

THE CONSTITUTIONAL REFERENDUM ACT, 1962

The Constitutional Referendum Regulations, 1963

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THE CONSTITUTIONAL REFERENDUM ACT, 1962

(1962 No. 4)

The Constitutional Referendum Regulations, 1963

Commencement : 7th January, 1963

In exercise of the powers conferred on him by section five of the Constitutional Referendum Act, 1962, the Governor-General acting in accordance with the advice of the Prime Minister hereby makes the following regulations :—

Citation,
interpreta-
tion and
application.

1.—(1) These regulations may be cited as the Constitutional Referendum Regulations, 1963.

1962 No. 4

(2) In these regulations unless the context otherwise requires,—

“the Act” means the Constitutional Referendum Act 1962 ;

“Attorney-General” means the Attorney-General of the Federation ;

“the Court” means the Federal Supreme Court ;

“district” means any of the districts into which the referendum area is divided in pursuance of section four of the Act ;

“petition” means a referendum petition under these regulations ;

“the referendum area” means the area in which the referendum in question is required to be held by paragraph (b) of subsection (5) of section four of the Constitution of the Federation ;

“the supervisor” means the person appointed in pursuance of these regulations to organise and supervise the holding of the referendum in question, and he shall not be regarded as being in the Public Service of the Federation or of a Region.

(3) These regulations shall apply to each referendum of which notice is given in pursuance of the Act.

(4) Anything authorised or required by these regulations to be done by the supervisor may be done by any other person appointed under these regulations, acting in accordance with any general or special directions of the supervisor.

Appoint-
ment and
general
duties of
referendum
officials.

PART I.—APPOINTMENT OF OFFICERS AND REFERENDUM PROCEDURE

2.—(1) The Prime Minister may at any time appoint a fit person to be the supervisor, who shall be responsible for making arrangements for and supervising the holding of a referendum.

(2) It shall be the duty of the Public Service Commission of the Federation as soon as may be after the appointment of the supervisor, to appoint fit persons as officials to assist the supervisor, that is to say,—

(a) where the referendum area is divided into districts, to appoint an officer, to be called a referendum officer, in respect of each district to organise and supervise, subject to the directions of the supervisor, the holding of the referendum in that district ; and

(b) in any case, to appoint such number of officers and servants in respect of the referendum area or any particular district, as the supervisor may determine, who shall be persons appearing to the Commission to have such qualifications as the supervisor may specify for the class of officers or servants in question.

(3) No member of Parliament or of the Legislature of a Region shall be eligible for appointment under this regulation.

(4) The remuneration and allowances of any official appointed under these regulations shall be of such amounts, or at such scales, as may be prescribed under these regulations.

(5) It shall be the duty of the supervisor to make arrangements for and to supervise the holding of the referendum, and it shall be the duty of each other person appointed in pursuance of this regulation to assist the supervisor in exercise of his functions, and to act in accordance with any general or special directions of the supervisor.

3. The Supervisor shall appoint polling stations and counting stations at such places in the referendum area as he thinks necessary for voting on the referendum and the counting of votes; and shall allocate voters to each polling station. The supervisor in the exercise of his powers under this regulation shall secure, so far as is reasonably practicable in his opinion, that not more than five hundred voters are allocated to any polling station.

Designation
of polling
and count-
ing stations.

4. The supervisor shall, not earlier than the beginning of the period of twenty-one days nor later than the beginning of the period of seven days ending with the appointed day, publish in the *Gazette* and cause to be distributed and prominently displayed in the referendum area in such manner as he considers most suitable for bringing information about the referendum to the attention of the inhabitants of the referendum area, a notice specifying,—

Notices.

(a) the day appointed for the referendum, and the question in the referendum;

(b) the hours on that day during which votes may be cast;

(c) the location of each polling and counting station appointed for the purposes of the referendum;

(d) the means by which any person may find out if he is entitled to vote and the voting station to which he is allocated; and

(e) the colour or other marking allotted by the supervisor to the affirmative and negative answers required by the referendum.

5. Voting at the referendum shall be by secret ballot, and the result shall be ascertained by counting the votes given to each answer; and no person shall vote more than once upon the question in the referendum.

Voting.

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

Clerk at
Polling
Stations.

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

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

Facilities
at polling
stations.

7. A district referendum officer shall,—

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

(b) supply to each presiding officer two ballot boxes ;

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

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

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

(f) do such other acts and things as the supervisor may prescribe for conducting the referendum.

Ballot
Boxes.

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

Ballot
papers.

9. Every ballot paper shall be in a form to be prescribed by the supervisor and shall,—

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

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

Polling
agents.

10. Every distinct party may by notice in writing signed by the secretary and addressed to the supervisor appoint not more than two persons (in these regulations referred to as "polling agents") to attend at each polling station in the constituency where a referendum is being held ; and the notice shall set out the names and addresses of the polling agents and be given by such secretary to the supervisor not later than ten days before the date fixed for the referendum. Polling agents who attend shall have such powers as the supervisor may allow for the purposes of these regulations.

Hours at
polling
stations.

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

Preparation
of ballot
boxes.

12.—(1) The presiding officer at the polling station shall place one ballot box in the polling station for each answer to the referendum ; and the ballot boxes shall be plainly and legibly marked with the appropriate colour or other marking allotted.

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

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

Questions to be put to voters.

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

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

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

Issue of ballot paper.

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

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

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

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

(3) The presiding officer shall comply with such directions as the district referendum officer may give for the avoidance of undue delay in the recording of votes.

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

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

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

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

and the voter shall thereupon leave the polling station.

16. No voter shall vote more than once in a referendum.

Plural voting prohibited

Ballot paper not to be marked by voter for identification.

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

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

Accidental destruction of ballot papers.

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

Blind and incapacitated voters.

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

Personal attendance.

20. No elector shall record his vote otherwise than by personally attending at the polling station and recording his vote in the manner prescribed by these regulations.

Voting at appropriate polling station.

21.—(1) Subject to the provisions of this regulation no person shall be permitted to vote at any polling station other than at the one to which he is allotted.

(2) Any officer appointed for the purposes of a referendum (in this regulation referred to as "the appointed officer") or police officer shall, unless the supervisor otherwise approves, not be appointed for duty at any polling station at which the appointed officer or police officer is entitled to vote. If the appointed officer or police officer is on duty at a polling station at which the appointed officer or police officer is entitled to vote he shall inform the presiding officer who shall supervise the casting of the vote of such appointed officer or police officer.

(3) Where a presiding officer is appointed for duty at a polling station at which he is registered as entitled to vote, he shall before the day of the referendum inform the supervisor and the supervisor shall take the vote of such presiding officer or nominate some other person to take the vote.

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

(5) Where an appointed officer or a police officer is on duty elsewhere than at a station at which he is entitled to vote and it is not possible to release the appointed officer or police officer to vote during the day for the polling, and polling stations are within the same constituency, the presiding officer at the polling station where the appointed officer or police officer is on duty shall issue a certificate of polling duties in such form as may be prescribed by the supervisor. On presentation of the form to the presiding officer in charge of the polling station where the appointed officer or police officer is registered

as being entitled to vote, the last-mentioned presiding officer may issue in exchange a certified extract in such form as the supervisor may prescribe, of the register of electors or the part thereof in the custody of such last-mentioned presiding officer.

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

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

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

Impersonation in polling station.

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

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

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

Tendered ballot papers.

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

Power to
exclude un-
authorised
persons, etc.

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

Misconduct
etc. at poll-
ing station.

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

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

Interruption
of election.

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

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

Closing of
poll.

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

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

Ballot boxes
and papers at
close of poll.

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

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

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

(c) counterfoils of the used ballot papers ;

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

(e) the tendered votes list ;

(f) the unused and spoilt ballot papers placed together ;
 (g) the statement of the ballot papers which were noted as invalid ;
 (h) any certificates of polling officers duties he has received from other presiding officers under these regulations,—
 and when so made up and sealed the presiding officer shall deliver the packets to the district referendum officer.

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

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

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

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

29.—(1) Every political party which has appointed polling agents for the purposes of a referendum may appoint such number of persons (in these regulations called "counting agents") as the supervisor may approve ; and so far as practicable the number of counting agents approved for the purposes of the referendum shall be sufficient to allow representation by a counting agent at any place and time at which any part of the counting of votes is taking place.

Counting
Agents.

(2) Notice in writing of the appointment stating the names and addresses of the counting agents shall be given by the secretary to a political party to the returning officer not later than the day before the day of the referendum ; and if the notice is not given, the district referendum officer may refuse to admit to the place where the votes are counted any person claiming to be a counting agent.

(3) If a counting agent dies, or becomes incapable of acting as a counting agent, no further or other counting agent shall be appointed in his place without the approval of the supervisor.

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

Counting of
votes.

(2) The district referendum officer may if he thinks fit authorise any of his assistants to oversee the counting of the votes and certify the same; but nothing in this subsection shall authorise the appointment of any counting agent as an overseer.

(3) The district referendum officer shall have sole charge of the counting, and no person other than the supervisor, the district referendum officer or his assistants, and counting agents may, without the consent of the district referendum officer, be present at the counting of the votes.

Method of
counting.

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

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

(3) The decision of the district referendum officer on any question arising in respect of a ballot paper shall be subject to review only on petition under these regulations.

Statement
of rejected
papers.

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

Dealing
with ballot
papers by
returning
officer.

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

Re-count.

34. A counting agent may, if present when the counting is concluded, require the returning officer to make a re-count or further re-count; and if the returning officer considers the request to be reasonable he shall make the re-count or further re-count; but no further count after any second re-count shall thereafter be made except at the direction of the court on petition under these regulations.

35. After counting the votes and ascertaining the result of the polls the district referendum officer shall,—

Declaration
of result of
referendum.

(a) complete the certificate of return in the form prescribed by the supervisor ;

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

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

36. The supervisor shall publish in such place or places as he thinks fit a notice of the result of the referendum, and shall cause the result to be delivered to the Prime Minister ; and thereafter the supervisor shall publish the result in the Gazette.

Publication
of results.

37.—(1) The district referendum officer shall deliver all documents relating to the conduct of the referendum to the supervisor who shall be responsible for their safe custody.

Safe custody
of referen-
dum docu-
ments.

(2) Subject to any direction of the Prime Minister, the supervisor shall retain for a period of six months all documents relating to a referendum forwarded to him as required by these regulations ; and unless otherwise ordered by a court of competent jurisdiction or notified of legal proceedings pending in respect of the referendum, he shall at the end of that period cause the documents to be destroyed.

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

PART II—REFERENDUM PETITIONS

38. No referendum in a referendum area shall be questioned except by a petition complaining about the referendum, filed in the Federal Supreme Court not later than twenty-one days after the date of the referendum to which it relates, and dealt with under these regulations.

Referendum
petition.

39.—(1) The Prime Minister, or any person whose name is on the register of electors or who has claimed to be entitled to be so registered within the time prescribed therefor may present a referendum petition.

Presentation
of
referendum
petition.

(2) Save where a petition is filed by or on behalf of the Prime Minister the supervisor shall be the respondent to the petition ; but any other person may with the leave of the court granted on application by way of notice by the supervisor, be made respondent to a petition.

40.—(1) Subject to the provisions of this regulation, a referendum may be questioned on any of the following grounds that is to say,—

Grounds for
referendum
petition.

(a) that the referendum was invalid by reason of any non-compliance with the referendum procedure under these regulations ;

(b) that the question before the electors in the referendum at the time of the voting was, or was not carried, as the case may be by at least three-fifths of the votes of all the persons entitled to vote at the referendum, in the referendum area ;

(c) that corrupt practices had been so widespread as to materially affect the result of the referendum.

(2) An act or omission which is contrary to an instruction or direction of the supervisor but which is not contrary to the requirements of these regulations shall not of itself be grounds upon which a referendum may be questioned; and a referendum shall not be invalidated if it appears to the court that the referendum was conducted substantially in accordance with these regulations, and that the non-compliance did not affect the result.

(3) A referendum shall not be questioned by reason of a defect in the title or want of title of the supervisor or any other person conducting the referendum, if the supervisor or such other person was then in actual possession of or acting in the office giving the right to conduct the referendum.

Decision of court to be final unless leave granted.

41. No appeal shall lie from the decision of the court on a petition, without the leave of that court granted on such terms as it thinks fit.

Application to court for preliminary order respecting costs.

42.—(1) The security for costs to be given by a petitioner shall be one hundred pounds; and at or before the time for filing a petition the intending petitioner shall apply to the court by motion *ex parte* accompanied by a copy of the intended petition, for an order as to the manner in which the security is to be given. If the petitioner is for any sufficient reason unable to give the security at the time of filing the petition, he shall set out the reason in an affidavit to be filed with the motion, and the application shall include a request as to the time at or within which the security is to be given.

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

(3) Upon the hearing of the application, the court with or without requiring the intending petitioner to give further particulars or produce evidence, shall in its discretion direct how the security is to be given.

Presentation of petition.

43.—(1) A petition shall be deemed to be filed if left with the registrar by the petitioner or his solicitor, and there shall be left with the petition a copy for each respondent and seven other copies. The registrar shall, if required, give a receipt for the petition to the person filing it.

(2) The petition shall be substantially the same in form and content as the copy of the intended petition accompanying the application as to security for costs made under these regulations; and if not in that form the Court may refuse to accept it or may receive it subject to such conditions as it thinks fit.

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

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

Contents of petition.

44.—(1) Every petition under these regulations shall include a brief statement,—

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

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

(2) The petition shall be divided into paragraphs each of which, as nearly as may be, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively; and no costs shall be allowed for drawing up or copying any petition which does not substantially comply with the requirements of this regulation unless the court otherwise directs.

(3) The petition shall conclude with a prayer for such relief as the circumstances may require and shall be signed by the petitioner or by his solicitor (if any) named at the foot of the petition.

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

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

Further particulars.

46.—(1) At the time of filing the petition, or within such extended time as may be thereafter allowed by the Court upon application made *ex parte* or on notice as the court may direct under these regulations, the petitioner shall give security for the amount fixed by the Court and in the manner as directed by it.

Security.

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

47.—(1) Where security for costs is given by recognizance it shall be in such form as the Court may approve.

Recognizances.

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

(4) In addition to the copies mentioned in this regulation there shall be left at the time of presenting any recognizance three other copies thereof and of every affidavit of sufficiency of a surety.

(5) A certified copy of the recognizance, and of any affidavit of sufficiency of a surety which has been filed for the purposes of these regulations shall be served on the respondent at the petitioner's expense, and the original recognizance and affidavit shall be open to inspection by the respondent at the Registry on payment of the appropriate fees.

48.—(1) The respondent, within six days after being served with the documents mentioned in regulation 48 may object to the security by motion on notice to the petitioner, and the motion shall, unless the court otherwise orders, be set down for hearing on the first available day.

Objection to security.

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

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

Form of
order.

49.—(1) The court hearing the motion may make such order as it thinks fit on the objection, but nothing in this regulation shall authorise a reduction in the amount of the security.

(2) If the court hearing the motion allows the objection it shall direct in what amount the security will be sufficient and in what manner and within what time the objection is to be removed ; and if the petitioner fails to comply with the terms of any order made by the court, no further proceedings shall be heard on the petition unless the court otherwise orders.

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

Issue of
referendum
petition.

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

Variation of
security.

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

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

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

(4) The order made on the motion may state by whom the costs of the motion shall be paid, and if the order is silent the costs shall form part of the general costs of the petition.

Address for
service.

52. For the purpose of service of a petition on the respondent, the petitioner shall give to the registrar the address of the respondent or if that address is not within a radius of three miles of the courthouse, such other addresses within that radius where personal service can be effected on the respondent, if known to the petitioner.

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

- (a) serve notice of the presentation of the petition, together with a certified copy of the petition on the respondent ;
- (b) post up on the court notice board a certified copy of the petition ;
- (c) send a certified copy of the petition to the supervisor ; and
- (d) where the court so directs, cause a certified copy to be published in the Gazette or in a newspaper published in Nigeria and circulating in the constituency, or in both the Gazette and such newspaper.

Service of
notice, etc.,
of petition.

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

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

Personal
service, of
notice etc.

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

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

55.—(1) Where the respondent intends to oppose the petition he shall, within the the time limited in the notice of presentation of the petition or if an order has been made under these regulations for substituted service then within the time prescribed in the order enter an appearance by filing in the registry a memorandum of appearance stating that he intends to oppose the petition and giving the name and address of his solicitor, or stating that he acts for himself, as the case may be. In either case the respondent shall give an address for service within a radius of three miles of the courthouse and the name of its occupier at which documents intended for the respondent may be left. If no address for service and the name of the occupier are omitted and memorandum of appearance shall not be filed unless the court otherwise orders.

Entry of
appearance.

(2) The memorandum of appearance shall be signed by the respondent, but may be filed by his solicitor if he has one.

(3) When the respondent or his solicitor files the memorandum of appearance he shall leave a duplicate thereof for every other party to the petition together with three further duplicates and shall at the same time pay the fees for service ; and if the duplicates are not left with the registrar and the fees paid, the memorandum shall not be filed unless the court otherwise orders.

Default of
appearance
by
respondent.

56. If the respondent fails to enter an appearance, any document intended for the respondent may be affixed to the court notice board and when so affixed the fact that it is there shall be sufficient notice for the purposes of these regulations.

Notice of
appearance
to be served.

57. The registrar shall serve duplicates of the memorandum of appearance upon, or give notice thereof to all other parties to the petition.

Reply by
respondent.

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

(2) The reply may be signed and filed by the solicitor for the respondent.

(3) When the respondent or his solicitor files the reply he shall leave a duplicate for every other party to the petition together with three further duplicates are not left with the registrar and the fees paid the reply shall not be file unless the court otherwise orders.

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

Amendment
of petition.

59.—(1) Subject to the provisions of this regulation,—

(a) no petition shall be amended except by leave of the court, and the court may on any application for leave to amend grant the same if it appears that no person will be prejudiced by the amendment ; but otherwise the court may refuse leave or grant the same on such terms as to notice, postponement of trial or costs as justice requires :

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

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

(2) After the expiry of the time limited by these regulations for presenting a petition no amendment shall be made for the purpose of introducing any fresh prayer into the petition, or effecting any alteration of substance in the prayer or effecting any substantial alteration in or addition to the statement of facts and grounds relied upon to sustain the prayer.

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

60.—(1) If any party to the petition wishes to obtain further particulars or other directions of the court, he may, at any time after the entry of appearance, but not later than ten days after the filing of the reply, apply to the court specifying in his notice of motion the further particulars or other directions for which he prays, and the motion shall, unless the court otherwise orders, be set down for hearing on the first available day.

Further
particulars
or
directions.

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

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

61. Every petition shall be tried in open court and petitions shall have precedence over proceedings other than those part heard; and subject to the provisions of this regulation the time and place of the trial of a petition shall be fixed by the court. The registrar shall give notice of the time and place of the trial at least fourteen days before the day fixed for the trial,—

Time and
place of
hearing of
petition.

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

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

62. The posting of the notice of trial on the court notice board shall be sufficient notice notwithstanding that any other copies dispatched under these regulations may not have been delivered.

Notice of
trial.

63.—(1) Upon application made to it on the motion of any party supported by affidavit after notice to the other parties, the court may by order or notice in such form as it thinks fit, postpone the beginning of the trial to such day as the court may appoint after taking into account the precedence to be accorded to the petition.

Postpone-
ment of
hearing.

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

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

64. No formal adjournment of the court for the trial of a petition shall be necessary, but the trial shall be deemed adjourned and may be continued from day to day until the inquiry is concluded.

Continuance
of trial.

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

Adjourn-
ment.

Inter-locutory matters for rules of court.

Effect of determination.

Withdrawal, etc., of referendum petition.

66. All interlocutory questions and matters shall be heard and disposed of as may be prescribed under the rules of court.

67. The court shall give notice of its determination of a petition to the supervisor.

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

(2) Application for leave to withdraw a petition shall in the case of any petition be made by motion after notice to the respondent and, save where the Prime Minister is the petitioner, to the Attorney-General; and the notice of motion shall state the ground on which the application is intended to be supported and shall be signed by the petitioners or their solicitor in the presence of the registrar. If a petition is filed by or on behalf of the Prime Minister it may be withdrawn by motion *ex parte* unless the circumstances of the case otherwise require.

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

Affidavits in support to be filed.

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

(2) Every affidavit for the purposes of this regulation shall state the grounds for withdrawal of the petition; but if any agreement has been made with respect to the withdrawal of the petition, the affidavit shall disclose the agreement, and the deponent shall swear or affirm accordingly.

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

Motion for leave to withdraw.

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

Hearing of motion.

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

Abatement on death, etc., of petitioners.

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

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

(3) Nothing in this regulation shall apply where the Prime Minister is the petitioner and the case may continue and be dealt with as if the Prime Minister had not died or were still in office as the case may be, and the Prime Minister for the time being were the Prime Minister named or described in the petition.

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

Withdrawal
of opposi-
tion.

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

(3) A respondent who has given notice of his intention not to oppose the petition shall not appear or act as a party against the petition in any proceedings upon it; but the giving of such notice shall not of itself cause him to cease to be a respondent.

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

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

Default in
reply.

75. The registrar shall, if notified of the intention of the petitioner to apply for leave to withdraw his petition, or of the death of the petitioner or of the intention of the respondent not to oppose the petition, he shall forthwith countermand the trial; and notice thereof shall be given as nearly as may be as it were a notice of trial.

Counter-
mand of
notice of
trial.

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

Fees.

(2) The hearing fee shall be payable for the trial at the rate of one pounds for each day of the trial but not exceeding a total of seven pounds; but the court in its discretion may direct a lower fee to be charged for any day of the trial.

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

(4) Nothing in this regulation shall apply so as to require payment of fees in respect of any petition filed by or on behalf of the Prime Minister.

Allocation
of costs.

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

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

Return of
security.

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

Payment
of costs
out of
security.

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

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

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

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

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

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

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

Calling of
witnesses.

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

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

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

81.—(1) Subject to the provisions of this regulation, any person called as a witness in proceedings on a petition shall not be excused from answering any question relating to any offence at or connected with the referendum on the grounds that the answer thereto may incriminate or tend to incriminate the witness, or on the grounds of privilege.

Privilege.

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

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

82.—(1) The court after a petition is filed may abridge or enlarge the time appointed by these regulations for doing any act or taking any proceedings upon such terms (if any) as the justice of the case may require, and any enlargement of time may be ordered although application is not made until after the expiration of the time appointed or allowed; and if the time for delivering any pleading or document or filing any affidavit, answer, or document, or doing any act is or has been fixed or limited under these regulations, or by any direction or order of the court, the costs of any application under this regulation, and of any order for abridgment or enlargement of time shall be borne by the party making such application, unless the court otherwise orders.

Abridgment
and enlarge-
ment of
time.

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

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

Service or
summons,
etc.

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

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

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

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

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

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

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

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

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

(b) advertisement in the Gazette or in one newspaper printed in Lagos and circulating in Nigeria ;

(c) notice put up at some place of public resort in the referendum area or at the usual or last known place of abode or business of the person to be served ;

(d) notice on the court notice board.

84. Two or more persons may be made respondents to the same petition and their case may for convenience be tried at the same time; but every petition so tried shall for all purposes, including the taking of security, be deemed to be a separate petition made against every respondent named therein.

Several respondents in same petition.

85. Where more petitions than one are presented in favour of or against the same issue in a referendum, the petitions shall be bracketed together and be dealt with as one petition in favour or against as the case may be, unless the court otherwise directs.

Multiple petitions.

86. Where a petition complains of the conduct of an officer, he shall for all purposes be deemed to be a respondent; and except with the consent in writing of the Attorney-General he may not withdraw from the trial of the petition. If the consent of the Attorney-General is withheld, the officer shall, where the misconduct was not wilful, incur no personal liability for costs which may be awarded against him upon the trial of the petition, and this regulation shall be a sufficient indemnity accordingly.

Complaints as to conduct of any referendum officer.

87. Unless otherwise prescribed by these regulations, any party required to leave documents with the court shall, unless the registrar otherwise directs, leave with him four copies or duplicates for distribution.

Duplicates documents for court.

88.—(1) No failure to comply with these regulations as to the time for the giving of notice or the doing of any act matter of thing other than in the time for filing a petition or lodging an appeal shall avoid any proceedings, and in any proper case the proceeding may with the consent of the court be amended or otherwise dealt with so as to give proper effect thereto; but if any proceedings are avoided they shall, if commenced, be set aside in whole or in part, as the case may require.

Avoidance of proceedings.

(2) An application may be made at any reasonable time to set aside any proceedings for irregularity and the application shall be by motion of which notice shall be given to any other party setting out the objection intended to be insisted upon; but no application shall be heard if the party moving has done any act, matter, or thing with knowledge of the irregularity or if the irregularity objected to is merely as to form or as to the use of certified copies instead of duplicates.

89. The practice and procedure of the court in relation to a petition or to an appeal shall as far as possible be assimilated to the practice and procedure of the court; and accordingly the rules of court shall, unless the Chief Justice otherwise directs, apply with such modifications as are necessary to render them conveniently applicable, as if the petitioner and the respondent were parties in a civil action.

Rules of court.

PART.—III REFERENDUM OFFENCES

90. Any person who—

(a) without proper authority destroys, mutilates, defaces or removes or makes any material alteration in any notice or document required for the purposes of giving notice of a referendum under these regulations; or

Offences as to documents etc., for referendum.

(b) makes in any record, register or document which he is required to prepare, publish or keep for the purpose of a referendum, any entry or statement which he knows to be false or does not believe to be true,—shall be guilty of an offence and liable on conviction to a fine of one hundred pounds or to imprisonment for a term of twelve months, or to both.

Disorderly
behaviour at
political
meeting.

91. Any person who, at a political meeting held in the referendum area after the date when a referendum has been announced—

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

(b) has in his possession any offensive weapons or missile,—

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

Dereliction
of official
duty.

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

Improper
use of
vehicles.

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

(2) Notwithstanding the provisions of this regulation the supervisor may by notice in the Gazette restrict or limit the use of vehicles or any particular description or water transport at a referendum.

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

Personation

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

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

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

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

Treating.

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

(a) corruptly by himself or by any other person at any time between the date of the first issue of the Gazette containing notice of the appointed day and the closing of the polls directly or indirectly gives or provides or pays wholly or in part, the expense of giving or providing any food, drink, entertainment or provision to or for any person for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at the referendum, or on account of such person or any other person having voted or refrained from voting at such referendum ; or

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

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

96. Any person who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of, any force, violence, or restraint, or who inflicts or threatens to inflict by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person, in order to induce or compel anyone to vote or refrain from voting or on account of anyone having voted or refrained from voting, at any referendum; or who by abduction, duress, or any fraudulent device or contrivance impedes or prevents the free use of the vote by any elector or thereby compels, induces or prevails upon any elector either to give or refrain from giving his vote at a referendum, shall be guilty of a corrupt practice and commits the offence of undue influence, and shall be liable on conviction to a fine of one hundred pounds or to imprisonment for the term of twelve months, or to both.

Undue
influence.

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

Bribery.

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

(b) directly or indirectly, by himself or by any other person on his behalf, gives or procures, promises, or promises to procure or to endeavour to procure, or offers, promises, or promises to procure or to endeavour to procure, any office, place or employment to or for any elector or to or for any other person, in order to induce any elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at a referendum; or

(c) directly or indirectly, by himself or by any other person on his behalf, makes any gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person, in order to induce such person to procure or to endeavour to procure a particular result at a referendum; or

(d) upon or in consequence of any gift, loan, offer, promise, procurement or agreement as aforesaid, procures, or engages, or promises or endeavours to procure a particular result at a referendum; or

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

(f) after any referendum, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration

on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting at any such referendum.

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

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

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

Offences in
respect of
ballot
papers.

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

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

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

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

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

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

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

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

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

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

Require-
ment of
secrecy.

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

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

(3) No person shall—

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

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

(4) Any person acting contrary to the provisions of this regulation commits an offence and shall be liable upon conviction to a fine of fifty pounds or to imprisonment for a term of six months, or to both.

100. Any person who votes at a referendum or induces or procures any person to vote at a referendum, knowing that he or such person is prohibited from voting thereat, shall be guilty of an illegal practice and liable on conviction to a fine of fifty pounds or to imprisonment for a term of six months, or to both.

Wrongful
voting.

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

Voting by
unregis-
tered person.

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

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

Disorderly
conduct at a
referendum.

103.—(1) No person shall on the date on which a referendum is held do any of the following acts or things in a polling station that is to say,—

Offences on
election day.

(a) canvass for votes ;

(b) solicit the vote of any elector ;

(c) persuade an elector not to vote for a particular issue ;

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

(e) shout slogans concerning the referendum ;

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

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

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

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

(2) No person shall in a referendum area on the date on which a referendum is held,—

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

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

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

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

PART IV—SUPPLEMENTAL

Use of
electoral
forms.

104. Forms prescribed for use at an election of members of the House of Representatives or for any petition in respect thereof shall be deemed to be forms prescribed for use under these regulations, and accordingly may, with all necessary amendments and adaptations, be used at any referendum with the approval or authority of the supervisor or, as the case may be, with the leave of the court may be used in respect of any referendum petition.

Election
publications
to show
printer's
name and
address, etc.

105. A person shall not—

(a) print or publish or cause to be printed or published any bill, placard or poster having reference to a referendum or any printed document distributed for the purpose of influencing any particular issue in a referendum, or

(b) post or cause to be posted any bill, placard or poster as aforesaid, or,

(c) distribute or cause to be distributed any printed document for such purpose,—

unless the bill, placard, poster or document bears upon its face the name and address of the printer and publisher.

Special
power to
postpone
election.

106. Where a date is appointed for holding a referendum and there is reasonable cause to apprehend that a serious breach of the peace is likely to occur if the referendum is held on that date, the supervisor may postpone the referendum until some later date to be appointed by the Prime Minister.

Remunera-
tion and
allowances.

107. The supervisor after consultation with the Federal Minister charged with responsibility for finance shall decide the fees or other remuneration to be paid to officers appointed for the purposes of these regulations and may prescribe scales of remuneration for such officer, and the maximum allowances in respect of expenses incurred by such officers and the method of authorization of such allowances.

Use of public
buildings for
referendum
meetings.

108. Subject to the provisions of this regulation, if reasonable notice is given and the normal use thereof is not interfered with, any suitable room in the premises of a school or public building in the constituency and vested in a local authority or local council in which public meetings are from time to time held, may be used at reasonable times between the date of announcement of a referendum and the day before the date fixed for the referendum by any political party for the purpose of holding public meetings. If any such room or building is so used by a political party, the political party shall pay for any damage done during a meeting to the furniture and fittings, and if required shall pay actual expenses incurred incidental to the preparation and cleaning of the room or building both before and after any meeting.

109. No person who has voted at any referendum held for the purposes of these regulations shall, in any legal proceeding arising out of the referendum be required to state how he voted.

Secrecy of ballot.

110. If any person makes any agreement or terms or enters into any undertaking in relation to the withdrawal of a petition and such agreement, terms, or undertaking is or are for the withdrawal of the petition in consideration of any payment, or that any other petition will be withdrawn and the agreement is not mentioned in any affidavit filed in support of the withdrawal of the petition, that person shall be guilty of an offence and on conviction shall be liable to a fine of one hundred pounds or to imprisonment for a term of twelve months, or to both.

Corrupt withdrawal of petition.

111.—(1) A proceeding against a person in respect of any offence to which this regulation applies shall be commenced within one year after the offence was committed, or if it was committed in reference to a referendum with respect to which a referendum petition is filed shall be commenced within one year after the offence was committed or within three months after the determination by the court whichever period last expires, so that it be commenced with two years after the offence was committed, and the time so limited shall be substituted for any limitation of time contained in any other written law.

Time limit for certain prosecutions.

(2) This regulation applies to any corrupt or illegal practice, any illegal payment, employment or hiring and any offence under regulation 105 or regulation 110.

112. Where the court at any time during the trial of a petition or for the purposes of any prosecution for an offence in relation to ballot papers is satisfied that the inspection of rejected ballot papers or the opening of any sealed packet of counterfoils relating to counted ballot papers is necessary it may, upon such terms as it thinks fit, order the supervisor in whose custody they are to produce rejected ballot papers for inspection, or to open sealed packet of counterfoils relating to counted ballot papers for such purposes as the court may require.

Order for inspection of records.

113. If the court determines on any question before it and whether or not raised by the Prime Minister, that votes cast at the referendum are void or that any question before the electors was not properly carried or rejected as the case may be, the Prime Minister may, if he considers it proper so to do, require a fresh vote to be taken for the purposes of the referendum at such later date as he may direct, and either in the whole referendum area or any particular district of the referendum area.

Power for Prime Minister to require fresh vote.

Made at Lagos this 5th day of January, 1963.

ISA KOTO,
Deputy Secretary to the
Council of Ministers