decision thereon shall be final and not subject to appeal.

Opening of each ballot box.

65. One ballot box at a time shall be opened and prior to the opening of each ballot box the Commission shall cause the ballot paper account for that ballot box to be affixed in such a manner that it may be clearly seen by the candidates and agents and shall show the candidates and agents the seals on the ballot box in order that they may ascertain that such seals are intact.

Objections to opening of ballot box.

66. Any party delegate, candidate or agent may, prior to the opening of the ballot box, make representations claiming that the seals of the box have been tampered with. Where such an objection is made the box shall not be opened until the Commission, after

consulting the party delegates or their substitutes, shall have given such directions and taken such measures as it may consider necessary.

Checking of ballot paper account. *Amended by: XI.2019.19.*

67. Where no objections are made and where the Electoral Commission in terms of the previous regulation of these regulations so directs, the ballot box shall be opened and the number of ballot papers contained therein shall be counted, face downwards, to ascertain that the number of votes in that ballot box corresponds to the ballot paper account.

Provided that where the Commission decides to use an Electronic Counting System the ballot box shall be opened and the ballot papers shall be placed faced downwards on the counting table. When all the ballot papers found in a ballot box have been placed faced downwards on the counting table, the supervisor shall place the ballot papers together in one parcel faced downwards and in a separate tray for each ballot box with the polling booth number and locality name. The supervisor shall immediately place the tray on a rack in a place clearly visible to the counting agents. This process shall be repeated until all ballot boxes have been opened. The counting and tallying of the ballot papers shall be done in accordance to the rules stated in Thirteenth-A Schedule.

When ballot papers do not tally with ballot paper account.

68. Where the ballot papers in the ballot box do not tally with the ballot paper account the attention of the Commission shall be drawn to the fact and the Commission, after consultation with the party delegates, or their substitutes shall give such directions as it may deem fit and such decision shall be final.

When ballot papers and ballot paper account tally.

69. Where the ballot papers in the ballot box and the ballot paper account tally, the votes shall be put together and placed in a pigeon hole indicating the number of the ballot box. The pigeon hole and ballot papers must at all times be clearly visible by parties, candidates and agents. The ballot papers in each pigeon hole shall be put in parcels of fifty ballot papers each with any remainder being put at the bottom of the pile and the supervisor shall ensure that each parcel is counted for accuracy by more than one counter.

All ballot boxes to be opened.

70. The process described in regulations 63 to 69 shall be repeated until all ballot boxes have been opened to ascertain that the ballot papers in each box tally with the ballot paper account relative to it.

Number of votes cast.

71. After all ballot boxes have been opened and reconciled with the relative ballot paper account the Electoral Commission shall prior to proceeding to the sorting of votes declare the total number of votes cast and their distribution by ballot box.

PART X

Counting and Sorting of Votes

Sorting of ballot papers. *Amended by: XI.2019.19.*

72. (1) Ballot papers shall be sorted in accordance with this Part of these regulations or, when an Electronic Counting System is being used, Schedule Three-A.

(2) In this Part unless the context otherwise requires:

(*a*) The expression "continuing candidate" means any candidate not elected and not excluded from the poll.

(*b*) The expression "first preference" means the figure "1" standing alone opposite the name of a candidate; the expression "second preference" means the figure "2" standing alone opposite the name of a candidate; and the expression "third preference" means the figure "3" standing alone opposite the name of a candidate, and so on.

(*c*) The expression "next available preference" means a second or subsequent preference recorded in consecutive numerical order for a continuing candidate, the preferences next in order on the ballot paper for candidates already elected or excluded from the poll being ignored.

(*d*) The expression "transferable paper" means a ballot paper on which, following a first preference, a second or subsequent preference is recorded in consecutive numerical order for a continuing candidate.

(*e*) The expression "non-transferable paper" means a ballot paper on which no second or subsequent preference is recorded for a continuing candidate:

Provided that a paper shall be deemed to have become a non-transferable paper whenever:

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

(ii) the name of the candidate next in order of preference (whether continuing or not) is marked either by a number not following consecutively after some other number on the ballot paper or by two or more numbers; or

(iii) for any other reason it cannot be determined with certainty for which of the continuing candidates the next available preference of the voter is recorded.

(*f*) The expression "original vote" in regard to any candidate means a vote derived from a ballot paper on which a first preference is recorded for that candidate.

(*g*) The expression "transferred vote" in regard to any candidate means a vote derived from a ballot paper on which a second or subsequent preference is recorded for that candidate.

(*h*) The expression "surplus" means the number of votes by which the total number of the votes, original and transferred, credited to any candidate, exceeds the quota.

(*i*) The expression "count" means:

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

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

(iii) all the operations involved in the transfer of the votes of an excluded candidate or of two or more candidates excluded together.

Sorting of ballot papers.

73. The Commission shall cause the ballot papers to be sorted out into parcels according to their first preference recorded for each candidate, rejecting any that are invalid.

Method of sorting.

74. The sorting of ballot papers indicated in the previous regulation shall be carried out in the following manner:

(*a*) the supervisor of each counting table shall take the topmost bundle of ballot papers from each pigeon hole and, in full view of the candidates and agents, place the bundles on a rack to pass to the counters;

(*b*) when a parcel of ballot papers has been taken from each different pigeon hole and placed on the rack as provided in the previous paragraph of this regulation, the supervisor shall pass to each counter one parcel at a time in order that the ballot papers may be sorted;

(*c*) the counters shall open each parcel with the ballot papers and ascertain whether each paper is valid or invalid;

(*d*) if the counters decide that there is a possibility that, for any reason according to the Act or these regulations, a ballot paper may be invalid or if any candidate or agent for the same reason so claims, the counter shall place such ballot paper in a tray marked "dubious";

(*e*) if the ballot paper is considered as valid the counter shall place the ballot paper in a tray indicating the candidate to which the first preference has been given on that ballot paper.

Continuation of sorting process.

75. (1) When a counter has so disposed of the parcel of ballot papers mentioned in the previous regulation he shall be given another parcel to sort in the same manner and so on and so forth until all the parcels on the rack have been counted.

(2) When all the parcels on the rack have been counted the supervisor shall take the next topmost parcel of ballot papers from each pigeon hole repeating the sorting process mentioned in regulation 74 and in sub-regulation (1) of this regulation and so on and so forth until all ballot papers have, in phases, been removed from the pigeon holes, put on the rack and sorted.

Dubious votes.

76. (1) Whenever the supervisor in charge of the sorting of votes determines that in the tray marked as "dubious" there are a sufficient number of ballot papers he shall call one of the principal assistant electoral commissioners to collect such papers.

(2) The dubious ballot papers may only be removed from the tray by a principal assistant electoral commissioner who shall personally take them to a table designated for that purpose.

(3) The Electoral Commission, or the principal assistant electoral commissioners, shall, after hearing the representations of the party delegates or their substitutes, decide in respect of each paper, whether it is valid or invalid and if they decide that it is invalid they shall so stamp the paper on its face.

(4) The decision of the principal assistant electoral commissioners shall be subject to an appeal to a member of the Electoral Commission designated to hear such appeals by the Commission and his decision shall be final.

(5) Once all the dubious ballot papers have been declared valid or invalid, they shall be returned by a principal assistant electoral commissioner who shall pass them on to a supervisor.

(6) The supervisor shall cause the invalid ballot papers to be put in a tray marked "invalid" and the valid ballot papers to be sorted in accordance with the preceding regulations.

Counting papers.

77. (1) The Commission shall then count the number of papers in the tray of each candidate, and credit each candidate with a number of votes equal to the number of valid papers on which a first preference has been recorded for such candidate, and they shall ascertain the total number of valid papers.

(2) When counting the number of papers placed in the tray of each candidate, the supervisor shall direct that such papers be bundled in packets of fifty papers each and that each packet is counted by at least two counters.

Ascertainment of quota.

78. The Commission shall then divide the total number of valid papers by a number exceeding by one the number of vacancies to be filled. The result increased by one, disregarding any fractional remainder, shall be the number of votes sufficient to secure the return of a candidate. This number is herein called the "quota".

Candidate with quota elected.

79. If at the end of any count the number of votes credited to a candidate is equal to or greater than the quota, that candidate shall thereupon be elected.

Transfer of surplus.

80. (1) If at the end of any count the number of votes credited to a candidate is greater than the quota, the surplus shall be transferred, as in this regulation provided, to the continuing candidates for whom the next available preferences have been recorded on the ballot papers in the parcel or sub-parcel received by the elected candidate at that count.

Priority of surplus.

(2) A surplus which arises from any count shall be transferred before a surplus which may arise from a subsequent count.

(3) If more than one candidate has a surplus arising from the same count, the largest surplus shall first be dealt with.

Equality of surplus.

(4) If two or more candidates have each an equal surplus arising from the same count, the surplus of the candidate with the greatest number of votes at the first count at which the candidates

in question had an unequal number of votes shall first be dealt with. Where the number of votes credited to such candidates were equal at all counts the Commission shall determine by lot which surplus they will first deal with.

Original votes only.

(5) (*a*) If the votes credited to an elected candidate consist of original votes only, the Commission shall examine all the papers in the parcel of the elected candidate whose surplus is to be transferred.

Original and transferred votes.

(*b*) If the votes credited to an elected candidate consist of original and transferred votes, or of transferred votes only, the Commission shall examine the papers contained in the last sub-parcel last received by the elected candidate whose surplus is to be transferred.

Papers sorted to next available preference.

(*c*) In either case the Commission shall sort the transferable papers into sub-parcels according to the next available preference recorded thereon, shall make a separate sub-parcel of the non-transferable papers and shall ascertain the number of papers in each sub-parcel of transferable papers and in the sub-parcel of non-transferable papers.

Transferrable papers equal or less than surplus.

(6) If the total number of papers in the sub-parcels of transferable papers is not greater than the surplus, the Commission shall transfer the whole of each sub-parcel of transferable papers to the continuing candidate indicated thereon as the voter's next available preference, and shall set aside as a separate parcel so many of the non-transferable papers as are not required for the quota of the elected candidate. The particular papers set aside shall be those last filed in the sub-parcel of non-transferable papers.

Transferable papers exceed surplus; proportionate transfer.

(7) (*a*) If the total number of transferable papers is greater than the surplus, the Commission shall transfer from each sub-parcel of transferable papers to the continuing candidate indicated thereon as the voters' next available preference the number of papers which bears the same proportion to the number of papers in the sub-parcel as the surplus bears to the total number of transferable papers.

Ascertainment of number of papers to be transferred.

(*b*) The number of papers to be transferred from each sub-parcel shall be ascertained by multiplying the number of papers in the sub-parcel by the surplus and dividing the result by the total number of transferable papers. A note shall be made of the fractional parts, if any, of each number so ascertained.

Treatment of fractional parts.

(*c*) If, owing to the existence of such fractional parts, the number of papers to be transferred is less than the surplus, so many of these fractional parts taken in the order of their magnitude, beginning with the largest as are necessary to make the total number of papers to be transferred equal to the surplus, shall be reckoned as of the value of unity, and the remaining fractional parts shall be ignored.

(*d*) If two or more fractional parts are of equal magnitude, that fractional part shall be deemed to be the largest which arises from the largest sub-parcels and if the sub-parcels in question are equal in size, the fractional part credited to the candidate with the greatest number of votes at the first count at which the candidates in question had an unequal number of votes shall be deemed to be the largest. Where the numbers of votes credited to such candidates were equal at all counts the Commission shall determine by lot which fractional part shall be deemed to be the largest.

Equality of fractional parts.

(*e*) The particular papers transferred from each sub-parcel shall be those last filed in the sub-parcel, and each paper so transferred shall be marked with the number of the count at which the transfer took place.

Papers transferred from sub-parcels.

81. (1) If at the end of any count no candidate has a surplus and one or more vacancies remain unfilled, the Commission shall exclude from the poll the candidate credited with the lowest number of votes; shall examine all the papers of that candidate; shall sort the transferable papers into sub-parcels according to the next available preferences recorded thereon for continuing candidates; shall transfer each sub-parcel to the candidate for whom that preference is recorded; and shall make a separate sub-parcel of the non-transferable papers.

Exclusion of candidates. One candidate excluded.

(2) If the total of the votes of the two or more candidates lowest on the poll is less than the number of the votes credited to the next highest candidate the Commission may at the same count exclude those candidates from the poll and transfer their votes as in this regulation provided.

Two or more excluded.

(3) If, when a candidate has to be excluded, two or more candidates have each the same number of votes and are lowest on the poll, the candidate with the lowest number of votes at the first count at which the candidates in question had an unequal number of votes shall be excluded, and, where the numbers of votes credited to those candidates were equal at all counts, the Commission shall decide by lot which shall be excluded.

Selection of candidate for exclusion.

82. Notwithstanding anything contained in these regulations:

Last vacancies.

(1) If at the end of any count the number of elected candidates is equal to the number of vacancies to be filled, no further transfer of votes shall be made.

(2) If on the exclusion of a candidate or candidates the number of the then continuing candidates is equal to the number of vacancies to be filled, the continuing candidates shall thereupon be elected and no further transfer of votes shall be made.

83. (1) Whenever any transfer is made each sub-parcel of papers transferred shall be placed on the top of the parcel, if any, of papers of the candidate to whom the transfer is made, and that candidate shall be credited with a number of votes equal to the

Procedure in transferring votes. Papers transferred.

number of papers transferred to him.

Non-transferable papers set aside.

(2) Non-transferable papers, except such as in the transfer of a surplus may be required for the quota of the elected candidate, shall be set aside as a separate parcel together with any parcel of non-transferable papers already set aside.

Papers retained for quota.

(3) On the transfer of the surplus of an elected candidate, all papers not transferred to continuing candidates and not set aside as provided in the preceding paragraph of this regulation shall be placed together in one parcel as the quota of the elected candidate and the parcel shall be marked with the name of the elected candidate.

Partial re-counts.

84. Any candidate or agent may, at the end of any count, request the Commission to re-examine and re-count all or any of the papers dealt with during that count, and the Commission shall forthwith re-examine and recount accordingly the papers indicated without making any alterations in the arrangements of the papers in the various parcels save where such alteration may be necessary in consequence of any error discovered in the re-count; the Commission may also at their discretion re-count papers either once or more often in any case in which they are not satisfied as to the accuracy of any previous count; provided that nothing herein shall make it obligatory on the Commission to re-count the same papers more than once.

Election petitions.

85. (1) Upon an election petition the court may direct the total or partial re-count of the ballot papers and the result of the election to be ascertained in accordance with these regulations.

(2) On any re-count, subject to such modifications as may be necessary by reason of any order of the court, each paper originally declared valid shall, whenever any transfer of votes takes place, follow the same course as at the original counting of the votes.

Decision of returning officers on transfer.

86. (1) If any question shall arise in relation to any transfer of votes, the decision of the Commission whether expressed or implied by their acts, shall be final unless an objection is made in writing by any candidate or agent before the declaration of the poll, and in that event the decision of the Commission may be reversed upon an election petition.

(2) If any decision of the Commission is so reversed, the transfer in question and all operations subsequent thereto shall be void and the court shall direct what transfer is to be made in place of the transfer in question, and shall cause the subsequent operations to be carried out and the result of the election to be ascertained in accordance with these regulations.

Result of poll. Form of declaration.

87. The declaration of the result of the poll shall include a record of any transfer of votes made under these regulations, and of the total number of votes credited to each candidate after any such transfer, and shall be in the form shown in the Twelfth Schedule, or in a form to the like effect.

PART XI

Casual Vacancies

Notice of vacancy. *Amended by: XXI.1999.3.*

88. In the event of a vacancy in a Local Council the Commission shall, within three days from the date of the notification by the Executive Secretary of the Council, give notice, to be published in the Gazette, of an election to fill the seat vacated.

Nominations. *Amended by: XI.2019.19.*

89. Within three days after the publication of such notice any person who -

(*a*) at the election held immediately prior to the occurrence of the said vacancy was a candidate nominated for election as a councillor for that locality in respect of which the vacancy has arisen, and did not withdraw from the election and was not elected, and

(*b*) is still qualified to be so elected,

may with his consent, be nominated as a candidate for the said vacancy.

Notice of valid nominations

90. Within three days after the last day fixed for the receipt of nominations, the Commission shall decide on the validity of the nominations, and shall publish in the authorised form, the names and description of the persons validly nominated, and the locality the seat whereof is to be filled.

If two or more nominations, ballot papers of vacating councillor are examined.

91. If there are any valid nominations, the Commission shall, within four days, proceed to examine the ballot papers in the sealed parcel of the vacating councillor and the following provisions shall apply:

(1) All candidates for the locality at the election shall be deemed to be candidates excluded from the poll except those who have been validly nominated for the vacant seat.

(2) The papers preserved under seal in accordance with these regulations in the parcel of the vacating councillor shall be examined and transferred to the validly nominated candidates first available in order of preference shown upon such papers, and each validly nominated candidate shall be credited with one vote in respect of each paper transferred.

(3) In any case where there is only one validly nominated candidate, if such candidate is credited with votes in number equal to or exceeding half the number of papers in the parcel of the vacating councillor, he shall be declared elected.

(4) In any case where there are two or more validly nominated candidates, the Commission shall exclude from the poll the candidate credited with the lowest number of votes and shall transfer his votes according to the next available preferences shown upon the ballot papers for the continuing candidate or candidates. The

process of excluding the candidate lowest in the poll and of transferring his votes according to the next available preferences shall be continued until there is only one candidate remaining. If such candidate shall have then been credited with votes in number equal to or exceeding half the number of papers in the parcel of the vacating councillor, that candidate shall be declared elected:

Provided that if at any time any candidates shall have been credited with votes exceeding the combined total of votes of all other candidates, and at the same time equal to or exceeding half the number of papers in the parcel of the vacating councillor, he shall be declared elected without further transfer.

Vacancy filled by co-option in special case.

92. (1) If a vacancy occurs in a seat which has been filled in accordance with this Part of these regulations, or in the eventuality mentioned in regulation 24(1), or if on a vacancy occurring no candidate is validly nominated, or if after examination of the ballot papers of the vacating councillor no candidate secures election, the vacancy shall be filled by co-option in accordance with article 8(4) of the Act.

(2) In filling a vacancy by co-option, regard shall be had to the representation as nearly as may be of the interests and opinions represented and held by the vacating councillor.

PART XII

Illegal Practices

Making of contracts in respect of election expenses.

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

Payment of expenses. *Amended by: L.N. 425 of 2007.*

94. (1) Except as permitted by or in pursuance of these regulations, no payment and no advance or deposit shall be made whether before, during or after such election, in respect of any expenses incurred on account of or in respect of the conduct or management of such election, otherwise than by the candidate; and all money provided by any person other than the candidate for any expenses incurred on account of or in respect of the conduct or management of the election, whether as gift, loan, advance or deposit, shall be paid to the candidate and not otherwise:

Provided that this regulation shall not be deemed to apply to any sum disbursed by any person out of his own money for any expense legally incurred by himself and not exceeding five hundred and eighty-two euro and thirty-four cents (€582.34), if such sum is not repaid to him:

Provided further that the Minister may, from time to time, by notice in the Gazette specify higher sums which in no case shall exceed one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69).

(2) A statement of the particulars of any payments so made by any other person in terms of the previous paragraph of this regulation shall be sent to the candidate within the time limited by these regulations for the sending in of claims and shall be accompanied by a receipt.

(3) A person who makes any payment, advance, or deposit in contravention of this regulation or pays in contravention of this regulation any money so provided as aforesaid and any candidate who, having been aware of such payment, advance or deposit, knowingly benefits from the same, shall be guilty of an illegal practice.

Periods for sending in claims and making payments for election expenses. *Amended by: L.N. 425 of 2007.*

95. (1) Every payment made by a candidate in respect of any expenses incurred on account of or in respect of the conduct or management of an election shall, except where less than fifty-eight euro and twenty-three cents (€58.23), be vouched for by a bill stating the particulars and by a receipt:

Provided that the Minister may, from time to time, by notice in the Gazette specify higher sums which in no case shall exceed two hundred and thirty-two euro and ninety-four cents (€232.94).

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

(3) Except as by these regulations permitted, the time limited by these regulations for sending in claims shall be thirty days after the day on which the candidate returned is declared elected.

(4) All expenses incurred by or on behalf of a candidate at an election, which are incurred on account of or in respect of the conduct or management of such election, shall be paid within the time limited by these regulations and not otherwise; and, subject to such exception as may be allowed in pursuance of these regulations, a candidate who makes a payment in contravention of this provision shall be guilty of an illegal practice.

(5) Except as by these regulations permitted, the time limited by these regulations for the payment of such expenses as aforesaid shall be forty days after the day on which the candidate returned is declared elected.

(6) If the candidate in the case of any claim sent in to him within the time limited by these regulations disputes it, or refuses or fails to pay it within the said period of forty days, such claim shall be deemed to be a disputed claim.

(7) The claimant may, if he thinks fit, bring an action for a disputed claim in the competent Civil Court; and any sum paid by the candidate in pursuance of the judgment or order of such court shall be deemed to be paid within the time limited by these

regulations.

(8) On cause shown to the satisfaction of the competent Civil Court, the court on application by the claimant or by the candidate may, by order, give leave for the payment by a candidate of a disputed claim, or of a claim for any such expenses as aforesaid, although sent in after the time in this regulation mentioned for sending in claims, or although the same was sent in to the candidate.

(9) Any sum specified in any such order may be paid by the candidate, and when paid in pursuance of such leave shall be deemed to be paid within the time limited by these regulations.

Petty expenses.

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

(2) A statement of the particulars of payments made by any person so authorized shall be sent to the candidate within the time limited by these regulations for the sending in of claims, and shall be vouched for by a bill containing the receipt of that person.

Expenses in excess of maximum to be illegal practice. *Substituted by: L.N. 425 of 2007. Amended by: XXIV. 2015.53.*

97. (1) Subject to such exception as may be allowed in pursuance of these regulations, no sum shall be paid and no expense shall be incurred by a candidate at an election, whether before, during, or after an election on account of or in respect of the conduct or management of such election in excess of five thousand euro (€5,000):

Provided further that in the computation of campaign expenditure as aforesaid, where a candidate charges a fee for participation in political activities or for any goods or services made available at such activities the amount of any such fees charged and properly accounted for shall be deducted from the total amount of campaign expenditure.

(2) In the case of candidates standing for election in the same locality as members of the same political party, the expenses of such candidates may be added together and there shall not be deemed to have been a contravention of this regulation unless the aggregate expenses of such candidates, when added together, exceed either the sum of one thousand and one hundred and sixty-five euro (€1,165) multiplied by the number of such candidates or the sum of forty-six thousand and five hundred and ninety euro (€46,590), whichever is the smaller:

Provided that the Minister may, from time to time, by notice in the Gazette specify higher sums which in no case shall exceed either the sum of two thousand and three hundred and thirty euro (€2,330) multiplied by the number of such candidates or the sum of ninety-three thousand and one hundred and eighty euro (€93,180), whichever is the smaller:

Provided further that if the aggregate of such expenses exceeds either of the sums aforesaid, the expenses of each such

candidate shall be separated from the expenses of the others and the provisions of sub-regulation (1) shall apply.

(3) Any candidate who knowingly acts in contravention of this regulation shall he guilty of an illegal practice.

Certain expenditure to be illegal practice.

98. (1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made on account of the conveyance of voters to or from the poll, except for the hiring of vehicles.

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

Certain employment to be illegal.

99. (1) No person shall, for the purpose of promoting or procuring the election of a candidate at any election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for a reasonable number of assistants and professional persons, having regard to the area of the locality and the number of voters on the Local Councils' Electoral Register for such locality.

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

Saving for creditors.

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

Return and declaration respecting election expenses.

101. (1) Within sixty days after the date of the publication of the result of an election in the Gazette, every candidate at that election shall transmit to the commissioners a return of his election expenses, containing the particulars specified in the Thirteenth Schedule, signed by the candidate. In the case of the candidate's absence from Malta the duties imposed on him may be performed by a duly appointed representative.

(2) Every such return shall contain a statement of all payments made by the candidate, or by any persons on behalf of the candidate, or in his interest, for expenses incurred on account of, or in respect of, the conduct and management of the election, and a further statement of all unpaid claims in respect of such expenses, of which he is aware.

(3) The return shall be accompanied by declarations to be made

on oath by the candidate before a magistrate, commissioner for Justice or a commissioner in the form contained in the Thirteenth Schedule to these regulations.

(4) If any candidate acts in contravention of the requirements of this regulation, he shall, subject to the provisions of regulation 107, be guilty of an illegal practice.

Publication of notice in respect of return of election expenses. *Substituted by: L.N. 425 of 2007.*

102. When any return of election expenses and the declarations made in respect thereof have been lodged with the commissioners, the commissioners shall, as soon as may be, cause a notice of the date on which the return and the declarations have been lodged, and of the time and p1lace at which they can be inspected to be affixed in some conspicuous place in the Electoral Office and to be published in the Gazette, and any person shall be entitled, on payment of a fee of two euro and thirty cents (€2.30), to inspect any such return or declarations and, on payment of a fee of two euro and thirty-three cents (€2.33) for every folio of 120 words, to obtain a copy or copies of any part thereof.

Punishment on conviction for illegal practice. *Amended by: II. 2007.30; L.N. 425 of 2007.*

103. (1) Any person committing an illegal practice shall, on conviction, be liable to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69).

Provided that the Minister may, from time to time, by notice in the Gazette specify higher penalties which in no case shall exceed a fine (*multa*) not exceeding six thousand and nine hundred and eighty-eight euro and twelve cents (€6,988.12).

(2) No prosecution for an illegal practice shall be instituted without the sanction of the Attorney General.

PART XIII

Corrupt Practices

Personation.

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

Treating.

105. (1) Any person who corruptly by himself or by any other person, either before, during or after an election, directly or indirectly, gives or provides, or pays wholly or in part the 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 give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting or being about to vote or refrain from voting at such election, shall be guilty of the offence of treating.

(2) Every voter who corruptly accepts or takes any such food, drink, entertainment, or provision shall also be guilty of the offence

of treating.

Undue influence.

106. Every person who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts, or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who by abduction, duress, or any fraudulent device or contrivance, impedes or prevents the free exercise of the franchise of any voter or thereby compels, induces, or prevails upon any voter either to give or refrain from giving his vote at any election, shall be guilty of the offence of undue influence.

Bribery.

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

(*a*) every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers, promises or promises to procure, or to endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter 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 under the Act;

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

(*c*) every person who, directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person in order to induce such person to procure or endeavour to procure the return of any person as a councillor, or the vote of any voter at any election under the Act;

(*d*) every person who, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procures or engages, promises or endeavours to procure, the return of any person as a councillor or the vote of any voter at any election under the Act;

(*e*) every person who 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 under the Act; or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election;

(*f*) every person being a voter who, before or during any election under the Act, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election;

(*g*) every person who, after any election under the Act, 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.

Punishment and incapacities for corrupt practice. *Amended by: L.N. 425 of 2007.*

108. (1) Any person who commits the offence of personation, treating, undue influence, or bribery or aids, abets, counsels, or procures the commission of the offence of personation, and any candidate who knowingly makes the declaration, as to election expenses required by regulation 101, falsely, shall be guilty of a corrupt practice and shall be liable, on conviction, in the discretion of the court, to a fine (*multa*) not exceeding two thousand and three hundred and twenty-five euro (€2,325), or to imprisonment for a term not exceeding six months, or to both such fine (*multa*) and imprisonment, and shall in consequence of such conviction become incapable, for a period of seven years from the date of his conviction of being registered as a voter or voting at an election under the Act, or of being elected a councillor, and if at that date he has been elected councillor, his election shall be vacated from the date of such conviction:

Provided that the Minister may, from time to time, by notice in the Gazette specify higher penalties which in no case shall exceed a fine (*multa*) of twenty-three thousand and two hundred and ninety euro (€23,290).

(2) No prosecution for a corrupt practice shall be instituted without the sanction of the Attorney General.

(3) For the purposes of this Part of these regulations, references to "voting" or to "refraining from voting", or to "giving" or "refraining from giving a vote", shall include references to "voting" or "refraining from voting" in a particular way.

PART XIV

Excuse for Corrupt and Illegal Practices

Reasons exonerating candidates in certain cases of corrupt and illegal practices.

109. The election of a candidate, who has been guilty of the offence of treating and undue influence, and illegal practice, or of any such offences, in reference to such election shall not, by reason of such offences, be declared void, nor shall the candidate be subject to any incapacity under these regulations, if the court is satisfied after giving the Attorney General an opportunity of being heard that the candidate has proved:

(*a*) that no corrupt or illegal practice was committed at such election by the candidate and the offences aforesaid were committed contrary to the orders and without the sanction or connivance of such candidate; and

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

(*c*) that the offences aforesaid were of a trivial, unimportant and limited character; and

(*d*) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate.

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

110. Where, in any proceedings, it is shown to the Court by such evidence as seems to the court sufficient -

(*a*) that any act or omission of a candidate at any election, or of any other agent or person, would, by reason of being the payment of a sum or the incurring of expense in excess of any maximum amount allowed by these regulations, or of being a payment, engagement, employment, or contract in contravention of these regulations, or of otherwise being in contravention of any of the provisions of these regulations, be but for this regulation an illegal practice; and

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

and under the circumstances it seems to the court, after giving the Attorney General an opportunity of being heard, to be just that the candidate at the said election and other agent and person or any of them, should not be subject to any of the consequences under these regulations, the court may allow such act or omission to be an exception from the provisions of these regulations which would otherwise make the same an illegal practice, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under these regulations of the said act or omission.

Authorized excuse for non-compliance with provisions as to return and declaration respecting election expense.

111. (1) Where the return and declarations respecting election expenses of a candidate at an election have not been transmitted as required by these regulations, or being transmitted contain some error or false statement, then if the candidate in any criminal or civil proceedings under these regulations proves to the satisfaction of the court that the failure to transmit such return and declarations, or any of them or any part thereof, or any error or false statement therein, has arisen by reason of his illness, or by reason of inadvertence, or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the candidate, the court may, after giving the Attorney General an opportunity of being heard, make such order for allowing an authorized excuse for the failure to transmit such return and declarations, or for an error or false statement in such return and declarations, as to the court seems just.

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

(3) The court may allow the excuse conditionally upon the making of a return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of these regulations; and an order allowing an authorized excuse shall relieve the candidate from any liability or consequences under these regulations in respect of the matter excused by the order.

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

PART XV

Grounds for Avoiding Elections

Avoidance by conviction of candidates.

112. The election of a candidate as a councillor is avoided by his conviction for any corrupt or illegal practice.

Avoidance of election on other grounds.

113. The election of a candidate as a councillor shall be declared void on any of the following grounds which may be proved to the satisfaction of the court namely:

(*a*) if by reason of general bribery, general treating, or general intimidation, or other misconduct, or other circumstances, the majority of electors were or may

have been prevented from electing candidates whom they preferred;

(*b*) non-compliance with the provisions of these regulations relating to election if it appears to the court that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance affected the result of the election;

(*c*) that a corrupt practice or an illegal practice was committed in connection with the election by the candidate;

(*d*) that the candidate personally engaged a person as a canvasser or agent knowing that such person had within seven years previous to such engagement been found guilty of a corrupt practice;

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

PART XVI

Publication of Results in each Locality

Publication of result of election and of counting details.

114. (1) The Commission shall, not later than on the working day following that on which the result of the counting of the votes has been ascertained, publish a declaration containing the names of the candidates elected in each locality and such other particulars as the Commission may consider necessary.

(2) The Commission shall deposit the declaration aforesaid with the Minister and shall cause a copy of such declaration to be published without delay in the Gazette.

(3) Every candidate whose name is published in the Gazette in accordance with the provisions of regulation 24(1) or who is declared elected in accordance with the provisions of this regulation shall be considered to be a councillor of that particular locality.

(4) The Commission shall publish in the Gazette not later than seven days after the end of counting a declaration of the result of the election which declaration shall include a record of the total votes cast, the total valid and invalid votes, the total votes credited to each political party, the quota, the first preference credited to each candidate, any transfer of votes made, and of the total number of votes credited to each candidate after any such transfer, and any such other information as the Electoral Commission may consider necessary. Such declaration shall be in such form as the Electoral Commission may determine as likely to impart easily all the information likely to be required by the public.

Preservations of documents. *Amended by: XI.2019.19.*

115. (1) The Commission shall preserve until the publication of the official result of the next following election all used ballot papers in separate packets, as follows Where an Electronic Counting System is used:

All ballot papers contained in each ballot box sorted in unique

identifier order in all other cases:

(*a*) the spoilt ballot papers;

(*b*) the invalid ballot papers;

(*c*) the papers at the completion of the counting in the parcel of each elected candidate and of each non-elected candidate whose papers have not been transferred;

(*d*) all the non-transferable papers not retained in the parcel of an elected candidate.

(2) The commissioners shall endorse on each packet a description of its contents, the date of the election and the locality to which they relate.

(3) The Commission shall further preserve for the same period a copy of the declaration of the result of the count and of any document showing the operations of the transfer of each surplus.

Provided that where the Commission decides to use an Electronic Counting System, the Commission shall preserve all data introduced to or used by the Electronic Counting System including but not limited to data processed or produced by the Electronic Counting System for all intermediate steps prior to the final results. The data is to be preserved in digital format on suitable media and in at least two separate copies identical to the original, as decided by the Commission, for the long term storage of the same data which media shall be kept in separate sealed packets and in separate locations established by the Commission. The said copies shall be preserved until the publication of the result of the next following election and shall be erased thereafter.

(4) Party delegates, candidates, and counting agents shall have the right to affix their seals and signatures to such packets.

Power of court to order unsealing of packets.

116. It shall be lawful for the Constitutional Court before which any question is brought as to the right of any person to be or to remain an elected councillor and for any court before which any proceedings are commenced in accordance with the provisions of the Act or these regulations to order the opening of the packets referred to in regulation 46(1) and in regulation 115 and the production of one or more of the documents therein contained under such conditions and precautions as may be necessary to maintain the secrecy of the voting consistently with the due administration of justice.

PART XVII

Penal Provisions

Penalty for giving false information. *Substituted by: L.N. 425 of 2007.*

117. Any person who knowingly makes or subscribes to a false declaration or otherwise gives false information in connection with the registration, transfer or cancellation of any voter shall be guilty of an offence against these regulations and shall on conviction be liable to imprisonment for a term not exceeding one month or to a fine (*multa*) not exceeding one hundred and sixteen euro and forty-seven cents (€116.47) or to both such imprisonment and fine:

Provided that the Minister may, from time to time, by notice

in the Gazette specify higher penalties which in no case shall exceed a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69).

Penalty for misconduct in polling places, etc. *Substituted by: L.N. 425 of 2007.*

118. Every person who misconducts himself in any polling place or contravenes any of the provisions of regulation 35 or 36 or takes part in any public meeting or public demonstration held in contravention of any of the provisions of these regulations, or fails to obey the lawful order of the assistant commissioners or other lawful authority in relation to an election, shall on conviction be liable to a fine (*multa*) not exceeding one hundred and sixteen euro and forty-seven cents (€116.47):

Provided that the Minister may, from time to time, by notice in the Gazette specify higher penalties which in no case shall exceed a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (€232.94).

Penalty for offences in respect of nomination, etc. *Amended by: L.N. 425 of 2007; XIX.2018.18.*

119. (1) Every person who -

(*a*) forges or fraudulently defaces or fraudulently destroys any nomination paper or delivers to the commissioner any nomination paper knowing the same to be forged; or

(*b*) forges or counterfeits or fraudulently defaces or fraudulently destroys any voting document or ballot paper or the official mark on any ballot paper; or

(*c*) without due authority supplies any voting document or ballot paper to any person; or

(*d*) forges or counterfeits or is in unlawful possession of any stamp or seal used by the Chief Electoral Commissioner or the election commissioners or the principal assistant electoral commissioners or the assistant commissioners;

(*e*) is in unlawful possession of any voting document or ballot paper; or

(*f*) fraudulently puts into any ballot box anything other than the ballot paper which he is authorized by law to put in; or

(*g*) fraudulently takes out of the polling place any ballot paper; or

(*h*) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purpose of the election; or

(*i*) without authorisation of the Commission takes any photographic or video image at a polling place on any polling day,

shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69) or to imprisonment for a term not exceeding six months or to both such fine and

imprisonment:

Provided that the Minister may, from time to time, by notice in the Gazette specify higher penalties which in no case shall exceed a fine (*multa*) not exceeding six thousand and nine hundred and eighty euro (€6,980).

(2) Every person who aids or abets the commission of an offence under this regulation or attempts to commit any such offence shall be liable, on conviction, to the punishment provided for the offence.

Infringement of secrecy as to manner of voting. *Substituted by: L.N. 425 of 2007.*

120. Every principal assistant electoral commissioner and every assistant commissioner who shall reveal the manner of voting of any voter when such manner of voting shall have come to his knowledge in the course of the exercise of his functions under these regulations shall be guilty of an offence, and shall, on conviction, be liable to a fine (*multa*) not exceeding two hundred and thirty euro (€230) or to imprisonment for a term not exceeding one month or to both such fine and imprisonment:

Provided that the Minister may, from time to time, by notice in the Gazette specify higher penalties which in no case shall exceed a fine (*multa*) not exceeding one thousand and one hundred and sixty euro (€1,160).

Prohibition of activities capable of influencing voters immediately before the election. *Amended by: L.N. 425 of 2007.*

121. (1) During the day on which an election for councillors is held and during the day immediately preceding such an election, no person shall hold a public demonstration or shall address any public meeting or any other gathering whatsoever in any place or building accessible to the public, or on the broadcasting media, on any matter intended or likely to influence voters in the exercise of the franchise, or publish or cause to be published any newspaper, printed matter or other means of communication to the public containing any matter aforesaid, or issue or cause to be issued any statement or declaration on any matter aforesaid or knowingly distribute any newspaper, printed matter, or other means of communication, or any statement or declaration as aforesaid, and any person acting in contravention of any of the provisions of this regulation shall be liable on conviction to a fine (*multa*) not exceeding one thousand and one hundred and sixty euro (€1,160) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment:

Provided that the Minister may, from time to time, by notice in the Gazette specify higher penalties which in no case shall exceed a fine (*multa*) not exceeding six thousand and nine hundred and eighty euro (€6,980).

(2) Every person who aids or abets the commission of an offence under this regulation or attempts to commit any such offence, shall be liable on conviction to the punishment provided for the offence.

Competent courts.

122. (1) All questions regarding the right of any person to be or remain a councillor shall be referred to and decided by the Constitutional Court.

(2) Any criminal proceedings for offences under these regulations shall be brought before the Courts of Magistrates and subject to the following provisions of this regulation, the provisions of the Criminal Code shall apply to any such proceedings. Cap. 9.

(3) Notwithstanding anything contained in the Probation Act, a person who commits any offence under these regulations shall be convicted and sentenced in respect of that offence and may not be placed on probation or discharged under that Act. Cap. 446.

(4) Every decision of the Courts of Magistrates in respect of an offence under these regulations, may, in all cases, be appealed against by the Attorney General and by the party convicted.

PART XVIII

Saving as to Right of Political Parties

Non-exercise of certain rights.

123. The non-exercise by any political party, delegate, candidate, agent or any person nominated for appointment by a political party, of any right, power or privilege granted by these regulations shall not of itself invalidate any action or procedure in respect of which the right, power or privilege has been granted by these regulations.

Right to information in electro-magnetic format.

124. The political parties shall have the right to ask that information, documents and lists which the Commission should forward to them, be forwarded in such electro-magnetic format as the Commission can reasonably supply through the use of its equipment.

FIRST SCHEDULE

[Regulation 4]

Form of Oath of Office to be taken by the Election Commissioners

I, ... *Chief Electoral Commissioner/Electoral Commissioner do swear/affirm that I will faithfully perform the duties of Commissioner to conduct the election of Local Councils according to law. (So help me God.)

* *delete where necessary*

SECOND SCHEDULE

[Regulation 8 (*a*)]

Amended by:
L.N. 426 of 2012.

Form of Application for a Person who is not a Citizen of Malta for Registration as a Voter for Local Councils

To the Electoral Commission, Valletta, Malta

Surname .....

Name .....

Legally valid identification document number .....

Place of birth .....

Date of birth .....

Nationality ..... Passport Number .....

Place of ordinary residence .....

Name of town or village .....

Road and number of premises.....

Name and surname of applicant's father .....

His place of birth ..... His nationality*.....

* (*if applicant's father is dead, give his nationality at the time of his death*)

Name and maiden surname of applicant's mother .....

Her place of birth ..... Her nationality **.....

** (*if applicant's mother is dead, give her nationality at the time of her death*)

I hereby apply to be registered as a voter for ..... (1) electoral division in accordance with the Local Government Act to be registered as a voter for the election of councillors.

Date .....

.....

Signature or mark of applicant

(1) Insert name of locality.

FOR OFFICIAL USE ONLY

Remarks

...../...../.....

Vtd. .....

Chd.....

Amended by:
L.N. 426 of 2012.

THIRD SCHEDULE

[Regulation 8 (*b*)]

Form of Corrections or Transfers (*Local Councils*)
for a Person who is not a Citizen of Malta

To the Electoral Commission:

I (1) ..... Legally valid identification document number ..... formerly residing at (2) ....., do hereby give notice that I have transferred my residence to (3) .....
.....

Date .....

.....
Signature or mark of applicant (4)

.....
Signature and Legally valid
identification document number of witness

Address of witness .....

(1) Name and surname (also nickname, if any)

(2) Former address as shown on the Local Councils' Electoral Register

(3) Present address

(4) Should applicant be unable to write, the person filling in the form is to affix his or her signature and furnish his or her full address and legally valid identification document number below applicant's mark.

FOURTH SCHEDULE

Amended by: L.N. 426 of 2012.

[Regulation 8 (*c*)]

Form of Application for a Person who is not a Citizen of Malta for the Correction of Designation or Address (*Local Councils*)

To the Electoral Commissioner:

My name (and/or my address*) appearing in the Local Councils' Electoral Register under (1) ..... has been wrongly designated and I hereby apply that my name (and/or my address*) be corrected as follows (2) .....

Date .....

.....

(3) Signature or mark of applicant

.....

Signature and Legally valid identification document number of witness

Address of witness .....

(*) Cancel the words which do not apply

(1) Locality, full address and legally valid identification document number as shown on the Local Councils' Electoral Register

(2) State correction desired to be made

(3) Should applicant be unable to write, the person filling in the form is to affix his or her signature and furnish his or her full address and legally valid identification document number below applicant's mark.

Amended by:
L.N. 426 of 2012.

FIFTH SCHEDULE

[Regulation 8 (*d*)]

Form of Application by female electors who are not Citizens of Malta for the correction of surname and address in consequence of marriage (*Local Councils*)

To the Electoral Commission:

As (1) on the.....I married (2) ..... Legally valid identification document number ..... I (3) ..... Legally valid identification document number ....., formerly residing at (4) ..... and registered as an elector under that address, do hereby apply that my surname (and/or address *) be now shown as follows (5) .....

Date .....

.....

(6) Signature or mark of applicant

.....

Signature and Legally valid
identification document number of witness

Address of witness .....:.....

* Cancel the words which do not apply.

(1) Date of marriage.

(2) Name, surname in full and legally valid identification document number of applicant's husband.

(3) Maiden surname (also nickname, if any) and legally valid identification document number of applicant.

(4) Address as shown on Local Councils' Electoral Register.

(5) Present address.

(6) Should applicant be unable to write, the person filling in the form is to affix his signature and furnish his full address and legally valid identification document number below applicant's mark.

SIXTH SCHEDULE

[Regulation 15]

Form of Notice by the Electoral Commission

The Electoral Commission established in terms of article 60 of the Constitution hereby notifies that in virtue of the provisions of the Local Government Act, an election is being held in the locality/localities of .....
* on Saturday, ...

.....

Chief Electoral Commissioner

** complete as necessary*

SEVENTH SCHEDULE

[Regulation 17]

Form of Voting Document

BIEX TIVVOTA

RITRATT	NUMRU TAL-KARTA TA' L-IDENTITÀ
	ISEM U INDIRIZZ

TWELID	SESS

Fejn Tivvota

DISTRETT ELETTORALI (Numru)

Nru. ta' Reġistrazzjoni

KUMMISSJONARJU ELETTORALI

Substituted by:
XI.2019.19.

EIGHTH SCHEDULE
[Regulation 20]

POLZA TAL-VOT — *BALLOT PAPER*

Ghadd ta' Kunsilliera li ghandhom jigu eletti Number of Councillors to be elected		Kunsill Council	

Badge tal-Kandidat *Badge of Candidate*	Ismijiet tal-Kandidati *Names of Candidates*	Ritratt tal-Kandidat *Photo of Candidate*	Immarka skond l-preferenzi li taghti *Mark order of preference in spaces below*

PARTIT A

	AZZOPARDI ALBERT, Ta' Gawdenz, ta' 140, Triq il-Kapuċċini, San Ġiljan, Perit		
	LIA PATRICK, ta' 44, 'Daffodil', Triq il-Kavallieri ta' Malta, l-Isla, Avukat		

PARTIT B

	ABDILLA FRANCIS SAVIOUR [Frankie], ta' 21, 'La Paloma Blanca', Triq San Pjiu XIV, San Pawl il-Bahar, Impjegat il-Bank		
	BALDACCHINO MARK ANTHONY, ta' 'April Love', Triq il-Konvoj ta' Santa Marija, Marsaskala, Avukat		
	VELLA DEGIORGIO JAMES, ta' 240, 'Old Trafford', Triq l-Iżbark tal-Franċiżi, San Pawl il-Bahar, Nutar		
	ZAMMIT HENRY ALFRED, ta' 18, Fl 3, Triq il-Vittmi tal-Gwerra, Bormla, Pensjonant		

PARTIT Ċ

	ABELA CHRISTOPHER [Chris], ta' 107, 'San Siro', Triq Santa Marija, L-Imġarr, Tabib/Konsulent fis-Saħħa Pubblika		
	BORG MALLIA NOREEN, ta' 6, Misraħ Diċembru Tlettax, San Pawl il-Bahar, Procurement Officer		
	GALEA GWENITH [Gwen], ta' 35, 'Shalom', Triq Nikola Briffa, Is-Siġġiewi, Konsulent Finanzjarju		
	SANT BRIAN [Abraham], Ta' Bramu, ta' 21, 'Blanco Nero', Triq il-Ġran Mastru Wignacourt, Fleur-De-Lys, Birkirkara, Negozjant		
	UNGARO TRACY, Dr, ta' 'Villa Genesis', Triq il-Bajja s-Sabiha, Il-Mellieha, Tabiba		

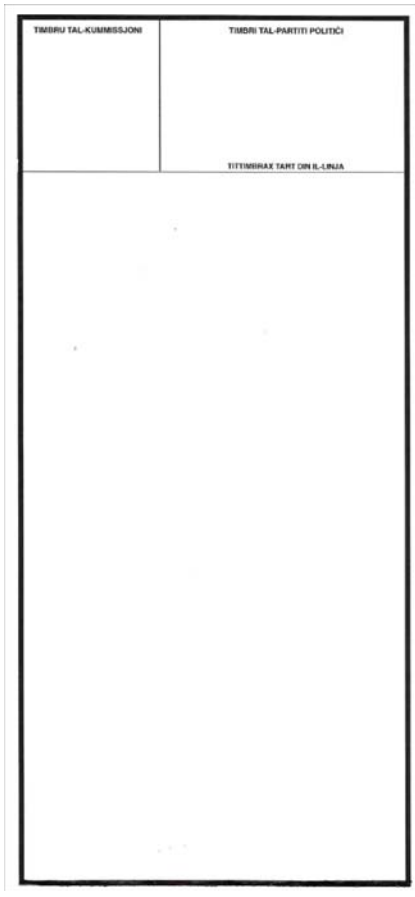
KANDIDATI INDIPENDENTI

	BUSUTTIL MATTHEW, il-Kitarrist, ta' 21, 'Villa Madama', Triq Valletta, Mosta, Direttur Artistiku		
	TANTI PHILIP, ta' 89, Flat 6, Marigold Flats, Triq il-Vopa, Marsaskala, Pensjonant		

Added by:
XI.2019.19.

SCHEDULE 8A
[Regulation 20]

Rear of Ballot Paper



Amended by:
L.N. 426 of 2012.

NINTH SCHEDULE
[Regulation 22]

Form of Nomination Paper

To the Election Commissioners

We, the undersigned, being voters entitled to vote at an election of Local Councils and being registered on the Local Councils' Electoral Register for (1)..... Electoral Division, do hereby nominate (2)..... as a candidate for the said division and in the interests of the (3) .....

I, (2) ..... residing at ..... consent to the above nomination and that my name on the ballot paper be indicated as (4) .....

Date

.....

Signature of candidate
(or of lawful representative
as the case may be)

(1) Name of locality

(2) Name, surname, address, and legally valid identification document number and occupation of person nominated.

(3) Name of political party

(4) Surname and name.

TENTH SCHEDULE

Amended by:
L.N. 426 of 2012.

[Regulations 26, 56]

Form of Oath to be taken by Principal Assistant Electoral Commissioners and Assistant Electoral Commissioners

I, ... Principal Assistant Election Commissioner/Assistant Election Commissioner* duly appointed to supervise the taking of the poll at the election of the Local Council of ..... swear/ affirm that I will faithfully perform the duties of such office according to the provisions of the law, and to report by letter addressed to the Minister any irregularity observed by me in the conduct of the election.

I also swear/affirm to maintain secrecy regarding the vote given by any elector which may become known to me. (So help me God.)

Date .....

Signature .....

Legally valid identification
document number .....

* *delete as necessary*

Amended by:
L.N. 426 of 2012.

ELEVENTH SCHEDULE
[Regulation 39]

Form of oath which an Assistant Commissioner may administer to a Voter

I, (1) .....

of (2) ..... do swear/affirm that I am the same person whose name appears as A.B. in the Local Councils' Electoral Register and that I have not already voted either here or elsewhere at this election for Local councillors. (So help me God.)

Date..... Signature or mark of voter .....

Sworn/Affirmed before me this .....day of .....

.....

Signature of Assistant Election Commissioner

(1) Name in full

(2) Address and Legally valid identification document number of voter

TWELFTH SCHEDULE

[Regulation 87]

Declaration of Result of Poll

Name of Locality .....

Election of Councillors for the above Locality in the year .....

We, the undersigned, being the Electoral Commissioners at the poll for the election of Councillors for the said Locality held on the ..... day of ..... of the year ....., do hereby give notice that the result of the Poll and of the transfer of votes is as follows:

Number of valid votes .....

Number of councillors to be elected .....

Quota (number of votes sufficient to
secure election of a candidate) .....

Names of Candidates	1st Count	2nd Count		3rd Count		4th Count		5th Count		6th Count		Names of Candidates Elected
	Votes	Transfer of	Result	Transfer of	Result	Transfer of	Result	Transfer of	Result	Transfer of	Result	
Non-transferable papers												
Total		—		—		—		—		—		

And we do hereby declare the said .....
duly elected Councillors for the said Locality.

Dated this .....day of .....of the year .....

.....
Electoral Commissioners

THIRTEENTH SCHEDULE

[Regulation 101]

Return of Election Expenses

1. Under the head of receipts there shall be shown the name and description of every person (including the candidate), club, society or association from whom any money, security, or equivalent of money was received in respect of expenses incurred on account of or in connection with or incidental to the election, and the amount received from each person, club, society or association separately.

2. Under the head of expenditure there shall be shown:

(*a*) the personal expenses of the candidate incurred or paid by him;

(*b*) the name, the rate, and total amount of the pay of each person employed as an agent, assistants or professional people;

(*c*) the travelling expenses and any other expenses incurred by the candidate on account of agents, assistants or professional people;

(*d*) the travelling expenses of persons, whether in receipt of a salary or not, incurred in connection with the candidature and whether paid or incurred by the candidate or the person so travelling;

(*e*) the cost whether paid or incurred, of:

(i) printing;

(ii) advertising;

(iii) stationery;

(iv) postage;

(v) telegrams;

(vi) rooms hired either for public meetings or as committee rooms;

(*f*) any other miscellaneous expenses, whether paid or incurred.

Note:

1) All expenses incurred in connection with the candidature whether paid by the candidate or any other persons, or remaining unpaid on the date of the return are to be set out.

2) For all items over twenty-five cents unless from the nature of the case (e.g. postage) a receipt is not obtainable, vouchers have to be attached.

3) All sums paid out, but for which no receipt is attached, are to be set out in detail with dates of payments.

4) All sums unpaid are to be set out in a separate list.

FORM OF DECLARATION BY CANDIDATE

I, ..., being a candidate for election in the locality of ....., do hereby swear/affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses therein set out, no expenses of any nature whatsoever have to my knowledge or belief been incurred in connection with or for the purposes of my candidature.

.....
Candidate

Sworn/Affirmed before me

.....
Magistrate/Commissioner for Justice/Commissioner of Oaths

SCHEDULE THREE-A
The Local Council Elections
(Electronic Counting and Sorting) Regulations, 2019

Part I
Preliminary

1. These regulations may be cited as The Local Councils (Electronic Counting and Sorting) Regulations, 2019. Citation.

2. In these regulations unless the context otherwise requires the expressions used will be given the same interpretation as those used in Schedule Three of the Local Government Act, furthermore: Interpretation. Cap. 363.

"Electronic Ballot" means the electronic representation of a physical ballot paper in a machine-readable format obtained from the programmatic interpretation of the preferences indicated on the ballot paper together with a unique identifier matching the Electronic Ballot to the ballot paper and such other data the Electoral Commission may deem fit to store;

"Non-transferable Ballot" means an Electronic Ballot on which no second or subsequent preference is recorded for a continuing candidate:

Provided that an Electronic Ballot shall be deemed valid but has become a Non-transferable Electronic Ballot whenever:

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

(*b*) the name of the candidate next in order of preference (whether continuing or not) is marked:

(i) by a number not following consecutively after some other number on the ballot paper; or

(ii) by two or more numbers; or

(*c*) for any other reason it cannot be determined with certainty for which of the continuing candidates the next available preference of the voter is recorded;

"Unique identifier" means a sequence of numbers used to identify each particular ballot paper and consisting of:

Locality number – 2 digits

Ballot box number – 4 digits

Ballot paper number – 4 digits.

Applicability of the Third Schedule.

3. Save as otherwise provided by these regulations when sorting and counting votes the Electronic Counting System is to respect and incorporate, *mutatis mutandis*, the regulations, requirements and the Local Councils (Elections) Regulations, 1993 stated in the Third Schedule to the Local Government Act, to the exclusion of Regulations 69, 70 and 71 of Part IX and regulations 74, 75, 76, 77(2), 81(2) and 84 of Part X of the Third Schedule.

Cap. 363.

Part II
Sorting of Ballot Papers

Assistants.

4. The Commission shall ensure that all the staff that it may appoint to assist, supervise and operate the Electronic Counting System and all other necessary electronic equipment for the process shall be technically trained to efficiently carry out their assigned functions.

Processing of Ballot Paper Account.

5. Upon receipt of the ballot boxes by the Commission the declared number of votes cast as stated on the Ballot Paper Account shall be registered on the Electronic Counting System. The number of ballot papers in each box according to the Ballot Paper Account shall be displayed on a monitor for the information of the candidates and their agents.

Sorting of ballot papers.

6. Once the ballot boxes are opened each ballot paper shall be taken out and first placed faced downwards to ascertain that each ballot paper contains the official stamp of the Commission, and that there are no other marks on the reverse side except the official stamp of the Commission and of the political parties that opt to put the official mark and then it shall be turned, shown and placed with its face upwards to ascertain that there are no other marks on the front of it except the numbers indicating the preferences of the voter. After the completion of the said process, the ballot papers shall then be placed with their face upwards in an appropriate tray marked with the polling booth number and locality name. A copy of the Ballot Paper Account together with the ballot papers and their trays shall be stored in such area that shall at all times be visible to candidates and their agents:

Provided that if a counter decides that there is a possibility that, for any reason according to the General Elections Act, a ballot paper may be invalid or if any candidate or agent for the same reason so claims, the counter shall inform the supervisor of such ballot paper and the supervisor shall stamp such ballot paper as "Dubious" and place such ballot papers on the top of the parcel:

Provided that no reconciliation of the ballots in each tray and those stated in the Ballot Paper Account shall be done at this stage but shall be done following the scanning phase according to regulation 8(2).

Processing of ballot papers.

7. (1) The ballot papers are to be processed, in an orderly

manner, through the Electronic Counting System which shall create and store a digital image of each ballot paper and shall proceed to convert the ballot paper into an Electronic Ballot. As part of this process the ballot paper shall be marked with a unique identifier matching that given to the Electronic Ballot in order to allow the Commission, should the need arise, to identify and match the processed ballots with the ballot papers and in order to ascertain that a ballot paper is only processed and counted once.

(2) Persons supervising this process shall confirm that the number of ballots found in each box reconciles with that stated in the Ballot Paper Account as indicated by the Assistant Electoral Commissioners. When the number of votes found does not tally the Commission must be notified immediately in order to carry out the necessary investigation and give all necessary instructions.

(3) When converting the ballot papers into a machine readable format the Electronic Counting System is to identify and bring to the notice of the Commission all dubious ballot papers, that is all such ballot papers which give rise to any difficulty in interpreting the preferences or which may, for any reason according to the Local Government Act, be found to be invalid or non-transferable. Cap. 363

Dubious Votes.

8. (1) The Commission shall investigate all the dubious Electronic Ballots. In doing so the Commission may consult the ballot paper marked with the matching unique identifier as the Electronic Ballot:

Provided that ballot papers shall only be temporarily removed from the original tray on the order of and by an Electoral Commissioner or other persons specifically delegated by the Commission.

(2) The Electronic Counting System will bring the dubious ballots to the notice of the Commission once all the ballot papers in a particular tray are scanned and verified.

(3) Upon investigation, a dubious ballot may be determined to be:

(i) invalid and consequently the Electronic Ballot shall be put aside and ignored in all counts;

(ii) non-transferable and consequently the non-transferable portion of the Electronic Ballot shall be set aside and ignored, whilst the valid preferences shall be recorded and included in the first and subsequent counts as the case may be; or

(iii) valid and consequently the numerical sequence on the Electronic Ballot shall be set to correctly and faithfully

reflect the valid ballot paper:

Provided that in all such cases any amendment or manual operation that may have been performed on an Electronic Ballot shall be logged in the Electronic Counting System, as well as the reason where a vote is found to be invalid:

Provided further that nothing in these regulations shall prevent the Commission from examining all other Electronic Ballots.

Adjudicating Process – first tier.

(4) The Commission may appoint such persons as it deems fit to review and examine dubious ballots and to perform the relevant action required in terms of the preceding sub-regulation. A party delegate from each Party or a substitute shall be entitled to make observations and may raise objections, in which case the dubious ballot shall be referred to the Commission for its final decision in terms of the following sub-regulations.

Adjudicating Process – Second tier.

(5) The Commission, or any number of members thereof not being less than two, shall investigate any Electronic Ballot to determine whether it is valid, transferable or non-transferable or invalid and shall, after hearing the representations of the party delegates, or their substitutes, decide in respect of each Electronic Ballot, whether it is valid, transferable or non-transferable or invalid, or shall make any amendment to the interpretation of the vote to correctly reflect the preferences stated in the ballot paper.

(6) The decision of the Commission, or any number of members thereof not being less than two, in this regard shall be final and not subject to appeal.

(7) Once all the dubious Electronic Ballots in a tray have been investigated and declared valid, transferable or non-transferable or invalid, the number of valid and invalid Electronic Ballots in that box is to be displayed on a monitor or such other method for the information of the candidates and their agents. Any ballot papers that may have been removed as directed by a Commissioner for further investigation shall be returned to their correct sequence in the ballot tray.

(8) Once all the boxes of a locality have been processed the total number of valid and invalid votes for that division is to be displayed on a monitor or announced in such other method as the Commission may deem fit.

Other preparatory work.

9. (1) Prior to initiating the electronic counting, the Commission may carry out such audit, verifications or other tests it may deem fit in order to ensure the correctness and completeness of the Electronic Counting System. The Commission shall produce

reports showing the number of valid votes in respect of each box together with a separate report indicating that all candidates are starting with nought (0) votes.

(2) For the purposes of enabling the counting to be conducted using the Electronic Counting System the Commission may carry out any functions or perform any procedures to be undertaken in connection with the counting by electronic means as is deemed necessary or consequential to the same.

(3) The Commission shall issue an order to commence the counting of votes only after it is satisfied that all procedures and requisites established by the Law and the Commission have been satisfied.

Part III
Counting

Counting of votes.

10. Once the input data is verified the Electronic Counting System shall determine the quota as established in regulation 78 of the Third Schedule.

Commencement of the Electronic Counting System.

11. (1) The Electronic Counting System shall commence the first count with a set of Electronic Ballots ordered in ascending order by ballot paper number and ballot box number in a locality by assigning all valid Electronic Ballots to parcels according to the preferred candidate indicated in each Electronic Ballot and each candidate shall be credited with a number of votes equal to the number of Electronic Ballots recording a first preference for such candidate.

(2) In subsequent counts, the transferable Electronic Ballots shall be transferred and assigned to the parcel of that candidate in accordance with the same rules of the Third Schedule.

(3) The System will proceed to calculate the first count and all subsequent counts without pause, save where instructions are required from the Commission in terms of these regulations, including where a candidate has to be selected for exclusion by lot in terms of sub-regulation 81(3) of the Third Schedule.

Draft report showing the number of votes.

12. The Electronic Counting System will produce a draft report showing the number of votes obtained by each candidate at each count. The draft report will not, at this stage, be considered an official result.

Draft result.

13. The Commission shall forward a copy of the Draft Result to party delegates in order for them to view the result in terms of regulation 12 above:

Provided that the Commission shall accord the party delegates or their substitutes, in writing, an adequate, equal and reasonable period of time from the production of the draft result to view the result, which period of time may be extended by the

Commission on receiving a request by a party delegate stating the reasons to justify the request. The decision of the Commission shall be final.

Access to images of each Electronic Ballot.

14. (1) During the period of time reserved for viewing, the party delegates shall have the right to access the images of each Electronic Ballot together with its interpretation, and to access a complete data set containing the preferences of voters as shown in the Electronic Ballots and this solely and exclusively for the purposes of verifying that the ballot papers were correctly interpreted by the System and that the preferences stated in the ballots were correctly allocated to candidates:

Provided that the party delegates shall not retain the said information and shall ensure the complete deletion and destruction of the information received and any copies that may have been made following the verification of the ballot papers and their allocation, and this immediately upon the expiry of the period of time reserved for viewing:

Provided further that any person who having been granted access to the image of each Electronic Ballot together with its interpretation, and/or the complete or partial data set containing the preferences of voters as shown in the Electronic Ballots uses the data for purposes other than those allowed in terms of this sub-regulation or retains the said information beyond the period of time required to conduct these purposes or fails to delete or destroy the information following the conclusion of the verification shall be guilty of an offence, and shall, on conviction, be liable to a fine (*multa*) not exceeding ten thousand euro (€10,000) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(2) When providing the Parties and party delegates with the information specified in the preceding sub-regulation, the Commission shall ensure that the recipients are aware of their obligations in terms of these regulations and shall be empowered to impose such non-disclosure and other obligations, including penalty clauses by which the Parties, party delegates and their substitutes shall confirm and bind themselves not to copy, retain, publish or otherwise use the data set other than for verification purposes within the time-frame allocated to them and to ensure that upon the expiry of the said time-frame they shall delete and/ or return the data to the Commission.

(3) The Commission shall investigate as it deems fit any reasoned objection or complaint that a party delegate, or a contesting Party may bring forward with regards to the correctness of the result.

(4) Following the publication of the result, the Commission shall not provide access to the images of each Electronic Ballot or to their interpretation or to the complete data set containing the preferences of

voters as shown in the Electronic Ballots and shall ensure that it does not provide any information that may remove the secrecy of the vote.

Announcement of results.

15. (1) Following the declaration by the Parties that they are satisfied with the result or the expiry of the time allowed for verification as indicated in Regulation 13 of this Schedule, the Commission shall declare and publish the final and definite results of the first count.

(2) The Commission shall display on one or more monitors for the information of the candidates and their agents the results for the first count, the Commission shall allow a short period of time and then publish the final and definite result of the second and subsequent counts. The length of period of time between each count shall be determined by the Commission at its sole discretion.

Recount.

(3) Any candidate or agent may, before the next count is shown, request the Commission to re-examine all or any of the Papers dealt with during that count, in which case the Commission shall suspend the display of the individual counts and instead shall display on a monitor or monitors all the Electronic Ballots that were processed in that count sequentially.

(4) When examining the votes in this manner any suspected error is to be brought immediately to the attention of the Commission which shall investigate the matter and decide on how to proceed. The decision of the Commission is final and not subject to appeal.

(5) Following the display of all the counts on the monitor the result will be final and definite:

Provided that all Parties shall have the same rights at law to contest the result as emanating from the Law and from the Local Government Act and its Schedules.

Cap. 363.

Devices and software to be used.

16. (1) The Electronic Counting System and all devices or software intended to work together with the System shall be tested adequately before being approved by the Electoral Commission to carry out the process of Electronic Counting and Sorting. The Commission shall ensure that the Counting Engine and any subsequent revision shall be accredited and confirmed to operate in a correct manner in conformity with the Third Schedule and this Schedule by an accreditation authority as may be deemed appropriate by the Commission.

Security and Integrity.

(2) At least three (3) identical sets of the final and approved version of the software for the Counting Engine and the Interpretation and Transcription into machine readable language for voting preferences shall be stored in digital format on a suitable medium for the long term storage of the same data in packets; which packets shall be sealed by the Commission and the party delegates and stored by the

Commission in a secure location. Party delegates shall have the right to a set of the software installed on a secure server provided by the Commission at the Counting Complex, on polling day, and prior to the commencement of the electronic sorting and counting or at any other time as may be decided by the Commission.

(3) The Commission shall verify and ensure in the presence of the party delegates that the software made available to the party delegates as provided in sub-regulation (2) above is identical to the software that will be used in the Electronic Counting System.

Auditing of the Electronic Counting System.

17. The Commission is to ensure that the Electronic Counting System is operated independently from other systems and free from any form of electronic interference.

Further procedures established by the Commission.

18. The Commission may define and establish such further procedures that may be required to better operate the System.

Fall Back clause.

Cap. 363.

19. The Commission may, should it deem it so necessary in the circumstances, order the suspension of the use of the Electronic Counting System for counting and sorting votes and instead revert to the rules of the Third Schedule of the Local Government Act or such other regulations issued in terms of the Local Government Act as may be in force from time to time:

Provided that in such circumstances the Commission shall, for all intents and purposes of law, be deemed to have decided to not use an Electronic Counting System for the counting and sorting of votes.

Casual Vacancies.

20. In the event of a seat becoming vacant Part XI of the Third Schedule shall be applied so however that the examination of the ballot papers shall be done by the Electronic Counting System using the final resulting parcel of the Candidate as produced by the System.

EXAMPLE OF THE METHOD OF COUNTING THE BALLOT PAPERS AT AN ELECTION CONDUCTED ON THE PROPORTIONAL REPRESENTATION SYSTEM OF THE SINGLE TRANSFERABLE VOTE USING AN ELECTRONIC VOTE COUNTING SOLUTION

Let it be assumed that there are six members to be elected and that there are eleven candidates A, B, C, D, E, F, G, H, I, K, L.

THE QUOTA

Once all ballot papers are scanned, verified and adjudicated, an ordered (by vote number, ballot box number) set of valid Electronic Ballots is formed. The total number of valid Electronic Ballots submitted to the count engine is 348. This total is divided by seven (i.e. the number which exceeds by one the number of vacancies to be

filled), and 50 (i.e. the quotient 49 increased by 1, neglecting the fraction) is the "quota", or the number of votes sufficient to elect a member.

FIRST COUNT

The ordered set of Electronic Ballots is treated as the initial parcel within the count engine. This initial parcel is analysed and all Electronic Ballots are assigned into separate sub-parcels under the name of the candidate for which a first preference has been recorded.

The results of the count may be supposed to be as follows:

Candidate	Votes
A	7
B	140
C	25
D	10
E	4
F	62
G	14
H	50
I	12
K	0
L	24
Non-Transferable	0
Total	348

The votes obtained by B, F and H exceed or equal the quota, and they are thereupon elected.

SECOND COUNT

B has 90 surplus votes (i.e. B's total 140, less the quota 50), and it is necessary to transfer this surplus first as being the largest.

All B's 140 Electronic Ballots are analysed and assigned into separate sub-parcels according to the next available preferences indicated therein.

In general, the next available preference will be the second preference. But any Electronic Ballot on which the second preference is given to either F or H, both already elected, passes to the next available preference after such candidates. An Electronic Ballot marked with 1 for B, 2 for H, 3 for F, 4 for I, is placed in the sub-parcel for I.

A separate sub-parcel is also formed of those Electronic Ballots on which no further available preference, i.e. no further preference for any continuing candidate is shown, and which are therefore not transferable.

The result is found to be as follows:

A next available preference is shown for D on	80 ballots
A next available preference is shown for E on ….....	2 ballots
A next available preference is shown for I on	25 ballots
A next available preference is shown for K on	29 ballots
Total of *transferable* ballots ……	136 ballots
Total of *non-transferable* ballots ……	4 ballots
Total of B's ballots ……..	140 ballots

Since the total number of transferable ballots (136) exceeds the surplus (90), only a portion of each sub-parcel can be transferred, and the number of ballots to be transferred from each sub-parcel must bear the same proportion to the total number of ballots in the sub-parcels as that which the surplus bears to the total number of transferable ballots.

In other words, the number of Electronic Ballots to be transferred from each sub-parcel is ascertained by multiplying the number of ballots in the sub-parcel by 90 (the surplus) and dividing the result by 136 (the total number of transferable ballots) giving 0.6617647.

The calculation is as follows:

Candidate	Sub-Parcel		Whole	Fraction		Actually Transferred
D	80	x 0.6617647	52	.9412	+1	53
E	2	x 0.6617647	1	.3235		1
I	25	x 0.6617647	16	.5441	+1	17
K	29	x 0.6617647	19	.1912		19
Total			88	2		90

The numbers of Electronic Ballots to be transferred as determined by the preceding process contain decimal parts, and since only whole

ballots can be transferred, so many of the largest of these decimal parts, taken in order of their magnitude as will make the total number of Electronic Ballots to be transferred equal to the surplus, are reckoned as of the value of unity.

Thus as the whole numbers determined above amount to only 88 viz. (52+1+16+19), or two short of the surplus, 90, the two largest decimal parts .9412 and .5441 are reckoned as unity, and the number of Electronic Ballots actually transferred are as follows:

To D	53 ballots
To E ……...	1 ballot
To I …….	17 ballots
To K …….....	19 ballots
Total, being B's surplus …….....	90 ballots

The particular Electronic Ballots to be transferred to D, E, I and K are those last filed in their respective sub-parcels, and therefore at the bottom of the sub-parcels.

These Electronic Ballots are added in separate sub-parcels to the parcels of D, E, I and K. (Note: K had no parcel of original ballots).

The totals of the votes credited to these candidates then become:

To D.....	10 + 53 = 63	2 parcels
To E …….…….....	4 + 1 = 5	2 parcels
To I …….……...	12 + 17 = 29	2 parcels
To K ……..……..….....	0 + 19 = 19	1 parcel

The remainder of the Electronic Ballots in the sub-parcel of the elected candidate B, i.e. those ballots not transferred together with the ballots on which no further available preferences were marked now form the parcel, representing B's quota of votes (50). This parcel retains the order of B's original parcel.

The parcel is made up as follows:

The remainder of D's sub-parcel	80 – 53 = 27
The remainder of E's sub-parcel …….....	2 – 1 = 1
The remainder of I's sub-parcel ……...	25 – 17 = 8
The remainder of K's sub-parcel ……	29 – 19 = 10

Total of *non-transferable* ballots ……..... 4

Total, being B's quota ……..…..... 50

The state of the poll on the conclusion of the second count is as follows:

Candidate	Votes
A	7
B	50 (elected)
C	25
D	63 (elected)
E	5
F	62 (elected)
G	14
H	50 (elected)
I	29
K	19
L	24
Non-Transferable	0
Total	348

D now has 63 votes, a number which is more than the quota. He is accordingly elected.

THIRD COUNT

There are now two surpluses, that of F (12) and that of D (13). F's surplus, though the smaller, is first dealt with as it arose on a prior count. F's surplus is distributed proportionately among the next available preferences on F's original 62 ballots in exactly the same manner as in the case of B, with the result that 9 ballots are transferred to L, 2 to C and 1 to A.

The totals of the votes credited to these candidates then become:

To L ..... 24 + 9 = 33 2 parcels

To C ……..... 25 + 2 = 27 2 parcels

To A ……... 7 + 1 = 8 2 parcels

The remainder of the Electronic Ballots in the sub-parcel of the elected candidate F, i.e. those ballots not transferred together with the ballots on which no further available preferences were marked, now form the parcel representing F's quota of votes (50). This parcel retains the order of F's original parcel.

The Electronic Ballots in the sub-parcel of the elected candidate H (who obtained an exact quota at the first count) retain the order of the original parcel and form the parcel representing H's quota of votes (50).

FOURTH COUNT

D's surplus (13) must now be distributed. For this purpose only the sub-parcel last transferred, containing 53 ballots, is considered. These are analysed and assigned into sub-parcels, according to the next available preferences, with the following result:

A next available preference is shown for I on	42 ballots
A next available preference is shown for K on ….....	10 ballots
Total of *transferable* ballots …….....	52 ballots
Total of *non-transferable* ballots …….....	1 ballot
Total	53 ballots

The number of ballots to be transferred from each sub-parcel is ascertained by multiplying the number of ballots in the sub-parcel by 13 (the surplus) and dividing the result by 52 (the total number of transferable ballots); therefore

I's share of the surplus ……..	42 x 0.25 = 10.5
K's share of the surplus ……	10 x 0.25 = 2.5

As the decimal parts above are equal, that which arises from the larger sub-parcel is deemed to be the larger. I's share of D's surplus is, accordingly, 11 votes, and K's share is 2 votes.

The totals of the votes credited to these candidates then become:

To I.....	12 + 17 + 11 = 40	3 parcels
To K ……	19 + 2 = 21	2 parcels

The remainder of the Electronic Ballots in the sub-parcel of the elected candidate D, i.e. those ballots not transferred (39) together with the ballots on which no further available preferences were marked (1) and the 10 ballots received on the first count, making 50 ballots altogether, now form the parcel representing D's quota of votes.

The state of the poll on the conclusion of the fourth count is as follows:

Candidate	Votes
A	8
B	50 (elected)
C	27
D	50 (elected)
E	5
F	50 (elected)
G	14
H	50 (elected)
I	40
K	21
L	33
Non-Transferable	0
Total	348

FIFTH COUNT

There being now no surplus required to be dealt with, the Electoral Commissioner proceeds to transfer the votes of the candidate with the smallest total of votes. The candidate lowest on the poll is E, with 5 votes. The ballots in the sub-parcel of candidate E are analysed and assigned into sub-parcels, according to the next available preferences, with the result that 4 ballots are transferred to I, and 1 non-transferable ballot is set aside as a separate parcel, whilst respecting the original order of ballots for candidate E.

The totals of the votes credited to these candidates then become:

To I	12 + 17 + 11 + 4 = 44	4 parcels
Non-Transferable	1	1 parcel

The state of the poll on the conclusion of the fifth count is as follows:

Candidate	Votes
A	8
B	50 (elected)
C	27
D	50 (elected)
E	0 (eliminated)
F	50 (elected)
G	14
H	50 (elected)
I	44
K	21
L	33
Non-Transferable	1
Total	348

SIXTH COUNT

The Electoral Commissioner proceeds to transfer the votes of candidate A, who is the candidate with the smallest total of votes on the poll with 8. The ballots in the sub-parcel of candidate A are analysed and assigned into sub-parcels, according to the next available preferences, with the result that 1 ballot is transferred to C, and 7 ballots are transferred to G.

The totals of the votes credited to these candidates then become:

To C..... 25 + 2 + 1 = 28 3 parcels

To G ……..... 14 + 7 = 21 2 parcels

The state of the poll on the conclusion of the sixth count is as follows:

Candidate	Votes
A	0 (eliminated)
B	50 (elected)
C	28

D	50 (elected)
E	0 (eliminated)
F	50 (elected)
G	21
H	50 (elected)
I	44
K	21
L	33
Non-Transferable	1
Total	348

SEVENTH COUNT

No candidate is elected as the result of the sixth count and the next operation has to be determined upon. Candidates G and K have each the same number of votes (21) and are lowest on the poll. K's ballots are analysed and assigned, as he obtained fewer votes than G in the first count. From the distribution of K's ballots (21), 3 ballots are transferred to C, 15 to I, 1 to L and 2 are non-transferable. I thereby reaches a total of 59 votes, and is elected.

The totals of the votes credited to these candidates then become:

To C.....	25 + 2 + 1 + 3 = 31	4 parcels
To I ……..	12 + 17 + 11 + 4 + 15 = 59	5 parcels
To L …….	24 + 9 + 1 = 34	3 parcels
Non-Transferable	1 + 2 = 3	2 parcels

The final state of the poll on the conclusion of the seventh count is as follows:

Candidate	Votes
A	0 (eliminated)
B	50 (elected)
C	31
D	50 (elected)
E	0 (eliminated)

F	50 (elected)
G	21
H	50 (elected)
I	59 (elected)
K	0 (eliminated)
L	34
Non-Transferable	3
Total	348

EIGHTH COUNT

I's surplus (9) must now be distributed. For this purpose only the sub-parcel of ballots last transferred to I (15 ballots) is taken into account. These are analysed and assigned into sub-parcels for the continuing candidates, with the following result:

A next available preference is shown for C on	4 ballots
A next available preference is shown for L on ….....	3 ballots
Total of *transferable* ballots ……	7 ballots
Total of *non-transferable* ballots …….	8 ballots
Total	15 ballots

In this case the total number of transferable ballots (7) is less than the surplus (9), therefore the Electoral Commissioner transfers the whole sub-parcels of transferable ballots to the continuing candidates indicated thereon as next available preference. This accounts for 7 votes out of the surplus 9. There is a difference of 2 ballots. The sub-parcel of non-transferable ballots is therefore divided into two portions, one containing 2 ballots (which form part of the surplus) the other containing 6 ballots (which are required for I's quota). The portion of 2 ballots is set aside as a separate parcel with the other parcels of non-transferable ballots, and the portion of 6 ballots is retained to make up I's quota (6+44=50).

The totals of the votes credited to these candidates then become:

To C.....	25 + 2 + 1 + 3 + 4 = 35	5 parcels
To L ……...	24 + 9 + 1 + 3 = 37	4 parcels
Non-Transferable	1 + 2 + 2 = 5	3 parcels

The state of the poll on the conclusion of the eighth count is as follows:

Candidate	Votes
A	0 (eliminated)
B	50 (elected)
C	35
D	50 (elected)
E	0 (eliminated)
F	50 (elected)
G	21
H	50 (elected)
I	50 (elected)
K	0 (eliminated)
L	37
Non-Transferable	5
Total	348

NINTH COUNT

There being now no surplus, the votes of G, the candidate lowest on the poll, are analysed and assigned. G's parcel of 21 ballots is found to contain 7 ballots on which C is the next preference, and 12 on which L is the next preference, and 2 ballots which are non-transferable. Therefore 7 ballots are transferred to C, and 12 to L, and 2 are filed as a separate parcel with the other parcels of non-transferable ballots.

The totals of the votes credited to these candidates then become:

To C	25 + 2 + 1 + 3 + 4 + 7 = 42	6 parcels
To L ……	24 + 9 + 1 + 3 +12 = 49	5 parcels
Non-Transferable	1 + 2 + 2 + 2 = 7	4 parcels

The state of the poll on the conclusion of the ninth count is as follows:

Candidate	Votes
A	0 (eliminated)
B	50 (elected)
C	42
D	50 (elected)
E	0 (eliminated)
F	50 (elected)
G	0 (eliminated)
H	50 (elected)
I	50 (elected)
K	0 (eliminated)
L	49
Non-Transferable	7
Total	348

There being now no surplus, C, the candidate lowest on the poll, is excluded from the poll. But, as there remains only one vacancy to be filled, and only one continuing candidate, namely L, L is elected without any further transfer of votes.

The final result is that B, F, H, D, I and L are elected.

FOURTEENTH SCHEDULE

[Regulation 34 (3)]

Form to be affixed in each Polling Booth

DIRECTIONS FOR THE GUIDANCE OF THE VOTER IN VOTING

1. Vote by placing the figure 1 opposite the name of the candidate you most desire to see elected.
2. You are invited (and it is advisable to place) the figure 2 opposite the name of your second choice, the figure 3 opposite the name of your third choice, and so on.
3. It is advisable to go on numbering the candidates in the order of your preference until you are indifferent as to the candidates whom you have not marked.
4. If you do not place the figure 1 on your ballot paper or if you place the figure 1 (indicating a first preference) and some other figure opposite the same name, or if you place the figure 1 opposite the name of more than one candidate, your ballot paper will be invalid and will not be counted.
5. Do not vote with an X.
6. If you inadvertently spoil a ballot paper you may return it to the Assistant Commissioner, who will, if satisfied of such inadvertence, give you another paper.

FOURTH SCHEDULE

(Article 33)

Items excluded from responsibility of Local Councils

Amended by:
L.N. 53 of 1995;
L.N. 272 of 2005;
L.N. 231 of 2011.
Substituted by:
XIV.2019.67.

Industrial Areas:

Central Business District, Mrieħel	Limits of Birkirkara, Ħal Qormi and Santa Venera
Bulebel Industrial Estate	Limits of Żejtun
Ħal Far Industrial Estate	Limits of Birżebbuġa
Kordin Industrial Estate	Limits of Paola
Luqa Industrial Estate	Limits of Ħal Luqa
Marsa Industrial Estate	Limits of Marsa
Ricasoli Industrial Estate	Limits of Kalkara
San Ġwann Industrial Estate	Limits of San Ġwann
Xewkija Industrial Estate	Limits of Xewkija
Mosta Technopark	Limits of Mosta
Ta' Dbieġi Crafts Village	Limits of Għarb
Ta' Qali Crafts Village	Limits of Ħ'Attard
Mosta Industrial Zone (Tarġa Gap)	Limits of Mosta
Mosta Industrial Zone (Tas-Sriedek)	Limits of Mosta
Tal-Ħandaq Industrial Zone	Limits of Ħal Qormi (Ċittà Pinto)
Ħal Safi Aviation Park	Limits of Ħal Safi
Malta Freeport	Limits of Birżebbuġa
Delimara Power Station	Limits of Marsaxlokk
Marsa Power Station	Limits of Marsa
Airport	Limits of Ħal Luqa
Ta' Lambert Heliport	Limits of Xewkija
Bus Terminus	Il-Belt Valletta (Ċittà Umilissima)
Bus Terminus	Ir-Rabat (Ċittà Victoria)
Albertown Reverse Osmosis Plant	Limits of Marsa
Ċirkewwa Reverse Osmosis Plant	Limits of Mellieħa
Għar Lapsi Reverse Osmosis Plant	Limits of Siġġiewi
Pembroke Reverse Osmosis Plant	Limits of Pembroke
Tignè Reverse Osmosis Plant	Tas-Sliema
Gas Installation	Limits of Birżebbuġa
Petroleum Installation	Limits of Birżebbuġa
Sant'Antnin Waste Recycling Plant	Limits of Marsaskala

All the Ports listed in the First Schedule to the Maritime Authority Act.

Social and Health Centres:

Gozo Mental Hospital	Ir-Rabat, Gozo
Mount Carmel Hospital	Limits of Ħ'Attard
St Luke's Hospital	Tal-Pieta
St Vincent de Paul Hospital	Limits of Ħal Luqa

Sir Paul Boffa Hospital	Floriana
Zammit Clapp Home	San Ġiljan

Dumping Sites:

Magħtab Dumping Site	Limits of Naxxar
Wied Fulija Dumping Site	Limits of Żurrieq
Qortin Dumping Site	Ix-Xagħra

Buildings and Complexes:

Government Ministry Buildings (ex Beltissebħ)	Floriana
Marsa Sports Complex	Limits of Marsa
National Swimming Pool Tal-Qroqq	Limits of Msida
Pool	Żonqor, Marsaskala
Site for National Tennis Centre	Pembroke
Water Sports Complex	Marsalforn Żebbuġ, Gozo
Ta' Qali National Football Stadium	Limits of Ħ'Attard
Gozo Stadium	Limits of Ir-Rabat (Ċittà Victoria)
Ta' Qali Basketball Pavilion	Limits of Ħ'Attard
Kordin Sports Complex	Limits of Paola
Tignè Football Ground	Limits of Sliema
University Sports Complex	L-Imsida
Bidnija Shooting Range	Limits of San Pawl il-Baħar
Gozo Sports Complex	Rabat (Ċittà Victoria)
Military Shooting Ranges	Limits of Pembroke
Clay Pigeon Shooting Range	Iż-Żebbuġ
Tax-Xħajma Racecourse	Xewkija
University of Malta	L-Imsida

Cemeteries:

Addolarata Cemetery	Limits of Paola
Ta Braxia Cemetery	Limits of Ħamrun
Kalkara Cemetery	Limits of Kalkara
Msida Bastions Cemetery	Floriana
L-Imtarfa Cemetery	Limits of Ħ'Attard
St. Mary's Cemetery	Limits of Rabat, Gozo

Parks and Heritage Sites:

Forts and fortifications to include moats, glacis and those components of the forts or fortifications which though not obvious are part of them

Buskett	Limits of Siġġiewi
Ta' Qali National Park	Limits of Ħ'Attard
Għadira	Limits of Mellieħa
Simar Nature Reserve	Xemxija, San Pawl il-Baħar
Elysium Visitor Centre and TreeNursery	Limits of Mellieħa
Foresta 2000	Mellieħa
Sant' Antnin Family Park	Marsaskala

Majjistral Nature and History Park	Manikata, Limits of l-Imġarr
Għadira Nature Reserve	Mellieħa
Kennedy Grove	Salina, Limits of San Pawl il-Baħar
Xrobb L-Għaġin Park	Limits of Marsaxlokk

Islands:

Comino Cominotto Filfla
Fungus Rock
Manoel Island
St Paul's Islands

Bastions, Fortifications and Historical Sites:

Birgu Fortifications Bormla Fortifications	
Ċittadella Fortifications	Ir-Rabat (Ċittà Victoria)
Floriana Fortifications	
Mdina Fortifications	
Senglea Fortifications	
Valletta Fortifications	
Fort Manoel	
Fort Ricasoli Fort St. Angelo	Fort St. Elmo
Fort Chambrai	Limits of Għajnsielem
Cottonera Lines	
Victoria Lines	
City Gate	Il-Belt Valletta (Ċittà Umilissima)
Portes des Bombes	Floriana
Wignacourt Aqueduct and Fountain	

All archaeological sites registered with Heritage Malta

Gardens and Monuments:

Independence Arena	Floriana
The Mall	Floriana
Lower Barrakka Gardens	Il-Belt Valletta (Ċittà Umilissima)
Upper Barrakka Gardens	Il-Belt Valletta (Ċittà Umilissima)
Argotti Botanical Gardens	Floriana
The Mall (Rundle Gardens)	Rabat, Gozo
San Anton Palace Gardens	Ħ'Attard
Verdala Palace Gardens	Limits of Siggiewi
Independence Monument	Floriana
Great Siege Monument	Il-Belt Valletta (Ċittà Umilissima)
Siege Bell Monument	Il-Belt Valletta (Ċittà Umilissima)
War Memorial	Floriana
RAF Memorial	Floriana
Sette Giugno Monument	Il-Belt Valletta (Ċittà Umilissima)
Sette Giugno Memorial	Rabat, Gozo
31 March 1979 Monument	Il-Birgu (Ċittà Vittoriosa)
Enrico Mizzi Monument	Il-Belt Valletta (Ċittà Umilissima)
Ġorġ Borġ Olivier Monument	Il-Belt Valletta (Ċittà Umilissima)

Pawlu Boffa Monument	Il-Belt Valletta (Ċittà Umilissima)
Christ the King Monument	Floriana
Christ the King Monument	Rabat, Gozo
Dun Mikiel Xerri Monument	Il-Belt Valletta (Ċittà Umilissima)
Anton Butigieg Monument	Il-Ħamrun
Manwel Dimech Monument	Il-Belt Valletta (Ċittà Umilissima)
Spencer Monument	Il-Ħamrun
Queen Victoria Monument	Il-Belt Valletta (Ċittà Umilissima)
Manoel de Vilhena Monument	Floriana
Guido De Marco Monument	Il-Belt Valletta (Ċittà Umilissima)
Jean De Valette Monument	Il-Belt Valletta (Ċittà Umilissima)
Duminku Mintoff Monument	Il-Belt Valletta (Ċittà Umilissima)
Summit Monument	Il-Belt Valletta (Ċittà Umilissima)
Fjamma Monument	Il-Belt Valletta (Ċittà Umilissima)

Roads:

The arterial and distributor roads determined by the Structure Plan;

The passages and public access in the surroundings of Housing Estates.

FIFTH SCHEDULE

[Article 24]

Oath of Office of Councillors /Mayor/Deputy Mayor

I,..... duly elected councillor for the locality of .....solemnly swear/affirm that I will faithfully and conscientiously perform my duties as Councillor/Mayor/Deputy Mayor* in accordance with the provisions of The Local Government Act and the Constitution of Malta.

* *Delete where necessary*

SIXTH SCHEDULE

Amended by: XXI. 1999.3,41; I. 2005.22; XVI. 2009.45; L.N. 268 of 2017; XIV.2019.69.

[Article 43]

Standing Orders

Chairing of meetings.

1. (1) The Mayor shall chair meetings of the Council.

(2) In the absence of the Mayor the person presiding the meeting shall exercise all the functions of the Mayor according to these standing orders.

(3) The procedures to be followed in the conduct of meetings of committees of the Council shall, unless the contrary intention appears, be those outlined in these standing orders.

(4) Any reference in these standing orders to a councillor or a member of a Council shall be construed as reference to a Mayor or Deputy Mayor as the case may be unless the contrary intention appears.

Quorum. *Amended by: XXI. 1999.41; XVI. 2009.45.*

2. (1) The quorum necessary for the transaction of business of the Council shall be the first whole number above fifty per cent of the number of councillors in office and not debarred by reason of a declared interest.

(2) If a quorum is not reached and 30 minutes have elapsed from the start of the meeting or if during a meeting the number of councillors present and not debarred by reason of a declared interest falls below the quorum, the business not transacted at that meeting shall be transacted at the next meeting or on such other day as the Mayor may determine. If a quorum is no longer present after the commencement of a meeting, the Council shall wait for 10 minutes, and if a quorum is still not present, the meeting shall be adjourned:

Provided that the meeting shall not be held before the lapse of two working days from the meeting which was not held due to lack of quorum:

Provided further that the Mayor or whoever is presiding shall wait for up to half an hour from the established time before declaring lack of quorum:

Provided further that if two consecutive meetings of the Council are adjourned due to a lack of quorum, the quorum necessary for the transaction of such business at the next subsequent meeting shall be reduced to fifty per cent of the members in office and not debarred from attending due to conflict of interest. In the event that such reduced number for the quorum is not a whole number, the quorum will be reduced to the highest whole number below fifty per cent which should be at least two members.

(3) In the minutes of that meeting the Executive Secretary shall register the Councillors present, the time elapsed before the meeting was deferred and the day and time of the deferred meeting.

Voting.
Amended by: XXI.1999.3, 41.

3. (1) Members shall vote by show of hands.

(2) If a member so requests, the Executive Secretary shall record the names of the members who voted on any question so as to show whether they voted for or against it.

(3) The person presiding may give an original vote on any matter put to the vote, and in the case of an equality of votes may give a casting vote even though he gave an original vote:

Provided that the person presiding shall not give a casting vote if there is an equality of votes in an election for Mayor or Deputy Mayor.

(4) Where more than two persons have been nominated for any position to be filled by the Council and of the votes given there is not an absolute majority of the Council as constituted in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote taken, and so on until such majority of votes is given in favour of one person.

First meeting of the Council after election.

4. At the first meeting of the newly elected Council the business shall be:

(*a*) To declare as elected or elect a Mayor, and/or chairmen of committees or sub-committees as required.

(*b*) To receive the Mayor's and/or chairmen's declaration of acceptance of office or, if not then received, to decide when it shall be received.

(*c*) In the ordinary year of election of the Council to fill any vacancies left unfilled at the election by reason of insufficient nominations.

(*d*) To decide when any declarations of acceptance of office which have not been received shall be received.

(*e*) To elect a Deputy Mayor where such office exists.

(*f*) To appoint committees.

Order of business.
Amended by: XXI. 1999.41; XVI. 2009.45; XIV.2019.69.

5. After the first business has been completed, the order of business, unless the Council otherwise decides on the ground of urgency in terms of standing order 6, shall be as follows:

(*a*) To read and consider the minutes:

Provided that if a copy has been circulated to each member before the meeting, the minutes may be taken as read.

(*b*) After consideration, to approve that the Mayor and the Executive Secretary sign the minutes as a correct record.

(*c*) To deal with business expressly required by law or regulation to be done.

(*d*) To consider any matters arising from the previous minutes and to dispose of business, if any, remaining from the last meeting.

(*e*) To receive such communications as the Mayor may wish to lay before the Council.

(*f*) To answer questions from councillors.

(*g*) To receive and consider reports and minutes of committees and sub-committees.

(*h*) To receive and consider reports from officers of the Council.

(*i*) To authorise the sealing of documents as provided in standing order 25.

(*j*) To authorise the signing of orders for payment.

(*k*) To consider motions or recommendations in the order in which they have been notified.

(*l*) To deal with any other business specified in the summons.

(*m*) In every Local Council meeting the last item of the agenda shall be the date and time of the next meeting.

If there is no unanimous agreement when the next meeting is to be held, the date and time shall be decided by a vote requiring a simple majority.

Such date and time shall not be changed for any reason and the Executive Secretary and the Mayor shall ensure that the agenda of the next meeting is delivered to the Councillors at least five working days before the date of the meeting. In this manner the Councillors shall have the opportunity to prepare for what will be discussed during the meeting.

Motion of urgency.

6. A motion to vary the order of business on the ground of urgency -

(*a*) may be proposed by the Mayor or by any member and, if proposed by the Mayor may be put to the vote without being seconded, and

(*b*) shall be put to the vote without discussion.

Motion to he put on the agenda. *Amended by: XXI.1999.3, 41.; XIV.2019.69.*

7. Except as provided by these standing orders, no motion may be put forward unless the business to which it relates has been put on the agenda by the Executive Secretary or the mover has given notice in writing of its terms and has delivered the notice to the Executive Secretary at least six working days before.

Duties of Executive Secretary in connection with motions. *Amended by: XXI.1999.3.*

8. (1) The Executive Secretary shall date every notice of motion or recommendation when received by him, shall number each notice in the order in which it was received and shall enter it in a book which shall be open to the inspection of every member of the Council.

(2) The Executive Secretary shall insert in the summons for every meeting all notices of motion or recommendation properly given in the order in which they have been received unless the member giving a notice of motion has stated in writing that he intends to move at some later meeting or that he withdraws it.

When motion is to be treated as withdrawn. *Amended by: XXI. 1999.41*

9. If a motion or recommendation specified in the summons is not moved either by the member who gave notice of it or by any other member, it shall, unless postponed by the Council, be treated as withdrawn and shall not be moved without fresh notice.

Motion falling within the province of a committee of the Council. *Amended by: XXI. 1999.41.*

10. If the subject matter of a motion comes within the province of a committee of the Council, it shall, upon being moved and seconded, stand referred without discussion to such committee or to such other committee as the Council may determine for report:

Provided that the Mayor, if he considers it to be a matter of urgency, may allow it to be dealt with at the meeting at which it was moved.

Motions to be relevant. *Amended by: XXI. 1999.41.*

11. Every motion or recommendation shall be relevant to some subject over which the Council has competence of jurisdiction as established by this Act or which affects its locality.

Motions moved without notice. *Amended by: XXI. 1999.41.*

12. Motions dealing with the following matters may be moved without notice:

(*a*) *revoked by Act XXI.1999.41.*

(*b*) To correct the minutes.

(*c*) To approve the minutes.

(*d*) To alter the order of business.

(*e*) To proceed to the next business.

(*f*) To close or adjourn the debate.

(*g*) To refer a matter to a committee.

(*h*) To appoint a committee or any members thereof.

(*i*) To adopt a report.

(*j*) To authorise the sealing of documents.

(*k*) To amend a resolution.

(*l*) To give leave to withdraw a resolution or an amendment.

(*m*) To extend the time limit for speeches.

(*n*) To silence or eject from the meeting a member named for misconduct.

(*o*) To invite a member to declare an interest in the subject matter under debate.

(*p*) To give the consent of the Council where such consent is required by these standing orders.

(*q*) To adjourn the meeting.

Questions. *Amended by: XXI.1999.3.*

13. (1) A member may ask the Mayor and/or the Executive Secretary any question concerning the business of the Council, provided notice of the question has been given to the person to whom it is addressed before the meeting begins.

(2) No questions not connected with business under discussion shall be asked except during the part of the meeting set aside for questions.

(3) Every question shall be put and answered without discussion.

14. (1) No discussion shall take place upon the minutes except upon their accuracy. Corrections to the minutes shall be made by resolution and must be initialled by the Mayor and the Executive Secretary.

No discussions on minutes except on accuracy. *Substituted by: XXI. 1999.41.*

(2) All corrections shall be initialled by the Mayor and the Executive Secretary in the margin, and copies of corrected minutes shall be given to each councillor.

(3) The items which have been corrected shall be clearly indicated in the minutes recording the meeting when such corrections have been approved.

(4) No other item on the agenda, unless otherwise decided by the Council, shall be discussed and considered unless the minutes of the preceding meeting are approved and signed:

Provided that the Council may only decide to proceed with the business on the agenda without discussion, consideration or approval of the minutes of the preceding meeting if and when the meeting is an urgent meeting of the Council or, where the minutes have not been duly prepared due to circumstances which the Council considers to be reasonable and the Council shall not decide on the reasonableness unless the Executive Secretary has duly informed the Council of the reasons which may justify the circumstances for failing to present the minutes.

14A. (1) The minutes shall be the formal records of the proceedings of the Council meetings and shall be drawn up by the Executive Secretary.

Formal records. *Added by: XXI. 1999.41. Amended by: XVI. 2009.45.*

(2) The minutes shall be -

(*a*) brief, so as to provide a record of the subject matters discussed and the decisions reached;

(*b*) accurate, so that they present a true record of the proceedings; and

(*c*) clear, so that those absent from a meeting can be fully informed of the proceedings and so that there is no doubt about previous deliberations.

(3) The minutes shall contain -

(*a*) the number and date of the meeting, including the time of commencement and ending;

(*b*) the members present, who is in the chair, and apologies for absence;

(*c*) numbered paragraphs;

(*d*) all motions and amendments in the exact form that they are proposed, and the names of the proposer and seconder;

(*e*) the results of any voting, with special mention of casting vote, when exercised;

(*f*) the Chairman's decision on points of order;

(*g*) the entry and exit times of Councillors;

(*h*) the date and time of the next meeting.

(4) There shall also be attached to the minutes any documentation which is deemed necessary in order to keep the minutes as brief as possible, such as motions and schedules of payment.

(5) The minutes held by the Executive Secretary, as approved by the Council, shall be deemed to be the official minutes of the Council.

(6) The minutes become public documents as soon as they are approved by the Council and signed by the Chairman and the Executive Secretary;

(7) When the minutes are approved, the Chairman shall also put his initials on each page.

(8) The Executive Secretary shall cause the approved minutes to be properly filed and he shall be responsible for their safe custody. The Executive Secretary shall also ensure that the approved minutes are posted on the official website of the Council.

(9) A Council may, by resolution, approve the recording or other registration of proceedings for the purpose only of facilitating the drawing up of the minutes. Such recordings or registrations may be destroyed after the approval of the minutes of the meeting to which they relate.

Rules of debate. *Amended by: XXI. 1999.41; XIV.2019.69.*

15. (1) A motion may be put to the vote in a meeting of the Council without being seconded. After the motion is read, who is presiding the meeting shall request that the motion is seconded. If the motion is not seconded, the motion shall not stand. In such a case the Executive Secretary shall take note of the whole content of the motion put to the vote, including who has proposed it, and shall indicate that it has not been seconded and that the motion shall not stand.

(2) A member when seconding a motion or amendment may, if he then declare his intention to do so, reserve his speech until a later period of the debate.

(3) A member shall direct his intervention to the question under discussion or to a personal explanation or to a question of order.

(4) An intervention by a mover of a motion shall not exceed ten minutes, and no other intervention shall exceed five minutes, except by consent of the Council.

(5) An amendment shall be either:

(*a*) To leave out words.

(*b*) To leave out words and insert or add others.

(*c*) To insert or add words.

(6) An amendment shall not have the effect of negating the motion before the Council.

(7) If an amendment be carried, the motion, as amended, shall take the place of the original resolution and shall become the resolution upon which any further amendment may be moved.

(8) A further amendment shall not be moved until the Council has disposed of every amendment previously moved.

(9) A member, other than the mover of a motion, shall not, without leave of the Council, speak more than once on any resolution except to move an amendment or further amendment, or on an amendment, or on a point of order, or in personal explanation, or to move a closure.

(10) A member shall be heard forthwith when he intervenes to make a point of order or a personal explanation. A personal explanation shall be confined to some material part of a former intervention by him which may have been misunderstood.

(11) A motion or amendment may be withdrawn by the proposer with the consent of the Council, which shall be signified without discussion, and no member may speak upon it after permission has been asked for its withdrawal unless such permission has been refused.

(12) When a motion is under debate no other motion shall be moved except the following:

(*a*) To amend the motion.

(*b*) To proceed to the next business.

(*c*) To adjourn the debate.

(*d*) That the question be now put.

(*e*) That a member named be not further heard.

(*f*) That a member named do leave the meeting.

(*g*) That the motion be referred to a committee or sub-committee.

(*h*) To adjourn the meeting.

Member to remain seated.

16. A member shall remain seated when speaking unless permitted to stand by the Mayor.

Rulings given by Mayor. *Substituted by: XXI. 1999.41.*

17. (1) The Mayor shall give ruling -

(*a*) on a point of order;

(b) on the admissibility of a personal explanation; or

(*c*) on the orderly conduct of any member as provided in standing order 20.

(2) The rulings given by the Mayor shall not be discussed.

Rules of motion and debate. *Amended by: XXI. 1999.41.*

18. (1) Members shall address the Mayor.

(2) If two or more members wish to intervene, the Mayor shall call upon one of them to speak first.

(3) Whenever the Mayor or a member is speaking during a debate, all other members shall remain seated.

(4) At the end of any intervention a member may, without comment, move "that the question be now put", "that the debate be now adjourned" or "that the Council do now adjourn". If such motion is seconded, the Mayor shall put the motion but, in the case of a motion "to put the question", he shall do so only if he is of the opinion that the question before the Council has been sufficiently debated. If the motion "that the question be now put" is carried, he shall call upon the mover to exercise or waive his right of reply and shall put the question immediately after that right has been exercised or waived. The adjournment of a debate or of the Council shall not prejudice the mover's right of reply at the resumption.

Adjournment and subsequent proceedings.

19. Where a meeting is adjourned the subsequent proceedings shall be deemed to be part of the original meeting and no new notices or agendas need to be issued except a notification to members not present on the date of the continuation of the meeting.

Disorderly conduct.

20. (1) No member shall at a meeting disregard the ruling of the Mayor, wilfully obstruct business, or behave irregularly, offensively, improperly or in such a manner as to scandalise the Council or bring it into contempt or ridicule.

(2) If, in the opinion of the Mayor, a member has broken the provisions of paragraph (1) of this standing order, the Mayor shall express that opinion to the Council and thereafter any member may move that the member named be no longer heard or that the member named do leave the meeting, and the motion, if seconded, shall be put forthwith and without discussion.

(3) If either of the motions mentioned in paragraph (2) is disobeyed, the Mayor may suspend the meeting or take such further steps as may reasonably be necessary to enforce them.

Right to reply. *Amended by: XXI. 1999.41.*

21. The mover of a motion shall have a right to reply immediately before the motion is put to the vote. If an amendment is proposed the mover of the amendment shall be entitled to reply immediately before the amendment is put to the vote. A member exercising a right of reply shall not introduce any new matter. After the right of reply has been exercised or waived, a vote shall be taken without further discussion.

Alteration of resolution. *Amended by: XXI. 1999.41.*

22. A member may, with the consent of his seconder, move amendments to his own motion.

Rescission of previous resolution. *Amended by: XXI. 1999.41.*

23. (1) A decision (whether affirmative or negative) of the Council shall not be reversed within six months except either by a special resolution, the written notice whereof bears the names of at least two members of the Council, or by a resolution moved in pursuance of the report or recommendation of a committee or sub-committee.

(2) When a special resolution or any other resolution moved under the provisions of paragraph (1) of this standing order has been disposed of, no similar resolution may be moved within a further six months.

Motions on expenditure. *Amended by: XXI. 1999.41.*

24. Any motion which is moved otherwise than in pursuance of a recommendation of the committee responsible for finance or of another committee after recommendation by the committee responsible for finance and which, if carried, would, in the opinion of the Mayor, substantially increase the expenditure upon any service which is under the management of or reduce the revenue at the disposal of any committee, or which would involve capital expenditure, shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council, and any committee affected by it shall consider whether it desires to report thereon (and the committee responsible for finance shall report on the financial aspect of the matter).

Sealing of documents. *Amended by: XXI.1999.3, 41.*

25. (1) A document shall not be sealed on behalf of the Council unless its sealing has been authorised by a resolution.

(2) The Council's Seal shall alone be used for authenticating Council documents and deeds. It shall be applied by the Executive Secretary in the presence of two councillors who shall sign the document as witnesses.

(3) The seal shall be kept in the custody of the Executive Secretary.

Committees.

26. (1) The Council may at its first meeting, or at any other time, appoint such committees as are necessary, and subject to any provision in any law or regulation:

(*a*) may appoint persons other than members of the Council to any committee; and

(*b*) may, subject to the provisions of standing order 23, at any time dissolve or alter the membership of a committee.

(2) The Mayor shall be an *ex officio* member of every committee.

Summoning of committee.

27. The Chairman of a committee may summon a meeting of that committee at any time. An additional meeting shall also be summoned on the requisition in writing of the Mayor or not less than a quarter of the members of the committee. The summons shall set out the business to be considered at the special meeting and no other business shall be transacted at that meeting.

Quorum of committees.

28. Except where ordered by the Council in the case of a committee, the quorum of a committee shall be the least whole number above fifty per cent of the number of members of the committee not debarred by reason of a declared interest.

Sub-committees. *Amended by: XXI. 1999.3, 41; XVI. 2009.45.*

29. (1) There shall be sub-committees, whose name, their terms of reference, and number of members, and the bodies to be invited to nominate members shall be determined by the Council.

(2) The Executive Secretary shall inform the members of every sub-committee of the terms of reference of the sub-committee.

(3) A sub-committee may make recommendations and give notice thereof to the Council.

(4) A sub-committee may consist wholly of persons who are not members of the Council.

(5) Sub-Committees appointed by the Council shall be directly answerable to the Local Council.

Voting in committees or sub-committees. *Amended by: XXI. 1999.41.*

30. (1) Members of committees or sub-committees shall vote by show of hands.

(2) Chairmen of committees and sub-committees shall in the case of equality of votes have a second or casting vote.

Presence of councillors at committee or sub-committee meetings. *Amended by: XXI. 1999.41.*

31. A councillor who has proposed a motion which has been referred to any committee or sub-committee of which he is not a member, may explain his motion to the committee or sub-committee but shall not vote.

Accounts and Financial Statement. *Amended by: XXI. 1999.3, 41; XVI. 2009.45.*

32.(1) (*a*) Orders for the payment of money shall be authorised by resolution of the Council and signed by two councillors.

(*b*) The Executive Secretary shall attach a copy of the Schedule of Payments and a copy of each related document with the agenda when forwarding the said agenda to the Councillors.

(*c*) During the meeting requests for payment received after the agenda for that meeting was sent may be brought up.

(*d*) The Executive Secretary shall mark on each invoice the word "approved" and the date and reference of the meeting when approval was given.

(2) Except as provided in paragraph (3) of this standing order or by any other law or regulation, all accounts for payment and claims upon the Council shall be laid before the Council.

(3) Where it is necessary to make a payment before it has been authorised by the Council, such payment shall be certified as to its correctness and urgency by the Executive Secretary. Such payment shall be authorised by the committee having charge of the business to which it relates, or by the Executive Secretary with the approval of the Mayor.

(4) All payments ratified under paragraph (3) of this standing order shall be separately included in the next schedule of payments laid before the Council.

Canvassing of and recommendations by members. *Amended by: XXI.1999.3, 41.*

33. (1) Canvassing of members of the Council or of any committee, directly or indirectly, for any appointment under the Council shall disqualify the candidate for such appointment. The Executive Secretary shall make known the purport of this paragraph of this standing order to every candidate.

(2) A member of the Council or of any committee shall not solicit for any person any appointment under the Council or recommend any person for such appointment or for promotion.

Inspection of documents. *Amended by: XXI. 1999.41.*

34. (1) A councillor may for the purpose of his duty as such (but not otherwise) make arrangements with the Executive Secretary to inspect any document in possession of the Council or a committee, and if copies are available shall, on request, be supplied for the like purpose with a copy.

(2) All minutes kept by the Council and by any committee shall be open for the inspection of any member of the Council and the public.

Authorised activities.

35. No member of the Council or of any committee or sub-committee shall in the name of or on behalf of the Council -

(*a*) inspect any lands or premises which the Council has a right or duty to inspect; or

(*b*) issue orders, instructions or directions;

unless authorised to do so by the Council or the relevant committee or sub-committee.

Breach. *Added by: XIV.2019.69.*

35A. If it is proven that a member of the Council has acted against the provisions of standing order 35, he shall be deemed to be in breach of the oath of office and the provisions of article 24(2) of the Act shall apply.

Bye-laws. *Amended by: XXI.1999.3, 41.*

36. (1) Bye-Laws shall be enacted in both the Maltese and the English languages and, if there is any conflict between the Maltese and the English texts of any Bye-Law, the Maltese text shall prevail.

(2) Draft Bye-Laws shall include the title, the objects and reasons, short marginal notes, articles, sub-articles, paragraphs and sub-paragraphs individually numbered.

(3) Draft Bye-Laws duly signed by a proposer and a seconder shall be put on the agenda of a Council not less than four weeks and not more than eight weeks from the date on which they have been received by the Executive Secretary.

(4) The Executive Secretary shall, on receipt of draft Bye-Laws, cause a copy thereof to be transmitted or delivered to each councillor in both languages. Should the Minister forward to the Council any amendments to the proposed Bye-Laws, such amendments shall likewise be transmitted or delivered to each councillor by the Executive Secretary forthwith:

Provided that the draft Bye-Laws or any amendments thereto shall be transmitted or delivered to each councillor in type-written or printed form.

(5) When draft Bye-Laws are brought up for discussion by the Council, the proposer shall summarise the objects and reasons for the motion in an intervention which shall not exceed five minutes. No debate shall be held on the motion and the chairman of the meeting shall bring the objects and reasons of the draft Bye-Laws to a vote.

(6) Once the objects and reasons have been approved, the Council may at the same sitting proceed to discuss the draft Bye-Laws article by article allowing for the draft Bye-Laws and any

amendments thereto to be approved by a majority of those present:

Provided that amendments to the draft Bye-Laws shall be relevant to the subject matter of the Bye-Laws.

(7) On the approval of all articles by the Council, the Mayor may order that, in the case where amendments have been made, a newly typed version be produced and shall cause a copy thereof to be transmitted or delivered to each councillor and submitted to the Director in terms of article 35(3).

(8) (*a*) After the lapse of the period of six weeks established by article 35(4) of the Act or after the Council has received any amendments by the Minister, whichever is the earlier, the Council shall either discuss the amendments proposed by the Minister or approve the Bye-Laws as originally proposed, as the case may be.

(*b*) If the Minister has not proposed any amendments as aforesaid, the Bye-Laws as originally proposed shall be approved without debate.

(9) Draft Bye-Laws which are not approved by the Council or which are objected to by the Minister shall not be tabled again before a period of six months from the date when they have been objected to or not approved as the case may be.

Consultations. *Amended by: XXI.1999.3.*

37. (1) Should the Council be consulted by the Planning Authority or by any other competent authority about an application or applications for planning or any other permission, the Executive Secretary shall, as soon as the request is received, enter in a book kept for the purpose the following particulars of each consultation:

(*a*) the date on which the request was received;

(*b*) the name of the authority consulting the Council;

(*c*) the name of the applicant;

(*d*) the place to which it relates; and

(*e*) a summary of the nature of the application.

(2) The Executive Secretary shall refer every request for consultation to the Mayor within forty-eight hours of receiving it.

(3) The Mayor may act in conformity with delegated powers from the Council or shall refer the request to the Council or a committee of the Council previously empowered by the Council to handle such requests.

Tendering procedures. *Substituted by: L.N. 268 of 2017.*

38. Local Councils shall follow such procurement guidelines issued in terms of article 80, from time to time by the Director.

Code of conduct on complaints.

39. The Council shall deal with complaints of maladministration allegedly committed by the Council or by any officer or member in the manner which the Minister may by regulations prescribe.

40. A copy of these standing orders shall be given to each member by the Executive Secretary upon delivery to him of the member's declaration of acceptance of office.

Standing orders to be given to members.
Amended by: XXI.1999.3.

SEVENTH SCHEDULE

[Article 4, 25]

Substituted by: XXI. 1999.39. Amended by: I. 2005.23; XVI. 2009.46. Substituted by: L.N. 213 of 2011.

Part I

Election of Mayor and Deputy Mayor

Voting Procedure

The Executive Secretary shall cause the name of the elected Mayor and of the Deputy Mayor to be published in the Gazette together with the date of the election and in the case that the Mayor or the Deputy Mayor has not been elected, the name of the councillor who assumed the functions of Mayor or Deputy Mayor, as the case may be, and the date of assuming the office.

Part II

Election of Mayor and Deputy Mayor where no political party obtains an absolute majority of seats

1. At the meeting at which the Major and, or Deputy Major is, are to be elected, councillors shall forthwith proceed with the election procedure in accordance with the Standing Orders and the following provisions.

2. The councillors shall elect the Mayor and the Deputy Mayor by separate open ballots.

3. Each councillor may nominate any other councillor as Mayor or Deputy Mayor and in the event of two or more nominations for the same post, voting will be taken in alphabetical order of surnames and, if two or more candidates have identical surnames and names the order of precedence will be determined by lot.

4. A councillor will vote by stating in an audible voice "Yes", "No" or "Abstain" for each candidate in the said order. A refusal to express a preference (by any councillor present at the meeting) shall be counted as an abstention. The Executive Secretary shall record the vote expressed by each councillor.

5. The first candidate to obtain a simple majority of the votes cast by the councillors shall be elected. If no candidate is so elected the voting shall be repeated for five other times in the same sitting.

6. If, for any reason whatsoever, the Council is unable to select a Mayor or Deputy Mayor after having taken six consecutive votes in the same sitting, the meeting will be adjourned to the same day, time and place of the following week and the procedures set out in regulations 1 to 5 of this Schedule shall be repeated; provided that if after a further six consecutive votes have been taken, the Council is still unable to elect the Mayor or Deputy Mayor, the councillor who, at the last local elections for that locality, obtained the highest number of votes in the first count from among the councillors belonging to the political party which obtained the highest number of votes in the first count at the last local elections for that locality, (or if he refuses the person with the second highest number of votes and so on), will assume the functions of Mayor or Deputy Mayor, as the case may be; and if the said councillors all refuse to assume the functions of Mayor or Deputy Mayor, as the case may be, according to this procedure, the councillor most senior in age (or if he refuses, the person next senior in age and so on) will assume the functions of Mayor or Deputy Mayor, as the case may be, for a period of three months.

7. The preceding voting procedures shall be repeated after the lapse of the three months and, if necessary, after each subsequent three monthly term, until such time as the Mayor or Deputy Mayor is elected in accordance with the procedures set

out in this Schedule.

8. The Executive Secretary shall cause the name of the elected Mayor and of the Deputy Mayor to be published in the Gazette together with the date of the election and, in the case where the Mayor or the Deputy Mayor has not been elected, the name of the councillor who assumed the functions of Mayor or Deputy Mayor, as the case may be, and the date of assuming the office.

EIGHTH SCHEDULE
[Article 55]

Amended by:
L.N. 255 of 1998;
L.N. 77 of 2001;
L.N. 153 of 2002;
XII. 2002.12;
L.N. 76 of 2005;
L.N. 372 of 2007;
L.N. 161 of 2008;
Substituted by:
XVI. 2009.47.

Financial Allocation to Local Councils shall cover the following:

1. Landscaping and Maintenance of Parks and Gardens;
2. Roads Maintenance and Roads Fixtures;
3. Waste Management; and
4. Administration;

as worked out in the table below:

1. The Formula

Category	Apportionment	Denominator
1. Landscaping and Maintenance of Parks and Gardens		
Parks and Gardens and Soft Areas	1	relevant areas
2. Roads Maintenance and Infrastructure		
Road Sweeping and Weed Cutting	a = 13%	road lengths for the four categories of urban roads
	b = 17%	
	c = 43%	
	d = 27%	
Cleaning of Roads (non-urban)	1	road lengths - non-urban zone
Maintenance of Roads, Bus Shelters, Roads Signs, Markings and Road Lamps	70%	road lengths - urban zone
	30%	road lengths - non-urban zone
3. Waste Management		
Refuse Collection and Bins on Wheels	1	number of properties
4. Administration		
Administration costs	1	number of councillors

The apportionment for each category will be worked out as follows:

1.1 Landscaping and Maintenance of Parks and Gardens

Total area of parks gardens, soft areas and verges in each locality in proportion to the total area of parks, gardens, soft areas and verges of all the localities added together

multiplied by

Total apportionment allocated by Government for the maintenance of parks, gardens, soft areas and verges

1.2 Roads Maintenance and Road Fixtures

2a. Road Sweeping and Weed Cutting of Urban Roads

Total length of urban roads per category of road (a, b, c and d) in each locality in proportion to the total length of urban roads in of all localities added together per category (a, b, c and d) respectively

multiplied by

Total apportionment allocated by Government for the cleaning of urban roads per category (a, b, c, d) respectively

Where a, b, c and d are the road lengths for the four categories of urban roads of locality determined according to the frequency of cleaning required.

2b. Cleaning of Non Urban Roads

Total length of non urban roads in each locality in proportion to the total length of non-urban roads in all the localities added together

multiplied by

Total apportionment allocated by Government for the cleaning of non-urban roads

2c. Maintenance of Roads, Bus Shelters, Roads Signs, Markings and Road Lamps

[(Total length of non urban roads in each locality in proportion to the total length of urban roads in all of the localities added together multiplied by 30%)

added to

(Total length of urban roads in each locality in proportion to the total length of roads in all of the localities added together multiplied by 70%)]

multiplied by

Total apportionment allocated by Government for the maintenance of roads, bus shelters, roads signs, markings and road lamps

1.3 Waste Management

Total number of properties in each locality in proportion to the total number of properties in all of the localities added together

multiplied by

Total apportionment allocated by Government for waste management

1.4 Administration

Total number of councillors in the locality in proportion to the total number of councillors in all of the localities added together

multiplied by

Total apportionment allocated by Government for administration.

2. Explanatory Note

The workings related to the four functions in Section 1 of this Schedule are explained in detail in the document titled 'Funding Module for Local Government 2009' held by the Department for Local Government.

NINTH SCHEDULE
[Article 47]

Added by:
XXI. 1999.42.
Amended by:
L.N. 48 of 2002;
XVI. 2003.24;
L.N. 82 of 2007;
XVI. 2009.48;
L.N. 179 of 2010;
L.N. 230 of 2011.

Listed communities in terms of article 47A and the plans delineating their boundaries and respective roads, the following:*

Fleur-de-Lys in the locality Birkirkara

Santa Luċija in the locality Ta' Kerċem

Gwardamanġa in the locality Tal-Pietà

Paceville in the locality San Ġiljan

Kappara in the locality San Ġwann

Madliena in the locality Is-Swieqi

Marsalforn in the locality Iż-Żebbuġ

Bubaqra in the locality Iż-Żurrieq

Xlendi in the locality Il-Munxar

Tal-Virtù in the locality of Ir-Rabat

Ħal Farruġ in the locality of Ħal Luqa

St Peter's in the locality of Ħaż Żabbar

Is-Swatar in the localites of Birkirkara and L-Imsida

Burmarrad in the locality of San Pawl il-Baħar

Il-Baħrija in the locality of Ir-Rabat

Baħar iċ-Ċagħaq in the locality of Naxxar

** See Maltese version for plans and respective roads of localities mentioned hereunder.*

Substituted by:
XXI. 1999.40;
L.N. 19 of 2001;
L.N. 79 of 2002;
L.N. 117 of 2003;
L.N. 326 of 2004;
L.N. 111 of 2006;
L.N. 128 of 2008.
Amended by:
XVI. 2009.49.

TENTH SCHEDULE
[Article 72]
Time-table of Elections for Local Councils

(*Deleted by Act XL. 2015.7.*).

Added by:
XVI. 2009.50.
Amended by:
L.N. 231 of 2011;
L.N. 313 of 2011.
Substituted by:
XIV.2019.71

ELEVENTH SCHEDULE
[Article 37]
Regions

Northern Region	***Eastern Region***	***Western Region***	***Port Region***	***Southern Region***	***Gozo Region***
Il-Mellieħa	Il-Gżira	L-Imdina (Ċittà Notabile)	Il-Belt Valletta (Ċittà Umilissima)	Ħal Qormi (Ċittà Pinto)	Ir-Rabat (Ċittà Victoria)
L-Imġarr	Pembroke	Is-Siġġiewi (Ċittà Ferdinand)	Il-Birgu (Ċittà Vittoriosa)	Iż-Żejtun (Ċittà Beland)	Il-Fontana
Il-Mosta	San Ġiljan	Ħaż-Żebbuġ (Ċittà Rohan)	L-Isla (Ċittà Invicta)	Birżebbuġa	Għajnsielem
In-Naxxar	L-Iklin	Ħad-Dingli	Bormla (Ċittà Cospicua)	Ħal Għaxaq	L-Għarb
San Pawl il-Baħar	Tas-Sliema	Ir-Rabat	Ħaż-Żabbar (Ċittà Hompesch)	Santa Venera	L-Għasri
Ħ'Attard	Is-Swieqi	Ħal Kirkop	Floriana	Marsaskala	Ta'Kerċem
Ħal Balzan	Ta' Xbiex	L-Imqabba	Il-Fgura	Marsaxlokk	Il-Munxar
San Ġwann	Ħal Għargħur	Il-Qrendi	Il-Kalkara	Santa Luċija	In-Nadur
L-Imtarfa	Ħal Lija	Ħal Safi	Ħal Tarxien	Il-Gudja	Il-Qala
	Birkirkara	Iż-Żurrieq	Paola	Il-Ħamrun	San Lawrenz
	L-Imsida		Ix-Xgħajra	Ħal Luqa	Ta' Sannat
	Tal-Pietà			Il-Marsa	Ix-Xagħra
					Ix-Xewkija
					Iż-Żebbuġ

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Added by:
XIV. 2019.72.

TWELFTH SCHEDULE

[Article 82]

Protocol for Regional Presidents, Mayors and Councillors and President of the Local Councils Association

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Added by:
XIV. 2019.72.

THIRTEENTH SCHEDULE

[Article 83]

Code of Ethics for Elected Representatives of Local Councils

Added by:
XIV. 2019.72.

FOURTEENTH SCHEDULE

[Article 33B]

Responsibilities of the Councillors

List of Responsibilities

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*Kindly go to the Maltese Text *Kap.363* to find Schedules.