

REPRESENTATION OF THE PEOPLE  
INSTITUTIONAL ACT

Text in force as from September 7, 2011



CENTRAL ELECTORAL COMMISSION  
2013

REPRESENTATION OF THE PEOPLE INSTITUTIONAL ACT  
(Ley Orgánica del Régimen Electoral General)

This publication has been prepared by  
MARIANO DARANAS PELÁEZ  
Legal Clerk to Spanish Parliament

Junta Electoral Central  
Carrera de San Jerónimo 36  
28071 Madrid  
[www.juntaelectoralcentral.es](http://www.juntaelectoralcentral.es)

## ARRANGEMENT OF SECTIONS

REPRESENTATION OF THE PEOPLE INSTITUTIONAL ACT.....	1
AMENDMENTS .....	7
PREAMBLE .....	9
INTRODUCTORY .....	11
PART I COMMON PROVISIONS FOR ELECTIONS BY DIRECT UNIVERSAL SUFFRAGE.....	11
Chapter I Franchise .....	11
Chapter II Eligibility .....	12
Chapter III Electoral Administration .....	14
1st Subdivision Electoral Commissions .....	14
2nd Subdivision Polling bureaus and election wards .....	19
3rd Subdivision Electoral Register Office .....	21
Chapter IV The Electoral Register.....	22
1st Subdivision Conditions and manner of registration.....	22
2nd Subdivision Compilation of the Electoral Register .....	22
3rd Subdivision Corrections in Electoral Register at election time .....	24
4th Subdivision Access to Register's data .....	24
Chapter V General requirements for the calling of elections.....	25
Chapter VI Electoral procedure .....	26
1st Subdivision Candidates' representatives before Electoral Administration.....	26
2nd Subdivision Nomination and proclamation of candidates .....	26
3rd Subdivision Petitions against proclamation of candidates and candidatures .....	28
4th Subdivision General provisions on electoral campaign .....	29
5th Subdivision Propaganda and electoral campaign events.....	29
6th Subdivision Use of publicly-owned mass-media for electoral campaign .....	31
7th Subdivision Right to demand rectification.....	34
8th Subdivision Electoral opinion polls.....	34
9th Subdivision Ballot forms and envelopes. ....	35
10th Subdivision Postal voting .....	35
11th Subdivision Election proxies and polling controllers .....	38
12th Subdivision Constitution of polling bureaus. ....	39
13th Subdivision The voting .....	40
14th Subdivision Counting of votes in polling bureaus .....	43
15th Subdivision Aggregate counting .....	45
16th Subdivision Electoral petitions .....	48
17th Subdivision General rules of procedure in election petitions.....	50
Chapter VII Election expenses and subsidies.....	50
1st Subdivision Election managers and election accounts .....	50
2nd Subdivision Financing of elections .....	51
3rd Subdivision Election expenditure.....	53
4th Subdivision Control of election accounts and allocation of subsidies .....	53
Chapter VIII Electoral offences and infringements .....	55
1st Subdivision General provisions .....	55
2nd Subdivision Electoral offences.....	55
3rd Subdivision Judicial procedure.....	58

4th Subdivision Minor electoral infringements.....	58
PART II SPECIAL PROVISIONS FOR ELECTION OF MEMBERS OF CONGRESS OF DEPUTIES AND SENATORS.....	59
Chapter I Eligibility .....	59
Chapter II Disqualifications .....	59
Chapter III Electoral system.....	62
Chapter IV Call of the election .....	64
Chapter V Election procedure .....	65
1st Subdivision Candidates' representatives before election authorities .....	65
2nd Subdivision Presentation and proclamation of candidates .....	65
3rd Subdivision Ballot papers and election envelopes .....	66
4th Subdivision Aggregate counting.....	66
Chapter VI Election expenses and subsidies.....	66
PART III SPECIAL PROVISIONS FOR MUNICIPAL ELECTIONS .....	67
Chapter I Franchise .....	67
Chapter II Eligibility.....	68
Chapter III Disqualifications .....	68
Chapter IV Electoral system .....	69
Chapter V Call of election.....	71
Chapter VI Election procedure .....	71
1st Subdivision Representatives .....	71
2nd Subdivision Nomination and proclamation of candidates .....	71
3rd Subdivision Use of mass-communication media .....	72
4th Subdivision Ballot papers and election envelopes .....	72
5th Subdivision Postal voting by residents abroad in local elections .....	73
6th Subdivision Aggregate counting.....	73
Chapter VII Election expenses and subsidies.....	73
Chapter VIII Mandate and constitution of local councils .....	74
Chapter IX Election of Mayors.....	74
PART IV SPECIAL PROVISIONS FOR ELECTION OF INSULAR COUNCILS IN THE CANARY ISLANDS .....	77
PART V SPECIAL PROVISIONS FOR ELECTION TO PROVINCIAL DEPUTATIONS .....	79
Chapter I Eligibility .....	79
Chapter II Disqualifications .....	79
Chapter III Electoral procedure.....	80
PART VI SPECIAL PROVISIONS FOR ELECTIONS TO EUROPEAN PARLIAMENT .....	82
Chapter I Franchise .....	82
Chapter II Eligibility.....	82
Chapter III Disqualifications .....	82
Chapter V Electoral system .....	83
Chapter V Call of the election .....	84
Chapter VI Electoral procedure .....	84
1st Subdivision Candidates' representatives before Electoral Administration.....	84
2nd Subdivision Presentation and proclamation of candidates.....	84
3rd Subdivision Ballot papers and voting envelopes .....	85

4th Subdivision Aggregate counting.....	86
5th Subdivision Election petitions .....	86
Chapter VII Election expenses and subsidies.....	86
ADDITIONAL PROVISIONS .....	87
TRANSITIONAL PROVISIONS .....	89
REPEALS.....	89
FINAL PROVISION.....	90



## AMENDMENTS

- IA 1/1987 Ley Orgánica (Institutional Act) 1/1987, de 2 de abril, de modificación de la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General, para la regulación de las Elecciones al Parlamento Europeo (Official Gazette n. 80, of april 3<sup>rd</sup>, 1987).
- ① *SECTS.: 1.1.C, 63.5 TO 63.7, 95.3, 96.2, 127.1, 127.2, 128.2, 131.2, 157.1, PART VI (210 TO 227), 6<sup>TH</sup> TRANS. PROV.*
- IA 8/1991 Ley Orgánica 8/1991, de 13 de marzo, de modificación de la Ley Orgánica del Régimen Electoral General (Official Gazette n. 63, of march 14, 1991. Investment errors in Official Gazette n. 65, of march 16<sup>th</sup>, 1991).
- ① *SECTS.: 9.1.B, 9.5, 9.6, 10.1.B, 10.3, 10.4, 11.1.B, 19, 27.2 TO 27.5, 31.3, 38.3 TO 38.5, 41.5, 42, 46.6, 46.7, 50.1, 62 2<sup>ND</sup> PARAGRAPH, 64.1, 64.3, 69.8, 83.1, 83.3, 83.4, 84.1, 85.1, 85.2, 86.3, 86.4, 96.5, 97.1, 97.2, 98, 99, 100.2.E, 100.3, 101.4, 103.1, 104.1, 105.3, 105.4, 106.1, 107.2, 108.1 TO 108.8, 112.2 TO 112.5, 113.2.D, 113.3, 114.2, 121, 122.2, 130, 131.2, 133.4 TO 133.6, 155.4, 157.1 TO 157.4, 159, 160, 175, 176.1, 181.1, 193, 194.1, 197, 201.2, 201.6, 201.8 TO 201.10, 212, 213, 227.1, 227.2, 2<sup>ND</sup> AD. PROV.*
- IA 6/1992 Ley Orgánica 6/1992, de 2 de noviembre, por la que se modifican los artículos 72, 73 y 141 de la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General (Official Gazette n. 264, of november 3<sup>rd</sup>, 1992).
- ① *SECTS.: 72, 73, 141.*
- IA 13/1994 Ley Orgánica 13/1994, de 30 de marzo, de modificación de la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General (Official Gazette n. 77, of march 31<sup>st</sup>, 1994).
- ① *SECTS.: 19.1. H) TO 19.1.K), 42.1 TO 42.3, 50.1, 51.2, 54.3, 55, 56.1, 56.2, 58, 96.3, 96.5, 127.2, 132.1 A 132.3, 133.4, 175.2, PART VI CHAP. I (TITLE), PART VI CHAP. II TO CHAP. VI, 210, 210 BIS, 215, 220.2, 220 BIS, 227.2 TO 227.4.*
- IA 3/1995 Ley Orgánica 3/1995, de 23 de marzo, de modificación de la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General (Official Gazette n. 71, of march 24<sup>th</sup>, 1995).
- ① *SECTS.: 19.1.B TO 19.1.L, 19.2, 24.2, 24.4, 32.3, 33.4, 33.5, 34 TO 39, 41.4, 41.5, 75.3, 85.5.*
- IA 10/1995 Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal: Repeal (Official Gazette n. 281, of november 24<sup>th</sup>, 1995. Investment errors in Official Gazette n. 54, of march 2<sup>nd</sup>, 1996).
- ① *SECT.: 137.*
- IA 1/1997 Ley Orgánica 1/1997, de 30 de mayo, de modificación de la Ley Orgánica del Régimen Electoral General para la transposición de la Directiva 94/80/CE, de Elecciones Municipales (Official Gazette n. 130, may 31<sup>st</sup>, 1997).
- ① *SECTS.: 85.1, 176.1, 177, 178.5, 187 BIS.*
- IA 3/1998 Ley Orgánica 3/1998, de 15 junio, de modificación de la Ley Orgánica del Régimen Electoral General (Official Gazette n. 143, of june 16<sup>th</sup>, 1998).
- ① *SECTS.: 5<sup>TH</sup> AD. PROV.*
- IA 8/1999 Ley Orgánica 8/1999, de 21 de abril, de modificación de la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General (BOE núm. 96, de 22 de abril de 1999).
- ① *SECTS.: 197, 197 BIS, 198, 201.7, 207.4.*
- JCC 149/2000 Sentencia (Judgement) del Tribunal Constitucional núm. 149/2000, de 1 junio 2000 (Pleno) (BOE núm. 156, suplemento, de 30 de junio de 2000).

- ① *SECTS.: 21.2.*
- IA 6/2002 Ley Orgánica 6/2002, de 27 de junio, de Partidos Políticos (BOE núm. 154, de 28 de junio de 2002). Disposición adicional segunda 2.1 y 2.2.
- ① *SECTS.: 44.4, 49.5.*
- IA 1/2003 Ley Orgánica 1/2003, de 10 de marzo, para la garantía de la democracia en los Ayuntamientos y la seguridad de los Concejales (BOE núm. 60, de 11 de marzo de 2003). Artículo 5.
- ① *SECTS.: 6.2, 39.2, 41, 46.3, 78.3, 79.1, 123.1, 127, 127 BIS, 133.4, 133.6, 134.5, 140.1.I, 140.1.J, 153.3, 175.5, 182, 183, 193.5, 201.11, 227.5, 1<sup>ST</sup>.1 AD. PROV., 6<sup>TH</sup> AD. PROV.*
- IA 16/2003 Ley Orgánica 16/2003, de 28 de noviembre, de modificación de la Ley Orgánica del Régimen Electoral General (BOE núm. 286, de 29 de noviembre de 2003).
- ① *SECTS.: 215, 220.2.*
- IA 3/2007 Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres (BOE núm. 71, de 23 de marzo de 2007). Disposición adicional segunda.
- ① *SECTS.: 44 BIS, 187.2, 201.3 2<sup>ND</sup> PARAGRAPH, 1<sup>ST</sup>.2 AD. PROV, 7<sup>TH</sup> TRANS. PROV..*
- IA 9/2007 Ley Orgánica 9/2007, de 8 de octubre, de modificación de la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General (BOE núm. 242, de 9 de octubre de 2007).
- ① *SECTS.: 24.4, 74, 87, 1<sup>ST</sup>.2 AD. PROV.*
- IA 8/2010 Ley Orgánica 8/2010, de 4 de noviembre, de modificación de la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General, y de la Ley Orgánica 2/1979, de 3 de octubre, del Tribunal Constitucional (BOE núm. 268, de 5 de noviembre de 2010).
- ① *SECTS.: 171.2 AND 172.3.*
- IA 2/2011 Ley Orgánica 2/2011, de 28 de enero, por la que se modifica la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General (BOE núm. 25, de 29 de enero de 2011).
- ① *SECTS.: 2.3, 6.1.K, 6.1.L, 6.3.E, 19.2, 21.1, 26.2, 27.3, 30.C, 31.2, 34 TO 37, 38.1, 38.2, 39, 40.1, 50.2 TO 50.4, 53, 54.1, 55.3, PART I CHAP. VI 6<sup>TH</sup> SUBDIV. (TITLE), 60, 66, 69.7, 70.4, 75, 79.5, 86.3, 87.2, 96.2, 127.2, 129, 131.1, 133.4, 133.5, 139, 1<sup>ST</sup> PARAGRAPH, 140 TO 147, 149.1, 150, 153, 155.2, 169.3, 175, 179.1, 184, 190, 193, 197.1.A, 197.1.E, 201.9, 201.10, 205.1, 205.2, 227, 1<sup>ST</sup>.2 AD. PROV, 8<sup>TH</sup> TRANS. PROV.*
- IA 3/2011 Ley Orgánica 3/2011, de 28 de enero, por la que se modifica la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General (BOE núm. 25, de 29 de enero de 2011).
- ① *SECTS.: 6.2 B), 6.4, 41.5, 44.4, 49.5, 108.4 BIS, 155.2.F, 155.5, 178.2.E, 178.3, 182.3 2<sup>ND</sup> PARAGRAPH, 203.1.E, 203.2, 209, 211.2.E, 211.3.*
- IA 7/2011 Ley Orgánica 7/2011, de 15 de julio, de modificación del artículo 160 de la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General (BOE núm. 170, de 16 de julio de 2011).
- ① *SECT.: 160.2*



Representation of the People Institutional Act  
(Official Gazette -BOE- no. 147, of June, 20th 1985.  
Investments errors in Official Gazette no. 17, of January 20, 1986.)

Text in force as from September 7, 2011

JUAN CARLOS I  
KING OF SPAIN

To all who see and understand the following,

Let it be known: That the Spanish Parliament (*Cortes Generales*) have passed and I have given My Assent to the following Act.

PREAMBLE

I

This present Representation of the People Institutional Act (*Ley Orgánica del Régimen Electoral General, in abbreviation LOREG*) is intended to provide a stable framework in which political decisions reflecting the right to vote can be taken in complete freedom. This is undoubtedly the essential aim of any electoral law in a democratic system.

Democracy can only be truly deemed to exist when the sovereignty of the people is reflected in the affairs of government. Such an Act as the present one must therefore necessarily be regarded as a fundamental step towards the consolidation of a democratic State.

The Spanish Constitution is unequivocally one of the most advanced constitutions in the Western world and it consequently lays the foundation for a mechanism enabling alternation in power to reflect the political diversity of our society, while fully preserving all other political liberties at the same time.

These principles are embodied in the present Act, which governs the procedures for giving effect to the will of the majority of the people in the different representative bodies of the Spanish State.

In this respect section 81 of the Constitution requires that an Institutional Act (*Ley Orgánica*) governing all election procedures be passed by the *Cortes Generales*.

This makes it necessary on the one hand to gather in a unified and comprehensive legal body all the various matters falling under the constitutional notion of "general electoral law" (*derecho electoral general*), and to make provision on the other hand for each of the specific electoral processes within the field of State jurisdiction.

All this requires firstly the adoption of a set of provisions to replace the Royal Decree-Act (*Real Decreto-Ley*) of 1977, still in force, which has proved adequate during the first stage of the transition of our country towards democracy. This replacement is not however a drastic change, since the very text of the Constitution had already embodied the essential elements of the electoral system laid down by the Royal Decree-Act.

Secondly this Act incorporates rules governing specific elections -already adopted by both Houses of Parliament-. In the area of local government elections, for instance, the Act basically follows the regulation laid down in Act 39/1978, still in force (as amended in Act 6/1983), by the present Parliament. The same applies to causes of ineligibility and disqualification for members of Congress and Senators in this Act, which are the same as those provided for in the Disqualifications for Members of Congress and Senators Institutional Bill, upon which there has already been a vote in both Houses.

Lastly the new electoral regulation makes its comprehensive approach by drawing on the experience of a democratic process in motion since 1977 and by adding the technical improvements that are needed to make up for the gaps that have become apparent with the consolidation of our democratic institutions.

## II

The Act is therefore inspired by this twofold purpose: to fulfill a constitutional obligation that cannot be postponed and to fulfill it with the comprehensive approach imposed by the Constitution itself.

The Representation of the People Institutional Act has been framed for the achievement of these two very aims, by drawing a fundamental division between provisions that apply generally to any elections by direct universal suffrage and those designed for the different types of political elections, as an adaptation to the peculiar features of the various electoral processes which the State must legally regulate.

The Constitution makes it a duty of the State in the first place to implement Section 23, which refers to one of the fundamental rights in the setting-up of a law-abiding State: the regulation of active and passive suffrage for all citizens, and secondly, by providing in Section 81 for a mandatory General Electoral Institutional Act, it broadens the field of activity to be covered by the State; that is to say, it makes the State's activity necessary beyond the mere guarantee of suffrage, since, as already declared by the Constitutional Court, this heading must be construed as covering the essential and nuclear elements of the electoral system.

Besides, under Section 149.1.1 of the Constitution, the State has exclusive jurisdiction legally to define the basic conditions guaranteeing equal exercise by all Spaniards of their constitutional rights, among which the right to vote, as laid down in Section 23.

The Act's approach is founded on the greatest respect for the powers of Self-Governing regional Communities, as it devises a system that can be not only developed, but also amended or replaced in many features by the Self-Governing Communities' own legislation.

The Introductory Part defines the scope of the Act, in conformity with the guiding principles in the foregoing paragraphs.

Part I, under the heading "Common provisions for elections by direct universal franchise", covers a set of chapters providing in the first place for direct implementation of Section 23 of the Constitution, for instance the first and second chapters governing the right to vote and to be a candidate. In the second place, it deals with matters which are essential elements of electoral law, e.g. some aspects of election procedure. It finally deals with election offences. The provisions in this Part are undoubtedly the hard core of the Act, an orientation point for the rest of its contents and also the basis of the Self-Governing Communities' legislative activity.

There are noteworthy innovations in this Part, among them the Electoral Register system, the regulation of electoral expenses and subsidies, the procedure for their control and the judicial guarantees for effective exercise of active and passive suffrage.

Part II contains the specific provisions for election of Members of Congress and Senators, thoroughly implementing the principles enshrined in the Constitution: definition of each province as the electoral constituency and its entitlement to a minimum initial representation, the rule of proportional representation and the set of causes of ineligibility and disqualification for Members of Congress and Senators.

On the basis of these constitutional premises, which were also taken into account in the Royal Decree-Act of 1977, the Act sets out to bring some technical corrections and improvements that can be conducive to a better functioning of the whole system.

Part III contains the specific provisions for local elections. It puts together the contents of Act 39/1978 and amendments to it by Act No. 6/1983, and it also introduces some innovations such as the possibility of and procedure for the dismissal of Mayors by Councillors, something which has already been declared lawful by the Constitutional Court.

Parts IV and V deal with elections to the Insular Councils of the Canary Islands and to Provincial Councils. The present system has been maintained in both cases.

## III

An electoral system in a democratic State must guarantee as its very nucleus the free expression of the people's sovereignty, a general freedom which is attended nowadays by a set of other liberties, such as freedom of speech, freedom of information, freedom of assembly, freedom of association, etc. The immediate effect of this Act can only be therefore to entrench the liberties referred to above, thus preventing any obstacles that may arise from the social structure from interfering with what is the peak point in the exercise of political freedom.

The framework of free access to participation in political affairs designed by this Act is an irreversible landmark of our history and the most conspicuous sign of our living together in a democratic society.

## INTRODUCTORY

### Section 1. Purpose of the Act

1. This present Act shall apply to:

- a) Elections of members of the Congress of Deputies (*Diputados*) and senators (*Senadores*) without prejudice to the provisions of Self-government Statutes for designation of the senators referred to in Section 65.9 of the Constitution;
- b) Elections of members of local assemblies and
- c) Election of members of the European Parliament.

2. It shall likewise apply in the terms provided in the First Additional Provision of this Act, to elections to the Self-governing Communities' Legislative Assemblies, as a surrogate to the Communities' legislation in this area.

① 1.c). ADDED BY SECT. 1 OF INSTITUTIONAL ACT (LEY ORGÁNICA) 1/1987, OF APRIL 2

## PART I COMMON PROVISIONS FOR ELECTIONS BY DIRECT UNIVERSAL SUFFRAGE

### CHAPTER I FRANCHISE

### Section 2. Right to vote (*Derecho de sufragio activo*)

1. All Spanish citizens of age not falling within any of the cases contemplated in the next article shall have the right to vote.
2. Exercise of said right requires prior registration in the electoral register in force on the relevant date
3. Registration in the Register of Resident Spanish Citizens shall be necessary for the exercise of the right of vote at municipal elections, including those to Canarian Councils, Insular Councils, the Valley of Aran General Council and General Assemblies.

① 2.3. ADDED BY INSTITUTIONAL ACT 2/2011, OF JANUARY 28.

### Section 3. Disenfranchisement

1. The following have no right to vote:

- a) Persons convicted by a final court's decision to forfeiture of the right to vote as the main or as an accessory penalty during the term of the conviction.
- b) Persons pronounced incapable by a final judicial decision, provided said decision specifically declares the incapacity for the exercise of suffrage.
- c) Persons residing in a mental hospital by authorization of a court, where the court explicitly declares in said authorization the subject's incapacity to exercise his right to vote.

2. For the purposes of this section, the courts or tribunals having jurisdiction for declaring incapacity or enforced residence in a mental hospital must specifically pronounce on the subject's incapacity to exercise his right to vote, and if such is the case, they shall so notify the Civil Register for entry of the relevant note.

### Section 4. Exercise of suffrage

1. The right to vote shall be exercised personally at the election ward where the elector is entered in the electoral register and before the voting bureau.
2. No one may vote more than once at the same election.

## Section 5. No compulsion for exercise of suffrage

No one can be compelled or coerced under any circumstances to exercise his right to vote nor to disclose his vote.

## CHAPTER II ELIGIBILITY

### Section 6. Passive franchise

1. All Spanish citizens of age having the legal capacity to vote are eligible, provided they do not fall within any of the following causes of ineligibility:

- a) Members of the Spanish Royal Family included in the Civil Register created by Royal Decree 2917/1981, of November 27, as well as their spouses;
- b) The Presidents of the Constitutional Court, of the Supreme Court, of the Council of State, of the Auditing Court and of the Council referred to in Section 131.2 of the Constitution;
- c) Judges of the Constitutional Court, members of the General Judiciary Council (*Consejo General del Poder Judicial*), Standing Councillors of State and members of the Auditing Court;
- d) The Ombudsman (*Defensor del Pueblo*);
- e) The State's Attorney-General;
- f) Undersecretaries, Secretaries-General, Directors-General of Ministries and departments with equivalent *status* and, in particular, Directors of the Prime Minister's Cabinet and Directors of Ministers' and State Secretaries' Cabinets;
- g) Accredited Heads of diplomatic Missions with official residence in a foreign State or in an international organization.
- h) Higher judges, judges and public prosecutors in active service;
- i) Professional and reserve military officers as well as members in general of Armed Forces and Security and Police Corps in active service;
- j) Chairmen, members and secretaries of Electoral Commissions;
- k) Government's Delegates in Self-governing Communities, Deputy-delegates and similar authorities with a different territorial jurisdiction;
- l) The Chairman of the Radio and Television Authority (*RTVE*) and of companies belonging to said Authority;
- m) Presidents, Directors and similar officers of autonomous state organizations with a responsibility all over the national territory, as well as the respective Government's Delegates;
- n) Presidents and Directors-General of Social Security Managing Boards with responsibility for the whole national territory;
- o) The Director of the Electoral Register Office;
- p) The Governor and the Deputy-Governor of the Bank of Spain and the Presidents and Directors of the Official Credit Institute and all other official credit bodies, and
- q) The Chair, councillors and Secretary-General of General Council Nuclear Security Council.

2. The following are also ineligible:

- a) Persons sentenced to imprisonment by a final court's decision, for the term of their conviction.
- b) Persons convicted, even if judgment is not yet final, for rebellion, terrorism or other offences against the State where the judgment has imposed the penalty of forfeiture of eligibility according to criminal law or the penalty of total or specific disqualification or suspension from public office in the terms laid down by criminal law statutes.

3. The following are ineligible during their tenure of office in constituencies within the whole or part of their respective area of jurisdiction:

- a) Persons discharging the highest level functions of each Ministry in the different territorial divisions below the area of the State.
- b) Chairmen, directors and similar officers of autonomous organizations with a limited territorial jurisdiction, as well as Government's delegates in those organizations.
- c) Territorial delegates of the Radio and Television Authority and Directors of Television Stations reporting to Self-governing Communities.
- d) Chairmen and directors of the Social Security's regional or provincial management boards.
- e) Secretaries-general of Government's Delegations and Subdelegations.
- f) Provincial Delegates of the Electoral Register Office.

4. Causes for ineligibility shall also be causes for disqualification (*incompatibilidad*). The latter shall be governed by the legal provisions for each type of election.

Disqualification also applies to persons elected in lists of candidates presented by parties, federations or electors' groupings that are pronounced as illegal at a later day by a final judicial decision, as well as to persons elected in lists of candidates submitted by electors' groupings directly connected to a party pronounced illegal by a court's final decision. Disqualification takes effect within fifteen natural days from notification by the permanent election authority of the cause for disqualification to the persons concerned, unless these persons voluntarily make before said authority a statement clearly and unmistakably disavowing and repudiating the causes that have led to the pronouncement as illegal of the party, the federation or the electoral grouping in whose list those persons have been elected, or, as the case may be, of the party to which said electors' grouping has declared its allegiance.

If during the discharge of the mandate gained on the basis of the statement contemplated in the foregoing paragraph the person so elected withdraws in any way said declaration or appears to adopt by deed, omission or publicly expressed opinion a contrary course of behaviour, he is deemed to have irretrievably incurred the cause for disqualification referred to in this present subsection. The disqualification shall take effect from the notification made to this end by the permanent election authority either directly or, on the Government's request, through the State's Advocate or the Public Prosecutor's Office.

In cases contemplated in the two foregoing paragraphs the person concerned and also the Government through the State's Advocate and the Public Prosecutor's Office may lodge an appeal before the special Section of the Supreme Court set up in Section 61 of the Judicial Power's Institutional Act, within the terms laid down in Section 49 of this present Act.

The same disqualifications apply, once a political formation has been pronounced illegal, to members of the list of said formation, including their alternates, who were to take the seats that have thus become vacant.

- ① 1.K) AS AMENDED BY INSTITUTIONAL ACT 2/2011, OF JANUARY 28
- ① 1.L) AS AMENDED BY SAID INSTITUTIONAL ACT 2/2011, OF JANUARY 28
- ① SECT. 2 AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003 OF MARCH 10
- ① 2. B) AS AMENDED BY SAID INSTITUTIONAL ACT 1/2003, OF MARCH 10
- ① 3.E) AS AMENDED BY SAID INSTITUTIONAL ACT 3/2003, OF MARCH 10
- ① SECT. 4 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 3/2011, OF MARCH 24

## Section 7. Declaration of ineligibility

1. Persons falling within one of the causes listed in the preceding section shall be declared ineligible on the very date of their candidacy or at any later time before the holding of the election.

2. Notwithstanding the foregoing, persons wishing to be proclaimed candidates but not included in the electoral register may be proclaimed provided they produce with their application sufficient proof that they meet all necessary conditions.

3. Higher courts' judges, ordinary judges and public prosecutors, as well as professional and reserve military officers and members in active service of Armed Forces and Security and Police Corps who intend to stand as candidates, shall request to be transferred to the corresponding non-active position.

4. Higher courts' judges, ordinary judges, public prosecutors, members of Armed Forces and of Security and Police Corps in active service shall in any case keep their rank and their position, in the terms laid down by the relevant regulations. If elected they may keep if they so wish their non-active position, upon expiry of their mandate, until the constitution of the new parliamentary assembly or local council.

### CHAPTER III ELECTORAL ADMINISTRATION (ADMINISTRACIÓN ELECTORAL)

#### 1ST SUBDIVISION ELECTORAL COMMISSIONS

##### Section 8. Electoral Commissions (Juntas Electorales)

1. The Electoral Administration shall be responsible for ensuring as provided for in this Act the transparency and objectivity of the election process and of the principle of equality.
2. The Electoral Administration consists of the Central, Provincial and Judiciary District and, as the case may be, Self-governing Communities' Electoral Commissions, as well as of voting bureaus.
3. The Central Electoral Commission shall have its seat in Madrid. Provincial Electoral Commissions shall be based in province capital cities and those of Judiciary Districts in the main localities of judiciary districts referred to in subsection 6 below.
4. The Electoral Commissions of the cities of Ceuta and Melilla shall also discharge the functions of Provincial Electoral Commissions in their respective districts.
5. Electoral Commissions shall hold their meetings in their respective seat or, failing this, at the place where their secretaries discharge their functions.
6. For the purposes of this Act judiciary districts are the same as those for the local elections in 1979.

##### Section 9. Central Electoral Commission (*Junta Electoral Central*)

1. The Central Electoral Commission is a permanent body consisting of:
  - a) Eight judges of the Supreme Court, designated by lot by the General Judiciary Council.
  - b) Five University professors of Law, Political Science or Social Science (Sociología) in active service, appointed on a joint proposal by parties, federations, coalitions or electors' groups represented in the House of Congress.
2. Appointments referred to in the preceding subsection shall be made in the ninety days following the constituent meeting of the Congress of Deputies. Where there has been no such proposal for persons referred to in paragraph a) within said time limit, the Bureau of the Congress of Deputies, after having heard the political groups of the House, shall designate those persons, taking into account the proportional representation of said groups in Congress.
3. Members so designated shall be appointed by Royal Decree and remain in office until the inauguration of the new Central Electoral Commission at the beginning of the next Parliament.
4. Members shall in turn choose from those belonging to the judicial sector the President and the Vicepresident of the Commission at the constituent meeting thereof, which shall be duly convened by the Secretary.
5. The Chairman of the Central Electoral Commission shall exclusively perform the Electoral Commission's functions from the call of the electoral process until the proclamation of duly elected candidates and, should the case arise, until the execution of judgments on election petitions, including human rights petitions contemplated in Sect. 114.2 of this Act, in connection with said electoral process. The General Judiciary Council shall take the necessary measures to this end.
6. The Secretary of the Central Electoral Commission shall be the Secretary-General of the Congress of Deputies.

① 1.B) AS AMENDED BY SECT. 1 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

① 5 AS AMENDED BY SECT. 3 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

① 6. RENUMBERED BY SECT. 3 OF INSTITUTIONAL ACT 8/1991. FORMER SUBS. 5

## Section 10.- Provincial Electoral Commissions (Juntas Electorales Provinciales)

1. Provincial Electoral Commissions shall consist of:

a) Three members among judges of the respective High Council, appointed by lot by the General Judiciary Council. Where there is not a sufficient number of judges in said High Provincial Court, judges from the one-person tribunals of the capital city shall be appointed in the necessary number.

b) Two members appointed by the Central Electoral Commission among Senior Professors and Professors of Law, Political Science or Social Science or lawyers of acknowledged prestige residing in the province. Their appointment shall take place once candidates have been officially announced. To this end the representatives of candidates standing for the district shall jointly nominate the persons who are to discharge these functions. If no such nomination has not been put forward before the beginning of the election campaign, the Central Electoral Commission shall proceed to the appointments.

2. Members referred to in subsection 1 a) of this present Section shall choose one of them as President of the Commission.

3. The Chairmen of Provincial Electoral Committees shall exclusively perform the functions pertaining to their respective Electoral Commission from the calling of the electoral process until the proclamation of duly elected candidates and, should the case arise, until the execution of judgments on election petitions, including human rights appeals contemplated in Sect. 114.2 of this Act, in connection with the electoral process in their constituency. In the latter case, the term provided for in Sect. 15.2 of this Act shall be extended for so long as necessary and the General Judiciary Council shall take all necessary steps.

4. The Secretary of the Provincial Electoral Commission shall be the Secretary of the corresponding Provincial High Court and, where there are more than one, the first by order of seniority.

① 1.B) AS AMENDED BY SECT. 4 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

① 3. AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

① 4. RENUMBERED BY SECT. 6 OF SAID INSTITUTIONAL ACT 8/1991, OF MARCH 1. FORMER SUBS.

3

## Section 11. Judiciary District Electoral Commissions (Juntas Electorales de Zona)

1. Judiciary District Electoral Commissions shall consist of:

a) Three members, appointed by lot among first-instance civil or criminal investigation judges by the Inner Administration Chamber (*Sala de Gobierno*) of the corresponding High Court of Justice. Where there are not enough judges in the relevant judicial district, Judges of the Peace of said district shall be appointed instead, also by lot.

b) Two members among Law, Political Science and Social Science graduates residing in the judiciary district. Their appointment shall take place on the official announcement of candidates, to which end the representatives of candidates standing for the respective constituency shall jointly nominate the persons who are to discharge this function. If no such nomination has been put forward before the beginning of the election campaign, the Provincial Electoral Commission shall make the appointment.

2. Members referred to in subsection 1, paragraph 1a), of this Section shall choose among themselves the Chairman of the Judiciary District Commission.

3. The Clerk of the corresponding civil First Instance Court or, when there is more than one such Court, the Clerk of the Senior Court shall act as Secretary of the Judiciary District Electoral Commission.

4. Secretaries of city councils shall be the delegates of Judiciary District Electoral Commissions and act under direct subordination to them.

① 1.B) AS AMENDED BY SECT. 7 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

## Section 12. Right to speak but not to vote in Electoral Commissions

1. The Director of the Electoral Register Office and Provincial Delegates thereof shall have the right to speak, but no right to vote at the Central Electoral Commission and at the respective Provincial Commission.
2. Secretaries of Electoral Commissions may speak but not vote in deliberations thereof and shall be responsible for the custody in their respective office of all documents pertaining to the Commission.

## Section 13. Cooperation of Electoral Commissions with public authorities

1. Both Houses of Parliament shall make available to the Central Electoral Commission all personal and material resources necessary for the discharge of its duties.
2. The same obligation extends to the Government and to city councils in relation with Provincial and Judiciary District Electoral Commissions and on a surrogate capacity to Provincial Courts and to courts with a smaller area of jurisdiction. For elections to Legislative Assemblies of Self-governing Communities this obligation also applies to the regional Government.

## Section 14. Constitution of Provincial and Judiciary District Electoral Commissions

1. Provincial and Judiciary District Electoral Commissions shall be initially constituted by their member judges on the third day following the call of the election.
2. Where one of the members appointed to said Commissions wishes to stand as a candidate he shall notify the Secretary of the Commission at the initial constitution thereof so that he may be replaced within four days at the latest.
3. After the replacements, if any, contemplated in the preceding subsection the Commissions shall proceed to election of a Chairman. The Chairmen of Provincial and Judicial District Commissions shall thereupon cause the full list of members thereof to be published on the following day in the respective Provincial Official Gazette (*Boletín Oficial de la Provincia*).
4. Said Commissions shall be convened by their Secretary for their constituent meeting, to which end the General Judiciary Council or, as the case may be, the Chairman of the relevant Provincial Court, shall communicate to each of them the full list of members of the respective Commission.

## Section 15. Call of more than one election on the same day

1. Where several elections are called on the same day, Provincial and Judiciary District Commissions to be constituted on such occasion shall have jurisdiction for all those elections.
2. The mandate of Provincial and Judiciary District Commissions shall expire one hundred days after the election.
3. Should another election be called during their mandate, the Commissions' competence shall be deemed as extended until one hundred days after the holding of said election.

## Section 16. Fixity of tenure of Electoral Commissions' members

1. Members of Electoral Commissions may not be removed from office.
2. They may only be suspended for criminal offences or electoral contraventions, on a procedure previously initiated by the higher ranking Commission, by an absolute majority's decision of said Commission, and without prejudice to any applicable judicial proceedings.
3. The Central Electoral Commission shall have jurisdiction under the same circumstances for suspension of its own members.

## Section 17. Replacement of Electoral Commissions' members

In cases contemplated by Sections 14 and 16, as well as in the event of a resignation duly motivated and accepted by the respective Chairman, members shall be replaced according to the following rules:

- a) Members and Chairmen shall be replaced by the same procedure as for their appointment;



- b) The Clerk of the Congress of Deputies shall be replaced by the Head Clerk of the Senate or, as the case may be, by the most senior Clerk of Parliament, and
- c) Provincial and Judiciary District Commissions' Secretaries shall be replaced according to the seniority principle.

### Section 18. Meetings of Electoral Commissions

1. Meetings of Electoral Commissions shall be convened *ex officio* by the respective Chairman or at the request of two members. The Secretary shall deputize for the Chairman in the discharge of this function where the Chairman is unable to act for a justified reason.
2. For a meeting to be valid three at least of the Provincial or Judiciary District Commission's members must be present. For a Central Electoral Commission's meeting the presence of seven at least of its members is required.
3. All summonses shall be issued by whatever means ensuring that reception thereof, date of meeting, agenda and other particulars of the proposed meeting are duly established. Members of the Commission who have been duly summoned must attend and are liable to prosecution for in attendance without having given a justifiable reason in time.
4. Notwithstanding the preceding subsections a Commission shall be deemed to be duly convened and validly constituted to deal with any matter if all members are present and unanimously agree to hold the meeting.
5. Decisions shall be taken a majority of members present. The Chairman shall have a casting vote in the event of a tie.
6. The Chairmen of Electoral Commissions shall cause their decisions, as well as the contents of the consultations answered, to be made public where the general nature thereof makes it advisable.

Publication shall take place in the State's Official Gazette in the case of the Central Electoral Commissions and in the respective Provincial Official Gazette in all other cases.

### Section 19. Functions of Central Electoral Commission

1. In addition to the functions explicitly set out in this Act, the Central Electoral Commission shall have the following responsibilities:
  - a) To conduct and supervise the activity of the Electoral Register Office;
  - b) To make a report on all draft provisions to be issued in relation to the electoral register for the implementation and the application of this Act;
  - c) To issue binding instructions to Provincial Electoral Commissions and, as the case may be, to Self-governing Communities on any matter relating to elections;
  - d) To determine with a binding effect all consultations submitted to it by Provincial Electoral Commissions and, as the case may be, by Self-governing Communities;
  - e) To revoke *ex officio* at any time or at a party's request, within the time limits set out in Section 21 of this Act, any decisions of Provincial Electoral Commissions or, as the case may be, of the respective Self-governing Community, where such decisions run counter to the interpretation of electoral rules laid down by the Central Electoral Commission itself;
  - f) To unify interpretation criteria of Provincial Electoral Commissions or, as the case may be, of Self-governing Communities in the application of election rules;
  - g) To approve on a proposal by the State Administration or by the Administration of Self-governing Communities, the model minutes of constitution of polling Bureaus, of counting operations, of sittings, the general count and of proclamation of elected candidates. Said models must allow instant issue of copies of the minutes through self-copying documents and by similar procedures;
  - h) To determine all claims, complaints and petitions submitted to it under this Act or any other provision enabling it to such determination;
  - i) To ensure compliance with provisions relating to accounts and to election expenses in the period between call of the election and the hundredth day after polling date;

- j) To exert disciplinary powers on any persons officially taking part in election proceedings;
- k) To punish all violations committed during the election process other than those constituting a criminal offence and to impose fines up to the maximum amount laid down in this Act, and
- l) To issue their credentials to members of Congress of Deputies, Senators, local councillors, provincial councillors and insular councillors in case of vacancy for death, incapacity or resignation, after expiry of the mandate of Provincial or Judiciary District Commissions.

2. In addition to responsibilities explicitly set out in this Act, Provincial and Judiciary District Electoral Commissions shall perform within their territorial jurisdiction the functions entrusted to the Central Electoral Commission by paragraphs h), j) and k) of subsection 1 above. The power to impose fines shall be limited to a maximum amount of 1,200 (one-thousand two-hundred Euros) for Provincial Commissions and 600 (six hundred Euros) for Judiciary District Commissions.

3. Provincial Electoral Commissions may equally, within the higher criteria of the Central Electoral Commission:

- a) Issue binding instructions to Judiciary District Electoral Commissions on any electoral matter.
- b) Determine with a binding effect consultations submitted to it by Judiciary District Commissions.
- c) Annul *ex officio* at any time or at an interested party's request within the time limits set out in Section 21 of this Act, any decisions of Judiciary District Commissions that are contrary to the interpretation laid down by the corresponding Provincial Electoral Commission.
- d) Unify Judiciary District Commissions' interpretation criteria on any electoral issue.

4. Judiciary District Commissions shall ensure the existence in every polling Bureau of the election equipment referred to in Section 8 of this Act.

5. In the event of non-payment of the fines contemplated in this Section the relevant Electoral Commission shall forward to the appropriate division of the Ministry of Economy and Finance a certificate of said non-payment for coercive recovery of the fine.

① *SECT. 19 AS AMENDED BY SECT. 8 OF INSTITUTIONAL ACT 8/1001, OF MARCH 13*

① *1.B) AS AMENDED BY SECT. 1 OF INSTITUTIONAL ACT 3/1995, OF MARCH 23*

① *1.C) TO 1.L) RENUMBERED BY SECT. 1 OF SAID INSTITUTIONAL ACT. FORMERLY 1.B) TO 1. K) RESPECTIVELY*

① *2. AS AMENDED BY SECT. 5 OF INST. ACTS 3/1995, OF MARCH 23 AND 2/2011, OF JANUARY 28*

## Section 20. Consultations to Electoral Commissions

Electors must address their consultations to the Judiciary District Commission corresponding to their place of residence.

Political parties, coalitions or federations and electors' groupings may submit consultations to the Central Electoral Commission about general questions that may concern more than one Provincial Electoral Commission. In all other cases consultations are to be submitted to the Provincial or Judiciary District Electoral Commission whose area of jurisdiction includes the operation territory of the organization submitting the consultation.

Public authorities and assemblies may directly consult the Commission whose area of jurisdiction includes the territory of said authorities or assemblies.

Consultations shall be submitted in writing and resolved by the relevant Commission, unless the Commission, in view of their significance or because in its opinion they should be determined with a comprehensive criterion, decides to forward them to a higher Commission.

Where the urgent nature of a consultation makes it impossible to convene the Commission and whenever there are former and concurring decisions of the Commission itself or of a higher Commission, the Chairman may issue under his own responsibility a provisional reply, pending ratification or alteration thereof at the next meeting of the Commission.

## Section 21. Revision of Provincial, Judiciary District and Self-Governing Communities' Electoral Commissions

1. Except where a specific procedure for appeal to the courts is provided for by this present Act, decisions of Provincial and Judiciary District Commissions and, as the case may be, of Self-governing Communities are subject to appeal before the next higher-ranking Commission, which shall determine the issue within five days during the election period and within ten days at any other time, from lodging of the appeal in either case.

2. Appeals must be submitted within the twenty-four hours following notification of the decision before the Commission responsible for said decision. The Commission shall within forty-eight hours forward its report to the Commission which is to determine the appeal. There shall be no administrative or judicial appeal against the latter Commission's decision<sup>1</sup>.

① 1. AS AMENDED BY SECT. 6 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

## Section 22. Remuneration of members of the Central Electoral Commission

1. Parliament shall determine the daily allowances and bonuses payable to members of the Central Electoral Commission and to the staff attached to it.

2. Daily allowances and bonuses to members of all other Electoral Commissions and their staff shall be fixed by the Government. Provided that in the event of elections to Legislative Assemblies of Self-governing Communities said compensations shall be determined by the respective regional Government, for the Community's Electoral Commission as well as for lower-ranking Commissions.

3. Said remunerations shall be compatible in any case with the respective salary.

4. Financial monitoring of said remunerations shall be conducted in accordance with legislation in force.

## 2ND SUBDIVISION POLLING BUREAUS AND ELECTION WARDS

### Section 23. Polling bureaus and election wards

1. Every constituency shall be divided into election wards (*Secciones Electorales*).

2. Each ward shall comprise a maximum of two thousand and a minimum of five hundred electors. Provided that every municipal community shall have at least one election ward.

3. No ward may comprise areas belonging to different municipalities.

4. Electors of each election ward shall be placed in the election lists by alphabetical order.

5. There shall be at least one polling bureau (*Mesa Electoral*) in every election ward

6. Notwithstanding the foregoing subsections, where the number of electors in a ward or the territorial distribution or local population makes it advisable, the Provincial Delegation of the Electoral Register Office may, on a proposal by the respective city council, provide for the constitution of other bureaus and share out among them the electorate of the ward. In the first case the ward electors shall be allotted by alphabetical order to the different polling bureaus, which shall be preferably located in separate halls inside the same building. In the event of a scattered population said distribution shall be made on the basis of the least possible distance between the elector's place of residence and the corresponding bureau. Provided that in no case the number of electors allotted to each bureau shall be less than two hundred.

### Section 24. Constitution of election wards and polling bureaus

1. Provincial Delegations of the Electoral Register Office shall fix the number, the territorial limits of election wards, the respective premises and polling bureaus, after having heard the city councils concerned.

2. The list of wards, polling stations and polling bureaus belonging to each ward shall be published in the Provincial Official Gazette on the sixth day following the call of the election and shall also be posted for public view in the corresponding local council.

---

<sup>1</sup> The words "or judicial" were declared unconstitutional by Decision 149/2000 (June 1) of the Constitutional Court. An appeal can also therefore be lodged with the appropriate courts of justice.

3. Electors may within the six following days file petitions against the boundaries so determined before the Provincial Electoral Commission, who shall make a final decision within the next five days.

4. The final list of wards, polling bureaux and polling stations shall be published on Internet and posted for public view in the corresponding local councils within the ten days preceding the polling day.

5. City councils must adequately signpost the premises corresponding to each election ward and polling bureau.

- ① 2. AS AMENDED BY SECT. 2.1. OF INSTITUTIONAL ACT 3/1995, OF MARCH 23
- ① 4. AS AMENDED BY SECT. 1 OF INSTITUTIONAL ACT 9/2007, OF OCTOBER 8

### Section 25. Membership of polling bureaux

1. Every polling bureau shall consist of a presiding officer (*Presidente*) and two members (*vocales*).

2. Where there is more than one election on the same date, the polling bureau shall be the same for all of them.

### Section 26. Setting-up of polling bureaux

1. Polling bureaux shall be set up by city councils under the supervision of Judiciary District Electoral Commissions.

2. The presiding officer and members of each bureau shall be publicly designated by lot among all persons registered in the corresponding election ward provided they are under seventy years of age and they can read and write. Those older than sixty-five may however publicly excuse themselves within the next seven days. The presiding officer shall be a grammar school or second-degree professional training graduate or, failing this, have a primary school qualification or an equivalent one.

3. The same procedure shall be followed for designation of the two substitutes for each member of the bureau.

4. The drawings of lots contemplated above shall be carried out between the twenty-fifth and twenty-ninth days after the call of the election.

- ① 2. AS AMENDED BY SECT. 7 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

### Section 27. Presiding officer and members of polling bureaux

1. The functions of presiding officer and member of polling bureaux are compulsory. Provided that they may not be discharged by persons standing as candidates.

2. The appointment of presiding officers and members of polling station bureaux shall be notified to the appointees within the following three days. Upon receipt of said notification appointees shall also receive for the discharge of their duties a handbook of instructions duly supervised by the Central Electoral Commission and approved by a decision of the relevant Self-Governing Community' regional Government.

3. Laymen appointed as presiding officer or members of polling station bureaux may within seven days lay before the Judiciary District Electoral Commission a reasonable and duly documented statement of the causes that prevent them from accepting the appointment. The Commission shall adopt within the five following days a resolution against which there shall be no appeal and, where appropriate, duly notify the appellant's replacement to the first substitute. Ineligibility under the provisions of this present Act shall be in any case a justified cause for non-acceptance. The exercise by Judiciary District Electoral Commissions of their functions shall in any case be deemed without prejudice to the Central Electoral Commission's powers to unify interpretation criteria.

4. If at a later time one of the persons so appointed is unable to report for discharging his functions, he must so notify the Judiciary District Commission and furnish it with the adequate justification within seventy-two hours at least before the beginning of the event he was to attend. Should the cause of incapacity arise after expiry of said term, the Commission must be immediately notified and in any case before the time at which the Bureau is to be constituted. In this case the Commission shall inform the corresponding substitute member if there is enough time to do so and shall, if necessary, appoint another person.

5. For the purposes of Section 101 of this Act Judiciary District Electoral Commissions shall notify to the relevant judges before the polling day the identification data of the persons, both full members and substitutes, composing the bureaus.

- ① 2. AS AMENDED BY SECT. 9 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13
- ① 3. AS AMENDED BY SECT. 8 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28
- ① 4. AND 5, RENUMBERED BY SECT. 10 OF INSTITUTIONAL ACT 8/1991. FORMER 3. AND 4. RESPECTIVELY

### Section 28. Workers and civil servants as members of polling bureaus

1. Employed workers and civil servants appointed as presiding officers or members of polling bureaus are entitled to payment of a full-day work during polling day, and are also entitled in any case to a five-hour reduction of their working time on the day following the poll.
2. The daily allowances, if any, of presiding officers and members of polling bureaus shall be laid down by a Ministerial Order.

## 3RD SUBDIVISION ELECTORAL REGISTER OFFICE (OFICINA DEL CENSO ELECTORAL)

### Section 29. Electoral Register Office

1. The Electoral Register Office within the National Statistical Institute is the body responsible for compiling the electoral register. It shall discharge its functions under the direction and supervision of the Central Electoral Commission.
2. The Electoral Register Office shall have a Delegation in every province.
3. City councils and Consulates shall cooperate with the Electoral Register Office in the compilation of the electoral register.

### Section 30. Functions of the Electoral Register Office

1. The Electoral Register Office shall be responsible for:
  - a) Coordinating the process of formation of the electoral register, with a power in this capacity of giving instructions to city councils and consulates, as well as to officers of the Civil Register and of the Register of Convicts and Persons at Large.
  - b) Supervising compilation of the electoral register, for which purpose it shall be empowered to inspect city councils and consulates.
  - c) Controlling and supervising *ex officio* all entries and cancellations made by the competent authorities and drawing up a national card index of elector. To this end it shall notify to the Central Electoral Commission the results of reports, inspections and, whenever this is the case, of the administrative proceedings it may have instituted about any alterations in the registers of the constituencies that have caused a significant and unjustified change in the residents' number.
  - d) Deleting multiple registrations of one elector that have not been detected by city councils or consulates, in the conditions laid down in Section 33.
  - e) Drawing up provisional and final election lists.
  - f) Adjudicating petitions against acts of the authorities taking part in electoral register operations and in particular those raised on account of undue exclusion or inclusion of any person in the election lists. The adjudication shall close the administrative stage of petitions procedure.

- ① 1. c) AS AMENDED BY SECT. 9 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

CHAPTER IV  
THE ELECTORAL REGISTER (*EL CENSO ELECTORAL*)

1ST SUBDIVISION  
CONDITIONS AND MANNER OF REGISTRATION

**Section 31. Registration in the Electoral Register**

1. The Electoral Register shall contain the names of all persons who satisfy the conditions for being an elector and are not deprived, either temporarily or permanently, of their right to vote.
2. The Electoral Register shall consist of the register of electors residing in Spain and of the Register of absent-resident electors living abroad.
3. There shall only one Electoral Register for all kinds of elections, without prejudice to extension thereof for local government and European Parliament elections, in accordance with Sections 176 and 210 of this Institutional Act.

- ① 2. AS AMENDED BY SECT. 10 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28
- ① 3. AS AMENDED BY SECT. 11 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

**Section 32. Contents and procedure of registration**

1. Registration in the Electoral Register is compulsory. Without prejudice to Section 85, and in addition to name and surnames, the only necessary data for identification of electors at the moment of the poll, it shall include among the other registration particulars the number of the National Identity Card (*Documento Nacional de Identidad*).
2. City councils shall proceed *ex officio* to registration of persons residing within their boundaries.
3. Consulates with diplomatic status and consular divisions of Diplomatic Representations shall proceed *ex officio* to the registration of Spanish nationals residing in their respective area of jurisdiction in the manner provided for by the law.

- ① 3. AS AMENDED BY SECT. 3 OF INSTITUTIONAL ACT 3/1995, OF MARCH 23

**Section 33. Territorial sections of Electoral Register**

1. The Electoral Register shall be arranged in territorial wards.
2. Each elector is to be registered in a particular ward. No one may be registered in more than one ward or more than once in the same ward.
3. Where an elector is registered more than once, the last entry shall prevail and the other ones shall be cancelled. If the entries bear the same date, the elector shall be notified of the fact so that he may choose one of them within the following ten days. In default thereof the relevant authority shall decide *ex officio* which entry shall prevail.
4. Except as provided in the preceding subsection, entries shall be kept unaltered unless personal data or particulars of the elector concerned have demonstrably changed.
5. Alterations made pursuant to the foregoing subsections shall be immediately notified to the elector concerned.

- ① 4. AS AMENDED BY SECT. 4.1. OF INSTITUTIONAL ACT 3/1995, OF MARCH 23
- ① 5. AS AMENDED BY SECT. 4.2. OF INSTITUTIONAL ACT 3/1995, OF MARCH 23

2ND SUBDIVISION  
COMPILATION OF THE ELECTORAL REGISTER

**Section 34. Nature and duration of the Electoral Register**

The Electoral Register is to be kept on a permanent basis und updated every month. To this end the first day of the month shall be the day of reference.

- ① SECT. 34 AS AMENDED BY SECT. 11 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

### Section 35. Updating of Electoral Register

1. For the monthly updating of the Register, local councils shall notify to the relevant Provincial Delegation of the Electoral Register Office, not later than the last day-but-one of each month and in the manner prescribed by the instructions of said authority, all the changes that have taken place in that month.

2. Where a local council fails to comply with the duty imposed in the preceding subsection, the Director of the Electoral Register Office shall notify the Central Electoral Register Office to enable it to take the appropriate steps.

3. The updating for the first month of each year there shall also contain the names, with the mention of being under legal age, of all residents who are to attain eighteen years of age between the 1st of January and the 31st of December of the next year.

① *SECT. 35 AS AMENDED BY SECT. 12 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

### Section 36. Updating of the Register of electors residing abroad

1. For the updating of the register of absent electors residing abroad (*electores residentes ausentes que viven en el extranjero*) consulates shall forward by the same procedure as for local councils every entry and every cancellation, as well as any change of address, and in conformity with the instructions of the Electoral Register Office, all new entries and cancellations of Spanish subjects living in their area of jurisdiction, and any change of address having taken place in said area and any request for assignment to another constituency. The latter shall only be admitted where there is a sufficient and justified ground for such change.

2. Changes of adscription from one to another constituency shall not be taken into account in the final register for each election.

① *SECT. 36 AS AMENDED BY SECT. 13 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

### Section 37. Updating of Electoral Register by the General Register Office and the Register of Detained Convicts and Convicts at large

Officers in charge of the General Register Office (*Registro Civil*) shall notify every month Provincial Delegations of the Electoral Register Office any circumstances that might affect registration in the Electoral Register.

① *SECT. 37 AS AMENDED BY SECT. 14 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

### Section 38. Updating of Electoral Register by the Electoral Register Office

1. Provincial Delegations of the Electoral Register Office shall, on the basis of the data referred to in the preceding sections, keep freely accessible at any time to interested parties the updated Electoral Register with the data referred to in the preceding sections. Access may be gained through local councils, consulates or directly at Provincial Delegation premises.

2. Representatives of lists of candidates or parties, federations and electors' groupings may challenge the electors' register of any constituencies showing a significant and not justified increase in the number of residents that has led to the notification referred in Section 30.c), within five days from the moment in which they have gained knowledge of said notification.

Appeals about registration data are to be lodged by Provincial Delegations of the Electoral Register Office, which shall pronounce on them within five days following reception of the petition.

Local councils and consulates shall immediately forward any such petitions to the relevant Provincial Delegation of Electoral Register Office.

3. The Electoral Register Office shall make all appropriate arrangements to facilitate the disposal of consultations and petitions by local councils and consulates.

4. Petitions against decisions on this matter by the Electoral Register Office's Delegations shall be dealt with by the preferential and summary procedure contemplated in Section 53, subsection 2, of the Constitution.

① *FORMER 1 DELETED BY SECT. 15 OF INSTITUTIONAL ACT 2/2011*

① *1., 3. AND 4. RENUMBERED BY SECT. 16 OF INSTITUTIONAL ACT 2/2011. FORMER 2., 4. AND 5, RESPECTIVELY.*

① *2. RENUMBERED AND AMENDED BY SECT. 16 OF INSTITUTIONAL ACT 2/2011. FORMER 3.*

### 3RD SUBDIVISION CORRECTIONS IN ELECTORAL REGISTER AT ELECTION TIME

#### Section 39. Rectification of Electoral Register during election time

1. The Electoral Register for each election shall be the Electoral Register closed on the first day of the second month before the date of call of the election.
2. Local councils and consulates shall keep a consultation service of election lists in force in their respective community or area of jurisdiction within eight days from the sixth day following the call of the election.
3. Within the aforesaid delay any person may file a petition to the Electoral Register Office's competent Delegation about his registered census data. Provided that the only petitions admissible shall be those for correction of errors in personal data, or about change of abode within the same constituency or for non-registration of the petitioner in any section of the constituency's electoral register to which he is legally entitled to be registered. Provided further that no petitions showing a change of residence to a different constituency after the limit date for closure of the electoral register for the relevant election shall be taken into consideration. In this case the interested person must exercise his right of petition in the section corresponding to his former place of abode.
4. Candidates' representatives may also challenge within the aforesaid delay the election register of constituencies having recorded in the preceding six months a significant and not justified increase in the number of resident that has given rise to the notification provided for in section 30.c).
5. Petitions may be lodged directly with the competent provincial delegations of the Electoral Register Office or through the local council or consulate, who shall forward them forthwith to the relevant Delegation.
6. Provincial Delegations of the Electoral Register Office shall adjudge within three days any such petitions and cause the appropriate rectifications to be made available to the general public not later than the seventeenth day following call of the election. Said decisions must also be notified to all petitioners and to the local councils and consulates concerned.
7. The Electoral Register Office shall send to each elector a registration card with the updated data of his entry in the Register, as well as the polling ward and polling bureau where he is to vote, and shall also notify the electors concerned of any changes in wards, polling stations or polling bureaux referred to in Section 24 of this Institutional Act.

① *SECT. 39 AS AMENDED BY SECT. 17 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

#### Section 40. Appeal from the Electoral Registration Office's decisions

1. There shall be a right of appeal to the competent Administrative Judge against decisions of the Electoral Register Office within five days from notification thereof.
2. The judge's decision shall be pronounced within five days and notified to the appellant, to the city council or consulate concerned and to the Provincial Delegation of the Electoral Register Office. This decision shall be final at the judicial stage.

① *1. AS AMENDED BY SECT. 18 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

### 4TH SUBDIVISION ACCESS TO REGISTER'S DATA

#### Section 41. Access to data of Electoral Register

1. A Royal-Decree (*Real Decreto*) shall make provision for specifying the electors' personal data that are to be entered in the Electoral Register, as well as those of lists and copies of the electoral register.
2. Any disclosure of information contained in the Electoral Register is hereby forbidden, unless disclosure is requested through a court of law.
3. Notwithstanding subsection 2, the Electoral Register Office may disclose statistical data that do not reveal personal information about electors.



4. Self-Governing Communities may, after call of the election, obtain a copy of the Electoral Register with the related corrections, in a fashion that allows computerized treatment.

5. Representatives of each list of candidates are entitled to obtain within two days following the official proclamation of candidates a copy of the constituency register, arranged by polling bureaus and with a support allowing computerized treatment, provided that such treatment shall only be used for the purposes of this Act. General electoral representatives may alternatively obtain in the same conditions a copy of the Register currently in force in the constituencies where their party, federation or coalition has put up candidates. Judicial District Electoral Commissions (*Juntas de Zona*) shall also have a copy of the electoral register corresponding to their territorial jurisdiction.

Electoral Commissions may preventively suspend by reasoned decision the handing of register copies to the aforesaid representatives where the proclamation of their lists of candidates has been challenged by petition or where those lists are deemed to fall into one of the situations contemplated in Section 44, subs. 4, of this Act.

6. Exceptionally and on duly justified grounds persons who may be subject to threat or compulsion endangering their life, their physical integrity or their freedom may be struck off the copies of the Electoral Register referred to in subsection 5 above.

- ① *SECT. 41 AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003, OF NOVEMBER 28*
- ① *5. AS AMENDED BY SECT. 3 OF INSTITUTIONAL ACT 3/2011, OF JANUARY 28*

## CHAPTER V GENERAL REQUIREMENTS FOR THE CALLING OF ELECTIONS

### Section 42. Call of election

1. Where, in case of an election to Spanish Parliament or to Legislative Assemblies of Self-Governing Communities, the Prime Minister (*Presidente del Gobierno*) or the President of the respective regional Government makes use of his prerogative of early dissolution as explicitly contemplated by the law, the ensuing election Decree shall be published on the day following issue thereof in the Official State Gazette or in the Official Gazette of the respective Self-Governing Community. It shall come into force on the very day of publication and appoint the date of the election, which is to be held between the fifty fourth and the sixtieth days from the date of publication.

2. Where, in case of a general parliamentary election or an election to Legislative Assemblies of Self-Governing Communities the Prime Minister or the President of the respective regional Government does not make use of his prerogative of early dissolution as explicitly contemplated by the law, the election Decree shall be issued on the twenty-fifth day prior to the date of expiry of Parliament or of the Legislative Assembly concerned and published on the following day in the Official State Gazette or, as the case may be, in the Self-Governing Community's Official Gazette. It shall come into force on the very day of publication and appoint the election day, which shall be between the fifty-fourth and the sixtieth day from publication.

3. Where, in case of local government elections or elections to Legislative Assemblies of Self-Governing Communities, the President of the regional Government does not have a prerogative of early dissolution explicitly granted by the law, election Decrees shall be issued not earlier than the fifty-fourth nor later than the sixtieth day before the fourth Sunday of the current year and published in the Official State Gazette or, as the case may be, in the Self-Governing Community's Official Gazette. They shall come into force on the very day of publication and the elections shall be held on the fourth Sunday of May of same year. The term of councils or assemblies so elected shall be four years and expire, in every case, on the day before the following elections are to be held.

- ① *SECT. 42 AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*
- ① *1. AS AMENDED BY SECT. 1.1 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30*
- ① *2. AS AMENDED BY SECT. 1.2 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30*
- ① *3. AS AMENDED BY SECT. 1.3. OF INSTITUTIONAL ACT 13/1994, OF MARCH 30*

CHAPTER VI  
ELECTORAL PROCEDURE

1ST SUBDIVISION  
CANDIDATES' REPRESENTATIVES BEFORE ELECTORAL ADMINISTRATION

Section 43. Candidates' representatives

1. Parties, federations, coalitions and electors' groupings intending to take part in an election shall appoint at the time and in the manner provided for by the specific provisions of this Act.
2. General electoral Representatives shall act on behalf of competing parties, federations or coalitions.
3. Representatives of lists of candidates shall represent all candidates included therein. Notifications, writs and summonses addressed by electoral authorities to candidates shall be addressed to said representatives' domicile. Acceptance by a candidate of his inclusion in a list is deemed to be a grant of proxy to the respective representative for acting in any judicial proceedings relating to the election.

2ND SUBDIVISION  
NOMINATION AND PROCLAMATION OF CANDIDATES

Section 44. Nomination of candidates

1. The following are entitled to put forward candidates or lists of candidates:
  - a) Parties and federations entered in the corresponding register.
  - b) Coalitions set up as provided in next paragraph.
  - c) Electors' groupings satisfying the conditions laid down by the specific provisions of this Act.
2. Parties and federations entering a coalition pact to take part jointly at an election shall inform the relevant Electoral Commission within ten days from the call of the election. Said notification must include the name and rules of the coalition and the persons at the head of the coalitions' leading or coordinating bodies.
3. No party, federation, coalition or electors' grouping may put forward more than one list of candidates in one constituency for the same election. Federated or coalition parties may not present lists of their own in a constituency where there are candidates of said federations or coalitions already standing at the same constituency.
4. No political party, federation or coalition of parties or electors' grouping may put forward lists of candidates that can be practically deemed a continuation of or succession to the activity of a political party declared as illegal and dissolved or suspended by a court of law. To this end there shall be had regard to substantial similarity of structure and to the organization and functioning of the persons acting as members, leaders, representatives or managers of the candidates, to the financial sources and material means of said or any other significant circumstances, such as proclivity to support violence or terrorism, may lead to assume said continuation or succession.

① 4. AS ADDED BY THE 2ND ADDITIONAL PROVISION OF INSTITUTIONAL ACT 6/2002, OF JUNE 27, AND AMENDED BY SECT. 4 OF INSTITUTIONAL ACT 3/2011, OF JANUARY 28

Section 44 bis. Balanced representation of genders in lists of candidates

1. Lists of candidates put forward under this Act for elections to Congress, municipal elections and elections to Insular Councils of the Canary Islands or to European Parliament or Legislative Assemblies of Self-Governing Communities, shall have a balanced proportion of women and men, so that candidates of either sex make up at least 40 per 100 of total membership. Where the number of seats to be covered is less than five, the ratio between women and men shall be as close as possible to equal balance.

In elections to Legislative Assemblies of Self-Governing Communities, the statutes governing their respective electoral system may contemplate arrangements in favour of a larger presence of women in the lists of candidates to said elections.

2. The same 40 per 100 ratio shall be kept in each five-seat bracket of the whole list. Where the last bracket is less than five, said ratio of women to men shall be the nearest possible one to equal balance, provided that the mandatory proportion for the whole list is preserved.

3. The rules of the preceding subsections shall also apply to the alternates' lists.

4. Where candidates to Senate are grouped in lists according to Section 171 of this Act, those lists shall also have a balanced ratio of women and men, so that the total proportion is as close as possible to equal balance.

① *SECT. 4 BIS ADDED BY 2ND ADDITIONAL PROVISION. OF INSTITUTIONAL ACT 3/2007, OF MARCH 22*

#### Section 45. Submission of candidates' lists

List of candidates signed by parties', federations' or coalitions' representatives and by the promoters of electors' groupings shall be submitted to the appropriate Electoral Commission between the fifteenth and the twentieth day following the call of the election.

#### Section 46. Nomination in writing of candidatures

1. Nominations of each candidature must clearly express the name, initials and symbol of the promoting party, federation, coalition of grouping of electors, as well as the name and surname of the candidates contained therein.

2. Nominations must be supported by a statement of acceptance by member candidates as well as by documents attesting their eligibility.

3. Where the presentation is to be done by a list system, each of these shall contain as many candidates as seats to be filled. If the list also includes alternate candidates, their number shall not exceed ten and the list shall indicate the order of priority of candidates as well as alternates.

4. Nominations must be made with names, initials or symbols that do not lead to confusion with those relating to or traditionally used by other legally constituted parties.

5. No candidature may be submitted with symbols reproducing the flag or the coat of arms of Spain or containing names or symbols that make reference to the Crown.

6. Nobody may stand as a candidate for more than one constituency or be included in more than one list of candidates.

7. Candidates' names may be followed by an indication of independence or, in case of coalitions or federations, by the name of the party to which each candidate belongs.

8. Candidatures nominated by electors' groupings must be supported by written evidence of the number of signatures legally required for taking part in the election. No elector may give his signature for more than one nomination.

9. The competent Electoral Commissions shall make a note stating the date and exact time of submission of each candidature and issue a receipt thereof. The Commission's Secretary shall assign to each candidature a sequence number that must be kept in all publications.

① *3. AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003, OF MARCH 10*

① *6 AS AMENDED BY SECT. 16 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

① *7. AS AMENDED BY SECT. 17 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

#### Section 47. Publication of candidatures

1. Candidatures so submitted must be published on the twenty-second day after the call of the election in the manner prescribed by the special provisions of this Act.

2. Two days later the appropriate Electoral Commissions shall notify to representatives of candidatures any irregularities they may have detected *ex officio* or upon a petition by another representative. Said irregularities must be corrected within forty-eight hours.

3. The competent Electoral Commissions shall proceed to proclamation of candidates on the twenty seventh day following the call of the election.

4. No candidature shall be proclaimed unless it meets the requirements set out in the foregoing sections or those laid down in the special provisions of this Act

5. Proclaimed candidatures shall be made public on the twenty eighth day after call of the election in the manner prescribed by the special provisions of this present Act.

#### Section 48. Alteration of candidates' lists

1. Candidates' lists may not be modified once they have been submitted, except within the time limit contemplated in the preceding section for rectification of irregularities and only in the event of death or resignation of a candidate or as a result of rectification itself.

2. Where a candidature consists in a list of candidates, any drops outs after proclamation shall be deemed to be covered by the successive candidates and, as the case may be, by the alternate candidates.

### 3RD SUBDIVISION PETITIONS AGAINST PROCLAMATION OF CANDIDATES AND CANDIDATURES

#### Section 49. Appeals against proclamation of candidates and candidatures

1. After proclamation any excluded candidate and representatives of proclaimed candidatures or of candidatures whose proclamation has been denied may within two days lodge an appeal before the competent Administrative Judge (*Juzgado de lo Contencioso-Administrativo*) against the decisions of the Electoral Commissions. Petitioners must set out in their appeal the reasons they see fit and append all relevant pieces of evidence.

2. The time limit for lodging the appeal contemplated in the preceding subsection shall run from the date of publication without prejudice to mandatory notification to representatives of candidate or candidates rejected.

3. The judge's decision, which is to be pronounced within two days from the appeal, is final and there shall be no appeal against it, without prejudice to the individual protection procedure (*procedimiento de amparo*) before the Constitutional Court. To this end the lodging of the protection petition shall be deemed as compliance with the requirement laid down in Section 44.1.a) of the Constitutional Court Institutional Act.

4. Individual protection must be applied for within two days and the Constitutional Court must determine the petition within the three following days.

5. Petitions under this section may also be lodged in cases of proclamation or exclusion of candidates submitted by electoral groupings referred to in subs. 4 of sect. 44 of this Institutional Act, with the following provisos:

a) The appeal referred to in subs.1 of this present section shall be laid before the Special Chamber (*Sala Especial*) of the Supreme Court (*Tribunal Supremo*) provided for in Section 61 of the Judiciary Power Institutional Act (*Ley Orgánica del Poder Judicial*)<sup>2</sup>.

b) Said appeal can also be lodged by any person entitled to petition for declaration of illegality of a political party under paragraph 1 of Section 11 of the Political Parties Institutional Act. Petitioners shall have access to all documents in possession of the Electoral Commissions.

c) If in the course of electoral campaign parties entitled to lodge a petition gain knowledge of facts which would under Section 44, sub.4, of this Act, prevent the submission of candidates, the delay for lodging of petition shall be extended to the forty-fourth day following the date of call of the election. The Special Section of the Supreme Court must render its decision within three days from the filing of the petition.

Provided that prohibition under Section 71, sub.2, of printing ballot papers for the candidates concerned shall not apply in the last case.

① 5. ADDED BY 2ND ADDITIONAL PROVISION. OF INSTITUTIONAL ACT 6/2002, OF JUNE 27, AND AMENDED BY SECT.5 OF INSTITUTIONAL ACT 3/2011, OF JANUARY 28

---

<sup>2</sup> Sect. 61 of said Institutional Act laying down the general structure of the judicial organization makes provision for a special chamber consisting of the President of the Supreme Court, the Presidents of the different Chambers (i.e. divisions) thereof and the longest-serving as well as the most recent member of each of them, entrusted among other duties with the adjudication of legal proceedings on alleged unlawfulness and resulting dissolution of political parties brought in under Political Parties Institutional Act 6/2002, of June 27 (*Ley Orgánica 6/2002, de 27 de junio, de Partidos Políticos*).

## 4TH SUBDIVISION GENERAL PROVISIONS ON ELECTORAL CAMPAIGN

### Section 50. Electoral campaign

1. The authority who has called an election in the exercise of its legal responsibilities may launch during the election period a campaign of an institutional nature designed to inform citizens on the polling date, the voting procedure and the conditions and arrangements for postal voting, provided that such campaign does not seek to influence the electors' vote. This institutional publicity operation shall be conducted by free-of-charge spots in publicly-owned mass-communications media in the territorial area of the election process, provided such spots are sufficient to attain the campaign goals.

2. From the call to the holding for the election, public authorities are forbidden from directly or indirectly organizing or financing any event that may contain allusions to achievements or accomplishments or use images or expressions identical or similar to those used in their own campaigns by any of the political formations concurring in the election.

3. It shall equally be forbidden during said period to organize any event for the inauguration of public works or services or projects thereof, whatever the denomination may be given to it.

Provided that nothing in this subsection shall may prevent such works or services from coming into operation.

4. For the purposes of this Act electoral campaign means all lawful activities carried out by candidates, parties, federations, coalitions or electors' groupings in order to gain votes.

5. Except as provided in subsection 1 of this Section, no body corporate other than those mentioned in the preceding subsection may conduct an electoral campaign as from the date of calling of the election, without prejudice to section 20 of the Constitution<sup>3</sup>.

- ① 1. AS AMENDED BY SECT. 2 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30
- ① 2 AND 3 ADDED BY SECT. 19 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28
- ① 4. AND 5. RENUMBERED BY SECT. 19 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28. FORMER 2 AND 3 RESPECTIVELY

### Section 51. Duration of electoral campaign

1. The electoral campaign shall begin on the thirty-eighth day from the call of the election.

2. Duration thereof shall be fifteen days<sup>4</sup>.

3. It shall end in any case at zero hours of the day immediately preceding polling day.

- ① 2. AS AMENDED BY SECT. 14 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30

## 5TH SUBDIVISION PROPAGANDA AND ELECTORAL CAMPAIGN EVENTS

### Section 52. Persons barred from taking part in electoral campaign

Members of the Armed Forces or of the Security Corps and Forces of the State, Self-governing Communities or municipalities, judges, senior judges or public prosecutors in active service and members of Electoral Commissions may not disseminate electoral propaganda or carry out other electoral campaign activities.

### Section 53. Period when electoral campaign is prohibited

No electoral propaganda may be disseminated nor can any electoral campaign event be held once the campaign is legally finished. Gratuitous reception of means from public administrative entities shall be strictly limited to the electoral campaign period. Provided that said restrictions shall be without prejudice of any activities carried out by parties, coalitions and federations in the exercise of their constitutionally acknowledged functions, and in particular by Section 20 of the Constitution.

---

<sup>3</sup> Sect. 20 of Const. proclaims freedom of expression, of literary and artistic creation and of mass-communications media and explicitly bans previous censorship of these media.

<sup>4</sup> The Act originally said "between a minimum of fifteen and a maximum of twenty-one days".

Notwithstanding the foregoing, from the call of the election to the legal start of the campaign, no commercial publicity or propaganda shall be allowed by means of posters, commercial supporting devices or advertisements in the press, in wireless station or digital means, nor can such acts be justified as the exercise of the ordinary activities of the parties, federations or coalitions acknowledged in the preceding subsection.

① *SECT. 53 AS AMENDED BY SECT. 20 OF INSTITUTIONAL ACT 2/2011, JANUARY 28*

#### Section 54. Holding of electoral campaign gatherings

1. Public electoral campaign gatherings shall be subject to statutes governing freedom of assembly. Powers vested in this matter in governmental authorities shall be assumed by Provincial Electoral Commissions, without prejudice to the power of the Central Electoral Commission to unify interpretation criteria.

2. Governmental authorities shall retain in any case all their powers in matters of public order, to which end Provincial Commissions shall inform those authorities of all meetings that have been previously notified to them.

3. Local Councils shall set aside free of charge official premises and public areas for electoral campaign gatherings.

① *1. AS AMENDED BY INSTITUTIONAL ACT 2/2011, JANUARY 28*

① *3. ADDED BY SECT. 4.1. OF INSTITUTIONAL ACT 13/1994, OF MARCH 30*

#### Section 55. Electoral propaganda

1. Local councils shall set aside special places for free posting of public notices and, as the case may be, of billboards and notices to hang as banderoles on posts or streetlamps. Propaganda by banners and banderols may only be displayed in places set aside free of charge by local councils.

2. Apart from the special free-of-charge places referred to above, parties, associations, coalitions, federations and candidates may only display posters or other types of electoral propaganda in authorized commercial premises.

3. Expenditure by candidates in this type of publicity may not exceed 25 per 100 of the expenditure limit laid down in Sects. 175.2., 193.2 and 227.2, depending on the respective election process.

① *SECT. 55 AS AMENDED BY SECTION 4.2. OF INSTITUTIONAL ACT. 13/1994, OF MARCH 30*

① *3. AS AMENDED BY SECT. 22 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

#### Section 56. Allotment of space for electoral campaign

1. For the purposes of the preceding section, local councils shall, within seven days from the calling of the election, notify to the corresponding Judiciary District Electoral Commission the locations available for free posting of notices and, as the case may be, of banners and banderoles.

2. Said Judiciary District Electoral Commission shall, in allotting such locations, have regard to the total number of votes polled by each party, federation or coalition in the previous equivalent election in the same constituency, and to the preferences expressed by parties, federations or coalitions with the highest number of votes in the last election of the same type in the constituency.

For European Parliament elections the allotment shall take into account the total number of votes polled by each party, federation or coalition in the previous equivalent election within the territorial jurisdiction of the corresponding District Electoral Commission, and the preferences expressed by the parties, federations or coalitions with the highest number of votes in the last similar election in said area.

3. On the second day after the official proclamation of candidates, the Commission shall notify to the representatives of each list of candidates the places allotted to it for public notices.

① *1. AND 2. AS AMENDED BY SECT. 4.3. OF INSTITUTIONAL ACT 13/1994, OF MARCH 30*

#### Section 57. Free electoral events

1. For the purposes of Section 54 city councils shall within ten days following the call of the election, inform the appropriate Judiciary District Electoral Commission, which shall in turn inform

the Provincial Commission, on the official premises and public places set aside for free performance of electoral campaign days.

2. Said list, which must specify the days and hours available for use of the different premises and Judiciary District Commissions, is to be published in the Provincial Official Gazette within fifteen days from the call of the election, whereupon representatives of candidates are entitled to request from Judiciary District Electoral Commissions the use of the premises and places so appointed.

3. On the fourth day after proclamation of candidates Judiciary District Commissions shall allot the premises and places available according to requests received and having regard to the principle of equal opportunity, and in default thereof, according to preferences of the parties, federations or coalitions with the largest number of votes in the latest equivalent election in the same constituency. Thereupon said District Commissions shall notify to representatives of each list of candidates the premises and places so allotted.

### Section 58. Candidates' advertisements in the press and in broadcasting stations

1. Candidates may engage in advertising in the periodical press and in private broadcasting stations, with a maximum expenditure limit of 20 per 100 of the limit laid down for parties, groupings, coalitions, federations or candidates' lists in sects. 175.2, 193.2 and 227.23 of this Act, depending on each type of election process.

2. Advertising rates for such electoral publicity may not be higher than those currently applying to commercial advertising. No discrimination shall be allowed between candidates as to insertion, rates and location of publicity spaces, all of which must expressly state their political nature

① *SECT. 58 AS AMENDED BY SECT.5 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30.*

### 6TH SUBDIVISION USE OF PUBLICLY-OWNED MASS-MEDIA FOR ELECTORAL CAMPAIGN

① *SIGNATURE AS AMENDED BY SECT.23 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

### Section 59. Sending by post of electoral propaganda

Special rates for postal sending of electoral propaganda shall be fixed by statutory instrument.

### Section 60. Electoral publicity in mass-communications media

1. No spaces of electoral publicity may be bought in publicly-owned mass-communication media.

2. Parties, federations, coalitions and groupings of electors taking part in the election shall be entitled during the electoral campaign to free propaganda spaces in publicly-owned television and radio broadcasting stations as provided in the following sections.

① *SECT. 60 AS AMENDED BY SECT. 24 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

### Section 61. Allotment of free-of-charge spaces for electoral propaganda

The allotment of free spaces for electoral propaganda shall be made having regard to the total number of votes polled by each party, federation or coalition in the latest equivalent election.

### Section 62. Allotment of propaganda in media with less territorial coverage than the territory of election

Where the territorial coverage of a mass-medium or of programming thereof is smaller than the area concerned by the election, the allotment of space shall be made on the basis of the aggregate number of votes polled by each party, federation or coalition in the constituencies comprised in the territorial broadcasting range of said medium or, as the case may be, of programming thereof.

For European Parliament elections the allotment of space shall have regard to the aggregate number of votes polled by each party, federation or coalition in the coverage area of the medium in question or programming thereof.

① *SECOND PARAGRAPH ADDED BY SECT. 19 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

### Section 63. Allotment of propaganda space in case of simultaneous elections

1. For the purpose of distribution of free propaganda spaces at elections to either House of Parliament only the results of the preceding election to the Congress of Deputies shall be taken into account.
2. Where elections to a Self-governing Community's Legislative Assembly or to city councils are being held at the same time as an election to Congress of Deputies, only the result of the latest election to Congress is to be taken into consideration for allotment of spaces in the general programming of national media.
3. Should an election to the Legislative Assembly of a Self-governing Community be held at the same time as city council elections, there shall be had regard only to the result of the last election to said Assembly for allotment of spaces in the mass-communication media of the relevant Self-governing Community or in the corresponding regional programs of national media.
4. In the case contemplated in the foregoing subsection and where the rule of subsection 2 of this present section is not applicable, the allotment of spaces in the general programming of national media shall be made according to the results to the last city council elections.
5. Where an election to either House of Parliament or to local government bodies is to take place at the same time as an election to European Parliament, only the results of the previous parliamentary or, as the case may be, local election shall be taken into account for the allocation of advertising time in the national media.
6. Where elections to the Legislative Assembly of a Self-Governing Community are to be held at the same time as an election to the European Parliament, only the results of the last elections to said Assembly shall be taken into account for allocation of advertising time in the media of the Community or in the respective regional programmes of national media.
7. In cases for which no explicit provision is made in this section, the Electoral Commissions with jurisdiction in each case shall define the criteria for allocation of advertising time in publicly-owned media in the event of simultaneous elections.

① 5. AS AMENDED BY SECT. 1 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2

① 6. ADDED BY SECT. 1 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2

① 7. RENUMBERED BY SECT. 1 OF INSTITUTIONAL ACT 1/1987, FORMER SECT. 6.

### Section 64. Scale of priorities for free allocation of electoral propaganda in publicly-owned media

1. Allocation of free electoral propaganda time in each publicly-owned medium and its different programming areas of coverage shall be done on the basis of the following priorities:
  - a) Ten minutes to parties, federations and coalitions not having taken part or not having obtained any seat in the previous equivalent election.
  - b) Fifteen minutes for parties, federations or coalitions who having obtained seats in the previous equivalent election, did not attain 5 per 100 of the total number of votes validly cast in the national territory.
  - c) Thirty minutes for parties, federations and coalitions who, having obtained seats in the previous equivalent election, attained between 5 and 20 per 100 of the total number of votes referred to in paragraph b).
  - d) Forty-five minutes for parties, federations and coalitions who, having obtained seats in the previous equivalent election, attained at least 20 per 100 of total number of votes referred in paragraph b).
2. Only parties, federations or coalitions putting up candidates in more than seventy-five of the constituencies comprised in the territorial broadcasting coverage or, as the case may be, in the programming of the relevant medium shall be entitled to the free broadcasting times referred in the preceding subsection. Municipal elections shall be subject to the special provisions of this Act.
3. Parties, associations or federations who fail to present as many candidatures as contemplated in the preceding subsection shall nevertheless be entitled to fifteen minutes in national media's programs provided they have polled in the previous equivalent election 20 per 100 of the votes cast within a Self-Governing Community at similar times to those allocated to parties, federations and coalitions referred to in subsection 1.d) of this present section. In this case broadcasting shall be restricted to the territory of the relevant Self-governing Community. Provided that such right shall not be used in addition to the free broadcasting times contemplated in the preceding subsection.



4. Electors' groupings who associate themselves to launch their own propaganda in publicly-owned media shall be entitled to a ten-minute broadcast provided they have put up as many candidates as required by subsection 2 of this present section.

① *1 AND 3 AS AMENDED BY SECT.20 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

#### Section 65. Authorities responsible for allotment of free propaganda space

1. The Central Electoral Commission shall be the competent authority for allotment of free-of-charge election propaganda spaces in publicly-owned mass-communication media, whatever their legal owner, on the proposal of the Committee referred to in the following subsections of this present section.

2. A Radio and Television Committee, under the authority of the Central Electoral Commission, shall have competence for making an allotment proposal of free election propaganda spaces.

3. The Committee shall be appointed by the Central Electoral Commission and consist of one representative of each party, federation or coalition intending to take part in the election, provided it is already represented in the Congress of Deputies. Said representative shall have a proportional vote in relation to the Congress' total membership.

4. The Central Electoral Commission shall also choose the Chairman of the Committee among the representatives appointed according to the preceding subsection.

5. The Central Electoral Commission may delegate to Provincial Electoral Commissions the allotment of free electoral propaganda spaces in regional and local programmes of State-owned media and of media with a similar area of coverage which are also publicly-owned. In this case a committee shall be set up in the territorial area concerned with the same powers as those provided in subsection 2 of this section and with a membership that must take into account the parliamentary representation in the Congress of Deputies of said territory. The Committee shall act under the authority of the corresponding Provincial Electoral Commission.

6. Where elections are being held only to the Legislative Assembly of a Self-governing Community, the functions contemplated in this section in relation to State-owned media, are deemed to be restricted to the territory of said Community and shall be discharged in the manner prescribed in this Act by the Community's Electoral Commission or, where this is not yet constituted, by the Electoral Commission of the province whose capital is the Community's capital. In the same event Electoral Commissions of Self-governing Communities shall have at least, in relation to mass-media controlled by the Community or by municipalities thereof, the responsibilities assigned by this section to the Central Electoral Commission, including authority over a Radio and Television Committee where it is so contemplated by the legal statutes of the Self-governing Community governing elections to its Legislative Assembly.

#### Section 66. Ensuring political and social plurality

1. The respect of political and social plurality, as well as of equal, proportional and neutral information by publicly-owned mass-communication media at election time, shall be ensured by the organization of said media and control thereof in the manner prescribed by the law. There shall be a right of appeal against decisions of managing bodies of the above-mentioned media during said periods to the relevant Electoral Commission in accordance with the preceding section and by the procedure provided for by the Central Electoral Commission.

2. Private stations shall abide during the election period by the principles of pluralism and equality and private television stations shall also observe the principles of proportional and neutral information in electoral debates and interviews as well as in informations relating to the electoral campaign, in conformity with the instructions drawn up for this purpose by the relevant Electoral Commission.

① *SECT 66. AS AMENDED BY SECT. 25 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

#### Section 67. Allocation of time and broadcasting order for electoral propaganda spaces

For the determination of the time and of the broadcasting order of election propaganda spaces to which all parties, federations or coalitions taking part in the election are entitled under this present Act, the competent Electoral Commission shall have regard to the preferences of parties, federations or coalitions according to the number of votes polled by each of them at the last equivalent election.

## 7TH SUBDIVISION RIGHT TO DEMAND RECTIFICATION

### Section 68. Right to demand rectification during electoral campaign

Where any mass-communication medium divulges facts concerning candidates or leaders of parties, federations, coalitions of electors' groupings taking part in the election, and the formations concerned find such facts inaccurate and that their dissemination might cause them harm, they may exercise the right to demand rectification according to the Institutional Act 2/1984, of March 26, with the following provisos:

- a) If the information the parties concerned demand to rectify has been divulged in a publication whose periodical nature makes rectification impossible, the editor of said publication shall within three days from the demand cause the rectification to be published at its expense within the same term in another publication of the same area and with a similar circulation.
- b) The oral hearing provided for in subsection 2 of section 5 of the aforesaid Institutional Act shall be held within four days from the date of petition.

## 8TH SUBDIVISION ELECTORAL OPINION POLLS

### Section 69. Election opinion polls

Publication of election opinion polls between the date of call of the election and the polling day shall be subject to the following rules:

1. Persons taking opinion samples or conducting election opinion polls shall under their responsibility append the following specifications, including any publication thereof:

- a) Name and place of residence of the body, public or private entity or individual who has conducted the poll, as well as of the body or person having commissioned it.
- b) Technical characteristics of the poll, which shall necessarily include the following particulars: sampling system, size of the sample, margin of error, representativity level, procedure for selection of surveyed persons and date of performance of the field work.
- c) Full text of questions asked and number of persons who did not answer each of them.

2. The Central Electoral Commission shall ensure that the data and information published on surveys do not contain any deliberate falsification, concealment or alteration, as well as strict compliance with the specifications referred to in the preceding paragraph and respect of the prohibition imposed by subsection 7 of this present section.

3. The Central Electoral Commission may direct any person who has carried out a survey opinion poll made public, to furnish them with the additional technical information they see fit in order to carry out the verifications they may deem necessary.

Provided that this information may not include the contents of data relating to the questions that under the legislation in force are for the firms or the client's private use.

4. Communications media who have published or divulged an opinion poll in violation of the present Act, shall make public and disseminate within three days the rectifications required by the Central Electoral Commission, with the indication of their origin and of the cause of rectification. Publication shall be made or programmed in the same spaces or pages as the rectified information.

5. Where the sampling or the survey to be modified has been disseminated in a publication whose periodical nature makes rectification within the following three days impossible, the editor shall cause it to be published at the publication's expense with an indication of said impediment within the aforesaid term in another medium of the same area and with a similar circulation.

6. Central Electoral Commission's decisions on opinion polls and surveys shall be notified to the persons concerned and made public. There shall be a right of appeal against them before administrative courts in the manner prescribed by the Administrative Jurisdiction Act.

Provided that there shall be no obligation to lodge a preliminary revocation request (*recurso de reposición*) before the Commission itself.

7. Publication and dissemination or reproduction of electoral opinion polls shall be strictly prohibited during the five days preceding the polling day.

8. Where any department of Public Administration conducts during the election period opinion polls on voting intentions, the results, if so requested, shall be made known within forty-eight hours from said request to all political formations taking part in the election in the area covered by the opinion poll.

① 7. AMENDED BY SECT. 26 OF INSTITUTIONAL ACT 2/2011, JANUARY 28

① 8. ADDED BY SECT. 21 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

## 9TH SUBDIVISION BALLOT FORMS AND ENVELOPES

### Section 70. Ballot papers and voting envelopes

1. Electoral Commissions shall adopt the official form of ballot papers for their respective constituency, according to the criteria laid down in the special provisions of this Act and in statutory instruments.

2. The State's Central Administration shall ensure availability of ballot papers and voting envelopes according to the provisions of next section, without prejudice to the possibility of their preparation by political formations taking part in the election.

3. The appropriate Electoral Commissions shall check that ballot papers and voting envelopes prepared by political formations taking part in the election are fashioned in accordance with the official form.

4. Within two days from the date of proclamation of candidates the competent Electoral Commissions are to be furnished, preferably in a computerized format, with a sufficient number of ballot papers of the different political formations concurring to the election. The Commissions shall send such papers, also preferably in an electronic format, to those formations so that they can reproduce and send them as publicity and electoral propaganda.

① 4. ADDED BY SECT. 27 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

### Section 71. Drawing-up of ballot papers

1. Preparation of ballot papers shall start immediately after the proclamation of candidates.

2. Where appeals have been lodged against the proclamation of candidates under Section 49 of this Act, the preparation of ballot papers shall be postponed in the constituency where said appeals have been made, until the determination thereof.

3. The first ballot papers so prepared shall be immediately forwarded to Provincial Delegates of the Electoral Register Office for the sending thereof to absent-residents living abroad.

4. Provincial Subdelegations of the Central Government must ensure delivery of ballot papers and voting envelopes in a sufficient amount for each polling bureau, one hour at least before the scheduled beginning of the poll.

## 10TH SUBDIVISION POSTAL VOTING

### Section 72. Conditions for postal voting

1. Electors expecting to be absent from the place where they are entitled to exercise their right to vote or to be unable to vote in person on the polling day, may vote by post, provided they have submitted an application for this purpose to the Provincial Delegation of the Electoral Register Office and they fulfill the following requirements:

a) The elector shall apply to the respective Provincial Delegation, from the calling of the election but not later than the tenth day before polling day, for a certificate of registration in the Electoral Register. The application may be delivered at any Post Office station.

b) The application must be submitted in person and the Post Office employee to whom it is delivered shall require the applicant to produce his National Identity Card (*Documento Nacional de Identidad*) and check the coincidence of both signatures. Photocopies of National Identity Card shall not be accepted.

c) In case of illness or incapacity making personal submission impossible and on production of an official medical certificate, which shall be free of charge, the application may be submitted on the elector's behalf by another person duly authorized by a notary's or consulate's proxy, which is to be issued only for one individual and shall not include more than one person nor give power to act on behalf of more than one elector. The corresponding Electoral Commission shall check in each case the fulfilment of the conditions set out in this subsection.

d) Post office stations shall forward within three days all documents so received to the corresponding Electoral Register Office.

**①** *SECT. 72 AS AMENDED BY SINGLE SECT. OF INSTITUTIONAL ACT 6/1992, OF NOVEMBER 2*

### Section 73. Process of postal voting

1. On receipt of the application referred to in the preceding section, the Provincial Delegation shall check the applicant's registration, enter the corresponding note on the Register so that no vote is cast in person on polling day and deliver the certification requested.

2. The Electoral Register Office shall send to the applicant by registered mail, not before the thirty-fourth day from the call of the election nor later than the sixth day before polling day, the ballot forms and election envelopes, together with the certificate referred to in subsection 1 above, and a covering envelope with the address of the bureau assigned to the elector. An explanatory form shall be attached to the foregoing.

The acknowledgment of receipt of papers referred to in the preceding subsection must be personally signed by the applicant after producing evidence of his identity. If he is not at his place of residence, he shall be instructed to go in person or send the proxy referred to in paragraph c) of the foregoing subsection to the corresponding Post Office station where, on production of proof of identity, he shall receive the necessary papers for postal voting. The contents of said papers are to be explicitly mentioned in the aforesaid receipt.

3. Once the elector has chosen or, as the case may be, has filled in the ballot form, he is to introduce it into the voting envelope and seal this. Where more than one election have been called, he must proceed in the same manner with each ballot form. He shall thereupon put the voting envelope or envelopes into the covering envelope addressed to the polling bureau and send the latter by registered mail not later than the third day preceding polling day. The covering envelope is posted free of charge.

4. The Post Office must keep until polling day all the correspondence addressed to voting bureaus and deliver it to them at nine a.m. on polling date, and it shall continue deliveries of such material as it may receive up to eight p.m. of said day. It must also keep a record of all documents received, which shall be at Electoral Commissions' disposal. Envelopes received after eight p.m. on polling day are to be forwarded to the relevant District Electoral Commission.

**①** *SECT. 73 AS AMENDED BY SINGLE SECT. OF INSTITUTIONAL ACT 6/1992, OF NOVEMBER 2*

### Section 74. Exercise of right to vote during military service

The Government, on a report by the Central Electoral Commission, shall make special provision to adapt the procedures of the two preceding section to mail voting by personnel on merchant ships, Navy vessels or fishing boats, by personnel of the Spanish Armed Forces and of the State Security bodies and forces in duty abroad, as well as for mail voting by citizens who are temporarily out of Spain between the call of the election and polling day.

**①** *SECT. 74 AS AMENDED BY SECT. 2 OF INSTITUTIONAL ACT 9/2007, OF OCTOBER 8*

### Section 75. Voting by persons living abroad

1. For elections to members of the Congress of Deputies, of the Legislative Assemblies of Self-governing Communities, of the Assemblies of the Self-governing Cities of Ceuta and Melilla and of the European Parliament, where in this last case electors choose to vote in Spain, citizens entered in the Register of Absent Electors Residing Abroad must not later than the twenty-fifth day from the call of the election send an application for the exercise of the right to vote in a written form to the appropriate Provincial Delegation of the Electoral Register Office. Said form is to be sent to Spanish citizens entered in the aforesaid Register and shall also be made available from the day following that of the election call in consulates as well as through telecommunications means. The application form is to be sent together with a copy of the passport or National Identity Card issued by Spanish authorities or, in default thereof, with a certificate of registration in the Consular Roll

Register (*Registro de Matrícula Consular*) issued by the Spanish Consulate in the country of residence.

2. On receipt of said application Provincial Delegations of the Electoral Register Office shall send to the elector's registered address the ballot forms and the voting envelope or envelopes and two identical certificates of the voter's inscription in the Register of Absent Electors Residing Abroad, together with an envelope addressed to the relevant Electoral Commission and a further envelope addressed to the corresponding Official Consulate or to the Consular Office of the Spanish Diplomatic Representation where the voter is registered.

3. Said certificates must be sent by registered mail not later than the thirty-fourth day from the call of the election in those provinces where no petition has been filed against candidates officially proclaimed and in all other provinces not later than the forty-second day from said date.

4. Electors who opt for voting by mail must enclose in the envelope to the appropriate Electoral Register Office, together with the voting envelope or envelopes and the certificate of entry in the Electoral Register, a Photostat of their passport or National Identity Card issued by the Spanish authorities or, in default thereof, a nationality certificate or a certificate of registration in Consular Register Roll in the country of residence, and they shall send all these documents by registered mail to the Professional Consul's Office or Consular Division of the Diplomatic Mission in the country of the elector's registration not later than the fifth day before the polling date.

5. Electors choosing to put their vote into a ballot box shall do so between the fourth and the second day, both inclusive, before polling date, by personally handing their envelopes in the consular offices or divisions where they are registered or in the premises that may be made available for this purpose. To this end consular premises so prepared must contain one or more ballot boxes under the custody of a consular officer.

6. Electors must show evidence of their identity to the consular officer by producing their passport, National Identity Card, or a nationality certificate or certificate of registration in the Consular Roll Register issued by the Spanish Consulate in their country of residence, and, upon production and handing in of one of the certificates of entry in the Register of Absent Electors Residing Abroad they have previously received, they shall introduce the envelope addressed to the appropriate Commission for scrutiny, once the consular officer has put on said envelope the Consular Office's seal, with an indication of the date of introduction.

7. During the days appointed for the introduction of votes into the ballot box, the competent consular officers shall take all steps to facilitate the exercise of the right of vote by the electors, as well as those deemed necessary for the appropriate custody maintenance and custody of the ballot boxes, including the sealing thereof at the end of each day. Representatives of concurring candidate are allowed to be present in the consular premises on the days of introduction of envelopes into the boxes.

8. On expiration of the period for introduction of envelopes the consular officer shall draw up a minute specifying the number of electoral certifications received and, as the may case be, the incidents that may have arisen, as well as the number of envelopes received by mail until the end of the period for introduction of envelopes into the ballot boxes. On the following day the envelopes handed in by the electors and those received by mail, with the minutes of proceedings drawn up by the consular office, shall be sent as electoral dispatch to the *ad hoc* electoral register office to be set up in the Foreign Affairs Ministry, which is in turn to forward as a matter of urgency the aforesaid envelopes to the appropriate Electoral Commissions.

9. In all cases contemplated in the present Section the validity of said votes shall be conditional to the corresponding envelope clearly bearing a postmark or any other official mark of the Post Office of the country of origin or, as the case may be, of the Professional Consul's Office or Consular Division of the Diplomatic Mission certifying in indubitable manner the observance of the time limits provided for in each case.

10. On general polling day the Electoral Commission competent in each case shall, before the counting begins, set itself up as election bureau at eight o'clock in the morning, with the attendance of the controllers appointed to this end by the concurring candidates.

11. The President shall thereupon introduce into the ballot box or boxes the voting envelopes of absent residents received up to that day and the Secretary shall write the voters' names on the relevant list.

The Electoral Commission shall immediately proceed to the counting of said votes and add the results to the general count.

12. The Government is empowered, upon a report by the Central Electoral Commission, to lay down the criteria and restrict the cases where present section is to apply, as well as to make provision for other procedures for the vote of absents residing in foreign countries where present Section cannot apply.

① *SECT. 75 AS AMENDED BY SECT. 28 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

## 11TH SUBDIVISION ELECTION PROXIES AND POLLING CONTROLLERS

### Section 76. Election proxies

1. The representative of each candidature may grant a proxy to any citizen of age and in full use of his civil and political rights, for representation of said candidature in election acts and events.
2. The proxy (*apoderado*) shall be made official before a Notary or before the Secretary of the relevant Provincial or Judiciary District Electoral Commission, which shall issue the corresponding credential, according to the officially determined form.
3. Proxies must produce their credential and their National Identity Card to the members of polling bureaus and other appropriate authorities.
4. Salaried workers and civil servants who produce evidence of their capacity as proxies shall be entitled to a one-day paid leave on the polling day.

### Section 77. Election proxies' rights

Proxies shall have access to election premises, to watch voting and counting operations, to raise objections and protests and to receive certifications contemplated in this Act, where these have not already been issued to another proxy or to a polling controller of the same list of candidates.

### Section 78. Polling controllers

1. Every candidature's representative may appoint not later than three days before the poll, two controllers (*interventores*) for each polling bureau by issuing credentials out of a counterfoil book, with the date and his signature below the appointments.
2. The counterfoil leaves for each controller shall be divided into four parts: one as the counterfoil proper, which the representative must keep; the second one, which shall be handed to the controller as his credential; and a third and fourth ones, which shall be sent to the Judiciary District Commission, which shall in turn forward one of them to the relevant polling bureau and the other to the bureau in whose electors' roll the controller is entered, so that he be excluded from voting at said bureau. The forwarding of the appointments to Judiciary District Commissions shall be done not later than the third day before polling day, and District Commissions are to send them to the bureaus in such a manner that they have already been received at the moment of their constitution.
3. Any person registered in the Electoral Register and who is legally an elector, may be appointed as polling controller.  
  
As regards electors not registered in the electors' roll corresponding to the constituency where they are to perform as controllers, the District Electoral Commission concerned shall require the Electoral Register Office urgently to send the certificate of registration of said electors in the Electoral Register, unless this has been previously handed in by the person so appointed.
4. Salaried workers and employees and civil servants who show proof of their appointment as controllers shall be entitled during polling day and on the following day to a leave of absence as contemplated by Sect. 28 of this present Act for members of voting bureaus.

① *3. AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003, OF MARCH 10*

### Section 79. Rights of polling controllers

1. Polling controllers shall exercise their right to vote at the polling bureau to which they have been accredited. Where the controller is not registered in the constituency corresponding to the bureau at which he is to discharge his functions, he shall vote by mail in the manner and to the extent provided for in Sections 72 and 73 of this Act.

2. One controller for each candidature may attend the polling bureau, take part in its deliberations, but with no right to vote, and exercise at the bureau all other rights conferred by this Act.
3. For the purposes of the preceding subsection controllers for the same candidature accredited to a polling bureau may freely replace each other.
4. Any proxy may carry out the functions contemplated in subsection 2 of this Section in the absence of controllers of the respective candidature.
5. From the moment of entering his duties as polling controllers, persons so appointed cannot exercise as proxies in other election bureaus.

- ① 1. AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003, OF MARCH 10  
 ① 5. ADDED BY SINGLE SECT. OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

## 12TH SUBDIVISION CONSTITUTION OF POLLING BUREAUS

### Section 80. Constitution of polling bureaus

1. The presiding officer, the two members of each polling bureau and their alternates, if any, shall meet at the bureau's premises at eight o'clock a.m. on the day appointed for the voting.
2. If the presiding officer does not attend, he shall be replaced by his first alternate. Should the latter also be absent, he is to be replaced by a second alternate, and if the latter has not come either, by the first or the second member. Members, who have failed to attend or have taken over the duties of the president, shall be replaced by their alternates.
3. No polling bureau may be constituted without the presence of a presiding officer and two members. Where this requirement cannot be met, members of the bureau present, attending alternates or, in their default, the competent administrative authority shall make a written record of the facts, sign it and send it by registered mail to the District Commission and also notify it by telegraph or telephone.
4. The Commission shall freely appoint in the above-mentioned case the persons who are to constitute the polling bureau and it may direct that one of the electors present at the premises be appointed to this end. The Commission shall in any case notify the Attorney-General's Office (Ministerio Fiscal) of the facts for appraisal of a possible criminal liability of the bureau's members or of the alternates who have failed to attend.
5. Where, in spite of the provisions of the preceding subsection, the bureau cannot be constituted within one hour from the appointed time for the beginning of the poll, the persons referred to in subsection 3 of this Section shall so notify to District Commission, which is to convene a new vote in the bureau within the two following days. A copy of the notice thereof shall be immediately affixed at the door of the voting premises and the Commission shall proceed *ex officio* to the appointment of the new bureau's members.

### Section 81. Necessary equipment of every polling bureau

1. Every polling bureau shall be equipped with a ballot box, for each of the elections to be held and shall also have a polling booth.
2. It shall also have a sufficient number of voting envelopes and ballot forms in the booth or next to it for every candidate.
3. Ballot boxes, booths, ballot forms and voting envelopes shall conform to the officially approved model.
4. Should one of the aforesaid be missing at the time scheduled for constitution of the bureau, the presiding officer must immediately notify the District Commission, which shall provide the necessary supply.

### Section 82. Appearance of controllers at the polling bureau

1. Upon constituent meeting of the bureau, the presiding officer and the members are to receive between eight and eight-thirty a.m. the credentials of controllers appearing in this capacity and check them against the counterfoil sheets in their possession, and if they are satisfied of conformity between the credentials and the counterfoils, they shall admit said controllers to the bureau. If the presiding officer has not received those sheets or is in doubt about the authenticity

of the credentials, the identity of the controllers present or on both points, he shall nevertheless grant them admission if they so request, but he is to state his reservations in the minutes so that the issue can be properly clarified and the controllers in question be prosecuted.

2. Where more than two controllers appear on behalf of one particular candidature, the presiding officer shall only admit those who first deliver their credentials, to which end he is to number the credentials by chronological order of delivery.

3. Counterfoil sheets received by the presiding officer must be appended to the election records. Credentials produced by the controllers shall be handed back to them after having been checked by the presiding officer. If the presiding officer has not received said sheets, the corresponding credentials must be appended to the election records at the end of the counting.

4. The presiding officer shall not admit to the discharge of their duties any controller who appears before the bureau after eight-thirty a.m., once the minutes of constitution have been drafted.

Provided that said controller shall have the right to vote at the bureau.

### Section 83. Minutes of constitution of Bureaus

1. At eight-thirty a.m. the presiding officer shall write the minutes of constitution of the voting bureau, to be signed by the presiding officer himself, the other members of the bureau and the polling controllers, and shall on request deliver a copy thereof to any candidate's representative, election proxy or polling controller.

2. The minutes shall include the names of the persons composing the voting bureau as members thereof and a list of names of the polling controllers, with a reference to their respective candidate.

3. Where the presiding officer refuses or delays delivery of a copy of the constitution minutes to those entitled to it, the claimant or claimants shall write in duplicate a protest and sign it. One copy of the protest shall be appended to the minutes of the electoral proceedings and the other copy shall be sent by the claimant or claimants to the Electoral Commission responsible for the ensuing count of votes, in accordance with the general provisions of this Act.

4. The presiding officer is to give only one copy of the constitution minutes to each party, federation, coalition or grouping taking part in the election.

① 1. AS AMENDED BY SINGLE SECT. OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

① 3.AND 4. AS AMENDED BY SECT. 23 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

## 13TH SUBDIVISION THE VOTING

### Section 84. Beginning of the voting

1. Once the Bureau's constitution minutes have been written and the corresponding copies made, the polling shall begin at nine o'clock a.m. and continue without interruption until eight o'clock p.m. The presiding officer is to announce the beginning with the words: "Let the poll begin" ("*Comienza la votación*").

2. Only for reasons of *force majeure* may the polling be called off, or be suspended if already in progress, under the presiding officer's responsibility by a written and reasoned decision. The presiding officer shall in any case send a certified copy thereof by registered mail to the Provincial Commission to enable it to ascertain if the motives were true and sufficient and to declare or demand any resulting liabilities.

3. Where the voting has been suspended no account is to be taken of votes cast at the bureau nor shall any counting be conducted. The presiding officer shall immediately cause the ballot papers in the box to be destroyed and mention the fact in the report referred to in the preceding subsection.

4. Notwithstanding subsection 2 of this section, the presiding officer shall interrupt the voting if he becomes aware of the lack of ballot papers of one of the candidates and of the impossibility of replacing them with ballot forms supplied by the respective proxies or controllers. In this case the presiding officer shall inform the District Commission of his decision for the latter to supply the ballot papers.

Provided that the interruption may not last more than one hour and the voting shall be extended for as long a time as it has been interrupted. Subsection 3 of this shall not apply in this case.



① 1. AS AMENDED BY SECT. 24 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

## Section 85. Proof of the elector's right to vote

1. Exercise of the right to vote shall be subject to the elector's registration in certified copies of electors' rolls or a special register's certificate and to the elector's identification in either case by production of his National Identity Card, passport or driving license with the holder's photograph and also, if he is an alien, of his residence card.

2. The certified copies of the electors' roll referred to in the preceding paragraph shall only comprise citizens already of age on polling day.

3. Persons who can prove their right to registration in that ward's roll of electors by producing written evidence of a court's decision to that effect are also entitled to the exercise of their right to vote.

4. Where, despite production of the documents referred to in subsection 1 above, the polling station's bureau, in their own judgment or on a public objection at that moment by a polling controller, an agent or another elector, are in doubt of the identity of a person who is about to vote, they shall decide on the issue by a majority vote on the basis of documentary and oral evidence given by the electors present at the ward. They shall send in any case a report on the possibility of a criminal offence to the appropriate court of law, so that it may prosecute any person guilty of impersonation or of denial of his own identity.

5. The special electoral certificate enabling citizens to prove in exceptional circumstances their registration in the electors' roll shall be regulated by such instructions as the Central Electoral Commission deems fit regarding delivery, relevant authority, delay for issue and cases where it applies.

① 1. AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 1/1997, OF MAY 30

① 2. AS AMENDED BY SECT. 25 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

① 5. AS AMENDED BY SECT. 13 OF INSTITUTIONAL ACT 3/1995, OF MARCH 23

## Section 86. Moment of voting

1. Voting shall be secret.

2. Electors may only vote in the ward and at the polling bureau allotted to them, except as provided in subsection 1 of Section 79. They shall proceed to the bureau one by one, after having gone, if they so wish, into the booth standing in the same room, at a place between the entrance and the bureau, to enable them to choose the ballot paper and put it into the apposite envelope.

3. Each elector shall give his name and surname to the President. Members of the Bureau and polling controllers shall check by means of the electoral register lists or of the relevant certificate, the elector's right to vote, as well as his identity, which shall be certified according to Section 85 above. The elector shall thereupon personally hand to the presiding officer his voting envelope or envelopes duly closed. The presiding officer, holding said envelope or envelopes in full sight of the public all the time, shall read out the elector's name, say the word "...votes" ("...vota") and give the envelope or envelopes back to the voter, who is to put them in the corresponding box or boxes.

4. Members of the Bureau and also polling controllers, if they so wish, shall enter, each on his own numbered list, the name and surname of voters in the order in which they have cast their vote, and state the number allocated to them in the electoral registration lists or, as the case may be, in the special registration certificate produced. There shall be a numbered list for each House of Spanish Parliament and, as the case may be, for the Legislative Assemblies of Self-Governing Communities, local government assemblies or the European Parliament. Every elector has the right to verify if his name and surname have been duly entered in the voters' list to be drawn up by the Bureau for each box.

① 3. AS AMENDED BY SECT. 30 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

① 4. AS AMENDED BY SECT. 27 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

## Section 87. Aid for persons with physical disability

1. Electors who cannot read or are unable for reasons of physical disability to pick up the ballot form or put it in the envelope and hand it in person to the presiding officer, may avail themselves of the assistance of a companion of their own choice.

2. Notwithstanding the preceding subsection, the Government, on receipt of a report by the Central Electoral Commission, shall make provision for a voting procedure for blind persons or persons with a visual disability enabling them to exercise their right to vote, with full guarantee of the secrecy of vote. Said procedure shall be applied in any case for elections to the Congress of Deputies and the Senate, for elections to the European parliament and to referenda.

- ① SECT. 87 AS AMENDED BY SECT. 3 OF INSTITUTIONAL ACT 9/2007, OF OCTOBER 8
- ① 2. AS AMENDED BY SECT. 31 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

### Section 88. End of voting

1. At eight p.m. the presiding officer shall cry out the end of the voting. If some of the electors present at or proceeding to the polling station's bureau have not yet voted, the presiding officer shall allow them to do so but shall not allow anybody else to vote.

2. The presiding officer shall then proceed to put the postal ballot papers in the ballot boxes, after checking their compliance with the provisions of subsection 3 of Section 73 and that the elector is duly entered in the electoral register's lists, whereupon the Bureau's members shall enter the names of these electors in the numbered list of voters.

3. Upon conclusion of the foregoing, it shall be the turn of Bureau's members and the polling controllers to vote. The numbered voters' list must set out the names of controllers not entered in the Bureau's own electors list.

4. The voters' numbered lists shall be finally signed by the Bureau's members and the polling controllers on the margin of each page and immediately below the last name entered therein.

### Section 89. Minimum number of Bureau's members to be present at all times

Two Bureau's members at least must be present at all times.

### Section 90. Freedom from arrest for Bureau's members

No authority may arrest a Bureau's presiding officers or members nor polling controllers during voting time at which they are to discharge their duties, except in case of *flagrante delicto*.

### Section 91. Bureau's presiding officer

1. The presiding officer shall have within the polling premises exclusive authority to keep order, ensure electors' freedom and preserve observance of the law.

2. The presiding officer shall ensure that the entrance of the polling premises is at all times freely accessible to all persons entitled to vote.

3. Without prejudice to section 76, the following persons shall have a right to enter the premises of election wards: electors allotted to the ward, representatives of candidatures and candidates themselves, election proxies and polling controllers, public notaries- to attest to any action relating to the voting that is not in breach of the secrecy of voting-, constables, should their presence be requested by the presiding officer, members of Electoral Commissions, first-instance judges and their delegates and finally any persons appointed by the Administration to obtain information about the results of the count.

4. Nobody may enter the premises of an election ward with weapons or instruments than can be used as such. The presiding officer shall direct that any person in breach of this prohibition be expelled at once.

5. Notaries may attest, without any special authorization being required, to any action relating to the voting, even those taking place outside their own district, provided they occur in the same province. They shall also be available during the polling day to parties, coalitions, federations and groupings of candidates, either at their own place of residence or in the office where they usually discharge their functions.

### Section 92. Police force intervention

Police forces posted for protection of ward premises shall assist presiding officers at their request, either within or outside said premises.

### Section 93. No electoral propaganda on polling day

No election propaganda of any kind shall be carried out in the premises of wards or their vicinity. No groups shall be allowed that may obstruct access to said premises in any way, nor shall presence in the surroundings be permitted of persons who may obstruct or prevent free exercise of the right to vote. Presiding officers shall take all steps they think fit in this respect.

### Section 94. Incidents and disturbances in wards

Any incident having affected peace and order in ward premises, as well as the name and surname of those responsible for it, shall be recorded in the minutes of the voting.

## 14TH SUBDIVISION COUNTING OF VOTES IN POLLING BUREAUS

### Section 95. Counting of votes

1. On conclusion of the voting the count (*escrutinio*) shall begin immediately.
2. The count shall be conducted in public and shall not be suspended, except by reason of force majeure, even if more than one election are being held at the same time. The presiding officer shall cause a person who has in any way disturbed or obstructed the operations to be immediately expelled from the premises
3. In the event of more than one election being held concurrently, the count shall proceed in the following order: (1) the European Parliament, (2) the Congress of Deputies (3) the Senate, (4) Local Councils, (5) Legislative Assemblies of Self-Governing Communities and finally the Canary Islands' Insular Councils (*Cabildos Insulares*).
4. The count shall be carried out with the presiding officer extracting the envelopes one by one from the corresponding ballot box and reading out the name of the candidates list or, as the case may be, of the candidates. He shall also read each ballot paper himself and then show it to the other members of the Bureau, to polling controllers and to election proxies.
5. If a notary in the discharge of his duties, a representative of a candidature or a member of a list has doubts as to the contents of a ballot paper read out by the presiding officer, he may request at once that such ballot paper be shown him for examination and his request shall be granted.

① 3. AS AMENDED BY SECT. 1 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2

### Section 96. Void ballot papers

1. Votes cast in an envelope or in a ballot paper other than the officially approved form, as well as ballot papers not placed in any envelope or in an envelope containing more than one ballot paper of different candidatures, shall be null and void. Should an envelope contain more than one ballot paper for the same candidate, the vote shall be valid but counted only as one.
2. Votes cast on ballot forms where names of candidates have altered, added or deleted or where their order of priority has been changed, as well as those with the addition of words or any expression or whatever intentional alteration, shall also be null and void.
3. In elections to the Senate, votes cast in ballot papers where more than three candidates have been ticked out for provincial constituencies, more than two names for each of the constituencies of Gran Canaria, Mallorca and Tenerife and of the cities of Ceuta and Melilla, or more than one for the remaining insular constituencies, shall be null and void.
4. Votes cast in envelopes that have been tampered with in any of the manners mentioned in the preceding subsections shall be equally null and void.
5. Envelopes that do not contain a ballot paper shall be treated as valid blank votes. The same shall apply to unmarked ballot papers in elections to the Senate.

① 2. AS AMENDED BY SECT. 32 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

① 3. AS AMENDED BY SECT. 13 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30

① 5. AS AMENDED BY SECT 28 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

## Section 97. Announcement of results

1. On completion of the count the total number of envelopes shall be checked against that of the voters entered under subsection 4 of Section 86 of this Act.
2. The presiding officer shall thereupon ask whether there is any objection against the count and, should there be none, or once the bureau has disposed by a majority vote of the objections raised, he shall announce the results, with specification of the number of registered electors, registration certificates received, voters, void ballot papers, blank votes and votes obtained by each candidate or candidature.
3. The ballot papers taken out of the ballot boxes shall be destroyed in full view of those present, except rejected or challenged ballot papers, which shall be appended to the minutes and filed away with them, after having been signed by Bureau's members.

**①** 1. AND 2. AS AMENDED BY SECT. 29 OF INSTITUTIONAL ACT 8/1991

## Section 98. Minutes of the counting

1. The Bureau shall immediately make public the results by a record of the count containing the data mentioned in subsection 2 of section 97 above and have it affixed without delay on the outside or at the entrance of the premises. A copy of said record shall be handed on request to representatives of the concurring candidates who are present at that time or, as the case may be, to polling controllers, election proxies or candidates themselves. No more than one copy thereof shall be furnished to each candidate or list of candidates.
2. A copy of the counting record shall also be furnished to the person appointed by the State Administration with the sole purpose of assisting the Government in the discharge of their duty to give provisional information on election results.

**①** SECT. 98 AS AMENDED BY SECT. 30 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

## Section 99. Minutes of Bureau's sitting

1. Once all the proceedings contemplated in the above sections have been completed, the presiding officer, members of the Bureau and polling controllers shall sign the minutes of the sitting. These shall set out in full detail the number of electors allotted to the Bureau according to the relevant electoral register lists and to the registration certificates produced; the number of electors who have cast their vote, the number of polling controllers who, though not being entered in the Bureau's list have nevertheless cast their vote, and the number of void ballot papers, blank votes and votes polled by each candidate or candidature, as well as a summary mention of protests and complaints that may have been raised by representatives of candidatures, members thereof, their proxies or controllers or by electors themselves on the voting or the count, and the Bureau's decision on each of them, and any dissenting opinions among Bureau's members. The minutes shall also record any incident of the type referred to in section 94.
2. All representatives of candidatures and members thereof, as well as their election proxies and controllers, are entitled to be furnished immediately and free of charge with a copy of said minutes. The Bureau shall have no excuse for non compliance with this obligation.

**①** SECT. 99 AS AMENDED BY SECT. 31 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

## Section 100. Election documents

1. Following the above, the Bureau shall proceed to the preparation of election documentation which is to be divided into three envelopes.
2. The first envelope shall contain the whole election file, namely the following documents:
  - a) The original minutes of the Bureau's constitution;
  - b) The original minutes of the sitting;
  - c) The documents referred to in the latter and, in particular the numbered list of voters and ballot papers rejected as null and void or against which an objection has been raised;
  - d) The list of the electoral register used by the Bureau for the voting and
  - e) Registration certificates produced.
3. The second and third envelopes shall respectively contain a copy of the constitution's minutes.

4. Once all envelopes have been sealed, the presiding officer, Bureau members and polling controllers shall sign them across the part where each envelope is to be opened at a later moment.

- ① 2.E) ADDED BY SECT. 32 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13
- ① 3 AS AMENDED BY SECT. 33 OF INSTITUTIONAL ACT 1/1991, OF MARCH 13

### Section 101. Delivery of Bureaus' documentation to the First-Instance Court or Magistrates' Court

1. After having duly arranged the relevant documentation, the presiding officer and members of the Bureau and polling controllers who so wish shall immediately proceed to the First- Instance Court or to the Magistrate's Court having jurisdiction over the polling station area for delivery of the first and the second envelopes. Police forces shall accompany them and, if need be, provide transportation facilities.

2. Once he has satisfied himself of the identity of the presiding officer and, as the case may be, of the members and controllers, the Judge shall take possession of the aforesaid documents and acknowledge receipt thereof, with the indication of the day and hour of delivery.

3. Within ten hours from receipt of the last batch of documents, the judge or magistrate shall personally proceed to the seat of the Electoral Commission responsible for the counting, and deliver the first envelopes, for which he shall be given a receipt in full detail.

4. Second envelopes shall be filed with the corresponding first-instance or magistrate's court and may be later requested by Electoral Commissions for the general counting operations and by courts with jurisdiction for electoral appeals.

5. The Provincial Electoral Commission shall make the necessary arrangements to facilitate the judge's visit referred in subsection 3 of this section.

- ① 4 AS AMENDED BY SECT. 34 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

### Section 102. Delivery of documentation to Post Offices

1. Third envelopes are to be delivered to a Post Office official, who shall personally collect them at the polling station's bureau. At least one member thereof shall remain there to effect the delivery.

2. On the day following the poll the Post Office shall forward said envelopes to the Electoral Commission responsible for the count.

## 15TH SUBDIVISION AGGREGATE COUNTING

### Section 103. Aggregate counting

1. Aggregate counting (*escrutinio general*) shall be carried out on the third day following the poll by the appropriate Electoral Commission, in accordance with the special provisions of this Act.

2. The aggregate counting is to be conducted as a single operation and shall be open to the public.

### Section 104. Meeting for the counting

1. Each Commission, including representatives and proxies of candidates or lists of candidates wishing to attend, shall meet at the premises where the Secretary thereof discharges his duties. The Chairman shall write the minutes of the constituent meeting of the Commission and sign them together with members and the Secretary, as well as the duly accredited representatives and proxies.

2. The meeting shall begin at ten o'clock a.m. on the day appointed for the count. Should less than half plus one of the Commission's members be present at that time, the meeting is to be postponed until twelve noon. If any reason the meeting cannot be held at the latter time, the Chairman shall convene a new one for the following day, which he must announce to members present and to the public, and inform the Central Electoral Commission. At the time so appointed the new meeting shall begin whatever the number of members present.

- ① 1 AS AMENDED BY SECT. 36 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

### Section 105. Sitting for the count

1. The aggregate counting shall begin with the Secretary reading out the legal provisions relating to the operation.
2. The Commission's staff shall then, under the supervision of the Commission itself, open one by one the envelopes referred to in subsection 2 of section 100 above.
3. Where the corresponding envelope from any of the polling stations is missing or its contents are incomplete, the third envelope referred to in section 102 shall be used instead. Failing this and without prejudice to subsection 4 of section 101, a copy of the minutes of the Bureau's sitting duly produced by a representative or proxy of a candidate or candidature, shall be used. Where contradictory copies are shown, none of them is to be taken into account.
4. Where there are double or different minutes or records from a polling station's bureau or where the number of voters shown in the record exceeds that of the electors of the bureau according to the electoral register lists and to the registration certificates produced –with the exception of votes cast by the polling controllers-, the Commission shall not include said votes in the aggregate count.

Provided that where this is due to a single material, factual or arithmetical error, the Commission itself shall rectify it.

5. The Commission's Secretary shall give the summary result of each polling station's bureau and the Commission's staff are to make the corresponding entries, if need be, by a mechanical or electronic means leaving a documentary evidence of such entries.
6. Where the number of polling station bureaus makes it advisable, the Electoral Commission may be divided into two sections for the performance of the operations referred to in the subsections above, in which case one of the Commission's members shall act as secretary in one of the sections.

① *3 AND 4 AS AMENDED BY SECT. 37 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

### Section 106. Annulment of minutes and votes

1. The Commission may not void any minutes, record or vote in the course of the general count, its authority being confined to verifying without debate polling station bureaus' counts and aggregate numbers of votes admitted as such by the corresponding bureaus, on the basis of their minutes or of the copies thereof, except for cases referred to in subsection 4 of section 105, where the Commission may only rectify the mere material, factual or arithmetical errors detected in said documents.
2. Representatives or polling controllers on behalf of candidates or list of candidates are not allowed to make any complaint or raise any protest while the minutes are being examined, except for specific observations on the accuracy of the data under examination.

① *1 AS AMENDED BY SECT. 38 OF THE INSTITUTIONAL ACT 8/1991, OF MARCH 13*

### Section 107. Interruption of aggregate counting

1. The aggregate counting may not be interrupted. The Commission may, however, after having sat for twelve hours, adjourn the proceedings until the following day, but cannot in any case leave the counting of votes of a particular polling ward unconcluded.
2. The aggregate counting shall be completed not later than the sixth day after the polling day.

① *2 AS AMENDED BY SECT. 39 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

### Section 108. Minutes of aggregate counting

1. On completion of the count, the Electoral Commission shall issue in triplicate an aggregate count record for the relevant constituency which shall state in detail the number of electors in all polling stations' bureaus –on the basis of the electoral register lists and the registration certificates produced-, the number of voters, the votes polled by each candidate or list of candidates, blank votes and rejected ballot papers. After the end of the sitting a full account of the aggregate voting proceedings, shall be written in the minutes thereof, which shall be signed, together with the aggregate counting record, by the Chairman, the Commission's members and Secretary and duly accredited candidates' representatives-general and proxies-general.

2. Representatives and proxies of candidates or candidatures shall have one day to make objections and raise protests, provided they refer only to facts or developments contained in the minutes of polling stations' bureaus or in the minutes of the Electoral Commissions' sitting for the general count.

3. The Electoral Commission shall settle in writing the aforesaid complaints and notify immediately their decision to representatives and proxies of the candidate or candidature concerned. There shall lie a right of appeal against such decision by the general representatives or general proxies before the Electoral Commission itself within twenty-four hours. On the day after lodging of the appeal, the Electoral Commission shall forward the whole file, with their own report, to the Central Electoral Commission, notify forthwith the representatives of the candidate or list of candidates for the relevant constituency and summon them to appear before the Central Electoral Commission on the following day. The Central Electoral Commission, after having heard both parties for a period not exceeding two days, shall determine the appeal in the course of the following day and transmit their resolution to the corresponding Electoral Commissions so that the latter may issue the writs of elected candidates.

4. Where after the period referred to in subsection 3 above no complaints or objections have been received or the Central Electoral Commission has determined all complaints, the appropriate Electoral Commissions shall proceed within the following day to issue the writs of declaration of elected candidates, for which purpose votes cast for each candidate or candidature plus blank votes shall be counted as valid votes.

4 bis. From the voting to the proclamation of candidates elected, the Government shall, through the State's Advocates Office and the Attorney-General, lay before the Special Division of the Supreme Court referred to in Section 61 the Judicial Power's Institutional Act, a reasoned declaration announcing the lodging within no more than fifteen days of the petition of legal banning or the interlocutory injunction contemplated in Sections 11 and 12.3 of the Political Parties Act, and seeking the preventive suspension of the proclamation as elected of candidates having concurred for the party concerned or for the federations or coalitions of which aid party is a member. Said authorities may likewise seek preventive suspending of the proclamation of candidates elected having concurred in lists put up by electors' groupings who may be connected with the party against which the request for dissolution or executive injunction has been lodged, or of a party already declared as illegal by a final judicial decision. The Special Division is to pronounce on the suspension within two days of the petition.

Upon filing of the petition or, as the case may be, of the interlocutory injunction the Special Division shall in its decision on admissibility thereof determine the continuance or discontinuance of preventive suspension until the conclusion of the procedure. If the suspension is maintained and the final decision outlaws the party in itself or declares it a successor of another party declared illegal, the Special Division shall also declare non-proclamation of candidates elected on said party's list or on the lists of federations or coalitions to which the party belongs. No subsidies may be paid under Section 127.2 of this Act as long as the suspension remains in force and payment shall only be made if the final judicial decision has rejected the petition of banning or the interlocutory injunction.

At any moment of the electoral mandate of candidates elected on lists put up by electors' groupings, the Government may, through the State's Advocates Office or the Attorney-General, file with the Special Division of the Supreme Court set up by Section 61 of the Judicial Power's Institutional Act the petition or the interlocutory injunction referred to in Sections 11. and 12.3 of Political Parties Institutional Act 6/2002, seeking the pronouncement that a connection exists between said groupings and a party already banned or with the party whose banning is being sought.

5. Said proclamation writs shall be issued in triplicate and signed by the Chairman and the Secretary of the corresponding Commission, and shall explicitly contain the following information: number of electors in the wards of the constituency, of voters, of votes obtained by each candidate or candidature, of blank votes, of valid votes, of rejected ballot papers and of seats obtained by each candidate or list of candidates. A list with the names of elected candidates is also to be included and mention shall equally be made of complaints and objections raised before the Electoral Commission and the respective decision and also of appeals to the Central Electoral Commission, if any, with the latter's resolution.

6. The Commission shall file away one of the copies of the writ. The second copy shall be forwarded to the House of Parliament or Assembly or to the council where elected candidates are to sit, and the third one to the Central Electoral Commission, who shall proceed within forty days to publish the overall results and each constituency results in the Official Gazette, without prejudice to continuation of proceedings on appeals against such declarations.

7. Certified copies of the aggregate count record shall be delivered to representatives of candidates or lists of candidates who so request and proclamation credentials shall equally be issued to elected candidates. The Electoral Commission may decide that said certifications and credentials be immediately sent to the candidates concerned through their representative.

8. On taking their seat -and as a necessary condition for full investiture- elected candidates shall swear or promise allegiance to the Constitution and compliance with all other legal requirements laid down by the corresponding acts or statutory provisions.

- ① 1 TO 5 AS AMENDED BY SECT. 40 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13
- ① 4 BIS ADDED BY SECT. 6 OF INSTITUTIONAL ACT 3/2011, OF JANUARY 28
- ① 6 TO 8 RENUMBERED BY SECT. 41 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13. FORMER " 4 TO 6" RESPECTIVELY

## 16TH SUBDIVISION ELECTORAL PETITIONS (CONTENCIOSO ELECTORAL)

### Section 109. Decisions that can be appealed against

There shall lie a right of petition to courts against Electoral Commissions' decisions on proclamation of elected candidates, as well as on election and proclamation as elected candidates of Presidents of local authorities.

### Section 110. Persons entitled to file electoral petitions

The following are legally entitled to present an election petition or to oppose any such petition:

- a) Candidates declared elected or not declared elected;
- b) Representatives of candidates having stood for election in the relevant constituency, and
- c) Political parties, associations, federations and coalitions who have presented candidates in that constituency.

### Section 111. Intervention of the Attorney-General's Office

The Attorney-General's Office shall represent the State and defend the process of law in all legal election proceedings.

### Section 112. Filing of electoral petitions

1. Election petitions shall be lodged with the appropriate Electoral Commission within three days following the declaration of elected candidates in the form of a written statement of the facts, legal grounds and purpose of the petition.

2. The Administrative Appeals Division (*Sala de lo Contencioso-Administrativo*) of the Supreme Court shall be the competent court for adjudging petitions arising from a general election and from elections to the European Parliament, and the Administrative Appeals Division of the Higher Court of Justice (*Tribunal Superior de Justicia*) of each Self-Governing Community shall be the competent court for determining petitions arising from elections to the Self-Governing Community's Assembly or from local authorities elections.

3. On the day following presentation, the Chairman of the relevant Electoral Commission shall forward to the appropriate Court's Division the petition itself, the whole election file and a report from the Electoral Commission on the grounds for the Commission's decision which is being appealed. The Chairman's decision shall be notified immediately to the representatives of candidates or candidatures having taken part in the election and shall include a summons to appear before the Court's Division within the two following days.

4. The Court's Division, on the day following the time limit for appearance of the interested parties, shall forward the petition and accompanying documents to the Attorney General's Office and to all those acting as parties to the proceedings and direct that the whole file and the Electoral Commission's report be laid at their disposal, so that within a common and not extendable period of four days they can make the allegations they deem relevant to the case. These allegations may be supported by documents which in their opinion may be conducive to supporting or challenging the grounds of the petition. The Attorney-General's Office and the interested parties may also request the opening of the period for admission of evidence and propose the means of proof they think appropriate.



5. On the day following expiry of the term for allegations, the Court's Division may decide *ex officio* or on a party's request to open the period for admission of evidence and gathering of evidence it may see fit. This phase shall take place in accordance with the general rules for administrative legal proceedings, but its duration may not exceed five days.

① 2 AND 3 AS AMENDED BY SECT. 42 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

① 4 AND 5 RENUMBERED BY SECT. 43 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13. FORMERLY 3 AND 4 RESPECTIVELY.

### Section 113. Determination of electoral petitions

1. After the end, as the case may be, of the stage for gathering evidence, the Court's Division, without any further proceedings, shall pass its judgment within four days.

2. The decision shall consist in one of the following pronouncements:

a) Rejection of the petition;

b) Validity of the election and proclamation of elected candidates, which may include the mention of the list having obtained the highest number of votes or

c) Annulment of decision to declare one or more candidates elected and proclamation of the candidate or candidates who ought to have been so declared

d) Annulment of the election held in one or more election bureaus that may be affected by invalidating irregularities, entailing the need either simply to carry out a new vote in said bureaus or to hold a new election if this took place in the Presidency of a local authority, within a maximum term of three months in either case from the judgement. Provided that the voiding of the poll in one or more bureaus shall not entail the call of a new election where the result in those bureaus does not affect the allotment of seats in the constituency.

① 2. D) AS AMENDED BY SECT. 44 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

① 3 ABOLISHED BY SECT. 45 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

### Section 114. Notification of judgment. Appeals available

1. The decision shall be notified to the interested parties not later than the thirty-seventh day from the election day.

2. There shall lie no ordinary or extraordinary appeal from the decision of the Court, save for clarification of the judgment, and without prejudice to appeal on grounds of unconstitutionality to the Constitutional Court, which must be lodged within three days. The Constitutional Court shall dispose of the appeal within the fifteen following days.

① 2 AS AMENDED BY SECT. 46 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

### Section 115. Notification of judgment to the relevant Electoral Commission

1. The decision shall be notified to the appropriate Electoral Commission by sending a copy thereof in the prescribed form with return of the whole file, and must be executed immediately and on its exact terms.

2. The Court's Division, *ex officio* or on the Attorney-General's request, may also directly notify all authorities, bodies or institutions of any nature which may be concerned by the contents of the determination and it may also take such steps as it sees fit for full execution of all the orders contained therein.

### Section 116. Nature of electoral petitions

1. Electoral petitions are to be treated as a matter of urgency and given first priority for examination and final judgment in the Administrative Appeals Division of the competent court.

2. The Administrative Procedure Act shall apply where this Act makes no specific provision for matters of election petitions.

### Section 117. Petitions to be free of charge

Court proceedings under this Act are free of charge. Provided that where a party or parties have made unfounded allegations, they shall be ordered to defray the cost of the proceedings unless

the court relieves them from such payment in view of exceptional circumstances acknowledged as such in the judgment.

## 17TH SUBDIVISION GENERAL RULES OF PROCEDURE IN ELECTION PETITIONS

### Section 118. Features of election documents

1. The following shall be free, exempt from stamp duty and written on ordinary paper:

- a) Applications, certificates and proceedings relating to formation and revision of the Electoral Register and to registration therein and
- b) All proceedings and supporting documents relating to the election process, including notarial documents.

2. Copies to be issued of election documents may be made by any mechanical or electronic means of reproduction, but said documents shall only have effect if duly stamped and signed as in the same manner as their originals.

### Section 119. Calculation of time limits

Terms referred to in this Act cannot be extended and shall always be construed as expressed in natural days.

### Section 120. Administrative Procedure Act applicable in the absence of provisions in this Act

The Administrative Procedure Act (*Ley de Procedimiento Administrativo*) shall apply in all matters where this Act makes no explicit provision.

## CHAPTER VII ELECTION EXPENSES AND SUBSIDIES

### 1ST SUBDIVISION ELECTION MANAGERS AND ELECTION ACCOUNTS

#### Section 121. Candidate's election manager

1. Every candidate or candidature shall have an election manager (*administrador electoral*) in charge of income and expenses as well as of accounts generally. Candidates nominated by each party, federation or coalition within the same province are to have a common manager.

2. The accounts shall comply in any case with the general principles of the General Accountancy Scheme.

① *SECT. 121 AS AMENDED BY SECT. 47 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

#### Section 122. General manager

1. Parties, federations or coalitions who nominate candidates in more than one province shall also have a general manager.

2. The general manager shall be responsible for all election income and expenditure of the party, federation or coalition and its candidates, as well as for the respective accounts, which must contain at least the detailed data referred to in subsection 2 of section 121 above.

3. Candidates' managers shall act under the general manager responsibility.

① *2 AS AMENDED BY SECT. 48 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

#### Section 123. Appointment of general manager

1. Any citizen of voting age in full use of his civil and political rights, may be appointed general election manager.

Provided that persons referred to in subs. 2 of Sect. 6 of this Act may not be appointed to this function.

2. Candidates' representatives and parties', federations' and coalitions' general representatives cannot be general managers at the same time.

3. Candidates cannot be election managers.

① 1 AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

#### Section 124. Opening of accounts

1. General managers and election managers of candidates or lists of candidates appointed in due time and in the manner prescribed by the relevant provisions of this Act shall notify to the Central Electoral Commission and to the respective Provincial Commissions the bank accounts opened for collection of funds.

2. The opening of accounts may be effected, after appointment of the election manager, in any bank or savings bank. The notification referred to in subs. 1 above is to be sent within twenty hours following the opening of the account.

3. Where candidates or candidatures nominated have not been officially declared as such or decide not to stand for election, the money paid into the account by third persons shall refunded to the parties, federations, coalitions or groupings who have presented those candidates or candidatures.

#### Section 125. Income of and expenditure out of accounts

1. All monies intended to defray election expenses, whatever their origin, shall be paid into the accounts and all expenses shall be paid out of said accounts.

2. Election managers and persons authorized by them for disposal of funds out of the accounts shall be responsible for ensuring that monies paid in and out are used for their proper purpose.

3. After the end of the electoral campaign the balance of said accounts shall be used to pay within ninety days following the poll any expenses previously incurred.

4. All claims relating to election expenses that have not been notified to managers within sixty days after the polling day, shall be void and not payable. The relevant Provincial Electoral Commission or, as the case may be, the Central Electoral Commission, may however allow exceptions to this rule on reasonable grounds.

#### Section 126. Donation of funds into accounts

1. Persons who bring funds into the accounts referred to in the preceding sections shall state their name and address and their National Identity Card or passport, which must be shown to the appropriate employee of the bank or savings bank where the account has been opened.

2. Where the money is paid in on behalf of another person or of a body corporate, the name of such person or body corporate must be stated.

3. Where payments into accounts are made by parties, the origin of the monies paid in is to be so stated.

### 2ND SUBDIVISION FINANCING OF ELECTIONS

#### Section 127. Election subsidies

1. The State shall, in accordance with the rules laid down by the special provisions of this Act, subsidize the expenses incurred by parties, federations, coalitions or grouping of electors taking part in elections to Congress of Deputies, Senate, European Parliament and local councils.

Provided that the subsidy granted to each political group may not in any case exceed the amount declared in its statement of election expenses and verified by the Auditing Court (*Tribunal de Cuentas*) in the discharge of its functions.

2. Both entitlement to said subsidies and payment thereof to political formations or to other persons or entities to which this right may have been transmitted on any grounds, may be made conditional, if the Electoral Administration so decides, on the showing of proof that candidates elected on behalf of such parties, federations, coalitions or groupings of electors have become members of Congress of Deputies, Senators, members of the European Parliament or members of the relevant local assembly and have effectively entered the functions for which they have been

elected and in respect of which the entitlement to such subsidies arises. Entering and discharge of said functions are to be checked and certified by the executive bodies of the relevant assembly.

3. In conformity with Section 4 of Financing of Political Parties Institutional Act 3/1987, of July 2, the State shall not subsidize expenses such as those referred to in this section incurred by parties, federations, coalitions or grouping of electors who have engaged in a type of conduct described in Section 9 of the Political Parties Institutional Act 6/20023, of June 27, as a ground for the banning of a political party, where, having regard to degree of reiteration or gravity of such conduct, there is no sufficient ground for initiating a legal banning procedure.

4. Subsidies contemplated in this present section shall not apply on the same ground to said political formations keeping or including in their executive bodies, parliamentary or political groups or candidates' lists persons convicted by a court of law, even if sentence is not yet final, for rebellion, terrorism or serious offence against the State's security as defined in criminal legislation, unless the relevant formation has made public its rejection of both the aims of such actions and the means resorted to.

① *SECT. 127 AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003, OF MARCH 10*

① *2 AS AMENDED BY SECT. 33 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

### Section 127 bis. Advance payments of election subsidies

1. The State shall give advances on the aforesaid subsidies to parties, federations and coalitions having obtained such subsidies at the latest election to Spanish Parliament, to the European Parliament or, as the case may be, to city councils, and not having been later deprived of their entitlement thereto under the preceding section. The advanced amount may not exceed 30 per 100 of the subsidy received by the same party, federation or coalition at the latest election of the same description, nor the same percentage of the subsidy arising from application of sections 175, subs.3; 193, subs. 3, and 227, subs. 3, of this Act, depending on the type of election in each case.

2. The above-mentioned advances may be applied for between the twenty-first and the twenty-third day after the call of the election.

3. Parties, federations or coalitions who have presented candidates in more than one province, shall submit the application for advance payments through their respective manager-general to the Central Electoral Commission. In all other cases the application is to be submitted by said manager to the relevant Provincial Electoral Commission, which shall forward the request to the Central Commission.

4. As from the twenty-ninth day from the call of the election, the State's Administration shall make available the corresponding advances to election managers.

5. Sums paid in advance to a party, federation or coalition are to be returned after the election in the amount exceeding the subsidy to which said party, federation or coalition is finally entitled.

6. Without prejudice to the preceding subsection, sums paid in advance shall be totally returned if no proof can be shown, according to Sect. 133, subs. 4, of this Act, of candidates elected on behalf of said political formations having effectively become members of the Congress of Deputies, Senate, European Parliament or the corresponding local assembly and of their having entered the exercise of the functions for which they have been so elected and which give a right to the subsidy provided for in this Act.

① *SECT. 127 BIS ADDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003, OF MARCH 10*

### Section 128. Donation of public funds to election accounts

1. No Public Administration agency or corporate or other public sector body or company belonging to the State, a Self-governing Community, a province or a local council or partly privately-publicly owned company may bring funds into election accounts. The same prohibition applies to any firms who supply services or goods or undertake works on a contractual basis for any Public Administration department.

2. Donations of funds to said accounts by foreign bodies or entities are also forbidden, except for appropriations in the Budget of the European Communities' institutions for the financing of elections to the European Parliament and for local councils elections, and only for persons to whom Section 13, subs. 2, of the Constitution applies.

① *2 AS AMENDED BY SECT. 1 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2*

### Section 129. Limits to donations

No individual or body corporate may pay more than 10,000 Euros into accounts opened by the same party, federation, coalition or grouping for collection of funds in relation to elections already announced.

① *SECT. 129 AS AMENDED BY SECT. 34 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

## 3RD SUBDIVISION ELECTION EXPENDITURE

### Section 130. Election expenses

Expenses incurred by parties, federations, coalitions or groupings taking part in an election from the day of calling thereof to the date of proclamation of candidates, shall be deemed to be election expenses, provided they fall within one of the following categories:

- a) Production of envelopes and ballot papers;
- b) Propaganda and advertisements directly or indirectly aimed at promoting vote for their candidates, whatever the manner and the means used;
- c) Hiring of premises for holding election campaign events;
- d) Payment of remunerations or bonuses to temporary staff in the employment of candidates;
- e) Means of transportation and travelling expenses of candidates and leaders of parties, federations, coalitions and groupings and staff in candidates' employment;
- f) Correspondence and posting;
- g) Interests of loans received for the election campaign and due to be charged up to the date of payment of the relevant subsidy and
- h) Whatever election expenses may be necessary for the organization and running of offices and services required for the election.

① *SECT. 130 AS AMENDED BY SECT. 49 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

### Section 131. Limits on election expenditure

1. No party, federation, coalition or grouping of electors may incur election expenses above the limits laid down by the specific provisions of this Act, such limits being always construed as expressed in constant value Euros.

2. Where two or more elections by direct universal suffrage are held on the same date, parties, federations, coalitions or groupings of electors taking part in said elections, may not incur additional election expenses exceeding by 25 per 100 the maximum limits allowed for election to the Spanish Parliament.

① *1 AS AMENDED BY SECT. 35 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

① *2 AS AMENDED BY SECT. 50 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

## 4TH SUBDIVISION CONTROL OF ELECTION ACCOUNTS AND ALLOCATION OF SUBSIDIES

### Section 132. Statement of election accounts

1. From the call of the election until the hundredth day after the poll, the Central Electoral Commission and Provincial Commissions shall ensure compliance with the rules laid down under the foregoing sections of this Chapter.

2. They may to this end require at any moment banking institutions and savings banks to provide statements of election accounts, the number and identity of payers and any other information the Commissions may deem necessary for the discharge of their auditing functions.

3. They may also require election managers to provide the accountancy information they deem necessary and they shall answer in writing any consultation made to them by said managers.

4. Where their investigations bring to light a type of conduct that may be constitutive of an electoral offence, the Commissions shall inform the Public Prosecutor's Office for the institution by the latter of the appropriate proceedings. The Commissions themselves shall punish infringements in these matters under Section 153 of this Act.

5. The Commissions shall equally notify the Auditing Court of the result of their own monitoring activity.

① 1 TO 3 AS AMENDED BY SECT. 7.3 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30

### Section 133. Submission of electoral accounts

1. Between one-hundred and one-hundred and twenty-five days after the election, parties, federations, coalitions or groupings who meet the necessary conditions to obtain State subsidies, or who have requested advance payments on said subsidies, shall lay before the Auditing Court a detailed and duly documented account of their election income and expenses.

2. Submission shall be effected by the manager-general of parties, federations or coalitions who have nominated candidates in several provinces and by the manager of each candidate or list of candidates in all other cases.

3. Financial institutions of any description having granted loans to parties or associations mentioned in subsection 1 above, shall send to the Auditing Court a notice with full particulars of said loans, within the time limits prescribed in said subsection.

4. Within thirty days after submission to the Auditing Court of said accounts, the State shall, as an advance payment pending completion of the Auditing Court's task, pay election managers 90 per 100 of the subsidies to which they are entitled under the criteria laid down in this Act, according to overall results of the election as published in the Official Gazette, after deduction, where applicable, of the advance payment referred to in subs. 1 of Section 127 *bis* of this Act. On this occasion parties, coalitions, federations and groupings of electors must produce as a condition for receipt of said advance a bank guarantee of 10 per 100 of the subsidy so granted, as well as, if so requested by the Electoral Administration, a certificate delivered by the competent body that candidates elected for the different political formations have actually become members of the Congress of Deputies, senators, members of European Parliament or members of a local authority's assembly and entered the exercise of the functions for which they have been so elected and whose election has given or is giving a right to perceive the subsidies contemplated in this Act.

No such advance payment shall be made where the relevant political formation includes persons falling within the description of paragraph b) of Sect. 6, sub. 2, of this Act.

5. Companies who have invoiced to parties and federations referred to in subs. 1 for election expenses exceeding 10,000 Euros must report to the Auditing Court in the same manner.

6. The State's Central Administration shall pay the amount of said subsidies to the election managers of the formations entitled thereto, unless managers have requested the Central Electoral Commission to pay the relevant sum wholly or partly to the financial institutions indicated, as the case may be, by the managers as a reimbursement of advances or loans made previously by those institutions. The State Administration shall make the relevant payment in conformity with the manager's notification unless said advances or loans have been granted to political formations falling within subss. 2, 3 and 4 of Section 127 of this Act. No such notification can be revoked without the consent of the financial institution concerned.

① 4 AS AMENDED BY SECT. 36 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

① 5 RENUMBERED BY SECT. 52 OF INSTITUTIONAL ACT 8/1991. FORMERLY 4; AND AMENDED BY SECT. 37 OF INSTITUTIONAL ACT 2/2011.

① 6 AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003, OF MARCH 10

### Section 134. Control by Auditing Court

1. The Auditing Court, within thirty days following the period appointed in subs. 1 of the foregoing section may require all those under obligation to lay accounts and reports pursuant to said section, to submit such supplementary clarifications and documents as the Court deems necessary.

2. Within two hundred days after the election the Auditing Court shall in the discharge of its examination duty, pronounce on the correctness of the election accounts. Where the Court has detected irregularities in said accounts or infringements of the limitations on election income and expenses, it may recommend denial or reduction of the State's subsidy to the party, federation,

coalition or grouping in question. If it also appears that a criminal offence may have been committed, the Court shall notify the Attorney-General's Office accordingly.

3. The Court shall within the same term send the results of its audit in a reasoned report comprising the statement of certified regular expenses of each party, federation, coalition, association or grouping of electors, to the Government and to the Commission to be set up under the First Transitional Provision of the Auditing Court Institutional Act 2/1982, of May 12.

4. Within one month from the sending of the Auditing Court's report, the Government shall submit to Parliament an extraordinary appropriations bill for the aggregate of the subsidies granted, which shall be paid within one-hundred days from the passing of the bill by both Houses of Parliament.

5. Disbursement of the subsidies by the relevant body shall be effected in conformity with the Monitoring Report approved in Parliament by the Joint Committee for the Auditing Court and with the provisions of subss. 2, 3 and 4 of Section 127 of this Act.

*① 5 ADDED BY SECTION 5 OF INSTITUTIONAL ACT 1/2003, OF MARCH 10*

## CHAPTER VIII ELECTORAL OFFENCES AND INFRINGEMENTS

### 1ST SUBDIVISION GENERAL PROVISIONS

#### Section 135. Officers discharging electoral functions

1. For the purposes of this Chapter, public officers are all persons who are to be treated as such under the Criminal Code, all persons who discharge a public duty relating to elections and in particular chairmen and members of Electoral Commissions, as well as presiding officers, members and polling controllers at polling stations' bureaus and their respective replacements.

2. For the same purposes the Electoral Register -and authorized copies thereof-, minutes of proceedings, lists, certificates, counterfoil book sheets and appointment credentials of persons who are to take part in the election process, and any documents delivered by persons entrusted with issue of the same by this Act, are deemed to be official documents.

#### Section 136. Highest penalty to be imposed

Actions that can be deemed to be an offence under this Act and the Criminal Code shall be punished under the provisions providing for the higher penalty.

#### Section 137. Penalty of specific disqualification from eligibility

The penalty of specific disqualification from eligibility in any election falling within the scope of this Act shall be imposed, in addition to the penalties laid down in the following sections, for all offences referred to in this Chapter.

*① SECT. 137 AS AMENDED BY INSTITUTIONAL ACT 10/1995, OF NOVEMBER 23*

#### Section 138. Criminal Code to be applied as surrogate statute

The Criminal Code shall apply in all matters not expressly provided for in this Chapter.

### 2ND SUBDIVISION ELECTORAL OFFENCES

#### Section 139. Wilful offences committed by public officer

The following are punishable with six months to two years imprisonment and with coercive fines from six months to twenty-four months public officers who:

1. Fail to comply with legal provisions on formation, maintenance and exhibition to the public of the electoral register;
2. Fail to comply with statutory provisions on the constitution of Electoral Commissions and polling station bureaus, as well as on voting, decision-making and counting;

3. Fail to draw up the minutes of proceedings, certificates, notifications and other election documents in the manner and at the time prescribed by the law.
4. Arouse doubt without reasonable cause on a persons' identity or rights;
5. Suspend any election proceedings with no reasonable cause;
6. Reject, hinder or unduly delay admission, examination or determination of protests and petitions by persons legally entitled thereto or fail to put the same on record;
7. Cause in the discharge of their duties a manifest prejudice to candidates and
8. Fail to comply with the procedure provided for postal voting.

① *SECT. 139 AS AMENDED BY SECT. 38 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

#### Section 140. Offence by abuse of office or false statement

1. Publish officers who in the discharge of their duties or position commit one of the following misrepresentations shall be punished with three years to seven years imprisonment and coercive fines between eighteen months to twenty-four months:

- a) Altering without authorization dates, hours and place at which any electoral proceedings, including those of a preparatory nature, are to be held or announcing the holding thereof in a way that can be misleading to electors the exercise of his franchise;
- b) Omitting or stating the names of voters in any election proceedings in a way that may be conducive to mistake about the authenticity of the names;
- c) Altering, hiding or changing in any way the election envelope or the ballot papers handed in by voters in the exercise of their franchise;
- d) Inaccurately carrying out the count of electors when preparing or rectifying the Register or during the polling or counting operations;
- e) Unduly proclaiming any persons;
- f) Not telling the truth in oral statements to be mandatorily made at election proceedings under this ActM;
- g) Allowing, though being able to avoid it, someone to vote more than twice or to vote without being legally able to vote, or failing to make the due protest;
- h) Printing, making or using ballot papers or election envelopes in contravention of the rule in force;
- i) Failing to their duty relating to certifications on subsidies for election expenses contemplated in this Act or
- j) Committing any similar type of fraud connected with elections, by one of the means set out in Section 302 of the Criminal Code.

① *SECT. 140 AS AMENDED BY SECT. 39 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

① *1.I) ADDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003, OF MARCH 10*

① *1.J) RENUMBERED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003. FORMER 1.I)*

#### Section 141. Offences relating to vote by post

1. Any person who wilfully acts in breach of the procedure laid down for postal voting shall be punished with arrest from three months to one year or a coercive fine from six months to twenty-four months.

2. Any person wilfully taking part in one of the misrepresentations referred to in the foregoing Section shall be punished with a term of six months to three years imprisonment.

① *SECT. 141 AS AMENDED BY SECT. 40 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

#### Section 142. Casting several votes or voting without legal capacity

Any person who votes twice or more times in the same election or casts his vote with no legal capacity shall be punished with a term of six months to two years imprisonment, a coercive fine



from six months to two years and disqualification from any public office or position for a period of one year to three years.

① *SECT. 142 AS AMENDED BY SECT. 41 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

#### Section 143. Absence from or failure to comply with legal duties at polling bureaus

Presiding officers and members of polling station bureaus, as well as their replacements, who without reasonable cause fail to attend or do not comply with the obligation under this Act to excuse himself for or give notice of their absence, shall be liable to imprisonment between three months and one year or to a coercive fine from six months to twenty-four months.

① *SECT. 143 AS AMENDED BY SECT. 42 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

#### Section 144. Offences relating to electoral propaganda

1. Persons having committed one of the following offences shall be liable to a term of imprisonment from three months to one year or to a coercive fine from six months to twenty-four months:

- a) Engaging in propaganda activities after expiry of the time-limit for the electoral campaign;
- b) Breaking the legal rules on election billboards and space allotted to them, as well as on and other public events for electoral propaganda.

2. Members in active service of the Armed Forces and State Security Forces, of local and Self-Governing Communities, police forces and judges, magistrates and members of the Public Attorney' Office (*Fiscales*) as well as of Electoral Commissions who disseminate electoral propaganda or carry out other electoral campaign activities, shall be liable to a term of imprisonment from six months to two years and a coercive from six months to one year.

① *SECT. 144 AS AMENDED BY SECT. 43 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

#### Section 145. Offences in connection with election surveys

Any person who wilfully violates current regulations on election opinion polls shall be liable to arrest from three months to one year, a coercive fine between twelve and twenty-four months and a special disqualification for any trade or professional practice or activity for a term of one year to three years.

① *SECT. 145 AS AMENDED BY SECT. 44 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

#### Section 146. Offences relating to the exercise of right to vote

1. Persons who commit one of the following offences shall be punished with a term of imprisonment from six months to three years and a coercive fine from twelve months to twenty-four months:

- a) Directly or indirectly procuring for reward, gift, remuneration or a promise an elector's vote or inducing him to abstain from voting;
- b) Exerting pressure on voters with violence or intimidation to prevent them from voting or to compel them to vote against their will or to disclose the secrecy of voting, or
- c) Unjustifiably preventing or impeding the entrance, exit or stay of electors, candidates, election proxies, polling controllers and notaries in or from any places where election proceedings are carried out.

2. Public officers who make use of their legal powers for one of the purposes described above shall be liable to the penalties provided for in the foregoing subsection and to a special disqualification from any public office or position for a term of one year to three years.

① *SECT. 146 AS AMENDED BY SECT. 45 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

#### Section 147. Breach of peace and order at the polling place

Any person who seriously disturbs orderly election proceedings or enters the premises where said proceedings are taking place, with weapons or other instruments that can be used as such, shall be liable to arrest from three months to twelve months or to coercive fines from six months to twenty-four months.

### Section 148. Calumny and injuries during electoral campaign

Where calumny and injuries are committed during an election campaign and on the occasion and by reason thereof, imprisonment penalties contemplated in the Criminal Code for said offences shall be imposed at their highest degree.

### Section 149. Fraudulent misrepresentation in election accounts

1. General managers and candidates' managers of parties, federation, coalitions or groupings of electors who forge accounts by unduly entering or omitting contributions or expenses- or who manipulate said accounts in order to fake an increase or a reduction in accounting positions, shall be liable to imprisonment for a term of one year to four years and to a coercive fine of twelve months.

2. The Court may however, having regard to the seriousness of the facts and to circumstances, impose the aforesaid penalties on one degree below that contemplated in the foregoing subsection.

### Section 150. Misappropriation of election funds

1. General managers and candidates' managers, as well as any persons authorized to make use of election accounts, who misappropriate or divert such funds for a purpose other than those contemplated in this Act, shall be punished with a term of imprisonment of one year to four years and a coercive fine from six months to twelve months, where the misappropriated or diverted funds do not exceed 50,000 Euros and with two years to six years imprisonment and a coercive fine from twelve months to twenty-four months in the contrary case.

2. The Court, having regard to the seriousness of the facts and the circumstances, the accused person's situation and the aims of this action, may impose a penalty of six months to one year imprisonment and coercive fine from three months to six months.

## 3RD SUBDIVISION JUDICIAL PROCEDURE

### Section 151. Criminal proceedings

1. Prosecution for punishment of the offences set out in the foregoing sections shall be conducted in conformity with the Criminal Prosecution Institutional Act (*Ley Orgánica de Enjuiciamiento Criminal*) and proceedings instituted under the provisions thereof shall have priority and be carried out with the greatest possible urgency.

2. Criminal action arising from said offences is a public one and does not require payment of any caution.

### Section 152. Final court decisions

The court or the judge having jurisdiction for execution of a final decision delivered on proceedings for offences referred to in this Part shall cause the decision to be published in the Provincial Official Gazette and send a copy thereof to the Central Electoral Commission.

## 4TH SUBDIVISION MINOR ELECTORAL INFRINGEMENTS

### Section 153. Minor electoral infringements

1. Any breach of the compulsory rules laid down in this Act that is not a criminal offence shall be punished by the competent Electoral Commission with a fine of 300 to 3,000 Euros if committed by a public authority or public officer, or from 100 to 1,000 Euros if committed by private persons.

2. Violations of this Act on electoral opinion polls shall be punished with a fine from 3,00) to 30,00) Euros.

[3.]

- ① 1 AND 2 AS AMENDED BY SECT. 49 OF INSTITUTIONAL ACT. 2/2011, OF JANUARY 28  
① 3 REPEALED BY SECT. 49 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

## PART II SPECIAL PROVISIONS FOR ELECTION OF MEMBERS OF CONGRESS OF DEPUTIES AND SENATORS

### CHAPTER I ELIGIBILITY

#### Section 154. Persons ineligible to Congress of Deputies and Senate

1. In addition to persons falling within Section 6 of this Act, any person discharging a function or holding an office or position appointed and paid for by a foreign State shall be ineligible as member of the Congress of Deputies or as Senator.
2. Not are eligible to Congress of Deputies, Presidents and members of the Government of Self-governing Communities and holders of any office freely appointed by said regional governments and members of autonomous bodies (*instituciones autónomas*) who by law or under a Regional Statute are to be elected by the Legislative Assembly of the Self-Governing Community.
3. Nobody can simultaneously stand as candidate to Congress of Deputies and Senate.

### CHAPTER II DISQUALIFICATIONS

#### Section 155. Causes of disqualification from Congress of Deputies and Senate

1. Causes of ineligibility to Congress of Deputies and to Senate shall also be causes for disqualification.
2. The following persons are also disqualified:
  - a) The Chairman of the National Competition Commission;
  - b) Members of the Board of Directors (*Consejo de Administración*) of the Spanish Broadcasting and Television Corporation;
  - c) Members of the Prime Minister's Executive Office (*Gabinete de la Presidencia del Gobierno*) and of the Executive Office of each Minister or State-Secretary;
  - d) Government's Representatives (*Delegados del Gobierno*) in Autonomous Ports, Hydrological District Authorities (*Confederaciones Hidrográficas*), Toll Motorways Concession Companies and the bodies referred to in the next paragraph;
  - e) Chairmen of the Board of Directors, members thereof, administrators, Directors-General, managers and holders of equivalent positions in public bodies, State monopolies and companies directly or indirectly controlled through a majority stake by a public identity, whatever its legal form, and of publicly funded Savings Banks, and
  - f) Members of Congress of Deputies and Senators elected as candidates proposed by parties or federations or coalitions of parties subsequently declared as illegal by a final court decision and those elected by electors' groupings declared by a final court decision as related to a party already banned.
3. Nobody can simultaneously stand as candidate to Congress of Deputies and to Senate.
4. Senators appointed by Self-governing Communities, no matter whether they are or not members of the respective Legislative Assembly:
  - a) May only carry out such activities as they are expressly authorized to perform as Senators by the Constitution and by this Act, whatever their status by virtue of their appointment by the Self-governing Community.
  - b) May only receive their salary as senators, unless they expressly choose to receive their salary as members of the Legislative Assembly.
5. Where the cause for disqualification is that contemplated in subparagraph 2.b, subsection 4 of Section 6 of this Act shall apply.

- ① 2 A), 2 B) AND 2 D) AS AMENDED BY SECT. 50 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28
- ① 2 F) ADDED BY SECT. 7 OF INSTITUTIONAL ACT 3/2011, OF JANUARY 28
- ① 4 ADDED BY SECT. 53 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13
- ① 5 ADDED BY SECT. 8 OF INSTITUTIONAL ACT 3/2011, OF JANUARY 28

### Section 156. Limitations for members of Congress of Deputies and Senators to sit in public sector bodies or corporations

1. Members of the Congress of Deputies and Senators may only sit in collective executive bodies or boards of directors of organizations, public agencies or firms directly or indirectly controlled by the public sector through a majority stake, where their appointment to such bodies is to be made by the respective House of Parliament, by the Parliament as a whole or by the relevant Self-governing Community's Legislative Assembly. In this case they are only entitled however to travelling and daily allowances to which they may be entitled under the Public Administration's general regulations.
2. The sums to which they are entitled but which cannot be paid to them pursuant to the foregoing section, shall be directly paid into the Treasury by the relevant organization, agency or firm.
3. Under no circumstance may members of the House sit in more than two collective executive bodies or boards of directors referred to in subsection 1 above.

### Section 157. Full-time occupation

1. The mandate of member of Congress of Deputy or of the Senate shall be discharged as a full-time duty as provided for in the Constitution and in this Act.
2. Pursuant to the foregoing subsection, the office of member of the Congress of Deputies or Senator shall be incompatible with the holding, personally or through a substitute, of any other position or the exercise of any profession or activity, whether private or public, on his own or on other persons' behalf, remunerated by salary, wages, tariff duty, professional fee or in any other way. Where a member of either House is transferred to a special administrative or employment situation in said position, profession or activity, he shall have the guarantee of reintegration into his rank and position in the terms to be laid down by the relevant regulations.

The full-time occupation and disqualifications regime provided for in this Act shall apply in all cases and no option shall be allowed to receive payments or remunerations corresponding to positions or offices falling within said disqualifications.

3. In particular the mandate of member of Congress of Deputies or Senator shall be incompatible with active work in the Public Service and with the holding of any other position in the employment or within the budgetary appropriations of constitutional bodies, Public Administration departments, *quasi* non-governmental organizations and public entities, firms directly or indirectly controlled by a majority public sector's stake or any other activity directly or indirectly on behalf of said bodies, firm or entities.
4. Notwithstanding the provisions of the foregoing subsection, parliamentarians who are University professors may take part within their own University in teaching or research activities of a special nature, that do not involve management or supervision of services, provided that they may only receive for said activities the specific indemnities statutorily prescribed.

- ① 1 ADDED BY SECT. 1 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2
- ① 1 AND 2 AS AMENDED BY SECT. 54 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13
- ① 3 AND 4 RENUMBERED BY SECT. 55 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13. FORMERLY 2 AND 3 RESPECTIVELY

### Section 158. Other remunerations of members of Congress of Deputies and senators

1. Under no circumstance may members of Congress or Senators receive more than one salary out of budgetary appropriations for constitutional bodies or of Public Administration in general, *quasi*-autonomous organizations or public entities and companies directly or indirectly controlled through a majority public-sector stake, nor may they opt for the salary of incompatible positions, except for the travelling expenses and daily allowances to which they are entitled for their compatible activities.
2. In particular, members of Congress and senators may not receive retirement pensions or other payments from any public and mandatory social security scheme.

Provided that entitlement to said retirement pensions shall be automatically recovered from the very moment of expiry of the parliamentary mandate.

### Section 159. Professional disqualifications for Congress of Deputies and Senate

1. According to Section 157 of this Act the mandate of member of Congress or Senator is incompatible with performance of private activities.

2. The following activities shall be in all cases incompatible with the parliamentary mandate:

a) Management, defence and direction of or advice to any public bodies or firms at the State, Self-governing Communities and local authorities level, in relation to matters to be decided by said bodies or firms, that directly affect the operation of a public service or have the aim of obtaining a public subsidy or guarantee.

Provided that this does not apply to private activities carried out by those directly concerned in the exercise of their own acknowledged right, as well as to subsidies or guarantees whose grant results from automatic application of a general Act or statutory instrument;

b) Contracting or guaranteeing of works, services, supplies and generally any contracts to be paid for by funds of bodies or firms of the public sector at State, Self-governing Communities or local authorities level, or the holding of positions or offices involving management, representation, advice or provision of services in firms or companies that engage in such activities;

c) The holding of offices or positions that entail functions of management, representation, advice or provision of services in firms or companies with a licensing agreement or concession of a public monopoly;

d) Provision of advice services or other services individually or in partnership to bodies or firms of the public sector at State, Self-governing Communities or local authorities level;

e) Possession of any stake above 10 per 100 acquired wholly or partly after the date of election as member of Congress of Deputies or the Senate, unless acquired by inheritance, in firms or companies contracting for works, services, supplies or any other services generally paid out of funds of public sector entities or firms at State, Self-governing Communities or local authorities level;

f) The functions of Chairman, member of the Board of Directors, administrator, Director-General, manager or similar positions, as well as the provision of services in credit or insurance institutions or in any other companies or entities with a basically profit-making purpose and having normally recourse to savings and to credit, and

g) Any other activities that are by nature incompatible with parliamentary commitment and obligations laid down in the relevant regulations.

3. The following shall be the only exceptions to the prohibition of public and private activities referred to in Section 157 of this Act and in this present Section:

a) Mere administration of personal and familiar estate. Provided that this activity shall in no case be deemed a private one, where the parliamentarian, his spouse or any person related to him by a similar link deriving from life in common and descendants under age possess jointly or separately a stake above 10 per 100 in trade or professional concerns of any description with agreements, concessions or contracts with public sector bodies or firms at State, Self-governing Communities or local authorities level;

b) Literary, scientific, artistic or technical production and creation, as well as publications arising therefrom where this does not fall within any of the situations contemplated in Section 157.2 of this Act or subsections 1 and 2 of this present Section and

c) Private activities other than those set out in subsection 2 above that may be authorized by the relevant Committee of either House on the parliamentarian's request. Such request and the ensuing authorization shall be entered in the register of private activities referred to in subsection 1 of Section 160 of this Act.

 *SECT. 159 AS AMENDED BY SECT. 56 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

## Section 160. Declaration of private activities

1. Members of Congress of Deputies and Senators shall deliver in writing, pursuant to the Rules of Procedure of each House, a declaration of all activities which may constitute a cause of disqualification under this Institutional Act and of any other activities that currently bring or might bring an economic profit, as well as of their private estate, both on becoming members of either House and when losing their parliamentary *status* and whenever there is a change in their economic condition.

2. Assets and activities statements shall be made separately according to the models adopted in a joint meeting of the Bureaus of both Houses of Parliament and must be entered in an Interests Register to be set up in each House under the direct authority of its Speaker, for the purposes of this present Section and those specified in the relevant Rules of Procedure. Said statements shall include:

- a) the performance of any activities that may constitute a cause for disqualification under subs. 2 of Section 159;
- b) those activities which according to this Act, may be simultaneously carried out;
- c) generally all activities that actually bring or may bring an economic profit.

The contents of the Interests Register shall be of a public nature. The Bureaus of both Houses, in conformity with the first paragraph of this present subsection, are to make provision for the publicity procedure.

The Speaker of each House shall be responsible for the institution and decision of any proceedings relating to the Interests Register and to Deputies' and Senators' activities, except as provided in the remaining subsections of this present Section and in Section 159.3.c).

3. Cases of alleged incompatibility shall be determined at a plenary sitting of the House concerned, on the corresponding committee's proposal. The resolution shall state the reasons thereof and where it is about private activities, it shall be on the basis of the situations set out in Subsection 2 of Section 159. Where the resolution declares that a cause for disqualification exists, the member concerned must choose between his seat or the disqualifying position, activity, source of income or stake, and if he fails to exercise said option, he shall be deemed as having relinquished his seat.

4. Where one of the Houses declares in the appropriate plenary sitting the reiteration or continuation by one of its members of the activities referred to in paragraph a) of subsection 2 of Section 159 or of the provision of services referred to in paragraph d) of said subsection and Section, further performance by said member of such activities or services shall be construed as resignation from his seat, which shall take effect in the manner provided for by the Rules of Procedure of that House.

① *SECT. 160 AS AMENDED BY SECT. 57 OF INSTITUTIONAL ACT 8/1991, OF MARCH, 13*

① *2 3<sup>RD</sup> PARAGRAPH AS AMENDED BY SINGLE SECT. OF INSTITUTIONAL ACT 7/2011, OF JULY 15*

## CHAPTER III ELECTORAL SYSTEM

### Section 161. Constituencies for election of members of Congress of Deputies and Senators

1. The constituency for election of members of Congress of Deputies and Senators shall be each of the Spanish provinces, each of the cities of Ceuta and Melilla having also the constituency status.

2. The preceding subsection does not apply in elections for the Senate to the insular provinces, where the constituencies for this purpose shall be each of the following islands or groups of islands: Mallorca, Menorca, Ibiza-Formentera, Gran Canaria, Fuerteventura, Lanzarote, Tenerife, Hierro, Gomera and La Palma.

### Section 162. Membership of the Congress of Deputies

1. The Congress consists of three-hundred fifty members (*diputados*).

2. Each province shall elect a minimum of two members, each of the cities of Ceuta and Melilla being represented by one member.

3. The other two-hundred and forty-eight members shall be distributed among the provinces proportionally to their population, according to the following method:

a) An allotment quota shall be obtained by dividing the total population of peninsular and insular provinces into two-hundred and forty-eight.

b) Each province shall be allotted the number of members in round figures resulting from division of its population by said quota.

c) The rest shall be allotted by assigning one number of each of the provinces whose quotient, as obtained according to the foregoing paragraph, has a bigger decimal fraction.

4. The Decree calling for the election shall specify the number of members to be elected in each constituency, according to this Section.

### Section 163. Allotment of seats in the Congress of Deputies

1. The allotment of seats on the basis of the results of the counting shall be effected under the following rules:

a) No account shall be taken of lists of candidates having polled less than 3 per 100 of the votes validly cast in the constituency.

b) The rest of lists shall be arranged in a column in descending order according to the number of votes obtained by each of them.

c) The number of votes polled by each list shall be successively divided by 1, 2, 3, etc. up to the number of seats to be filled in the constituency, which shall form a similar table to the one shown below, and the seats shall be allotted to the candidates or lists with the biggest quotients in the table, by descending order.

Example: 480,000 votes validly cast in a constituency where eight members are to be elected. Said aggregate number shared by six lists:

A(168,000 votes) B(104,000 votes) C(72,000 votes) D(64,000 votes) E(40,000 votes) F(32,000 votes).

División	1	2	3	4	5	6	7	8
A	168.000	84.000	56.000	42.000	33.600	28.000	24.000	21.000
B	104.000	52.000	34.666	26.000	20.800	17.333	14.857	13.000
C	72.000	36.000	24.000	18.000	14.400	12.000	10.285	9.000
D	64.000	32.000	21.333	16.000	12.800	10.666	9.142	8.000
E	40.000	20.000	13.333	10.000	8.000	6.666	5.714	5.000
F	32.000	16.000	10.666	8.000	6.400	5.333	4.571	4.000

List A consequently obtains four seats, List B two seats and lists C and D one seat each<sup>5</sup>.

d) Should different lists have the same quotient in the table, the corresponding seat shall be allotted to the list having polled the largest number of votes; if two lists have the same number, the first tie shall be resolved by drawing lots and successive ones in alternate order.

e) Seats allotted to each list shall be assigned to the candidates contained therein by the order in which they are entered.

2. In each of the constituencies of Ceuta and Melilla the seat shall be allotted to the candidate who has polled the largest number of votes.

---

<sup>5</sup> This is called the D'HONDT formula, after the Belgian mathematician who invented it in 1899, its essential element being the so-called "distributing number" ("*número repartidor*" in Spanish), i.e. the quotient of the table taken as the key for the allotment of seats. This quotient is the smallest one in descending order down to the number of seats to be filled, the eighth in the example, i.e. 42,000 (four-thousand), after 168,000, 104,000, 84,000, 72,000, 64,000, 56,000 and 52,000. This variation of the proportional representation system is the most usual in Western European countries who use proportional representation instead of the majority system.

### Section 164. Replacement of members of Congress of Deputies

1. In the event of death, incapacity or resignation of a member of the Congress of Deputies, his seat shall be assigned to another candidate or, as the case may be, to the substitute candidate entitled thereto according to his place in the list.
2. Vacancies of members elected for Ceuta and Melilla shall be filled by their respective alternate, as nominated pursuant to Section 170 of this Act.

### Section 165. Allotment of Senate seats to provincial constituencies

1. Each provincial constituency shall elect four Senators.
2. Each insular constituency shall elect the following number of Senators: Gran Canaria, Mallorca and Tenerife three each; Ibiza-Formentera, Menorca, Fuerteventura, Gomera, Hierro and La Palma, one each.
3. The cities of Ceuta and Melilla shall elect two Senators each.
4. Self-governing Communities shall also appoint one Senator and a further Senator for each million inhabitants in their territory. The appointment shall be made by the respective Legislative Assembly in the manner provided for in the Self-governing Community's Statute, which is to ensure in any case an adequate proportional representation. For the purposes of said appointment the precise number of senators for each Self-governing Community shall be determined on the basis of the population census in force on the date of the last election to the Senate.

### Section 166. Direct election of Senators in insular constituencies and in Ceuta and Melilla

1. Direct election of Senators in provincial and insular constituencies and in the cities of Ceuta and Melilla shall be conducted as provided for in the following paragraphs:
  - a) Electors may vote for a maximum three candidates in provincial constituencies, two in the islands of Gran Canaria, Mallorca, Tenerife, each of the cities of Ceuta and Melilla, and one in each of the other insular constituencies;
  - b) Candidates having polled the highest number of votes assigned to the constituency shall be proclaimed up to the number of seats allotted to their constituency.
2. In the event of death, incapacity or resignation of Senator directly elected, his vacancy is to be filled by his alternate appointed according to Section 171 of this Act.

## CHAPTER IV CALL OF THE ELECTION

### Section 167. Call of elections to Congress and Senate

1. Elections to the Congress of Deputies, to the Senate or to both Houses of Parliament at the same time shall be announced by a Royal Decree.
2. Except in the case contemplated in Section 99, subs. 5, of the Constitution<sup>6</sup>, the relevant Royal Decree shall be issued with the countersign of the Prime Minister, on his proposal and under his sole responsibility, after deliberation in the Council of Ministers.
3. In the event of early dissolution of the Congress of Deputies, of the Senate or of both Houses, the dissolution Decree shall also include the call of a new election to the House or Houses so dissolved.
4. The Speaker of the Congress of Deputies shall countersign the Decree for dissolution of the Houses of Parliament and call of a new election in the case contemplated in Section 99, subs. 5, of the Constitution<sup>7</sup>.

---

<sup>6</sup> That is to say, as regards appointment of senators by Self-governing Communities.

<sup>7</sup> Said subs. 52 Subs. 5 of Section 99 of the Const. says: "5.- If after two months from the first vote for investiture" (of a new Prime Minister after a general election) "no candidate has obtained the confidence of Congress, the King shall dissolve Congress and call new elections following endorsement by the Speaker".



## CHAPTER V ELECTION PROCEDURE

### 1ST SUBDIVISION CANDIDATES' REPRESENTATIVES BEFORE ELECTION AUTHORITIES

#### Section 168. Representatives of candidates in elections to Congress and Senate

1. For the purpose of Section 43 of this Act each of the parties, federations and coalitions intending to take part in the election shall notify in writing to the Central Electoral Commission the appointment of a general representative before the ninth day after the call of the election. Said notification must include the acceptance of the person so appointed.
2. Each general representative must appoint before the Central Electoral Commission the representatives nominated by the candidates of his party, federation or coalition for each constituency. The appointment shall be made before the eleventh day after the call of the election.
3. The Central Electoral Commission shall notify within two days to Provincial Electoral Commissions the names of candidates' representatives for each constituency.
4. Candidates' representatives shall in any case appear before the corresponding Provincial Electoral Commission in order to restate their acceptance prior to submission of the candidature.
5. Promoters of electors' groupings shall appoint their candidates' representatives at the moment of submission of the lists of said candidates before the Provincial Electoral Commission.

### 2ND SUBDIVISION PRESENTATION AND PROCLAMATION OF CANDIDATES

#### Section 169. Presentation of candidates for elections to Congress of Deputies and to Senate

1. Each Provincial Electoral Commission shall be the Electoral Commission having jurisdiction for all proceedings provided for in Part I, Chapter V, 2nd Subdivision, of this Act in elections to the Congress of Deputies and to the Senate.
2. Every candidature must be submitted in the form of a list of candidates.
3. Presentation of candidates by groupings of electors shall require at least the signature of 1 per 100 (one per cent) of persons listed in the electoral register for the constituency. Parties, federations or coalitions who have not obtained a mandate in either House of Parliament at the preceding elections must secure at least the signature of 0.1 per 100 of electors entered in electoral register of the constituency for which they are seeking election. No elector may sign for more than one list of candidates.
4. Lists of candidates so presented and candidatures proclaimed for all constituencies are to be published in the State's Official Gazette

 3 AS AMENDED BY SECT. 51 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

#### Section 170. Candidates for Ceuta and Melilla

Presentation papers submitted for the constituencies of Ceuta and Melilla shall include the name of a substitute candidate.

#### Section 171. Candidates to Senate

1. Candidatures to the Senate are indivisible for voting and counting purposes but may be grouped in lists for presentation and for conduction of the election campaign.
2. Every candidature to the Senate shall include two alternate candidates, stating the order in which they are to take over the mandate. Their names must be listed in the publication of the candidature in the State's Official Gazette and in all election papers, but shall not be included in the ballot forms.

 2 AS AMENDED BY SECT. 1 OF INSTITUTIONAL ACT 8/2010, OF NOVEMBER 8

### 3RD SUBDIVISION BALLOT PAPERS AND ELECTION ENVELOPES

#### Section 172. Ballot papers and election envelopes for elections to Congress of Deputies and Senate

1. For the purposes of Section 70.1 of this Act Provincial Electoral Commissions are the Electoral Commissions with jurisdiction for elections to the Congress of Deputies or to the Senate.

2. Ballot papers designed for election of members of the Congress of Deputies must contain the following particulars: the initials and symbol of the party, federation, coalition of grouping electors presenting the candidates, the name and surname of candidates and substitute candidates with an indication of their order on the list and, as the case may be, the situation referred to in Section 46.7 of this Act.

3. Ballot forms for elections to Senate shall be printed on only one side, unless the number of candidates exceeds the number laid down by statutory regulation to be issued under this Act, in which case they shall be printed on both sides. They shall contain:

a) Name or initials and symbol of the formation nominating the candidate or candidates, be it a party, federation, a coalition or an electors' grouping. Below said name or initials the ballot paper must include the names of the candidate or candidates, these being set out in the latter case in the order freely chosen by the nominating formation;

b) Lists of candidates shall be arranged from left to right, from top to bottom and from the largest to the lowest, having regard to number of votes polled in the constituency by all candidates presented by each of the parties, federations and coalitions at the latest elections to the Senate. Candidatures of electors' groupings, as well as those of parties, federations and coalitions who have not taken part in the preceding election to the Senate, are to appear afterwards in the order resulting from drawing lots in each constituency;

c) In the case of parties or federations which, having been part of a coalition with a representation in the Senate, and decided to stand separately at the following election in the same constituency, the order of entry on the ballot form provided for in paragraph b) shall apply to all parties, federations and coalitions having belonged to the former coalition. Priority among them shall be freely determined and, in default of an agreement, it shall be drawn by lots.

The same rule applies to parties or federations which, having stood separately at an election to Senate and gained representation may subsequently choose to stand as part of a coalition in the same constituency.

d) There shall be a box before the name of each candidate and electors must fill with a cross the box corresponding to the candidate or candidates for whom they intend to vote, and

e) An informative sheet addressed to electors, pointing out the maximum, number of candidates for whom they may vote in each constituency, as well as the fact that any alteration in the ballot form shall entail nullity of their vote.

 3 AS AMENDED BY SE CT. 1 OF INSTITUTIONAL ACT 8/2010, OF NOVEMBER 8

### 4TH SUBDIVISION AGGREGATE COUNTING

#### Section 173. Aggregate counting by Provincial Electoral Commissions

In elections to the Congress of Deputies or to the Senate Provincial Electoral Commissions shall the Electoral Commissions with jurisdiction for any general counting operations.

### CHAPTER VI ELECTION EXPENSES AND SUBSIDIES

#### Section 174. Appointment of general managers for elections to Congress and to Senate

1. General managers of political parties, federations and coalitions shall be appointed by the general representative in a written notification to the Central Electoral Commission to be handed in before the eleventh day following the call of the election. Said statement shall include the appointee's acceptance.

2. Candidates' managers shall be appointed by the respective representatives together with the nomination of said candidates in a written communication to the Provincial Electoral Commission, which shall include the appointee's explicit acceptance. Provincial Electoral Commissions shall in turn notify to the Central Electoral Commission the name of the managers so appointed in their constituency.

### Section 175. Subsidizing expenses in elections to Congress and to Senate

1. The State shall subsidize expenses arising from election activities according to the following rules:

- a) 21,167.64 Euros for each seat obtained in the Congress of Deputies or in the Senate;
- b) 0.81 Euro for each vote polled by each list of candidates to Congress, subject to at least one member thereof having obtained a seat, and
- c) 0.32 Euros for every vote polled by each candidate having obtained a seat in the Senate.

2. For elections to both Houses or to either of them, the limit of election expenses shall be the result of multiplying by 0.37 Euros the legal number of inhabitants of the constituencies where the party, federation, coalition or electors' grouping has put up candidates.

3. In addition to subsidies contemplated in the foregoing subsections, the State shall subsidize parties, federations, coalitions or electors' groupings up to the amount of expenses resulting from for the direct personal sending to electors of envelopes and ballot forms, as well as from electoral propaganda and advertisements, according to the following rules:

- a) 0.22 Euro<sup>8</sup> for elector in each constituency where candidates have been nominated for the Congress of Deputies and the Senate, subject to the list of candidates having gained the number of seats in the Congress of Deputies or in the Senate or of votes required to form a parliamentary group.

Provided that constitution of a parliamentary group in both Houses gives no right to receive the aforesaid subsidy more than once.

- b) The sum so paid is not be included within the limit laid down in subsection 2 of this Section, subject to proof of actual performance of the activity referred to in this present subsection.

4. The amounts mentioned in the preceding subsections are expressed in constant value Euros. They shall be updated within the five days following call of the election by an Order of the Ministry of Economy and Finance.

5. No subsidy shall be paid in the case contemplated by subsection 2, 3 and 4 of Section 127 of this Act.

 *SECT. 175 AS AMENDED BY SECT. 52 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

## PART III SPECIAL PROVISIONS FOR MUNICIPAL ELECTIONS

### CHAPTER I FRANCHISE

#### Section 176. Right to vote at municipal elections

1. Without prejudice to Chapter I of Part I of this Act foreign persons residing in Spain whose country allows Spanish residents to vote at similar elections by virtue of a treaty or at European Communities elections, shall be entitled to vote as electors at local councils elections. The right to vote at municipal elections extends to persons residing in Spain who, not having acquired the Spanish nationality:

---

<sup>8</sup> Pursuant to Sect. 23.1 of Congress' Rules of Procedure, constitution of a parliamentary group in the Lower House requires a minimum of fifteen, but a group can also be made up of members of one or more political formations who, though not having said minimum, have polled no less than five seats and 15 per 100 at least of the votes in the constituencies where they have nominated candidates or 5 per 100 of the aggregate votes in the whole national territory. As to the Senate, the minimum required is ten. (Sect. 27, subs. 1, of the Rules of Procedure)

- a) Are citizens of European Union according to paragraph 2 of subs. 21 of Section 8 of the European Community Treaty, and
- b) Meet the conditions for franchise required of Spanish nationals and have expressed their wish to exercise their right to vote in Spain.

2. The Government shall notify to the Electoral Register Office the list of foreign States whose nationals residing in Spain are to be entered in said Register.

① 1 AS AMENDED BY SECTION 1 OF INSTITUTIONAL ACT 1/1997, OF MAY 30

## CHAPTER II ELIGIBILITY

### Section 177. Right to eligibility at municipal elections

1. Without prejudice to Chapter II of Part I of this Act the right of eligibility extends to all residents in Spain who, though not having the Spanish nationality:

- a) Are citizens of the European Union under paragraph 2 of Subs. 1 of Section 8 of the European Community Treaty or subjects of countries granting to Spanish citizens the right of eligibility at local council elections by virtue of a treaty;
- b) Satisfy the conditions for eligibility laid down in this Act for Spanish citizens and
- c) Have not forfeited the right to eligibility in their country of origin.

2. Persons falling within one of the situations contemplated in Section 6 of this Act and direct or surrogate debtors to the corresponding local authority subject to an executive procedure by a judicial decision, are not eligible to the office of Mayor or local councillor.

① SECT. 177 AS AMENDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1997, OF MAY 30

## CHAPTER III DISQUALIFICATIONS

### Section 178. Disqualifications from the office of local councillor

1. Causes of ineligibility set out in the preceding Section shall also be disqualifications from the office of local councillor.

2. The following are also disqualified:

- a) Lawyers (*abogados*) and litigators' agents in court (*procuradores*), acting in advice to and representation of parties to judicial or administrative proceedings against the respective local authority, except in actions referred to in Section 63.1.b) of the Local Government Basic Principles Act;
- b) Division directors, civil servants or other staff on active service of the respective local council or in bodies and firms under the authority thereof;
- c) Directors-general and holders of similar offices in Provincial and Local Savings Banks (*Cajas de Ahorros*) operating in the local authority's territory;
- d) Contractors and subcontractors in contracts wholly or partly financed by the respective local authority or by bodies under the authority thereof, and
- e) Local councillors (*concejales*) elected on lists of candidates put forward by parties or federations or coalitions of parties declared as illegal at a later date by a final court decision, as well as those elected on lists put forward by electors' groupings declared by a final court decision to be connected to party already banned by a final judgment.

3. Should a cause for disqualification arise, those affected must choose between relinquishment of the local councillor office or relinquishment of the position that, by virtue of the foregoing subsection, has given rise to said disqualifying cause. Where the cause for disqualification is the one contemplated in paragraph e) of subsection 2 of this Section, the provisions of Section 6.4 of present Act shall apply.

4. Where the cause of disqualification is that set out in paragraph b) of subs. 2, the civil servant or employee who chooses to sit as a local councillor shall be put in the special services position or,

in default thereof, in a situation contemplated in the relevant collective bargaining agreement that specifically provides for preservation of his employment position.

5. Citizens eligible under Section 177, subs. 1, of this Act shall be subject to the disqualifications referred in this section.

- ① 2.E) ADDED BY SECT. 9 OF INSTITUTIONAL ACT 3/2011, OF JANUARY 28
- ① 3 AS AMENDED BY SECT. 10 OF INSTITUTIONAL ACT 3/2011, OF JANUARY 28
- ① 5 ADDED BY SECT. 3 OF INSTITUTIONAL ACT 1/1997, OF MARCH 30

## CHAPTER IV ELECTORAL SYSTEM

### Section 179. Scale for allotment of local council seats

1. Each municipality forms a constituency which shall return a number of councillors resulting from application of the following scale:

Up to 100 residents	3 councillors
From 101 to 250 residents	5 councillors
From 251 to 1,000 residents	7 councillors
From 1,001 to 2,000 residents	9 councillors
From 2,001 to 5,000 residents	11 councillors
From 5,001 to 10,000 residents	13 councillors
From 10,001 to 20,000 residents	17 councillors
From 20,001 to 50,000 residents	21 councillors
From 50,001 to 100,000 residents	25 councillors

From 100,001 onwards, one further councillor for each 100,000 residents or fraction of said number, plus one more where the aggregate is an even number.

2. The foregoing scale does not apply where the local council, in conformity to local government legislation, operates as open council of all residents, who shall directly elect the mayor by a majority system.

- ① 1 AS AMENDED BY SECT. 53 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

### Section 180. Assignment of seats in city councils

Seats in city councils shall be assigned by the procedure contemplated in Section 163 of this Act, except that lists having not obtained 5 per 100 at least of the votes validly cast in the constituency shall not be taken into account.

### Section 181. Constituencies where no candidates have been nominated

1. Where no candidates have been nominated for a particular constituency, a by-election is to be held within six months in said constituency.

2. Where no candidates are presented for said by-election, the procedure provided for in subs. 3 of Section 182 is to be followed.

- ① 1 AS AMENDED BY SECT. 60 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13

## Section 182. Replacement of councillors

1. In the event of death, incapacity or resignation of a councillor, his seat shall be assigned to a candidate or, as the case may be, to a substitute candidate on the same list according to order of position in said list.

2. Where no possible candidates or substitutes remain for appointment under said procedure, vacancies shall be filled with citizens of age who are not disqualified. Such substitutes are to be appointed by the party, federation, coalition or electors' grouping whose councillors are to be replaced, and the appointment shall be notified to the respective Electoral Commission for issue of the appropriate credential.

Provided that persons who, having been candidates or substitutes in the above mentioned list, have relinquished their seat, cannot be so appointed.

3. Should the *de facto* number of members elected at the respective election fall below half of the council's legal membership, there shall be constituted a management committee made up of all remaining members of the council and citizens appointed to fill the aforesaid vacancies pursuant to the proceeding subsection.

Should constitution of the Management Committee be impossible, the Provincial Deputation or, as the case may be, the appropriate body of the Self-governing Community is directly to take over the administration of the local council. It may not however adopt any decision for which a qualified majority is required.

- ① *SECT. 182 AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003, OF MARCH 10*
- ② *3 2<sup>ND</sup> PARAGRAPH ADDED BY SECT. 11 OF INSTITUTIONAL ACT 3/2011, OF JANUARY 28*

## Section 183. Dissolution of local councils

1. In the event of dissolution of local councils by decision of the Council of Ministers (*Consejo de Ministros*) as contemplated in the basic local government statutes for mismanagement deemed to be seriously detrimental to the general interest and a failure to comply with the council's constitutional duties, a by-election is to be held within three months for the formation of a new council.

Provided that no such by-election may be called if at the date on which the new council so elected should be constituted there remains less than one year for expiry of the council's mandate.

Until the constitution of the new council or expiry of the dissolved council, ordinary business shall be the responsibility of a managing committee appointed by the Provincial Deputation<sup>9</sup> or, as the case may be, by the appropriate body of the Self-governing Community, whose membership shall not in any case exceed the legal number of members of the council. The functions of Mayor or chairman shall be discharged by the member chosen for that purpose by absolute majority among all members of the committee.

2. Where dissolution takes place because the executive bodies of the local council have carried out some of the actions contemplated in Section 61.2 of Basic Local Government Act 7/1985, of April 2<sup>10</sup>, the Provincial Deputation or, as the case may be, the appropriate body of the Self-governing Community shall after such dissolution directly take over the ordinary management of the council until expiry of the statutory mandate. It may not however adapt decisions for which a qualified majority is required.

- ① *SECT. 183 AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003, OF MARCH 10*

## Section 184. Councillors in municipalities with less than 250 inhabitants and not subject to the open council rule

- a) Each party, federation, coalition or grouping may put forward a list with a maximum three names if the community has no more than 100 inhabitants as a maximum, and a maximum five names if it has between 101 and 250 inhabitants;

---

<sup>9</sup> Provincial Deputations are the directly elected assemblies of the 50 Spanish provinces. *Vide infra* Part V of this Act, Sects. 202-209).

<sup>10</sup> Subs. 2 of said Sect. 61 of the Local Government Act describes as seriously detrimental to the general interest" any decisions or acts "giving explicit or tacit cover or support, in a reiterated and grave manner, to terrorism or to those who take part in the execution of terrorist actions, praise or justify terrorism or scorn or humiliate victims thereof or their relatives".

b) Each elector may vote for a maximum two among the candidates proclaimed in the constituency in communities of no more than 100 residents or for a maximum four in communities between 101 and 250 residents;

c) There shall be proceeded to the counting of votes polled by each candidate in the constituency and the resulting numbers are to be arranged in a column in descending order;

d) Candidates having obtained the largest number of votes shall be proclaimed until completion of the maximum number of councillors corresponding to the community's population and

e) In the event of death, incapacity or resignation of a councillor the vacancy shall be assigned to the candidate who has polled the next largest number of votes.

① *SECT. 184 AS AMENDED BY SECT. 54 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

## CHAPTER V CALL OF ELECTION

### Section 185. Call of municipal election

The Royal Decree calling for the election shall be adopted in the Council of Ministers on a proposal by the Home Office (*Ministro del Interior*) and the Ministry of Territorial Administration.

## CHAPTER VI ELECTION PROCEDURE

### 1ST SUBDIVISION REPRESENTATIVES

#### Section 186. Representatives of municipal candidates

1. For the purposes of Section 43, political parties, federations and coalitions intending to take part at the election shall nominate in a communication to Provincial Electoral Commissions, before the ninth day after the call of the election, a general representative to act on their behalf and representation in each province, and they shall nominate as well within the same time limit a general representative before the Central Electoral Commission. Said communications must include a statement of acceptance by the person so appointed.

2. General representatives shall appoint in a notification to each Provincial Electoral Commission before the eleventh day after the call of the election the candidates' representatives of the party, federation or coalition in each municipality.

3. Within two days the Provincial Electoral Commissions is to notify to the respective Judiciary District Electoral Commissions the names of the representatives of candidates nominated for their area of jurisdiction.

4. Candidates' representatives shall in any case appear before the appropriate Judicial District Electoral Commission to make their acceptance known before presentation of the respective candidates.

5. Promoters of electors' groupings shall appoint their candidates' representatives at the moment of nomination of said candidates before Judiciary District Electoral Commissions. Such appointment must be accepted forthwith.

### 2ND SUBDIVISION NOMINATION AND PROCLAMATION OF CANDIDATES

#### Section 187. Presentation of candidatures to local elections

1. Judiciary District Electoral Commissions shall have competence in local council elections for all operations contemplated in Part I, Chapter VI, 2nd Subdivision of this Act, relating to presentation and proclamation of candidates.

2. Candidatures must be put forward in the form of a list of candidates.

Section 44 *bis* of this Act shall not apply to candidatures presented for municipalities with 3,000 inhabitants or below this figure.

3. Presentation of candidates by groupings of electors shall require a number of firms of persons entered in the municipality's electoral register, duly authenticated by a notary or by the Secretary of the respective local council, such number being determined by the following scale:

- a) In councils with less than 5,000 inhabitants, no less than 1 per 100 of the persons so registered, subject to the number of signatures being more than twice the number of councillors to elect.
- b) In those between 5,001 and 10,000 inhabitants, at least 100 signatures;
- c) In those between 10,001 and 50,000 inhabitants, at least 500 signatures;
- d) In those between 50,001 and 150,000 inhabitants, 1,500 signatures at least;
- e) In those between 150,001 and 300,000 inhabitants, 3,000 signatures at least;
- f) In those between 300,001 and 1,000,000, 5,000 signatures at least, and
- g) In all other cases, 8,000 signatures at least.

4. Candidatures so presented, as well as those proclaimed, are to be published in the Official Provincial Gazette.

① *2 AS AMENDED BY 2ND ADDITIONAL PROVISION OF INSTITUTIONAL ACT 3/2007, OF MAY 22*

#### Section 187 *bis*. Additional statement to candidature

1. Citizens eligible under Section 177.1 of this Act shall at the moment of presentation of candidates, besides the documents required to prove that they satisfy all conditions required by Spanish law, hand in a formal declaration with the following contents:

- a) Nationality and dwelling place in Spain;
- b) Declarant's statement that he is not deprived of the right to eligibility in the member State of origin, and
- c) Where applicable, last domicile in the member State of origin.

2. Where the competent Electoral Commission so directs, a candidate may be required to produce a certificate of the administrative authority of the member State of origin to the effect that he is not deprived of the right of eligibility in said member State.

3. Once the proclamation of candidates has taken place, the Central Electoral Commission shall through the appropriate Ministry transmit to the other States the relevant data relating to their respective nationals accepted as candidates.

① *SECT. 187 BIS ADDED BY SECT. 4 OF INSTITUTIONAL ACT 1/1997, OF MAY 30*

### 3RD SUBDIVISION USE OF MASS-COMMUNICATION MEDIA

#### Section 188. Local electoral propaganda. Mass-communication media

The right to free-of-charge broadcasting spaces in public-owned media provided for in Section 64 of this Act belongs in the case of municipal elections to parties, federations or coalitions presenting candidates in localities making up at least 50 per 100 of the legal population of the constituencies comprised in the geographical area of circulation or, as the case may be, in the broadcasting coverage of said media.

### 4TH SUBDIVISION BALLOT PAPERS AND ELECTION ENVELOPES

#### Section 189. Ballot papers and election envelopes in local elections

1. For the purposes of Section 70.1 of this Act Judicial District Electoral Commissions shall be the Electoral Commissions with jurisdiction in local elections.



2. Ballot papers for the election of local councillors must contain the data set out in Section 172.2 of this Act.

## 5TH SUBDIVISION POSTAL VOTING BY RESIDENTS ABROAD IN LOCAL ELECTIONS

[Section 190]

❶ *SECT. 190 REPEALED BY SECT. 55 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

## 6TH SUBDIVISION AGGREGATE COUNTING

### Section 191. Aggregate counting by Judicial District Electoral Commissions

1. Judicial District Electoral Commissions shall have jurisdiction for all aggregate counting operations in elections of local councillors.
2. Aggregate counting is to be carried out by alphabetical order of the district municipalities.

## CHAPTER VII ELECTION EXPENSES AND SUBSIDIES

### Section 192. Appointment of general managers at municipal elections

1. The appointment of general managers of political parties, federations and coalitions before the Central Electoral Commission shall be effected as provided in Section 174.
2. Managers of the lists of candidates of political parties, federations and coalitions must be appointed by written notification of their general manager to each Provincial Electoral Commission, between the fifteenth and twentieth day after the call of the election. Said appointments shall be notified by every Provincial Electoral Commission to the Central Electoral Commission.
3. Promoters of electors' groupings must notify in writing the appointment of the managers of their lists of candidates to the appropriate Provincial Electoral Commission within two days following the submission of said lists.

### Section 193. Subsidies for expenses at local elections

1. The State shall subsidize expenses incurred in election activities according to the following rules:
  - a) 270.90 Euros for every local councillor elected, and
  - b) 0.54 Euros for each vote polled by lists of candidates one of whose members at least has been proclaimed councillor.
2. The limit of expenses at local elections shall be obtained by multiplying by 0.11 Euros the number of inhabitants of the constituencies where each party, federation, coalition or grouping of electors has put up candidates. Those taking part in elections of at least 50 per 100 of local councils, may spend an extra 150,301.11 Euros for each of the provinces where they meet said condition.
3. In addition to subsidies referred to in the preceding subsections, the State shall subsidize parties, federations, coalitions and electors' groupings for election expenses arising from direct and personalized mailing of election envelopes and ballot papers or of election propaganda and advertisements, according to the following rules:
  - a) In each of the constituencies where they have obtained representation in local councils, d 0.22 Euros per elector are to be paid to political formations having presented candidates in 50 per 100 of municipalities with more than 10,000 inhabitants of the relevant province and having won representation in at least 50 per 100 of said municipalities, and
  - b) The amount of the subsidy shall not be included within the limit set out in subsection 2 of this Section, provided sufficient evidence has been produced of performance of the activity referred to in this present subsection.

4. The amounts referred to in the preceding subsections are construed as expressed in constant value Euros. Actual amounts payable shall be fixed by an Order of the Ministry and Economy and Finance within five days from the call of the election.

5. No subsidy shall be paid in the cases contemplated in subsections 2, 3 and 4 of Section 127 of this Act.

① *SECT. 193 AS AMENDED BY SECT. 56 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28*

## CHAPTER VIII MANDATE AND CONSTITUTION OF LOCAL COUNCILS

### Section 194. Term of office of local councillors

1. Local councillors' term of office shall be four years as from the date of election, according to Section 42, subsection 3, of this Institutional Act.

2. On expiry of their mandate local councillors shall remain in office strictly for dispatching day-to-day business until their successors enter their functions. Under no circumstances shall members of the extinguished council adopt decisions for which a qualified majority is legally required.

① *1 AS AMENDED BY SECT. 62 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

### Section 195. Constitution of Local Councils

1. Local Councils (*Corporaciones municipales*) are to be constituted at a public sitting on the twentieth day following the polling date, unless an electoral petition has been filed against proclamation of elected councillors, in which case they shall be constituted on the fortieth day following said date.

2. To this end a provisional Bureau is to be set up, consisting of the oldest and the youngest councillors present at the sitting, with the Council's Secretary acting as clerk to the Bureau.

3. The Bureau shall check the credentials or identity accreditations of persons elected against the certificates received by the council from the Judiciary District Electoral Commission.

4. At the end of the operation referred to above, the Bureau shall declare the council duly constituted, provided the absolute majority of councillors is present at the sitting. Failing this a new sitting must be convened for two days later, at which the council shall be deemed to be constituted whatever the number of councillors present.

## CHAPTER IX ELECTION OF MAYORS

### Section 196. Election of Mayor

The Mayor shall be elected at the same sitting in which the council has been constituted, according to the following procedure:

- a) All councillors having held the first place in their list may be candidates;
- b) Where one of them obtains the absolute majority of the councillors' vote, he shall be declared elected, and
- c) If no candidate secures the absolute majority, the councillor in first position of their list and having polled the largest number of votes in the council's area is elected. In the event of a tie the issue shall be decided by lot.

In councils with a number of inhabitants ranging from 100 to 250 all councillors may be candidates. If one of them obtains the absolute majority of councillors' votes, he shall be declared elected; where none of them obtains an absolute majority, the councillor having polled the most votes from the electors shall be declared elected.

### Section 197. Motion of censure against Mayors

1. Mayors may be deposed by means of a censure motion, which shall be tabled, discussed and voted upon according to the following rules:

- a) Such motion shall be tabled by at least the absolute majority of the council's members and must name an alternative candidate to the office of Mayor, who can be one of the

councillors<sup>11</sup>. The motion shall in any case contain a statement of explicit acceptance by the candidate so proposed.

b) The motion shall contain the names of its proponents, duly authenticated by a public notary or by the Secretary-General of the council and must be tabled before him by any of its signatories. The Secretary-General must check that the motion satisfies the conditions laid down in this present Section and shall thereupon issue the appropriate certificate.

c) On the tabling of the motion so certified with the Council's General Register by one of the signatories, a full meeting of the Council is thereby automatically convened to be held at noon on the tenth day after the date of entry in the Register. The Secretary of the Council shall forward a certification thereof to all councillors within one day at the latest from the lodging of the motion, with an indication of the day and the time of the sitting, so that members of the council may duly attend.

d) The plenary meeting shall be chaired by a provisional Bureau consisting of the oldest and the youngest councillors, excluding the mayor and the alternative candidate, with the Council's Secretary acting as Clerk, on accreditation of his official position.

e) The Chair shall confine itself to reading out the censure motion and checking, as a condition for the proceedings to continue, that the requirements under the three subparagraphs of paragraph a) are still satisfied. It shall then briefly give the floor, if they are attending to the alternative candidate, to the Mayor and to the spokesmen of the council's political groups, and finally put the motion to the vote.

2. No councillor may sign during his mandate more than one censure motion. Provided that motions not proceeded with for failure to satisfy the requirements set out in paragraph b) of subsection of this present section shall not be taken into account.

3. The Mayor's resignation after the tabling of the censure motion shall not suspend the proceedings and the vote upon said motion.

4. In communities governed by the open council (*concejo abierto*) system, censure motions shall be transacted under the provisions of the foregoing subsections, with the following special rules:

a) References to councillors for the purpose of signature, presentation and vote of the motion, as well as the constitution of the provisional Bureau, shall be construed to be references to electors entered in the local electoral register, as in force on the day of tabling of the motion;

b) Any elector legally eligible and residing in the municipality may be a candidate;

c) References to the full meeting shall be construed as referring to the general residents' meeting (*Asamblea vecinal*);

d) Notification by the Secretary to councillors of the day and time of full meeting shall be replaced by an announcement of the open general meeting to local residents, such announcement being made in the same manner as normally used for convening said general meetings and

e) The provisional Bureau shall give the floor only to the alternative candidate and to the Mayor.

5. The Mayor, in the discharge of his functions, must prevent any act disturbing, hindering or impeding councillors' right to attend the plenary sitting for the vote on the censure motion and to vote at such meeting. Causes for abstention from being a candidate and rejection of candidates contemplated in the administrative procedure legislation shall in particular not apply to the censure motion.

6. Changes in the office of Mayor resulting from a censure motion in municipalities ruled by open council system, shall not entail any change in membership of the Provincial Deputation.

① *SECT. 197 AS AMENDED BY SECT. 1 OF INSTITUTIONAL ACT 8/1999, OF APRIL 21*

---

<sup>11</sup> A provision clearly inspired by Section 13 of the Constitution, according to which the Congress of Deputies may challenge Government policy by a motion of censure tabled by the majority of its members, provided (subs. 23) such motion includes a candidate to the office of Prime Minister. This provision is in turn an imitation of the Federal German Republic's Fundamental Act (*Grundgesetz*) of 1949, which has laid down this requirement of an alternative candidate for a motion of censure to be tabled and discussed ( German legal language *konstruktives Misstrauensvotum. i.e. "constructive non-confidence vote"*).

- ① 1. A) AND 1. E) AS AMENDED BY SECT. 57 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28  
① 1. F) DELETED BY SECT. 57 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

### Section 197 bis. Request by Mayor of a vote of confidence

1. Mayors may put to the full Council meeting a question of confidence relating to one of the following subjects:

- a) The annual Budget;
- b) The Council's organizational rules;
- c) Tax regulations and
- d) Final decisions after the dispatching of general planning measures affecting the local authority.

2. The moving of the confidence question as conditional on the decision to be taken on one of the subjects referred to in the foreign subsection, shall be expressly included in the appropriate item of the full meeting's agenda, and each of such decisions shall require the voting *quorum* specifically prescribed by Act 7/1985, of April 2, of Basic Local Government<sup>12</sup>. The vote shall be taken in any case by public roll-call.

3. No confidence question may be moved unless the decision on the point of issue has been debated in full meeting of the council and no sufficient majority has been obtained for its approval.

4. If the question of confidence does not obtain the necessary number of votes for the decision to be adopted, the Mayor shall automatically cease to hold office, but shall continue to discharge his functions until his successor takes up the position. The new Mayor's election is to take place at a full sitting automatically convened for the tenth day at noon after the vote on the decision on which the question of confidence was made conditional and is to be conducted under the rules set out in Section 196, albeit with the following particularities:

- a) In communities with more than 250 inhabitants the outgoing Mayor shall be excluded from the first place from the list for the election and his place shall be taken by the second name on said list, both for submission of candidates and for automatic appointment as Mayor, where said second name belongs to the list having polled the most votes and no candidate has obtained an absolute majority of the legal number of councillors;
- b) In communities between 100 and 250 inhabitants the outgoing Mayor may not stand as candidate nor be proclaimed Mayor if no candidate has obtained an absolute majority of the legal number of councillors. Where no candidate wins said majority, the candidate having polled most electors' voters at the council election, excluding the outgoing Mayor, shall be proclaimed.

5. The preceding subsection shall not apply where the question of confidence is made conditional on the adoption or the modification of the annual Budget. In this case confidence shall be deemed to be granted and the appropriations bill adopted if no motion of censure with an alternative candidate to office of Mayor is tabled within one month from the denial of confidence or if said motion is defeated.

The limitation laid down in subsection 2 of the preceding section does not apply for this purpose.

6. No Mayor may move more than one vote of confidence in one year from commencement of his mandate nor more than two during his whole mandate and no question of confidence shall be moved in the last year of the council's mandate.

7. No request for a vote of confidence may be moved after the tabling of a censure motion until the vote on the latter has taken place.

8. Councillors having given a favourable vote on a matter on which a question of confidence has been made conditional, may not sign a censure motion against the Mayor who has moved the confidence question until six months have elapsed from the date of vote on said question.

---

<sup>12</sup> According to subs. 1 of Sect. 47 of said Basic Local Regulation Act, a single majority of councillors present at the sitting is required for adoption of any decision, except for a number of questions extensively listed in subs. 2 of same Section, for which a two-third majority of the legal number of councillors is necessary, and others for which, under subs. 3, absolute majority of such number is required.

During this period said councillors may not vote against the point on which the question of confidence was made conditional should this point be put to the vote on the same terms as on the preceding occasion. If they nevertheless vote against, their vote shall be null and void.

① *SECT. 197 BIS ADDED BY SECT. 2 OF INSTITUTIONAL ACT 8/1999, OF APRIL 21*

### Section 198. Vacancy of the office of Mayor

In cases other than those contemplated in Sections 197 and 197 bis of this Act the vacancy of the Mayor's office shall be dealt with as provided in Section 196, provided that for this purpose the list to which the former Mayor belonged shall be headed by the second name on it, unless this latter person resigns his candidacy.

① *SECT. 198 AS AMENDED BY SECT. 3 OF INSTITUTIONAL ACT 8/1999, OF APRIL 21*

### Section 199. Election system in local entities below municipal level

1. The election system for bodies of local districts with a jurisdiction area below that of a local council shall be laid down by the law of the Self-governing Community responsible for their creation or recognition. Said law must comply in any case with the Basic Principles of Local Government Act, failing which the following provisions of this Section shall apply.

2. District Mayors (*Alcaldes pedáneos*) shall be directly elected by district residents, through a majority system, among candidates nominated by the different parties, federations, coalitions or electors' groupings.

3. The Residents' Boards (*Juntas Vecinales*) of minor local districts shall consist of the local mayor, who is to act as chairman, and two further members in communities below 250 residents and four members in those with more residents, unless the number of said members exceeds one third of the respective local council membership, in which case they shall only be two.

4. The appointment of said members shall be made in accordance with the results of the local council election in the ward or wards corresponding to the minor district.

5. The number of members for each party, federation, coalition or electors' groupings is to be allotted by the District Electoral Commission according to the procedure laid down in Section 163 of this Act.

6. On completion of the foregoing operation the representative of each list of candidates shall appoint among district electors those who are to be members of the aforesaid Residents' Board.

7. If no Residents' Board is to be set up under local government law because the open council system has been adopted for said minor district, a District Mayor shall be elected in any case in the manner provided for in subsection 2 above.

### Section 200. Mayors of open-council municipalities

Provincial Electoral Commissions shall adopt all necessary resolutions for compliance with subsection 2 of Section 179 of this Act, to ensure election of a Mayor in communities with an open-council system.

## PART IV

### SPECIAL PROVISIONS FOR ELECTION OF INSULAR COUNCILS IN THE CANARY ISLANDS

### Section 201. Election on Insular Councils in the Canary Islands

1. Electors of each island shall elect by universal, direct and secret suffrage in a ballot box other than the one reserved to local council elections as many insular councillors (*Consejeros Insulares*) as set out below:

	Insular Councillors
Up to 10,000 residents	11
From 10,001 to 20,000 residents	13
From 20,001 to 50,000 residents	17
From 50,001 to 100,000 residents	21

From 100,001 onwards 1 further councillor for each 100,000 residents or fraction hereof, plus one where the result would be an even number.

2. Insular Councillors' mandate shall be four years from the polling day, as provided by Section 42, subsection 3, of this Institutional Act.

3. The election of Insular Councillors shall take place by the procedure prescribed for the election of local councillors, each island being a constituency.

Section 44 bis of this Act shall not apply to lists of candidates in islands with a number of residents equal to or below 5,000 inhabitants.

4. Insular Councils are to be constituted at a public sitting within thirty days after polling day, with a provisional Bureau consisting of the oldest and the youngest elected councillors, as provided by Section 195 for local councils.

5. Each Insular Council shall be presided by the first candidate of the list that has polled the most votes in the insular constituency.

6. Presentation of candidates, voting system and allotment of seats must comply with the procedure prescribed for local council elections.

7. Insular Councils' Presidents may be deposed by a censure motion according to the procedure of Section 197. Any of the insular councillors who have been heads of the electoral list of a party, federation, coalition or electors' grouping in the constituency may be a candidate to the office of President.

Presidents of Insular Councils may further cease to hold office if they fail to win a question of confidence raised before the full Council by the procedure of Section 197 *bis*, where said motion is made conditional on any of the following matters:

- a) The annual Budget;
- b) The Insular Council's Organizational Statute;
- c) The insular plan for cooperation with municipal works and services, or
- d) Adoption of the final proceedings on the insular town and country planning schemes contemplated in town and country planning legislation.

Defeat of the motion for a vote of confidence shall entail election of a new President in the manner provided for in Section 197 *bis* for Mayors of localities with more than 250 inhabitants.

8. Insular Councils elections are also subject to Sections 202 and 203 of this Act on eligibility and disqualifications.

9. The State shall subsidize the election expenses incurred in Insular Councils elections according to the following rules:

- a) 1,625.44 Euros for each insular councillor elected and
- b) 0.65 Euros for each vote polled by every list of candidates of which one, at least, has been elected insular councillor.

10. The limit on expenses incurred in Insular Councils elections shall be the result of multiplying by 0.16 Euros the number of inhabitants of each island where the party, federation, coalition or electors' grouping has put up a list of candidates.

11. Election subsidies under present Section shall be subject to the limits laid down in subss. 2, 3 and 4 of Section 127 of this Act.

- ① 2 AS AMENDED BY SECT. 64 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13
- ① 3 2<sup>ND</sup>. PARAGRAPH ADDED BY 2<sup>ND</sup> ADDITIONAL DISPOSITION OF INSTITUTIONAL ACT 3/2007
- ① 6 AS AMENDED BY SECT. 65 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13
- ① 7 ADDED BY SECT. 66 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13 AND AS AMENDED BY SECT. 4 OF INSTITUTIONAL ACT 8/1999, OF APRIL 21
- ① 8 RENUMERED BY SECT. 67 OF INSTITUTIONAL ACT 8/1991. FORMERLY 7.
- ① 9 AND 10 ADDED BY SECT. 68 OF INSTITUTIONAL ACT 8/1991 AND ALSO AMENDED BY SECT. 58 OF INSTITUTIONAL ACT 2/2011.
- ① 11 ADDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003

## PART V SPECIAL PROVISIONS FOR ELECTION TO PROVINCIAL DEPUTATIONS

### CHAPTER I ELIGIBILITY

#### Section 202. Right to eligibility to Provincial Deputations

In addition to persons falling within one of the cases set out in Section 6 of this Act ineligibility also applies to direct or surrogate debtors of the relevant local authority against whom an execution order has been issued by a judicial decision.

### CHAPTER II DISQUALIFICATIONS

#### Section 203. Disqualifications from elections to Provincial Deputations

1. Causes for ineligibility referred to in the foregoing Section shall also be disqualifications from membership of Provincial Deputations.

The following persons shall also be disqualified:

- a) Lawyers and litigators' judicial agents in guidance or representation of parties in court or in administrative proceedings against the relevant authority, except in actions referred to in Section 63.1 of the Basic Local Government Act<sup>13</sup>;
- b) Divisional directors, civil servants or other staff in active service of the relevant Provincial Deputation or of dependent bodies and firms;
- c) Directors-General or similar officers of Provincial or Local Savings Banks operating in the same province;
- d) Contractors or subcontractors in respect of public contracts wholly or partly financed by the Deputation or by dependent entities;
- e) Members of Provincial Deputations (*Diputados Provinciales*) elected in lists presented by parties or federations or coalitions or parties subsequently declared illegal by a court's final decision and persons elected on lists put up by electors' groupings declared to be connected with a party already banned by a final judicial decision.

2. Should a disqualifying situation arise, persons affected must choose between resigning from their seat in the Provincial Deputation or relinquishing the position giving rise to disqualification under the preceding subsection. Where the cause for disqualification is the cause contemplated in paragraph e) of subs- 1, the provisions of Section 6, subs. 4, shall apply.

3. Where disqualification arises from the cause referred to in paragraph b) of subsection 1, the civil servant or public employee opting for his seat in the Provincial Deputation shall be placed in the special services position or, failing this, in the situation contemplated in the relevant collective bargaining agreement. The civil servant or employee shall in any case be entitled to preservation of his employment position.

- ① 1. E) ADDED BY SECT. 12 OF INSTITUTIONAL ACT 3/2011
- ① 2 AS AMENDED BY SECT. 13 OF INSTITUTIONAL ACT 3/2011

---

<sup>13</sup> Said subs. 1 of Section 63 of Basic Local Government explicitly entitles the following persons (or rather categories of persons) to petition the courts against alleged illegal decisions of local authorities: a) the State and Self-governing Communities and b) members of said authorities who have voted against the decision.

## CHAPTER III ELECTORAL PROCEDURE

### Section 204. Scale for allotment of seats to Provincial Deputations

1. The number of members of each Provincial Deputation shall be determined, depending on the number of the province residents, by the following scale:

	Members
Up to 500,000 residents	25
Between 500,001 and 1,000,000	27
Between 1,000,001 and 3,500,000	31
From 3,500,001 residents	51

2. Provincial Electoral Commissions shall allot in proportion to the number of residents the seats corresponding to each judiciary district (*partido judicial*) on the tenth day after the call of the election, according to the following rules:

- a) Every judicial district shall be assigned at least one member;
- b) No district is to have more than three-fifths of the total number of provincial representatives;
- c) Fractions equal to or more than 0.5 resulting from said proportional allotment shall be rounded up to the next higher unity and those below said 0,50 down to the next lower unity and
- d) Where the result of the above operations is a higher number than the legal aggregate of provincial representatives, there shall be deducted as many seats as necessary from the districts with the least numbers of residents for each representative. Where on the contrary the resulting number is lower than said legal aggregate, there shall be added as many seats as necessary to the districts with the highest number of residents per representative.

3. For the purposes of this Chapter judiciary districts shall be those delimited for the 1979 local elections.

### Section 205. Assignment of seats in Provincial Deputations

1. After constitution of all local councils in the whole province the Judiciary District Electoral Commission shall immediately draw up a list of all political parties, coalitions, federations and each grouping of electors having obtained at least one local councillor in each judiciary district, said list being arranged in descending order of the aggregate votes polled by each of them.

The process of constitution of Provincial deputations shall be postponed until final determination of all electoral petitions previously lodged against proclamation of local councilors elected to the province's local councils.

Where new elections must be called for any local council in a province, either because no candidature was presented or because the election has been totally or partly voided as a result of electoral petitions, the constitution of the Provincial Deputation shall not however be postponed.

Provided that where the holding of by-elections (*elecciones parciales*) causes an alteration in the assignment of seats in the Provincial Deputation, the District Electoral Commissions must undertake all necessary reassignment operations.

2. For the purposes of the preceding subsection in localities with less than 250 inhabitants referred to in Section 184 of this Act the number of seats to be taken into account for each list of candidates shall be obtained by multiplying the aggregate votes polled by each of its members by the number of candidates making up the list up to a maximum of four. Resulting fractions shall be rounded down to the next lower unity.

3. On completion of the aforesaid operation the Judiciary District Electoral Commission shall assign the corresponding seats to parties, federations, coalitions and every electors' grouping in each district by the procedure provided in Section 163, according to the aggregate votes polled by each political formation or grouping of electors.



4. Where by virtue of the preceding subsection two or more parties, coalitions, federations or electors' groupings should have the same quotient, the vacancy is to be allotted to the formation having polled the most votes and in the event of a tie, to the one with a greater number of local councillors in the district and failing this, by drawing lots.

- ① 1 2<sup>ND</sup> AND 3<sup>RD</sup> PARAGRAPH ADDED BY SECT. 59 OF INSTITUTIONAL ACT 2/2011.
- ① 2 AS AMENDED BY SECT. 60 OF INSTITUTIONAL ACT 2/2011.

### Section 206. Proclamation of elected members and alternate members

1. Upon assignment of seats pursuant to the foregoing sections, the relevant Electoral Commission shall convene separately within five days the local councillors of political parties, coalitions, federations and electors' groupings having obtained seats, so that they may elect from lists supported at least by one-third of the respective councillors those who are to be proclaimed members, plus three alternates to cover by order of such designation any future vacancies.

2. Once said election has been carried out, the Judiciary District Electoral Commission shall proclaim the corresponding members and alternates and issue to the Provincial Electoral Commission and to the Provincial Deputation a certification of members so elected in the district.

### Section 207. President of the Provincial Deputation

1. Provincial Deputations shall meet in a constituent sitting chaired by a provisional Bureau consisting of the oldest and the youngest member present, with the Secretary of the Deputation acting as Clerk.

2. A candidate must obtain absolute majority of votes in the first round and single majority in the following rounds to be elected President.

3. The President may be deposed by a censure motion that shall be transacted as provided for in Section 197. Every member of the Provincial Deputation may stand as candidate.

4. The President of the Provincial Deputation shall further cease to hold office in the event of defeat of a motion of confidence raised by him in a plenary sitting, according to the procedure of Section 197 of this Act, where such motion has been made conditional on any of the following matters:

- a) The annual Budget;
- b) The Provincial Deputation's organizational Regulations or
- c) The provincial plan for contribution to works and services within municipal jurisdiction.

Defeat of the motion of confidence entails election of a new President by the procedure laid down in Section 197 bis of this Act for Mayors of municipalities with more than 250 inhabitants.

- ① 4 ADDED BY SECT. 5 OF INSTITUTIONAL ACT 8/1999, OF APRIL 21

### Section 208. Replacement of members of Provincial Deputations

1. In the event of decease, incapacity, resignation or loss of local council mandate, of a provincial councillor, the vacancy is to be filled by one of the alternate members elected in the respective judiciary district, according to the order agreed between them for replacement.

2. Where a vacancy cannot be filled because the three alternates elected in the relevant judiciary district have already filled previous vacancies, a new election of members for that district is to be held according to the procedure laid down in Section 206 of this Act.

### Section 209. Respect for self-government and traditional chart regimes

Provisions of present Chapter shall apply without prejudice to special self-government and traditional chart regimes (*regimenes especiales autonómicos y forales*). Sections 6.4 and 303.1.e) of this Act also apply in any case to said regimes.

- ① SECT. 209 AS AMENDED BY SECT. 14 OF INSTITUTIONAL ACT 3/2011

## PART VI SPECIAL PROVISIONS FOR ELECTIONS TO EUROPEAN PARLIAMENT

① *PART VI ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987*

### CHAPTER I FRANCHISE

① *TITLE AS AMENDED BY SECT. 8 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30*

#### Section 210. Franchise for elections to European Parliament

Without prejudice to the provisions of Chapter I of Part I of this Act all persons residing in Spain but not having acquired the Spanish nationality, are entitled to vote at elections to the European Parliament, provided:

- a) They are citizens of the European Union according to the 2nd paragraph of subs. 1 of Section 8 of the European Union Treaty<sup>14</sup>, and
- b) They satisfy the conditions for registration as a voter laid down by this present Act for Spanish citizens and they also have the right to vote in the respective member State of origin.

2. Nobody may vote more than once at the same election.

3. Citizens of the European Union who are not Spanish citizens and wish to exercise their right to vote in Spain must have previously made the necessary option.

① *SECT. 210 AS AMENDED BY SECT 8.2 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30*

### CHAPTER II ELIGIBILITY

① *TITLE AS AMENDED BY SECT. 9.1 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30*

#### Section 210 bis. Right to be elected to European Parliament

1. Without prejudice to the provisions of Chapter I of Part I of this Act the following persons residing in Spain but no having acquired the Spanish nationality shall be eligible to European Parliament:

- a) Those who are European Union citizens according to the 2nd paragraph of subsection 1 of Section 8 of the Treaty on the European Community and
- b) Satisfy all the conditions for eligibility laid down in this Act for Spanish citizens and have also the right of eligibility in their member State of origin.

2. Persons falling within Sect. 154.1 and 154.2 of this Act are not eligible to the European Parliament.

Provided that subs. 1 of Sect. 154 shall only apply to citizens of the European Union qualified as eligible where the discharge of the functions or positions referred to in said Section constitutes a cause for disqualification in the member State of origin.

① *SECT 210 BIS ADDED BY SECT. 9 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30*

### CHAPTER III DISQUALIFICATIONS

#### Section 211. Disqualifications from membership of European Parliament

1. Causes of ineligibility as member of the European Parliament shall also be disqualifications therefrom.

2. The following are also disqualified:

---

<sup>14</sup> The Treaty of the European Union (officially published on July 29, 1992) directs that all persons holding the nationality of one of the member States shall be citizens of the European Union, entitled as such to vote at local elections (more precisely at municipal elections) and at elections to the European Parliament.

- a) Persons who are disqualified under the electoral regulations of the European Communities;
- b) Persons falling within subs. 2 of Section 155 of this present Act;
- c) Members of Spanish Parliament;
- d) Members of the Legislative Assembly of a Self-governing Community and
- e) Members of European Parliament elected on lists of candidates submitted by parties or by federations or coalitions of parties subsequently declared illegal by a court's final decision, and those elected on lists of candidates submitted by electors' groupings declared to be connected to a party banned by final judicial decision.

3. In cases contemplated in paragraphs c) and d) of the foregoing subsection, the issue of disqualification is to be determined in favour of the parliamentary mandate acquired last. Where the cause for disqualification is that contemplated in subs. 2.e), Section 6.4 of this Act shall apply.

- ① *SECT. 211 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2*
- ① *2.E) ADDED BY SECT. 15 OF INSTITUTIONAL ACT 3/2011, OF JANUARY 28*
- ① *3 AS AMENDED BY SECT. 16 OF INSTITUTIONAL ACT 3/2011, OF JANUARY 28*

### Section 212. Mandate of members of the European Parliament

1. Members of the European Parliament shall discharge their mandate on a full-time basis in the same conditions as those laid down in this Act for members of the Congress of Deputies and for senators.

2. By virtue of the foregoing subsection Sections 157 and 158 of this Act also apply to members of the European Parliament. These may not therefore receive out of the State, regional or local budgetary appropriations any remuneration other than that to which they are entitled in their capacity as members of said Parliament.

3. Members of the European Parliament may not sit in collective executive bodies or board of directors of any organization, public entity or firm with a direct or indirect majority stake of public bodies.

- ① *SECT. 212 AS AMENDED BY SECT. 69 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

### Section 213. Performance of private activities

Members of the European Parliament may only perform private activities referred in paragraphs a) and b) of Section 159 of this present Act, in addition to those not included in subsection 2 of said Act.

- ① *SECT. 213 AS AMENDED BY SECT. 70 OF INSTITUTIONAL ACT 8/1991, OF MARCH 13*

## CHAPTER V ELECTORAL SYSTEM

- ① *TITLE RENUMBERED BY SECT. 9.1 OF INSTITUTIONAL ACT 13/1994. FORMER CHAPTER III.*

### Section 214. Constituencies for elections to the European Parliament

Members of the European Parliament shall be elected in a constituency consisting of the whole Spanish territory.

- ① *SECT. 214 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2*

### Section 215. Allotment to Spain of seats of European Parliament

The number of members of European Parliament to be elected in Spain shall be determined according to the provisions of European statutes.

- ① *SECT. 215 AS AMENDED BY SINGLE SECT. 1 OF INSTITUTIONAL ACT 16/2003, OF NOVEMBER 28*

### Section 216. Assignment of seats as members of European Parliament

The assignment of seats according to the results of the poll shall be effected according to Section 163 of this Act, except as provided in subs. 1 a) and in subs. 2 of said Section.

① *SECT. 216 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2*

### Section 217. Replacement of members of European Parliament

In the event of death, incapacity or resignation of a member of the European Parliament the vacant seat shall be assigned to the candidate or, as the case may be, to the alternate candidate of the same list entitled to it by his position on said list.

① *SECT. 217 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2*

## CHAPTER V CALL OF THE ELECTION

① *TITLE RENUMBERED BY SECT. 9.1 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30. FORMER CHAPTER IV*

### Section 218. Call of election to European Parliament

1. The call of elections to the European Parliament is to be effected by Royal Decree in accordance with European statutes.

2. Said Decree shall be issued with the countersign of the Prime Minister, on his own proposal and following a deliberation in the Council of Ministers.

3. Section 42 of this Act does not apply in elections to the European Parliament.

① *SECT. 218 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2*

## CHAPTER VI ELECTORAL PROCEDURE

① *TITLE RENUMBERED BY SECT. 9 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30. FORMER CHAPTER V*

### 1ST SUBDIVISION CANDIDATES' REPRESENTATIVES BEFORE ELECTORAL ADMINISTRATION

### Section 219. Representatives of candidatures to European Parliament

1. For the purposes of Section 43 of this present Act each party, federation and coalition wishing to take part at the election shall appoint a general representative as provided for in Section 168 of this Act.

2. The promoters of each grouping of electors shall appoint in the same manner their general representative on submission of their candidates.

3. Each of the general representatives may within two days after his appointment appoint in a written notification addressed to the Central Electoral Commission the candidates' representatives before the Provincial Electoral Commissions.

4. These appointments are to be notified by the Central Electoral Commission to Provincial Commissions within the two following days. Representatives so appointed shall appear before the Provincial Commission to state their acceptance.

### 2ND SUBDIVISION PRESENTATION AND PROCLAMATION OF CANDIDATES

### Section 220. Presentation of candidates to European Parliament

1. The Central Electoral Commission shall have jurisdiction for all operations contemplated in Part, I, Chapter VI, 2nd Subdivision, of this present Act regarding presentation and proclamation of candidates for elections to European Parliament.

2. Candidatures are to be presented by means of full lists of candidates, unless parties, federations, coalitions or electors' groupings avail themselves of the possibility contemplated in Section 221, in which case each list may contain as many candidates and alternates as members to be elected.

3. For presentation of candidates every party, coalition, federation or grouping of electors must produce the supporting signature of 15,000 electors. No elector may give his written support to more than one list of candidates.

4. Parties, federations and coalitions may however replace the requirement laid down in the preceding subsection by the signature of 50 elected representatives, whether members of the Congress of Deputies, senators, Spanish members of European Parliament, members of Legislative Assemblies of Self-governing Communities or members of local assemblies<sup>15</sup>.

Provided that no such representative may give his written support to more than one list of candidates.

5. Candidatures submitted and candidates proclaimed shall be made public in the State's Official Gazette.

- ① *SECT. 220 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2*
- ① *2 AS AMENDED BY SECT. 2 OF INSTITUTIONAL ACT 16/2003, OF NOVEMBER 28*

### Section 220 bis. Formal statement for presentation of candidates

1. Citizens of the European Union eligible under Section 210 *bis* at the time of presentation of candidatures must produce, in addition to documents required to prove that they satisfy all conditions laid down by Spanish law, a formal declaration stating:

- a) Their nationality and their domicile in Spain;
- b) That they are not standing at the same time as candidates for election to European Parliament in another member State, and
- c) Where applicable, the municipality or constituency of their member State of origin where they were last registered.

2. They shall also produce a certificate of the relevant administrative authorities of their member State of origin to the effect that they have not been disenfranchised in said State.

The Central Electoral Commission may also demand production of an identity card that is still valid and an indication of the date since which they are subjects of a member State.

3. Upon proclamation of candidates, the Central Electoral Commission shall notify to the other member States the data relating to their respective subjects included in said candidatures.

- ① *SECT. 220 ADDED BY SECT. 11 OF INSTITUTIONAL ACT 13/1994, OF MARCH 30*

## 3RD SUBDIVISION BALLOT PAPERS AND VOTING ENVELOPES

### Section 221. Ballot forms and envelopes for elections to European Parliament

1. For the purposes of this Act the Central Electoral Commission have jurisdiction for elections to European Parliament.

2. Ballot papers for election of members of the European Parliament must contain the name, initials and symbol of the party, federation, coalition or electors' grouping presenting the candidature.

3. Ballot forms must also include the full list of names and surnames of candidates and alternates composing the candidature, by order of their position on the list. The characteristic referred to in Section 46.7 may also be mentioned if that is the case.

4. Parties, federations, coalitions or electors' groupings may state, when presenting their list of candidates to the Central Electoral Commission, the geographic area in which they wish their ballot forms to be distributed, where said area does not cover the whole national territory and provided it is at least the same as that of the election wards existing in a Self-governing Community.

- ① *SECT. 221 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2*

---

<sup>15</sup> That is to say, not only city or town councils, but also Provincial Deputations.

### Section 222. Territorial limits for candidates' campaign

Parties, federations, coalitions or electors' groupings may on submission of their lists of candidates to the Central Electoral Commission, state their wish that in some electoral wards covering the whole territory of the corresponding Self-governing Community only the names be mentioned of candidates and alternates of parties or territorial organizations thereof with an area of operation strictly confined by their respective statutes to said territory, and, as the case may be, of their own name, initials and symbol.

① *SECT. 222 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2*

#### 4TH SUBDIVISION AGGREGATE COUNTING

### Section 223. Aggregate counting at elections to the European Parliament

1. For the purposes of Sections 103, 104, 105, 106 and 107 of this present Act Provincial Electoral Commissions shall be the competent Electoral Commissions.

2. After the counting representatives and election proxies of candidates may lodge within two days such claims and petitions as they think fit, which shall be determined by Provincial Electoral Commissions within two further days.

3. On completion of the preceding operations Provincial Electoral Commissions shall forward to the Central Electoral Commission not later than the fifteenth days following the election a certificate signed by their chairman and secretary of the election results in the respective province, with an explicit mention of the number of voters, valid votes, void ballot papers, blank votes and votes polled by each candidature.

① *SECT. 223 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/ 1987, OF APRIL 2*

### Section 224. Assignment of seats in European Parliament

1. The Central Electoral Commission shall proceed not later than the twentieth day after the election, to the counting of votes on a national level, to the assignment of seats to each list of candidates and to the proclamation of elected candidates.

2. Within five days from such proclamation the elected candidates must swear or affirm allegiance to the Constitution before the Central Electoral Commission. On expiry of said term the Central Electoral Commission is to declare the vacancy of seats assigned to members of the European Parliament having failed to swear or affirm their allegiance to the Constitution, as well as the suspension of any prerogatives to which they may be entitled on account of their mandate, as long as they do not make the aforesaid oath or affirmation.

3. The Central Electoral Commission shall likewise be the competent authority for the conduct of all other general counting operations not contemplated in the preceding section.

① *SECT. 224 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2*

#### 5TH SUBDIVISION ELECTION PETITIONS

### Section 225. Jurisdiction for electoral petitions

1. The Supreme Court shall be the competent court for election petitions.

2. The Court must render its judgment on an election petition not later than the forty-fifth day following the election.

① *SECT. 225 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2*

#### CHAPTER VII ELECTION EXPENSES AND SUBSIDIES

### Section 226. Appointment of general managers for t elections to European Parliament

1. General managers of political parties, federations and coalitions are to be appointed according to the provisions of Section 174.1 of this Act.

2. Managers of candidatures in each province shall be appointed, according to Section 174.2 of this Act, before the twenty-first day following the call of the election.

① *SECT. 226 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2*

### Section 227. Subsidizing of expenses for elections to European Parliament

1. The State shall subsidize expenses arising from electoral activities according to the following rules:

- a) 32,508.74 Euros for each seat obtained, and
- b) 1.08 Euro for each vote polled by list one for whose members at least has gained a seat.

2. The limit on expenses at elections to the European Parliament shall be the result of multiplying by 0.19 Euros the number of inhabitants making up the legally registered population in the electoral wards where the distribution of ballot papers was requested.

3. In addition to subsidies referred to in the preceding subsections the State shall subsidize parties, federations, coalitions or electors' groupings for the expenses incurred in direct and personal mailing to electors in one Self-governing Community at least of ballot papers and voting envelopes or of electoral propaganda and publicity, according to the following rules:

- a) 0.16 Euros for elector provided the relevant list has obtained at least one seat and has polled as a minimum 15 per 100 of the votes validly cast;
- b) 0.11 Euros provided the relevant candidature has obtained at least one seat and a minimum of 6 per 100 of the votes validly cast;
- c) 0.03 Euros for elector, provided the list has obtained one seat as a minimum and at least 3 per 100 of the votes validly cast and
- d) 0.02 Euros for elector where the relevant list has obtained one seat as a minimum and at least 1 per 100 of the votes validly cast.

The amount so subsidized shall not be counted within the limit provided for in subsection 2 of this present Section, subject to sufficient proof of performance of the activity contemplated in this subsection.

4. The amounts mentioned in the foregoing subsections shall be expressed in constant value euros. An order of the Minister of Economy and Finance shall provide for updating of said amounts within the five days following the call of the election.

5. No subsidy shall be paid in the cases contemplated in subsections 2,3 and 4 of Section 127 of this present Act.

① *SECT. 227 ADDED BY SECT. 2 OF INSTITUTIONAL ACT 1/1987, AND AS AMENDED BY SECT. 61 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28.*

## ADDITIONAL PROVISIONS

### One

1. Provisions of this Act shall be without prejudice to the exercise of the responsibilities vested in Self-governing Communities by their Statutes, with due observance of the Constitution and of this present Institutional Act, regarding elections to their respective Legislative Assembly.

2. By virtue of the responsibilities vested by the Constitution in the State the following sections of Part I of this present Institutional Act also apply to elections to the Legislative Assemblies of Self-governing Communities: 1 to 42; 44; 44 bis; 45; 46.1,2,4,5, 6 and 8; 47.4; 49; 51.1, 2 and 3; 52; 53; 54; 58; 59; 60; 61; 62; 63; 65; 66; 68; 69; 70.1 and 3; 72; 73; 74; 75; 85; 86.1; 87.2; 90; 91; 92; 93; 94; 95.3; 96; 103.2; 108.2 and 8; 109 to 119; 125 to 130; 131.2; 132 and 135 to 152.

3. The remaining sections of the Part I of this Act shall be surrogate law to legislation adopted by Self-governing Communities and apply as such to elections of Assembly Communities of said Communities where the latter have not enacted any statute to this end.

4. The contents of Parts II, II, IV and V of this Institutional Act cannot be altered or replaced by Self-governing Communities' legislation.

5. Where Self-governing Communities do not legislate on the matters governed by the Sections listed below, said Sections shall be construed for the purposes of elections to Legislative Assemblies in the following manner:

- a) References to State agencies in Sections 70.2, 71.4 and 98.2 shall be references to the equivalent non-governmental organizations.
- b) Mention of the national territory in Section 64.1 shall refer to the territory of the relevant Self-governing Community.
- c) The allusion in Section 143 to the Committee set up by the First Transitional Provision of the Auditing Court Institutional Act<sup>16</sup> shall be a reference to a committee of the relevant Legislative Assembly and the State's duty to subsidize election expenses mentioned in said section and in the preceding one shall be a duty of the relevant Self-governing Community.

- ① 1. AS AMENDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003, OF MARCH 10
- ① 2 AS AMENDED BY SECT. 62 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

## Two

The Government is hereby empowered to make such statutory orders as may be necessary for compliance with and execution of this Act.

## Three

The Government shall make within five years from the commencement of the present Act all necessary rules for effective inclusion in the census data of the National Identity Card number referred to in Section 32 of this Institutional Act.

## Four

For the purposes and to the effect of suspension of employment contracts of elected representatives referred to in Sections 45.1 and 48 of the Workers' Statute (*Estatuto de los Trabajadores*) the legal cause of suspension for not re-elected candidates shall be deemed to cease on constitution of the new assemblies.

## Five

Where in the same year and with an interval of no more than four months there are to be local elections, elections to Legislative Assemblies of Self-governing Communities having held their elections on the fourth Sunday of May 1995, and an election to the European Parliament, the decrees for the call of each election shall be enacted on the fifty-fifth day prior to the date appointed for the election to European Parliament, in order to ensure that all elections are held simultaneously. Said Decrees must be published on the day following their enactment in the Official Gazette of the respective Self-governing Community and shall have effect from the very day of publication. The term of Local Assemblies' members<sup>17</sup> shall expire in any case on the day preceding the date of the following election.

## Six

Parties and federations must send to the Political Parties' Register the list of members of their direction and coordination bodies and keep said list up to date at every time.

- ① FIVE ADDED BY SINGLE SECT. OF INSTITUTIONAL ACT 3/1998, OF JUNE 15
- ① SIX ADDED BY SECT. 5 OF INSTITUTIONAL ACT 1/2003, OF MARCH 10

---

<sup>16</sup> Said Act (to be more precise Institutional Act 2/1982, of May 12, published in the State Official Gazette of May 1, 1982), makes provision for the setting-up of a Joint Committee of both Houses of Parliament with the name of Joint Committee for Relations with the Auditing Court (*Comisión Mixta para las Relaciones con el Tribunal de Cuentas*).

<sup>17</sup> Local Assemblies Assemblies (*Corporaciones Locales*) are not only city or town councils, but also Provincial Deputations and Insular Councils in the Canary Islands.



## TRANSITIONAL PROVISIONS

### One

The disqualification rules set out in this Act for members of the Congress of Deputies and for senators shall come into force as from the first general election.

### Two

The first appointment of members of the Central Electoral Office is to be made, according to the procedure provided for in Section, within ninety days from commencement of this Act.

### Three

Sections 197 and 307.3 shall take effect immediately after the holding of the first local elections following commencement of the present Act.

### Four

The first annual revision of the Electoral Register to which Section 35 of this Act is to apply shall be conducted on the basis of the electors' national card index drawn by the Electoral register Office in accordance with the 1986 Updating of Municipal Residents' Rolls.

### Five

Until the administrative courts and the Higher Courts of Self-governing Communities come into operation, the jurisdiction vested in them by this Act is to be exercised by the Divisions of the existing Administrative Courts.

### Six

For the purposes of Sections 57.3, 61, 64, 67 and 127 of this Act, insofar as applicable to the first elections to European Parliament, and provided the circumstances contemplated in Section 63.5 of this Act do not occur, "the last equivalent elections" means the last election to the Congress of Deputies.

### Seven

For the call of municipal elections to be held before 2011, the provision of Section 44 *bis* shall only be binding in local councils with more than 5,000 inhabitants. From the 1st of January of said year the reference number of inhabitants shall be the figure mentioned in the second paragraph of subsection 2 of Section 187 of the present Act.

### Eight. Freezing of subsidies for election expenses, for mailing of publicity and for electoral campaign

Subsidies referred to in Sections 175.1.a), b) and c); 193.1.a) and b); 175.3.a); 193.3.a) shall be frozen as from 31st of December 2010 for the whole fiscal year 2011.

① SIX ADDED BY SECT. 3 OF INSTITUTIONAL ACT 1/1987, OF APRIL 2

① SEVEN ADDED BY ADDITIONAL PROVISION 2.5 OF INSTITUTIONAL ACT 3/2007, OF MARCH 22

① EIGHT ADDED BY SECT. 63 OF INSTITUTIONAL ACT 2/2011, OF JANUARY 28

## REPEALS

*(Disposición derogatoria)*

The following are hereby repealed: Royal Decree-Law 20/1977, of May 18, on Electoral Provisions; Act 39/1978, of July 17, on Local Elections; Institutional Act 6/1983, of March 2, amending several articles of the preceding Act, and Act 14/1980, of April 18, governing election opinion polls, and all statutes running counter to provisions of this present Act.

## FINAL PROVISION

This present Act shall come into force on the day following the date of publication in the State's Official Gazette.

I Therefore enjoin all spaniards, private persons and public authorities, to observe and ensure observance of this Act.

Palace of La Zarzuela, June 19, 1985

Juan Carlos R.

Primer Minister

Felipe GONZALEZ