

Ministry of Health and Local Government

(The Municipal Rules)

The 11th August 1950.

[Amendment : 25.01.1957, 28.02.1958, 18.06.1989]

No.235.-In exercise of the powers conferred by sections 8 (1), 9 (2) and 18 (1) of the Municipal Act, 1898, as subsequently amended, and in supersession of Rules 5,6,7,8,9,10,11 and 12 in Chapter I and the Rules in Chapter IV of the Municipal Rules, 1934, published with the Local Government (Administrative) Department Notification No.127, dated the 9th July 1934, as subsequently amended, the President of the Union is pleased to make the following rules:-

CHAPTER I OF THE MUNICIPAL RULES.

Term of Office.

5. (1) The term of office of all elected members of a Committee shall, except where the President of the Union specially directs, be three years.
- (2) A member elected at a bye-election shall hold office until the expiry of the term of office for the other elected members fixed under the provisions of sub-rule (1).

<Amendment 25.01.1957>

Term of Office of Chairman and Vice-Chairman.

6. Subject to the provisions of sub-section (1) of section 18 of the Act, the term of office of Chairman and Vice-Chairman elected by the Committee shall, except where the President of the Union specially directs, be one year.

<Amendment 25.01.1957>

Chairman at election of Chairman and Vice Chairman of the Committee.

7. When the business before a meeting of the Committee is the election of a Chairman and a Vice-Chairman for itself no person who is a candidate for the office in question shall be eligible to preside over the meeting. If both the Chairman and Vice-Chairman are either absent or ineligible under this rule, the meeting shall elect one of the members who is present and eligible to be Chairman of the meeting.

NOTE.-The provisions of section 21 of the Act entitle the out-going Chairman of the Committee to act as Chairman of the meeting without the sense of the meeting being taken. If he is unable or unwilling or

ineligible under this rule to act, the Committee shall elect some other member as Chairman of the meeting pro tem. Where the outgoing Chairman of the Committee is in the chair, he cannot himself vote if he is not a member of the new Committee, but he can nevertheless, exercise the right of a Chairman of the meeting to give a casting vote, if the need for this should arise.

Co-option of the Senior Gazetted Officer of certain Departments. Permissible without sanction.

8. The Municipal Committees at Divisional Headquarters may co-opt either by name or by office as members of the Committees the senior Gazetted Officer stationed in the municipality of any of the following departments not exceeding four in number, and other Municipal and Town Committees may co-opt likewise two members from any of the following Departments:-

- (a) Public Health Department;
- (b) Medical Department;
- (c) Public Works Department, and
- (d) Veterinary Department or Port Trust;

provided that if no officer of gazetted status of Medical or Public Works Department respectively is stationed in the Municipality or Notified Area the Committee may co-opt-

- (i) the senior Sub-Assistant Surgeon in charge of the hospital within the Municipality or Notified Area;
- or
- (ii) the senior Overseer of the Public Works Department stationed in the Municipality or Notified Area;
- and

provided that in the case of the Committee which has its own officers with qualifications equivalent to those of the Government officers, mentioned above, it may co-opt any other suitable persons in lieu thereof.

NOTE.- The main object of this rule is to ensure that the Committees get technical advice from qualified authorities and co-operation of right persons.

Sanction required in other cases.

9. If the Committee desires to co-opt-

- (a) an officer of any of the departments specified in Rule 8 stationed in the Municipality or Notified Area who does not come within the scope of Rule 8, the prior sanction of the Commissioner shall be obtained;

(b) a Government officer of any department other than those specified in Rule 8, the prior sanction of the President of the Union shall be obtained.

Decision relating to co-option to be taken at first meeting.

10. (1) It shall be the first business of the Committee at its first meeting after a general election to decide whether it desires to co-opt members under these rules, and, if it so decides, forthwith to co-opt them, or resolve to apply for the sanction of the Commissioner or of the President of the Union under Rule 9, as the case may be.
- (2) Notwithstanding anything contained in sub-rule (1), the Committee may, subject to the provisions of its business bye-laws, co-opt members at any meeting subsequent to its first, if it decides not to co-opt members at its first meeting.

Commencement of membership after co-option when no sanction required

11. In cases where sanction of the Commissioner or of the President of the Union is not required, the co-opted members can, from the time the resolution deciding on their co-option is passed, take part in all the business of the meeting, but if they are not present the meeting shall not be adjourned to enable them to attend for the transaction of such business; provided that such co-opted members shall not be entitled to vote.

<Amendment 28.02.1958>

Commencement of membership when sanction required

12. In cases where the sanction of the Commissioner or the President of the Union is required, the co-opted persons can take part in Municipal business from the time the required sanction to their co-option has been given; provided that such co-opted persons shall not be entitled to vote.

<Amendment 28.02.1958>

CHAPTER IV.

MUNICIPAL ELECTORAL RULES.

A. Preliminary.

Definitions.

1. In these rules (except where the context otherwise requires-
- (1) “ **Authorized Agent** ” means an agent appointed by a duly authenticated special or general power of attorney.

NOTE.-See Registration Direction 48 at page 125, Registration of Deeds Manual, 1914, regarding the authentication of powers of attorney.

(2) “ **Electoral Authority** ” means (a) if any part of the Municipality or Notified Area is situated within three miles of the headquarters of a district the Deputy Commissioner or such Officer not below the rank of Extra Assistant Commissioner as he may with the sanction of the Commissioner appoint in this behalf; and (b) in all other cases the Subdivisional Officer within whose jurisdiction the Municipality or Notified Area lies. In cases of doubt or inconvenience the Commissioner may appoint any Officer not below the rank of Extra Assistant Commissioner to be the Electoral Authority.

(3) “Chairman” means “Chairman of the Municipality or Notified Area.”

(4) “**Agent**” includes an election agent and any person who, on the trial of an election petition, is held by the Judge to have acted as an agent in connection with the election with the knowledge or consent of the candidate.

1A. Every person nominated as a candidate at an election shall appoint either himself or some one other person to be his election agent.

Division into Wards.

2. The inhabitants of each Municipality or Notified Area shall be divided into wards in accordance with the table given in Appendix A to these rules.

3. The number of representatives for each ward shall be as shown in Appendix A.

Qualifications of Electors.

4. The qualifications of an elector at a Municipal election shall be-

- (1) that he is a citizen of the Union of Myanmar;
- (2) that he has been residing within a Municipality or Notified Area for at least six months immediately preceding the date of the issue of the first notice prescribed by Rule 12; and
- (3) that he is not less than eighteen years of age on the date of the issue of the first notice prescribed by Rule 12.

<Amendment 18.06.1989>

5. (1) No person shall be allowed to vote whose name is not on the Electoral Roll at the time of the election; provided that a person whose name has been ordered by the. Electoral Authority to be entered in the roll

shall be entitled to vote on his producing a certified copy of the order even though his name for want of time or other reason has not been entered in it at the time of election. Voting by proxy is not permitted.

(2) No person shall vote in more than one ward.

(3) No person shall be included in the Electoral Roll for, or vote at any election, if he is of unsound mind and stands so declared by a competent Court.

(4) No person shall be included in the Electoral Roll for, or vote at any election, if he is for the time being disqualified from voting under Chapter V of the Parliamentary Election Act, 1948, with respect to corrupt practices and other offences in connection with elections. The name of any person, who becomes so disqualified, shall forthwith, be struck off the Electoral Rolls in which it may be included.

(5) No person shall be entitled to vote at any election, if he is, for the time being, undergoing imprisonment under a sentence of any competent Court.

Qualification of Candidates for Election.

6. Subject to the exceptions set forth below a person shall be eligible to be a candidate for election if-

- (a) he is an inhabitant * of the Municipality or Notified Area;
- (b) he is registered as an elector and still retains the necessary qualification for registration as an elector;
- (c) the rates and taxes payable to the Municipal or Town Fund for which he may be liable in respect of any period (see Chapter VI, Rule 10) expiring before the publication of notice under Rule 28 are not in arrear within the meaning of Rule 20 in Chapter VI;
- (d) he can speak, read and write Myanmar.

<Amendment 18.06.1989>

Persons not eligible for Election.

7. (1) A person shall not be eligible for election as a member of a Municipal or Town Committee if such person-

- (a) is not a citizen of the Union of Myanmar; or
 - (b) having been a legal practitioner has been dismissed, or is under suspension from practising as such by order of any competent Court; or
 - (c) has been adjudged by a competent Court to be of unsound mind; or
 - (d) is under twenty-one years of age on the date of the issue of the first notice prescribed by Rule 12;
- or
- (e) is an undischarged insolvent; or

- (f) being a discharged insolvent, has not obtained from the Court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or
- (g) is an officer or servant of the Committee or of any other local body; or is a Ward Headman in the Municipality or Notified Area charged with the collection of any tax, toll or fee on behalf of the Committee; or

Provided that a person shall not be disqualified by reason of his being appointed by the Committee under section 14 of the Cattle Trespass Act, to receive reports and to sell unclaimed cattle by public auction and by reason of his receiving commission not exceeding 5 per cent out of the proceeds of such sales;

- (h) has been dismissed from the service of Government or of a local body: Provided that this disqualification may be cancelled by the President of the Union.

(2) A person against whom there is subsisting a conviction by a criminal Court involving sentence of transportation or imprisonment for a period of more than six months shall not, unless the offence for which he was convicted has been pardoned, be eligible for election for five years from the date of the expiry of his sentence.

(3) A person against whom a criminal Court has passed an order, that has not been revised on appeal or otherwise, (a) to furnish security to be of good behavior, under the provisions of the Code of Criminal Procedure, or (b) under the corresponding provisions of the Gambling Act or the Opium Act, Part II or the Myanmar Excise Act, shall not be eligible for election for five years from the date of such order.

(4) If any person is convicted of an offence under Chapter IXA or Chapter XVI or Chapter XVII of the Penal Code, punishable with imprisonment for a term exceeding six months, or is, after an inquiry held under any rules for the time being in force regarding elections to any legislature or a local body, reported guilty of a corrupt practice such person shall not be eligible for election for three years from the date of such conviction or of the report as the case may be;

Provided that any disqualification mentioned in sub-rule (1) (b) or sub-rule (2), (3) or (4) may be cancelled by the President of the Union.

<Amendment 18.06.1989>

8. No person shall be qualified as a candidate for election –

- (a) if he would, on election, be liable to be prosecuted under the provisions of section 55 of the Act; or

- (b) except with the written permission of the Commissioner, if he takes an active part in the business of any person, firm or incorporated or registered company, who or which is either directly or indirectly interested in any contract made with the Committee: Provided that he shall not be disqualified by reason only of his having any share or interest in-
- (i) any lease of land or any agreement for the same; or
 - (ii) any sale or purchase of land or any agreement for the same, for which the previous sanction of the Government has been obtained; or
 - (iii) any agreement for the loan of money or any security for the payment of money only; or
 - (iv) any newspaper in which any advertisement relating to the affairs of the Committee is inserted; or
 - (v) any stock, shares or debentures of any incorporated or registered company; or
 - (vi) any occasional sale by any person, firm or company to the Committee to a value not exceeding two thousand rupees in one year, of any articles in which such person, firm or company ordinarily trades.

9. No person shall be qualified as a candidate for election if he holds any office of profit in the service of the Union of Myanmar or of any unit.

<Amendment 18.06.1989>

B. The Roll of Electors.

Compilation of Provisional Roll.

10. (1) Not less than four months before the date fixed for the retirement of elected members, the Chairman shall direct that a Provisional Electoral Roll be compiled showing by wards, the names of all persons entitled to vote for the election of members to the Committee.

(2) The Roll shall show the address and father's name of each elector in Myanmar.

<Amendment 18.06.1989>

Publication of Provisional Roll and Notice calling for Claims and Objections.

11. Not less than three months before the date fixed for the retirement of elected members, the Chairman shall publish the Provisional Roll at the Municipal Office in a place accessible to the public at all times between the hours of 10 a.m. and 5 p.m. on all lawful days, and shall send two copies to the Electoral Authority. The Electoral Authority shall forthwith publish the Provisional Roll at his office in a place accessible to the public at all times between the hours of 10 a. m. and 5 p.m. on all lawful days.

12. (1) When the Provisional Roll is published under Rule 11, a notice shall be published by the Electoral Authority specifying the place at which and the period within which claims to be included in the Electoral Roll, of objections to any name entered in the Provisional Roll are to be preferred to the Electoral Authority.
- (2) The period prescribed in sub-rule (1) shall be not less than ten and not more than fifteen days: Provided that the Commissioner may, for good and sufficient reason to be recorded in writing, prescribe a longer period within which claims and objections may be preferred to the Electoral Authority.
- (3) Where any person desires to have a copy of the Provisional Roll or any part of it he may make application either to the Chairman or to the Electoral Authority and copies shall be supplied on payment of copying fees at such rates as may from time to time be prescribed by the President of the Union for similar documents supplied by Government offices.

Claims and Objections regarding the Provisional Roll.

13. Where objection is made to the inclusion in the Electoral Roll of any person whose name appears in the Provisional Roll, the objection shall give in respect of such person all the particulars entered in the roll.
14. The Electoral Authority may of his own motion delete or correct any entry, or make good any omission in the Provisional Roll, after issuing notice to and hearing any objections made by the person whose name is concerned in the entry, or by the Chairman of the Municipality or Notified Area as the case may be.
15. The Electoral Authority shall not entertain any claim or objection received by him after the time fixed under the provisions of Rule 12.
16. Every person whose claim or objection is received in time shall be served with a notice by the Electoral Authority specifying the place where and the time when his claim or objection will be heard, and directing him to be present with such evidence as he may wish to adduce.
17. No person shall be entitled to present an objection whose name does not appear on the Provisional Roll.
18. Any person whose name is included in the roll may apply for its exclusion from one section thereof and its inclusion in another for which he is eligible.
19. When objection is made by any person whose name is on the Provisional Roll to the inclusion of the name of any other person recorded therein, the Electoral Authority shall also serve on such other person a notice given the grounds on which objection is made to his inclusion in the roll, and requiring him to

attend with such evidence as he may wish to adduce at the place and time fixed for the hearing of the objection.

20. Every application for enrolment shall be in writing signed by the person applying to be enrolled and shall state clearly the qualification relied on.

Every applicant shall apply separately in person or by an authorized agent.

21. Every objection shall be presented by the objector in person or by his authorized agent. It shall be in writing signed by the objector, shall refer to one entry only, shall state clearly the grounds for the objection.

The objector shall append to the objection a declaration signed by him stating which statements are true to his own knowledge, and which are believed by him on information received.

22. Every notice issued by the Electoral Authority shall, if possible, be served personally and in default of personal service shall be served by affixing a copy thereof at the residence if any within the constituency of the person concerned:

Provided that a notice may be served by the Electoral Authority by sending it to the person concerned by registered post. A certificate of service, either personal or otherwise, or the receipt of the Post Office for the registered letter, shall be deemed to be conclusive proof of the fact of such service.

Enquiry into Claims and Objections.

23. (1) At the time fixed for the hearing, the Electoral Authority shall hold a summary enquiry into the claim or objection preferred, and shall record his decision, which shall, subject to the provisions of Rules 57 and 66 below, be final. For the purpose of this enquiry, the roll as published under Rule 11 shall be presumed to be correct and complete until the contrary is proved.

(2) Where an objection is not upheld the Electoral Authority may, if in his opinion the objection was either frivolous or vexatious, award costs against the objector to an amount not exceeding Rs. 10 which shall be credited to the Municipal or Town Fund.

Amendment of Roll.

24. The Electoral Authority shall communicate his decision to the Chairman, who shall, where necessary, cause the roll to be altered in accordance therewith.

Final Publication of authoritative Electoral Roll.

25. The Electoral Roll as so altered shall be published in the manner prescribed in Rule 11 by the Chairman and the Electoral Authority and subject to such amendments as may be made under the proviso to this

rule shall be the valid Electoral Roll not only for the forthcoming election but for all bye-elections in the Municipality or Notified Area until the date when the new roll is completed for the next general election: Provided that in any year in which no new Electoral Roll is prepared, any person whose name is not on the roll may at any time between the 1st March and the 1st June apply to the Revising Authority to have his name enrolled, and the Revising Authority shall after publishing the application for objections for fifteen clear days dispose of such application in the manner provided in Rules 16 to 23.

The Revising Authority shall communicate his decision under Rule 23 to the Chairman who shall, if the claim to be enrolled has been admitted, cause entry to be made in a supplementary roll which shall be published in the manner prescribed by rule 25 and shall thereupon be deemed to be a valid supplement to the Electoral Roll.

C. Nomination.

Notice calling for Nomination.

26. Not less than two months or, in the case of a bye-election, one month before the date fixed for an election, the Electoral Authority shall publish a notice setting forth the number of vacancies to be filled in each ward the date (not to be less than fourteen days, or, in the case of a bye-election, one week from the date of the publication of the notice) on which, the hours during which (not to be less than one or more than three) and the place at which he will receive nominations, and the date on which, the hours during which, and the places at which polling will take place.

A copy of Rule 27 will be appended to such notice.

27. (1) No candidate shall be nominated for more than one ward.

Contents of Nomination Paper.

(2) Each nomination paper shall nominate only one candidate and shall be signed by not less than ten and not more than twenty (or, where the roll contains less than one hundred entries, not less than five or more than ten) persons entered in the Electoral Roll of the ward concerned. Where any person signs more nomination papers than there are vacancies, his signature on all shall be deemed to be invalid.

If the candidate so desires, the nomination paper may specify the colour or symbol with which his ballot box should be marked: Provided that no candidate may select a colour or symbol previously allotted to another candidate or a symbol that is in the opinion of the Electoral Authority objectionable.

(3) On or before the date appointed for the receipt of nominations under Rule 26 each candidate shall deposit or cause to be deposited a sum of Rs. 50 in cash into the Treasury in the accounts of the

Municipal or Town Fund concerned and his nomination paper shall be accompanied by the chalan duly receipted by the Treasury. No candidate shall be deemed to be duly nominated unless such deposit has been made.

Nomination to be received in open Court.

28. For the purpose of receiving nominations the Electoral Authority shall sit in open Court. Nomination papers shall be presented in person by the candidate concerned or by his authorized agent.

Scrutiny of Nominations.

29. (1) The Electoral Authority shall on the expiry of the period fixed under Rule 26 for the receipt of nominations at once examine all the nomination papers received in due time and may return for completion or amendment and re-presentation within seven days any deficient or incorrect papers. The Electoral Authority after giving the nominee or nominator an opportunity of being heard, shall summarily decide any dispute or doubt in respect of the qualifications of the candidate, or of a nominator (and for this purpose shall be given all necessary information by the Revenue or Municipal Authorities concerned) and shall (unless it is impracticable) inform the parties concerned.

Explanation.-(1) Re-presented papers shall be scrutinized by the Electoral Authority immediately on receipt.

- (2) It is not open to a candidate to utilize the interval given by the return of defective nomination papers for amendment, for the purpose of removing a disqualification. His eligibility is adjudged on his qualifications as they stood at the time fixed under Rule 26 for the receiving of nominations.

- (3) The provisions of Rule 22 shall apply to every notice issued under sub-rule (1).

Provisional List of Nominations.

30. The Electoral Authority shall, after settling all such disputes publish, not less than twenty-one days or, in the case of a bye-election, fourteen days before the date on which polling will take place, a provisional list of all persons found by him to be duly nominated, and shall at the same time give notice that any nominator whose nomination has been rejected or any person on the roll concerned who challenges the validity of any nomination may, within seven days of such publication, make an application for a reference of the matter to the Deputy Commissioner, if the Municipality or Notified Area is one for which a Subdivisional Officer is the Electoral Authority, or to the Commissioner, if the Municipality or Notified Area is one for which the Deputy Commissioner is the Electoral Authority.

Disputes regarding Nominations.

31. An application made under Rule 30 shall be in writing addressed to the Electoral Authority and signed by the applicant. It shall be presented in person or by an authorized agent. It shall set forth the grounds on which it is claimed that the decision of the Electoral Authority is incorrect, and shall, in the case of an objector's application, be accompanied by a fee of Rs. 25, which shall forthwith be paid into the Treasury in the accounts of the Municipal or Town Fund concerned.
32. If the application is in order, the Electoral Authority shall make a reference to the Deputy Commissioner or Commissioner as the case may be stating the grounds for his decision on the matter referred. The decision of the Deputy Commissioner or Commissioner as the case may be shall be final and shall be given effect to forthwith by the Electoral Authority.
33. If an application under Rule 30 is finally rejected, the Deputy Commissioner or the Commissioner, as the case may be, may direct the forfeiture of the fee accompanying it if he considers that such application was not made in good faith. Such forfeited fees shall be credited to the Municipal or Town Fund.

Final list of valid Nominations and unopposed Returns.

34. On the decision of all disputes in respect of nomination the Electoral Authority shall publish a list of all nominations held to be valid and shall further declare, where the number of such nominations does not exceed the number of vacancies in the ward concerned, that all persons so nominated have been duly elected.

Cancelling Nominations at Candidate's own request.

35. The Electoral Authority may thereafter at any time up to and including the fourth day before the date fixed for polling, on the application of the candidate, allow the withdrawal of any nomination which has been held to be valid; and, when the remaining number of valid nominations does not exceed the number of vacancies, shall proceed as in Rule 34.
- 35A. (1) The deposit made under Rule 27 (3) shall be forfeited to the Municipal or Town Fund, as the case may be, (a) in case of withdrawal of a nomination after the expiry of seven days from the date of publication of the provisional list of nominations under Rule 30, or (b) in case a candidate fails to secure one-eighth of the total number of votes polled for the ward concerned.
- (2) After the completion of the election, the Electoral Authority shall order the return of the deposits in all other cases.

D. Polling.

Number of Polling Stations.

36. The Electoral Authority shall provide a suitable number of polling stations, and may prescribe that polling at any specified station shall be confined to voters belonging to a particular ward, particulars of such limitation being set forth in the notice issued under Rule 26.

Arrangement of Polling Stations.

37. Every station shall be so arranged as to contain an inner enclosure so guarded that it cannot be overlooked by any one, in which the ballot boxes shall be placed, each marked clearly with the name of a candidate, and if necessary with the distinctive colour or symbol mentioned in his nomination paper and approved by the Electoral Authority.

Appointment of Presiding Officer.

38. The Electoral Authority shall provide for each station a Presiding Officer (who may not be a candidate for election) and shall supply him with a copy of the final list of candidates and of the Electoral Roll of the ward concerned, and a sufficient number of voting tokens and ballot boxes, and may, if necessary, give him assistants.

Course of action when balloting disturbed.

39. The Presiding Officer shall be responsible for the correct and orderly recording of votes, and in case of any disturbance or breakdown may close the poll and report the matter for orders to the Electoral Authority. The Electoral Authority may, when the balloting is seriously interfered with by disturbances or breakdown of communications or when in his opinion the prescribed hours are insufficient for the polling of all the voters who appear, adjourn the poll from day to day till it can be carried out in as complete a manner as possible.

Ballot Boxes.

40. Every ballot box shall be so made as to contain one opening for the insertion of voting tokens too narrow for extraction of the same therefrom.

Precautions to be taken by Electoral Authority.

41. Immediately before the hour for the opening of the poll, the Electoral Authority shall inspect each station and see that the above rules have been complied with and everything is ready for polling. He shall examine the ballot boxes in the presence of the candidates or of their authorized agents to see that they comply with Rule 40 and are empty and in good condition. He shall then seal the boxes in such manner as to prevent their being opened without breaking the seals. The Electoral Authority may delegate these duties and also the duties imposed on him by Rules 48 and 49 to the most senior civil officer available.

Inviolability of Voting Enclosure.

42. (1) After inspection of the station under Rule 41 the Presiding Officer shall be responsible that no person except himself enters the voting enclosure until the time for the opening of the ballot and that thereafter (until the Electoral Authority or his delegate again visits the station after the closing of the poll) no person except himself so enters except to record his vote in accordance with these rules.
- (2) The Presiding Officer shall not enter the voting enclosure any oftener than is absolutely necessary to ensure that the ballot is being properly conducted.

Voting.

43. When any person arrives to record his vote, the Presiding Officer shall verify that his name is on the roll and that no person has already voted in his name and, if satisfied, will give him as many tokens as there are vacancies, and make a mark against the entry in the roll to show that he has presented himself to vote.
44. The Presiding Officer may, if requested by the voter to do so, explain to him what it is necessary for him to do.
45. The Presiding Officer is entitled to put to a voter any such question as he thinks fit, to satisfy himself as to his identity, and may refuse to allow any person to vote where he is not so satisfied, but shall not do so on the ground that he was not qualified to be entered on the roll.
46. The Presiding Officer is entitled to refuse to allow a person to vote where he is intoxicated or where his conduct is disorderly or where he appears incapable of understanding the nature of the transaction.
47. Every voter on receiving the voting tokens will take them into the inner enclosure and place them in the ballot boxes, either giving them all to one candidate or distributing them among the candidates as he may think fit.
48. After the hour for the closing of the poll the Presiding Officer shall not enter nor permit any one but the Electoral Authority to enter the voting enclosure.

Closing of Poll.

49. Immediately on the closing of the poll, the Electoral Authority shall visit each station and carefully seal the openings in the ballot boxes, and take into and retain in his possession all boxes and unused voting tokens.

Checking of Ballot Boxes and Votes

50. In the presence (on their request) of the candidates or their authorized agents the Electoral Authority shall examine the boxes to see that the seals are intact, and shall then open them and scrutinize the tokens, and if they are in order shall cause them to be counted under his direct and close supervision, and shall check the number with the number of tokens issued and carefully record any discrepancy.

Recounts.

51. Where a count results in two candidates, of whom one must necessarily be unsuccessful, receiving votes differing by less than 2 per cent of the higher number, the candidate with the lower number (or his authorized agent) may demand a recount.

Declaration of Candidates elected.

52. When the counting (and recounting, if any) is completed the Electoral Authority shall make out a list of candidates in order corresponding to the number of votes obtained by each. He shall declare the candidates standing at the head of the poll to be duly elected (according to the number of vacancies), and shall certify the same to the Government or the Commissioner as the case may be for notification under section 22 of the Municipal Act.

Procedure when Votes equal.

53. Where, owing to the equality of votes, it is not possible to say which candidates must be rejected, the matter shall ordinarily be settled by lot (in such a manner as the Electoral Authority decides) in the presence of such of the candidates (or their authorized agents) as present themselves:

Provided that in the event of any one of the candidates whose votes are equal objecting to the method of selection by lot a fresh election, confined only to the candidates whose votes are equal shall be held.

Cost over Elections.

54. All costs incurred in the preparation of the roll, the publication of notices, the holding of elections, or in taking any other necessary steps under the foregoing rules shall be payable from the Municipal or Town Fund.

E. Appeal, Reference and Revision.

Appeals and References.

55. (1) An appeal shall lie against any act done or order passed by the Electoral Authority prior to the commencement of polling-

- (a) if the Deputy Commissioner is the Electoral Authority to the Commissioner;
- (b) if any other Officer is the Electoral Authority to the Deputy Commissioner,

and the order of the Commissioner or Deputy Commissioner as the case may be shall be final.

(2) The Electoral Authority may, prior to the commencement of polling, refer any point arising out of any proceeding before him for the orders of the Commissioner or Deputy Commissioner as the case may be.

(3) The appellate authority constituted under this rule may, in exceptional cases, postpone the date of polling for any period not exceeding fifteen days to enable him to dispose of any appeal or reference pending before him under sub-rule (1) or sub-rule (2) of this rule.

56. An appeal preferred under Rule 55 shall be filed within seven days from the passing of the order or the doing of the act appealed against, subject to the provisions of sections 5 and 12 of the Limitation Act.

Revision.

57. The Commissioner may at any time, call for and examine the proceedings relating to any action taken by the Electoral Authority before the commencement of polling. He may also annul or modify any orders passed by the Electoral Authority other than an order which has been the subject of a reference under Rule 32 of an appeal under Rule 55 if it appears to him that such order is not in conformity with law or with any rules having the force of law. For the purpose of examining any proceeding of the Electoral Authority, the Commissioner may, in exceptional cases, postpone the commencement of polling for any period not exceeding fifteen days.

Power to Government to annul Election.

58. If in any case pending before the Commissioner or Deputy Commissioner under Rule 55 or Rule 57 the election has taken place before the Commissioner or Deputy Commissioner passes his order, and it is necessary in his view to annul the election, he shall submit the proceedings for orders, the Commissioner to the President of the Union, and the Deputy Commissioner to the Commissioner, who if he accepts the Deputy Commissioner's recommendation will submit the proceedings to the President of the Union for orders.

Restriction on Appeals and Revisions.

59. Notwithstanding anything contained in Rules 55, 56, 57 and 58 neither the Commissioner nor the Deputy Commissioner shall take any action under the aforesaid Rules 55, 56, 57 and 58 in respect of any matter on which under Rule 61 an objection may be made to the District Judge after the commencement of polling until the period of seven days laid down in Rule 60 for the filing of election petitions has expired, and he has ascertained from the District Judge that no petition has been filed before him or a subordinate

judicial officer as provided in Rule 68 relating to the matter on which it is proposed that he should take action. If any such petition has been filed, the Commissioner or Deputy Commissioner as the case may be shall take no action on the proceedings pending before him until the Judge has passed orders on the petition. He shall then refrain from examining any matter that has been determined in the orders of the Judge.

F. Election Petitions.

Filing of Petitions.

60. (1) At any time not more than seven days after the declaration of the result of the poll, any unsuccessful candidate or any six qualified electors of the ward concerned may make in writing to the District Judge an objection to the election of any candidate of the same ward upon the ground of irregularity in the election proceedings, or corrupt practices.

Provided that-

- (a) where the headquarters of the District Judge are not situated within the Municipality or Notified Area the objection may be presented to the Subdivisional Judge for transmission to the District Judge, who, if he admits the application, shall either consider it himself or transfer it for consideration to any officer exercising civil jurisdiction subordinate to himself;
- (b) no objection shall be taken under this rule to any act done or order passed by the Government or Government officer under Rules 55, 56, 57, 58 and 59;
- (c) no objection shall be taken under this rule to any act done or order passed by any Government officer against which before the commencement of polling an appeal could have been filed as provided in Rule 55, sub-rule (1) or to any entry in or omission from a roll in respect of which an objection or a claim might have been preferred under Rule 12.

The objection shall be accompanied by a deposit of one hundred rupees.

(2) The period prescribed in sub-rule (1) is subject to the provisions of section 5 of the Limitation Act.

Hearing of Objection Petitions.

61. An objection made under Rule 60 shall be considered by the District Judge or the subordinate officer as provided in that rule at a time and place of which notice shall be given to the objector and to the candidate whose election is impugned, both of whom shall be entitled to be heard in person or by their advocates.

62. The objector may be required by the said Judge to furnish within such time as the said Judge may fix, full particulars of the act complained of as invalidating the election. On the failure of the objector to furnish such particulars, the objection may be dismissed.
63. (1) The said Judge, after such enquiry as he deems necessary, shall record a finding which shall be conclusive and shall send a copy thereof to the Electoral Authority.
- (2) If in the opinion of the Judge-
- (a) the election of a returned candidate has been procured or induced or the result of the election has been materially affected by any corrupt practice; or
 - (b) any corrupt practice specified in Part I of the First Schedule to the Government of Myanmar (Corrupt Practices and Election Petitions) Order, 1936, has been committed in the interest of a returned candidate; or
 - (c) the result of the election has been materially affected by the improper reception or refusal of a vote, or by the reception of any vote, which is void, or by any non-compliance with the provisions of the Act or of any Act of the Legislature or rules relating to the election, or by any mistake in the use of any prescribed form; or
 - (d) the election has not been a free election by reason of the large number of cases in which bribery or undue influence has been exercised or committed, the election of the returned candidates shall be void.

The Electoral Authority shall forthwith declare the election of such candidate to be void and shall post such declaration in the Municipal Office.

- (3) If the Judge is of opinion that a returned candidate has been guilty by an agent other than his election agent, of any corrupt practice, but is of further opinion that-
- (a) no corrupt practice was committed at the election by the candidate or his election agent, and the corrupt practices mentioned in the report were committed contrary to the orders, and without the sanction or connivance of the candidate or his election agent;
 - (b) the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election;
 - (c) the corrupt practices mentioned in the report were of a trivial and limited character or took the form of customary hospitality which did not affect the result of the election; and

- (d) in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents, then the Judge may find that the election of the returned candidate is not void. The Electoral Authority shall then declare the election of such candidate confirmed and post such declaration in the Municipal Office.

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64. If an objection under Rule 60 is finally overruled, the said Judge may direct the forfeiture of the deposit accompanying it if he considers that such objection was not made in good faith. Such forfeited deposits shall be credited to the President of the Union.

Procedure when Election declared void.

65. If any election is declared void under Rule 63 the unsuccessful candidate who has received the largest number of votes and who has not withdrawn his name as a candidate shall be deemed to be elected, subject to the provisions of Rules 60, 61, 62 and 63, and shall be certified to the Government or the Commissioner as the case may be, for notification under section 22 of the Municipal Act: Provided that the objections if any, to his election may be made within seven days after the posting of the declaration aforesaid.

G. General Powers of the President of the Union.

66. The President of the Union may do anything, not inconsistent with these rules, which appears to him to be necessary for the proper preparation and publication of the roll or for the holding of the election.

H. Miscellaneous.

67. (1) If an election is declared void under Part F of these rules, and there is no other candidate who has received votes and who can be deemed to be elected under Rule 65 a second election to fill the vacancy shall be held. No candidate whose election has been declared to be void, save by reason only of any irregularity in the Electoral Authority's proceedings, shall stand for such second election.
- (2) If such second election be declared void, the Electoral Authority shall inform the Government or the Commissioner, as the case may be, with a view to the appointment of a person to fill the vacancy.
68. No election shall be invalidated by any delay or failure of the Electoral Authority to make any declaration required by these rules.
69. Except when otherwise expressly provided in these rules "corrupt practice" means one of the practices specified in Parts I, II and III of the First Schedule to the Government of Myanmar (Corrupt Practices and Election Petitions) Orders, 1936.

<Amendment 18.06.1989>

By order,

BA SEIN,

Secretary to the Govt. of the Union of Myanmar.

Ministry of Health and Local Government.

----- Attachment -----

[ATTACH LIST 1] 01 (Appendix A will be published later.) APPENDIX B (See Rule 63). NOTICE.

Myanmar Law Information System (MLIS)