THE COMPANY SECRETARIES (ELECTION TO THE COUNCIL) RULES, 2006

[Issued by the Ministry of Company Affairs, Published in the Gazette of India, Extraordinary, Part II, Section 3(i) vide Notification No. GSR 533(E), dated 5th September, 2006 at New Delhi]

In exercise of the powers conferred by Clause (a) of Sub-section (2) of Section 38A read with Clause (a) of Sub-section (2) of Section 9 of the Company Secretaries Act, 1980, the Central Government hereby makes the following rules, namely :—

1. Short title and commencement

(1) These Rules may be called the Company Secretaries (Election to the Council) Rules, 2006.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions

(1) In these Rules, unless the context otherwise requires,—

(a) "Act" means the Company Secretaries Act, 1980 (56 of 1980);

(b) "Approved Form" means form approved by the Council for use for a specific purpose under these Rules:

Provided that if any form has not yet been approved by the Council, after coming into force of these Rules, then the appropriate form laid down for the same purpose before coming into force of these Rules shall be the approved form;

(c) "Returning Officer" means the Secretary of the Council appointed under Section 16 of the Act, or, in case the post of Secretary is vacant, any officer of the Institute designated by the Council for the purpose of conduct of elections.

(2) Words and expressions used but not defined in these Rules and defined in the Act shall have the same meaning as assigned to them in the Act.

3. Regional Constituencies

For the purpose of constitution of the Council in pursuance of Clause (a) of Sub-section (2) of Section 9, the regional

IndiaCode

constituencies shall comprise of such States or Union Territories as listed out in Schedule 1 to these Rules.

4. Dates of Elections

(1) The election to the Council shall be held on a date or dates to be determined by the Council, which shall, in any case, not be less than one month before the expiry of the term of the existing Council:

Provided that if elections cannot be conducted, in extraordinary circumstances, within the time period permitted under this sub-rule, the Central Government, on a specific request of the Returning Officer or otherwise, may postpone the date or dates of election, which in any case shall not be after the expiry of the term of the existing Council.

(2) Subject to provision of sub-rule (1), the Returning Officer shall notify in the Gazette of India at least three months before the date or dates of election so determined under sub-rule (1), the dates fixed for the following stages of election of members to the Council, namely:-

(a) the last date and time for receipt of nominations, which shall not be less than 21 days from the date of the notification;

(b) date or dates and place of scrutiny of nominations, the last day of which shall not be more than fifteen days from the last date for receipt of nominations fixed under clause (a);

(c) the last date and time for withdrawal of nominations, which shall be ten days from the last date for scrutiny of nominations fixed under clause (b);

(d) the date or dates of polling;

(e) the last date for receipt of applications for permission to vote by post under rule 28;

(f) the last date and time for receipt by post of ballot papers back from voters;

(g) the date or dates of counting;

(h) the date of declaration of results.

(3) If, in the opinion of the Returning Officer, it becomes necessary to change for compelling reasons any date or dates notified under sub-rule (2), he may notify a fresh date or dates, subject to provisions of sub-rule (1), in the Gazette of India:

Provided that such a notification shall be issued at least ten days before the revised date or dates, except for change in dates under sub-clauses (g) and (h) of sub-rule 2.

(4) If any of the last date so notified in sub-rule (2) or sub-rule (3), not being the date or dates of polling, is subsequently declared as a holiday by the Central Government, the last date so fixed shall be construed as the immediately next working day.

5. Members eligible to vote

Subject to other provisions of these rules, a member, whose name is borne on the Register on the 1st day of April of the financial year in which the election to the Council is to take place, shall be eligible to vote in the election from the regional constituency within whose territorial jurisdiction his professional address falls on the said date:

Provided that his name has not been removed from the Register on the date of publication of the list of voters:

Provided further that if the professional address is not borne on the Register on the relevant date, the residential address borne on the Register shall determine his regional constituency:

Provided also that, in the case of members having their professional addresses outside India and eligible to vote, their regional constituencies shall be determined according to their professional addresses in India registered immediately before they went abroad or the residential addresses in India borne on the register of members on the relevant date, whichever is later.

6. List of voters

(1) At least three months before the date of election, the Returning Officer shall publish a list of members eligible to vote, as defined in rule 5, as per Schedule 2 to these Rules.

(2) Subject to the provisions of these Rules, the address of a member published in the list of voters shall be final for determining the manner in which he shall be entitled to cast his vote, the constituency and the polling booth to which he shall belong for the purpose of casting his vote.

(3) The list of members eligible to vote shall be made available at the Headquarters, relevant Regional Councils and their relevant chapters on payment of such price as may be fixed by the Council.

(4) The inclusion of the name of a member in the list of members eligible to vote shall not confer an absolute right to vote at the

election which shall be subject to the other provisions of these Rules, Regulations or the Act.

(5) An announcement about the availability of the list, as per sub-rule (3), shall be put on the web-site of the Institute, Notice Board of the Council, the Notice Board of the Regional Council concerned, as well as the Notice Board(s) of the chapters of Regional Council concerned, wherever these exist.

(6) If a clerical mistake or omission is detected in the list of members eligible to vote, the Returning Officer may rectify the same at any time by issue of a suitable corrigendum.

7. Members eligible to stand for election

Subject to other provisions of these Rules, a member who is a fellow on the fist day of April of the financial year in which an election is to take place and whose name continues to be borne on the Register on the last date of scrutiny of nominations under sub-rule (2) of rule 4, shall be eligible to stand for election to the Council from the regional constituency in which he is eligible to vote:

Provided that no person shall be eligible to stand for election to the Council, if—

(a) he has been found guilty of any professional or other misconduct and his name is removed from the register or he has been awarded penalty of fine as provided in proviso to clause (a) of sub-section (2) of Section 9 of the Act;

(b) he is holding a post under the Central or State Government as provided in sub-section (3) of Section 9 of the Act;

(c) he has been auditor of the Institute during the last three year as provided in sub-section (4) of Section 9 of the Act;

(d) he has held the office for more than two consecutive terms as provided in first proviso to Section 10 of the Act; or

(e) he has been elected as President under sub-section (1) of Section 12 of the Act as provided in second proviso to Section 10 of the Act.

For the purpose of this rule—

(i) the penalties awarded to a person before coming into force of the Company Secretaries (Amendment) Act, 2006 or

penalties awarded to a person after coming into force of the Company Secretaries (Amendment) Act, 2006 for offences committed before the coming into force of the same, shall also be taken account for the purpose of attracting disqualification under clause (a) of the proviso above.

(ii) [1][omitted].

(iii) for a person who has been the auditor of the Institute before coming into force of the Company Secretaries (Amendment) Act, 2006, the three year period limitation provided under Sub-section (4) of Section 9 of the Act shall also include the period between his ceasing to be an auditor and the coming into force of the Company Secretaries (Amendment) Act, 2006.

(iv) the number of term(s) of Office held by a person as a member of the Council either under clause (a) or under clause (b) or partly under clause (a) and partly under clause (b) of sub-section (2) of Section 9 of the Act, prior to coming into force of the Company Secretaries (Amendment) Act, 2006, shall not be taken into account for reckoning of the two consecutive terms for the purpose of disqualification under clause (d) of the proviso above.

(v) the holding of the office of the President of the Institute of sub-section (1) of Section 12 of the Act, prior to coming into force of the Company Secretaries (Amendment) Act, 2006, shall also be taken into account for the purpose of attracting disqualification under clause (e) of the proviso above.

8. Number of members to be elected

The number of members to be elected from each regional constituency shall be calculated as per the procedure described in Schedule 3.

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1. Omitted by the Company Secretaries (Election to the Council) (Amendment) Rules, 2011, Notification No. GSR 111 (E) dated 25th February, 2011 published in the Gazette of India, Extraordinary dated 25th February 2011 read with Corrigendum No. G.S.R 373 (E) dated 9th May, 2011, published in the Gazette of India, Extraordinary dated 10th May, 2011.

9. Nominations

(1) At least 3 months before the date of election, the Council shall publish in the Gazette of India a notice stating the number of members to be elected from each regional constituency and calling for nominations of candidates for election by the date and time notified vide sub-rule (2) of Rule 4.

(2) The maximum number of nominations that can be submitted by a candidate shall be 10 only:

Provided that in the event of receipt of more than 10 nominations, the first 10 nominations determined, on the basis of date and time of receipt, shall be taken into consideration.

(3) The nomination of a candidate shall be:

(i) in the approved form duly signed by the candidate and by one proposer and one seconder both of whom shall be persons entitled to vote in the election in the relevant regional constituency; and

(ii) delivered along with requisite fee(s), security deposit and other papers as are laid out in these Rules to the Returning Officer by name not later than 6 P.M. on the notified date:

Provided that an acknowledgement of delivery shall be issued by the Returning Officer or by a person authorized by him on receipt of nomination form mentioning the time and date of receipt of nomination form.

(4) The nomination shall be valid only if it is accompanied by a statement signed and verified by the candidate containing information as provided in Schedule 4.

10. Fee for election

(1) A candidate for election shall pay such fee as may be fixed by the Council from time to time which shall not in any case exceed Rs.50,000/-, irrespective of the number of nominations.

(2) The fee shall be paid by demand draft in favour of Secretary of the Institute and payable at New Delhi.

(3) A candidate whose nomination is held to be invalid shall be entitled to the refund of fifty percent of the fee payable.

11. Security Deposit

(1) A candidate for election, in addition to fee as provided in rule 10, shall pay, irrespective of the number of nominations filed or specified under rule 9, an amount of Rs. 20,000/- (Rupees Twenty Thousand only) as security deposit, which shall be forfeited if he fails to secure not less than 2% of the original votes as defined in rule 35 polled in the concerned regional constituency.

(2) The method of payment of security deposit shall be specified in the notification issued under sub-rule (1) of Rule 9.

12. Scrutiny of nominations

(1) The Council shall appoint for each election a Panel for the scrutiny of the nomination papers of all the candidates.

(2) The Panel shall consist of three persons of whom one shall be the Returning Officer and the other two shall be persons nominated by the Council, from among the members of the Council referred to in clause (b) of sub-section (2) of Section 9 of the Act, of which one shall be an officer of the Central Government and the other shall not be a member of the Institute, provided that if one or more of such members are not available or are unwilling to act, then any other officer or officers of the Central Government, as the Central Government may nominate for the purpose.

(3) A notification containing the names of the members of the Panel shall be issued before the last date for the receipt of nomination for the election for which it is appointed.

(4) The term of the Panel shall end with the conclusion of the polling for which it is appointed.

(5) The Panel shall have the power to regulate its procedure in such manner as it considers just and expedient.

(6) The quorum of the panel for the transaction of its business shall be two.

(7) In case a vacancy arises in the Panel by reason of one or more members of the Panel being unable to act for any reason, the vacancy shall be filled up by the Returning Officer from among the members of the Council referred to in clause (b) of sub-section (2) of Section 9 of the Act, provided he is not a member of the Institute,

and provided that if one or more of such members are not available or are unwilling to act, then by any other officer or officers of the Central Government, as the Central Government may nominate for the purpose.

(8) The Panel shall scrutinize the nomination papers of all the candidates and shall endorse on each nomination paper its decision, whether it accepts or rejects the nomination.

(9) The Panel shall record a brief statement of its reasons, if it rejects a nomination.

(10) (a) The Panel shall reject a nomination, if it is satisfied that:

(i) the candidate was ineligible to stand for election under rule 7; or

(ii) the proposer or the seconder was not qualified to subscribe to the nomination of the candidate in the approved Form; or

(iii) the signature of the candidate or of the proposer or the seconder is not genuine; or

(iv) there has been a failure to comply with the provisions of rule 9, rule 10 or rule 11.

(b) The Panel shall not reject a nomination paper on the ground of a technical defect which is not of a substantial character.

(c) The rejection of the nomination of a candidate by reason of any irregularity in respect of that nomination shall not be a bar to the acceptance of another nomination submitted under rule 9 and is also valid in respect of the same candidate.

(d) If a proposer or a seconder incurs a disability by reason of the operation of the provisions of the Act, Rules or Regulations made thereunder subsequent to the date of signing the nomination, it shall not invalidate the nomination.

(11) In a case where the nomination or, if more nominations than one were filed, all the nominations of a candidate has or have been refused or rejected, the Returning Officer shall give notice of the

IndiaCode

decision of the Panel together with a brief statement of the reason(s) therefor to the candidate concerned by registered/speed post.

13. Preparation of lists of valid nominations

(1) On completion of the scrutiny of the nominations, the Returning Officer shall forthwith prepare a list of valid nominations for each constituency and cause a copy of the list to be sent by registered/speed post to each candidate from that constituency who had filed his nomination:

Provided that such list should sent at least ten days before the last date of withdrawal of nominations fixed under clause (c) of sub-rule (2) of Rule 4.

(2) The list shall contain full names in alphabetical order and the addresses, as published in the list of voters, of the validly nominated candidates for each constituency:

Provided that if the names of two or more candidates are same, then person with earlier date of enrollment as a member shall be included in the list before other person or persons having the same name but having a subsequent date of enrollment.

14. Withdrawal of candidature

(1) A candidate may withdraw his candidature by giving a notice in his own hand and duly signed by him and have it delivered to the Returning Officer anytime before 6.00 P.M. of the last date notified vide sub-rule (2) of Rule 4.

(2) No candidate who has given a notice of withdrawal of his candidature under sub-rule (1) shall be allowed to cancel or withdraw that notice.

(3) Within five days of the last date notified vide sub-rule (2) of Rule 4, the list of such candidates who have withdrawn their candidature from a regional constituency shall be intimated by the Returning Officer to the other candidates standing for election from the same constituency.

(4) A candidate who has withdrawn his candidature in accordance with sub-rule (1) shall be entitled to the refund of fifty percent of the fee paid by him under sub-rules (1) and (2) of rule 10 and the full security deposit under rule 11.

15. Intimation of final list of nominations to candidates and voters

(1) The Returning Officer shall omit from the list of valid nominations the names of candidates who have withdrawn their candidature and send the final list of nominations for each constituency to all the candidates for that constituency by registered or speed post and to the voters of the constituency by ordinary post.

(2) The list shall be put on the Notice Board of the Institute, Website of the Institute, the Notice Board of the Regional Council concerned as well as the Notice Boards of chapters of Regional Council concerned, wherever these exist.

(3) The list shall also be accompanied by such particulars of all contesting candidates of that constituency as compiled, prepared and presented in accordance with Schedule 5 by the Returning Officer from the particulars to the extent supplied by the candidates under sub-rule (4) of Rule 9:

Provided he may correct any manifest errors in the particulars furnished that may have come to his notice.

(4) The particulars required to accompany the list of nominations, as aforesaid shall prominently indicate that they are compiled on the basis of the particulars furnished by the candidates under sub-rule (4) of rule 9 and that no responsibility is accepted as to the veracity of the said particulars.

16. Election Code of Conduct

(1) With a view to maintain a healthy and peaceful atmosphere during the election process for ensuring a free and fair election, the Returning Officer, shall issue a Election Code of Conduct for candidates, as approved by the Council before issue of notification under sub-rule (2) of Rule 4, and which shall be published on the web-site of the Institute.

(2) The Election Code of Conduct shall contain instructions and norms to be followed by candidates and their authorized representatives appointed under these Rules during the entire election process including at the polling booth and counting centre.

(3) The Election Code of Conduct shall come into force from the date of issue of notification under sub-rule (2) of Rule 4.

(4) The Election Code is deemed to be a guideline of the Council under item (1) of Part II of the Second Schedule of the Act and it is obligatory for each candidate to comply with the Election Code of Conduct.

17. Death of a candidates

(1) If a candidate dies before the date of election but after the date fixed for the withdrawal of candidature under rule 14 and his nomination is or has been accepted as valid, the election in his constituency shall be conducted among the remaining candidates and no fresh proceedings with reference to the election of members in the constituency in which such member was a candidate shall be commenced.

(2) The votes cast in favour of any such candidate shall be deemed to have been cast in favour of the candidate, if any, next in order of preference in the ballot paper.

(3) If a candidate dies after the date of election but before the commencement of the counting, the votes cast in favour of any such candidate shall be deemed to have been cast in favour of the candidate, if any, next in order of preference in the ballot paper.

(4) If the candidate dies after commencement of the counting and before declaration of result, counting of votes would continue as if the person has not died, and, if as a result of such counting he is found to be in a position to be declared elected, then the entire ballot papers would be recounted afresh, with the votes cast in favour of the candidate deemed to have been cast in favour of the candidate, if any, next in order of preference in the ballot paper.

(5) If a candidate dies after declaration of results in which he has been declared elected, then the resultant vacancy would be deemed to be a casual vacancy under Section 13 of the Act.

18. Candidates deemed to be elected if their number is equal to or less than the number of members to be elected

(1) Where the number of candidates validly nominated from any constituency is equal to or less than the number of members to be elected from that constituency on the date of issue of the final list of nominations to the candidates, or where the number of candidates

from any constituency becomes equal to or less than the number of members to be elected from that constituency, by reason of the death before the date of election, such candidates shall be deemed to be elected and the Returning Officer shall declare all such candidates duly elected.

(2) Where the number of such candidates from the constituency is less than the number of members to be elected from that constituency, the Returning Officer shall commence fresh proceedings for the election of the remaining member or members to be elected from that constituency.

19. Mode of election

(1) The election shall be held in accordance with the system of proportional representation by means of a single transferable vote.

(2) Except as otherwise provided, at every election where a poll is taken, vote shall be given by secret ballot and every voter in any election, shall cast his vote personally in the booth provided for the purpose, unless a voter is allowed in respect of any election to cast his vote by post as hereinafter provided.

Explanation: For purpose of clarity it is reiterated that a voter desiring to record his vote, shall do so in person and not by proxy.

(3) Notwithstanding anything contained in these Rules or the Regulations, the giving or recording of votes through voting machines or internet in such manner as may be determined by the Council, and with the approval of the Central Government, may be adopted in such constituency or constituencies as the Returning Officer may, having regard to the circumstances of each case, specify.

Explanation: For the purposes of this sub-rule, the approval of the Central Government should be sought and obtained prior to publication of notification in the Gazette of India required under sub-rule (2) of rule 4.

20. Admissible number of votes to a voter

(1) A voter shall have one vote only, and he shall have as many preferences as there are candidates.

(2) The voter in order to cast his vote:

(a) shall place on his ballot paper the number 1 (in Arabic or

Roman numerals or in words) in the square opposite the name of the candidate for whom he desires to vote; and

(b) may, in addition, place on his ballot paper the number 2, or the numbers 2 and 3 or the numbers 2, 3 and 4 (in Arabic or Roman numerals or in words) and so on in the squares opposite the names of other candidates in the order of his preference, upto the maximum number of preferences available to him under sub-rule (1).

(c) may put 'X' against whom he has not mentioned any preference.

21. Polling booths

(1) The Returning Officer shall set up such number of polling booths at such places as he deems necessary:

Provided that no polling booth shall be set up in any place having less than 25 members eligible to vote in accordance with rule 5 in the said place or within a distance of 50 kilometers thereof:

Provided further that if, in the opinion of the Returning Officer for compelling reasons, it becomes necessary to change the address of one or more polling booths, he may do so and inform by post or e-mail of the change to all voters who are affected by such a change and to all candidates of the constituency in which the polling booth is situated, in addition to publishing the same on the web-site of the Institute.

(2) In a place having less than 2500 voters, there shall be one polling booth for every 500 voters or part thereof, though the allocation of voters among different polling booths in the same place need not necessarily be in groups of 500 and the polling shall be held on one day.

(3) In a place having more than 2500 voters each polling booth shall be allotted 1000 voters or part thereof and the polling shall be held on two consecutive days.

22. Polling Officer

(1) The Returning Officer shall appoint a Polling Officer, preferably a officer serving under the Central or any State Government, for each polling booth and may also appoint such other persons as he may deem necessary to assist the polling officer:

Provided that no member of the Institute shall be appointed as Polling Officer.

(2) The Polling Officer shall, in addition to performing the duties imposed upon him by these Rules, be in general in charge of all arrangements at the polling booth and may issue orders as to the manner in which persons shall be admitted to the polling booth and generally for the preservation of peace and order at or in the vicinity of the polling booth.

(3) Where the Polling Officer appointed by the Returning Officer is unable to conduct the polling on one or more of the day or days fixed for the polling, he may intimate the same to the Returning Officer or any other officer nominated by the Returning Officer for the purpose, who shall appoint another person, subject to proviso of sub-rule (1), as polling officer in his place.

23. Appointment of Election Observers

(1) The Returning Officer shall appoint such number of election observers, who shall not be members of the Institute, for all or any of the polling booths and for counting venue or venues, as may be deemed appropriate by him and such observers shall perform such duties as may be decided by the Council.

(2) The duties of the Election observers so decided by the Council be given due publicity among candidates and voters.

24. Secret Chamber

(1) There shall be a secret chamber or chambers in each polling booth.

(2) The chamber shall be so arranged that no person may be able to see how a voter has recorded his vote.

25. Ballot paper

(1) The ballot paper shall contain, in alphabetical order in English, a list of the candidates validly nominated for a constituency and shall be printed on one side only.

(2) Each such ballot paper shall contain the Institute's emblem printed in such manner, as may be decided by the Returning Officer having regard to the security considerations of the ballot paper.

26. Presence of the candidates and their authorised representatives at the polling booths

(1) A candidate for election from a constituency shall be entitled to be present at the polling booths in that constituency.

(2) He may appoint any two members as his authorised representatives for each polling booth, only one of whom shall be entitled to be present at a time on his behalf at that particular polling booth.

(3) No appointment of an authorised representative shall be valid unless the candidate has issued a letter of authority to such a representative. The letter of authority shall be produced before the polling officer concerned, and shall include the full name, the membership number and the address of the authorised representative, as well as the number of polling booth at which he is authorised to be present.

(4) The polling officer shall keep a record of attendance of the candidates and/or their authorised representatives, which shall be forwarded to the Returning Officer after the polling is over.

27. Appointment of assistants

The polling officer may employ at the polling booth such persons not being members of the Institute as he thinks fit to assist him in identifying the voters or for any other purpose.

Provided that a person so appointed would not be entitled to discharge the duties of polling officer laid out in these Rules and would be there only to assist the Polling Officer.

28. Eligibility to vote by post

(1) A member whose name is included in the list of voters and whose name is not shown under any polling booth shall be permitted to vote by post.

(2) A member who is entitled to vote at a polling booth may be permitted at the discretion of the Returning Officer, to vote by post, if by reason of his suffering from any permanent infirmity or, in case of a member in service, a permanent change in address, he is unable to exercise his vote at the polling booth allotted to him:

Provided that in such a case he shall send an application in the approved Form for permission to vote by post under this sub-rule together with the medical certificate issued by a medical practitioner, not below the rank of a Surgeon in any Government Hospital, confirming such permanent infirmity, or, as the case may be, proof of permanent change in address duly signed by an authorized personnel of the organization where the member is employed, to the Returning Officer so as to reach him at least 60 days before the date of election and an application not received within the time specified shall not be considered.

Explanation: "Member in service" for the purpose of this section means members of the Institute who are employed in an organization not being a firm.

(3) A member who is residing outside India shall notwithstanding anything contained in these Rules be eligible to vote by post provided that his overseas address is registered with the Institute and has been published in the list of members eligible to vote.

(4) Any misuse of the concession under this rule or any mis-statement or false verification in this behalf shall be deemed to have brought disrepute to the Council under item (2) of Part IV of the First Schedule of the Act if, in connection with an election to the Council of the Institute.

29. Procedure of voting at the polling booth

Voting at a polling booth shall take place as per procedure laid out in Schedule 6 to these Rules.

30. Procedure of voting by post

Voting by post shall take place as per procedure laid out in Schedule 7 to these Rules.

31. Grounds for declaring ballot papers invalid

A ballot paper shall be invalid:

(a) if a voter signs his name or writes any word or figure upon it or makes any mark including a tick (✓) / cross (X), not being a mark of 'X' put under clause (c) of sub-rule (2) of Rule 20, upon it by which the ballot paper becomes recognizable or by which the voter can be identified; or

(b) if it is not print by or under the authority of the Council or it is different in any manner from the ballot papers printed under Rule 25; or

(c) if number 1 (in Arabic or Roman numerals or in words) is not marked on it; or

(d) if number 1 (in Arabic or Roman numerals or in words) is set opposite the name of more than one candidate; or

(e) if number 1 (in Arabic or Roman numerals or in words) and some other numbers are put opposite the name of the same candidate; or

(f) if it is unmarked or the marks made are void or cannot be unambiguously determined; or

(g) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established.

32. Appointment of time and date for the counting of votes

The Returning Officer shall, at least fifteen days before date of polling, appoint for each regional constituency, a date or dates, place and time for each such date for the counting of votes at the headquarters of the Institute and shall also give notice of such date or dates, place and time in writing to all the candidates.

33. Appointment of scrutinisers

The Returning Officer may appoint two or more persons who are neither members of the Council nor candidates for election to act as scrutinisers of the voting papers and to assist him generally in counting the votes.

34. Presence of candidates at the time of counting of votes

A candidate for election shall be entitled to be present in person or to appoint a member as a representative to be present on his behalf at the time of counting of votes.

35. Counting of votes and declaration of results

Counting of votes shall take place as per procedure laid down in Schedule 8.

36. Notification of the declaration of results

The names of all the candidates declared elected shall be notified by the Council in the Gazette of India.

37. Election not to be invalid due to accidental omission, etc.

No election shall be deemed to be invalid merely by reason of any accidental omission of the name of a member from the list of members eligible to vote or any accidental mistake in not allowing him to vote or the accidental inclusion of name of a person not entitled to vote in the list of members eligible to vote or allowing him to vote or any accidental irregularity or informality in the conduct of the election, including accidental omission to send or delay in sending the voting paper to a voter or the accidental non-receipt of, or delay in receipt of a voting paper, by voter.

38. Duties of the Returning Officer

(1) The Returning Officer shall conduct the elections in accordance with these Rules.

(2) The Returning Officer may delegate any of the duties to be performed by him as Returning Officer to any of the other Officer or Officers of the Institute, as he may deem fit.

[2][39. The Returning Officer to decide on certain matters

If any question pertaining to or incidental to the procedure for conduct of elections including matters not specifically covered by these rules, arises, it shall be decided by the Returning Officer or the officer authorised by him under these rules.

Explanation – For the purpose of this rule, the conduct of election shall also include the process of counting of votes and declaration of results.]

40. Vacancy in any seat not to hold up constitution of the Council

If for any reason any seat or seats to a regional constituency or constituencies is not filled up after the election, it would not be deemed to hold up the constitution of the Council under Section 9 of the Act.

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[2] Substituted by the Company Secretaries (Election to the Council) (Amendment) Rules, 2008, Notification No. G.S.R. 552 (E), dated 23rd July, 2008, published in the Gazette of India, Extraordinary dated 24th July, 2008 for the following:

39. Decision of the Returning Officer to be final

Unless otherwise provided in these Rules, the decision of the Returning Officer or of the officer authorized by him under these Rules, shall be final in all matters pertaining to conduct of election, interpretation of these rules and the procedure adopted for such matters which are not specifically covered by these Rules.

Explanation: For the purpose of this rule, the conduct of election shall also include the process of counting of votes and declaration of results.

41. Election Expenses

(1) No candidate, whose name has been included in the final list of nominations under Rule 15, shall incur an expenditure above an amount to be fixed by the Council for this purpose.

(2) Every such candidate shall file an account of expenses incurred for the election in a format approved by the Council, within fifteen days of notification issued under Rule 36.

(3) A member shall be deemed to have brought disrepute to the Council under item (2) of Part IV of the First Schedule of the Act if, in connection with an election to the Council of the Institute, he is found to have contravened the provisions of sub-rule (1) or sub-rule (2).

42. Disciplinary action against member in connection with conduct of election

(1) A member shall be deemed to have brought disrepute to the Council under item (2) of Part IV of the First Schedule of the Act if, in connection with an election to the Council of the Institute, he is found to have contravened the provisions of sub-rule (2) or all or any of the clauses of sub-rule (3) or sub-rule (4) of this rule.

(2) Only one manifesto or circular shall be issued by a candidate in relation to the election in the period commencing from the date of issue of final list of nominations to the candidates.

(3) A manifesto or circular issued shall conform to the following requirements in the interest of maintaining dignity in the election, namely:—

(a) A manifesto or circular shall contain information regarding the candidate himself and shall not make any reference, directly or indirectly, to any other candidate;

(b) The information, which a candidate may furnish in a manifesto or circular regarding himself, shall not differ in any material respect from the information furnished by the Institute to the voters under rule 9. A candidate may, however, include in such manifesto or circular, any additional information not contained in the information furnished under rule 9;

(c) A manifesto or circular shall neither contain any appeal to the voters on the basis of caste or on communal, religious, regional or sectional lines nor any tall claim;

(d) The distribution of a manifesto or circular shall be restricted only to the members of the constituency concerned;

(e) A certified copy of such manifesto or circular shall be sent to

the Returning Officer by speed/registered post within 15 days of its issue;

(f) While a candidate may repeat, in any form, the manifesto or circular issued under sub-rule (2) of this rule without changing its contents, however, he shall not issue more than one manifesto or circular.

(4) A member shall not adopt or more of the following practices with regard to the election to the Council, namely:—

(i) Bribery, that is to say, any gift, offer or promise of any gifts or gratification to any person by a candidate or any other person, with his connivance, with the object directly or indirectly of:—

(a) inducing a member to stand or not to stand as a candidate at an election or rewarding him for act or omission; or

(b) inducing to withdraw his candidature or rewarding such withdrawal; or

(c) inducing a voter to vote or not to vote at an election, or as a reward for act or omission;

Explanation: For the purpose of this clause, the term "gratification" is not restricted to pecuniary gratification or gratifications estimable in money, and it includes organizing parties or providing any other form of entertainment, and all forms of employment for reward; but it does not include the payment of any expenses bonafide incurred at or for the purpose of any election;

(ii) undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or any other person, with his connivance, with the free exercise of any electoral right;

(iii) the publication by a candidate or by any other person, with his connivance, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election;

(iv) the obtaining or procuring or abetting, or attempting to obtain or procure, by a candidate or by any other person, with his connivance, any assistance for the furtherance of the

IndiaCode

prospects of the candidate's election from any person serving under the Government of India or the Government of any State, other than the giving of vote by such person, if he is a member entitled to vote;

(v) the hiring or procuring, whether on payment or otherwise, of a vehicle by a candidate or by any other person, with his connivance, for the conveyance of voters;

(vi) resorting to disorderly behaviour or misbehaviour within the zero tolerance zone to be determined by the Returning Officer of the polling booth and/or venue for counting of votes;

Explanation: For the purpose of this clause, canvassing for votes, distribution of visiting cards, pamphlets, manifestos, letters, hand-outs, circulars and the like, erection of any stall and display of any banner shall be treated as disorderly behaviour or misbehaviour;

(vii) exhibiting or placing any notice or sign board relating to the election by a candidate or by any other person with the connivance of the candidate at any time and any where during the election period including on the date/s of polling within a distance of 200 meters from the polling booth;

(viii) non-compliance with any of the directives or circulars or instructions issued by the Returning Officer under these Rules in any matter relating to elections;

(ix) contesting the election representing a political party or on political lines;

(x) any act specified in clause (i) to (ix) when done by a member, who is not a candidate, but is acting with the concurrence or connivance of a candidate;

(xi) the receipt by a member or an agreement by a member to receive any gratification:

(a) as an inducing or reward for standing or not standing as a candidate; or

(b) as an inducement or reward for withdrawing his candidature; or

(c) as an inducement or reward for himself or any other person for voting or refraining from voting; or

(d) as an inducement or reward for inducing or attempting to induce any voter to vote or refrain from voting; or

(e) inducing or attempting to induce any candidate to withdraw his candidature;

(xii) Contravention or misuse of any of the provisions of these Rules or making of any false statement knowing it to be false or without knowing it to be true, while complying with any of the provisions of these Rules.

SCHEDULE 1

Regional Constituencies

(see rule 3)

The electorate for the purpose of election to the Council, shall be constituted into four regional constituencies as follows:

(i) **Western India Regional Constituency:—**

Comprising the States of Chattisgarh, Goa, Gujarat, Madhya Pradesh, Maharashtra and the Union Territories of Dadra and Nagar Haveli and Daman and Diu;

(ii) **Southern India Regional Constituency:—**

Comprising the States of Andhra Pradesh, Karnataka, Kerala and Tamil Nadu and the Union Territories of Andaman and Nicobar Islands, Lakshadweep and Pondicherry;

(iii) **Eastern India Regional Constituency:—**

Comprising the States of Arunachal Pradesh, Assam, Bihar, Jharkhand, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Sikkim, Tripura and West Bengal;

(iv) **Northern India Regional Constituency:—**

Comprising the States of Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab, Rajasthan, Uttaranchal and Uttar Pradesh and the Union Territories of Chandigarh and Delhi.

SCHEDULE 2

List of Voters

(see sub-rule (1) to (6) of rule 6)

(1) The list of voters shall be prepared separately for each regional constituency.

(2) The list so prepared under clause (1) above shall show distinctly and separately:—

(i) whether the voter is an associate or a fellow;

(ii) the address of each member as determined under rule 5 for deciding the eligibility of the member to vote;

(iii) in the case of voters residing outside India, in addition to their address in India under clause (ii), their respective addresses outside India if furnished to the institute by the voters concerned;

(iv) details of internet address or e-mail address as furnished by a voter to the Institute, provided an express consent is given by the voter for its inclusion in the list of voters;

(v) the manner in which the voter shall exercise his franchise; and

(vi) in case the voter is to exercise his franchise at a polling booth, the number and address of the polling booth, at which the franchise shall be exercised.

(3) In respect of place having more than one polling booth located at different addresses, the Returning Officer shall do the following to decide the polling booth to be published in the list of voters vide sub-clause (vi) of clause (2) above:

(i) He shall publish a notice containing the addresses of different polling booths at a place where there are more than one polling booth, at least two months before publication of the list of voters, in the Journal of the Institute and the Newsletter of the Regional Council concerned, and also upload the same on the Institute's website;

(ii) Any voter in such a place wishing to vote at a particular polling booth published under clause (i) above may send a request to the Returning Officer within one month from the date of publication of such a notice;

(iii) The Returning Officer may, at his discretion, permit such a voter to vote at the polling booth of his choice, and accordingly include the details of the said polling booth in the List of Voters;

(iv) In case it is not possible for the Returning Officer to permit a voter to vote at the polling booth requested, the Returning Officer may decide to permit him to vote at any other polling booth at the place and accordingly include the details of the said polling booth in the List of Voters.

SCHEDULE 3

Number of members to be elected

(see rule 8)

(1) Subject to provision of clause (5) below, the number of members to be elected from each regional constituency shall be one member for such number of members in the constituency as may be determined by dividing the total number of members as determined in accordance with clause (4) below by the maximum number of members to be elected to the Council as provided in sub-section (2) of Section 9 of the Act.

(2) In case the resultant number of members for each constituency, after being added up in terms of the absolute number without considering the fraction, is less than the maximum number as provided in sub-section (2) of Section 9 of the Act, the fraction in respect of the region with the highest fraction will be counted as one. In case the total is still less than the maximum number, the fraction in respect of the region with the next highest fraction will be counted as one. This process be continued, subject to provision of clause (5) below, until the total is equal to the maximum number of members to be elected under sub-section (2) of Section 9 of the Act.

(3) In case the resultant number of members for each constituency, after being added up, is less than the maximum number of members and there are more than one regional constituency with exactly the same fraction, the constituency with a higher number of members will have precedence in the matter of conversion of the fraction into one, subject to provision of clause (5) below.

(4) The total number of members referred to in clause (1), shall be determined with reference to the number of members in the list of members published under sub-section (3) of Section 19 of the Act in the financial year in which the election is to take place.

(5) Notwithstanding anything contained in clauses (1) to (3), each constituency shall have at least two persons elected therefrom to the Council.

SCHEDULE 4

Information to be included in the Statement accompanying the Nomination

(see sub-rule (4) of rule 9)

(1) Nomination of a candidate shall be accompanied by a statement signed and verified by the candidate containing following information:

(a) Name, membership No., Professional Address and voter's serial number as published in the List of Voters;

(b) Date of birth;

(c) Whether Fellow and the date on which became Fellow;

(d) Date of Enrolment as an Associate member;

(e) Whether citizen of India;

(f) Whether found guilty of any professional or other misconduct and consequently whether he has been reprimanded or the name has been removed from the Register or has been awarded penalty of fine as on the date of nomination;

(g) If the answer to (f) above is in affirmative, to provide the following details, wherever applicable (separately for each misconduct for which found guilty):

(i) the offence for which found guilty

(ii) the date of reprimand

(iii) the date from which the name was removed on account of above disqualification from the Register

(iv) the total period of removal

(v) the date on which the period of removal expires

(vi) whether the removal was on account of misconduct falling under the First Schedule or Second Schedule

(vii) the date on which the penalty of fine was awarded

(viii) amount of penalty of fine

(ix) the date on which the payment was made for penalty of fine awarded;

(h) (i) Whether appointed as the auditor of the Institute and, if so, whether a period of three years had already expired after he has ceased to be the auditor of the Institute, along with dates of appointment and cessation as auditor;

(ii) If the period has not yet expired, the date on which it shall expire;

(i) Details of past and present membership of the Council including the Office of the President and/or Vice-President of the Institute;

(j) Whether holding a post under the Central or State Government as defined in sub-rule II to rule 7.

(2) The statement referred to in clause 1 may also contain, at the option of the candidate, information concerning the candidate in respect of the following:

(a) Academic qualification (diplomas including post qualification diploma(s) and degrees recognized by Government or Council and membership of professional bodies recognized by the Council);

(b) Merit awards (limited upto first three positions) in the examinations of recognized universities and the examinations conducted by the Institute;

(c) Particulars of occupations:

(i) Employment (designation with name of present employer)

(ii) Practice (sole proprietor or in partnership including the name of the firm)

(iii) Particulars of other occupation/engagement, if not covered by (i) and (ii) above;

(d) Past and present membership of Regional Councils and Managing Committees of chapters of Regional Councils and office of Chairman, Vice-Chairman, Secretary and/or Treasurer in the case of Regional Councils and/or chapters of Regional Councils.

SCHEDULE 5

Particulars of contesting candidates to be including in the final list of valid nominations

(see sub-rule (3) of rule 15)

The final list of valid nominations shall be accompanied by following particulars of contesting candidates to the extent they have

been supplied by the candidates under sub-rule (4) of rule 9:

(a) Name, membership No., Professional Address and voter's serial number, as published in the List of Voters

(b) Date of birth

(c) Whether Fellow and the date on which became Fellow

(d) Date of Enrolment as an Associate member

(e) Whether citizen of India

(f) Whether found guilty of any professional or other misconduct and consequently has been reprimanded or the name has been removed from the Register or has been awarded penalty of fine, as on the date of nomination, with details thereof

(g) Details of past and present membership of the Council including the Office of the President and or Vice-President of the Institute

(h) Academic qualifications (diplomas including post qualification diploma(s) and degrees recognized by Government or Council and membership of professional bodies recognized by the Council)

(i) Merit awards (limited upto first three positions) in the examinations of recognized universities and the examinations conducted by the Institute

(j) Particulars of occupation:

  (i) Employment (designation with name of present employer)

  (ii) Practice (sole proprietor or in partnership including the name of the firm)

  (iii) Particulars of other occupation or engagement, if not covered by (i) and (ii) above

(k) Past and present membership of Regional Councils and Managing Committees of chapters of Regional Councils and office of Chairman, Vice-Chairman, Secretary and/or Treasurer in the case of Regional Councils and or chapters of Regional Councils.

IndiaCode

SCHEDULE 6

Procedure for polling at the polling booth
(see rule 29)

1. Identification of voters and Tendered Ballots

(1) Every person claiming to be a voter shall be required to sign the copy of the list of members eligible to vote provided by the Returning Officer and his identity or signature shall be verified by the polling officer in such manner as may be advised by the Returning Officer from time to time.

(2) At any time before a ballot paper is delivered to a person claiming to be a voter, the polling officer may, on his own accord, if he has reason to doubt the identity of the person or his right to vote at the polling booth or if his specimen signatures are not available with the polling officer, and shall, if so required by a candidate or his authorised representative, satisfy himself in any manner as he may deem advisable as to his identity.

(3) If the polling officer is not satisfied as to the identity of the person claiming to be voter, he may issue a ballot paper to such person but instead of getting the ballot paper inserted in the ballot box, he shall place the same in a separate sealed cover superscribed as “Tendered ballot” and send it to the Returning Officer along with a letter from the person concerned together with his own observations thereon, for the Returning Officer’s decision which shall be final and conclusive.

(4) In deciding the right of a person to obtain a ballot under this schedule, the Polling Officer at any polling booth may interpret any entry in the list of members eligible to vote so as to overlook merely clerical or printing error, provided that he is satisfied that such person is same as the voter to whom such entry relates.

2. Record to be kept by the polling officer

The polling officer shall, at the time of delivery of the ballot paper place against the name of the voter in the list of members eligible to vote, a mark to denote that the voter has received a ballot paper.

3. Ballot Box

The ballot box shall be so constructed that a ballot paper can be inserted there into during the poll but cannot be withdrawn therefrom, without the box being unlocked or the seals being broken.

4. Manner of recording of votes after receipt of ballot paper

On receiving the ballot paper, the voter shall forthwith proceed into the secret chamber set apart for the purpose and shall record his vote on the ballot paper in the manner specified in rule 20. He shall thereafter fold the ballot paper, leave the secret chamber and insert the ballot paper in the ballot box provided for the purpose, in the presence of the polling officer.

5. Return of Ballot paper by voter

(1) Where a voter, after obtaining a ballot paper, chooses not to vote, he shall return the ballot paper to the polling officer and the ballot paper so returned shall then be marked as "cancelled-returned" and kept in a separate envelope set apart for the purpose and a record shall be kept by the polling officer of all such ballot papers.

IndiaCode

(2) Where any ballot paper, which was delivered to a voter, is found, with or without any writing thereon, in the secret chamber, it shall be dealt with in accordance with the provisions of sub-clause (1), as if it had been returned to the polling officer.

6. Procedure at the polling booth

(1) A polling booth shall be kept open on the day or days appointed for recording of votes from 8.00 a.m. to 7.00 p.m. unless otherwise directed by the Council.

(2) If the polling at any polling booth cannot take place on the day or days appointed for recording of votes or is interrupted or obstructed by any sufficient cause or the ballot box used at the booth is tampered with or is accidentally or deliberately destroyed, lost or damaged, the polling officer with the prior approval of the Returning Officer, may adjourn the polling to a subsequent date or the Returning Officer may declare the polling at the booth void and order a fresh polling.

(3) If a polling is adjourned or declared void under sub-clause (2), the Returning Officer shall, as soon as possible, appoint the

place where the polling shall be subsequently conducted and the time, date or dates, as the case may be, for the said polling.

(4) The place, date or dates and the time of polling appointed under sub-clause (3), shall be notified individually to all the voters affected as well as in the Gazette of India.

(5) The Returning Officer shall not proceed to count the votes cast at the election until the polling at all the polling booths in the constituency has been completed.

(6) The polling officer shall close the polling booth at the end of the day, or if the polling is for more than one day, at the end of each day, at the hour appointed under sub-clause (1), and no voter shall be admitted thereto after that hour:

Provided that any voter present in the polling booth before it is closed, shall be entitled to have his vote recorded.

(7) The polling officer shall, as soon as practicable after the close of the poll or after its close on each day, if the polling is for more than one day, in the presence of any candidates or their authorised representatives who may be present, seal the ballot box or boxes with his own seal and the seals of such candidates or authorised representatives as may desire to affix their seals thereon.

Explanation: Where the polling is conducted over more than one day, the ballot box or boxes used on a day shall be sealed at the end of each day, and a new ballot box shall be used on the next day for the purpose of casting of votes.

(8) The polling officer shall, at the close of the poll or after its close on each day make up into separate packets:

(i) the unused ballot papers;

(ii) the returned ballot papers;

(iii) the tendered votes;

(iv) the marked copy of the list of members eligible to vote; and

(v) any other paper directed by the Returning Officer to be kept in a sealed cover

and seal each such packet with his own seal and the seals of such candidates or authorised representatives as may desire to affix their seals thereon.

(9) Where the polling is arranged to take place for more than one day, the polling officer shall arrange for the safe custody of the ballot box and such packets after the end of polling on one day and start of polling on the next day.

(10) Where the polling is arranged to take place for more than one day, just before the polling booth is opened to the voters on the following day the polling officer shall, in the presence of any candidates or their authorised representatives who may be present, remove the seal or seals affixed in accordance with sub-clause (8), after the seals are examined by him and by the candidates or authorised representatives, for use during the course of that day.

(11) The ballot box and packets, referred to earlier, shall be accompanied by an account of ballot papers showing the total number of ballot papers received, issued and un-issued, returned, as also the number of ballot papers which should be found in the ballot box and packets. This account shall be forwarded to the Returning Officer.

7. Transport of ballot boxes etc. and their custody

(1) The Returning Officer and the polling officer shall make adequate arrangements for the safe custody of the ballot boxes and other papers and for the safe transport to the headquarters of the Institute of all the packets or boxes and other papers referred to in rule 6.

(2) The Returning Officer shall be responsible for the safe custody of the articles referred to in sub-clause (1), until the commencement of the counting of votes.

SCHEDULE 7

Procedure for polling by post

(see rule 30)

1. Returning Officer to send ballot papers by post

Not less than twenty one days before the last date and time notified for receipt of ballot papers by post, the Returning Officer shall send by Speed or registered post to the voters permitted to vote by post, the ballot paper, together with a letter explaining the manner in which the vote shall be recorded thereon, the manner in which the recorded ballot papers shall be returned and specifying the date and hour by which it shall reach the Returning Officer:

Provided that in the case of voters residing outside India, the ballot papers shall be sent by speed or registered post at least thirty days before the last date and time notified for receipt of ballot papers by post.

2. Issue of undelivered and fresh ballot papers

Where a ballot paper and other connected papers sent by post under sub-clause (1) are damaged in transit or are for any reason returned undelivered or the Returning Officer is satisfied that the ballot papers have been sent incorrectly by post, the Returning Officer may reissue the same by speed or registered post or deliver them to the voter on his applying for the same, and submitting sufficient proof of damage or non-delivery.

3. Postal Ballot papers to be returned after recording votes

(1) The postal ballot paper received under clause 1 above shall, if he desires to vote, be returned by the voter, in the manner mention herein below:

(a) for a voter residing within India, after recording his vote thereon in the manner specified in rule 20 and in the pre-stamped envelope provided for the purpose and in the manner specified by the Returning Officer under clause 1 from the place to which the ballot paper was sent by the Returning Officer under clause 1 so as to reach the Returning Officer before the date and time specified in this behalf. The cover containing the recorded ballot paper shall be accompanied by a declaration of the voter in the approved Form;

(b) for a voter residing outside India, after recording his vote thereon in the manner specified in rule 20 and by ordinary post or speed or registered post and in the manner specified by the Returning Officer under clause 1but from the country to which the ballot paper was sent by the Returning Officer under clause 1 so as to reach the Returning Officer before the date and time specified in this behalf. The cover containing the recorded ballot paper shall be accompanied by a declaration of the voter in the approved Form;

(2) A cover containing ballot paper which does not reach the Returning Officer either in the manner specified by him under clause 1 on or before the date and time specified shall not be taken into

consideration in the counting of votes. The Returning Officer shall note on all such covers the manner in which each was received back by him including use of the envelope other than the one provided for the purpose, dispatch by a mode other than required mode and the date and time of receipt and keep all such covers together in a packet.

(3) In regard to covers where the postal stamp of place of posting is not clear or decipherable, the decision taken by the Returning Officer on ascertaining or determining the place or country from which the cover containing the ballot papers is sent shall be final.

(4) The Returning Officer shall disregard all covers containing the voting papers relating to two or more members and posted in one and the same envelope.

(5) If the signature of the voter as appended in the envelope and Form referred to in clause (3) of this schedule does not tally with any of his signature as available in the Institute's records, the Returning Officer shall disregard such cover containing the voting paper.

(6) The Returning Officer shall keep in safe custody all covers containing postal ballot papers received by him until commencement of the counting of votes.

IndiaCode

SCHEDULE 8

Procedure for counting of votes and declaration of results

(see rule 35)

1. Definitions

For the purposes of this schedule, unless the context otherwise requires:

(a) "continuing candidate" means any candidate not elected and not excluded from the poll at any given time at the time of counting;

(b) "exhausted paper" means a ballot paper on which no further preference is recorded for a continuing candidate at the time of counting:

Provided that a paper shall also be deemed to be exhausted in any case in which:—

(i) the names of two or more candidates, whether

continuing or not, are marked with the same figure 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 by a figure not following consecutively after some other figures on the ballot paper or by two or more figures;

(c) "First preference" means number 1, "second preference" means number 2 and "third preference" means number 3 (in Arabic or Roman numerals or in words) as the case may be, set opposite the name of any candidate, and so on;

(d) "original vote" in regard to any candidate means a vote derived from a ballot paper on which a first preference is recorded for such candidate;

(e) "transferred vote" in regard to any candidate means a vote, the value or part of the value of which is credited to such candidate at the time of counting and which is derived from a ballot paper on which a second or subsequent preference is recorded for such a candidate;

(f) "surplus" means the number by which the value of the votes of any candidate, original or transferred, exceeds the quota at the time of counting;

(g) "unexhausted paper" means a ballot paper on which a further preference is recorded for a continuing candidate.

2. Counting of votes

(1) On the date and at the time and place, appointed under rule 32 the Returning Officer shall, for the purpose of counting of votes in respect of a constituency, shall follow the following steps in the order mentioned:

(a) (i) open only the covers containing the postal ballot papers received by him in accordance with rule 30 and schedule 7 and shall take out the ballot papers from each cover and shall record the number thereof in a statement; and shall make a separate packet of those ballot papers;

(ii) set aside the covers containing the ballot papers not received by him in accordance with rule 30 and schedule 7 or in respect of which he has taken a decision under sub-clause (3) of clause 3 of schedule 7:

Provided the Returning Officer shall allow the candidates or their authorized representatives present at the counting a reasonable opportunity to inspect the covers containing the ballot papers received by post for satisfying themselves that they are in order but shall not allow them to handle those covers.

(b) allow the candidates and their authorised representatives, present at the counting, an opportunity to inspect the ballot boxes and packets received from the polling officers and their seals for satisfying themselves that they are in order; and

(c) proceed as follows:—

(i) If he is satisfied that the ballot boxes and packets which have been received are in order, he shall take up the counting of the ballot papers contained in the ballot boxes.

(ii) If he finds any of the ballot boxes has been tampered with he shall not count the ballot papers contained in such box for the purposes of election and keep a record of such ballot papers separately.

(iii) The ballot boxes found to be in order shall be opened and the ballot papers shall be taken out from them and shall be counted and the number thereof recorded in a statement. To these shall be added the postal ballot papers taken into consideration under sub-clause (1)(a).

(iv) The ballot papers shall be examined and any invalid ballot papers shall be rejected.

(v) Before rejecting any ballot paper, the Returning Officer shall allow each candidate or his representative present a reasonable opportunity to inspect the ballot paper but shall not allow him to physically touch or handle it or any other ballot paper.

(vi) The Returning Officer shall endorse on every ballot paper which he rejects the word “Rejected” and the grounds of rejection in abbreviated form either in his own hand or by means of rubber stamp and shall initial such endorsement.

(vii) All ballot papers rejected under this rule shall be bundled together.

(viii) He shall divide the remaining ballot papers into parcels according to the first preferences recorded for each candidate.

(ix) He shall then count the number of papers in each parcel.

(2) In complying with clauses hereinafter enacted, the Returning Officer shall:-

(a) disregard all fractions;

(b) ignore all preferences recorded for candidates already elected or excluded from the poll.

(3) For the purpose of facilitating the processes specified in the sub-clauses hereinafter enacted, each valid paper shall be deemed to be of the value of one hundred.

(4) The Returning Officer shall add together the values of the papers in all the parcels and divide the total by a number exceeding by one the number of vacancies to be filled and the quotient increased by one shall be the number sufficient to secure the return of a candidate (hereinafter called the quota).

IndiaCode

(5) If at any time, a number of candidates equal to the number of persons to be elected has obtained the quota, such candidates shall be treated as elected, and no further steps shall be taken.

(6) (i) Any candidate, the value of whose parcel, on the first preference being counted is equal to or greater than the quota, shall be declared elected.

(ii) If the value of the papers in any such parcel is equal to the quota, the papers shall be set aside as finally dealt with.

(iii) If the value of the papers in any such parcel is greater than the quota, the surplus shall be transferred to the continuing candidates indicated on the voting papers as next in the order of the voters' preference, in the manner specified in the following sub-clause.

(7) (i) If and when, as the result of any operation specified in these sub-clauses a candidate has a surplus, that surplus shall be transferred in accordance with the provisions of this sub-clause.

(ii) If more than one candidate has a surplus, the largest surplus shall be dealt with first and the others in order of magnitude.

Provided that every surplus arising on the first counting of votes, shall be dealt with before those arising on the second count and so on.

(iii) Where two or more surpluses are equal, the Returning Officer shall decide, as hereinafter provided, which shall first be dealt with.

(iv) (a) If the surplus of any candidate to be transferred arises from only the original votes, the Returning Officer shall examine all the papers in the parcel belonging to the candidate whose surplus is to be transferred, and divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon. He shall also make a separate sub-parcel of the exhausted papers.

(b) He shall ascertain the value of the papers in each sub-parcel and of all the unexhausted papers.

(c) If the value of the unexhausted papers is equal to or less than the surplus, he shall transfer all the unexhausted papers, at the value at which they were received by the candidate whose surplus is being transferred.

(d) If the value of the unexhausted papers is greater than the surplus, he shall transfer the sub-parcel of unexhausted papers, and the value at which each paper shall be transferred shall be ascertained by dividing the surplus by the total number of unexhausted papers.

(v) If the surplus of any candidate to be transferred arises from transferred as well as original votes, the Returning Officer shall re-examine all the papers in the sub-parcel last transferred to the candidate, and divide the unexhausted papers into sub-parcels according to the next preferences recorded thereon. He shall thereupon deal with the sub-parcels in the same manner as is provided in the case of the sub-parcels referred to in item (iv) of this sub-clause.

(vi) The papers transferred to each candidate shall be added in the form of a sub-parcel to the papers already belonging to such candidate.

(vii) All papers in the parcel or sub-parcel of an elected candidate not transferred under this sub-rule shall be set aside as finally dealt with.

(8) (i) If after all surpluses have been transferred, as hereinbefore directed, less than the number of candidates required has been elected, the Returning Officer shall exclude from the poll the candidate lowest on the poll and shall distribute his unexhausted papers among the continuing candidates according to the next preferences recorded thereon. Any exhausted papers shall be set aside as finally dealt with.

(ii) The papers containing original votes of an excluded candidate shall first be transferred, the transfer value of each paper being one hundred.

(iii) The papers containing transferred votes of an excluded candidate shall then be transferred in the order of the transfers in which and at the value of which he obtained them.

(iv) Each of such transfers shall be deemed to be a separate transfer.

(v) The process directed by this sub-clause shall be repeated on the successive exclusions, one after another, of the candidates lowest on the poll until the last vacancy is filled either by the election of a candidate with the quota or as hereinafter provided.

(9) If as the result of a transfer under this clause, the value of the votes obtained by a candidate is equal to or greater than the quota, then transfer proceeding shall be completed, but no further papers shall be transferred to him.

(10) (i) If after the completion of any transfer under this clause, the value of the votes of any candidate shall be equal to or greater than the quota, he shall be declared elected.

(ii) If the value of the votes of any such candidate shall be equal to the quota, the whole of the papers on which

such votes are recorded shall be set aside as finally dealt with.

(iii) If the value of the votes of any such candidate shall be greater than the quota, his surplus shall thereupon be distributed in the manner hereinbefore provided before the exclusion of any other candidate.

(11) (i) When the number of continuing candidates is reduced to the number of vacancies remaining unfilled, the continuing candidates shall be declared elected.

(ii) When only one vacancy remains unfilled and the value of the votes of some one continuing candidate exceeds the total value of all the votes of the other continuing candidates, together with any surplus not transferred, that candidate shall be declared elected.

(iii) When only one vacancy remains unfilled and there are only two continuing candidates, and those two candidates have each the same value of votes and no surplus remains capable of transfer, one candidate shall be declared excluded under the next succeeding sub-clause and the other declared elected.

(12) If, when there is more than one surplus to distribute, two or more surpluses are equal, or if at any time it becomes necessary to exclude a candidate and two or more candidates have the same values of votes and are lowest on the poll, regard shall be had to the original votes of each candidate, and the candidate for whom fewest original votes are recorded shall have his surplus first distributed, or shall be first excluded as the case may be. If the values of their original votes are equal, the Returning Officer shall decide by lot which candidate shall have his surplus distributed or be excluded.

3. Procedure in case of a tie

(1) Where after counting of votes, a tie is found to exist between any candidates and the addition of one vote shall entitle any of those candidates to be declared elected, then the person who has received larger number of first preference votes shall be considered to have received an additional vote and shall be declared to be duly elected.

(2) If it is not possible to declare a candidate elected even after operation of sub-clause (1) then lots shall be drawn between the

candidates in a tie and the successful candidate shall be considered to have received an additional vote and shall be declared to be duly elected.

4. Provision for re-counts

Any candidate or, in his absence his authorized representative may, at any time during the counting of the votes either before the commencement or after the completion of any transfer of votes (whether surplus or otherwise) request the Returning Officer to re-examine and re-count the papers of all or any candidates (not being papers set aside at any previous transfer as finally dealt with) along with reasons for asking such a recount, and the Returning Officer may re-examine and re-count the same if he finds that the reasons given are sufficient for having a recount:

Provided that such a recount should be restricted to only the immediately previous count.

Provided further that recount shall be done only once at end of any round of count.

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