

ARRANGEMENTS FOR, DURING AND AFTER A GENERAL ELECTION

This workshop aims to sensitize you on the arrangements that must be made by the Parliamentary Elections Office for, during and immediately after a general election. As you would all be aware, the Hon. Prime Minister announced the date of election as July 8th 2008. Parliament was dissolved on June 03, 2008, nomination date is June 18th, 2008 and all police officers are expected to vote of July 4th, 2008. It is therefore apt to examine the various procedures and processes that must take place at each stage of this process outlined above.

The procedures by which any election of a person to the House of Representatives are embodied in the Representation of the People Act No. 35 of 1993. Section 36 of this Act states that for the purposes of every general election of member of the House of Representatives, the Governor General shall issue writs under the public seal of the State addressed in writing to every returning officer of the respective constituency for which members are to be returned. He is to forward these writs to the Supervisor of Elections for transmission to the returning officers. The manner in which the writ is set out is provided for in the Fourth Schedule of the Act. Upon receipt of the writ, the Supervisor of Elections must proceed to hold an election in the manner specified in the Act. She must give notice of the writ and the day and place fixed for nomination of the candidates by publishing such information in the Gazette and one or more newspapers circulating regularly in the State. Thereafter, the returning officers must give further notice of such writ and the time and place fixed for nomination of the candidates by issuing notices in the forms as set out in the Schedule to the Act. These notices must be posted or affixed in some conspicuous place in the Constituencies.

It must be noted that where the Governor General issues a writ in accordance with section 36, section 19 of the Act provides that no further registration shall be allowed until after the elections. In addition, the Supervisor of Election shall not later than 14 days after the issue of the writ publish a current list in respect of each Constituency. From the date of publication of that current list, there shall be a period of 7 days allowed for claims and objections. The current list thus published shall be the list used in any election held in a Constituency to which the list relates until it is superseded by a new current list.

The next important process which must take place subsequent to the aforementioned is the nomination of the candidates who have sought to offer themselves for the elections.

Section 39 of the Act states that on the day, place and time fixed for nomination by the Supervisor of Elections, the returning officer of each constituency shall attend at 9:00am to receive the nomination of the candidates for the seat to be filled. In order to be nominated each candidate must fulfill the following obligations under the Act:

- a. He must be nominated in writing by not less than six registered electors of the Constituency for which he seeks to be elected and must consent to such nomination in the Form provided in the Act;
- b. At the time of his nomination he shall deliver or cause to be delivered to the returning officer a statutory declaration of his qualifications, made and subscribed by him or of he is absent from the State on nomination day, his agent in the form set out in the Schedule to the Act. In the statutory declaration the candidate must depose, amongst other things that he is qualified to be elected as a member of the House of Representatives for the Constituency for which he offers himself as a candidate;
- c. In addition to the above, the candidate or someone acting on his behalf must at the time of nomination cause to be deposited with the returning officer, the sum of 300.00 dollars, failing which the nomination of the candidate shall be deemed void.

What therefore are the duties of the returning officer with respect to nomination? He shall receive such nomination papers as may be tendered to him and ensure that the deposit is paid and the statutory declaration is delivered. If this is not done he must deem the nomination void. However if at the expiration of 3 hours allotted by section 39 for the receipt of nomination there shall be only one candidate duly nominated, he shall publicly declare such candidate as elected and shall immediately thereafter certify by endorsement on the writ of election in the Form provided for by the Act the return of such candidate and shall return the writ so endorsed to the Supervisor of Elections for transmission to the Governor General within the time allotted. If there is more than one candidate nominated, the returning officer shall adjourn the election to the date specified in the writ and a poll shall be taken in the manner specified in the Act.

As soon as practicable after the adjournment, the returning officer shall give notice of the day and time and the names of the candidates nominated for an election and of the

place where and the day and time when the number of votes will be finally counted. This information shall be published in the Gazette and one newspaper in circulation in Grenada and some conspicuous place in the Constituency. Section 43 gives the Governor General the power to adjourn polling day in the event of an emergency.

By virtue of section 44, a candidate duly nominated may withdraw his or her candidature. This must be done not less than seven clear days before the day fixed for the taking of the poll.

Section 45 provides for the taking of the poll in each polling station by secret ballot.

Section 46 provides for the duty of each returning officer to establish as many polling stations as the Supervisor of Elections shall determine. Each polling station shall be conveniently located and have convenient access, with an outside door for the admission of electors and where possible another door for their exit. It is the duty of the presiding officer to ensure that the polling station is safe and secure and that all conveniences necessary to be in place for the holding of the poll are present.

Section 47 provides for the returning officer to furnish to the presiding officer at least two clear days before the polling day, the supplies of election material. These shall include inter alia a sufficient number of ballot papers, the guidance form to guide electors in voting, a statement showing the numbers of ballot papers so supplied with their ballot papers, three copies of the official list of electors for use at the polling station. Until the opening of the poll, the presiding officer shall keep the supplies locked in the ballot box, and shall take every precaution for their safe keeping and to prevent any person from having unlawful access to them.

Section 48 provides for the inspection of the polling station by the presiding officer to ensure that all the conveniences are available.

By virtue of section 49, the taking of the poll shall be between the hours of six o'clock in the morning and five o'clock in the evening.

The supervisor has by virtue of section 50, the duty to supply all returning officers with ballot boxes equal to the number of polling stations in the constituency for which they are responsible.

Section 51 provides that an elector shall not vote in any polling division unless his or her name appears on the current list of electors for that polling division. There are however some exceptions to this rule: A person who has been nominated as a candidate for a constituency other than the one for which his name appears on the current list of electors may vote in any polling station of the constituency for which he

has been nominated as a candidate. Presiding officers and poll clerks who are not presiding at the polling station where their names appear, may be transferred by the returning officer to the polling station where they preside. In such instances however these persons may only vote once and the penalty of contravening such provisions is imprisonment for six months.

Section 56 provides for proceedings at the poll. At the hour fixed for the opening of the poll the presiding officer and the poll clerk shall, in the presence of the candidates or their agents, and such of the electors as are present, open the ballot boxes and ascertain that there are no ballot papers or other papers therein. The ballot box should then be locked, and the presiding officer shall keep the key and the box shall be placed on a table in full view of all present and shall be kept there until the close of the poll. The electors shall thereafter be called upon to vote.

When an elector enters the polling station he shall declare his or her name residence and occupation where after the poll clerk shall ascertain if the name of the person appears on the current list of the electors for that polling station. When it has been ascertained that the elector is qualified to vote at the polling station, the procedure under subsection (4) of section 56 shall apply so that the elector may be able to vote.

A presiding officer must control his polling station. He must regulate the number of voters to be admitted in the polling station at a time and shall exclude all other persons except his assistants, the candidates, one agent for each candidate appointed by the candidate in writing in the form set out in the Schedule and the constables on duty.

Section 58 allows for certain questions to be put to an elector who wishes to vote. Section 60 provides for the general mode of taking the ballot. By virtue of section 61, the presiding officer has the authority to refuse to deliver a ballot paper to an elector unless he is satisfied that there does not appear any mark of electoral ink on the appropriate digit. By virtue of section 62, an elector who has casted his ballot shall before putting the ballot paper into the ballot box, immerse the appropriate digit into electoral ink. There are penalties for failure of a presiding officer to neglect to perform these functions under the sections. Section 66 provides for the procedure in instances where an elector presents himself to vote after another person has voted as him or her. Such person shall be entitled to a ballot paper and be allowed to vote after taking the oath of Identity as set out in the schedule and shall enter the information prescribed under subsection (2) in his poll book. The remaining provisions of this section provides for the procedure for the voting of a person who is blind or incapacitated.

Section 69 provides for the proceedings, which must take place after the poll. It provides that forthwith, after the closing of the poll, in the presence and in full view of

the poll clerk and the candidates or their agents where present and at least two electors if none of the candidates is represented, the presiding officer shall in the following order, count the number of voters whose names appear in the poll book as having voted and make an entry thereof on the line immediately below the name of the voter who voted last and sign his name thereto; count the spoiled ballots, if any and place them in a special envelope supplied for that purpose and indicate the number on the envelope and seal it; count the unused ballots and perform the same procedure; check the number of ballots supplied by the returning officer against the number of spoiled ballots, if any and the number of unused ballots and the number of voters whose names appear in the poll book as having voted in order to ascertain that all the ballot papers are accounted for; open the ballot box and empty its contents upon a table and read and count the number of votes given to each candidate on the tally sheets supplied, giving full opportunity to those present to examine each ballot paper. The poll clerk and not less than two witnesses shall be supplied with tally sheets upon which they may keep their own scores as each vote is called out by the presiding officer.

Subsection 2 cautions the presiding officer as to which ballot papers he may reject. Every objection made by every candidate or his agent shall be recorded by the presiding officer and he shall decide every question arising out of the objection and his decision shall be final subject to reversal by the returning officer on the final count or an petition questioning the election return.

All ballot papers not rejected by the presiding officer shall be counted and a list shall be kept of the number of votes given to each candidate and of the number of spoiled ballots or rejected ballot papers. The ballot papers, which respectively indicate the votes given for each candidate shall be put in separate envelopes, all rejected ballots papers in a special envelope and all must be endorsed by the presiding officer so as to indicate their contents and shall be sealed by him. He shall then make copies of the statement of poll in the prescribed form and attach one to the poll book, one to be retained by him and one copy for the returning officer, which shall be enclosed in a special envelope supplied for that purpose. He shall seal that envelope and deliver it to the returning officer. The poll book, the several envelopes containing the ballot papers, the envelope containing the current list of electors and the other documents used at the poll shall then be placed in a large envelope, sealed and place in the ballot box which shall the be locked and sealed with the seal of the presiding officer and forthwith transmitted to the returning officer along with the key and the preliminary statement of poll.

Part VI of the Act provides for the final counting of the votes by the presiding officer and the returning officer respectively. Section 72 provides that on receipt by the returning officer of the ballot box, he shall make every effort to ensure that the box is

kept in a safe and secure manner in order to ensure that no one has access to it save and except himself and his election clerk. It shall be sealed by him using his own seal and next opened on the date appointed under section 42 (2) of the Act.

The ballot boxes shall then be opened only at the date place and time appointed in the notice under section 42 (2) for the final count in the presence of such candidates or their agents to see such voted and determine whether any of the votes so cast should be rejected. The procedure for doing so is set out in section 72 of the Act. It must be noted that if at the final counting of the votes neither a candidate nor his agent can be present; the presiding officer has a duty to secure the presence of at least two electors to witness same. The candidate who has the majority of votes shall then be declared elected in writing and a copy of the declaration shall be forthwith delivered to each candidate or his agent, if present at the final count and if not so present, such information shall be transmitted by post. Where no candidate can be declared elected, the returning officer must forthwith notify the Supervisor of Elections. And the Supervisor of elections must follow the procedure under section 73 of the Act. Section 74 makes provisions for instances where a ballot box cannot be returned.

As soon as the returning officer has ascertained the results of the poll, he shall forthwith publicly declare same and announce the candidate to whom a simple majority of the votes have been polled as the member for the constituency. By virtue of section 76, an agent or his candidate may, if present when the final count or any recount of the votes is completed, require the returning officer to have the votes recounted or again recounted but the returning officer shall refuse to do so if in his opinion, such a request is unreasonable.

Section 77 provides for the delivery of the election return by the returning officer to the Supervisor of Elections in the manner provided for in the section. Upon receipt of the return, the Supervisor of elections shall on receiving the return of any member elected to serve in the House of Representatives, transmit the writ to the Governor General within the time specified for the purpose.

Section 78 provides for the penalty for the failure, delay or neglect of a returning officer to return an elected candidate. Section 80 provides for the custody of the ballot boxes upon making the return of the writ under section 77.

Part VII of the Act makes provision for election offences and Part VIII for the filing of election petitions.

Source: Parliamentary Elections Office, Grenada, W.I.