

PARLIAMENT OF CEYLON

1st Session 1965-66



Local Authorities Elections (Amendment) Act, No. 15 of 1965

Date of Assent : November 24, 1965

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*Local Authorities Elections (Amendment)
Act, No. 15 of 1965*

L. D.—O. 33/65.

AN ACT TO AMEND THE LOCAL AUTHORITIES
ELECTIONS ORDINANCE.

Chapter 262,
Volume IX,
Page 688.

[Date of Assent: November 24, 1965]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Local Authorities Elections (Amendment) Act, No. 15 of 1965, and shall come into operation on such date as may be appointed by the Minister by Order published in the *Gazette*.

Short title
and date of
operation.

2. The Local Authorities Elections Ordinance, as amended by Act No. 9 of 1963, (hereafter in this Act referred to as the "principal enactment"), is hereby amended in section 7 thereof as follows:—

Amendment of
section 7 of
Chapter 262.

(a) by the renumbering of that section as sub-section (1) of section 7;

(b) in renumbered sub-section (1) of that section, by the substitution, for paragraph (b) of that sub-section, of the following new paragraph:—

"(b) who was, on the first day of June in the year of the commencement of the preparation or revision of that parliamentary register, ordinarily resident in any ward which is situated wholly or partly within the electoral district,"; and

(c) by the insertion, immediately after renumbered sub-section (1) of that section, of the following new sub-sections:—

(2) In the determination of any question as to a person's residence on the first day of June in any year, particular regard shall be

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had to the purpose and other circumstances, as well as to the fact, of his presence at, or absence from, the address in question, and in particular his absence from such address in the performance of any duty accruing from, or incidental to, any office, service or employment, held or undertaken by him.

(3) The address at which a person was ordinarily resident in any ward on the first day of June in any year is hereafter in this Act referred to as his "qualifying address".

Amendment of section 8 of the principal enactment.

3. Section 8 of the principal enactment is hereby amended by the substitution, for paragraph (b) of that section, of the following new paragraph:—

"(b) he was, on the first day of June in the year of the commencement of the preparation or revision of that register, ordinarily resident in that ward or any other ward of the same electoral area."

Amendment of section 9 of the principal enactment.

4. Section 9 of the principal enactment is hereby amended in sub-section (1) thereof by the omission of paragraph (c) of that sub-section.

Replacement of section 19 of the principal enactment.

5. Section 19 of the principal enactment is hereby repealed and the following new section substituted therefor:—

" Special provision regarding the appearance of a person's name in the electoral lists.

19. (1) No person shall be entitled to have his name entered or retained—

(a) in more than one electoral list, whether of the wards of the same electoral area or different electoral areas; or

(b) more than once in the same electoral list under different qualifying addresses,

notwithstanding that he may be qualified to have his name so entered or retained.

(2) (a) Where it appears that a person is qualified to have his name entered or retained—

- (i) in more than one electoral list; or
- (ii) more than once in the same electoral list under different qualifying addresses,

an elections officer shall cause notice to be served upon that person requiring him to specify, within seven days of the date of service of such notice, the electoral list in which he desires to have his name entered or retained, or the qualifying address under which he desires to have his name entered or retained in the same electoral list, as the case may be.

(b) Any notice referred to in paragraph (a) of this sub-section may be served upon any person by sending it by ordinary letter post to such person or by delivering it to him or to an adult member of his household.

(3) Where, in compliance with a notice under paragraph (a) of sub-section (2), a person specifies—

- (a) the electoral list in which he desires to have his name entered or retained, and the elections officer of the appropriate district is satisfied that such person is qualified to have his name entered or retained in that list, his name shall be entered or retained in that list and in no other electoral list; or
- (b) the qualifying address under which he desires to have his name entered or retained in the

same electoral list, and the elections officer of the district in which the ward to which that list relates is situated is satisfied that such person is qualified to have his name entered or retained in that list under that address, his name shall be entered or retained under that address in that list and under no other address in that list.

(4) Where a person fails to comply with a notice under paragraph (a) of sub-section (2),—

(a) the appropriate elections officer shall, if the notice required such person to specify the electoral list in which such person desires to have his name entered or retained, determine which one of the electoral lists in which such person is qualified to have his name entered or retained shall be the electoral list in which such name shall be entered or retained, and such name shall be entered or retained in the electoral list determined by such officer and in no other electoral list; or

(b) the appropriate elections officer shall, if the notice required such person to specify the qualifying address under which he desires to have his name entered or retained in the same electoral list, determine which one

of the qualifying addresses in the same electoral list under which such person is qualified to have his name entered or retained shall be the address under which such name shall be entered or retained in that list, and such name shall be entered or retained under the qualifying address in that list determined by such officer and under no other qualifying address in that list.

(5) The failure of any person to comply with any notice served under paragraph (a) of sub-section (2), or the failure of an elections officer to comply with the provisions of sub-section (4) in respect of that person, or the fact that upon such compliance his name is not entered or retained in any electoral list, or under any qualifying address in the same electoral list, specified by such person, shall not affect or prejudice his right to have his name entered or retained, subject to the provisions of sub-section (1) and section 82, in any electoral list, or under any qualifying address in the same electoral list, as the case may be, in or under which he is qualified to have his name entered or retained."

6. Section 26 of the principal enactment is hereby amended as follows:—

Amendment of
section 26 of
the principal
enactment.

(1) in sub-section (1) of that section,—

(a) by the substitution, in paragraph (a) of that sub-section, for all the words and figures from "Such date shall—" to the end of that paragraph, of the words "Such date shall be a date not earlier than fourteen days or later than twenty-eight days from the date of the publication of the notice."; and

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(b) by the substitution, in paragraph (b) of that sub-section, for the expression "twenty-first day" occurring in subparagraphs (i) and (ii) of that paragraph, of the expression "twenty-eighth day"; and

(2) in paragraph (a) of sub-section (2) of that section, by the substitution, for the expression "the hour (commencing not earlier than 9 a.m. nor later than 4 p.m.) during which," of the expression "the hour during which,".

Amendment of section 27A of the principal enactment.

7. Section 27A of the principal enactment is hereby amended as follows:—

(a) by the repeal of sub-section (2) of that section, and the substitution therefor of the following new sub-section:—

"(2) A political party shall be entitled to be treated as a recognized political party for the purpose of local elections if, but only if, it was, at the last parliamentary general election immediately preceding such local elections, treated as a recognized political party under the Parliamentary Elections Order in Council for the purpose of the provisions of section 29 of that Order relating to the deposit to be made by candidates.";

(b) in sub-section (3) of that section, by the substitution, for all the words and figures from "at the parliamentary" to the end of that sub-section, of the following:—

"at the last parliamentary general election immediately preceding such local elections shall be deemed to be the approved symbol allotted to such party for that purpose until the date on which it ceases to be so entitled by virtue of sub-section (2)."; and

(c) by the repeal of sub-sections (4), (5), (6), (7) and (8) of that section.

Amendment of section 31 of the principal enactment.

8. Section 31 of the principal enactment is hereby amended in sub-section (2) of that section by the substitution, for the expression "a true copy thereof", of the expression "a copy thereof".

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9. Section 35 of the principal enactment is hereby amended in sub-section (1) of that section by the substitution, for the expression "twenty-one days", of the expression "twenty-eight days".

Amendment of section 35 of the principal enactment.

10. Section 39A of the principal enactment is hereby amended by the insertion, immediately after sub-section (3) of that section, of the following new sub-section:—

Amendment of section 39A of the principal enactment.

" (3A) Every person,—

(a) other than a public servant acting in the course of his duty as such servant, who has in his possession the official poll card of any other person; or

(b) who without due authority prints any official poll card or what purports to be or is capable of being used as an official poll card at any election under this Ordinance,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment."

11. The following new section is hereby inserted immediately after section 53, and shall have effect as section 53A, of the principal enactment:—

Insertion of new section 53A in the principal enactment.

* Inspection of voter and marking with the appropriate mark.

53A. (1) No ballot paper shall be delivered to any voter at any local election—

(a) if he refuses to allow the presiding officer or a person acting under his authority to make the appropriate inspection; or

(b) if, having allowed such inspection, it discloses that such voter has already been marked with the appropriate mark; or

- (c) if, having allowed such inspection, it discloses that such voter has not already been marked with the appropriate mark, but such voter refuses to allow such officer or person to mark such voter with the appropriate mark,

and accordingly such voter shall, notwithstanding anything to the contrary in any other provision of this Ordinance, not be entitled to vote at such election.

(2) The presiding officer of a polling station shall enter on a list, substantially in the form set out in the Seventh Schedule to this Ordinance, the following particulars relating to each voter to whom a ballot paper was not delivered at such station under sub-section (1):—

- (a) the number of such voter in the electoral list of the ward of the electoral area in which the election is held;
- (b) the name and address of such voter as it appears in such list; and
- (c) the ground on which a ballot paper was not delivered to such voter.

Such list is in this Ordinance called the "list of voters to whom ballot papers are not delivered under section 53A".

(3) In this section,—

- (a) the expression "appropriate mark" means a mark made with indelible ink;
- (b) the term "appropriate", with reference to any context connected with

or relating to the inspection or marking of a voter, means—

- (i) the little finger of his left hand or, if such finger is missing, any other finger of his left hand; or
- (ii) if, all the fingers of his left hand are missing, the little finger of his right hand or, if such finger is missing, any other finger of his right hand; or
- (iii) if all the fingers of his left and right hands are missing, such extremity of his left or right hand as such voter possesses.

(4) Every person who—

- (a) without due authority places an appropriate mark on any voter at any election under this Ordinance or what purports to be or is capable of being mistaken for that mark; or
- (b) fraudulently defaces any appropriate mark placed on any voter at such election without due authority,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.'

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Amendment of
section 54 of
the principal
enactment.

12. Section 54 of the principal enactment is hereby amended in sub-section (2) of that section, by the substitution, for the expression " shall mark the ballot paper ", of the expression " shall, in the presence of another member of his polling staff, mark the ballot paper ".

Amendment of
section 59 of
the principal
enactment.

13. Section 59 of the principal enactment is hereby amended in sub-section (1) of that section as follows:—

(1) in paragraph (e) of that sub-section, by the substitution, for the expression " votes list," of the expression " votes list, and "; and

(2) by the insertion, immediately after paragraph (e) of that sub-section, of the following new paragraph:—

"(f) the list of voters to whom ballot papers are not delivered under section 53A,".

Amendment of
section 65 of
the principal
enactment.

14. Section 65 of the principal enactment is hereby amended by the substitution, for the proviso to that section, of the following new proviso:—

" Provided, however, that before the returning officer makes the declaration,—

(a) such number of recounts may be made as the returning officer deems necessary; and

(b) a recount or recounts shall be made upon the application of a candidate or his agent so however that the maximum number of recounts that shall be so made, on the application of any candidate or his agent, or all the candidates or their agents, shall not exceed two."

Amendment of
section 69 of
the principal
enactment.

15. Section 69 of the principal enactment is hereby amended as follows:—

(a) by the substitution, for the expression " this Part of this Ordinance ", of the expression " this Ordinance "; and

(b) in the marginal note to that section, by the substitution, for the word " Part.", of the word " Ordinance."

Amendment of
section 80 of
the principal
enactment.

16. Section 80 of the principal enactment is hereby amended by the substitution, for all the words from " not exceeding one year " to the end of that section, of the words " not exceeding one year."

17. Section 81 of the principal enactment is hereby amended as follows:—

Amendment of section 81 of the principal enactment.

(a) by the renumbering of paragraph (3) of that section as paragraph (5) thereof; and

(b) by the insertion, immediately after paragraph (2) of that section, of the following new paragraphs:—

“(3) who, being a member or official of a religious order or organization,—

(a) denies or threatens to deny, to any member or adherent of that order or organization, or to any member of the family of such member or adherent, any spiritual ministrations, service or benefit, to which such member or adherent would in the ordinary course have been entitled; or

(b) excludes, or threatens to exclude, such member or adherent from such order or organization,

in order to induce or compel such member or adherent to vote or refrain from voting for any candidate at such election, or to support or refrain from supporting any political party at such election, or on account of such member or adherent having voted or refrained from voting for a candidate at such election, or having supported or refrained from supporting any political party at such election, or

(4) who, being the employer of any other person,—

(a) terminates or threatens to terminate such employment; or

(b) denies or threatens to deny to such other person any benefit or service which such other person already enjoyed, or would have enjoyed, in the ordinary course of such employment,

in order to induce or compel such other person to vote or refrain from voting for any candidate at such election, or

to support or refrain from supporting any political party at such election, or on account of such other person having voted or refrained from voting for any candidate at such election, or having supported or refrained from supporting any political party at such election, or ”.

Amendment of
section 81A of
the principal
enactment.

18. Section 81A of the principal enactment is hereby amended as follows:—

(1) in sub-section (1) of that section, by the substitution, for the expression “ of fifty yards ”, of the expression “ of a quarter of a mile ”;

(2) by the insertion, immediately after sub-section (2) of that section, of the following new sub-section:—

“ (2A) No person—

(a) who is a candidate at any election in any electoral area shall, on the day on which the poll is taken at such election, use in that area any building or structure (whether temporary or otherwise), other than the ordinary place of residence of such candidate, for any purpose calculated to promote the election of such candidate; or

(b) shall, at any time during the period commencing on the day of nomination at any election in any electoral area and ending on the day immediately following the date on which the poll is taken at such election, conduct, hold or take part in any procession, other than a procession on May 1, in any year, or any procession for religious or social purposes; or

(c) shall, at any procession held or conducted during the period referred to in paragraph (b) of this sub-section, do any act or

thing calculated to promote the election referred to in the said paragraph (b)."; and

- (3) in sub-section (3) of that section, by the substitution, for the expression "sub-section (1) or sub-section (2)", of the expression "sub-section (1), sub-section (2), or sub-section (2A)".

19. Section 81B of the principal enactment is hereby amended by the repeal of sub-section (1) of that section and the substitution therefor of the following new sub-section:—

Amendment of section 81B of the principal enactment.

" (1) During the period commencing on the day of nomination at any election under this Ordinance and ending on the day following the day on which a poll is taken at such election, no person shall, for the purpose of promoting the election of any candidate at such election, display—

- (a) in any premises, whether public or private, any flag or banner except in or on any vehicle that is used for the conveyance of a candidate at such election, or
- (b) any handbill, placard, poster, notice or sign on any place to which the public have a right of, or are granted, access except in or on any premises on any day on which a meeting in support of a candidate at such election is due to be held in that premises; or
- (c) any handbill, placard, poster, notice, sign, flag or banner, on or across any public road; or
- (d) any handbill, placard, poster, notice or sign in or on any vehicle, except in or on any vehicle that is used for the conveyance of a candidate at such election."

20. Section 81c of the principal enactment is hereby repealed, and the following new section substituted therefor:—

Replacement of section 81c of the principal enactment.

" Provisions relating to transport to or from the poll.

81c. (1) No person shall let, lend, employ, hire, borrow or use, or aid or abet any other person to let, lend, employ, hire, borrow or use, any vehicle, vessel or animal for the purpose of conveying any voter to or from the poll.

(2) Any person who contravenes any of the provisions of sub-section (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

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

(a) where a person is unable at any election under this Ordinance to reach his polling station from his place of residence without crossing the sea or a branch or arm thereof or a river, the use of a means of transport to enable him to reach his polling station shall be deemed not to be a contravention of the provisions of sub-section (1);

(b) the conveyance of a person at his own expense to or from the poll at any election in, or the use by any person at his own expense for the purpose of the conveyance of himself to or from the poll of, any public transport service provided by the Ceylon Transport Board, the Ceylon Government Railway, or the Colombo Municipal Council, shall be deemed not to be a contravention of the provisions of sub-section (1);

(c) where the returning officer for any electoral area is satisfied, upon written application in that behalf made to him by any person (not being a candidate) so as to reach such officer seven days before the day on which a poll is to be taken at any election in that area, that such person is unable, by reason of

any physical disability, to convey himself to and from the poll on foot or in any public transport service referred to in paragraph (b) of this sub-section, the returning officer may give such person written authority to use any vehicle, vessel or animal for the purpose of conveying himself to and from the poll, and accordingly the use of a vehicle, vessel or animal for the purpose of such conveyance by such person shall be deemed not to be a contravention of the provisions of sub-section (1).

(4) Where at a poll taken at any election in any electoral area under this Ordinance, any vehicle, vessel or animal is being used in contravention of the provisions of sub-section (1), any police officer may stop and seize such vehicle, vessel or animal, and take it to a police station and detain it therein until the conclusion of the poll.

(5) A court may, on the conviction of any person for an offence under this section, make order declaring that any vehicle, vessel or animal used in or in connection with the commission of such offence shall be forfeited to Her Majesty.²².

21. The following new section is hereby inserted immediately after section 81c, and shall have effect as section 81d, of the principal enactment:—

Insertion of
new section
81d in the
principal
enactment.

* False
reports in
newspapers.

81d. (1) Where there is published in any newspaper any false statement concerning, or relating to,—

(a) the utterances or activities at any election under this Ordinance of any candidate, or any political party which is contesting such election, whether or

not such party is a recognized party for the purpose of local elections; or

(b) the conduct or management of such election by such candidate, or any such party,

and such statement is capable of influencing the result of such election, then, every person who at the time of such publication was the proprietor, the manager, the editor, the publisher or other similar officer of that newspaper, or was purporting to act in such capacity, shall each be guilty of an offence unless such person proves that such publication was made without his consent or connivance, and that he exercised all such diligence to prevent such publication as he ought to have exercised having regard to the nature of his functions in such capacity and in all the circumstances.

(2) Any person who is guilty of an offence under sub-section (1) shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(3) In this section, the term "newspaper" includes any journal, magazine, pamphlet or other publication.

Replacement of section 82 of the principal enactment.

22. Section 82 of the principal enactment is hereby repealed, and the following new section substituted therefor:—

" Plural voting.

82. If any person—

(a) votes more than once at any general election under this Ordinance, whether in the same electoral area or different electoral areas, or asks for a ballot paper for the purpose of so voting; or

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(b) votes more than once in the same ward of an electoral area at any election under this Ordinance, or asks for a ballot paper for the purpose of so voting, such person shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to rigorous imprisonment for a term not exceeding one year."

23. The following new sections are hereby inserted immediately after section 84, and shall have effect as sections 84A, 84B, 84C and 84D, of the principal enactment:—

Insertion of new sections 84A to 84D in the principal enactment.

* Duty of employers to grant leave to employees to vote.

84A. (1) Any person, being the employer of any other person who is entitled to vote at any election under this Ordinance shall, upon application in writing in that behalf made by such other person, grant such other person, leave, without loss of pay, for such continuous period (not less than two hours in duration) as that person may deem sufficient to enable such other person to vote at that election.

(2) Any person who contravenes or fails to comply with the provisions of sub-section (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment.

Inaccurate description of persons and places.

84B. No misnomer or inaccurate description of any person or place named or described in any electoral list, notice or other document whatsoever prepared or issued under or for the purposes of this Ordinance shall in any wise affect the operation of this Ordinance as respects that person or place if that person or place is so designated in such list, notice or document as to be identifiable.

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Requisitioning
of premises
for use as
polling
stations.

84c. (1) Where the Commissioner considers that any premises, other than any school referred to in section 70, are required for the purpose of being used as a polling station, he may requisition those premises for that purpose by order in writing addressed to and served on the person in actual possession of those premises, or where no person is in such actual possession, on the owner of such premises.

(2) Where any premises are requisitioned under sub-section (1), the period of such requisition shall not extend beyond four weeks.

(3) In this section, "premises" means any land, building or part of a building and includes a hut, shed or structure or any part thereof.

Compensation
for requisition-
ing of premises.

84d. (1) Where any premises are requisitioned under section 84c, the Commissioner shall pay, out of moneys provided for the purpose by Parliament, compensation for such requisition to the person who was in actual possession of those premises immediately before the requisition or where no person was in such actual possession, the owner of those premises, and shall make good any damage done to those premises during the period of the requisition.

(2) The amount of compensation payable under sub-section (1) in respect of any premises shall be determined by taking into consideration—

(a) the rent payable in respect of those premises, or, where no rent is so payable, the rent payable for similar premises in the locality, and

(b) if, in consequence of the requisition of those premises, the person who was in actual possession of those premises immediately before the requisition was compelled to change

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his residence or place of business, the reasonable expenses, if any, incidental to such change.

(3) Where any person entitled to compensation under this section is aggrieved by the decision of the Commissioner in regard to the amount of the compensation, that person may appeal in writing to the Minister from that decision. Upon such appeal being made, the Minister shall appoint an arbitrator and shall refer such appeal to him for determination; and the determination of the arbitrator on such appeal shall be final.'

24. The following new section is hereby inserted immediately after section 85, and shall have effect as section 85A, of the principal enactment:—

Insertion of new section 85A in the principal enactment.

" Destruction, &c., of notices or documents.

85A. Every person who, without lawful authority, destroys, mutilates, defaces or removes any notice which is exhibited by any authority under this Ordinance, or any document which is made available for inspection in accordance with this Ordinance, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding fifty rupees."

25. The Sixth Schedule of the principal enactment is hereby amended by the insertion, in the appropriate column of that Schedule, immediately after item 1, of the following new item:—

Amendment of the Sixth Schedule of the principal enactment.

" 1A. Section 60 ... Every reference to a returning officer shall be deemed to include a reference to a counting officer."

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Insertion of
new Seventh
Schedule in
the principal
enactment.

26. The following new Schedule is hereby inserted immediately after the Sixth Schedule, and shall have effect as the Seventh Schedule, of the principal enactment:—

“ SEVENTH SCHEDULE

FORM

*List of Voters who are not delivered Ballot Papers
(Section 53 A)*

Local Authority :

Ward No :

Date of Election :

Polling Station :

No. in electoral list	Name of voter	Address of voter	Reason for not delivering ballot paper		
			Refused appropriate inspection	Already marked with appropriate mark	Refuses to be marked with appropriate mark