

198. Constitutional Law of October 19th, 1945, on the First Elections to the National Council, the Parliaments of the Federal States and the Municipal Council of the City of Vienna in the Liberated Republic of Austria (Electoral Law).

The Provisional National Government has ruled:

I. General provisions, constituencies and combined constituencies.

§1 (1) On Sunday, November 25th, 1945, there will be the first elections to the National Council, the Provincial Parliaments and the Municipal Council of the City of Vienna in the liberated Republic of Austria.

(2) These elections must be organised according to the provisions of this constitutional law.

(3) The National Council consists of 165 Members of Parliament.

(4) The number of parliament members to be elected is determined by a national law in accordance with the provisions of Article 95, Sect. (4) of the Federal Constitution as amended in 1929. The number of members of the Municipal Council of the City of Vienna must be determined by a national law according to the relevant provision of Article 108, Sect. (2) of the Federal Constitution as amended in 1929 as well by considering those territorial changes as have been happening since then.

(5) The Members of Parliament elected to the National Council will be convened to the first session by the Chancellor, the Members of Parliament elected to the Provincial Parliaments (Municipal Council of the City of Vienna) by the Provincial Governors (Mayor of the City of Vienna). Until a President has been elected, the oldest member of the House acts as chairman.

(6) Provisions of this constitutional law referring to the elections to the provincial parliaments are mutatis mutandis also valid for the elections to the Municipal Council of the City of Vienna.

§2 For the purpose of the elections, the national territory is divided into constituencies and combined constituencies.

§3 Constituencies are:

No.	Name
1	Vienna City Centre East
2	Vienna City centre East
3	Vienna North-West
4	Vienna North-East
5	Vienna South-East
6	Vienna South-West
7	Vienna West
8	Quarter above Wienerwald
9	Quarter below Wienerwald
10	Quarter above Manhartsberg
11	Quarter below Manhartsberg
12	Linz and Environments
13	Innviertel
14	Hausruckviertel
15	Traunviertel
16	Mühlviertel
17	Salzburg
18	Tyrol
19	Vorarlberg
20	Graz and Environments

- 21 Mid-Styria and Lower Styria
- 22 East Styria
- 23 Upper Styria
- 24 Carinthia
- 25 Burgenland

(2) The territories of the constituencies as well as their capitals are found in Appendix 1.

(3) The National Board of the Interior is empowered to correct by decree the names of those judicial districts, municipalities and parts of municipalities as listed in this appendix or to complete their listing if they are not appropriate to the actual situation on the effective date of the elections (§6). Municipal territories of Constituencies Nos. 12 to 25 whose belonging to one of these constituencies is doubted belong to the constituency they belonged to at the elections to the National Council of November 9th, 1930, until the passing of such a decree.

§4 (1) The constituencies determined by §3 are represented by the following numbers of mandates:

	Nos. of mandates:
Constituency No. 1	6
“ “ “ 2	4
“ “ “ 3	5
“ “ “ 4	8
“ “ “ 5	7
“ “ “ 6	8
“ “ “ 7	8
“ “ “ 8	9
“ “ “ 9	12
“ “ “ 10	7
“ “ “ 11	8
“ “ “ 12	4
“ “ “ 13	4
“ “ “ 14	5
“ “ “ 15	6
“ “ “ 16	4
“ “ “ 17	6
“ “ “ 18	8
“ “ “ 19	4
“ “ “ 20	6
“ “ “ 21	5
“ “ “ 22	5
“ “ “ 23	8
“ “ “ 24	10
“ “ “ 25	8

(2) The number of mandates of each individual constituency is determined by a national law in accordance with the provisions of Article 95, Sect. (3) of the Federal Constitution as amended in 1929.

§5 Combined constituencies are:

1. The constituencies of Vienna;

2. The constituencies of Lower Austria
3. The constituencies of the Provinces of Upper Austria, Salzburg, Tyrol and Vorarlberg;
4. The constituencies of Burgenland and the Provinces of Carinthia and Styria.

II. Suffrage, listing of eligible voters.

§ 6 (1) Eligible to vote in the elections to the National Council are all men and women holding Austrian citizenship, being older than 21 and not having been excluded from the right to vote.

(2) Eligible to vote in the elections to a provincial parliament are all men and women holding Austrian citizenship, being older than 21 and not having been excluded from the right to vote, and being permanent residents of a municipality of the respective province (§10, Sect. (2)). In Vienna and Upper Austria, a province in the sense of this constitutional law is the territory of the constituencies there.

(3) If conditions according to Sects. (1) and (2) are met is decided on the effective date if no other provisions are made by this constitutional law.

(4) The effective date is October 11th, 1945. People who have changed their permanent place of residence to a municipality on the provincial territory only after this date are eligible to vote in the province of their permanent residence.

§7 Excluded from the right to vote are:

A. Due to judicial conviction:

1. Persons who have been condemned by the People's Court;
2. Persons who have been condemned for crime according to §6 Lines 1 to 12 of the Law of November 15th, 1867, Imperial Law Gazette No. 131: for the time of their punishment;
3. Persons who have been condemned for any other crime: until five years after the end of their punishment;
4. Persons who have been condemned for an acquisitive crime, an offence of this kind, a procuration offence, an offence of the vagrant act (with the exception of §2) or for drunkenness, in the latter case at least three times: until three years after the end of their punishment.

The decision by the Federal President of February 16th, 1938, Federal Law Gazette No. 35, on an amnesty for political offences (1938 Amnesty) applies to the judgement if there is reason for being excluded from the right to vote even if at the time of the announcement of this decision the offender was staying abroad or has evaded punishment by escaping to a foreign country.

The reasons for being excluded from the right to vote according to A, lines 2 to 4, apply only insofar as the sentence was not abrogated earlier (Law of July 10th, 1945, Federal Law Gazette No. 62).

B. Due to police persecution as a consequence of judicial conviction:

Persons under police supervision or persons who have been sent to a forced labour institute: until one year after the end of the sanction.

C. Due to limited capacity to act:

1. Persons who have been completely or partly incapacitated;
2. Persons who have been deprived of their paternal authority.

D. Due to former membership of the NSDAP or its armed associations:

- E. 1. Persons who were party members or membership candidates or members of the SS (Schutzstaffel) or the SA at any time between July 1st, 1933, and April 27th, 1945;
2. Persons who were members of NSKK or NSFK at any time between July 1st, 1933, and March 13th, 1938;
3. Persons who were leadership members of NSKK or NSFK, from the rank of Untersturmführer or its equivalents upwards, at any time between March 13th, 1938, and April 27th, 1945.

However, persons listed under Sections D, Z 1 to 3 may achieve suffrage if they suffered from political persecution by state authorities of the Third Reich during the period of Austria's violent annexation. Details are given in §7, Sect. (4).

There is no reason for exclusion from suffrage according to Sections D, Z 1 to 3 for those concerning whom the Provisional National Government declared the legal possibility of exceptions from treatment according to the provisions of Article II of the Constitutional Law of May 8th, 1945, Federal Law Gazette No. 13 (Prohibiting Law) (§27 Prohibiting Law). There is reference to §21, Sect. (4).

Who makes false statements on the voter appendix sheets (§10) concerning questions referring to reasons for exclusion from suffrage according to Sections D, Z 1 to 3, will be condemned to one to five years in prison for fraud.

§8. Every eligible voter has only one vote each for the elections to the National Council and to the provincial parliament. Voters must personally exercise their right to vote, with the exception given in §53.

§9. (1) The eligible voters must be listed in electoral rolls (for a pattern see Appendix 2).

(2) The electoral roll must give each voter's province and constituency where he had permanent residence on the effective date. If this residence is in one of the constituencies of Vienna or Lower Austria, Vienna or Lower Austria must be given as the province, each according to the constituency.

(3) Responsible for creating the electoral rolls are the municipalities in the territories they are in charge of.

(4) The electoral rolls must be created according to places, streets, houses, and if a municipality is divided into several electoral districts, they must be created for each district.

(5) The preparations for creating the electoral rolls must start early enough to keep the deadlines given in §§ 17 to 20.

§10 (1) The listing of eligible voters happens on the basis of voter appendix sheets which must be filled in by all men and women who, on the effective date, were Austrian citizens, older than 21 and were permanent or temporary residents of their municipality on the day of filling in the voter appendix sheet.

(2) Usually somebody's permanent residence is the municipality where he has settled down for the purpose of staying there permanently, thus not for a limited period and not only temporarily, for a shorter or longer period of time.

(3) Bombed out people, evacuees, repatriates, refugees for any reason as well as generally those who, in connection with war events, have voluntarily or involuntarily left their original permanent residences enjoy provisional residence in their current municipalities, if not falling under provisions according to Sect. (2).

(4) People who, on the day of filling in the voter appendix sheet, are only temporarily staying in a municipality (e. g. vacationers, business travellers, those being temporarily

accommodated at asylums, visitors, passing travellers) do not need to fill in a voter appendix sheet. In case of being eligible to vote, they must themselves take care in suitable ways that they are included in the electoral rolls of their permanent or temporary residence (informing the municipality in charge of listing according to §13, having the voter appendix sheet filled in by explicitly or tacitly authorised persons, being included as the result of an appellant procedure etc.).

(5) For people living in municipalities with less than 2,000 inhabitants and whose homes are difficult to reach by the municipal authorities (such as mountain communities, widely dispersed communities etc.), the voter appendix sheet may be filled in by the mayor or another suitable, commissioned person under supervision of a committee where the parties given in §28 are represented by one representative each. The thus filled in voter appendix sheets must be handed in by those in whose names they have been filled in on election day at the latest, before voting.

(6) For the voter appendix sheet the form described in Appendix 3 must be used. Changes of the form referring to giving details about the place of filling in, the way of distribution and sending back to the municipality as well as to the number of voter appendix sheets to be filled in are possible.

(7) Who contravenes the above given regulations or makes false statements in the voter appendix sheet is guilty of an administrative offence, as far as no stricter punishment is provided (§7, D), and may be punished by a fine of up to 1,000 Reichsmark by the District Administration Authority. If the fine cannot be collected, the punishment may be up to four weeks of prison.

§11 (1) The ways in which the voter appendix sheets as well as the other documents given in the following are distributed among those being obliged to fill them in and the ways in which they are given back to the municipality are determined by way of local announcement by the municipality.

(2) In this context, it may be decreed that house owners or their deputies distribute the voter appendix sheets among the tenants or householders, collect the filled in voter appendix sheets and assess them for being completely filled in.

(3) It may also be decreed that house owners or their deputies must fill in the names of the householders, organised by location and flat No., into special house lists (pattern see Appendix 4) and to note the number of collected voter appendix sheets, separately for men and women, in the house list. It may further be decreed that house owners or their deputies must fill in the names and other data, as given in the official pattern of the voter appendix sheet, of those who have filled in the voter appendix sheets in special collective lists.

(4) Furthermore the municipality may decree that the voter appendix sheets and house lists as well as the collective lists must be assessed for each house by municipal authorities before they are handed back to the municipality. The execution of this official act must be announced to the house owner or his deputy in due time. He must immediately inform the householders, also telling them that the householders in question must have the necessary documents ready as far as possible. For this purpose, the house owner or his deputy must provide a suitable locality.

(5) Who contravenes the decrees by the municipality is guilty of an administrative offence and is fined up to 1,000 Reichsmarks by the District Administration Authority. If the fine cannot be collected, the punishment may be up to four weeks of prison.

§12 (1) In Vienna, in the provincial capitals and the other independent cities the electoral rolls may be replaced by the voter appendix sheets (house lists) arranged according to streets, house Nos. and electoral districts as well as, for each individual house, according to flat Nos. The voter appendix sheets must be provided with consecutive numbering before creating the electoral roll (§ 17). For registrations which must happen at the end of the electoral roll [e. g. §20 Sect. (5), §21 Sect. (1) to (4), §52 Sect. (4) etc.] also the pattern of the electoral roll according to Appendix 2 may be used as an appendix. In municipalities applying the above mentioned procedure, the thus arranged voter appendix sheet (house lists) form the electoral law in the sense of this constitutional law. The provisions of §19, Sect. (4) must be kept.

(2) Upon approval by the superior district administration authority the procedure as being mentioned in Sect. (1) may also be applied to other municipalities.

§13 (1) Each eligible voter, apart from the cases given in §21, Sect. (1) to (3), must be listed in the electoral roll of the municipality where he was actually living on the effective date (permanent or temporary residence). If after the effective date an eligible voter has permanently or temporarily moved to the municipality where he fills in his voter appendix sheet, the day of filling in the voter appendix sheet (day of filling in) counts as the effective date when it comes to deciding about the electoral roll he must be listed in.

(2) If a municipality is divided into several electoral districts, the eligible voter must be listed in the electoral roll of the district to which he belongs according to his place of residence and the above given provisions.

(3) Each eligible voter can be listed in one electoral roll only.

(4) In principle, each eligible voter exercises his right to vote at the place in whose completed electoral roll he is listed. In the cases mentioned in §14 eligible voters may exercise their right to vote elsewhere from the place in whose electoral roll they are listed.

§14 (1) Eligible voters possessing voting cards may also exercise their right to vote elsewhere from the place in whose electoral roll they are listed. For voting cards, the form given in Appendix 5 must be used. Changes are non-eligible.

(2) Entitled to voting cards are:

a) Voters who permanently or temporarily move to another municipality between the effective date and election day;

b) Members of local electoral commissions as well as their staff and the election observers;

c) Voters who on election day, in the context of exercising official duties, must stay elsewhere from the place where they are listed in the electoral roll (e. g. railroad and post staff, security staff etc.);

d) Voters who on election day are staying at a sanatorium or asylum or must perform nursing duties there.

§15 (1) The issuing of the voting card must be applied for orally or in writing in the municipality in whose electoral roll the eligible voter is listed. This must be done within fourteen days before election day. Apart from an identification document, the applicant must present for his application:

a) In case of §14 Sect. (2), a): the certificate of registration confirming the new or temporary place of residence;

b) In cases of §14 Sect. (2) b) and c): a certificate confirming that the applicant will perform one of the official duties mentioned there;

c) In case of §14 Sect. (2) d): confirmation by the sanatorium or asylum management.

(2) No appeal against being refused the voting card is possible.

§16 (1) The issuing of the voting card must be clearly noted (e. g. by help of a coloured pencil) by writing the word "voting card" in the "remarks" column of the electoral roll.

(2) Duplicates to replace lost or unusable polling cards cannot be issued.

(3) If or in which ways particular electoral districts must be established for owners of voting cards becomes obvious from §43. Detailed provisions concerning the execution of the right to vote by owners of voting cards are found in §52.

§17 (1) The municipalities must publicly present the electoral rolls at publicly accessible bureaus.

(2) The electoral rolls must be publicly presented for a period of six days including one Sunday.

(3) During the period of public presentation any citizen may orally or in writing raise objections at the municipality against the electoral roll by stating that possibly non-eligible voters have been included into the electoral roll or eligible voters have not been included.

(4) In the course of the appellant procedure, also the inclusion of people may be demanded who are not included in the electoral roll for the reasons given in §7 Sections D, Z 1 to 3 but suffered from political persecution by state authorities of the Third Reich during Austria's violent annexation. If the authorities named by §20 Sect. (2) and (3) decree the inclusion of the concerned person into the electoral roll, from the day of this decision such people count as being eligible to vote in the sense of this constitutional law.

(5) In case of being handed in in writing, the objection must be handed in separately for each individual case. If the objection refers to the inclusion of an alleged eligible voter into the electoral roll, evidence in support of the objection must be added. The period of postal delivery is added to the objection period. Thus, objections must arrive at the authority where they must be handed in according to the above made provisions before the deadline of the objection period. Obviously mischievous objections are administrative offences and are fined up to 1,000 Reichsmarks. If the fine cannot be collected, the punishment is up to four weeks of prison.

(6) The creation of the electoral roll must be publicly announced by the municipality. The announcement must include the period of public access to the electoral roll, the time when the electoral roll is publicly accessible, the bureaus where the electoral roll is accessible and where objections are received, as well as the provisions made by Sect. (3).

(7) From the day of its creation, changes of the electoral roll are possible only based on the appellant procedure or on the procedure stipulated in §21 Sect. (1) to (4). Exceptions are formal mistakes such as wrong spelling and the likes.

§18 (1) Municipalities with more than 20,000 inhabitants must make an announcement at every house at a place which is accessible to the inhabitants (hallway) at the beginning of the period of public access to the electoral roll. This announcement must inform about the number of eligible voters as well as their flats and flat-Nos. and the bureau where objections against the electoral roll may be raised.

(2) By decree of the superior district administration authority, in independent cities by decree of the provincial governor, it may be decreed that such announcements must be made in the same way also in other municipalities.

§19 (1) In municipalities with more than 3,000 inhabitants, copies of the electoral roll must be handed out on demand to the parties as named by §28 Sect. (1) on the first day of creating the electoral roll. The recipients must pay the costs of the copies.

(2) These parties must announce their demand to the municipality on the fifth day after the promulgation of this constitutional law at the latest. The announcement obliges to payment of at least 50 per cent of the costs. The rest must be paid when receiving the copies.

(3) Amendments of the electoral roll must be handed out under the same conditions.

(4) Municipalities applying the procedure according to §12 must in due time achieve agreement with the parties [Sect. (1)] about the way in which rolls or other lists of eligible voters are left to them.

§20 (1) If there are objections against the inclusion of certain persons into the electoral roll, the municipality must inform those concerned within 24 hours after the objection has been raised. Arguments by those concerned can be taken into consideration only if stated at the appellate body within another 24 hours. The names of those having raised the objections are subject to official secrecy. On demand, they must be disclosed to the criminal courts.

(2) With the exception the electoral districts of the City of Vienna, objections are finally decided by the district administration authority (§24) within three days after the objection has been raised, even if during this period of time no argument by the concerned person has been stated.

(3) In the electoral districts of the City of Vienna objections are finally decided by appellate commissions established in appropriate numbers by the mayor. These commissions consist of the mayor or legally qualified magistrate officials acting as chairmen on his behalf and a minimum of three and a maximum of six further committee members. In the event of absence, one replacement for each further commission member must be appointed. The committee members and their replacements are appointed by the mayor. The commission must decide within six days after the objection has been raised. Applications must be made at the magistrate. Concerning everything else, the appellate commissions are mutatis mutandis subject to the provisions made for the electoral commissions.

(4) The municipality must at once inform in writing both the objector and the person immediately concerned by the decision.

(5) If the decision requires a correction of the electoral roll, it must immediately be made by the municipality, while stating the reasons for the decision. If this means the inclusion into the electoral roll of a previously not listed voter, his name must be given at the end of the electoral roll by giving the consecutive number. A remark informing about the consecutive number of the new entry must be made there where the concerned voter was originally supposed to be listed. When creating the electoral roll according to the procedure stipulated in §12, the name may also be entered there where it was originally supposed to be.

§21 (1) Persons returning from war captivity after the end of the period of public access stipulated in §17 must be entered into the electoral roll of their municipality of residence

if they are eligible voters (§6) or meet the conditions of §17 Sect. (4). They must apply for being included into the electoral roll on the third day before election day at the latest, and the local election commission must agree with the entry.

(2) The entry happens on condition of filling in a voter appendix sheet. It may only happen if the repatriate's discharge, by way of which the belligerent power confirms his release, does not yet bear an endorsement informing that the repatriate has been included into the electoral roll of another municipality. The repatriate must state the municipality where he had his last permanent place of residence. He may execute his right to vote in provincial elections in the appropriate electoral district (province). If the local election commission agrees with the entry, the repatriate must be included into the electoral roll *mutatis mutandis* according to the provisions made in §20 Sect. (5). The municipality must confirm the entry on the discharge, while adding the date of the entry and sealing it with the official seal.

(3) Under the same prerequisites, the provisions made in Sect. (1) and (2) apply *mutatis mutandis* also to persons who have been interned for political reasons in concentration camps of the Third Reich and are able to substantiate this by presenting relevant documents or evidence by reliable witnesses. In such cases the discharge is replaced by the certificate of police registration.

(4) Persons about whom a decision by the Provisional Government according to §7 Article D, second-last section, was made only after the effective date must be included into the electoral roll by the municipality if they are eligible to vote and have applied for listing on the third day before election day at the latest. In charge of the entry is the municipality on whose territory the eligible voter had his permanent or temporary place of residence on the day of application. The entry must be made on condition of filling in a voter appendix sheet. The right to vote in provincial elections depends on the eligible voter's permanent residence on the effective date. Otherwise there applies §20 Sect. (5), *mutatis mutandis*.

(5) After the termination of the appellant procedure as well as the entries according to Sect. (1) to (3) the municipality must close the electoral roll.

(6) The closed electoral role must serve as the basis of the elections.

(7) Only those eligible voters take part in the elections whose names are found in the electoral roll.

III. Election Commissions

§22 (1) Election commissions are in charge of holding and supervising elections.

(2) As far as no other provisions are made in §§ 30 and 31, the election commissions decide about all issues they are in charge of concerning the right to vote and executing the vote.

(3) The election commission consists of the chairman as the returning officer as well as a number of commission members. For the case of absence, one replacement for each commission member must be appointed.

(4) The returning officer provides each election commission with the necessary staff and aids from the authority he heads or which has sent him. Furthermore, this authority may hire temporary staff on contract basis.

§23 (1) A local election commission is established for each election place or electoral district. It consists of the mayor as well as a minimum of three and a maximum of six commission members. With every local election commission the mayor may appoint a permanent replacement for himself.

§24 (1) For each district leadership as well as for independent cities with the exception of the City of Vienna and also for each magistrate a district election board is established for the respective territory, consisting of the head of this board or his replacement, possibly coming from the circle of legally qualified officials of this board, as the returning officer and a minimum of six and a maximum of twelve board members.

(2) In the constituencies of the City of Vienna no district election boards are established. If no other provisions are made, their tasks are taken over by the constituency election boards. In those parts of the constituencies of Lower Austria as belonging to the territory of the City of Vienna district election boards are established at the seats of the appropriate district magistrate boards. The provisions made by Sect. (1) apply *mutatis mutandis*.

§25 (1) A constituency election board is established for each constituency at the capital of the constituency.

(2) Chairman of the constituency election board (returning officer) is

- a) in the constituencies of the City of Vienna the head of the district magistrate board of the capital;
- b) in the constituencies of Lower Austria as well as in the constituencies of the Provinces of Upper Austria and Styria the head of the district administration authority in whose territory the capital is;
- c) in the Provinces of Salzburg, Tyrol, Vorarlberg, Carinthia and Burgenland the provincial governor.

(3) In the Provinces of Salzburg, Tyrol, Carinthia and Burgenland the chairmen of the constituency election boards must appoint the mayors of the capitals as their deputies. With all other constituency election boards the chairman may be replaced by a deputy possibly from the circle of legally qualified officials of his board.

(4) Otherwise the constituency election board consists of a minimum of six and a maximum of twelve board members.

(5) The returning officers and members of the constituency election boards may not at the same time be members of other boards or commissions.

§26 (1) A combined election board is established for each combined constituency. In the City of Vienna the chairman (returning officer) of the combined election board is the mayor, in the combined constituency of Lower Austria it is the Provincial Governor of Lower Austria, in the combined constituency of Burgenland, Styria and Carinthia it is the Provincial Governor of Styria, and in the combined constituency of Upper Austria, Salzburg, Tyrol and Vorarlberg it is the Provincial Governor of Salzburg. The chairman may be replaced by a deputy from the circle of legally qualified officials of his office. Otherwise the combined election board consists of a minimum of six and a maximum of twelve board members. The seat of the combined election board is the seat of the returning officer.

(2) Provincial election boards are established for holding the elections to the provincial parliaments.

(3) For the Provinces of Upper Austria and Styria special provincial election boards are established. The chairman (returning officer) of the provincial election board is the provincial governor or a deputy from the circle of legally qualified officials of his office. Otherwise the provincial election boards consist of a minimum of six and a maximum of twelve board members. The seat of the provincial election board is the seat of the returning officer. In the City of Vienna and Lower Austria the combined election boards, in the Provinces of Salzburg, Tyrol, Vorarlberg, Carinthia and Burgenland the constituency election boards act also as provincial election boards.

§27 For the entire national territory the Main Election Board is established in Vienna, supervising all other election boards. The Main Election Board consists of the Chancellor or his deputy as chairman as well as twenty-one board members, six of whom are or have been professional judges.

§28 (1) On the eighth day after the promulgation of this constitutional law at the latest the representatives of those political parties as having contributed to establishing the First Provisional Government (§12 of the Provisional Constitution) and as intending to make applications concerning the appointment of the non-judicial (§27) board members and deputies of the election boards must submit their petitions, separately for each election board, to the return officer appointed to receive the petitions.

(2) Concerning the establishment of the Main Board, the petitions must be addressed to the head of the Main Election Board, concerning the establishment of the combined election boards they must be addressed to the return officer of the combined election board, concerning the establishment of the special provincial election boards they must be addressed to the return officer of these provincial election boards, concerning the establishment of the election boards at county and district level they must be addressed to the head of the constituency election board, and concerning the establishment of the local election commissions they must be addressed to the head of the district election board. Belatedly submitted petitions are not taken into consideration.

(3) If the return officer knows the representatives and if he is able to decide if the submitting persons actually represent the respective party, he must immediately deal with the application. If this is not the case, he must ask the applicants to have the petition signed, if this has not yet been done, by at least one hundred eligible voters of the constituency (combined constituency, province) before the deadline stipulated by Section (1).

(4) Only persons may be suggested as board members who may stand for the elections to the National Council. Board members and deputies not meeting this requirement must leave the election board.

§29 (1) The maximum number of non-judicial board members and deputies are appointed in such a way that each party is represented in the election board by the same number of board members (deputies).

(2) For the Main Election Board, the board members and deputies are appointed by the Provisional National Government, for the combined and constituency election boards by the Main Election Board, for the special provincial election boards by the provisional provincial governments, for the district election boards by the constituency election boards, and for the local election commissions by the constituency election boards. The names of the members of the election boards must be publicly announced.

(3) The office of member of an election board is an honorary appointment any eligible voter is obliged to accept who has his permanent or temporary place of residence at the seat of the respective election board.

(4) Members of an election board who for their livelihood depend on a daily income and are prevented from this due to exercising their honorary appointment may receive compensation (for each day or hour) according to their actual occupation as well as compensation for necessary expenses resulting from exercising their duties. Concerning members of the Main Election Board this is finally decided by the Ministry of the Interior, concerning the members of the other election boards it is finally decided by the administrative authority to which the return officer belongs.

§30 (1) Until the constitution of the election boards, the chairmen of the election boards (return officers) are entitled and obliged to do the immediate business of the respective election boards and particularly to receive the submitted petitions.

(2) After the constitution of the election boards the election board is in charge of running business.

(3) The return officer must submit all decrees issued before the constitution of the election boards to the election board for subsequent acknowledgement.

§31 Being corporate bodies, the election boards must limit their activities to general, fundamental and important decrees and decisions; all other activities are carried out by the return officer and his institutions.

§32 When assuming their offices, the board members and deputies must swear an oath of strict neutrality and of conscientiously performing the duties connected to their office to the return officer.

§33 (1) The election boards have a quorum if at least two thirds of the board members are present.

(2) Valid decisions concerning cases of §20 Sect. (2) and (3) as well as §21 Sect. (1) to (3) require unanimity, all other cases require a majority of the votes. The chairman has no vote. In case of a tie, however, the opinion he adopts is considered valid.

(3) Deputies are considered for the quorum [Sect. (1)] and the vote only if the regular members are prevented from exercising their office.

§34 If a board member or deputy resigns from his office, the parties (§28) are called to make new applications.

§35 If, despite the election board having been summoned in due time, it has no quorum particularly on election day or becomes inquorate while performing office and the urgency of the matter does not allow for postponement, the official duty in question must be performed independently by the returning officer. In this case, he must consult reliable persons if possible and while taking the party proportions into consideration.

IV. Eligibility, candidature

§36 (1) Eligible to the National Council are men and women being eligible to vote in the elections to the National Council [§6 Sect. (1)] and being older than 29 on the effective date.

(2) Eligible to the provincial parliaments are all men and women being eligible to vote in the elections to the provincial parliaments [§6 Sect. (2)] and being older than 29 on the effective date.

(3) Persons who have at any time been members of the NSDAP or one of its armed association (SS, SA, NSKK, NSFK) are neither eligible to the National Council nor to the provincial parliaments.

§37 (1) Voter associations participating in candidatures for the National Council and the provincial parliaments must submit their nominations for the first procedure to the constituency election board (county nomination) three weeks before election day at the latest.

(2) The nomination must be signed by at least one hundred voters from the constituency. The nomination must include:

1. a statement informing if it is meant as a nomination to the National Council or as a nomination to the provincial parliament;
2. the distinct name of the party
3. the party list, that is a list of a maximum of as many candidates as are to be elected in the constituency, in the applied for sequence (Arabic numbers), including each candidate's first name and surname, profession, year of birth and address;
4. the name of the authorized recipient on his behalf.

§38 (1) If several nominations to the National Council bear the same or difficult to distinguish party names, the constituency return officer must summon those supporting these nominations to a joint meeting and try to achieve agreement about how to distinguish the party names. If there is no agreement, the constituency election board, according to its knowledge of the party proportions, must name several or all of these nominations after the candidate running under No. 1.

(2) If the provisions made in Sect. (1) are met by several nominations to the elections to the provincial parliament, the proceeding must be *mutatis mutandis* according to Sect. (1).

§39 If a nomination does not give any authorized recipient, the first signatory is considered the representative of the respective party.

§40 (1) The constituency election board checks immediately if the submitted nominations bear the required number of signatures and if the candidates nominated by the party lists are eligible.

(2) If a nomination does not bear the required number of signatures, it is considered not submitted. Non-eligible candidates are deleted from the nomination. In both cases the respective party's authorized recipient must be informed.

§41 If a candidate renounces his candidature, if he dies, loses his eligibility or is deleted for want of eligibility, the concerned party may complete the party list by nominating another candidate. However the supplements, which require only the signature of the party's authorized recipient, must be submitted to the constituency election board on the tenth day before the elections at the latest.

§42 (1) On the seventh day before the elections the constituency election board closes the party lists, deletes the superfluous candidates if a party list includes more than double the candidates than seats are elected in the constituency and publishes the party lists, separately by nominations to the National Council and the provincial parliament, giving the party names in alphabetic order or, in case of §38, the candidate nominated as No. 1. The publication happens in conformity with local custom. The content of the nomination must become completely obvious from the publication.

(2) If several nominations to the National Council give the name of one and the same candidate, the constituency election board must call on him to declare within eight days for which nomination he decides. He is deleted from all other nominations. If he does not make an appropriate declaration within the required period of time, he will be left on the first submitted nomination bearing his name.

(3) Proceeding according to Sect. (2) is also required if several nominations to the provincial parliament give the name of one and the same candidate.

V. Voting procedure

§43 (1) Each municipality is an election place.

(2) To make the election procedure easier, bigger or spatially extended municipalities must be divided into several electoral districts which must be delimited in such a way as to allow for an average of about seventy voters an hour to vote on election day.

(3) Outside the Vienna constituencies, the district election boards determine the electoral districts as well as the appropriate polling stations and the time of voting.

(4) In the Vienna constituencies the electoral districts, the polling stations and the time of voting are determined by the magistrate.

(5) In municipalities which are divided into several electoral districts the district election board must determine one or several polling stations where voters provided with a voting card must exercise their right to vote. In the Vienna constituencies one or several polling stations must be determined for voters provided with voting cards. If polling stations are determined for voters provided with voting cards, these voters may exercise their right to vote only in the polling stations determined for voters provided with voting cards. Members of local election commissions, their staff as well as the election observers, however, if they are provided with voting cards, are free to exercise their right to vote also at the local election commission where they are doing service.

(6) The municipalities must submit the appropriate applications according to Sect. (3) and (5) to the district return officers, on the latter's demand, within three days, in default whereof the district election board takes the necessary measures independently.

(7) The beginning and the duration of voting (time of voting) must be determined in such a way as make sure that the voters may execute their right to vote.

(8) The municipality must announce the electoral districts and polling stations, in particular those determined for voters provided with voting cards, furthermore the time of voting eight days before the elections at the latest in a manner determined by the district return officer, in any case also by public announcement at the polling station building. The announcement may be combined with the one according to §45.

(9) The district return officer must inform the constituency election board in charge about the provisions made by the district election board.

§44 (1) The local election commission is in charge of supervising the elections at the election places.

(2) The polling station must be suitable for exercising the vote. The equipment necessary for exercising the vote, such as the Official Table for the election commission, close to it a table for the election observers, the ballot box and the necessary polling booths including their equipment, must be provided by the municipality of the election place. Also, it must be made sure that the building of the polling station is provided with a suitable waiting room for the voters.

(3) In municipalities which are divided into several electoral districts the polling station of an election place may be moved to a building outside the election place if it is easily accessible to the voters. Also, in such municipalities one common place for several election commissions may be determined, as far as the place provides sufficient space for the execution of several votes at the same time and the building is provided with suitable waiting rooms for the voters.

§45 (1) In the building of the polling station as well as in an area around it which must be determined by the district return officer (prohibitive zone) any kind of election advertisement, in particular by way of approaching voters, by way of posters or handing out calls to vote certain parties or lists of candidates and the likes, furthermore any meetings or the carrying of weapons of any kind is prohibited on election day. Furthermore, the authorities must make sure that the free movement of voters to the polling station and back happens undisturbed.

(2) The selling of alcoholic beverages is generally prohibited on election day and the day before.

(3) The ban on carrying weapons does not refer to those weapons carried on election day by the public security forces doing service in the relevant environment.

(4) The provision by the district return officer [Sect. (1)] must be publicly announced by the mayor in conformity with the local custom. This may happen in combination with the announcement according to §43, in any case also by a poster at the building of the polling station.

(5) The announcement must remind to the prohibition of any kind of election advertisement, meetings, the carrying of weapons and of selling alcoholic beverages. In addition it must be announced that violations of these bans are punished as administrative offences by the district administrative authority by a fine of up to 1,000 Reichsmark. If the fine cannot be collected, the punishment is up to four weeks of prison.

§46 (1) The polling booth must be placed in such a way that the voter in the booth may fill in his ballot and put it into the envelope without being observed by anybody in the polling station.

(2) Where suitable, purposefully constructed solid booths cannot be provided, any kind of secretion instalment in the polling station is sufficient which prevents the voter from being observed in the booth; thus the booth may be replaced e. g. by simple wooden frames covered with non-transparent paper or textile, by fixing a curtain in a corner of the room, by pushing large boxes together, by an appropriate positioning of blackboards etc. If possible, it shall be positioned in such a way as to allow the voter to enter it from one side and leave it on the other side.

(3) In any case it must be made sure that during the time of voting there is sufficient lighting in the booth.

(4) The polling booth must be furnished with a table and a chair or with a lectern. Also it must be equipped with the necessary material for filling in the ballot. Furthermore, the party lists for the elections to the National Council and the provincial parliaments which have been closed and published by the district election board must be fixed in the booth at a place where they are well visible. To allow for a quick movement of voters, several booths for one election district may be set up, as far as this does not endanger the supervision of the voting by the election commission.

§47 (1) Any party whose nomination has been published by the district election board may send two election observers to each polling station. The district return officer must be informed in writing about the names of the election observers on the fifth day before the elections at the latest. This must be done by the respective party's authorized representative; the district return officer – in Vienna the magistrate – hands out a ticket to each election observer entitling him to enter the polling station. This ticket must be presented to the election commission when entering the polling station.

(2) The election observers function exclusively as confidants of the respective party; they are not entitled to influence the voting in any other way.

§48 (1) The return officer must take care that there is an atmosphere of peace and order during the voting and that the provisions of this constitutional law are kept. He must not allow the election commission to exceed its powers in any way.

(2) Only voters for the purpose of voting, furthermore the members of the election commission, their staff and the election observers may be allowed to the polling station. Voters not belonging to the election commission as staff members or acting as election observers must leave the polling station immediately after voting. As far as it seems to be necessary for undisturbed proceedings, the return officer may decree that voters are allowed to the polling station only one by one.

(3) Everybody must unconditionally obey the commands of the return officer. Failure to obey the commands by the return officer is punished as an administrative offence with a fine of up to 1,000 Reichsmark. If the fine cannot be collected, the punishment is up to four weeks of prison.

§49 (1) The local return officer starts the voting procedure on the day of the elections at the determined hour and in the determined polling station. The local return officer hands over the electoral register as well as the prepared voting record, the ballot envelopes and the appropriate number of ballots to the election commission and reads the provisions of §33 on the quorum of the local election commission to them.

(2) Immediately before the start of the voting the election commission must ensure that the ballot box is empty.

§50 (1) For the elections to the National Council and the provincial parliaments the election commission must hand out only one ballot envelop for both elections to each voter.

(2) Equal (not differently coloured) ballot envelopes must be used for men and women.

(3) Apart from notes made by the return officer according to §51 Sect. (3), no signs or remarks etc. are allowed on the ballot envelopes. The violation of this prohibition, if it is no deed requiring stricter punishment, is punished as an administrative offence by the district election board with a fine of up to 1,000 Reichsmark. If the fine cannot be collected, the punishment is up to four weeks of forced labour.

§51 (1) Each voter appears in front of the election commission, states his name, his place of residence and presents a document or any other official certificate confirming his identity.

(2) As documents or official certificates to confirm one's identity there count in particular: baptism certificates, birth certificates, marriage and residence certificates, employment certificates, passports

(even those which have already expired), official legitimations of any kind, time books; domestic service books, hunting licences, season tickets for railways and trams, trade licences, licences, diplomas, certificates of enrolment at a university and other enrolment documents of a university, certificates from schools of secondary levels I and II, military documents, ID cards, postal identity cards, newly exhibited ID cards and the likes, after all any document bearing an official stamp and stating the owner's personal status.

(3) If the voter has appropriately proven his identity, the return officer must check by way of the electoral roll, in case of voters provided with a voting card by way of the voting card, in which province and constituency the voter has had his permanent place of residence on the effective date. If this permanent place of residence is outside the constituency the election place belongs to, the return officer must make an appropriate note on the voter's envelop in clear writing and a colour which is different from that of the envelop. Then the return officer hands out the ballot envelop to the voter and, on the latter's demand, one empty (official) ballot paper each for the elections to the National Council and the elections to the provincial parliament.

(4) Then the voter must enter the polling booth, he puts the filled in ballot into the envelop, then leaves the booth and hands the closed envelop over to the return officer who puts it into the ballot box without opening it.

§52 (1) The name of the voter who has cast his vote is entered by a commission member into the election record (pattern see Appendix 6) in consecutive numbering and while adding the consecutive number from the electoral roll. At the same time the voter's name is deleted from the electoral roll by a second commission member.

(2) A second commission member notes down the consecutive number given in the electoral roll in the "cast votes" column of the electoral roll.

(3) Then the voter leaves the polling station.

(4) Voters provided with a voting card must present, apart from their voting card, one of the documents mentioned in § 51 Sect. (2). The names of voting card voters, if they are not meant for particular electoral districts, must be noted down at the end of the electoral roll in consecutive numbers and must be recorded in the records. There is reference to § 12 Sect. (1), third-last sentence. Then the voter must hand over his voting card which is added to the records.

§53 The right to vote must in principle be exercised personally, however blind and disabled persons may be led by an assistant who may vote on his behalf. Apart from this latter case, the polling booth may always be entered by one person only.

§54 (1) If a voter living in a municipality with less than 2,000 inhabitants has no document or certificate of the kind described in §51, he is nevertheless entitled to vote if he is personally known to the majority of the members of the election commission.

(2) This fact must be explicitly mentioned in the records.

§55 (1) The local election commission may decide about admission to the vote only if in the context of the voting there are doubts concerning the voter's identity. Objections against admission to the vote for this reason can be raised by members of the election commission and the election observers as well as by voters present in the polling station as long as the person whose right to vote is denied has not yet cast his vote.

(2) The decision by the election commission must be made before the vote is continued. It is final.

§56 (1) As far as no other provisions are made in the following, each voter must use one particular ballot paper each for the elections to the National Council and to the provincial parliament.

(2) With the exception of the cases mentioned in Sect. (6), the ballot paper for the elections to the provincial parliament must bear the inscription (imprint) "elections to the provincial parliament", the

ballot paper for the elections to the National Council must bear the inscription (imprint) “elections to the National Council”.

(3) The ballot paper for the elections to the National Council may be combined with the one for the elections to the provincial parliament on one sheet which must have about double the size as given in Sect. (5), L. 2. The two ballot papers combined on one sheet must be separated from each other by a horizontal line in such a way as to allow for easy separation after the opening of the ballot envelopes.

(4) The validity of the ballot papers for the elections to the provincial parliament and the National Council respect. is decided individually for each ballot paper.

(5) The ballot paper is valid if

1. it is made of soft, whitish paper and
2. has a size of about 9 ½ cm to 11 ½ cm length and 6 ½ cm to 8 ½ cm width and
3. a) states the name of the party or
b) at least clearly states the name of one candidate from the voted for partly list or
c) states the name of one or several candidates from the party list presented by this party.

(6) If an envelope contains only one ballot paper, it counts as a valid ballot paper both for the elections to the National Council and to the provincial parliament if, although without imprint, it states one party which has submitted a nomination both for the elections to the National Council and the provincial parliament. Such ballot papers must be included into the election files for the elections to the National Council. Into the files for the elections to the provincial parliament an official ballot paper must be included on which the election commission has stated the party the voter has voted for. These cases must be specially recorded in the records of the elections to the provincial parliament.

(7) If an envelope contains several ballot papers for the elections to the National Council and several ones for the elections to the provincial parliament, the ballot papers for the elections to the National Council count as one valid ballot paper for the elections to the National Council if all of them state the same party (candidate). Just the same, also the ballot papers for the elections to the provincial parliament count as one valid ballot paper for the elections to the provincial parliament if they state the same party (candidate).

(8) If within one constituency the same name appears on several party lists, ballot papers bearing exclusively this name without any distinctive features (for example given name, date of birth and the likes) are only valid if they also state one of the party lists on which there appears this same name.

(9) To make a ballot paper valid for the elections to the National Council, it must state, apart from the other requirements for validity, a party name or party list which appears on a nomination for the elections to the National Council of the constituency for which this voter’s vote is supposed to count [§57 Sect. (5) last sentence]. If the ballot paper states only the name of a candidate from a party list, it is, if all other requirements for validity are met, valid if the name of this candidate clearly appears on one of the nominations to the National Council submitted on the national territory. The validity of ballot papers for the elections to the provincial parliament must *mutatis mutandis* be decided in the same way.

(10) The ballot paper is invalid if

1. it is not made of soft, whitish paper or
2. is of considerably smaller or bigger size than stipulated in Sect. (5) L. 2 or
3. it states two or several parties or
4. does not state any party name at all but two or several candidates from different party lists or
5. states a certain party and also a candidate appearing on a different party list.

(11) If an envelope contains several ballot papers for the elections to the National Council and several ballot papers for the elections to the provincial parliament, the ballot papers cast for the elections to the National Council count as invalid if they state different parties (candidates). Just the same, also the ballots cast for the elections to the provincial parliament count as invalid if they state different party names (candidates).

(12) Empty ballot papers are invalid. Also empty ballot envelopes count as invalid ballot papers.

(13) Deletions do not make the ballot paper invalid if at least the name of one candidate or party is still stated.

(14) Filling in the ballot papers happens by printing, type writing, other ways of copying or handwriting

§57 (1) If the time determined for voting is over and every voter who has up to then appeared in the polling station or the waiting room determined by the local election committee has cast his votes, the election commission declares the voting closed. After the end of the voting the polling station, where only the members of the election commission, their staff and the election observers are allowed to stay, must be closed.

(2) Then the election commission thoroughly mixes the ballot envelopes in the ballot box and states:

- a) the number of envelopes taken out of the box,
- b) the number of voters entered into the electoral roll,
- c) the presumed reason if the number of a) is different from the number of b),
- d) the number of envelopes cast for their own constituency,
- e) the number of envelopes cast for other constituencies.

(3) Then the election commission opens the envelopes cast for their own constituency, separates the ballot papers for the elections to the National Council from those for the elections to the provincial parliament, checks them for their validity and states separately for the elections to the National Council and the elections to the provincial parliament:

- a) the sum total of valid and invalid votes,
- b) the total number of invalid votes,
- c) the total number of valid votes,
- d) the votes cast for the individual parties (party totals).

(4) Those ballot papers as having been declared invalid must be consecutively numbered.

(5) The envelopes cast for other constituencies are not opened. They are organised according to constituencies. They are added to the votes cast for the elections to the National Council and the provincial parliaments respect. of the constituency where the respective voter has had his permanent place of residence on the effective date.

§58 (1) Then the election commission must produce one record each on the elections to the National Council and the elections to the provincial parliament. These records must include the names of the present and the absent members of the local election commission, the polling station, the time of starting and ending the voting procedure, the names of the election observers, the entries of voters provided with voting cards, the decisions about admitting or rejecting voters to/from the voting, the decisions about the invalidity or validity of individual ballot papers as well as other important events (e. g. interruption of the voting procedure etc.).

(2) The records must in particular include the statements by the election commissions according to §57 Sect. (2) as well as the appropriate statements according to §57 Sect. (3) and (4).

(3) The records must be signed by the members of the election commission. If they are not signed by all present members, the reason must be stated.

§59 (1) Then the local election commission must inform the election board of its constituency, each according to the latter's instructions via the district election board or immediately, by telephone, telegraph or messenger, in any case as immediately as possible:

- (a) each concerning the elections to the National Council and the elections to the provincial parliament about statements according to § 57 Sect. (3) a to d;
- (b) the number of unopened envelopes cast for other constituencies.

(2) The election commission must enter the unopened envelopes cast for other constituencies into a list informing about the number of envelopes for each constituency as well as their total number. This list must be signed by the members of the local election commission. The unopened envelopes cast for other constituencies must then be put into an envelope together with the list. This envelope must give the exact name of the local election commission and bear the inscription "... other constituencies" as well as the number of cast envelopes. The local election commission must send the sealed envelope to the election board of its constituency, either immediately or via the district election board, each according to the instructions given by the constituency election board, in any case as soon as possible.

(3) If sending the envelope described in Sect. (2) to the constituency election board is not delayed, also the other election files of the local election commission (records concerning the elections to the National Council and the elections to the provincial parliament, electoral rolls, voting records, voting cards, envelopes containing the valid and the invalid ballot papers and bearing the appropriate inscriptions etc. – in sealed envelopes) may be sent to the constituency election board together with this envelope. Otherwise, the election files are sent only after the sending of the envelope described in Sect. (2).

(4) Thus the election procedure has come to its end.

§60 (1) If there occur circumstances preventing the beginning, the continuation or the end of the election procedure, the election commission may postpone the election procedure to the following day or prolong it.

(2) Any postponement or prolongation must immediately be announced in conformity with local custom.

(3) If the voting has already started, the election files and the ballot box with the ballot envelopes it contains must be sealed and safely stored by the election commission until the election procedure is continued.

VI. Ascertaining procedure

§61 (1) At first the constituency election board must ascertain the preliminary voting result for the entire constituency, separately for the elections to the National Council and the provincial parliament, on the basis of the reports by the local election commissions according to §59 Sect. (1) a.

(2) Furthermore, based on the reports it receives according to §59 Sect. (1) b, the constituency election board must ascertain the total number of ballot envelopes cast in the constituency including the unopened ones for other constituencies.

(3) Then the constituency election board must report by telephone or telegraph:

1. to the Main Election Board, separately for the elections to the National Council and the elections to the provincial parliament:

- a) the sum total of valid and invalid votes cast in the constituency;
- b) the total number of invalid votes;
- c) the total number of valid votes;
- d) the votes for each party (party votes);

e) the number of unopened ballot envelopes cast in the constituency for other constituencies.

2. to the provincial election boards of the constituency's province according to § 26 Sect. (2) and (3), insofar as it does not itself act as provincial election board: the statements made according to L. 1 a to e as far as they refer to the elections to the provincial parliament.

(4) As soon as the envelopes meant for other constituencies and sent by the local election commissions according to §59 Sect. (2) as well as the lists have arrived from the entire constituency, the constituency election board must organise the envelopes to be opened according to constituencies and enter them into a list informing about the number of envelopes cast for each constituency as well as their total number. This list must be signed by all members of the constituency election board. Together with this list the unopened envelopes for other constituencies must then be put into an envelope bearing the exact name of the constituency election board and the inscription "...other constituencies" as well as the number of envelopes. Then the constituency election board must immediately and in the quickest possible way send the sealed envelope to the Main Election Board.

(5) Then the constituency election board must by telephone or telegraph inform the Main Election Board, if necessary also the provincial election board according to Sect (3) L. 2, about the number of unopened ballot envelopes for other constituencies, separately for each constituency.

§62 (1) Based on the reports by the constituency election boards according to §61 Sect. (3) L. 1 as well as on the unopened ballot envelopes it has been sent according to § 61 Sect. (4), the Main Election Board must ascertain the preliminary election results for the elections to the National Council and the elections to the provincial parliaments in the entire national territory.

(2) For this purpose, those ballot envelopes as being meant for other constituencies must be opened by the Main Election Board and the sums total of invalid and valid votes for each constituency, the total numbers of invalid votes, the total numbers of valid votes and the votes for each party (party votes), separately for the elections to the National Council and the elections to the provincial parliaments, must be ascertained. The thus counted total numbers of votes from the ballot envelopes meant for other constituencies must be added to the appropriate total numbers which, according to the preliminary reports by the constituency election boards for the elections to the National Council and the provincial parliaments according to §61 Sect. (3) L. 1 a to d, were cast in the constituencies.

(3) Then the Main Election Board must by telephone or telegraph announce the result of the preliminary ascertaining [Sect. (2)] to all constituencies, as far as it refers to the votes cast for other constituencies.

(4) Finally the Main Election Board must enter the votes cast in each constituency for other constituencies, separately for the elections to the National Council and the provincial parliaments, into lists informing about the sum total of invalid and valid votes, the total sum of invalid votes, the sum total of valid votes, as well as the votes for each party (party votes). These lists must be signed by the members of the Main Election Board. The Main Election Board must immediately send these lists, together with the ballot papers and separately for the elections to the National Council and the elections to the provincial parliaments as well as separately for invalid votes, valid votes and party votes, to each constituency election board.

§63 (1) Based on the election files it has been sent by the local election commissions according to §59 Sect (3), the constituency election board checks the preliminary statements it has made according to §61 and corrects possible mistakes.

(2) As soon as the Main Election Board has announced the results of the votes cast in the constituency for other constituencies for the elections to the National Council and the elections to

the provincial parliament [§62 Sect. (4)] and has sent the thus referring election files, the constituency election board finally ascertains the total number of the valid votes cast in the constituency as well as the total number of votes for each party (party votes), separately for the elections to the National Council and the elections to the provincial parliament.

(3) The National Council mandates assigned in the constituencies – in the provinces of Lower Austria, Upper Austria, Styria and Vienna also the provincial parliament mandates – are distributed among the party lists according to the respective electoral numbers. The electoral number is investigated by dividing the total number of valid votes cast in the constituency through the number of mandates plus one. The thus investigated number, which in any case must be rounded up to the next integer, is the electoral number.

(4) In the provinces of Salzburg, Tyrol, Vorarlberg, Carinthia and Burgenland the provincial parliament mandates are also distributed among the party lists on the basis of the electoral number which, however, must in this case be calculated as follows: The party sums (Sect. 2) are organised by their size, written down in parallel columns; below each sum its half is written, below this its third, its quarter and so on, if necessary. If only one mandate is to be assigned, the biggest number counts as the electoral number, in case of two mandates it is the second-biggest, in case of three mandates it is the third-biggest, in case of four mandates it is the fourth-biggest thus calculated number and so on.

(5) Each party is given as many mandates as the electoral number is included into the party sum (first ascertaining, in the provinces given in Sect. (4) final ascertaining when it comes to the elections to the provincial parliaments).

(6) If, according to this calculation, two parties may claim the same mandate, the lot decides.

(7) Constituency mandates which are not assigned by distribution according to Sect. (3) and (5) (remaining mandates) as well as votes whose number is not sufficient for one mandate or another mandate (remaining votes) are transferred to the combined election board in charge in case of elections to the National Council, to the provincial election boards according to §26 Sect. (2) and (3) in case of elections to the provincial parliaments of the provinces of Lower Austria, Upper Austria, Styria and Vienna.

§64 (1) From each party list the constituency election board declares as many candidates elected as the party may claim mandates, according to their sequence in the party list. Their names and the number of remaining mandates must be announced.

(2) If a candidate has been elected Member of the National Council in several constituencies, within eight days after the announcement of the election results he must declare for which constituency he decides. This declaration must be made at the Main Election Board. If he has been elected a member of a provincial parliament in several constituencies, the declaration must be made at the provincial election board until the same deadline. If he does not declare himself until the given deadline, the Main Election Board decides on his behalf, in case of elections to a provincial parliament the provincial election board decides.

§65 (1) After closing the ascertaining procedure according to §§63 and 64 the constituency election board must record the results of the elections to the National Council and the provincial parliaments in one record each. The records for the elections to the National Council must give the number of mandates to be assigned in the constituency and the remaining votes for each party. The combined election board must be informed as soon as possible – by telephone or telegraph – about:

1. the sum total of the valid votes cast and the party sum for each party;
2. the electoral number;
3. the number of mandates assigned in the constituency (remaining mandates);

4. how many mandates each party may claim according to the first ascertaining procedure;
5. the remaining votes for each party.

(2) Then the constituency election board sends the sealed election file of the elections to the National Council, consisting of the record of the constituency election board and the records of the local election commissions concerning the elections to the National Council and the nominations, to the combined election board.

(3) The record of the elections to the provincial parliaments must also give the number of mandates assigned in the constituency, and in the provinces of Lower Austria, Upper Austria, Styria and Vienna also the remaining mandates of the parties (remaining mandates). In these provinces, the constituency election boards must inform the provincial election boards according to § 26 Sect. (2) and (3) as soon as ever possible – by telephone or telegraph – about:

1. the sum total of valid votes cast and the party sum for each party;
2. the electoral number;
3. the number of mandates not assigned in the constituency (remaining mandates)
4. how many mandates each party may claim according to the first ascertaining procedure;
5. the remaining votes for each party.

(4) Then the constituency election board, if it does not itself act as provincial election board, sends the election file concerning the elections to the provincial parliament, by mutatis mutandis applying the provisions made in Sect. (2), to the provincial election board according to §26 Sect. (2) and (3).

§66 (1) The remaining mandates [§63 Sect. (7)] for the National Council are distributed among the individual parties within each combined constituency according to the sums of remaining votes.

(2) For this purpose, there happens a second ascertaining procedure at the combined election boards after the ascertaining procedures in the individual constituencies (first ascertaining procedure).

(3) In the provinces of Lower Austria, Upper Austria, Styria and Vienna the remaining mandates for the provincial parliaments are also assigned by way of a second ascertaining procedure by the provincial election boards according to §26 Sect. (2) and (3).

§67 Those parties as claiming to be assigned further mandates according to the second ascertaining procedure must make this claim at the combined election board in charge in case of the elections to the National Council and at the provincial election board in charge in case of elections to the national parliaments. The claim must be made at the above mentioned authority on the fourteenth day before election day at the latest and must be signed by at least one person listed in a constituency of that same combined constituency or province in question as the authorised recipient of a party of that same name.

(2) The combined election board, however in case of the procedure for the elections to the provincial parliaments the provincial election board, assesses the claims and announces them in the provincial gazette for official announcements on the fourth day before the elections at the latest. If a combined constituency consists of several provinces, the announcement must be made in each province's gazette for official announcements.

(3) The parties which have made the claims according to Sect. (1) are free to make a special nomination at the combined election board (combined nomination) in case of the elections to the National Council and at the provincial election board (provincial nomination) in case of elections to a provincial parliament. The claims must be made on the eighth day before election day at the latest. These nominations may refer only to persons nominated as candidates of the same party in a constituency of the combined constituency in case of elections to the National Council and in one of the province's constituencies in case of elections to a provincial parliament.

§68 (1) The combined election board, in case of the procedure for elections to the provincial parliaments the provincial election board, ascertains at first the number of mandates to be assigned in the course of the second ascertaining procedure and the total number of remaining votes for each party having made a claim within the combined constituencies, concerning the procedure for the elections to the provincial parliaments within the province.

(2) The mandates to be assigned for the National Council and the provincial parliaments are distributed among the parties in the course of the second ascertaining procedure, by way of the appropriate electoral numbers calculated according to Sect. (3) and (4).

(3) Organised by their size, the total numbers of remaining votes are written down one next to the other; below each total number its half is written, below this its third, its fourth and so on, if necessary.

(4) In case of only one mandate to be assigned, the biggest one of the thus noted numbers counts as the electoral number, in case of two mandates it is the second-biggest, in case of three mandates the third-biggest, in case of four the fourth-biggest one.

(5) Each party is assigned as many mandates as the electoral number is included in the total number of its remaining votes.

(6) If, according to this calculation, two parties have the same claim to a mandate, the lot decides.

§69 (1) Parties which, according to the first ascertaining procedure, have not been assigned any mandate across the entire national territory in the elections to the National Council can make no claim to a mandate in the context of the second ascertaining procedure.

(2) Parties which, according to the first ascertaining procedure, have not been assigned any mandate across the territory of the entire province in the elections to the provincial parliament can make no claim to a mandate in the context of the second ascertaining procedure.

(3) If parties which are assigned further mandates in the course of the second ascertaining procedure have made a combined nomination or a provincial nomination, the further mandates assigned to them are assigned to the candidates named in these nominations according to the procedure determined in §64 Sect. (1). If, however, there is no such nomination or if it does not give the sufficient number of candidates, the mandates to be assigned to the party are distributed among the constituency nominations in question, according to the remaining votes for each of these nominations according to the procedure determined in §68.

(4) The result of the distribution must be announced in the provincial gazette for official announcements [§67 Sect. (2)] on the fourteenth day after election day at the latest.

§70 (1) After having closed the second ascertaining procedure for the elections to the National Council, the combined election board must note down the results of the ascertaining in a special record and send the election files including the election files of the constituency election board to the Main Election Board.

(2) The provincial election boards must certify the result of the second ascertaining procedure for the elections to the provincial parliaments by a special record. Together with the election files it stays at the provincial election board.

§71 (1) By telegraph the Main Election Board informs the constituency election boards about having sent the election files for the elections to the National Council. The constituency election boards must immediately announce the arrival of the files.

(2) If within eight days after the arrival of the file the authorized representative of a party raises an objection at the Main Election Board against the ascertained figures of the election result, the Main Election Board assesses the election procedure on the basis of the documents. If these documents show that the ascertaining has been incorrect, the Main Election Board must immediately correct the

result of the first ascertaining and, if necessary, also of the second ascertaining and must declare the announcements made by the constituency election board and the combined election boards null and void and must announce the correct result.

(3) The final results of the elections to the provincial parliaments must be announced in the provincial gazettes for official announcements. Within one week after the official announcement of the election result the authorised representative of a party may raise objections at the provincial election board against the ascertained figures. In this case the provincial election board assesses the election procedure on the basis of the documents. If these documents show the incorrectness of the ascertaining, the provincial election board must correct the result of the first (final) ascertaining and must declare the announcement by the constituency election board, if necessary also that by the provincial election board, null and void and must announce the correct result.

§71 (1) Non-elected candidates act as deputies for the case that a mandate assigned to their list must be filled again. The deputies are appointed according to the sequence of the nomination list.

(2) If a deputy who is appointed to a mandate rejects the appointment, he still holds his position in the list of deputies.

(3) A deputy on a nomination list for the elections to the National Council may demand the Main Election Board, a deputy on a nomination list for elections to a provincial parliament may demand the provincial election board to delete him from the list of deputies at any time after the elections. The deletion must be announced by the election boards.

(4) If a party has made a combined or provincial nomination for the second ascertaining procedure and if in a constituency of the combined constituency or the province a mandate must be filled again, this seat must be assigned according to the sequence of the constituency nomination to the next following candidate, even if he has been assigned a mandate in the context of the second ascertaining procedure. The thus to be filled mandate is assigned to the deputy listed in the combined or provincial nomination.

§73 (1) If in a constituency one half of the mandates must be filled again due to resignation or invalidity or death of the elected members of parliament and deputies, also all other parliament members lose their mandates and new elections must be held for the constituency within three months.

(2) Such new elections for the constituency are announced immediately also if the constitutional court has declared the elections null and void because of unlawfulness.

§74 Each elected Member of the National Council is given a certificate by the Main Election Board which entitles him to join the National Council.

VII. Final provisions

§75 (1) Expenses for paper and printed documents (such as electoral rolls, voter appendix sheets, house lists, voting cards, election records, the ballot papers handed out by the election commissions, and ballot envelopes) are taken over by the state.

(2) All other expenses in the context of the elections are taken over by the municipalities, with the provision that one third of the properly presented costs are taken over by the state.

(3) The claim to reimbursement must be made at the provincial government eight weeks after election day at the latest. The provincial government decides about the claim in agreement with the provincial tax board.

(4) Within 14 days after notification the municipality may appeal against the decision at the Ministry of the Interior which decides in agreement with the Finance Ministry.

(5) Claims to reimbursement by the City of Vienna must be made immediately at the Ministry of the Interior which decides in agreement with the Finance Ministry.

§76 If, due to traffic disruptions, troubles or for other reasons, the elections cannot be held according to the provisions of this constitutional law, the Provisional National Government may decree that the elections happen outside the election place or constituency, by sending the ballot papers immediately to the Main Election Board. Just the same, the Provisional National Government may decree any other change of the provisions of this electoral law as is undeniably imperative.

§77 The Provisional National Government is empowered to issue any decree which might be necessary for implementing this constitutional law.

§78 The provisions of the law of January 9th, 1919, St. G. Bl. No. 17, on the penal provisions for the protection of electoral freedom and the freedom of assembly are re-enacted for the elections to be held according to the provisions of this constitutional law.

§79 The Provisional National Government is in charge of implementing this constitutional law.

Signatories:

Renner, Schärf, Figl, Koplénig, Honner, Fischer, Gerö, Zimmermann, Kraus, Heintl, Korp, Böhm, Raab, Schumy

Appendix 1 to the Electoral Law

Electoral territory	Constituency No.	Name	Capital	includes
	1			
	2			
	...			

Vienna

...

Appendix 2 to the Electoral Law

Front page

Place _____

Municipality _____

Judicial district _____

Administrative district _____

Electoral district _____

Name of municipality _____

_____ Street, alley, square

Electoral Roll

Consecutive No. place on	House No.	Door	Full name	year of birth	marital status	permanent of residence
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October 11th, 1945

Province

Constit. No.

Votes cast Remarks

Appendix 3 to the Electoral Law

If not already filled in,
to be filled in by voter:

Place: _____
Municipality: _____
Admin. Distr.: _____
Province: _____

If not already filled in,
to be filled in by the voter:

Municipal District: _____
_____ Street
Alley
Square
House No. _____ Door No. _____
Stairway _____ Floor _____

Voter Appendix Sheet (for legal instructions see backside)

1 Full name:

date of birth:

2 Profession:
widow/er divorced

marital status: single married

3 Citizenship on October 11th, 1945?

4 Were you a member of the NSDAP or of one of its armed associations
(SA, NSKK, NSFK) between July 1st, 1933, and March 13th, 1938?

Answer:

5 Have you ever been a member of the SS (Schutzstaffel)?

6 Were you a member or a membership candidate of the NSDAP
between March 13th, 1933, and April 27th, 1945, i. e. as a Political
Administrator, from the position of Cell Administrator or equal rank
upwards? If yes, in which function?

7 Were you at any time a member of the SA, the NSKK and the NSFK between March 13th, 1938 and
April 27th, 1945, i. e. from the rank of an Untersturmführer or an equal rank upwards?

8 Were you at any time a member of the NSDAP or SA between March 13th, 1938, and April 27th,
1945, even without any function?

9 Were you at any time a membership candidate of the NSDAP between March 13th, 1938, and April
27th, 1945, even without any function?

10 Were you at any time a member of the NSKK or the NSFK between March 13th, 1938, and April
27th, 1945, even without any function?

11 Where was your permanent place of residence on October 11th, 1945?

Municipality:

.....

In the case of the City of

Vienna, also the

district must be stated, as well

of those municipalities

included into "Greater Vienna"

the former name of the

municipal

as, in the case

as were

after 1938,

municipality!

Judicial

District:

Government):

Political District (Provincial

Province:

I hereby declare that the statements made above are, to the best of my knowledge, complete, true and accurate. I am aware that false statements are punished by a fine of up to 1,000 Reichsmark or up to four weeks of prison, and that **false statements concerning items 4 to 10 are punished by a prison sentence of 1 to 5 years.**

....., on 1945

Personal signature

(Signature of the explicitly or tacitly authorised representative):

.....

Legal Instructions

1. Voter appendix sheets must be filled in by all men and women who on October 11th, 1945, (effective date of the elections) held Austrian citizenship, were older than 21 and on the day of filling in the voter appendix sheet had their permanent or temporary place of residence in the municipality.
2. Usually somebody's permanent place of residence is in the municipality where he has settled down for the purpose of staying there for good, thus for an unlimited period, that is not only for a limited period of time.
3. Bombed-out people, evacuees, repatriates, refugees for any reason as well as generally persons who, in the context of war events, have voluntarily or involuntarily left their previous permanent place of residence have their temporary place of residence at the place of their new homes, if 2. does not apply.
4. Persons who on the day of filling in the voter appendix sheet do not stay at their permanent or temporary place of residence but are staying in the municipality only temporarily, that is usually only for a short period of time, do not need fill in a voter appendix sheet. They must themselves take care in a suitable way that they are included in the electoral rolls of their respective permanent or temporary place of residence (informing the municipality in charge of enrolment, filling in the voter appendix sheet by explicitly or tacitly authorised representatives, enrolment by way of appellate procedure etc.). This will be the case particularly with e. g. holiday makers, temporarily accommodated institution inmates, visitors, business travellers, transients etc.
5. Austrian citizens are most of all those who already on March 13th, 1938, held Austrian citizenship, who have not lost it since (for example by acquiring foreign citizenship) and who, furthermore, have not been "illegals". Among illegals there count all those who at any time between July 1st, 1933, and March 13th, 1938, were members of the NSDAP or of its armed associations (SS, SA, NSKK, NSFK).

Examples:

- a) A woman whose husband was illegal and who accordingly does currently not hold Austrian citizenship may nevertheless herself be an Austrian citizen if she was an Austrian citizen on March 13th, 1938, has not lost this citizenship since and has herself not been illegal. Thus, in this case there may be mixed citizenship within one family.
 - b) A woman who on March 13th, 1938, was an Austrian citizen but married a German from the Altreich (Original German Reich) in 1940 is currently no Austrian citizen because since March 13th, 1938, she has lost Austrian citizenship due to marriage with a foreigner (a German from the Altreich). She is now a German citizen. Only if this marriage has been annulled by death or divorce she may again acquire Austrian citizenship.
6. The correctly filled in voter appendix sheets must be handed over to the house owner or his deputy on the day of filling them in, if possible, however on the following day at the latest.
 7. The municipality may decree that the voter appendix sheets, before being handed over to the municipality, are in each house assessed by municipal authorities by way of documents to be presented.
 8. Noncompliance or false statements are punished by a fine of up to 1,000 Reichsmark or imprisonment of up to four weeks. False statements concerning items 4 to 10 are punished by a prison sentence of 1 to 5 years.

Appendix 4 to the Electoral Law

Front page

If not already filled in, to be filled in by the house owner (deputy)
filed in by the house

If not already filled in, to be

owner (deputy)

Place:

Municipal District

Municipality:

.....Street/Alley/Square

Administrative District:

House No.:

Province:

Door No.:

Stairway:

Floor:

House List

Number of handed out voter appendix sheets:

Number of collected voter appendix sheets:

Legal Instructions:

1. In the context of holding the coming elections, the house owners or their deputies are handed out a number of voter appendix sheets for every eligible voter only temporarily living in the house. In case of increased demand the municipal board must be immediately informed but may not delay the filling in of the other voter appendix sheets.
2. The house owners or their deputies must enter the names of the householders, organised by location and door No., into the house list and must immediately distribute the voter appendix sheets among the eligible voters in each flat.
3. Who must fill in a voter appendix sheet can be read from the legal instructions printed on the backside of the voter appendix sheet. The eligible voters must fill in the voter appendix sheets clearly and correctly within 24 hours.
4. The correctly filled in voter appendix sheets must be handed over to the house owner or his deputy on the day of filling them in, if possible, however on the following day at the latest.
5. The house owners or their deputies must assess the filled in voter appendix sheets for being filled in completely and must enter the number of collected voter appendix sheets into columns 4 and 5 of the house list, separately for male and female voters.
6. The municipality may decree that municipal authorities assess the collected voter appendix sheets before they are handed over to the municipality, for their correctness by way of documents to be presented. The house owners must provide suitable localities for the assessment. In case of such an assessment, the house owner or his deputy must be informed 24 hours in advance. He must inform the householder, who is then in charge of informing all other possible inhabitants of the flat, telling them that they must have ready all documents necessary for the assessment, as far as possible.
7. Noncompliance as well as false statements are punished by a fine or up to 1,000 Reichsmark or, if the fine cannot be collected, by imprisonment of up to four weeks.

Stairway Remarks	Floor	Door No.	Name of the householder	Number of voter appendix sheets
1	2	3	4	7
			collected by the house owner	
			Male	
			Female	
			5	6

Place: Electoral District:
Municipality: Municipal Distr.:
Judicial District:Street/Alley/
Adm.-Distr.: Square
Province: Constit.: House No.:

Voting Card

issued by the municipality of the above stated electoral place (electoral district) on the basis of the entry in the electoral roll (consecutive number:)

Province:
Permanent place of residence on October 11th, 1945
Constituency No.:

Full name:
Year of birth: Marital status:

The above stated person is entitled to exercise his/her right to vote also outside the place where he/she is listed in the electoral roll.

To exercise the right to vote, apart from the voting card also a document or official certificate must be presented from which the voter's identity becomes obvious.

After voting the voting card must be handed over to the local election commission.

Duplicates for lost voting cards or voting cards which have become unfit for use may not be made.

....., on 1945

The Mayor

Official seal

Front page

Place:
Municipality:
Judicial Distr.:
Admin. Distr.:
Province:

Electoral District:
Name of the municipality: ...

Electoral Roll

Consecutive No.	Name of the voter	Consecutive Number of the electoral roll	Remarks
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