Manual of Laws Related to the Guyana Elections Commission (GECOM) as of November 2005

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List of Laws pertinent to GECOM

S1

Cap	Act	Label
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1:03	Representation of the People	R
1:04	National Assembly (Validity of Elections)	NA
1:09	Representation of the People (Adaptation and Modification of Laws)	RA
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14:01	Guyana Citizenship	GC
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	Audit Act No. 5 of 2004	FA
	Fiscal Management & Accountability Act No, 20 of 2003	FMA

How to Use this Manual

Listed Topics

The topics listed in the Index were developed from discussions held with a sample of potential users, especially senior-level members of the GECOM Secretariat. Because a wide range of terms was included, some users may find certain terms to be less relevant to their particular issue of interest.

Index topics listed without references indicate that Guyana does not have existing laws for these topics. However, because various users have stated that these topics are currently in various stages of formal and informal discussion, they have been included in this manual.

Modification Capability

Over time, some of the laws will be amended and the legal references in the Index may become insufficient, irrelevant, or inaccurate. Because the manual may become gradually outdated, it was designed and edited in Microsoft Word 2003 to enable modifications. Users can amend the electronic version with frequently needed references, modify the phrasing of the laws (additions and deletions), and change the hyperlinks connecting the laws as needed.

Index Hyperlinks

Specific sections of laws can be quickly reached by clicking the mouse/cursor on the linkage reference. This capability minimizes the tedium of using the references manual to look up the actual references. Thus clicking on C59 or C159 in the Index takes the user directly to the Constitution, article 59 or article 159, respectively, as required by the reference “Arts 59, 159” in the Index or in similar linkages to other laws.

The topics are listed alphabetically in the left column of the Index; the most pertinent election laws that relate to each topic are presented in the right column. Main topics are in boldface, and subtopics are indented and italicized. Below are examples of how the Index works.

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Adult Suffrage	C59, C159
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Voting	C59 , C159
Alien	C43, C161_4, C232, GC2
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Alteration of Registration	NR8, NR15_6, LA26, LA137
Amendment of Electoral Law	C160, C7_4, C7_8, C21, C22_1,
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Against registration	NS28to33, NR15_4, NR3_5, NR19_3_g

Reference Abbreviations Used

In the Index, the traditional abbreviations used in Guyana law references are listed in this manual as follows.

Abbreviation	**Full Name**
art	article
arts	articles
reg	regulation
s	section
ss	sub-section [usually placed in parenthesis ()]

The boldfaced numerical labels that contain a colon **(:)** refer to chapters in the Laws of Guyana. Thus **14:01** refers to Chapter 14:01, Laws of Guyana. Each new chapter and the sections therein are separated from references to another chapter by a semicolon **(;).**

Underlined Text: Text that is underlined represent those laws that are electronically hyperlinked to the User Index Topics.

User Index Topics with Linkages

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A

Adult Suffrage — C59, C159

Age

- forgery of
- of majority — C53, GC9, GC2_3 ,RA2 ,RA2_2_3, RA2_4, RA3,
- verification of
- Voting — C59 , C159

Alien — C43, C161_4, C232, GC2

Alteration of Election Programme

Alteration of Registration — NR8, NR15_6, LA26, LA137

Amendment of Electoral Law — C160, C7_4, C7_8, C21, C22_1,

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CONSTITUTION

of the

CO-OPERATIVE REPUBLIC OF GUYANA

(with Amendments to 12th August 2003)

GUYANA

ACT No. 2 of 1980

CHAPTER 1:01

CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA ACT 1980

I assent

A. CHUNG
President.

20th February, 1980.

ARRANGEMENT OF SECTIONS

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1. Short title.
2. Interpretation.
3. Constitutional Instruments (including the existing Constitution) repealed.
4. Appointed day.
5. Exercise of powers of Parliament before appointed day.
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8. Parliament.
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12. Ministers, Attorney General, Parliamentary Secretaries, etc.
13. Cabinet.
14. Supreme Court of Judicature.
15. Existing officers.
16. Oaths.
17. Commissions.
18. Continuation of proceedings.
19. Local democratic organs.
20. Amendment of certain provisions of Amerindian Lands Commission Act.
21. Electoral districts and list of electors.
22. Amendment of this Act.

SCHEDULE – The Constitution

AN ACT to enact a new Constitution of the Co-operative Republic of Guyana, to repeal the Guyana Independence Act 1966, the Guyana Independence Order 1966, and the existing Constitution, and to provide for matters incidental thereto or connected therewith.

20th February, 1980.

A.D. 1980

Enacted by the Parliament of Guyana:-

Short title.

1. This Act may be cited as the Constitution of the Co-operative Republic of Guyana Act 1980.

Interpretation.

2. (1) In this Act—

"appointed day" means the day fixed for the coming into operation of the Constitution by a proclamation issued under section 4;

"the Constitution" means the Constitution set out in the Schedule;

"the existing Assembly" means the National Assembly constituted under the existing Constitution;

"the existing Constitution" means the Constitution in force immediately before the appointed day;

"existing laws" means all laws which had effect as part of the law of Guyana immediately before the appointed day and includes any Act or other written law made before that day and coming into force on or after that day;

"the existing Parliament" means the Parliament which enacted this Act;

"service commission" means the Public Service Commission, the Police Service Commission, the Judicial Service Commission or the Teaching Service Commission in existence immediately before the appointed day;

and, save where the context otherwise requires, expressions used in sections 1 to 22 (inclusive) have the same meaning as in the Constitution and the provisions of article 232 thereof shall apply for the purpose of interpreting those sections as they apply for the purpose of interpreting the Constitution.

(2) References in article 133 of the Constitution to any question as to the interpretation of the Constitution shall be construed as including references to any question as to the interpretation of any provision of this Act.

Constitutional Instruments (including the existing Constitution) repealed.

3. Subject to the provisions of this Act, on the appointed day all the provisions of the Guyana Independence Act 1966, the Guyana Independence Order 1966 (in so far as they form part of the law of Guyana) and the existing Constitution are repealed and thereupon the Constitution shall have effect as the supreme law of Guyana in place of the existing Constitution.

Appointed day.

4. The President shall by proclamation fix a day, being a day not later than 6th October, 1980, for the coming into operation of the Constitution.

Exercise of powers of Parliament before appointed day.

5. At any time after the enactment of this Act, the existing Parliament may for the purpose of enabling the Constitution to function on and after the appointed day exercise any of the powers conferred on the Parliament established by the Constitution.

Exercise of power of President before appointed day.

6. The power conferred by section 7(2) to make orders may be exercised by the President under the existing Constitution at any time after the enactment of this Act to such extent as may, in his opinion, be necessary or expedient to enable the Constitution to function on and after the appointed day.

Existing laws.
[23 of 1990]

7. (1) Subject to the provisions of this Act, the existing laws shall continue in force on and after the appointed day as if they had been made in pursuance of the Constitution but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act.

(2) The President may by order made at any time within the period of three years next after the commencement of the Constitution make such modifications to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Act or otherwise for giving effect or enabling effect to be given to those provisions.

(3) Anything done under any existing law before its modification by or under this section which would, but for this subsection, cease by virtue of that modification to have effect, shall continue to have effect as if done under that law as modified.

(4) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by Parliament or by any other authority or person is prescribed or provided for by or under any existing law (including any amendment to any such law made under this section) or is otherwise prescribed or provided for immediately before the appointed day by or under the laws repealed by section 3, that prescription or provision shall, on and after that day, have effect (with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with this Act) as if it had been made under the Constitution by Parliament or, as the case may require, by the other authority or person.

(5) All enactments passed or made by any Parliament or person or authority under or by virtue of the Guyana Independence Order 1966 and the existing Constitution and not before the appointed day declared by a competent court to be void by reason of any inconsistency with any provision of the existing constitution and that are not repealed, lapsed or spent or that had not otherwise had their effect, shall be deemed to have been validly passed or made and to have had full force and effect as part of the law of Guyana immediately before the appointed day even if any such enactments were inconsistent with any provision of the existing Constitution.

(6) Without prejudice to the generality of the foregoing provisions of this section, if a proclamation of emergency is in force under article 16 of the existing Constitution immediately before the appointed day by virtue of a resolution of the existing Assembly, the proclamation shall on and after that day have effect as if it had been made under article 150 of the Constitution and (without prejudice to its continuance in force for further periods by virtue of the provisions of paragraph (3)(c) of the said article 150) as if its continuance in force to the date referred to in that resolution had been approved by a resolution passed by the National Assembly under the provisions of paragraph (3)(c) of the said article 150; and if any person is on the appointed day detained or restricted in the manner referred to in article 151 of the Constitution the provisions of that article requiring his case to be reviewed by a tribunal established for the purpose of that article not later than three months from the commencement of the detention or restriction shall, in relation to that person, have effect as if the detention or restriction had commenced on the appointed day.

(7) The provisions of this section shall be without prejudice to any powers conferred by any law upon any person or authority to make provision for any matter, including the making of modifications to any existing law.

(8) In this section "modification" includes amendment, adaptation or other alteration authorised by subsection (1).

(9) **[Paragraph (9) deleted by Act No. 23 of 1990]**

(10) For so long as the legal profession in Guyana continues to be divided into barristers and solicitors, any reference in the Constitution to a Lawyer, however described, shall be deemed to be a reference to an advocate or a legal adviser or a barrister or a solicitor, as the case may be, in the corresponding provision of the existing Constitution.

Parliament.

8.(1) Notwithstanding any difference between the composition of the existing Assembly and that of the National Assembly established by the Constitution, with effect from the appointed day and until the National Assembly sits for the first time after the first election held pursuant to the provisions of article 60(2) of the Constitution, but subject to subsection (5), the existing Assembly shall be deemed to be the National Assembly established by the Constitution (referred to in this section in respect of that period as "the transitional National Assembly").

(2) Without prejudice to the generality of subsection (1), the persons who immediately before the appointed day were members of the existing Assembly shall with effect from that day be members of the transitional National Assembly, and all questions concerning membership and functioning of the transitional National Assembly shall be regulated as nearly as may be practicable by the existing law applicable in the like case to the existing Assembly.

(3) All matters pending before the existing Assembly immediately before the appointed day may be continued and completed by the transitional National Assembly.

(4) Unless and until the transitional National Assembly otherwise resolve, any person who is a member of that Assembly by virtue of subsection (2) shall be deemed to have made and subscribed before the Assembly the oath referred to in article 167 of the Constitution.

(5) Unless sooner dissolved by the President pursuant to the provisions of article 70(2) of the Constitution, the Parliament constituted by the President and the transitional National Assembly shall stand dissolved on 26th October, 1980.

(6) The first election of members of the National Assembly pursuant to the provisions of paragraphs (3) and (4) of article 60 of the Constitution shall be held on such day as the President may by proclamation appoint, being a day which he considers to be as early as practicable after the holding of the first election of members of the regional democratic council or of the National Congress of Local Democratic Organs, as the case may be.

(7) All moneys granted, voted or appropriated by the existing Assembly in respect of the services of Guyana for the current financial year shall be deemed to have been granted, voted or appropriated by the National Assembly established by the Constitution and in accordance with the Constitution.

Standing Orders

9. The rules and orders of the existing Assembly as in force immediately before the appointed day shall, until it is otherwise provided for under article 165 and article 173 of the Constitution, as the case may be, be the rules of procedure of the National Assembly and of the Supreme Congress of the People established under the Constitution, but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

President.

10. (1) The person who immediately before the appointed day holds the office of Prime Minister under the existing Constitution shall, subject to the provisions of article 97 of the Constitution (relating to the taking of an oath by the President), assume office as President of the Co-operative Republic of Guyana that day as if he had been elected thereto in pursuance of the provisions of the Constitution and shall, unless he sooner dies or resigns or unless he ceases to hold office by virtue of articles 93 and 94 of the Constitution, continue in office until the person elected President in the next following Presidential election held for the purposes of article 91 of the Constitution assumes office.

(2) On the assumption of his office pursuant to subsection (1) the first President of Guyana shall cease to be a member of the National Assembly and his seat shall thereby become vacant and may be filled as nearly as practicable in accordance with the provisions of article 70 of the existing Constitution.

Prime Minister.

11. Until a Prime Minister is appointed under article 101 of the Constitution, the person who immediately before the appointed day holds the office of Minister under the existing Constitution which, however styled, ranks next in seniority after the office of Prime Minister and who is an elected member of the existing Assembly shall, on and after that day, hold the office of Prime Minister as if he had been appointed thereto under that article.

Ministers, Attorney General, Parliamentary Secretaries, etc.

12. (1) Subject to the provisions of sections 10 and 11, the persons who immediately before the appointed day held office as Minister (other than as Prime Minister), Attorney General, Parliamentary Secretary, Speaker, Deputy Speaker or Leader of the Opposition shall, on and after that day, hold the corresponding office established by the Constitution as if they had been appointed or elected thereto, as the case may be, in accordance with the provisions of the Constitution.

(2) Any person holding the office of Prime Minister or of Minister by virtue of the provisions of section 11 or of subsection (1) of this section respectively who, immediately before the appointed day, was assigned responsibility under the existing Constitution for any business of the Government of Guyana, including the administration of any department of Government, shall, on and after that day, be deemed to have been assigned responsibility therefor under article 107 of the Constitution.

Cabinet.

13. Subject to paragraph (1) of article 106 of the Constitution, every person who does not otherwise become a member of the Cabinet established by the Constitution but who immediately before the appointed day is a member of the Cabinet under the existing Constitution shall on and after that day be a member of the Cabinet established by the Constitution as if he had been appointed thereto under that paragraph.

Supreme Court of Judicature.

14. (1) The Supreme Court of Judicature in existence immediately before the appointed day shall on and after that day be the Supreme Court of Judicature for the purposes of the Constitution as if it were established thereunder.

(2) Any decision given before the appointed day by any court forming part of the Supreme Court of Judicature in existence immediately before that day shall, for the purpose of its enforcement or for the purpose of any appeal therefrom, have effect on and after that day as if it were a decision of the corresponding court established by the Constitution.

Existing Officers.

15. (1) Subject to the provisions of this Act, every person who immediately before the appointed day holds or is acting in a public office shall, on and after that day, hold or act in that office or the corresponding office established by the Constitution, as the case may be, as if he had been appointed to do so in accordance with the provisions of the Constitution:

Provided that any person who, under the laws repealed by section 3 or any other existing law, would have been required to vacate his office at the expiration of any period shall vacate his office at the expiration of that period.

(2) Subsection (1) shall apply in relation to the offices of Chancellor, Chief Justice, Justice of Appeal, Puisne Judge, Ombudsman, Clerk and Deputy Clerk of the National Assembly and, subject to section 17, to the offices of Chairman, Deputy Chairman (if any) and member of the Judicial Service Commission, the Public Service Commission, the Police Service Commission, the Teaching Service Commission and the Elections Commission as if those offices were public offices.

Oaths

16. Any person who holds or acts in any office on the appointed day by virtue of the provisions of section 11, 12 or 15 shall be deemed to have taken any necessary oath under the Constitution or any other law:

Provided that the President may, at any time on or after the appointed day, require any such person to take any oath required as aforesaid.

Commissions.

17. (1) Until the expiration of the period of three months next after the day on which the first election after the appointed day has been held pursuant to the provisions of article 61 of the Constitution or until dissolved by a proclamation issued by the President, whichever shall the sooner occur, the service commissions and the Elections Commission as constituted immediately before the appointed day shall on and after that day be deemed to be the corresponding commissions under the Constitution notwithstanding any difference in composition under the existing law and under the Constitution, and any appointments to vacancies in membership and other matters relating thereto shall be made and regulated as nearly as may be practicable in accordance with the existing law.

(2) Any power of a service commission which immediately before the appointed day is validly delegated to any person or authority shall. to the extent that that power could be delegated under the Constitution to such person or authority, be deemed, on and after that day, to have been delegated to that person or authority in accordance with the provisions of the Constitution.

Continuation of proceedings.

18. Where any proceedings are pending immediately before the appointed day before any court, body or authority in respect of which a corresponding court, body or authority is established by or under the Constitution, those proceedings may on and after that day be continued and completed by or before such corresponding court, body or authority as if they had been commenced in or before such corresponding court, body or authority:

Provided that in the case of any proceedings before any court, tribunal or the Ombudsman (including any disciplinary proceedings) where the hearing was partly completed immediately before the appointed day (in this section referred to as "the original hearing"), no person shall take part in the continued hearing, either as the sole or other member, as the case may be, of the corresponding court, body or authority established by or under the Constitution unless he has also taken part in the original hearing, and where the original hearing cannot be so continued the hearing shall be recommenced.

Local democratic organs.

19. Any local government authority in existence immediately before the appointed day shall be deemed to be a local democratic organ for the purposes of the Constitution as if it were constituted thereunder.

Amendment of certain provisions of Amerindian Lands Commission Act. Cap 59:03

20. Notwithstanding anything contained in the Constitution, sections 2 and 3 of the Amerindian Lands Commission Act as in force immediately before the appointed day may be amended by Parliament only in the same manner as the provisions specified in article 164(2)(b) of the Constitution.

Electoral districts and list of electors.

21. (1) The polling districts and divisions constituted under any existing law in relation to elections of members of the existing Assembly shall be deemed to be the polling districts and divisions for the purposes of elections to be held under article 60 (2) of the Constitution subject to any amendments duly made thereto under such law.

(2) The list of electors last prepared before the appointed day for the purposes of holding elections of members of the existing Assembly shall, subject to any further revision in accordance with law, be deemed to be the list of electors prepared by the Elections Commission under article 162 of the Constitution for the purposes of article 60 (2) thereof.

Amendment of this Act.

22. (1) Parliament may amend section 3 and this section in the same manner as it may alter any of the provisions specified in article 164(2) (a) of the Constitution.

(2) Parliament may amend any other provision of this Act, with the exception of the Schedule thereto, in the same manner as it may alter any of the provisions specified in article 164(2)(b) of the Constitution.

(3) Article 164(3) of the Constitution shall apply for the purpose of construing references in this section to any provision of this Act and to the alteration of any such provision as it applies for the purpose of construing references in the said article 164 to any provision of the Constitution and to the alteration of any such provision.

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CONSTITUTION OF THE REPUBLIC OF GUYANA

PREAMBLE

WE THE GUYANESE PEOPLE,

Proud heirs of the indomitable will of our forebears, in a spirit of reconciliation and cooperation, proclaim this Constitution in order to:

Safeguard and build on the rich heritage, won through tireless struggle, bequeathed us by our forebears;

Affirm our sovereignty, our independence and our indissolubility;

Forge a system of governance that promotes concerted effort and broad-based participation in national decision-making in order to develop a viable economy and a harmonious community based on democratic values, social justice, fundamental human rights, and the rule of law;

Celebrate our cultural and racial diversity and strengthen our unity by eliminating any and every form of discrimination;

Value the special place in our nation of the Indigenous Peoples and recognise their right as citizens to land and security and to their promulgation of policies for their communities;

Acknowledge the aspirations of our young people who, in their own words, have declared that the future of Guyana belongs to its young people, who aspire to live in a safe society which respects their dignity, protects their rights, recognises their potential, listens to their voices, provides opportunities, ensures a healthy environment and encourages people of all races to live in harmony and peace and affirm that their declaration will be binding on our institutions and be a part of the context of our basic law;

Demonstrate our commitment to protect our natural environment and endowment;

Create a republican community practically aware that the finances, industry, communication, education, business and technology of the world are global factors affecting all in which all must engage and from which all must benefit.

As citizens of Guyana, we adopt these fundamental laws and make provision for their amendment to reflect changes in our society, inspired by our collective quest for a perfect nation, whose characteristics include the commitments, concepts and other principles proclaimed in this preamble.

May God protect our people.

CONSTITUTION OF THE REPUBLIC OF GUYANA

PART 1

GENERAL PRINCIPLES

CHAPTER I
THE STATE AND THE CONSTITUTION

The State in transition to socialism.

1. Guyana is an indivisible, secular, democratic sovereign state in the course of transition from capitalism to socialism and shall be known as the Co-operative Republic of Guyana.

The territory.

2. The territory of the State comprises the areas that immediately before the commencement of this Constitution were comprised in the area of Guyana together with such other areas as may be declared by Act of Parliament to form part of the territory of the State.

The capital.

3. The capital of the State is the city of Georgetown.

The flag.

4. The national flag of the State is the flag known as "The Golden Arrow Head" as set out in the Second Schedule.

The coat of arms.

5. The coat of arms of the State is that in use at the commencement of this Constitution. as set out in the Second Schedule.

The anthem.

6. The national anthem of the State is the anthem known as "Green Land of Guyana". as set out in the Second Schedule.

The pledge.

6A. The National Pledge of the State is the pledge as set out in the Second Schedule.

Duty to respect national symbols.

7. It is the duty of every citizen of Guyana wherever he may be and of every person in Guyana to respect the national flag, the coat of arms, the national anthem, the national pledge and the Constitution of Guyana, and to treat them with due and proper solemnity on all occasions.

Supremacy of Constitution.

8. This Constitution is the supreme law of Guyana and, if any other law is inconsistent with it, that other law shall, to the extent of the inconsistency, be void.

CHAPTER II

PRINCIPLES AND BASES OF THE POLITICAL, ECONOMIC AND SOCIAL SYSTEM

Sovereignty belongs to the people.

9. Sovereignty belongs to the people, who exercise it through their representatives and the democratic organs established by or under this Constitution.

Political parties.

10. The right to form political parties and their freedom of action are guaranteed. Political parties must respect the principles of national sovereignty and of democracy.

11. [Article 11 repealed by Act No.10 of 2003].

Local government.

12. Local government by freely elected representatives of the people is an integral part of the democratic organisation of the State.

Objective of political system.
[4 of 2001]

13. The principal objective of the political system of the State is to establish an inclusionary democracy by providing increasing opportunities for the participation of citizens, and their organisations in the management and decision-making processes of the State, with particular emphasis on those areas of decision-making that directly affect their well-being.

Goal of economic development.
[4 of 2001]

14. The goal of economic development includes the objective of creating, promoting and encouraging an economic system capable of achieving and maintaining sustainable competitive advantage in the context of a global competitive environment, by fostering entrepreneurship, individual and group initiative and creativity, and strategic alliances with domestic and global business partners in the private sector.

Further goal of economic development.
[4 of 2001]

15.The goal of economic development includes the objective of laying the material basis for the greatest possible satisfaction of the people's growing material, cultural and intellectual requirements, as well as the dynamically stable development of their personality, creativity, entrepreneurial skills, and cooperative relations in a plural society. The State shall intervene to mitigate any deleterious effects of competition on individuals or groups of individuals.

State to foster forms of development.
[4 of 2001]

16. The state shall foster the development of such relevant forms of cooperation and of business entities as are seen to be supportive of the goals of economic development as stated in articles 14 and 15.

Private enterprise.
[4 of 2001]

17. Privately owned economic enterprises are reconginsed, and shall be facilitated in accord with their conformity with the aims and objectives stated or implied in articles 13, 14, 15 and 16.

Land to the tiller.

18.Land is for social use and must go to the tiller.

Personal property.

19. Every citizen has the right to own personal property which includes such assets as dwelling houses and the land on which they stand, farmsteads, tools and equipment, motor vehicles and bank accounts.

Right of inheritance.

20. The right of inheritance is guaranteed.

Role of labour.

21.The source of the growth of social wealth and of the well-being of the people, and of each individual, is the labour of the people.

The right and the duty to work.
[10 of 2003].

22. (1) Every citizen has the right to be rewarded according to the nature, quality and quantity of his or her work, to equal pay for equal work or work of equal value, and to just conditions of work.

(2) Every citizen who is able to work has a duty to work.

Right to leisure.

23. Every citizen has the right to rest, recreation and leisure. The State in co-operation with co-operatives, trade unions and other socio-economic organizations will guarantee this right by prescribing hours and conditions of work and by establishing holiday arrangements for workers, including a complex of cultural, educational and health institutions.

Right to medical attention and social care in case of old age and disability.

24.Every citizen has the right to free medical attention and also to social care in case of old age and disability.

Duty to improve environment.

25. Every citizen has a duty to participate in activities designed to improve the environment and protect the health of the nation.

Right to housing.

26. Every citizen has the right to proper housing accommodation.

Right to education.
[10 of 2003]

27. (1) Every citizen has the right to free education from nursery to university as well as at non-formal places where opportunities are provided for education and training.

(2) It is the duty of the State to provide education that would include curricula designed to reflect the cultural diversities of Guyana and disciplines that are necessary to prepare students to deal with social issues and to meet the challenges of the modern technological age.

Youth.

28. Every young person has the right to ideological, social, cultural and vocational development and to the opportunity for responsible participation in the development of the socialist order of society.

Women's participation in public decision-making,.
[10 of 2003].

29. Women's participation in the various management and decision-making processes, whether private, public or state, shall be encouraged and facilitated by laws enacted for that purpose or otherwise.

30. [Article 30 repealed by Act No. 10 of 2003].

Protection of citizens resident abroad.

31. It is the duty of the State to protect the just rights and interests of citizens resident abroad.

Duty to prevent crime and protect public property.

32. It is the joint duty of the State, the society and every citizen to combat and prevent crime and other violations of the law and to take care of and protect public property.

Duty to defend State.

33. It is the duty of every citizen to defend the State.

Abolition of discriminatory distinctions.

34. It is the duty of the State to enhance the cohesiveness of the society by eliminating discriminatory distinctions between classes, between town and country, and between mental and physical labour.

National culture.

35. The State honours and respects the diverse cultural strains which enrich the society and will seek constantly to promote national appreciation of them at all levels and to develop out of them a socialist national culture for Guyana.

Land and the Environment.
[10 of 2003]

36. The well-being for the nation depends upon preserving clean air, fertile soils, pure water and the rich diversity of plants, animals and eco-systems.

External relations.

37. The State supports the legitimate aspirations of other peoples for freedom and independence and will establish relations with all states on the basis of sovereign equality, mutual respect, inviolability of frontiers, territorial integrity of states, peaceful settlement of disputes, non-intervention in internal affairs, respect for human rights and fundamental freedoms, and co-operation among States.

National co-operation for development of economy.

38. It is the duty of the State, co-operatives, trade unions, other socio-economic organisations and the people through sustained and disciplined endeavours to achieve the highest possible levels of production and to develop the economy in order to ensure the realisation of the rights set out in this Chapter.

Democratic State with a healthy economy.
[10 of 2003]

38A. To ensure that Guyana is a democratic State with a healthy economy, the State shall –

(a) facilitate the engagement of citizens in activities designed to achieve their sustainable livelihoods;

(b) progressively remove the barriers that prohibit or limit the realization of the potential for self-sustaining activities in such fields as agriculture, processing, manufacturing and artistic and information-based activities;

(c) encourage and support the self-mobilisation of citizens; and

(d) provide appropriate support to any group which is, or is claiming to be, under threat of marginalization,

The best interest of the child.
[10 of 2003]

38B. The best interest of the child shall be the primary consideration in all judicial proceedings and decisions and in all matters concerning children, whether undertaken by public or private social welfare institutions, administrative authorities or legislative bodies.

Adoption in best interest of child.
[10 of 2003].

38C. The State shall ensure that the adoption of a child takes place only if that adoption would be in the best interest of the child.

Child's right to maintenance and accommodation. [10 of 2003].

38D. Every child has the right to maintenance and accommodation from his or her
parents or guardians.

Formal education compulsory. [10 of 2003].

38E. Formal education is compulsory up to the age of fifteen years.

Vilification of religion. [10 of 2003].

38F. No person's religion or religious belief shall be vilified.

Public service to be free from political influence. [10 of 2003].

38G. (1) The integrity of the public service is guaranteed. No public officer shall be required to execute or condone irregular acts on the basis of higher orders.

(2) The freedom of every public officer to perform his or her duties and fulfil his or her responsibilities is protected.

(3) No public officer shall be the subject of sanctions of any kind without due process.

(4) In the discharge of his or her duties a public officer shall execute the lawful policies of the government.

Guiding principles and objectives. [10 of 2003].

39.(1) It is the duty of Parliament, the Government, the courts and all other public agencies to be guided in the discharge of their functions by the principles set out in this Chapter, and Parliament may provide for any of those principles to be enforceable in any court or tribunal.

(2) In the interpretation of the fundamental rights provisions in this Constitution, a court shall pay due regard to international law, international conventions, covenants and charters bearing on human rights.

CHAPTER III

FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Fundamental rights and freedoms of the individual. [10 of 2003].

40. (1) Every person in Guyana is entitled to the basic right to a happy, creative and productive life, free from hunger, ignorance and want. That right includes the fundamental rights and freedoms of the individual.

(2) The provisions of Title 1 of Part 2 shall have effect for the purpose of affording protection to the aforesaid fundamental rights and freedoms of the individual subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

CHAPTER IV

CITIZENSHIP

Persons who continue to be citizens on commencement of Constitution.

41. Every person who immediately before the commencement of this Constitution is a citizen of Guyana shall continue to be a citizen of Guyana.

Persons entitled to be registered as citizens.

42. (1) Every person who immediately before the commencement of this Constitution is or has been married to a person—

(a) who continues to be a citizen of Guyana by virtue of the preceding article; or

(b) who having died before the commencement of this Constitution would, but for his or her death, have continued to be a citizen of Guyana on that date by virtue of that article,

shall, if not otherwise a citizen, be entitled, upon making application and upon taking the oath of allegiance, to be registered as a citizen of Guyana:

Provided that the right to be registered as a citizen under this paragraph shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.

(2) Any application for registration under this article shall be made in such manner as may be prescribed.

Persons born in Guyana after commencement of Constitution.

43. Every person born in Guyana after the commencement of this Constitution shall become a citizen of Guyana at the date of his birth:

Provided that a person shall not become a citizen of Guyana by virtue of this article if at the time of his birth—

(a) his father or his mother possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Guyana and neither of them is a citizen of Guyana; or

(b) his father or his mother is an enemy alien and the birth occurs in a place then under occupation by the enemy.

Persons born outside Guyana after commencement of Constitution.

44. A person born outside Guyana after the commencement of this Constitution shall become a citizen of Guyana at the date of his birth if at that date his father or his mother is a citizen of Guyana otherwise than by virtue of this article.

Marriage to citizen of Guyana.

45. Any person who, after the commencement of this Constitution, marries a person who is or becomes a citizen of Guyana shall be entitled, upon making application in such manner and taking such oath of allegiance as may be prescribed, to be registered as a citizen of Guyana:

Provided that the right to be registered as a citizen of Guyana under this article shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.

Deprivation of citizenship on acquisition of, or exercise of rights of, another citizenship.

46. (1) If the President is satisfied that any citizen of Guyana has at any time after **25th May, 1966**, acquired by registration, naturalization or other voluntary and formal act (other than marriage) the citizenship of any country other than Guyana, the President may by order deprive that person of his citizenship.

(2) If the President is satisfied that any citizen of Guyana has at any time after **25th May, 1966**, voluntarily claimed and exercised in a country other than Guyana any rights available to him under the law of that country, being rights accorded exclusively to its citizens, the President may by order deprive that person of his citizenship.

Commonwealth citizens.

47. (1) Every person who under this Constitution or any Act of Parliament is a citizen of Guyana or under any enactment for the time being in force in any country to which this article applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Every person who is a British subject without citizenship under the British Nationality Act 1948, continues to be a British subject under section 2 of that Act or is a British subject under the British Nationality Act 1965 shall, by virtue of that status, have the status of a Commonwealth citizen.

(3) The countries to which this article applies are Antigua and Barbuda, Australia, the Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei, Canada, Cyprus, Dominica, Fiji, The Gambia, Ghana, Grenada, India. Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Nauru, New Zealand and Island Territories and Self-Governing Countries in free Association with New Zealand, Nigeria, Papua New Guinea, Seychelles, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Swaziland, Tanzania, Tonga, Trinidad and Tobago, Tuvalu, Uganda, United Kingdom and Colonies, Vanuatu, Western Samoa, Zambia and Zimbabwe. **(O.38 of 87)**.

(4) The President may from time to time by order subject to affirmative resolution of the National Assembly amend paragraph (3) by adding any country thereto or by deleting any country therefrom.

Powers of Parliament.

48. (1)Parliament may make provision—

(a) for the acquisition of citizenship of Guyana by persons who do not become citizens of Guyana by virtue of the provisions of this Chapter;

(b) for depriving of his citizenship of Guyana any person who is a citizen of Guyana otherwise than by virtue of article 41 (in so far as it relates to persons who became citizens of Guyana by virtue of articles 21, 23 and 24 of the Constitution of Guyana annexed to the Guyana Independence Order 1966), 43 or 44; or

(c) for the renunciation by any person of his citizenship of Guyana.

Interpretation.

49. (1) In this Chapter "prescribed" means prescribed by or under any Act of Parliament.

(2) For the purposes of this Chapter, a person born aboard a registered ship or aircraft or aboard an unregistered ship or aircraft of the government of any country shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) Any reference in this Chapter to the national status of the father or mother of a person at the time of that person's birth shall, in relation to a person born after the death of either parent, be construed as a reference to the national status of the deceased parent at the time of that parent's death; and where that death occurred before the date of commencement of this Constitution, and the birth occurred on or after that date, the national status which that parent would have had if he or she had died on that date, shall be deemed to be his or her national status at the time of death.

CHAPTER V

SUPREME ORGANS OF DEMOCRATIC POWER

Supreme organs of democratic power. [14 of 2000]

50. The supreme organs of democratic power in Guyana shall be—

(i) the Parliament;
(ii) the President; and
(iii) the Cabinet.

CHAPTER VI

PARLIAMENT

Composition of Parliament

Establishment of Parliament.

51. There shall be a Parliament of Guyana, which shall consist of the President and the National Assembly..

Composition of the National Assembly. [4 of 2001]

52.(1) Subject to paragraph (2) and to articles 105, 185 and 186, the National Assembly shall consist of such number of members as shall be determined by the Assembly." who shall be elected in accordance with the provisions of this Constitution and, subject thereto, in accordance with any law made by Parliament in that behalf.

(2) If any person who is not a member of the National Assembly is elected to be Speaker of the National Assembly, he shall, by virtue of holding the office of Speaker, be a member of the Assembly in addition to the members aforesaid.

Qualifications for election as members.

53. Subject to article 155 (which relates to allegiance, insanity, and other matters) a person shall be qualified for election as a member of the National Assembly if, and shall not be so qualified unless, he —

(a) is a citizen of Guyana of the age of eighteen years or upwards; and

(b) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Assembly.

Tenure of seats of members of the National Assembly.

54. Members of the National Assembly shall vacate their seats in the Assembly in the circumstances set out in article 156.

First meeting of the National Assembly.

55. Whenever elections have been held pursuant to be provisions of article 61, the National Assembly shall hold its first meeting at the time appointed under article 69(1), and any reference in this Constitution to the National Assembly meeting for the first time after any election shall be read and construed as a reference to such first meeting.

Speaker and Deputy Speaker.

56. (1) When the National Assembly first meets after any election and before it proceeds to the despatch of any other business, it shall elect a person to be the Speaker of the Assembly; and if the office of Speaker falls vacant at any time before the next dissolution of Parliament, the Assembly shall, as soon as practicable, elect another person to that office.

(2) The Speaker may be elected either from among the members of the Assembly who are not Ministers or Parliamentary Secretaries or from among persons who are not members of the Assembly but are qualified for election as members.

(3) When the National Assembly first meets after any election and before it proceeds to the despatch of any other business except the election of the Speaker, the Assembly shall elect a member of the Assembly who is not a Minister or a Parliamentary Secretary to be Deputy Speaker of the Assembly; and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the Assembly shall, as soon as convenient, elect another such member to that office.

(4) A person shall vacate the office of Speaker or Deputy Speaker if required to do so by article 157 (which relates to loss of qualification for election as a member of the National Assembly and other matters).

Clerk and Deputy Clerk.

57. (1) There shall be a Clerk and a Deputy Clerk of the National Assembly, and appointments to those offices shall be made by the President acting in accordance with the advice of the Speaker.

(2) The tenure of office and terms of service of the Clerk and Deputy Clerk and other matters relating thereto shall be regulated by article 158.

Unqualified persons sitting or voting.

58. (1) Any person who sits or votes in the National Assembly, knowing or having reasonable ground for knowing that he is not entitled to do so, shall be liable to a penalty of ***two thousand seven hundred and fifty dollars*** for each day upon which he so sits or votes.

(2) Any such penalty shall be recoverable by civil action in the High Court at the suit of the Attorney General.

Elections

Qualifications and disqualifications for electors.

59. Subject to the provisions of article 159, every person may vote at an election if he is of the age of eighteen years or upwards and is either a citizen of Guyana or a Commonwealth citizen domiciled and resident in Guyana.

Electoral system. [14 of 2000].

60. (1) Election of members of the National Assembly shall be by secret ballot.

(2) Subject to the provisions of article 160(2), such number of members of the National Assembly as determined by the Assembly, shall be elected in accordance with the system of proportional representation prescribed by article 160(1).

Times for elections under article 60 (2).

61. An election of members of the National Assembly under article 60(2) shall be held on such day within three months after every dissolution of Parliament as the President shall appoint by proclamation:

Provided that no balloting commenced during the period of three months aforesaid, performed before the day so appointed and pursuant to which the votes of any person registered as electors are cast at the election, shall be deemed contrary to the requirements of this article by reason only that such balloting has been so performed.

Elections Commission.

62. Elections shall be independently supervised by the Elections Commission in accordance with the provisions of article 162.

Filling of casual vacancies.

63. Parliament may make provision for the filling of casual vacancies among the seats of members of the National Assembly and for other matters relating to election of members of the Assembly in accordance with the provisions of paragraphs (2) and (3) of article 160.

Determination of questions as to membership and elections.

64. All questions as to membership of the National Assembly shall be determined by the High Court in accordance with the provisions of article 163.

Powers and Procedure of Parliament

Legislative power.

65. (1) Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Guyana.

(2) The validity of any law made under this Constitution with effect from a date earlier than the day on which this Constitution commenced shall not be called in question in any court or tribunal on the ground that it contravenes, or is inconsistent with, any provision of any constitution which was in force in Guyana at any time before the day on which this Constitution commenced.

Alteration of this Constitution.

66. Subject to the special procedure set out in article 164, Parliament may alter this Constitution.

Attendance of the President in the National Assembly.

67. (1) The President may at any time attend and address the National Assembly.

(2) The President may send messages to the National Assembly and any such message shall be read, at the first convenient sitting of the Assembly after it is received, by the Prime Minister or by any other Minister designated by the President.

Regulation of procedure, etc.

68. All other matters concerning Parliament (including the procedure thereof) shall be regulated by the provisions of articles 165 to 172 (inclusive).

Summoning, Prorogation and Dissolution

Sessions of Parliament.

69. (1) Each session of Parliament shall be held at such place within Guyana and shall begin at such time (not being later than six months from the end of the preceding session if Parliament has been prorogued or four months from the end of that session if Parliament has been dissolved) as the President shall appoint by proclamation.

(2) Subject to the provisions of the preceding paragraph, the sittings of the National Assembly shall be held at such time and place as the Assembly may, by its rules of procedure or otherwise, determine.

Prorogation and dissolution of Parliament.

70. (1) The President may at any time by proclamation prorogue Parliament.

(2) The President may at any time by proclamation dissolve Parliament.

(3) Parliament, unless sooner dissolved, shall continue for five years from the date when the Assembly first meets after any dissolution and shall then stand dissolved.

(4) During any time when the President considers that Guyana is at war Parliament may from time to time extend the period of five years specified in the preceding paragraph by not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this paragraph by more than five years.

(5) If, after a dissolution and before the holding of an election of members of the Assembly, pursuant to the provisions of article 61, the President considers that owing to the existence of a state of war or of a state of emergency in Guyana or any part thereof, it is necessary to recall Parliament, the President shall summon the Parliament that has been dissolved to meet, but the election of members of the Assembly shall proceed and the Parliament that has been recalled shall, if not sooner dissolved, again stand dissolved on the day before the day on which the election is held.

CHAPTER VII

LOCAL DEMOCRACY

LOCAL DEMOCRATIC ORGANS

Local government.
[4 of 2001]

71. (1) Local government is a vital aspect of democracy and shall be organised so as to involve as many people as possible in the task of managing and developing the communities in which they live.

(2) For this purpose Parliament shall provide for the institution of a country-wide system of local government through the establishment of organs of local democratic power as an integral part of the political organisation of the State.

Local government areas.
[4 of 2001]

72. (1) Parliament may provide for the division of Guyana (save for any areas excluded by it) into ten regions and into such sub-regions and other subdivisions as it may deem fit for the purpose of organising local democratic organs.

(2) In defining the boundaries of any areas into which Guyana may be divided under paragraph (1) account shall be taken of the population, the physical size, the geographical characteristics, the economic resources and the existing and planned infrastructure of each area, as well as the possibilities of facilitating the most rational management and use of such resources and infrastructure, with a view to ensuring that the area is or has the potential for becoming economically viable.

(3) Municipalities, neighbourhood democratic councils and such other subdivisions shall be provided for under paragraph (1), including village and community councils, where there is the need for such councils and where the people request their establishment, shall be vital organs of local democratic power.

Election of members of regional councils.

73.(1) Members of a regional democratic council shall be elected by persons residing in the region and registered as electors for the purpose of article 159:

Provided that Parliament may make provision for any areas which do not form part of any region to be represented on the regional democratic council of any region near to which it is situate for such purposes as Parliament may prescribe.

(2) Elections of members of regional democratic councils shall be held and the councils shall be dissolved at such times as, subject to paragraph (3), the President may appoint by proclamation.

(3) The interval between any two successive dissolutions of a regional democratic council shall not exceed five years and four months:

Provided that, if at the expiration of that period the duration of Parliament has been extended under article 70(4), that period shall not be deemed to come to an end until the expiration of the period for which the duration of Parliament has been extended.

Lower tier of local government to be represented at the tier above.
[4 of 2001]..

73A. Each local democratic organ shall elect one of its councillors to serve as a member of the local democratic organ immediately above the first mentioned local democratic organ and Parliament shall prescribe the procedure for such election and such other matters as may be necessary in connection therewith.

Duties of local democratic organs.
[4 of 2001]

74.(1) It shall be the primary duty of local democratic organs to ensure in accordance with law the efficient management and development of their areas and to provide leadership by example.

(2) Local democratic organs shall organise popular co-operation in respect of the political, economic, cultural and social life of their areas and shall co-operate with the social organisations of the working people.

(3) It shall be the duty of local democratic organs to maintain and protect public property, improve working and living conditions, promote the social and cultural life of the people, raise the level of civic consciousness, preserve law and order, consolidate the rule of law and safeguard the rights of citizens.

Power to take decisions.
[4 of 2001]

75. Parliament shall provide that local democratic organs shall be autonomous and take decisions which are binding upon their agencies and institutions, and upon the communities and citizens of their areas.

Power to raise revenue.

76. Parliament may provide for regional democratic councils to raise their own revenues and to dispose of them for the benefit and welfare of their areas.

Regional development programme to be integrated into the national development plans.

77. The development programme of each region shall be integrated into the national development plans, and the Government shall allocate funds to each region to enable it to implement its development programme.

Parliament to provide criteria for allocation of resources by local democratic organs.
[4 of 2001].

77A. Parliament shall by law provide for the formulation and implementation of objective criteria for the purpose of the allocation of resources to, and the garnering of resources by local democratic organs

Local government elections.
[4 of 2001].

78. Parliament may make provision for the election of members of local democratic organs (including the commencement of balloting before the day appointed for holding an election) and for all other matters relating to their membership, powers, duties, functions and responsibilities.

Local Government Commission.
[4 of 2001].

78A. Parliament shall establish a Local Government Commission, the composition and rules of which empower the commission to deal with as it deems fit, all matters related to the regulation and staffing of local government organs and with dispute resolution within and between local government organs.

Representativeness and accountability of local democratic organs to the electorate.
[4 of 2001].

78B. The electoral system in respect of local democratic organs below the regional democratic councils shall provide for the involvement and representation of individuals and voluntary groups in addition to political parties and accountability to electors.

79--88. [Articles 79 to 88 repealed by Act No.14 of 2000].

CHAPTER IX

THE PRESIDENT

Establishment of office of President.

89. There shall be a President of the Co-operative Republic of Guyana, who shall be Head of State, the supreme executive authority, and Commander-in-Chief of the armed forces of the Republic.

Qualifications for election.
[17 of 2000]

90. (1) A person shall be qualified for election as President and shall not be so qualified unless he or she —

(a) is a citizen of Guyana and is Guyanese by birth or parentage as defined in articles 43 and 44;

(b) is residing in Guyana on the date of nomination for election and was continuously residing therein for a period of seven years immediately before that date; and

(c) is otherwise qualified to be elected as a member of the National Assembly.

(2) A person elected as President after the year 2000 is eligible for re-election only once.

(3) A person who acceded to the Presidency after the year 2000 and served therein on a single occasion for not less than such period as may be determined by the National assembly is eligible for election as President only once.

(4) In determining continuity of residence absence from Guyana to-

(a) seek medical help;

(b) study at a university or an institution of higher learning for not more than four years;

(c) work for the Government,

shall be disregarded.

Election of President.

91. The President shall be elected by the people in the manner prescribed by article 177.

Tenure of office of President.

92. A person assuming the office of President in accordance with the provisions of this Constitution shall, unless his office sooner becomes

vacant under article 178, continue in office until the person elected to the office of President at the next election held under article 91 assumes office.

Removal of President on grounds of incapacity.

93. The President may be removed from office if he becomes physically or mentally incapable of discharging the functions of his office. The procedure for removing him and for ensuring the continued discharge of the functions of his office is prescribed by article 179.

Removal of President for violation of Constitution or gross misconduct.

94. The President may be removed from office if he commits any violation of this Constitution or any gross misconduct. The procedure for removing him is prescribed by article 180.

Vacancy in office of President.

95. (1) During any period when the office of President is vacant the office shall be assumed by—

(a) the Prime Minister:

Provided that if the vacancy occurs while the Prime Minister is absent from Guyana or while he is by reason of physical or mental infirmity unable to perform the functions of his office, the functions of the office of President shall, until the Prime Minister returns or until he is again able to perform the functions of his office, as the case may be, be discharged by such other Minister, being an elected member of the National Assembly, as the Cabinet shall elect; or

(b) if there is no Prime Minister, by such Minister being an elected member of the National Assembly, as the Cabinet shall elect; or

(c) if there is no Prime Minister and no Cabinet, by the Chancellor.

(2) Any Minister performing the functions of the office of President by virtue of the proviso to paragraph (1)(a) shall cease to perform those functions if he is notified by the Prime Minister that the Prime Minister is about to assume the office of President.

(3) An assumption of the office of President under this article shall terminate, if it has not previously terminated, when a person who has been elected to the office in accordance with the provisions of article 177 assumes the office.

Discharge of functions of President during absence, illness, etc.

96. (1) Whenever the President is absent from Guyana or considers it desirable so to do by reason of illness or any other cause he may, by direction in writing, authorise any member of the Cabinet, being an elected member of the National Assembly, to perform such of the functions of the office of President as he may specify and the person so authorised shall perform those functions until his authority is revoked by the President or until the functions are resumed by the President.

(2) If the President is incapable by reason of physical or mental infirmity of discharging the functions of his office and the infirmity is of such a nature that the President is unable to authorise another person under this article to perform those functions—

(a) the Prime Minister; or

(b) during any period when there is no Prime Minister or the Prime Minister is absent from Guyana or is, by reason of physical or mental infirmity, unable to perform the functions of his office, such other Minister, being an elected member of the National Assembly, as the Cabinet shall elect; or

(c) if there is no Prime Minister and no Cabinet, the Chancellor,

shall perform the functions of the office of President:

Provided that any person performing the functions of the office of President under this paragraph shall not dissolve Parliament nor, save on the advice of the Cabinet, revoke any appointment made by the President.

(3) Any person performing the functions of the office of President by virtue of paragraph (2) shall cease to perform those functions if he is notified by the President that the President is about to resume those functions.

Oath to be taken by President.

97.(1) A person elected as President shall assume the office of President upon being elected but shall, before entering upon the duties of the office, take and subscribe the oath of office, such oath being administered by the Chancellor or such other Judge of the Supreme Court of Judicature as may be designated by the Chancellor.

(2) The provisions of the foregoing paragraph shall apply to any person assuming the office of President or performing the functions thereof under article 95, 96 or 179, as the case may be, as they apply to a person elected as President.

Remuneration, etc., of President.

98. The remuneration and immunities of the President shall be regulated by articles 181, 182 and 222.

CHAPTER X

THE EXECUTIVE

Executive authority of Guyana.

99. (1) The executive authority of Guyana shall be vested in the President and, subject to the provisions of this Constitution, may be exercised by him either directly or through officers subordinate to him.

(2) Nothing in this article shall prevent Parliament from conferring functions on persons or authorities other than the President.

Establishment of office of Prime Minister and other Ministerial offices.

100. Subject to the provisions of article 185, there shall be an office of Prime Minister and such offices of Vice-President and other offices of Minister of the Government of Guyana as may be established by Parliament or, subject to the provisions of any Act of Parliament, by the President.

The Prime Minister.
[17 of 2000]

101. (l) The President shall appoint an elected member of the National Assembly to be Prime Minister of Guyana:

Provided that a person who is not eligible to be elected as President shall not be eligible for appointment as Prime Minister.

(2) The Prime Minister shall be the principal assistant of the President in the discharge of his executive functions and leader of Government business in the National Assembly.

Vice-Presidents.

102. (1) The President may appoint Vice-Presidents for the purpose of assisting him in the discharge of his functions.

(2) If he is not otherwise the holder of an office of Vice-President, the person holding the office of Prime Minister shall, by virtue of holding that office, be a Vice-President, and he shall have precedence over any other Vice-President.

Ministers.
[17 of 2000]

103. (1) The Prime Minister and every other Vice-President shall be a Minister of the Government of Guyana.

(2) Subject to the provisions of article 101(1), Vice-Presidents and other Ministers shall be appointed by the President from among persons who are elected members of the National Assembly or subject to subparagraph (vii) of paragraph (3) (a) of article 160 are qualified to be elected as such members.

(3) Not more than four Ministers and two Parliamentary Secretaries shall be appointed by the President from among persons who are qualified to be elected as member of the National Assembly.

Ministerial appointments during dissolution.
[14 of 2000].

104. Articles 101(1) and 103(2) shall have effect in relation to any period between a dissolution of Parliament and the day on which the next election of members of the assembly is held pursuant to the provisions of article 61, as if Parliament had not been dissolved.

Non-elected Ministers to sit in Assembly.

105. A Minister who was not an elected member of the Assembly at the time of his appointment shall (unless he becomes such a member) be a member of the Assembly by virtue of holding the office of Minister but shall not vote in the Assembly.

The Cabinet
[17 of 2000]

106.(1) There shall be a Cabinet for Guyana, which shall consist of the President, the Prime Minister, the Vice-Presidents, and such other Ministers as may be appointed to it by the President.

(2) The Cabinet shall aid and advise the President in the general direction and control of the Government of Guyana and shall be collectively responsible therefor to Parliament.

(3) Cabinet Meetings shall be presided over by—

(a) the President;

(b) in the absence of the President, the Prime Minister; or

(c) in the absence of the President and the Prime Minister, such Minister as the President may designate.

(4) The Cabinet may act notwithstanding any vacancy in its membership or the absence of any member thereof.

(5) At the invitation of the President or of any person presiding at a meeting of the Cabinet, a Minister who is not a member of the Cabinet may attend that meeting and participate fully in the proceedings as if he were a member.

(6) The Cabinet including the President shall resign if the Government is defeated by the vote of a majority of all the elected members of the National Assembly on a vote of confidence.

(7) Notwithstanding its defeat, the Government shall remain in office and shall hold an election within three months, or such longer period as the National Assembly shall by resolution supported by not less than two-thirds of the votes of all the elected members of the National Assembly determine, and shall resign after the President takes the oath of office following the election.

Allocation portfolios [17 of 2000]

107. The President may assign to any Minister responsibility for any business of the Government of Guyana, including the administration of any department of Government, and shall be charged with all responsibility not assigned to any Minister; in respect of responsibility so charged, the President shall appoint a Minister or Parliamentary Secretary to be answerable to the National assembly therefor on his or her behalf:

Provided that authority to exercise any power or discharge any duty that is conferred or imposed by any other provision of this Constitution or by any other law on any person or authority shall not be conferred under this article.

Tenure of office of Ministers

108. The office of a Minister shall become vacant in the circumstances set out in article 183.

Minister's absence or illness

109. Whenever any Minister is absent from Guyana or is unable by reason of illness to perform his functions as Minister, the President may authorise some other Minister to perform those functions and that Minister may perform those functions until they are resumed by the first mentioned Minister or are assigned to another Minister pursuant to the provisions of article 107.

Leader of the Opposition. [2 of 2000].

110. (1) There shall be an office of Leader of the Opposition, election to which office shall be in accordance with article 184.

(2) Qualifications for election to the office of Leader of the Opposition and other matters connected therewith are regulated by article 184.

Exercise of President's powers.

111.(l) In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with his own deliberate judgment

except in cases where, by this Constitution or by any other law, he is required to act in accordance with the advice or on the recommendation of any person or authority.

(2) Where by this Constitution the President is directed to exercise any function on the advice or recommendation of any person or authority, he may, in accordance with his own deliberate judgment, once refer any such advice or recommendation back for reconsideration by the person or authority concerned, and if that person or authority, having reconsidered the original advice or recommendation, substitutes therefor a different advice or recommendation, as the case may be, the President shall act in accordance therewith; but save as aforesaid he shall act in accordance with the original advice or recommendation.

Attorney General

112. (1) There shall be an Attorney General of Guyana who shall be the principal legal adviser to the Government of Guyana and who shall be appointed by the President.

(2) Qualifications for appointment to the office of Attorney General and other matters connected therewith are regulated by article 185.

Parliamentary Secretaries.

113. (1) The President may appoint Parliamentary Secretaries to assist himself or Ministers in the discharge of their functions.

(2) Qualifications for appointment to the office of Parliamentary Secretary and other matters connected therewith are regulated by article 186.

Oaths of Ministers, etc.

114. Every Minister and Parliamentary Secretary shall, before entering upon the duties of his office, make and subscribe the oath of office.

Permanent Secretaries.

115. Where the President or any Minister has been charged with responsibility for any department of Government, he shall exercise general direction and control over that department and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall be a public office:

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

Director of Public Prosecutions.

116. (1) There shall be a Director of Public Prosecutions whose office shall be a public office.

(2) The functions of the Director of Public Prosecutions are set out in article 187.

Secretary to the Cabinet.

117. (1) There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) The Secretary to the Cabinet, who shall have charge of the Cabinet office, shall be responsible in accordance with such instructions as may be given him by the President, for arranging the business for, and keeping the minutes of, the Cabinet and for conveying the decisions of the Cabinet to

the appropriate person or authority and shall have such other functions as the President may direct.

Sub-committees of Cabinet.
[6 of 2001]

118. (1) Cabinet may establish sub-committees of itself for the purpose of attending to any of its responsibilities.

(2) Cabinet may in particular establish a finance sub-committee of itself to be assisted by experts and advisers, and charge it with responsibility for supervising the financial affairs of the State and for instituting, monitoring and enforcing systems of financial control and discipline throughout the service of both central and local government, including the service of corporations, boards and agencies established by the Government.

Standing committees.

119. Subject to any provision made by Parliament, the President may appoint standing committees consisting of such persons as he may deem fit for the purpose of reviewing or examining any aspect of national life and making recommendations or otherwise reporting thereon to the Government or to Parliament.

Parliamentary Standing Committee for Constitutional Reform
[8 of 2001].

119A. (1) The National Assembly shall establish a Parliamentary Standing Committee for Constitutional Reform for the purpose of continually reviewing the effectiveness of the working of the Constitution and making periodic reports thereon to the Assembly, with proposals for reform as necessary.

(2) To assist it in its work, the committee shall have power to co-opt experts or enlist the aid of other persons of appropriate expertise, whether or not such experts or other persons are members of the Assembly.

Parliamentary sectoral committee.
[8 of 2001].

119B. (1) There shall be parliamentary sectoral committees established by the National Assembly with responsibility for the scrutiny of all areas of Government policy and administration including -

(i) natural resources;
(ii) economic services;
(iii) foreign relations;
(iv) social services.

(2) The Chairperson and Deputy Chairperson of each parliamentary sectoral committee shall be elected from the opposite sides of the National Assembly.

Standing committee to address matters relating to appointment of members of Commissions established under the Constitution.
[8 of 2001].

119C. There shall be a standing committee of the National Assembly which shall have responsibility for initiating or otherwise taking such action or addressing such matters as may be entrusted to the Committee by the National Assembly in respect of functions required to be discharged by the Assembly under the Constitution in relation to the appointment of a member of a Commission established under the Constitution.

Constitution of offices.
[17 of 2000]

120. Subject to the provisions of this Constitution and of any other law, the President may constitute offices for Guyana, make and terminate appointments to such offices, save that where the constitution of, and making of appointments to, such offices involve expenditure chargeable to the Consolidated Fund, such expenditure shall be subject to the approval of the National Assembly.

Prerogative of Mercy.

121 The Prerogative of Mercy shall vest in the President and shall be exercised by him in accordance with the provisions of articles 188, 189 and 190.

Ombudsman.

122. (1) There shall be an Ombudsman for Guyana.

(2) All matters relating to the appointment and functions of the Ombudsman and other matters connected therewith are regulated by articles 191 to 196 (inclusive).

CHAPTER XI

THE JUDICATURE

The Supreme Court of Judicature

Independent judiciary.
[6 of 2001].

122A. (1) All courts and all persons presiding over the courts shall exercise their functions independently of the control and direction of any other person or authority; and shall be free and independent from political, executive and any other form of direction and control.

(2).Subject to the provisions of articles 199 and 201, all courts shall be administratively autonomous and shall be funded by a direct charge upon the Consolidated Fund; and such courts shall operate in accordance with the principles of sound financial and administrative management.

Establishment of Supreme Court of Judicature
[6 0f 2001]

123. (1) There shall be for Guyana a Supreme Court of Judicature consisting of a Court of Appeal and a High Court, with such jurisdiction and powers as are conferred on those Courts respectively by this Constitution or any other law.

(2) Each of those Courts shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

(3) Parliament may make confer on any court any part of the jurisdiction of and any powers conferred on the High Court by this Constitution or any other law.

(4) Parliament may make such provision as it deems fit authorising any court established, or to be established, as the final Court of Appeal for the Caribbean to be the final Court of Appeal for Guyana.

(5) Where a court referred to in paragraph (4) is established and becomes the final Court of Appeal for Guyana, such court shall remain the final Court of Appeal for Guyana, unless Parliament, by a vote of no less than two-thirds of all the elected members of the Assembly makes provision for Guyana to withdraw from such court.

Constitution of Court of Appeal..

124. The Judges of the Court of Appeal shall be the Chancellor, who shall be the President of the Court of Appeal, the Chief Justice and such number of Justices of Appeal as may be prescribed by Parliament.

Constitution of High Court.

125. The Judges of the High Court shall be the Chief Justice and such number of Puisne Judges as may be prescribed by Parliament.

Judges of the Supreme Court of Judicature

Interpretation [6 of 2001].

126. Except as otherwise expressly provided or required by the context, in this Constitution the word "Judge" includes the Chancellor, the Chief Justice, a Justice of Appeal, a Puisne Judge and a part-time Judge.

Appointment of Chancellor and Chief Justice [6 of 2001]

127.(1) The Chancellor and the Chief Justice shall each be appointed by the President acting after obtaining the agreement of the Leader of the Opposition.

(2) If the office of Chancellor or Chief Justice is vacant or if the person holding the office of Chancellor is performing the functions of the office of President or is for any other reason unable to perform the functions of his office, or if the person holding the office of Chief Justice is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of such office or until the person holding such office has resumed those functions, as the case may be, those functions shall be performed by such other of the Judges as shall be appointed by the President after meaningful consultation with the Leader of the Opposition.

Appointment of Justice of Appeal and Puisne Judges [6 of 2001]

128. (1) The Judges, other than the Chancellor and the Chief Justice, shall be appointed by the President, who shall act in accordance with the advice of the Judicial Service Commission.

(2) If—

(a) the office of any such Judge is vacant;

(b) any such Judge is for any reason unable to perform the functions of his office;

(c) any such Judge is acting as Chancellor or Chief Justice or a Puisne Judge is acting as a Justice of Appeal; or

(d) the Chancellor advises the President that the state of business of the Court of Appeal or the High Court so requires,

the President, shall act in accordance with the advice of the Judicial Service Commission, and may appoint a person to act in the office of Justice of Appeal or Puisne Judge, as the case may require.

(3) The appointment of any person under the preceding paragraph to act in the office of a Justice of Appeal or Puisne Judge shall continue to have effect until it is revoked by the President, acting in accordance with the advice of the Judicial Service Commission.

Appointment of part-time Judges.
[6 of 2001]

128A. (1) Part-time Judges may be appointed by the President, who shall act in accordance with the advice of the Judicial Service Commission.

(2) Parliament may by law determine the terms and conditions of appointment of part-time Judges.

Qualifications of Judges.

129. (1) A person shall not be qualified to be appointed to hold or to act in the office of a Judge unless—

(a) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or

(b) he is qualified for admission as an attorney-at-law in Guyana and has been so qualified for such period as may be prescribed by Parliament.

(2) Parliament may prescribe different periods under subparagraph (b) of the preceding paragraph in relation to the offices of the different Judges mentioned in article 126.

Attendance of additional Judge in Court of Appeal and High Court.

130. (1) Parliament may make provision for the exercise of—

(a) the jurisdiction and powers of a Justice of Appeal by such Puisne Judge as may be requested by the Chancellor to sit as an additional Justice of Appeal at sittings of the Court of Appeal; and

(b) the jurisdiction and powers of a Puisne Judge by such Justice of Appeal as may be requested by the Chancellor to sit as an additional Puisne Judge.

(2) Article 132 shall not apply to a Justice of Appeal or a Puisne Judge in the carrying out by him of any function pursuant to paragraph (1).

Tenure of office of Judges.

131. Judges shall have full security of office as provided for in article 197.

Oaths of Judges.

132. A Judge shall not enter upon the duties of his office unless he has taken and subscribed the oath of office.

Appeals

Appeals on constitutional questions and fundamental rights.

133. (1) An appeal to the Court of Appeal shall lie as of right from decisions of the High Court in the following cases, that is to say—

(a) final decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution; and

(b) final decisions given in exercise of the jurisdiction conferred on the High Court by article 153 (which relates to the enforcement of fundamental rights and freedoms).

(2) Nothing in paragraph (1) shall apply to the matters for which provision is made by article 163.

CHAPTER XIl

THE SERVICE COMMISSIONS

The Judicial Service Commission.

134. (1) There shall be a Judicial Service Commission for Guyana.

(2) The composition and functions of the Judicial Service Commission are set out in articles 198 and 199.

The Public Service Commission.

135. (1) There shall be a Public Service Commission for Guyana.

(2) The composition and functions of the Public Service Commission are set out in articles 200 to 205 (inclusive).

The Teaching Service Commission.

136. (1) There shall be a Teaching Service Commission for Guyana.

(2) The composition and functions of the Teaching Service Commission are set out in articles 207, 208 and 209.

The Police Service Commission.

137. (1) There shall be a Police Service Commission for Guyana.

(2) The composition and functions of the Police Service Commission are set out in articles 210, 211 and 212.

PART 2

SPECIFIC RULES

TITLE 1

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Protection of right to life.
[10 of 2003]

138. (1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of an offence under the law of Guyana of which he has been convicted.

(1A). No person who was under the age of eighteen years at the time when he or she committed an offence, for which that person had pleaded or was found guilty, shall be subject to capital punishment for the commission of that offence.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this article if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case—

(a) for the defence of any person from violence or for the defence of property;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c) for the purpose of suppressing a riot, insurrection or mutiny; or

(d) in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war.

Protection of right to personal liberty. [10 of 2003].

139. (1) No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases, that is to say—

(a) in execution of the sentence or order of a court, whether established for Guyana or some other country, in respect of a criminal offence of which he has been convicted;

(b) in execution of an order of the High Court or the Court of Appeal or such other court as may be prescribed by Parliament punishing him for contempt of any such court or of another court or tribunal;

(c) in execution of the order of a court made to secure the fulfilment of an obligation imposed on him by law;

(d) for the purpose of bringing him before a court in execution of the order of a court;

(e) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of Guyana;

(f) in the case of a person who has not attained the age of eighteen years, under the order of a court or with the consent of his parent or guardian, for the purpose of his education or welfare;

(g) for the purpose of preventing the spread of an infectious or contagious disease;

(h) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community;

(i) for the purpose of preventing the unlawful entry of that person into Guyana, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Guyana or for the purpose of restricting that person while he is being conveyed through Guyana in the course of his extradition or removal as a convicted prisoner from one country to another;

(j) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Guyana or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person with a view to the making of any such order or relating to such an order after it has been made or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Guyana in which, in consequence of any such order, his presence would otherwise be unlawful;

(k) subject to the provisions of the next following paragraph, for the purposes of his preventive detention;

(l) for the purpose of his being called up for national service.

(2) (a) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless a tribunal established for the purposes of this paragraph has reported before the expiration of the said period of three months that there is, in its opinion, sufficient cause for such detention.

(b) The references in subparagraph (a) to a period of three months include references to any lesser periods that amount in the aggregate to three months:

Provided that no two such lesser periods shall be aggregated for this purpose if the period between the expiration of the first and the commencement of the second is more than one month.

(c) A person who has been detained by virtue of the provisions of any law providing for preventive detention and who has been released from detention in consequence of a report of a tribunal established for the purposes of this paragraph that there is, in its opinion, insufficient cause for his detention shall not be again detained by virtue of such provisions within the period of six months from his release on the same grounds as he was originally detained.

(d) For the purposes of subparagraph (c) a person shall be deemed to have been detained on the same grounds as he was originally detained unless a tribunal established as aforesaid has reported that, in its opinion, there appear, *prima faci*e, to be new and reasonable grounds for the detention (but the giving of any such report shall be without prejudice to the provisions of subparagraph (a)).

(e) A tribunal established for the purposes of this paragraph shall be established by law and shall consist of persons who are Judges of the Supreme Court of Judicature or who are qualified to be appointed as Puisne Judges of the High Court.

(3) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language that he understands, of the reasons for his arrest or detention and shall be permitted, at his own expense, to retain

and instruct without delay a legal adviser of his own choice, being a person entitled to practice in Guyana as an attorney-at-law, and to hold communication with him.

(4) Any person who is arrested or detained—

(a) for the purpose of bringing him before a court in execution of the order of a court; or

(b) upon reasonable suspicion of his having committed or being about to commit a criminal offence,

and who is not released, shall be brought before a court within seventy-two hours of arrest or detention, but the police may apply to the High Court for extensions of time; and if any person arrested or detained upon reasonable suspicion of his having committed, or being about to commit a criminal offence, is not tried within a reasonable time, then, without prejudice to any further proceedings which may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(5) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person.

(6) Nothing in the provisions of paragraphs (3) and (4) shall apply to any person arrested or detained by virtue of the provisions of any law providing for preventive detention except in so far as the provisions of the said paragraph (3) require that he shall be permitted to retain and instruct a legal adviser and to hold communication with him.

Protection from slavery and forced labour.

140. (1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this article, the expression "forced labour" does not include—

(a) any labour required in consequence of the sentence or order of a court;

(b) any labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;

(c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that person is required by law to perform in place of such service; or

(d) any labour required during any period when Guyana is at war or in the event of any hurricane, earthquake, flood, fire or other like calamity that threatens the life or well-being of the community to

the extent that the requiring of such labour is reasonably justifiable, in the circumstances of any situation arising or existing during that period or as a result of that calamity, for the purpose of dealing with that situation.

Protection from inhuman treatment.

141. (1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question authorises the infliction of any punishment or the administration of any treatment that was lawful in Guyana immediately before the commencement of this Constitution.

Protection from deprivation of property.
[9 of 1984; 1 of 1988; 23 of 1990; 10 of 2003]

142. (1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except by or under the authority of a written law and where provision applying to that taking of possession or acquisition is made by a written law requiring the prompt payment of adequate compensation.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of the preceding paragraph—

(a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property—

(i) in satisfaction of any tax, duty, rate, cess or other impost;

(ii) by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence under the law of Guyana;

(iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge, contract, grant, permission or licence;

(iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;

(v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or injurious to the health of human beings, animals or plants;

(vi) in consequence of any law with respect to the limitation of actions;

(vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement;

(viii) which is not beneficially occupied or which, if it is beneficially occupied, is not so occupied by the holder of the title to the land or by any member of his family; or

(ix) in consequence of any law requiring an employer to remunerate his employee during any period of compulsory national service which the employee has undertaken; or

(b) to the extent that the law in question makes provision for the taking of possession or acquisition of—

(i) property of the Amerindians of Guyana for the purpose of its care, protection and management or any right, title or interest held by any person in or over any lands situate in an Amerindian District, Area or Village established under the Amerindian Act for the purpose of effecting the termination or transfer thereof for the benefit of an Amerindian community;

(ii) enemy property;

(iii) property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;

(iv) property of a person adjudged insolvent or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the insolvent person or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property;

(v) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust; or

(vi) property to be used by the State for the purpose of providing, maintaining and managing any place of education, where the property was being used as a place of education at any time during 1976 and prior to the coming into operation of the law in question.

(3) Nothing in this article shall be construed as affecting the making or operation of any law—

(i) so far as it provides for the orderly marketing or production or growth or extraction of any agricultural product or mineral or any article or thing prepared for market or manufactured therefor or for the reasonable restriction of the use of any property in the interest of safeguarding the interests of others or the protection of tenants, licensees or others having rights in or over such property;

(ii) so far as it provides for the making of contributions compulsorily by workers to any industrial scheme or workers' organisation intended to work or provide for the

benefit or welfare of such workers or of their fellow workers or of any relatives and dependants of any of them;

(iia) so far as it provides for the regulation of wages, that is, any money or other thing had or contracted to be paid, delivered or given as recompense, reward or remuneration for any work, labour or service done or to be done, whether such provision is made prospectively or retrospectively, including retrospectively with effect from a day earlier than the day fixed for the coming into operation of this Constitution; or

(iii) for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate established directly by law for public purposes in which moneys provided by Parliament or by any Legislature previously established for the territory of Guyana have been invested.

(4) In paragraph (3)(iia)—

(a) "regulation" includes fixation, stabilisation, freezing or reduction;
(b) "wages" includes merit increment or other increment in wages.

Protection against arbitrary search or entry.

143. (1) Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision—

(a) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town or country planning, the development or utilisation of mineral resources, or the development or utilisation of any other property in such manner as to promote the public benefit;

(b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

(c) that authorises an officer or agent of the Government of Guyana, or of a local democratic organ or of a body corporate established directly by law for public purposes to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, duty, rate, cess or other impost or in order to carry out work connected with any property that is lawfully on those premises and that belongs to that Government, local democratic organ or body corporate, as the case may be, or for the purpose of obtaining or verifying information required for compiling national statistics or required for the purposes of planning, management and development of the national economy; or

(d) that authorises, for the purpose of enforcing the judgment or order of a court in any proceedings, the entry upon any premises by order of a court.

Provisions to secure protection of law.

144. (1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) It shall be the duty of a court to ascertain the truth in every case provided that every person who is charged with a criminal offence—

(a) shall be presumed to be innocent until he is proved or has pleaded guilty;

(b) shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged;

(c) shall be given adequate time and facilities for the preparation of his defence;

(d) shall be permitted to defend himself before the court in person or by a legal representative of his own choice;

(e) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

(f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge,

and, except with his consent, the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence or he fails without reasonable excuse (the proof whereof shall lie on him) to attend court.

(3) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is more severe in degree or nature than the most severe penalty that might have been imposed for that offence at the time when it was committed.

(5) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he shows that he has been granted a pardon for that offence.

(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(8) Any court or other tribunal prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other tribunal, the case shall be given a fair hearing within a reasonable time.

(9) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other tribunal, including the announcement of the decision of the court or other tribunal, shall be held in public.

(10) Nothing in the preceding paragraph shall prevent the court or other tribunal from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court or other tribunal—

(a) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of decency, public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or

(b) may by law be empowered or required so to do in the interests of defence, public safety or public order.

(11) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of—

(a) paragraph (2)(a) to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

(b) paragraph (2)(e) to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or

(c) paragraph (5) to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of

that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall, in sentencing him to any punishment, take into account any punishment awarded him under that disciplinary law.

(12) In the case of any person who is held in lawful detention, the provisions of paragraph (l), paragraph (2)(d) and (e) and paragraph (3) shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(13) Nothing contained in paragraph (2)(d) shall be construed as entitling a person to legal representation at public expense but, subject thereto, it shall be the duty of the State to ensure that every person charged with a criminal offence is given a fair trial and accordingly to make provision for legal aid to be given in suitable cases.

(14) In this article "criminal offence" means a criminal offence under the law of Guyana.

Protection of freedom of conscience.

145. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this article the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) No religious community shall be prevented from providing religious instruction for persons of that community.

(3) Except with his own consent (or, if he is a person who has not attained the age of eighteen years, the consent of his guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion which is not his own.

(4) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision—

(a) which is reasonably required—

(i) in the interests of defence, public safety, public order, public morality or public health; or

(ii) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practice

any religion without the unsolicited intervention of members of any other religion; or

(iii) with respect to standards or qualifications to be required in relation to places of education including any instruction (not being religious instruction) given at such places.

(6) References in this article to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

Protection of freedom of expression. [**4** of 2001]

146. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision—

(a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;

(b) that is reasonably required for the purpose of protecting the reputations, rights, and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting or television, or ensuring fairness and balance in the dissemination of information to the public; or

(c) that imposes restrictions upon public officers or officers of any corporate body established on behalf of the public or owned by or on behalf of the Government of Guyana;

(d) that imposes restrictions upon any person, institution, body, authority or political party from taking any action or advancing, disseminating or supporting any idea, which may result in racial or ethnic divisions among the people of Guyana.

(3) Freedom of expression in this article does not relate to hate speeches or other expressions, in whatever form, capable of exciting hostility or ill-will against any person or class of persons.

Protection of freedom of assembly, association and demonstration.

147. (1) Except with his or her own consent, no person shall be hindered in the enjoyment of his or her freedom of assembly and association, that is to say, his or her right to assemble freely, to demonstrate peacefully and to associate with other persons and in particular to form or belong to political parties, trade unions or other associations for the protection of his or her interests.

(2) Except with his or her own consent, no person shall be hindered in the enjoyment of his or her freedom to strike.

(3) Neither an employer nor a trade union shall be deprived of the right to enter into collective agreement.

(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision—

(a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;

(b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

(c) that imposes restrictions upon public officers; or

(d) that imposes an obligation on workers to become contributors to any industrial scheme or workers' organisation intended to operate or provide for the benefit or welfare of such workers or of their fellow workers or of any relatives and dependants of any of them.

Protection of freedom of movement.

148. (1) No person shall be deprived of his freedom of movement, that is to say, the right to move freely throughout Guyana, the right to reside in any part of Guyana, the right to enter Guyana, the right to leave Guyana and immunity from expulsion from Guyana.

(2) Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this article.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision—

(a) for the imposition of restrictions on the movement or residence within Guyana of any person or on any person's right to leave Guyana that are reasonably required in the interests of defence, public safety or public order or for the purpose of preventing the subversion of democratic institutions in Guyana;

(b) for the imposition of restrictions on the movement or residence within Guyana or on the right to leave Guyana of persons generally or any class of persons that are reasonably required in the interests of defence, public safety, public order, public morality or public health or for the purpose of preventing the subversion of democratic institutions in Guyana;

(c) for the imposition of restrictions on the acquisition or use of land or other property in Guyana;

(d) for the imposition of restrictions, by order of a court, on the movement or residence within Guyana of any person or on any

person's right to leave Guyana either in consequence of his having been found guilty of a criminal offence under the law of Guyana or for the purpose of ensuring that he appears before a court at a later date for trial for such a criminal offence or for proceedings preliminary to trial or for proceedings relating to his extradition or lawful removal from Guyana;

(e) for the imposition of restrictions on the freedom of movement of persons who are not citizens of Guyana;

(f) for the imposition of restrictions upon the movement or residence within Guyana or on the right to leave Guyana of public officers;

(g) for the removal of persons from Guyana—

(i) to be tried or punished in some other country for a criminal offence under the law of that country; or

(ii) to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law of Guyana of which he has been convicted; or

(iii) to be detained in an institution in some other country for the purpose of giving effect to the order of a court made in pursuance of a law of Guyana relating to the treatment of offenders under a specified age; or

(iv) to be detained for care or treatment in a hospital or other institution in pursuance of a law of Guyana relating to persons suffering from defect or disease of the mind; or

(h) for the imposition of restrictions on the right of any person to leave Guyana that are reasonably required in order to secure the fulfilment of any obligations imposed on that person by law.

(4) The provisions of article 151 shall apply in relation to a person whose freedom of movement is restricted by virtue of such a provision as is referred to in paragraph (3)(a) as they apply in relation to a person whose freedom of movement is restricted by virtue of such a provision as is referred to in article 150(2).

Protection from discrimination on the grounds of race, etc. [10 of 2003].

149. (1) Subject to the provisions of this article—

(a) no law shall make any provision that is discriminatory either of itself or in its effect; and

(b) no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(2) In this article the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their or their parents' or guardians' respective descriptions by race, place of origin, political opinions, colour, creed, age, disability, marital status, sex, gender,

language, birth, social class, pregnancy, religion, conscience, belief or culture, whereby persons of one such description are subjected to disabilities or restrictions to which other persons of the same or another such description are not made subject or are accorded privileges or advantages which are not afforded to other persons of the same or another such description.

(3) Paragraph (1)(a) shal1 not apply to any law so far as that law makes provision—

(a) with respect to persons who are not citizens of Guyana;

(b) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law; or

(c) whereby persons of any such description as is mentioned in the preceding paragraph may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable.

(4) Nothing contained in any law shall be held to be inconsistent with or in contravention of paragraph (l)(a) to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to a person's or his or her parents' or guardians' respective description by race, place of origin, political opinions, colour, creed, age, disability, marital status, sex, gender, language, birth, social class, pregnancy, religion, conscience, belief or culture) to be required of any person who is appointed to any office in the public service, any office in a disciplined force, or any office in the service of a local democratic organ or of a body corporate established by any law for public purposes.

(5) Paragraph (1)(b) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in either of the two preceding paragraphs.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision—

(a) whereby persons of any such description as is mentioned in paragraph (2) may be subjected to any restriction on the rights and freedoms guaranteed by articles 143, 145, 146, 147 and 148, being such a restriction as is authorised by article 143(2), article 145(5), article 146(2), article 147(2), or article 148(3), other than subparagraph (c) thereof, as the case may be;

(b) for the appropriation of revenue or other funds of Guyana; or

(c) for the protection, well-being or advancement of the Amerindians of Guyana.

(7) Paragraph (l)(b) shall not affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

Right to work.
[10 of 2003]

149A. No person shall be hindered in the enjoyment of his or her right to work, that is to say, the right to free choice of employment.

Right to pension and gratuity..
[10 of 2003]

149B. Every public sector worker shall enjoy an absolute and enforceable right to any pension or gratuity granted to him or her under the provision of any law or collective agreement of any kind whatsoever.

Right to participate in decision-making process of the State.
[10 of 2003]

149C. No person shall be hindered in the enjoyment of participating through co-operatives, trade unions, civic or socio-economic organisatioins of a national character, in the management and decision-making processes of the State.

Equality of persons before the law.
[10 of 2003]

149D. (1) The State shall not deny to any person equality before the law or equal protection and benefit of the law.

(2) The State shall, for the purpose of promoting equality, take legislative and other measures designed to protect disadvantaged persons and persons with disabilities.

(3) Equality includes the full and equal enjoyment of all rights and freedoms guaranteed by or under this Constitution or any other law.

Equality of status.
[10 of 2003]

149E. (1) All persons, whether born in or out of wedlock, and whether born prior to the enactment of this article or not, are born equal, have equal status and are entitled to equal rights.

(2) Nothing contained in paragraph (1) shall be taken to affect vested rights.

Equality for women.
[10 of 2003]

149F. (1) Every woman is entitled to equal rights and status with men in all spheres of political, economic and social life. All forms of discrimination against women on the basis of gender or sex are illegal.

(2) Every woman is entitled to equal access with men to academic, vocational and professional training, equal opportunities in employment, remuneration and promotion and in social, political and cultural activity.

Indigenous people's rights.
[10 of 2003]

149G. Indigenous people shall have the right to the protection, preservation and promulgation of their languages, cultural heritage and way of life.

Right to free education.
[10 of 2003]

149H. (1) Every child is entitled to free primary and secondary education in schools owned or funded by the State.

(2) The right conferred in paragraph (1) does not imply a right to free education at a specific school.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of paragraph (1) to the extent that

the law in question makes provision for standards or qualifications, not being standards or qualifications which are discriminatory within the meaning of article 149(2), to be required for admission to a specific school.

Right to establish private schools. . [10 of 2003]

149I. No person shall be hindered in the enjoyment of the right to establish a private school which shall be under regulation by the State.

Right to free education. [10 of 2003]

149J. (1) Everyone has the right to an environment that is not harmful to his or her health or well-being.

(2) The State shall protect the environment for the benefit of present and future generations, through reasonable legislative and other measures designed to –

(a) prevent pollution and ecological degradation;

(b) promote conservation; and

(c) secure sustainable development and use of natural resources while promoting justifiable economic and social development.

(3) It shall not be an infringement of a person's rights under paragraph (1) if, by reason only of an allergic condition or other peculiarity, the environment is harmful to that person's health or well-being.

Provisions for time of war or emergency.

150. (1) This article applies to any period when –

(a) Guyana is at war; or

(b) there is in force a proclamation (in this article referred to as a "proclamation of emergency") made by the President declaring that a state of public emergency exists for the purposes of this article; or

(c) there is in force a resolution of the National Assembly, in favour of which there were cast the votes of not fewer than two-thirds of all the elected members, declaring that democratic institutions in Guyana are threatened by subversion.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of articles 139, 140(2) or 143, any provision of article 144 other than paragraph (4) thereof, or any provision of articles 145 to 149 (inclusive) to the extent that the law in question makes in relation to any period to which this article applies provision, or authorizes the doing during any such period of anything, which is reasonably justifiable in the circumstances of any situation arising or existing during that period for the purpose of dealing with that situation.

(3) (a) Where any proclamation of emergency has been made, copies thereof shall as soon as practicable be laid before the National Assembly, and if, by reason of its adjournment or the prorogation of Parliament, the Assembly is not due to meet within five days the President shall, by proclamation, summon the Assembly to meet within five days, and the Assembly shall

accordingly meet and sit upon the day appointed by the proclamation and shall continue to sit and act as if it had stood adjourned or Parliament had stood prorogued to that day.

(b) A proclamation of emergency shall, unless it is sooner revoked by the President, cease to be in force at the expiration of a period of fourteen days beginning on the date on which it was made or such longer period as may be provided under the next following subparagraph, but without prejudice to the making of another proclamation of emergency at or before the end of that period.

(c) If at any time while a proclamation of emergency is in force (including any time while it is in force by virtue of the provisions of this subparagraph) a resolution is passed by the Assembly approving its continuance in force for a further period, not exceeding six months, beginning on the date on which it would otherwise expire, the proclamation shall, if not sooner revoked, continue in force for that further period.

(4) A resolution such as is referred to in paragraph (1)(c) shall, unless it is sooner revoked by a resolution of the Assembly, cease to be in force at the expiration of two years beginning on the date on which it was passed or such shorter period as may be specified therein, but without prejudice to the passing of another resolution by the Assembly in the manner prescribed by that paragraph at or before the end of that period.

Reference to tribunal in certain cases.

151. (1) Where any person is lawfully detained by virtue of such a provision as is referred to in article 150(2), or the movement or residence within Guyana of any person or any person's right to leave Guyana is (otherwise than by order of a court) lawfully restricted by virtue of such a provision as aforesaid, his case shall be reviewed by a tribunal established for the purposes of this article not later than three months from the commencement of the detention or restriction and thereafter not later than six months from the date on which his case was last reviewed as aforesaid.

(2) On any review by a tribunal in pursuance of the preceding paragraph of the case of any person the tribunal may make recommendations concerning the necessity or expedience of continuing the detention or restriction to the authority by whom it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendation.

(3) A tribunal established for the purpose of this article shall be so established by law and constituted in such manner as to secure its independence and impartiality and presided over by a person appointed by the Chancellor from among persons entitled to practise in Guyana as attorneys-at-law.

Saving of existing laws and disciplinary laws.

152. (1) Except in proceedings commenced before the expiration of a period of six months from the commencement of this Constitution, with respect to a law made under the Guyana Independence Order 1966 and the Constitution annexed thereto, nothing contained in or done under the authority of any

written law shall be held to be inconsistent with or in contravention of any provision of articles 138 to 149 (inclusive) to the extent that the law in question—

(a) is a law (in this article referred to as "an existing law") that had effect as part of the law of Guyana immediately before the commencement of this Constitution, and has continued to have effect as part of the law of Guyana at all times since that day;

(b) repeals and re-enacts an existing law without alteration; or

(c) alters an existing law and does not thereby render that law inconsistent with any provision of the said articles 138 to 149 in a manner in which, or to an extent to which, it was not previously so inconsistent.

(2) In subparagraph (c) of the preceding paragraph the reference to altering an existing law includes references to repealing it and re-enacting it with modifications or making different provisions in lieu thereof, and to modifying it; and in the preceding paragraph "written law" includes any instrument having the force of law and in this and the preceding paragraph references to the repeal and re-enactment of an existing law shall be construed accordingly.

(3) In relation to any person who is a member of a disciplined force raised under a law in force in Guyana, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Title, other than articles 138, 140 and 141.

(4) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in Guyana, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Title.

Enforcement of protective provisions. [6 of 2001]

153. (1) Subject to the provisions of paragraph (6), if any person, including a person acting on behalf of another who is not acting in his or her own name, or a person acting on behalf of a group or an association acting on behalf of its members, alleges that any of the provisions of articles 138 to 151 (inclusive) has been, is being, or is likely to be contravened in relation to him or her (or in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person) then, without prejudice to any other action with respect to the same matter which is lawfully available, that person or association (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction—

(a) to hear and determine any application made by any person in pursuance of the preceding paragraph;

(b) to determine any question arising in the case of any person which is referred to it in pursuance of the next following paragraph,

and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of articles 138 to 151 (inclusive).

(3) If in any proceedings in any court subordinate to the High Court any question arises as to the contravention of any of the provisions of articles 138 to 151 (inclusive), the person presiding in that court shall refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(4) Where any question is referred to the High Court in pursuance of paragraph (3), the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or if that decision is the subject of an appeal under this Constitution to the Court of Appeal, in accordance with the decision of the Court of Appeal.

(5) Parliament may confer upon the High Court such powers in addition to those conferred by this article as may appear to Parliament to be necessary or desirable for the purpose of enabling the High Court more effectively to exercise the jurisdiction conferred upon it by this article.

(6) Parliament may make provision with respect to the practice and procedure—

(a) of the High Court in relation to the jurisdiction and powers conferred upon it by or under this article;

(b) of the High Court and the Court of Appeal in relation to appeals to the Court of Appeal from decisions of the High Court in the exercise of such jurisdiction;

(c) of subordinate courts in relation to references to the High Court under paragraph (3),

including provision with respect to the time within which any application, reference or appeal shall or may be made or brought; and, subject to any provision so made, provision may be made with respect to the matters aforesaid by rules of court.

Interpretation.

154. In this Title, unless the context otherwise requires—

"contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law having jurisdiction in Guyana other than a court established by a disciplinary law and, in articles 138 and 140, a court established by a disciplinary law;

"disciplinary law" means a law regulating the discipline of any disciplined force;

"disciplined force" means—

(a) any group of persons functioning whether wholly or partially as a naval, military, para-military or air force;

(b) a police force:

(c) a prison service; or

(d) a fire service;

"legal representative", in relation to any court or other tribunal means a person entitled to practise as an attorney-at-law before such court or tribunal;

"member", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline; and

"national service" means service in any disciplined force a principal purpose of which is the training of people with a view to advancing the economic development of Guyana.

TITLE IA

PROTECTION OF HUMAN RIGHTS

Protection of human rights.
[10 of 2003]
Fourth Schedule.

154A. (1) Subject to paragraphs (3) and (6), every person, as contemplated by the respective international treaties set out in the Fourth Schedule to which Guyana has acceded is entitled to the human rights enshrined in the said international treaties, and such rights shall be respected and upheld by the executive, legislature, judiciary, and all organs and agencies of Government and, where applicable to them, by all natural and legal persons and shall be enforceable in the manner hereinafter prescribed.

(2) The rights referred to in paragraph (1) do not include any fundamental right under this Constitution.

(3) The State shall, having regard to the socio-cultural level of development of the society, take reasonable legislative and other measures within its available resources to achieve the progressive realization of the rights provided for in paragraph (1).

(4) If any person alleges that any of the rights referred to in paragraph (1), has been, is being or is about to be contravened in relation to him or her, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Human Rights Commission in such manner as the Commission may prescribe, for redress.

(5) Nothing contained in this article shall be construed so as to abrogate any human right, not enumerated herein, which a person had at the time of the commencement of this article.

Fourth Schedule.

(6) The State may divest itself or otherwise limit the extent of its obligation under any of the treaties listed in the Fourth Schedule, provided that two-thirds of the elected members of the National Assembly have voted in favour of such divestment or limitation.

TITLE 2

PARLIAMENT

Disqualifications for election as members. [14 of 2000]

155. (1) No person shall be qualified for election as a member of the National Assembly who—

(a) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state;

(b) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Guyana;

(c) is under sentence of death imposed on him by a court, or is serving a sentence of imprisonment (by whatever name called) exceeding six months imposed on him by a court or substituted by competent authority for some other sentence imposed on him by a court, or is under such a sentence of imprisonment the execution of which has been suspended; or

(d) holds or is acting in the office of any Judge of the Supreme Court of Judicature, a member of the Public Service Appellate Tribunal, the Elections Commission, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission or the Police Service Commission, the Director of Public Prosecutions, the Ombudsman or the Auditor General.

(2)-(5) [Paragraphs (2), (3), (4) and (5) repealed by Act No. 14 of 2000].

(6) Without prejudice to the provisions of paragraph (1), Parliament may provide that a person shall not be qualified for election as a member of the National Assembly in any of the following cases, that is to say—

(a) if he holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connection with, the conduct of an election or the compilation or revision of any register of electors for the purposes of an election;

(b) subject to any exceptions and limitations prescribed by Parliament, if he has any such interest in any such Government contract, as may be so prescribed;

(c) subject as aforesaid, if—

(i) he holds or is acting in or performing the functions of any office or appointment prescribed by Parliament either individually or by reference to a class of office or appointment;

(ii) he belongs to any armed force of Guyana or to any class of persons that is comprised in any such force; or

(iii) he belongs to any police force of Guyana or to any class of persons that is comprised in any such force;

(d) if, during such period (not exceeding five years) preceding the election day as may be prescribed by Parliament, he—

(i) has been convicted by a court of an offence relating to excitement of hostility or ill-will against any person or class of persons on the grounds of his or their race; or

(ii) has been convicted by a court of any offence connected with an election that is so prescribed or has been reported guilty of such an offence by the High Court in proceedings under article 163:

Provided that Parliament may empower the court to exempt a person from disqualification for election on account of such a conviction or report if the court deems it just so to do.

(7) For the purposes of paragraph (1) (c)—

(a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months, but if any one of those sentences exceeds that term they shall be regarded as one sentence; and

(b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

(8) In paragraph (6)(b) "Government contract" means any contract made with the Government of Guyana or with a department of that Government or with an officer of that Government contracting as such.

Tenure of seats of members of the National Assembly [14 of 2000]

156.(1) A member of the National Assembly shall vacate his seat therein—

(a) if he resigns it by writing under his hand addressed to the Speaker or, if the office of Speaker is vacant or the Speaker is absent from Guyana, to the Deputy Speaker:

Provided that, if the President certifies that the member had resigned for the purpose of giving further service to the public, the member, if otherwise qualified, shall be eligible to be re-elected to the Assembly in accordance with any provision made under article 63;

(b) if he is absent from the sittings of the Assembly for such period, and in such circumstances, as may be prescribed in the rules of procedure of the Assembly;

(c) if he ceases to be a citizen of Guyana;

(d) subject to the next following paragraph if any circumstances arise that, if he were not a member of the Assembly, would cause him to be disqualified for election as a member thereof by virtue of the preceding article or of any law enacted in pursuance thereof;

(e) in the circumstances and to the extent set out in article 178(4);

(f) in the case of a member who has been elected pursuant to the provisions of article 61 or article 160(2) whenever Parliament is dissolved;

(g) and (h). [subparagraphs (g) and (h) repealed by Act No.14 of 2000].

(2)(a) If circumstances such as are referred to in subparagraph (d) of the preceding paragraph arise in relation to a member of the Assembly by virtue of the fact that he is adjudged to be of unsound mind, sentenced to death or imprisonment, or convicted or reported guilty of an offence and if it is open to the member to appeal against the decision (either with the leave of a court or other authority or without such leave), he shall forthwith cease to perform his functions as a member of the Assembly but, subject to the next following subparagraph, he shall not vacate his seat until the expiration of a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member, from time to time extend that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval of the Assembly signified by resolution.

(b) If, on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the member of the Assembly, or if, by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave or for any other reason, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.

(c) If at any time before the member of the Assembly vacates his seat such circumstances as aforesaid cease to exist, his seat shall not become vacant by reason of those circumstances, and he may resume the performance of his functions as a member of the Assembly.

(3) A member of the National Assembly elected on a list shall be disqualified from being a member of the Assembly, if he or she, in the prescribed manner, declares that he or she will not support the list from which his or her name was extracted or, declares that he or she abstain from supporting that list or , declares his or her support for another list.

Speaker and Deputy Speaker
[14 of 2000]

157. (1) A person shall vacate the office of Speaker or Deputy Speaker whenever the Assembly first meets after a dissolution of Parliament and also—

(a) in the case of a Speaker elected from among the members of the Assembly or in the case of the Deputy Speaker—

(i) if he ceases to be a member of the Assembly for any cause other than a dissolution of Parliament :

Provided that where a person, who holds the office of Speaker, ceases to be a member of the National Assembly by virtue of the holding of an election referred to in article l56(1)(f), he shall not by reason thereof vacate the office of Speaker if at such election he is re-elected as a member of the Assembly;

(ii) if, by virtue of paragraph (2) (a) of the preceding article he is required to cease to perform his functions as a member of the Assembly; or

(iii) if he is appointed to be a Minister or a Parliamentary Secretary;

(b) in the case of a Speaker elected from among persons who are not members of the Assembly if he ceases to be a citizen of Guyana or if any circumstances arise that would cause him to be disqualified for election as a member of the Assembly by virtue of article l55 or of any law enacted in pursuance thereof;

(c) if he announces the resignation of his office to the Assembly or if by writing under his hand addressed, in the case of the Speaker, to the Clerk of the Assembly or in the case of the Deputy Speaker, to the Speaker (or, if the office of Speaker is vacant or the Speaker is absent from Guyana, to the Clerk) he resigns that office; or

(d) in the case of the Deputy Speaker, if he is elected to be Speaker.

Clerk and Deputy Clerk

158. (1) Subject to the provisions of the next following paragraph the Clerk of the National Assembly shall vacate his office when he attains the age of sixty-five years or such later age as may, in any particular case, be prescribed by the Commission appointed under paragraph (4).

(2) The Clerk shall be removed from office by the President if, but shall not be so removed unless, the National Assembly, by a resolution which has received the affirmative votes of a majority of all the elected members thereof, has resolved that he ought to be so removed for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(3) The provisions of paragraphs (1) and (2) shall apply to the Deputy Clerk as they apply to the Clerk.

(4) Subject to the provisions of article 222 the terms of service (including salary and allowances) of the Clerk and Deputy Clerk shall be determined from time to time by a Commission consisting of the Speaker, as Chairman, the Minister responsible for finance or a person nominated by that Minister

to represent him at any meeting of the Commission and one other Minister designated from time to time by the Prime Minister.

(5) A person who is a public officer may, without ceasing to hold office in the public service, be appointed in accordance with the provisions of this article to the office of Clerk or Deputy Clerk but—

(a) no such appointment shall be made without the concurrence of the appropriate service authority;

(b) the provisions of paragraphs (l), (2) and (3) shall in relation to an officer so appointed, apply, subject to the provisions of subparagraph (d) as respects his service as Clerk or Deputy Clerk but not as respects his service as a public officer;

(c) an officer so appointed shall not, during his continuance in the office of Clerk or Deputy Clerk, perform the functions of any public office; and

(d) an officer so appointed may at any time be appointed be the appropriate service authority to assume or resume the functions of a public office and he shall thereupon vacate his office as Clerk or Deputy Clerk, but no appointment under this subparagraph shall be made without the concurrence of the Speaker.

(6) In the preceding paragraph "the appropriate service authority" means the authority in which, under the provisions of this Constitution, is vested the power to make appointments to the public office held by the person to be appointed as Clerk or Deputy Clerk or the functions of which the Clerk or Deputy Clerk is to be appointed to assume or resume, as the case may be.

(7) The functions conferred by this article on the Speaker shall, if there is no person holding the office of Speaker or if the Speaker is absent from Guyana or is otherwise unable to perform those functions, be performed by the Deputy Speaker.

Qualifications and disqualifications for electors.
[3 of 2001]

159. (1) No person shall vote at an election unless he is registered as an elector.

(2) Subject to the provisions of paragraphs (3) and (4), a person shall be qualified to be registered as an elector for elections if, and shall not be so qualified unless, on the qualifying date, he is of the age of eighteen years or upwards and either—

(a) is a citizen of Guyana; or

(b) is a Commonwealth citizen who is not a citizen of Guyana and who is domiciled and resident in Guyana and has been so resident for a period of one year immediately preceding the qualifying date; and

(c) satisfies such other qualifications as may be prescribed by or under any law.

(3) No person shall be qualified to be so registered who on the qualifying date is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Guyana.

(4) No person shall be qualified to be so registered if during such period (not exceeding five years) preceding the qualifying date as may be prescribed by Parliament, he has been convicted by a court of any offence connected with elections that is so prescribed or has been reported guilty of such an offence by the High Court in proceedings under article 163:

Provided that Parliament may empower the court to exempt a person from disqualification for registration on account of such a conviction or report if the court deems it just so to do.

(5) In this article "the qualifying date" means such date as may be appointed by or under an Act of Parliament as the date with reference to which a register of electors shall be compiled or revised.

Electoral system. [14 of 2000].

160.(1) Subject to the provisions of the next following paragraph, the system of proportional representation referred to in article 60(2) for the election of such number of members of the National Assembly as shall be determined by the Assembly, shall be as follows-

(a) votes shall be cast throughout Guyana in favour of lists of candidates;

(b) each elector shall have one vote and may cast it in favour of any of the lists; and

(c) the seats of the said elected members in the Assembly, as determined under this paragraph, shall be allocated between the lists in such a manner that the proportion that the number of such seats allocated to each list bears to the number of votes cast in favour of that list is as nearly as may be the same for each list, thus minimising the level of disproportionality between the percentages of votes earned by lists and the percentages of seats allocated to lists in the cases of individual geographical constituencies, if they exist, and of the Assembly taken as a whole.

(2) Parliament may make provision for the division of Guyana into such number of geographical constituencies, not being more than half the number of the elected members of the Assembly as Parliament may prescribe and for the election in each such constituency of such number of members of the Assembly as Parliament shall, subject to paragraph (4) prescribe; but, if Parliament makes provisions as aforesaid, then-

(a) a person may stand as a candidate for election in any such geographical constituency only if, in such manner as Parliament may prescribe, he has declared that he supports, or has otherwise identified himself with one and only one of the lists related to that geographical constituency, not with a list in any other geographical constituency; and not with any list of another party; and

(b) those of the said seats in the Assembly as determined under paragraph (1), for which members are not elected in geographical constituencies as aforesaid shall be allocated between the contesting parties in accordance with the results of the voting throughout Guyana in favour of the lists of the contesting parties in such a manner that the proportion that the number of seats allocated to each party, when added to the number of members identified with that party's lists elected in the geographical constituencies, bears to the number of votes cast in favour of that party is as nearly as may be the same for each party, thus minimising the level of disproportionality between the percentages of votes earned by parties and the percentages of seats allocated to parties in the Assembly;

(3) Subject to the provisions of this Constitution, Parliament may make provision-

(a) (i) for the registration of electors;

(ii) for the manner in which lists of candidates shall be prepared, including the provision in a list of the names of a sufficient number of candidates to enable any vacancies to be filled under subparagraph (vii), and which manner shall allow voters to be sure which individuals they are electing to the National Assembly;

(iii) for the manner in which the number of seats to be allocated to each list shall be calculated in order to give effect to the provisions of paragraph (1) or paragraph (2), as the case may be;

(iv) for the combination of lists of candidates for the purpose of the allocation of seats (but not for the purpose of voting);

(v) for the extraction from the lists and declaration of names of the candidates who have been elected, and for such provision for extraction to take into account the proportion that women form of the electorate;

(vi) for the manner in which elections of members of the National Assembly shall be held pursuant to the provisions of paragraphs(1) and (2);

(vii) For the filling of vacancies among the seats of members of the National Assembly where such vacancies are caused otherwise than by a dissolution of Parliament;

(viii) generally for the conduct of elections of members of the National Assembly and for giving effect to the provisions of this Constitution relating thereto;

(b) (i) for the criteria for the participation of political parties in the general election;

(ii) for the formulae to be used to translate votes for a contesting party into seats for that party in the National Assembly;

(iii) for the minimum number or proportion of female candidates party's list and in all party's lists taken together;

(iv) for the minimum number or proportion of female candidates on a party's lists for geographical constituencies taken individually or together;

(v) for the maximum percentage or the number of geographical constituencies a party can contest in which its lists contain no female candidate.

(4) The total number of seats in the National Assembly that are derived from geographical constituencies shall be such that the number of seats not derived from geographical constituencies is sufficiently large to correct any overall disproportionalities that might arise from the allocations of seats to geographical constituencies.

Political parties prohibited from causing ethnic division [14 of 2000]

160A. (1) **A**ll persons, institutions and political parties are prohibited from taking any action or advancing, disseminating or communicating any idea which may result in racial or ethnic division among the people.

(2) For the purposes of paragraph (1), Parliament shall by law make provision for offences and penalties, including penalties preventing or disbarring any person or political party from contesting any election for membership or being a member, as the case may be, of the local democratic organs or of the National Assembly.

Elections Commission. [2 of 2000]

161.(1) There shall be an Elections Commission for Guyana consisting of a Chairman, who shall be a fulltime Chairman and shall not engage in any other form of employment, and such other members as may be appointed in accordance with the provisions of this article.

(2) Subject to the provisions of paragraph (4), the Chairman of the Elections Commission shall be a person who holds or who has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who is qualified to be appointed as any such judge, or any other fit and proper person, to be appointed by the President from a list of six persons, not unacceptable to the President, submitted by the Leader of the Opposition after meaningful consultation political parties represented in the National Assembly.

Provided that if the Leader of the Opposition fails to submit a list as provided for, the President shall appoint a person who holds or has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who is qualified to be appointed as any such judge.

(3) In addition to the Chairman, there shall be six members of the Commission who shall be appointed in the following manner-

(a) three members to be appointed by the President, acting in his own deliberate judgment; and

(b) three members to be appointed by the President acting in accordance with the advice of the Leader of the Opposition tendered after meaningful consultation with non-governmental political parties represented in the National Assembly.

(4) A person shall be disqualified for appointment as the Chairman or other member of the Commission if he is an alien.

(5) The Chairman or any other member of the Elections Commission shall vacate his office if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(6) The provisions of article 225 (which relate to removal from office) shall apply to the office of the Chairman or other members of the Elections Commission and for the purposes of paragraphs (4) and (6) of that article, the prescribed authority shall be the Prime Minister:

Provided that in the case of the members referred to in paragraph (3)(b), the Prime Minister shall meaningfully consult the Leader of the Opposition before tendering any advice to the President under article 225(4).

(7) If, by reason of his illness, absence from Guyana, or suspension under article 225, the Chairman or any other member of the Elections Commission is unable to perform his functions as such, a temporary Chairman or other member, as the case may be, may be appointed in his place.

(8) The provisions of this article shall apply in relation to the appointment of a temporary Chairman or other member of the Elections Commission, and to a temporary Chairman or other member appointed in accordance with this article, as they apply in relation to the Chairman or other member, as the case may be, of the Elections Commission in whose place he is appointed:

Provided that his appointment shall have effect only for the period ending when the person in whose place he has been appointed resumes his functions as, or ceases to be, the Chairman or other member, as the case may be, of the Commission.

Appointment of staff by Elections Commission; Secretariat of the Commission. [2 of 2000]

161A.(1) The Elections Commission shall be responsible for the efficient functioning of the Secretariat of the Commission, which shall comprise the officers and employees of the Commission, and for the appointment of all the staff to the offices thereof inclusive of all temporary staff, recruited for the purposes of boundary demarcation, registration of persons and elections and shall have the power to remove and to exercise disciplinary control over such staff.

(2) The Elections Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under paragraph (1) to any one or more members of the Commission, or by such directions

and subject to such conditions as it thinks fit, delegate such powers to such officers of the Commission as the Commission may determine.

(3) Before the Elections Commission or any member thereof or other person exercising powers under this article appoints to or to act in any office referred to in paragraph (1) any person who holds or is acting in any office, power to make appointments to which is vested under this Constitution in the Judicial, the Teaching, the Police or Public Service Commission, the Elections Commission or that member or other person shall first seek and obtain the approval of the Commission in which that power is vested.

(4) Where a public officer is appointed to an office referred to in paragraph (1) he shall, subject to the said paragraph (1), remain a public officer unless the Commission determines that that office shall be independent of any other Commission.

(5) Nothing in this article shall be construed as precluding the Elections Commission from appointing any person who is not a public officer to an office referred to in paragraph (1).

Role of political parties in the conduct of elections through the Elections Commission. [14 of 2000]

161B. It is hereby declared that the role of political parties and their nominees in the conduct of elections by the Elections Commission shall be limited to their participation in determining policy, monitoring the electoral process and the conduct of the election, but does not include active management of the electoral process.

Functions of Elections Commission. [14 of 2000]

162.(1) The Elections Commission shall have such functions connected with or relating to the registration of electors or the conduct of elections as are conferred upon it by or under this Constitution or, subject thereto, any Act of Parliament; and, subject to the provisions or this Constitution, the Commission—

(a) shall exercise general direction and supervision over the registration of electors and the administrative conduct of all elections of members of the National Assembly; and

(b) shall issue such instructions and take such action as appear to it necessary or expedient to ensure impartiality, fairness and compliance with the provisions of this Constitution or of any Act of Parliament on the part of persons exercising powers or performing duties connected with or relating to the matters aforesaid.

(2) Notwithstanding anything to the contrary in this Constitution, if the Elections Commission is satisfied that the holding of an election pursuant to the provisions of paragraph (2) of article 60 or article 160(2) on the day appointed therefor would be attended, either generally or in a particular area, by danger or serious hardship, it may, after consultation with the Prime Minister and the Leader of the Opposition, by notice published in the Gazette—

(a) postpone the holding of the election to a day specified in the notice; or

(b) postpone the voting in any area specified in the notice to a day so specified.

Determination of questions as to membership and elections.
[14 of 200].

163. (1) Subject to the provisions of this article, the High Court shall have exclusive jurisdiction to determine any question—

(a) regarding the qualification of any person to be elected as a member of the National Assembly;

(b) whether—

(i) either generally or in any particular place, an election has been lawfully conducted or the result thereof has been, or may have been, affected by any unlawful act or omission;

(ii) the seats in the Assembly have been lawfully allocated;

(iii) a seat in the Assembly has become vacant; or

(iv) any member of the Assembly is required under the provisions of article 156(2) and (3) to cease to exercise any of his functions as a member thereof;

(c) regarding the filling of a vacant seat in the Assembly, or

(d) whether any person has been validly elected as Speaker of the Assembly from among persons who are not members thereof or, having been so elected, has vacated the office of Speaker.

(2) Proceedings for the determination of any question referred to in the preceding paragraph may be instituted by any person (including the Attorney General) and, where such proceedings are instituted by a person other than the Attorney General, the Attorney General if he is not a party thereto may intervene and (if he intervenes) may appear or be represented therein.

(3) An appeal shall lie to the Court of Appeal—

(a) from the decision of a Judge of the High Court granting or refusing leave to institute proceedings for the determination of any question referred to in paragraph (1);

(b) from the determination by the High Court of any such question, or against any order of the High Court made in consequence of such determination.

(4) Parliament may make provision with respect to—

(a) the circumstances and manner in which and the conditions upon which proceedings for the determination of any question under this article may be instituted in the High Court and an appeal may be brought to the Court of Appeal in respect thereof;

(b) the consequences of the determination of any question under this article and the powers of the High Court in relation to the determination of any such question, including (without prejudice to the generality of the foregoing power) provision empowering the High Court to order the holding of a fresh election

throughout Guyana or a fresh ballot in any part thereof or the re-allocation of seats in whole or in part; and

(c) the practice and procedure of the High Court in relation to the jurisdiction and powers conferred upon it by or under this article and of that Court and the Court of Appeal in relation to appeals to the Court of Appeal under this article,

and, subject to any provision so made, provision may be made with respect to the matters aforesaid by rules of court.

(5) In this article reference to any person being elected shall be read and construed as a reference to any person being elected under paragraph (2) of article 60 or under article 160(2), as the case may be.

Procedure for altering this Constitution.

164.(1) Subject to the provisions of paragraphs (2) and (3), a Bill for an Act of Parliament to alter this Constitution shall not be passed by the National Assembly unless it is supported at the final voting in the Assembly by the votes of a majority of all the elected members of the Assembly.

(2) A Bill to alter any of the following provisions of this Constitution, that is to say—

(a) this article, articles 1, 2, 8, 9, 18, 51, 66, 89, 99 and 111; and

(b) articles 3, 4, 5, 6 and 7, 10 to 17 (inclusive), 19 to 49 (inclusive), 52 to 57 (inclusive), 59, 60, 62, 63, 64, 65, 67, 68, 69, 70, 72 (in so far as it relates to the number of regions), 90 to 96 (inclusive), 98, 108, 110, 116, 120 to 163 (inclusive, but excepting article 132), 168 to 215 (inclusive, but excepting articles 173, 185, 186, 192(2) and (3) and 193), 222, 223, 225, 226, 231 and 232 (excepting the definition of "financial year"),

shall not be submitted to the President for his assent unless the Bill, not less than two and not more than six months after its passage through the National Assembly, has, in such manner as Parliament may prescribe, been submitted to the vote of the electors qualified to vote in an election and has been approved by a majority of the electors who vote on the Bill:

Provided that if the Bill does not alter any of the provisions mentioned in subparagraph (a) and is supported at the final voting in the Assembly by the votes of not less than two-thirds of all the elected members of the Assembly it shall not be necessary to submit the Bill to the vote of the electors.

(3) In this article—

(a) references to this Constitution or to any particular provision thereof include references to any other law in so far as that law alters the Constitution or, as the case may be, that provision; and

(b) references to altering this Constitution or any particular provision thereof include references to repealing it, with or without re-enactment thereof or the making of different provision in lieu thereof, to modifying it and to suspending its operation for any period.

Regulation of procedure.

165. (1) Subject to the provisions of this Constitution, the National Assembly may regulate its own procedure and may make rules for that purpose.

(2) The Assembly may act notwithstanding any vacancy in its membership (including any vacancy not filled when the Assembly first meets after the commencement of this Constitution or after any dissolution of Parliament) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the Assembly shall not invalidate those proceedings.

Presiding in the Assembly

166. (1) The Speaker, or, in his absence, the Deputy Speaker or, if they are both absent, a member of the National Assembly (not being a Minister or a Parliamentary Secretary) elected by the Assembly for the sitting shall preside at any sitting of the Assembly.

(2) References in this article to circumstances in which the Speaker or Deputy Speaker is absent include references to circumstances in which the office of Speaker or Deputy Speaker is vacant.

Oaths of members.

167. No member of the National Assembly shall take part in the proceedings of the Assembly (other than proceedings necessary for the purpose of this article) until he has made and subscribed before the Assembly the oath of office:

Provided that the election of a Speaker and Deputy Speaker of the Assembly may take place before the members thereof have made and subscribed such oath.

Voting.

168. (1) Save as otherwise provided by this Constitution, all questions proposed for decision in the National Assembly shall be determined by a majority of the votes of the members present and voting.

(2) Except as provided by the next following paragraph, the Speaker or other member presiding in the Assembly shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

(3) A Speaker elected from among persons who are not members of the Assembly shall have neither an original nor a casting vote and if, upon any question before the Assembly when such a Speaker is presiding, the votes of the members are equally divided, the motion shall be lost.

Quorum

169. If objection is taken by any member of the National Assembly present that there are present in the Assembly (besides the person presiding) less than one-third of all the elected members of the Assembly, and, after such interval as may be prescribed in the rules of procedure of the Assembly, the person presiding ascertains that there are still present less than one-third of all the elected members, he shall thereupon adjourn the Assembly.

Mode of legislation. [17 of 2000]

170. (1) Subject to the provisions of article 164, the power of Parliament to make laws shall be exercised by Bills passed by the National Assembly and assented to by the President.

(2) When a Bill is presented to the President for assent, he shall signify that he assents or that he withholds assent.

(3) Where the President withholds his assent to a Bill, he shall return it to the Speaker within twenty-one days of the date when it was presented to him for assent with a message stating the reasons why he has withheld his assent.

(4) Where a Bill is so returned to the Speaker it shall not again be presented to the President for assent unless within six months of the Bill being so returned upon a motion supported by the votes of not less than two-thirds of all the elected members of the National Assembly the Assembly resolves that the Bill be again presented for assent.

(5) Where the National Assembly so resolves that a Bill be again presented for assent, the Bill shall be so presented and the President shall assent to it within ninety days of its presentation.

(6) A Bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

Introduction of Bills, etc.

171. (1) Subject to the provisions of this Constitution and of the rules of procedure of the National Assembly, any member of the Assembly may introduce any Bill or propose any motion for debate in, or may present any petition to, the Assembly, and the same shall be debated and disposed of according to the rules of procedure of the Assembly.

(2) Except on the recommendation or with the consent of the Cabinet signified by a Minister, the Assembly shall not—

(a) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding, makes provision for any of the following purposes—

(i) for imposing or increasing any tax;

(ii) for imposing any charge upon the Consolidated Fund or any other public fund of Guyana or for altering any such charge otherwise than by reducing it;

(iii) for the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Guyana of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or

(iv) for compounding or remitting any debt due to Guyana; or

(b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of the purposes aforesaid.

Privileges, etc., of members of the National Assembly.

172. (1) Subject to the provisions of paragraphs (2), (3) and (4), Parliament may by law determine the privileges, immunities and powers ***[of members]***

of the National Assembly and the members thereof.

(2) No civil or criminal proceedings may be instituted against any member of the Assembly for words spoken before, or written in a report to, the Assembly or to a committee thereof or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise.

(3) For the duration of any session, members of the Assembly shall enjoy freedom from arrest for any civil debt.

(4) No process issued by any court in the exercise of its civil jurisdiction shall be served or executed within the precincts of the Assembly while the Assembly is sitting or through the Speaker, the Clerk, or any officer of the Assembly.

TITLE 3 – THE SUPREME CONGRESS OF THE PEOPLE – ARTICLES 173-176 (inclusive)

[Title 3 repealed by Act No.14 of 2000].

TITLE 4

THE PRESIDENT

Election of President
[2 of 2000]

177. (1) Any list of candidates for an election held pursuant to the provisions of article 60(2) shall designate not more than one of those candidates as a Presidential candidate. An elector voting at such an election in favour of a list shall be deemed to be also voting in favour of the Presidential candidate named in the list.

(2) Where –

(a) there is only one Presidential candidate at the election; or

(b) there are two or more Presidential candidates, if more votes are cast in favour of the list in which a person is designated as Presidential candidate than in favour of any other list,

that Presidential candidate shall be deemed to be elected as President and shall be so declared by the Chairman of the Elections Commission acting only in accordance with the advice of the Chief Election Officer, after such advice has been tendered to the Elections Commission at a duly summoned meeting.

(3) Where no person is elected as President under paragraph (2) and where the votes cast in favour of each list are equal in number, or where the votes cast in favour of each of two or more lists are equal in number but greater than the number of votes cast in favour of any other list, the Chairman of the Elections Commission, acting in the presence of the Chancellor and of the public, shall by lot choose one of the lists in respect of which the votes are equal in either of the circumstances aforesaid and shall declare the Presidential candidate designated in that list to be duly elected as President.

(4) The Court of Appeal shall have exclusive jurisdiction to hear and determine any question as to the validity of an election of a President in so far as that question depends upon the qualification of any person for election or the interpretation of this Constitution; and any decision of that Court under this paragraph shall be final.

(5) Subject to the provisions of this Constitution, Parliament may make provision for giving effect to the provisions of this Title and, without prejudice to the generality thereof, may make provision—

(a) for the conduct of elections to the office of President; and

(b) with respect to the persons by whom, the manner in which and the conditions upon which proceedings for the determination of any question such as is mentioned in the preceding paragraph may be instituted in the Court of Appeal,

and, subject to any provisions made under subparagraph (b), provision may be made with respect to the matters referred to therein by rules of court.

(6) Subject to the provisions of paragraph (4), an instrument which—

(a) is executed under the hand of the Chairman of the Elections Commission; and

(b) states that a person named in the instrument was declared elected as President at an election held pursuant to the provisions of article 60(2),

shall be conclusive evidence that the person so named was so elected and no question as to the validity of the election as the President of the person so named shall be enquired into in any court.

Tenure of office of President
[14 of 2000]

178. (1) The office of President shall become vacant if the person holding it—

(a) dies; or

(b) resigns it by writing under his hand addressed to the Speaker; or

(c) ceases to hold it by virtue of the provisions of article 92, 179 or 180.

(2) A person assuming the office of President in accordance with the provisions of this Constitution shall be disqualified for any other office, employment or appointment to which this paragraph applies and accordingly on entering upon the duties of the office of President shall vacate any such other office, employment or appointment held by him.

(3) The preceding paragraph applies to the offices of Speaker, member, Clerk or Deputy Clerk of the National Assembly, any Judge of the Supreme Court of Judicature, member of the Elections Commission, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission or the Police Service Commission, any public office, employment in any armed force of Guyana and any paid appointment as a

member or employee of a body corporate established by law for public purposes.

(4) During any period when a Minister is performing the functions of the office of President under article 96 or 179 or has assumed the office under the proviso to article 95(1), his seat in the National Assembly shall be regarded as vacant and may be temporarily filled in accordance with any provision made under article 160(3). At the expiration of the period the person temporarily filling the seat shall vacate it and the seat shall thereupon be resumed by the Minister:

Provided that the person so vacating the seat shall be eligible for re-election under any provision made as aforesaid.

Removal of President on grounds of incapacity.

179. (1) If the members of the National Assembly whose names appeared as candidates on the same list as that of the President at the last election held pursuant to article 60(2) resolve, upon a motion supported by the votes of a majority of all of them, that the question of the physical or mental capacity of the President to discharge the functions of his office ought to be investigated and the Prime Minister so informs the Chancellor, the Chancellor shall appoint a board consisting of not less than three persons selected by him from among persons who are qualified as medical practitioners under the law of Guyana, and the board shall enquire into the matter and shall make a report to the Chancellor stating the opinion of the board whether or not the President is, by reason of any infirmity of body or mind, incapable of discharging the functions of his office.

(2) If the board reports that the President is incapable of discharging the functions of the office of President, the Chancellor shall certify in writing accordingly and thereupon the President shall cease to hold office.

(3) Where the Prime Minister informs the Chancellor that a resolution has been passed pursuant to paragraph (l) that the question of the physical or mental capacity of the President to discharge the functions of his office should be investigated the President shall, until another person assumes the office of President or the board appointed in pursuance of paragraph (1) reports that the President is not incapable of discharging the functions of his office (whichever is the earlier), cease to perform the functions of his office and those functions shall be performed by—

(a) the Prime Minister; or

(b) during any period when there is no Prime Minister or the Prime Minister is absent from Guyana or is unable, by reason of physical or mental infirmity, to discharge the functions of his office, by such member of the Cabinet, being an elected member of the National Assembly, as shall be elected by the members referred to in paragraph (1):

Provided that any person performing the functions of the office of President under this paragraph shall not dissolve Parliament or, save on the advice of the Cabinet, revoke any appointment made by the President.

(4) A motion for the purposes of paragraph (1) may be proposed by any of the members referred to therein at any meeting of such members convened by the Prime Minister.

Removal of President for violation of Constitution or gross misconduct [17 of 2000]

180. (1) If notice in writing is given to the Speaker of the National Assembly, signed by not less than one-half of all the elected members of the Assembly, of a motion alleging that the President has committed any violation of the Constitution or any gross misconduct and specifying the particulars of all the allegations and proposing that a tribunal be established under this article to investigate those allegations, the Speaker shall—

(a) if Parliament is then sitting or has been summoned to meet within five days, cause the motion to be considered by the Assembly within seven days of the notice; or

(b) if Parliament is not then sitting (and notwithstanding that it may be prorogued) summon the Assembly to meet within twenty-one days of the notice and cause the motion to be considered at that meeting.

(2) Where a motion under this article is proposed for consideration by the National Assembly, the Assembly shall not debate the motion but the person presiding in the Assembly shall forthwith cause a vote to be taken on the motion and, if the motion is supported by the votes of not less than two-thirds of all the elected members of the Assembly, shall declare the motion to be passed.

(3) If the motion is declared to be passed under paragraph (2)—

(a) the Chancellor shall appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Chancellor from among persons who hold or have held office as a Judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction on appeals from any such court;

(b) the tribunal shall investigate the matter and shall report to the National Assembly whether it finds the particulars of the allegations specified in the motion to have been sustained;

(c) the President shall have the right to appear and be represented before the tribunal during its investigation of the allegations against him.

(4) If the tribunal reports to the National Assembly that the tribunal finds that the particulars of any allegation against the President specified in the motion have not been substantiated no further proceedings shall be taken under this article in respect of that allegation.

(5) If the tribunal reports to the National Assembly that the tribunal finds that the particulars of any allegation specified in the motion have been substantiated, the Assembly may, on a motion supported by the votes of not less than two thirds of all elected members of the Assembly, resolve that the President has been guilty of such violation of the Constitution or, as the case

may be, such gross misconduct as is incompatible with his continuance in office as President and, if the Assembly so resolves, the President shall cease to hold office upon the third day following the passage of the resolution.

Salary and allowances of President.

181.(1) The President shall receive such salary and allowances as may be prescribed under the provisions of article 222.

(2) A person who has held the office of President shall receive such pension or, upon the expiration of his term of office, such gratuity as may be prescribed by Parliament. Any such pension or gratuity shall be a charge on the Consolidated Fund.

Immunities of President.

182. (1) Subject to the provisions of article 180, the holder of the office of President shall not be personally answerable to any court for the performance of the functions of his office or for any act done in the performance of those functions and no proceedings, whether criminal or civil, shall be instituted against him in his personal capacity in respect thereof either during his term of office or thereafter.

(2) Whilst any person holds or performs the functions of the office of President no criminal proceedings shall be instituted or continued against him in respect of anything done or omitted to be done by him in his private capacity and no civil proceedings shall be instituted or continued in respect of which relief is claimed against him for anything done or omitted to be done in his private capacity.

(3) Where provision is made by law limiting the time within which proceedings of any description may be brought against any person, the period during which any person holds or performs the functions of the office of President shall not be taken into account in calculating any period of time prescribed by that law for bringing any such proceedings as are mentioned in paragraph (2) against him.

TITLE 5

THE EXECUTIVE

SUBTITLE 1

Ministers, etc.

Tenure of office of Ministers.
[14 of 2000]

183. (1) The office of a Minister who was not an elected member of the Assembly at the time of his appointment and has not subsequently become such a member shall become vacant if the holder of the office—

(a) ceases to be a citizen of Guyana; or

(b) if he becomes disqualified for election as a member of the Assembly by virtue of article 155 or of any law enacted in pursuance thereof.

(2) The office of any other Minister shall become vacant if the holder of the office—

(a) ceases to be a member of the Assembly for any cause other than a dissolution of Parliament;

(b) is not a member of the Assembly when the Assembly first meets after a dissolution of Parliament;

(c) is, by virtue of article 156(2) or (3), required to cease to perform his functions as a member of the Assembly.

(3) The office of any Minister shall become vacant—

(a) if he resigns it by writing under his hand addressed to the President;

(b) if the President so directs; or

(c) on the election of any person to the office of President pursuant to the provisions of article 177.

Leader of the Opposition [2 of 2000, 14 of 2000]

184. (1) The Leader of the Opposition shall be elected by and from among the non- governmental members of the National Assembly at a meeting held under the chairmanship of the Speaker of the National Assembly, who shall not have the right to vote.

(2) The office of the Leader of the Opposition shall become vacant if—

(a) the holder thereof ceases to be a member of the Assembly for any cause other than a dissolution of Parliament

(b) he is not a member of the Assembly when the Assembly first meets after the dissolution of Parliament

(c) by virtue of article 156(2) or (3) he is required to cease to exercise his functions as a member of the Assembly; or

(d) his removal from office is effected under the provisions of the next following paragraph.

(3) Where one-third of the non-governmental members of the Assembly represent to the Speaker that the Leader of the Opposition no longer enjoys their confidence, the Speaker shall call a meeting of all the non-governmental members at which it shall be decided whether the Leader of the Opposition shall be removed from office; the removal shall be effected by the votes of a majority of all the non-governmental members.

(4) The election and removal from office of the Leader of the Opposition shall be by a show of hands.

(5) For every reference in any provision in this Constitution to the term "Minority Leader" there shall be substituted the term "Leader of the Opposition" and any such provision shall be read and construed accordingly with such modification as may be necessary.

Attorney General.

185. (1) A person shall not be qualified to be appointed as Attorney General unless he holds such qualifications as may be prescribed by Parliament and is a citizen of Guyana.

(2) If the Attorney General is an elected member of the National Assembly at the time of his appointment or subsequently becomes such a member, he shall be a Minister by virtue of holding the office of Attorney General and the provisions of paragraphs (2) and (3) of article 183 shall apply to the office of Attorney General.

(3) If the Attorney General is not an elected member of the Assembly but is qualified to be elected as such a member he may be appointed by the President to be a Minister.

(4) If an Attorney General appointed to be a Minister under the preceding paragraph resigns his office as Attorney General he shall also vacate his office as a Minister.

(5) If the Attorney General is not a Minister he shall vacate his office if he ceases to be a citizen of Guyana or if his appointment is revoked by the President.

(6) If the office of Attorney General is vacant or the holder of the office is for any reason unable to perform the functions thereof the President may appoint a person, being a person qualified under paragraph (1}, to act in the office, but the provisions of paragraphs (2) and (3) shall not apply to a person so appointed.

(7) An appointment under the preceding paragraph shall cease to have effect when it is revoked by the President.

Parliamentary Secretaries.

186. (1) Parliamentary Secretaries may be appointed from among persons who are elected members of the National Assembly or are qualified to be elected as such members.

(2) Paragraph (1) shall have effect in relation to any period between a dissolution of Parliament and the day on which the next election of members of the Assembly is held as if Parliament had not been dissolved.

(3) A Parliamentary Secretary who was not an elected member of the Assembly at the time of his appointment shall (unless he becomes such a member) be a member of the Assembly by virtue of holding the office of Parliamentary Secretary but shall not vote in the Assembly.

(4) The provisions of article 183 shall apply to the office of a Parliamentary Secretary as they apply to the office of a Minister.

Functions of Director of Public Prosecutions.

187. (1) The Director of Public Prosecutions (referred to in this article as "the Director") shall have power in any case in which he considers it desirable so to do-

(a) to institute and undertake criminal proceedings against any person before any court, other than a court-martial, in respect of any offence against the law of Guyana;

(b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and

(c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by him or any other person or authority.

(2) The powers of the Director under the preceding paragraph may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.

(3) The powers conferred upon the Director by sub-paragraphs (b) and (c) of paragraph (1) shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this paragraph shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(4) In the exercise of the powers conferred upon him by this article the Director shall not be subject to the direction or control of any other person or authority.

(5) For the purposes of this article, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purposes of any such proceedings, to any other court in Guyana shall be deemed to be part of those proceedings.

Prerogative of Mercy.

188. (1) The President may—

(a) grant to any person concerned in or convicted of any offence under the law of Guyana, a pardon, either free or subject to lawful conditions;

(b) grant to any person a respite, either indefinite, or for a specified period, of the execution of any punishment imposed on that person for such an offence;

(c) substitute a less severe form of punishment for any punishment imposed on any person for such an offence; or

(d) remit the whole or any part of any punishment imposed on any person for such an offence or of any penalty or forfeiture otherwise due to the State on account of such an offence.

(2) Subject to the provisions of the next following paragraph, the powers of the President under the preceding paragraph shall be exercised by him after consultation with such Minister as may from time to time be designated by him.

(3) In addition to the Minister designated generally under the preceding paragraph, a second Minister may, in the manner prescribed in that paragraph, be specially designated in relation to persons convicted by courts-martial under the law of Guyana; and at any time when there is a second Minister so designated, the powers of the President under paragraph (1) shall, in relation to such persons, be exercised after consultation with that other Minister.

Advisory Council on Prerogative of Mercy.

189. (1) There shall be an Advisory Council on the Prerogative of Mercy, which shall consist of—

(a) the Minister for the time being designated under paragraph (2) of the preceding article, who shall be Chairman;

(b) the Attorney General (if he is not the Chairman); and

(c) not less than three and not more than five other members, who shall be appointed by the President, and of whom at least one shall be a person who is a qualified medical practitioner.

(2) A person shall not be qualified to be appointed as a member of the Advisory Council under subparagraph (c) of the preceding paragraph if he is a member of the National Assembly; and not less than three of the members so appointed shall be persons who are not public officers.

(3) A member of the Advisory Council appointed under the said subparagraph (c) shall hold office for three years:

Provided that his seat on the Council shall become vacant—

(a) if he becomes a member of the Assembly or if, not having been a public officer at the time of his appointment, he becomes such an officer: or

(b) if he is removed from office by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause whatsoever) or for misbehaviour.

Functions of the Advisory Council.

190. (1) Where under the law of Guyana any person has been sentenced to death by any court other than a court-martial for any offence against that law, the Minister designated under article 188(2) shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the Minister may require, to be taken into consideration at a meeting of the Advisory Council; and after obtaining the advice of the Council the Minister shall express his own deliberate opinion to the President as to whether he should exercise any of his powers under that article in relation to that person.

(2) The Minister designated under article 188(2) may consult the Advisory Council before expressing any opinion to the President under that provision in any case not falling within the preceding paragraph, but shall not be obliged to act in accordance with the advice of the Advisory Council.

(3) The Advisory Council may regulate its own procedure.

SUBTITLE 2

The Ombudsman

Appointment, etc. of Ombudsman

191. (1) The Ombudsman shall be appointed by the President acting after consultation with the Leader of the Opposition.

(2) The Ombudsman shall not perform the functions of any public office and shall not, without the approval of the President in each particular case, hold any other office of emolument, other than his office as Ombudsman, or engage in any occupation for reward outside the duties of his office.

(3) Subject to the provisions of the next following paragraph, a person holding the office of Ombudsman shall vacate that office at the expiration of four years from the date of his appointment.

(4) The provisions of article 225 (which relate to removal from office) shall apply to the office of Ombudsman, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister.

Matters subject to investigation by the Ombudsman
[17 of 1984]
[14 of 2000]

192. (1) Subject to the provisions of this article, the Ombudsman may investigate any action taken by any department of Government or by any other authority to which this article applies, or by the President, Ministers, officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.

(2) The Ombudsman may investigate any such action as aforesaid in any of the following circumstances, that is to say—

(a) if a complaint in respect of the action is duly made to the Ombudsman by any person or body of persons, whether incorporated or not, alleging that the complainant has sustained injustice in consequence of a fault in administration;

(b) if the President, a Minister or a member of the National Assembly requests the Ombudsman to investigate the action on the ground that a person or body of persons specified in the request has or may have sustained such injustice;

(c) in any other circumstances in which the Ombudsman considers that he ought to investigate the action on the ground that some person or body of persons has or may have sustained such injustice.

(3) The Ombudsman shall not investigate under this Subtitle—

(a) any action in respect of which the complainant has or had—

(i) a remedy by way of proceedings in a court; or

(ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a court; or

(b) any such action, or action taken with respect to any such matter, as is excluded from investigation under article 193:

Provided that the Ombudsman—

(i) may conduct an investigation notwithstanding that the complainant has or had a remedy by way of proceedings in a court if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;

(ii) shall not in any case be precluded from conducting an investigation in respect of any matter by reason only that it is open to the complainant to apply to the High Court for redress under article 153(1) (which relates to redress for contraventions of provisions for the protection of fundamental rights and freedoms).

(4) In determining whether to initiate, continue or discontinue an investigation under this Subtitle the Ombudsman shall, subject to the foregoing provisions of this article, act in accordance with his individual judgment and in particular, and without prejudice to the generality of the foregoing, he may refuse to initiate, or may discontinue, any investigation if it appears to him that—

(a) the complaint relates to action of which the complainant has had knowledge for more than twelve months before the complaint was received by the Ombudsman;

(b) the subject matter of the complaint is trivial;

(c) the complaint is frivolous or vexatious or is not made in good faith; or

(d) the complainant has not a sufficient interest in the subject matter of the complaint.

(5) The authorities other than departments of Government to which this article applies are—

(a) any authority empowered to determine the person with whom any contract or class of contracts shall be entered into by or on behalf of the Government of Guyana; and

(b) such other authorities as may be prescribed by Parliament.

(6) For the purposes of this article the Public Service Appellate Tribunal, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission and the Police Service Commission shall not be regarded as departments of Government.

(7) For the purposes of paragraph (2)(a) a complaint may be made by a person aggrieved himself or, if he is dead or for any reason unable to act for himself, by any person duly authorised to represent him.

(8) Any question whether a complaint or a request for an investigation is duly made under this Subtitle or any law enacted in pursuance of article 195 shall be determined by the Ombudsman.

(9) Where a complaint or request for an investigation is duly made as aforesaid and the Ombudsman decides not to investigate the action to which the complaint or request relates or to discontinue an investigation of that action, he shall inform the person or body of persons who made the complaint or request of his decision.

(10) In this article and in article 193 "action" includes failure to act and "action taken" shall be construed accordingly.

Excluded matters.

193. The Ombudsman shall not investigate any such action, or action taken with respect to any such matter, as is described hereunder -

(i) matters certified by the President or a Minister to affect relations or dealings between the Government of Guyana and any other Government or any international organisation;

(ii) action taken for the purposes of protecting the security of the State or of investigating crime, including action taken with respect to passports for either of those purposes;

(iii) the commencement or conduct of civil or criminal proceedings in any court;

(iv) action taken in respect of appointments to offices or other employment in the service of the Government of Guyana or appointments made by or with the approval of the President or any Minister, and action taken in relation to any person as the holder or former holder of any such office, employment or appointment;

(v) action taken with respect to orders or directions to any disciplined force or member thereof as defined in article 154;

(vi) the exercise of the powers conferred by article 188;

(vii) the grant of honours, awards or privileges within the gift of the President;

(viii) action taken in matters relating to contractual or other commercial dealings with members of the public other than action by an authority mentioned in subparagraph (a) of article 192(5);

(ix) action taken in any country outside Guyana by or on behalf of any officer representing the Government of Guyana or any officer of that Government;

(x) any action which by virtue of any provision of this Constitution may not be inquired into by any court.

Ombudsman's functions on

concluding an investigation, and reports to the Assembly.
[14 of 2000]

194. (1) After conducting an investigation under this Subtitle the Ombudsman shall inform the department or authority concerned of the result of that investigation and, if he is of the opinion that any person or body of persons has sustained injustice in consequence of a fault in administration, he shall inform that department or authority of the reasons for that opinion and may make such recommendations for action by that department or authority as he thinks fit.

(2) After conducting an investigation under this Subtitle in pursuance of a complaint or a request for an investigation made by the President, a Minister or a member of the National Assembly, the Ombudsman shall—

(a) if he is of the opinion that the complainant or, in the case of an investigation conducted in pursuance of such a request, the person or body of persons specified in the request has sustained injustice in consequence of a fault in administration, inform the person or body of persons who made the complaint or request that he is of that opinion and the nature of the injustice that he considers has been sustained;

(b) if he is of the opinion that the complainant or, in the case of an investigation conducted in pursuance of such a request, the person or body of persons specified in the request has not sustained injustice, inform the person or body of persons who made the complaint or request that he is of that opinion and the reason therefor.

(3) Where the Ombudsman has made a recommendation under paragraph (1) and within a reasonable time thereafter no action has been taken which appears to the Ombudsman adequately to remedy the injustice, he may lay before the Assembly a special report on the case.

(4) The Ombudsman shall annually lay before the Assembly a general report on the performance of his functions under this Subtitle.

Power of Parliament to make supplementary provision.

195. Parliament may make provision for such supplementary and ancillary matters as may appear necessary or expedient in consequence of any of the provisions of this Subtitle including (without prejudice to the generality of the foregoing power) provision—

(a) for the procedure to be observed by the Ombudsman in performing his functions;

(b) for the manner in which complaints and requests for investigation shall be made to the Ombudsman and for the payment of fees in respect of any complaint or investigation; and

(c) for the powers, duties and privileges of the Ombudsman or of other persons or authorities with respect to the obtaining or disclosure of information for the purposes of any investigation or report by the Ombudsman.

Interpretation.

196. In this Subtitle—"Complainant" means the person or body of persons by or on whose behalf a complaint under this Subtitle is made; and "fault in

administration" includes, without prejudice to its generality, any contravention of article 149 (which relates to discrimination on grounds of race, place of origin, political opinions, colour or creed).

TITLE 6
THE JUDICATURE

Tenure of office of Judges
[6 of 2001]

197. (1) Notwithstanding the provisions of articles 124 and 125, the office of a Justice of Appeal or a Puisne Judge shall not be abolished while there is a substantive holder thereof.

(2) With effect from the commencement of this paragraph, a person holding the office of Judge on the said commencement shall vacate that office on attaining-

(a) in the case of a Puisne Judge, the age of sixty-two years;

(b) in the case of any other Judge, other than the Chancellor, the age of sixty-five years; and

(c) in the case of the Chancellor, the age of sixty-eight years.

(2**A**). A person appointed to the office of Judge after the commencement of this paragraph shall vacate that office attaining-

(a) in the case of a Puisne Judge, the age of sixty-five years; and

(b) in the case of any other Judge, the age of sixty-eight years.

(3) A Judge may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour or for persistently not writing decisions or for continuously failing to give decisions and reasons therefor within such time as may be specified by Parliament, and shall not be so removed except in accordance with the provisions of this article.

(4) A Judge shall be removed from office by the President if the question of removal of that Judge has, in pursuance of the next following paragraph, been referred by the President to a tribunal, and the tribunal has advised the President that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Prime Minister, in the case of the Chancellor or the Chief Justice, or the Judicial Service Commission, in the case of any other Judge, represents to the President that the question of removing such Judge from office under this article ought to be investigated, then—

(a) the President shall appoint a tribunal, which shall consist of a Chairman and not less than two other members, selected by the President, acting in his discretion in the case of the Chancellor or the Chief Justice or in accordance with the advice of the Prime Minister after consultation with the Judicial Service Commission in the case of any other Judge, from among persons who hold or have held office as a judge of a court having unlimited

jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who are qualified to be appointed as any such judge; and

(b) the tribunal shall enquire into the matter and advise the President whether or not the Judge ought to be removed from office.

Cap. 19:03

(6) The provisions of the Commissions of Inquiry Act as in force immediately before the commencement of this Constitution shall, subject to the provisions of this article, apply as nearly as may be in relation to tribunals appointed under the preceding paragraph or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act, and in such application shall have effect as if they formed part of this Constitution.

(7) If the question of removing a Judge from office has been referred to a tribunal under paragraph (5), the President may suspend such Judge from performing the functions of his office, and any such suspension may at any time be revoked by the President, and shall in any case cease to have effect if the tribunal advises the President that the Judge ought not to be removed from office. In effecting any such suspension or any revocation of any such suspension, the President shall act in accordance with his own deliberate judgment in the case of the Chancellor or the Chief Justice and in accordance with the advice of the Chancellor in the case of any other Judge.

(8) The provisions of this article shall be without prejudice to the provisions of article 128(3).

(9) (a) For the purposes of paragraph (6) of this article and of article 225(5), the following provisions of the Commissions of Inquiry Act shall not apply, that is to say—

(i) section 2—the whole section;

(ii) section 3—so much of the section as follows the words "in his place";

(iii) section 5—the whole section;

(iv) section 7 —the words "after taking such oath or affirmation";

(v) section 16—the whole section.

(b) For the words "Such sums so directed to be paid shall be paid out of moneys provided by Parliament" in section 15 of the Act there shall be substituted the words "Such sums so directed to be paid shall be charged on and paid out of the Consolidated Fund".

(c) All powers and duties conferred or imposed on the President under the Act shall be exercised or performed by him acting in each case in the manner prescribed by this Constitution.

(10) It is in the interest of the State to provide such terms and conditions of service, including superannuation benefits, for Judges that on retirement there would be no need for them to practise at the Bar.

TITLE 6A

DEFENCE AND SECURITY

Defence and security .
[7 of 2001]
[5 of 2003]

197A. (1) The State's defence and security policy shall be to defend national independence, preserve the country's sovereignty and integrity, and guarantee the normal functioning of institutions and the security of citizens against any armed aggression.

(2) The Defence and Security Forces shall subordinate to national defence and security policy and owe allegiance to the Constitution and to the Nation. The oath taken by members of the Defence and Security Forces shall establish their duty to respect the Constitution.

Cap. 15:01.

(3) The Guyana Defence Force established under the Defence Act shall in the discharge of its constitutional responsibilities function in such a manner as to earn the respect and enjoy the confidence of citizens.

Cap. 16:01.

(4) The Police Force established under the Police Act shall function in accordance with the law as the law enforcement agency of the State responding to the daily need to maintain law and order by suppressing crime to ensure that citizens are safe in their homes, the streets and in other places.

(5) Disciplined forces commissions may be constituted by the National Assembly from time to time, as may be necessary, with power to examine any matter relating to the public welfare, public safety, public order, defence and security, including the structure and composition of the disciplined forces and make recommendations generally with a view to promoting their greater efficiency, and giving effect to the need in the public interest that the composition of the disciplined forces take account of the ethnic constituents of the population.

Cap. 19:03.

(6) The provisions of the Commissions of Inquiry Act as enforced immediately before the commencement of this Constitution shall, subject to the provisions of this article, apply as nearly as may be in relation to the Commissions appointed under the preceding paragraph, or as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act, and such application shall have effect as if they formed part of this Constitution.

(7) As regards the application of the Commissions of Inquiry Act pursuant to paragraph (6) –

(a) the following provisions shall apply, that is to say -

(i) section 2 – the whole section;
(ii) section 3 – so much of the section as follows the words "in his place";

(iii) section 4 – the whole section;
(iv) section 5 – the whole section;
(v) section 7 – the words "after taking such oath or affirmation";
(vi) section 16 – the whole section;

(b) for the words "such sums so directed to be paid out of moneys provided by Parliament" in section 15, there shall be substituted the words "such sums so directed to be paid shall be charged on and paid out of the Consolidated Fund";

(c) for the words "the President" wherever they appear in the applicable provisions, substitute the words "the National Assembly".

TITLE 7

THE SERVICE COMMISSIONS

The Judicial Service Commission

Composition of Commission [6 of 2001].

198. (1) The members of the Judicial Service Commission shall be—

(a) the Chancellor, who shall be Chairman;

(b) the Chief Justice;

(c) the Chairman of the Public Service Commission; and

(d) such other members (hereinafter referred to as "appointed members") as may be appointed in accordance with the provisions of the next following paragraph.

(2) The appointed members shall be appointed by the President, as follows, that is to say—

(a) one from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court acting after meaningful consultation with the Leader of the Opposition; and

(b) not less than one and not more than two from among persons who are not attorneys-at-law in active practice after the National Assembly has meaningfully consulted such bodies as appear to it to represent attorneys-at-law in Guyana and signified its choice of members to the President:

Provided a person shall be disqualified for appointment as a member of the Commission if he is a public officer.

(3) Subject to the provisions of the next following paragraph, the office of an appointed member of the Judicial Service Commission shall become vacant—

(a) at the expiration of three years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed; or

(b) if he is appointed to the office of Chancellor, Chief Justice or Chairman of the Public Service Commission or of the Teaching Service Commission or if he becomes a public officer.

(4) The provisions of article 225 (which relate to removal from office) shall apply to the office of an appointed member of the Judicial Service Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister and the Chancellor respectively.

(5) If the office of an appointed member is vacant or an appointed member is for any reason unable to perform the functions of his office, a person may be appointed to act in that office and the provisions of paragraph (2) shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed to act in the office of an appointed member shall, subject to the provisions of paragraphs (3)(b) and (4), continue to act until a person has been appointed to the office in which he is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

(6) A person shall not, while he holds or is acting in the office of a member appointed under paragraph (2)(b), or within a period of three years commencing with the date on which he last held or acted in that office, be eligible for appointment to or to act in any office power to make appointments to which is vested by this Constitution in the President acting in accordance with the advice of the Judicial Service Commission or in that Commission.

(7) If, by virtue of provision made by Parliament under article 199(3) or article 203(6), power to make appointments to or to act in any office or to remove or exercise disciplinary control over persons holding or acting in any office is vested in the President acting in accordance with the advice of the Judicial Service Commission or is vested in the Judicial Service Commission, Parliament may provide for the inclusion in the Commission, for the purpose of the exercise of any function or power vested in the Commission by virtue of that provision and of any proceedings of the Commission relating thereto, of members additional to those mentioned in paragraph (1) and for the appointment (including disqualifications for appointment) and tenure of office of such additional members; and provision for the inclusion of different additional members may be made in relation to functions or powers vested in the Commission as aforesaid in relation to different offices.

Appointment, etc, of judicial and legal officers
[17 of 1984]
[6 of 2001]

199. (l) The power to make appointments to the offices to which this article applies and to remove and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial Service Commission.

(2)The Judicial Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under the preceding paragraph to any one or more of its members or to any person holding or acting in an office in respect of which power to make appointments is vested in the President acting in accordance with the advice of the Commission or to which this article applies.

(2**A**) Where any power of the Judicial Service Commission is exercised under paragraph (2), any person in respect of whom the power was exercised (including a person who has failed to obtain an appointment) may appeal to that Commission from the decision of the person exercising the power.

(2**B**). The decision of the Judicial Service Commission on any appeal made under paragraph (2**A**) shall be final.

(3) This article applies to the office of Commissioner of Title, Magistrate, Director of Public Prosecutions, Deputy Director of Public Prosecutions, Registrar of the High Court, Deputy Registrar of the High Court, Registrar of Deeds, Deputy Registrar of Deeds and to such other offices (not being offices in respect of which provision for making of appointments is made by any provision of this Constitution other than article 201) connected with the courts of Guyana or for appointment to which legal qualifications are required as may be prescribed by Parliament.

The Public Service Commission

Composition of Commission [5 of 2001]

200. (1) The Public Service Commission shall consist of six members who shall be appointed as follows, that is to say—

(a) three members appointed by the President acting after meaningful consultation with the Leader of the Opposition;

(b) two members appointed by the president upon nomination by the National assembly after it has consulted such bodies as appear to it to represent public officers or classes of public officers; and

(c) if the President thinks fit, one other member appointed by the President acting in accordance with his own deliberate judgment:

Provided that a person shall be disqualified for appointment as a member of the Commission if he is a public officer.

(2) The Chairperson and Deputy Chairperson of the Commission shall be elected by and from the members of the Commission using such consensual mechanism as the Commission deems fit.

(3) Subject to the provisions of the next following paragraph, the office of a member of the Public Service Commission shall become vacant at the expiration of three years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed.

(4) The provisions of article 225 (which relate to removal from office) shall apply to the office of a member of the Public Service Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority

shall be the Prime Minister except that, in relation to a member other than the Chairperson or a member for the time being acting in the office of Chairperson under the next following paragraph, the prescribed authority for the purposes of the said paragraph (6) shall be the Chairperson.

(5) If the office of Chairperson of the Public Service Commission is vacant or the holder thereof is for any reason unable to perform the functions of his office, then the holder of the office of Deputy Chairperson, or if that office is vacant or the holder thereof is for any reason unable to perform the functions of the office of Chairperson, one of the other members may be elected to act in the office of Chairperson and the Deputy Chairperson or such other member shall continue so to act until a person has been elected to the office of Chairperson and has resumed the functions of that office or, as the case may be, until the Chairperson, or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(6) If the office of a member of the Public Service Commission other than the Chairperson is vacant or if the holder thereof is acting as Chairperson under the preceding paragraph or is for any other reason unable to perform the functions of his office, a person may be appointed to act in that office and the provisions of paragraph (l) shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this paragraph shall, subject to the provisions of paragraph (4), continue to act until a person has been appointed to the office in which he is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

(7) A person shall not, while he holds or is acting in the office of a member of the Public Service Commission or within a period of three years commencing with the date on which he last held or acted in that office, be eligible for appointment to or to act in any office power to make appointments to which is vested by this Constitution in the President acting in accordance with the advice of the Public Service Commission or in that Commission.

Appointment, etc, of public officers. [5 of 2001]

201. (1) Subject to the provisions of this Constitution, the power to make appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission.

(2) The Public Service Commission may, by directions in writing subject to such conditions as it thinks fit, delegate any of its powers under the preceding paragraph to any one or more members of the Commission or, with the consent of the Prime Minister, to any public officer, or, in relation to any office on the staff of the Clerk of the National Assembly, to the Clerk.

(3) No person shall be appointed under this article to or to act in any office on the personal staff of the President except with the concurrence of the President.

(4) Before the Public Service Commission or any member or officer exercising powers under this article appoints to or to act in any public office any person who holds or is acting in any office power to make appointments to which is vested under this Constitution in the Judicial or the Teaching or the Police Service Commission, the Public Service Commission or that member or officer shall consult with the Commission in which that power is vested.

(5) Before the Public Service Commission or any member thereof exercises any of the powers mentioned in paragraph (1) in relation to any office on the staff of the Clerk of the National Assembly (other than the Deputy Clerk) or any person holding or acting in such an office, the Commission or that member shall consult the Clerk.

(6) A public officer shall not be removed from office or subjected to any other punishment under this article on the grounds of any act committed by him in the exercise of a judicial function conferred on him unless the Judicial Service Commission concurs therein.

(7) The provisions of this article shall not apply in relation to any of the following offices, that is to say—

(a) [paragraph (a) deleted by Act No.5 of 2001].

(b) the office of Auditor General;

(c) any office to which article 205 applies;

(d) so far as they relate to power to make appointments on transfer, any office to which article 206 applies;

(e) any office to which article 199 (relating to offices within the jurisdiction of the Judicial Service Commission) applies;

(f) any office to which article 209 (relating to offices within the jurisdiction of the Teaching Service Commission) applies; or

(g) the office of Commissioner of Police or any other office in the Police Force.

Appeals to Public Service Commission [17 of 1984]

202. (1) Where any power of the Public Service Commission is exercised under article 201(2) any person in respect of whom the power was exercised (including a person who has failed to obtain an appointment) may appeal to the Commission from the decision of the person exercising the power.

(2) Subject to the other provisions of this Constitution, the decision of the Public Service Commission on any appeal made under paragraph (1) shall be final.

Appointments, etc. of Director of Public Prosecutions [6 of 2001]

203. (1) [Paragraph 203(1) deleted by Act No.6 of 2001].

(2) If the office of the Director of Public Prosecutions (in this Article referred to as the Director) is vacant or if the holder thereof is for any reason unable to perform the functions thereof, the Judicial Service Commission may appoint a person to act in the office of the Director, and any person so

appointed shall, subject to the provisions of paragraphs (4) and (5), continue to act until a person has been appointed to the office of the Director and has assumed the functions of that office or, as the case may be, until the holder thereof has resumed those functions.

(3) A person shall not be qualified to be appointed to hold or to act in the office of the Director unless he is qualified to be appointed as a Puisne Judge of the High Court.

(4) Subject to the provisions of the next following paragraph, the Director shall vacate his office when he attains the age of sixty years:

Provided that the Judicial Service Commission, may permit a Director who has attained the age of sixty years to continue in office until he has attained such later age, not exceeding sixty-five years, as may (before the Director has attained the age of sixty years) have been agreed with the Director.

(5) The provisions of article 225 (which relate to removal from office) shall apply to the office of the Director, and the prescribed authority for the purposes of paragraph (4) of that article shall be the Chairperson of the Judicial Service Commission and for the purposes of paragraph (6) of that article shall be the Judicial Service Commission.

(6) [Paragraph 6 deleted by Act No.6 of 2001].

Appointment, etc., of Auditor General.

204. (1) The Auditor General shall be appointed by the President acting in accordance with the advice of the Public Service Commission.

(2) If the office of Auditor General is vacant or the holder of the office is for any reason unable to perform the functions thereof, the President acting in accordance with the advice of the Public Service Commission may appoint a person to act in the office, and any person so appointed shall, subject to the provisions of paragraphs (3) and (4), continue to act until a person has been appointed to the office of the Auditor General and has assumed the functions of that office or, as the case may be, until the holder thereof has resumed those functions.

(3) Subject to the provisions of the next following paragraph the Auditor General shall vacate his office when he attains such age as may be prescribed by Parliament.

(4) The provisions of article 225 (which relate to removal from office) shall apply to the office of Auditor General, and the prescribed authority for the purposes of paragraph (4) of that article shall be the Prime Minister or the Chairman of the Public Service Commission and for the purposes of paragraph (6) of that article shall be the Public Service Commission.

Appointments, of Solicitor General and others.

205. (l) The power to make appointments to the offices to which this article applies and to remove from office persons holding or acting in such offices shall vest in the President.

(2) Before making an appointment under paragraph (1) in favour of any person who holds any public office other than an office to which this article applies, the President shall consult the appropriate Commission.

(3) The offices to which this article applies are the offices of Solicitor General, Permanent Secretary, to the Cabinet, Ambassador, High Commissioner or other principal representative of Guyana in any other country or accredited to any international organisation.

(4) In paragraph (2) of this article "the appropriate Commission" means, in the case of a person who holds an office power to make appointments to which is vested in the President acting in accordance with the advice of the Judicial Service Commission or is vested in that Commission, the Judicial Service Commission, in the case of a person who is a teacher in the public service, the Teaching Service Commission, in the case of a person who holds an office power to make appointments to which is vested in the President acting in accordance with the advice of the Police Service Commission or is vested in that Commission, the Police Service Commission, and in any other case the Public Service Commission.

Appointments on transfer to certain offices.

206. (1) The power to make appointments on transfer to the offices to which this article applies shall vest in the President.

(2) The offices to which this article applies are—

(a) offices (other than those to which the preceding article applies) the holders of which are required to reside outside Guyana for the proper discharge of their functions; and

(b) such offices in the department responsible for the external affairs of Guyana as may from time to time be designated by the President.

The Teaching Service Commission

Composition of Commission
[17 of 1984]
[5 of 2001]

207. (1) The Teaching Service Commission shall consist of seven members.

(2) Six of the members of the Commission (hereinafter referred to as "appointed members") shall be appointed as follows—

(a) [Paragraph (a) deleted by Act No.5 of 2001].

(b) one person appointed by the President on the nomination of the Guyana Teachers' Association;

(c) two persons nominated for appointment by the Minister assigned responsibility for local government after that Minister has consulted with local democratic organs or bodies, and

(d) three persons appointed by the President after meaningful consultation with the Leader of the Opposition.

(3) The other member of the Commission shall be the Chief Education Officer.

(4) The Chairperson and Deputy Chairperson of the Commission shall be elected by and from the members of the Commission using such consensual mechanism as the Commission deems fit.

(5) A person shall be disqualified for appointment as an appointed member of the Commission if he is a public officer.

(6) A person shall not while he is holding or is acting in the office of a member of the Commission or within three years commencing with the date on which he last held or acted in that office be eligible for appointment as a teacher in the public service.

(7) The Chairperson, the Deputy Chairperson and one other member designated as such in the instrument appointing him or her shall be full-time members of the Commission.

(8) The President may grant leave of absence to any appointed member of the Commission.

(9) An appointed member of the Commission may at any time resign his office as such member by writing under his hand addressed to the President.

(10) An appointed member of the Commission shall be eligible for reappointment.

Vacation of office of appointed member of the Commission.

208. (1) Subject to the provisions of this article, the office of an appointed member of the Commission shall become vacant at the expiration of three years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed.

(2) The provisions of article 225 (which relate to removal from office) shall apply to the office of an appointed member of the Teaching Service Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister, except that, in relation to a member other than the Chairman of the Commission or a member for the time being acting in the office of Chairman, the prescribed authority for the purposes of the said paragraph (6) shall be the Chairman of the Commission.

(3) The provisions of paragraph (2) shall be without prejudice to the power of the President to revoke the appointment of a member of the Commission appointed under paragraph (2)(b) of article 207 on a request being made for such revocation to the President by the Guyana Teachers Association.

Appointment of teachers
[17 of 1984]

209. (1) Subject to the provisions of this Constitution, the power to appoint persons as teachers in the public service and to remove and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Teaching Service Commission.

(2) The Teaching Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under

paragraph (1) to any one or more of its members or, with the consent of the Prime Minister, to any public officer.

(3) Where any power of the Teaching Service Commission is exercised under paragraph (2), any person in respect of whom the power was exercised (including a person who has failed to obtain an appointment) may appeal to that Commission from the decision of the person exercising the power.

(4) Subject to the other provisions of this Constitution, the decision of the Teaching Service Commission on any appeal made under paragraph (3) shall be final.

The Police Service Commission

Composition of Commission. [5 of 2001]

210. (1) The Police Service Commission shall consist of—

(a) a Chairman appointed by the President acting after meaningful consultation with the Leader of the Opposition from among members appointed under subparagraph (c);

(b) the Chairman of the Public Service Commission;

(c) four members appointed by the President upon nomination by the National Assembly after it has consulted such bodies as appear to it to represent the majority of the members of the Police Force and any other such body it deems fit:

Provided that a person should be disqualified for appointment as a member of the Commission if he is a public officer.

(2) Subject to the provisions of the next following paragraph, the office of an appointed member of the Police Service Commission shall become vacant at the expiration of three years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed.

(3) The provisions of article 225 (which relate to removal from office) shall apply to the office of an appointed member of the Police Service Commission. In the case of an appointed member other than the Chairman, the prescribed authority for the purposes of paragraph (4) of that article shall be the Prime Minister or the Chairman and for the purposes of paragraph (6) of that article shall be the Chairman. In the case of the Chairman the prescribed authority for the purposes of paragraphs (4) and (6) of article 225 shall be the Prime Minister.

(4) If the office of an appointed member of the Police Service Commission is vacant or if the holder thereof is for any reason unable to perform the functions of his office, the President, acting after meaningful consultation with the Leader of the Opposition, may appoint a person who is qualified to be appointed as a member of the Commission to act in that office, and any person so appointed shall, subject to the provisions of paragraph (3), continue to act until a person has been appointed to the office in which he is acting

and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

(5) A person shall not, while he holds or is acting in the office of an appointed member of the Police Service Commission or within a period of three years commencing with the date on which he last held or acted in that office, be eligible for appointment to or to act in any public office.

Appointment, etc, of Commissioner of Police and Deputy Commissioners [5 of 2001]

211. (1) The Commissioner of Police and every Deputy Commissioner of Police shall be appointed by the President acting after meaningful consultation with the Leader of the Opposition and Chairperson of the Police Service Commission after the Chairperson has consulted with the other member of the Commission.

(2) If the office of Commissioner of Police is vacant or if the holder thereof is for any reason unable to perform the functions of his office, a person may be appointed to act in that office and the provisions of the preceding paragraph shall apply to such an appointment as they apply to the appointment of a person to hold that office; and any person appointed to act in the office of Commissioner of Police shall, subject to the provisions of paragraphs (3) and (4), continue to act until a person has been appointed to that office and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

(3) Subject to the provisions of the next following paragraph, the Commissioner of Police shall vacate his office when he attains such age as may be prescribed by Parliament.

(4) The provisions of article 225 (which relate to removal from office) shall apply to the office of Commissioner of Police, and the prescribed authority for the purposes of paragraph (4) of that article shall be the Prime Minister or the Chairman of the Police Service Commission and for the purposes of paragraph (6) of that article shall be the Police Service Commission.

(5) The provisions of article 229 shall apply to resignation from the office of Commissioner of Police as they apply to resignation from an office established by this Constitution.

(6) In this article references to the office of Deputy Commissioner of Police are references to the office, however styled, that ranks next in seniority in the Police Force after the office of Commissioner of Police, provided that there may be more than one office of Deputy Commissioner of Police and that, if there are more than one such office, the holders thereof shall rank among themselves according to the dates of their respective appointments.

Appointment, etc, of other members of Police Force.

212. (1) Subject to the provisions of article 211(1), the power to make appointments to any offices in the Police Force of or above the rank of Inspector, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Police Service Commission.

(2) The Police Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under the preceding paragraph to any one or more members of the Commission or to the Commissioner of Police or, in the case of the power to exercise disciplinary control, to any other member of the Police Force.

(3) The power to make appointments to any offices in the Police Force below the rank of Inspector, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Commissioner of Police.

(4) The Commissioner of Police may, by directions given in such manner as he thinks fit and subject to such conditions as he thinks fit, delegate any of his powers under the preceding paragraph to any other member of the Police Force.

(5) Parliament may provide that, where the power to exercise disciplinary control over any member of the Police Force (including the power to remove him from office) has been exercised under this article by any person (hereinafter referred to as "the disciplinary authority") other than the Police Service Commission, the member of the Police Force in respect of whom it was exercised may appeal from the decision of the disciplinary authority to the Police Service Commission:

Provided that Parliament or, in the case of a decision of the disciplinary authority that is made in the exercise of a power delegated to that authority under the preceding paragraph, the Commissioner of Police may require appeals to be made to the Commissioner of Police or a member of the Police Force of higher rank than the disciplinary authority before they are made to the Police Service Commission.

(6) Parliament may make provision with respect to offences against Police Force discipline and the punishment that may be imposed for any such offence, and any power to exercise disciplinary control (including any power to remove a person from office) or to determine an appeal from a decision to exercise such a power that is exercisable by any person or authority under the provisions of this article shall be exercised in accordance with any such provision.

(7) Before the Police Service Commission or any member of the Commission or of the Police Force exercising powers under this article appoints to or to act in an office in the Police Force any person who holds or is acting in any office power to make appointments to which is vested under this Constitution in the Judicial, the Public or the Teaching Service Commission, the Police Service Commission or that member shall consult the Commission in which that power is vested.

Cap. 16:01.

(8) If provision is made under any law—

(a) altering the ranks into which the Police Force established by the Police Act is divided; or

(b) establishing a police force other than that Police Force, or altering the ranks into which any such other police force is divided,

the Police Service Commission may by order specify some rank (other than the rank of Inspector) in the Police Force or, as the case may be, in that other police force as being equivalent to the rank of Inspector as it exists in the Police Force under the law in force immediately before the commencement of this Constitution and the references in paragraphs (1) and (3) to the rank of Inspector shall then be construed as if they were in relation to the Police Force, or, as the case may be, in relation to that other police force, references to the rank for the time being so specified.

Ethnic Relations Commission. [11 of 2000]

212A.There shall be an Ethnic Relations Commission.

Composition of Ethnic Relations Commission [11 of 2000].

212B. (1) The Ethnic Relations Commission shall consist of –

(a) not less than five nor more than fifteen members nominated by entities, by a consensual mechanism determined by the National Assembly, including entities, representative of religious bodies, the labour movement, the private business sector, youth and women, after the entities are determined by the votes of not less than two-thirds of all elected members of the National Assembly;

(b) a member who shall be a nominee, without the right to vote, chosen by and from each of the following commissions to be established under this Constitution, Indigenous Peoples' Commission, Women and Gender Equality Commission, Commission for the Rights of the Child and Human Rights Commission.

(2) The Chairperson and Deputy Chairperson of the Ethnic Relations Commission shall be elected by and from the members of the Commission, other than the members mentioned in paragraph (1)(b), using such consensual mechanism as the Commission deems fit.

(3) Subject to paragraph (4)(a), members of the Ethnic Relations Commission shall be appointed for three years and shall be eligible for reappointment.

(4) (a) Of those members first appointed under paragraph (1)(a), a majority shall hold office for four years.

(b) Of those members nominated under paragraph (1)(b), the duration for which each shall serve shall, subject to paragraph (3), be determined by the Commission by and from which that member is nominated.

(5) The Ethnic relations Commission shall establish a secretariat comprising its officers and employees.

(6) The Ethnic Relations Commission shall appoint a Chief Executive Officer, who shall serve as Secretary, and such other officers and employees as may be necessary for the efficient discharge of its functions, on such terms and conditions as may be determined by the Commission, save that the remuneration of the officers and employees shall be subject to the approval of the National Assembly.

(7) The provisions of article 225 shall apply to the office of a member of the Ethnic Relations Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Speaker of the National Assembly except that, in relation to a member other than the Chairperson of the Ethnic Relations Commission or a member for the time being acting in the office of the Chairperson under the next following paragraph, the prescribed authority for the purposes of the said paragraph (6) shall be the Chairperson of the Ethnic Relations Commission.

(8) If the office of Chairperson of the Ethnic Relations Commission is vacant or the holder thereof is for any reason unable to perform the functions of his office, then the holder of the office of Deputy Chairperson, or if that office is vacant or the holder thereof is for any reason unable to perform the functions of the office of Chairperson, such one of the other members, other than a member nominated under paragraph (1) (b), as the Commission may appoint, shall act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue so to act until a person has been appointed to the office of Chairperson and has assumed the functions of that office or, as the case may be, until the Chairperson, or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(9) If the office of a member of the Ethnic Relations Commission, other than the Chairperson, is vacant or if the holder thereof is acting as Chairperson under the preceding paragraph or is for any other reason unable to perform the functions of his office, a person may be appointed to act in that office and the provisions of paragraph (1) shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this paragraph shall, subject to the provisions of paragraph (7) continue to act until a person has been appointed to the office in which he is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

Ethnic relations Commission Tribunal. [11 of 2000].

212C. Parliament may by law provide for the establishment of an Ethnic relations Commission Tribunal and such law may make provision for -

(a) the constitution of the Tribunal;

(b) all matters relating to the jurisdiction, powers and duties of the Tribunal;

(c) all matters relating to appeals from decisions of the Tribunal, including a right of appeal to the Court of Appeal on points of law; and

(d) the practice and procedure of the Tribunal.

Functions of the Ethnic Relations Commission. [11 of 2000].

212D. The functions of the Ethnic Relations Commission are to-

(a) provide for equality of opportunity between persons of different ethnic groups and to promote harmony and good relations between such persons;

(b) promote the elimination of all forms of discrimination on the basis of ethnicity;

(c) discourage and prohibit persons, institutions, political parties and associations from indulging in, advocating or promoting discrimination or discriminatory practices on the ground of ethnicity;

(d) foster a sense of security among all ethnic groups by encouraging and promoting the understanding, acceptance and tolerance of diversity in all aspects of national life and promoting full participation by all ethnic groups in the social, economic, cultural and political life of the people;

(e) promote educational and training programmes and research projects which provide for and encourage ethnic peace and harmony;

(f) encourage and create respect for religious, cultural and other form of diversity in a plural society;

(g) promote arbitration, conciliation, mediation and like forms of dispute resolution in order to secure ethnic harmony and peace;

(h) establish mechanisms and procedures for arbitration, conciliation, mediation and like forms of dispute resolution that would ensure ethnic harmony and peace;

(i) recommend to the national Assembly criteria to be considered for the purposes of deciding whether any person has committed acts of discrimination on the ground of ethnicity;

(j) investigate complaints of racial discrimination and make recommendations on the measures to be taken if such complaints are valid, and where there is justification therefore refer matters to the Human Rights Commission or other relevant authorities for further action to be taken;

(k) monitor and review all legislation and all administrative acts or omissions relating to or having implications for ethnic relations and equal opportunities and, from time to time, prepare and submit proposals for revision of such legislation and administrative acts and omissions;

(l) immediately report to the National Assembly and to all relevant authorities any proposed legislation which the Commission thinks may be contrary to the constitutional provisions relating to ethnicity;

(m) promote equal access by persons of all ethnic groups to all public or other services and facilities provided by the government or other bodies;

(n) promote and encourage the acceptance and respect by all segments of the society of the social identity and cultural inheritance of all ethnic groups;

(o) promote cooperation between all bodies concerned with the fostering of harmonious ethnic relations;

(p) investigate on its own accord or on request form the National Assembly or any other body any issues affecting ethnic relations;

(q) identify and analyse factors inhibiting the attainment of harmonious relations between ethnic groups, particularly barriers to the participation to any ethnic group in social, economic, commercial, financial, cultural and political endeavours and recommend to the National Assembly and any other relevant public or private sector bodies how these factors should be overcome;

(r) monitor and report to the National Assembly on the status and success of implementation of its recommendations;

(s) study and make recommendations to the National Assembly on any issue relating to ethnic affairs, including conducting studies to determine whether race relations are improving;

(t) monitor and make recommendations to the National Assembly and other relevant public and private sector bodies on factors inhibiting the development of harmonious relations between ethnic groups and on barriers to the participation of all ethnic groups in the social, economic, commercial, financial, cultural and political life of the people;

(u) consult with other bodies and persons to determine and specify the perceived needs of the various ethnic groups for the fostering of harmonious relations;

(v) train and enlist the aid of such persons and acquire such facilities as the Commission deems necessary to accomplish its functions;

(w) make recommendations on penalties, including the prevention of any political party or any person from participating in elections for a specified period, to be imposed for any breach of the provision of this Constitution or of any law dealing with ethnicity;

(x) do all other acts and things as may be necessary to facilitate the efficient discharge of the functions of the Commission.

Reports.
[11 of 2000].

212E. (1) As soon as practicable after the end of each financial year of its operation, the Ethnic Relations Commission shall submit to the Speaker of the National Assembly an annual report of the activities of the Commission for the preceding year and the report shall be laid before the Assembly within

thirty days of its submission if the Assembly is sitting, and if the Assembly is not sitting, at the first meeting on the resumption of the Assembly.

(2) The Chairperson of the Ethnic Relations Commission may at any time submit a special report to the Speaker of the National Assembly with respect to any aspect of the functions of the Commission which the Commission considers should in the national interest be brought to the attention of the Assembly because it affects a wide cross section of the populace and there could be disastrous consequences if a report thereon is not brought to the attention of the Assembly.

(3) The Commission shall prepare and publish an executive summary of its annual report; and shall publish every special report in the media, having wide accessibility, within forty-five days of the submission of such special report to the National Assembly.

Rules.
[11 of 2000].

212F.(1) Subject to the approval of the National Assembly, the Ethnic Relations Commission shall make rules relating to the procedure of the Commission and to such administrative and managerial matters relating to the procedure of the Commission as it thinks fit; and until such rules relating to the procedure are made, the Commission shall regulate its own procedure.

(2) Except paragraphs (2), (6) and (7) and the provisos to paragraphs (4) and (5), the provisions of article 226 shall ***mutatis mutandis*** apply to the Ethnic Relations Commission.

THE RIGHTS COMMISSIONS

Commissions for the Promotion and Enhancement of the Fundamental Rights and the Rule of Law

Rights Commission.
[5 of 2001]

212G.(1) There are hereby established the following Commissions, the goals of which are to strengthen social justice and the rule of law -

(a) the Human Rights Commission;
(b) the Women and Gender Equality Commission;
(c) the Indigenous Peoples' Commission;
(d) the Rights of the Child Commission.

(2) A Commission shall be independent, impartial, and shall discharge its functions fairly.

(3) A Commission shall be funded by a direct charge upon the Consolidated Fund in accordance with article 222A.

Appointment.
[5 of 2001]

212H. (1) Subject to paragraph (2)(a), members of a Commission shall be appointed for three years and shall be eligible for re-appointment.

(2) Of those members –

(a) first appointed, other than the members nominated by and from another Commission, a majority shall hold office for four years;

(b) nominated by and from another Commission, the duration for which each shall serve shall not exceed the remaining tenure on the Commission by and from which they have been nominated.

(3) The provisions of article 225 shall apply to the office of a member of a Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Speaker of the National Assembly except that, in relation to a member other than the Chairperson or a member for the time being acting in the office of the Chairperson under paragraph (5), the prescribed authority for the purposes of paragraph (6) shall be the Chairperson; this paragraph does not apply to the Chairperson of the Human Rights Commission;

(4) The Chairperson and Deputy Chairperson of a Commission, other than the Human Rights Commission, shall be elected by and from the members of the Commission, other than the members nominated by and from another Commission, using such consensual mechanism as the Commission deems fit.

(5) If the office of Chairperson of a Commission, other than the Human Rights Commission, becomes vacant or the holder thereof is for any reason unable to perform the functions of the office, then the holder of the office of Deputy Chairperson, or if that office is vacant, or the holder thereof is for any reason unable to perform the functions of the office of the Chairperson, one of the other members, other than the members nominated by and from another Commission, may be elected to act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue to act until a person has been elected to the office of Chairperson and has assumed the functions of that office or, as the case may be, until the Chairperson or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(6) If the office of a member of a Commission other than the Chairperson is vacant or if the holder thereof is acting as Chairperson under the preceding paragraph or is for any other reason unable to perform the functions of his or her office, a person may be appointed to act in that office and the provisions in relation to the appointment of members of a Commission shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this paragraph shall, subject to the provisions of paragraph (3), continue to act until a person has been appointed to the office in which he or she is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

Secretariat.
[5 of 2001].

212 I. The Human Rights Commission Secretariat shall be the Secretariat for all the Commissions established under article 212G(1).

General functions.
[5 of 2001].

212J. (1) In addition to the functions prescribed by this Constitution, the functions of a Commission, may be provided for by law; any addition thereto in the Constitution shall be approved by the votes of a majority of all the elected members of the National Assembly but the removal or variation of

any function shall be by the votes of not less than two-thirds of such members.

(2). A Commission, other than the Human Rights Commission, shall have the following general functions –

(a) to monitor and review all existing and proposed legislation, policies and measures for compliance with the objects and matters under its purview and report the need for any amendment to any legislation to the National Assembly;

(b) to educate the public regarding the nature and content of matters under its purview;

(c) to carry out or cause to be carried out research and studies concerning the observance of matters under its purview and report the findings and recommendations thereon to the National Assembly;

(d) to investigate complaints of, or initiate investigations into, violations of the rights under its purview;

(e) to resolve disputes or rectify acts or omissions by mediation, conciliation or negotiation;

(f) to take appropriate action on behalf of persons whose rights have been, are being or are likely to be violated;

(g) to liaise with governmental and non-governmental organisations, and other relevant bodies to address the complaints and concerns of persons regarding matters under its purview;

(h) to enlist the aid of such persons as may be necessary to give expert advice in order to facilitate its functions;

(i) to prepare and submit reports to the National Assembly pertaining to any convention, covenant or charter relating to the objects of a Commission; and

(j) to do all other acts and things as may be necessary to facilitate the efficient discharge of its functions.

(3) A Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its functions to any one or more members of the Commission, or to such officers of the Commission as the Commission may determine.

(4) A Commission may require any person or any entity, including a ministry or government department, to provide it with information –

(a) for the purpose of any investigation it is carrying out or proposes to carry out; and

(b) on the measures that have been or are being taken for the implementation of the decisions of, or the compliance with any provision relating to, the Commission

(5) For the purposes of paragraph (4), Parliament may by law make provision for offences and penalties for non-compliance with any requirement, or decision of, or provision relating to a Commission.

(6) A Commission may at any stage refer any matter to the Human Rights Commission or any other relevant authority or entity to be dealt with.

Rights Commission Tribunal.
[5 of 2001].

212K. Parliament may by law provide for the establishment of a Rights Commissions Tribunal and such law may make provision for -

(a) the constitution of the Tribunal;

(b) all matters relating to the jurisdiction, powers and duties of the Tribunal;

(c) all matters relating to appeals from decisions of the Tribunal to the Court of Appeal; and

(d) the practice and procedure of the Tribunal.

Appeals.
[5 of 2001].

212L. (1) A decision of a Commission is subject to an appeal to the Rights Commissions Tribunal.

(2) A decision of the Rights Commissions Tribunal is subject to an appeal to the Court of Appeal.

Reports.
[5 of 2001].

212M. (1) As soon as practicable after the end of each year of its operation, a Commission shall submit to the National Assembly an annual report of the activities of the Commission during the preceding year and the report shall be tabled in the Assembly within thirty days of its submission if the Assembly is sitting, if not, at the first meeting of the Assembly thereafter.

(2) The Chairperson of a Commission may at any time submit a special report to the National Assembly with respect to any aspect of the functions of a Commission which the Commission considers should, in the national interest, be brought to the attention of the National Assembly.

(3) For the purposes of paragraph (2) a matter is of national interest if –

(a) it affects a wide cross-section of the populace; and

(b) disastrous consequences would result if a report on the matter were not brought to the attention of the National Assembly.

(4) A Commission shall prepare and publish an executive summary of its annual report; provided that each special report shall be published in media having wide accessibility in Guyana within forty-five days of its submission to the National Assembly.

The Human Rights Commission

Human Rights Commission.
[5 of 2001].

212N. (1) The Human Rights Commission shall promote the observance of and respect for, and protect and investigate violations of the rights recognised by this Constitution and any other law relating to equality of

opportunity and treatment (hereinafter referred to as "the rights").

(2) The Human Rights Commission shall consist of a full time Chairperson and such other members, to be appointed in accordance with this article.

(3) The Chairperson of the Human Rights Commission shall be a person who holds or has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such court or who is qualified to be appointed as any such judge, or any other fit and proper person with expertise or experience in human rights matters, to be appointed by the President from a list, not unacceptable to the President, of six persons submitted by the Leader of the Opposition after meaningful consultation with such entities as appear to him or her to have expertise or experience in human rights matters:

Provided that if the Leader of the Opposition fails to supply such a list to the President, the President shall request him or her to do so within a stated period, failing which the President shall in his or her own deliberate judgment, appoint a person who holds or has held office as judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who is qualified to be appointed as any such judge.

(4) In addition to the Chairperson, there shall be four members of the Commission who shall be the Chairpersons of the Ethnic Relations Commission, Women and Gender Equality Commission, Indigenous Peoples' Commission and Rights of the Child Commission.

(5) The Deputy Chairperson of the Human Rights Commission shall be elected by and from the other members of the Commission using such consensual mechanism as the Commission deems fit.

(6) If the office of Chairperson of the Commission becomes vacant, or the holder thereof is for any reason unable to perform the functions of the office, then the holder of the office of Deputy Chairperson, or if that office is vacant, or the holder thereof is for any reason unable to perform the functions of the office of Chairperson, one of the other members may be elected to act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue so to act until a person has been appointed to the office of Chairperson and has assumed the functions of that office or, as the case may be, until the Chairperson or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(7) The President may, with the concurrence of the Leader of the Opposition, remove the Chairperson from office.

Functions of the Human Rights Commission [5 of 2001].

212 O. (1) The functions of the Human Rights Commission are to -

(a) monitor the observance of the international instruments to which The Government accedes from time to time, including those already acceded to and specified in the Fourth Schedule;

Fourth Schedule

(b) monitor and assess compliance with the rights and report the need for any amendment of the law relating thereto to the National Assembly;

(c) educate the public regarding the nature and content of the rights;

(d) make recommendations to any person or any entity, including a ministry or government department, relating to matters affecting compliance with and adoption of measures for the promotion of the rights;

(e) carry out or cause to be carried out research and studies concerning the observance of the rights and report the findings and recommendations thereon to the National Assembly;

(f) monitor and review all existing and proposed legislation, policies and measures for compliance with the rights and report the need for any amendment to any legislation to the National Assembly;

(g) investigate complaints of, or initiate investigations into, violations of the rights;

(h) resolve disputes or rectify acts or omissions by mediation, conciliation or negotiation;

(i) liaise with governmental and non-governmental organisations, and other relevant bodies to address the complaints and concerns of persons regarding matters under its purview;

(j) take appropriate action on behalf of persons whose rights have been, are being or are likely to be violated;

(k) enlist the aid of such persons as may be necessary to give expert advice in order to facilitate its functions;

(l) establish as part of its Secretariat, such units as are necessary for, *inter alia*, the purpose of monitoring compliance with laws relating to the rights, and for educating employers in the public and private sectors and the general public on desirable employment practices;

(m) to prepare and submit reports to the National Assembly pertaining to any convention, covenant or charter relating to the objects of the Commission; and

(n) do all other acts and things as may be necessary to facilitate the efficient discharge of the functions of the Commission.

(2) If any person alleges that any of the rights has been, is being or is likely to be contravened in relation to him or her, then, without prejudice to any other action which is lawfully available to him or her, with respect to the same matter, the Commission shall have the power to institute legal action on behalf of the complainant for redress.

Secretariat.
[5 of 2001]

212P. (1) Each Commission established under article 212G (1) shall appoint on such terms and conditions as may be approved by the National Assembly,

a Chief Executive Officer (who shall serve as its Secretary), and the secretary and assistants to the Chief Executive Officer.

(2) The Human Rights Commission shall be responsible for the efficient functioning of the Secretariat of the Commissions, which shall comprise–

(a) the Chief Executive Officers of the Commissions who shall be Directors in the Secretariat;

(b) the secretaries and assistants to the Chief Executive Officers; and

(c) other officers and employees, as may be necessary for the efficient discharge of the functions of the Secretariat, who shall be appointed on such terms and conditions as may be determined by the Commission.

(3) The Secretariat shall be subdivided into four units, there being a unit for each Commission dealing with issues under the purview of that Commission and headed by its Chief Executive Officer.

(4) Before a Commission appoints to act in any office referred to in paragraph (1) or (2) any person who holds or is acting in any office, power to make appointments to which is vested under this Constitution in the Judicial, the Teaching, the Police or the Public Service Commission, the Commission shall first seek and obtain the approval of the Commission in which that power is vested.

(5) Where a public officer is appointed to an office referred to in paragraph (1) or (2) that officer shall, subject to the said paragraph (1) or (2), remain a public officer unless the appointing Commission determines that that office shall be independent of the Commission from which he or she has been appointed.

(6) Nothing in this article shall be construed as precluding a Commission from appointing any person who is not a public officer to an office referred to in paragraph (1) or (2).

(7) The emoluments and allowances payable to the members of a Commission shall be proposed by the Parliamentary Sectoral Committee for Social Services in consultation with the Commission and approved by the National Assembly.

The Women and Gender Equality Commission

Women and Gender Equality Commission

212Q. (1) The Women and Gender Equality Commission shall promote national recognition and acceptance that women's rights are human rights respect for gender equality and the protection, development and attainment of gender equality.

(2) The Women and Gender Equality Commission shall consist of persons from each of the categories referred to in subparagraphs (a), (b) and (c), appointed by the President as follows –

(a) not less than five nor more than fifteen members, with expertise in women's and gender equality issues, nominated by entities, by a consensual mechanism determined by the National Assembly, after the entities, which shall include the Women's Advisory Committee of the Trade Union Congress, are determined by the votes of not less than two-thirds of all the elected members of the National Assembly;

(b) the Administrator of the Women's Affairs Bureau, by whatever name that office is designated; and

(c) a member who shall be a nominee, without the right to vote, chosen by and from each of the following commissions: the Human Rights Commission, Ethnic Relations Commission, Indigenous Peoples' Commission, and Rights of the Child Commission.

Functions of the Women and Gender Equality Commission. [5 of 2001].

212R. In addition to the functions specified in article 212J(2), the functions of the Women and Gender Equality Commission are to -

(a) promote issues related to the enhancement of the status of women, girls and gender issues;

(b) promote the integration of women's needs and interests and mainstreaming of gender issues;

(c) promote the empowerment of women;

(d) promote women's rights as human rights;

(e) raise the awareness of the contribution of women and problems faced by women including the recognition and value of unwaged work;

(f) promote women's needs, interests, and concerns in the wider spectrum of economic and social development and address both the practical and strategic needs of women as being different from those of men;

(g) educate and monitor employers and the public on desirable employment practices in relation to women;

(h) monitor compliance and make recommendations for compliance with the international instruments to which the Government accedes from time to time, including those already acceded to and which relate to the purpose of the Commission;

(i) evaluate any system of personal and family law, customs or practices or any law likely to affect gender equality or the status of women and make recommendations to the National Assembly with regard thereto;

(j) recommend and promote the implementation of legislation and the formulation of policies and measures so as to enhance and protect the status of women;

(k) promote, initiate or cause to be carried out research and the creation of databases on women and gender related issues

including those of health, especially reproductive health, violence against women and the family, and their socio-economic and political status, as the Commission may deem relevant or as may be referred to it by the National Assembly;

(l) promote consultation and cooperation with women's organizations in relation to decision-making that affects the lives of women;

(m) recommend training and technical assistance to support initiatives by and for women and girls; and

(n) promote the participation of women in national decision-making.

The Indigenous Peoples' Commission

Indigenous Peoples' Commission, [5 of 2001].

212S. (1) The Indigenous Peoples' Commission shall establish mechanisms to enhance the status of indigenous peoples and to respond to their legitimate demands and needs.

(2) The Indigenous Peoples' Commission shall consist of persons from each of the categories referred to in sub-paragraphs (a), (b) and (c) appointed by the President as follows -

(a) not more than ten members nominated by entities, by a consensual mechanism determined by the National Assembly, after the entities are determined by the votes of not less than two-thirds of all elected members of the National Assembly;

(b) three persons, at least one being a woman nominated by the Toushaos Council and two persons including one woman nominated by Amerindian organisations determined by the votes of not less than two-thirds of all elected members of the National Assembly; and

(c) a member who shall be a nominee, without the right to vote, chosen by and from each of the following Commissions: the Human Rights Commission, Ethnic Relations Commission, Women and Gender Equality Commission and Rights of the Child Commission.

Functions of the Indigenous Peoples' Commission. [5 of 2001].

212T. In addition to the functions specified in article 212J(2) the functions of the Indigenous Peoples' Commission are to -

(a) promote and protect the rights of indigenous peoples;

(b) raise awareness of the contribution of, and problems faced by, indigenous peoples;

(c) promote empowerment of the indigenous peoples, especially with regard to the village council in the local government system and the scope and authority of the Council of Toushaos;

(d) make recommendations on economic and education policies to advance the interests of the indigenous peoples;

(e) make recommendations for the protection, preservation and promulgation of the cultural heritage and language of indigenous peoples;

(f) promote consultation and cooperation with indigenous peoples especially with regard to their participation in national decision-making and other decisions that affect their lives;

(g) recommend and promote training and technical assistance to support initiatives by and for indigenous peoples;

(h) educate employers and the public and make recommendations to improve employment practices related to indigenous peoples; and

(i) monitor the need for and recommend where appropriate the establishment of mechanisms to provide counselling for indigenous peoples.

The Rights of the Child Commission

Rights of the Child Commission. [5 of 2001].

212U. (1) The Rights of the Child Commission shall promote initiatives that reflect and enhance the well-being and rights of the child.

(2)The Rights of the Child Commission shall consist of persons from each of the categories referred to in subparagraphs (a) and (b) appointed by the President as follows –

(a) not less than five nor more than fifteen members, with expertise in issues affecting children, nominated by entities, by a consensual mechanism determined by the National Assembly, after the entities which shall include the Ministry with responsibility for children's affairs, the Ministry of Education, and organisations representing the interests of youth, are determined by the votes of not less than two-thirds of all elected members of the National Assembly; and

(b) a member who shall be a nominee, without the right to vote, chosen by and from each of the following commissions: the Human Rights Commission, Ethnic Relations Commission, Women and Gender Equality Commission and Indigenous Peoples' Commission.

Functions of the Rights of the Child Commission. [5 of 2001].

212V. In addition to the functions specified in article 212J(2) the functions of the Rights of the Child Commission are to -

(a) promote the rights and interests of, and respect for the views of, children;

(b) ensure that the rights and interests of children are taken into account at all levels of government, other public bodies, and private organisations when decisions and policies affecting children are taken;

(c) monitor compliance and make recommendations for the compliance with international instruments to which the Government accedes from time to time, including those already acceded to and which relate to the purpose of the Commission;

(d) consult on and participate in the preparation of the Annual Report on the Rights of the Child to be submitted by the Government to the United Nations Committee on the Rights of the Child;

(e) ensure that children have effective means of redress if their rights are being violated;

(f) monitor, evaluate and make recommendations on policies, procedures and practices of organisations, bodies and institutions in order to promote the rights of the child.

The Public Procurement Commission

Public Procurement Commission. [5 of 2001].

212W. (1) There shall be a Public Procurement Commission the purpose of which is to monitor public procurement and the procedures therefor in order to ensure that the procurement of goods, services and execution of works are conducted in a fair, equitable, transparent, competitive and cost effective manner according to law and such policy guidelines as may be determined by the National Assembly.

(2)The Commission shall be independent, impartial, and shall discharge its functions fairly.

Composition of the Public Procurement Commission. [5 of 2001].

212X. (1) The Public Procurement Commission shall consist of five members who shall have expertise and experience in procurement, legal, financial and administrative matters.

(2) The President shall appoint the members of the Commission after such members have been nominated by the Public Accounts Committee and approved by not less than two-thirds of the elected members of the National Assembly.

Appointment. [5 of 2001]

212Y. (1) Subject to paragraph (2), members of the Commission shall be appointed for three years and shall be eligible for re-appointment, for one other term of office, not earlier than three years after the end of their first term.

(2) Of those members first appointed, two shall hold office for four years.

(3) The Chairperson and Deputy Chairperson of the Commission shall be elected by and from the members of the Commission using such consensual mechanism as the Commission deems fit.

(4) The provisions of article 225 shall apply to the office of a member of the Commission, and for the purpose of paragraphs (4) and (6) of that article the prescribed authority shall be the Speaker of the National Assembly except

that, in relation to a member other than the Chairperson or a member for the time acting in the office of the Chairperson under the next following paragraph, the prescribed authority for the purposes of paragraph (6) shall be the Chairperson.

(5) If the office of Chairperson of the Commission is vacant or the holder thereof is for any reason unable to perform the functions of the office, then the holder of the office of Deputy Chairperson, or if that office is vacant, or the holder thereof is for any reason unable to perform the functions of the office of the Chairperson, one of the other members, may be elected to act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue so to act until a person has been elected to the office of Chairperson and has assumed the functions of that office or, as the case may be, until the Chairperson or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(6) If the office of a member of the Commission other than the Chairperson is vacant or if the holder thereof is acting as Chairperson under the preceding paragraph or is for any other reason unable to perform the functions of his or her office, a person may be appointed to act in that office and the provisions in relation to the appointment of members of the Commission shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this paragraph shall, subject to the provisions of paragraph (4), continue to act until a person has been appointed to the office in which he or she is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

Secretariat.
[5 of 2001].

212Z. (1) The Commission shall establish a secretariat comprising its officers and employees.

(2) The Commission shall appoint a Chief Executive Officer, who shall serve as Secretary, and such other officers and employees as may be necessary for the efficient discharge of its functions. The terms and conditions of the appointment of the Chief Executive Officer and the two most senior officers shall be subject to the approval of the National Assembly.

(3) The Chief Executive Officer shall be under the direction and control of the Commission and he or she shall be responsible for the other officers and employees of the Commission who shall directly report to him or her.

(4) The Chief Executive Officer may, as directed by the Commission, attend meetings of public procurement bodies.

(5) Before the Commission appoints to act in any office referred to in paragraph (2) any person who holds or is acting in any office, power to make appointments to which is vested under this Constitution in the Judicial, the Teaching, the Police or the Public Service Commission, the Commission shall first seek and obtain the approval of the Commission in which that power is vested.

(6) Where a public officer is appointed to an office referred to in paragraph (2) that officer shall, subject to the said paragraph (2), remain a public officer unless the Commission determines that office shall be independent of any other Commission.

(7) Nothing in this article shall be construed as precluding the Commission from appointing any person who is not a public officer to an office referred to in paragraph (2).

(8) The emoluments and allowances payable to the members of the Commission shall be determined by the Public Accounts Committee in consultation with the Commission.

Functions of the Public Procurement Commission. [5 of 2001].

212AA. (1) The functions of the Public Procurement Commission are to -

(a) monitor and review the functioning of all public procurement systems to ensure that they are in accordance with law and such policy guidelines as may be determined by the National Assembly;

(b) promote awareness of the rules, procedures and special requirements of the procurement process among suppliers, contractors and public bodies;

(c) safeguard the national interest in public procurement matters, having due regard to any international obligations;

(d) monitor the performance of procurement bodies with respect to adherence to regulations and efficiency in procuring goods and services and execution of works;

(e) approve of procedures for public procurement, disseminate rules and procedures for public procurement and recommend modifications thereto to the public procurement entities;

(f) monitor and review all legislation, policies and measures for compliance with the objects and matters under its purview and report the need for any legislation to the National Assembly;

(g) monitor and review the procurement procedures of the ministerial, regional, and national procurement entities as well as those of project execution units;

(h) investigate complaints from suppliers, contractors and public entities and propose remedial action;

(i) investigate cases of irregularity and mismanagement, and propose remedial action;

(j) initiate investigations to facilitate effective functioning of public procurement systems;

(k) enlist the aid of such persons, as may be necessary, to assist the Commission with expert advice;

(l) liaise with and refer matters to the police and the Auditor General; and

(m) do all other acts and things as may be necessary to facilitate the efficient discharge of the functions of the Commission.

(2) In addition to the functions prescribed in this Constitution, the functions of the Commission may be provided for by law; any addition thereto in the Constitution shall be approved by the votes of a majority of all the elected members of the National Assembly but the removal or variation of any function shall be by the votes of not less than two-thirds of such members.

(3) The Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its functions to any one or more members of the Commission, or to such officers of the Commission as the Commission may determine.

Appeals.
[5 of 2001]

212BB. (1) A decision of the Commission is subject to an appeal to the Tribunal established under article 212EE.

(2) A decision of the Tribunal is subject to an appeal to the Court of Appeal.

Reports.
[5 of 2001].

212CC. (1) As soon as practicable after the end of each year of its operation, the Commission shall submit to the National Assembly an annual report of the activities of the Commission during the preceding year and the report shall be tabled in the Assembly within thirty days of its submission if the Assembly is sitting, if not, at the first meeting of the Assembly thereafter.

(2) The Chairperson of the Commission may at any time submit a special report to the National Assembly with respect to any aspect of the functions of the Commission which the Commission considers should, in the national interest, be brought to the attention of the National Assembly.

(3) For the purposes of paragraph (2) a matter is of national interest if –

(a) it affects a wide cross-section of the populace; and

(b) disastrous consequences would follow if a report on the matter were not brought to the attention of the Assembly.

(4)The Commission shall prepare and publish an executive summary of its annual report; and shall publish every special report in media having wide accessibility in Guyana within forty-five days of the submission of such special report to the National Assembly

Requirement to provide information.

212DD (1) The Commission may require any person, or any entity, including a ministry or government department, to provide it with information –

(a) for the purposes of any investigation it is carrying out or proposes to carry out; and

(b) on the measures that have been or are being taken for the implementation of the decisions of, or the compliance with any provision relating to, the Commission

(2) For the purposes of paragraph (1), Parliament may by law make provision for offences and penalties for non-compliance with any requirement, or decision of, or provision relating to the Commission.

Public Procurement Commission Tribunal.

212EE. Parliament may by law provide for the establishment of a Public Procurement Commission Tribunal and such law may make provision for-

(a) the constitution of the Tribunal;

(b) all matters relating to the jurisdiction, powers and duties of the Tribunal;

(c) all matters relating to appeals from decisions of the Tribunal to the Court of Appeal; and

(d) the practice and procedure of the Tribunal.

Principles for the Establishment of Commissions

Principles for the establishment of Commissions

212FF The Standing Committee for Constitutional Reform shall, in addition to its functions under article 119A, continually review the operations of and the need for existing commissions and for the establishment of new commissions, applying the following considerations:

(a) the issues to be addressed by a commission must be of national interest or affect a wide cross-section of the populace;

(b) there could be disastrous consequences for the society and the country at large if the issues are not attended to and monitored;

(c) there is the assessment that it is important that political interference be eschewed in relation to the issues to be addressed;

(d) the operating procedures and mechanisms for choosing the members of a commission are such as would minimise the influence of the Executive and maximise public perception of impartiality in the operations of the commission;

(e) accordance with the need for efficiency and cost-effectiveness, commissions should be kept small and be staffed by persons of appropriate skill and experience;

(f) where commissions, especially those of a protective nature as opposed to administrative commissions, are established to address similar issues, the limitations of human and financial resources should be considered and common secretariats should be established.

Pensions

Protection or pension rights.

213. (1) Subject to the provisions of the next following article, the law applicable to any benefits to which this article applies shall, in relation to any person who has been granted, or who is eligible for the grant of, such benefits, be that in force on the relevant date or any later law that is not less favourable to that person.

(2) In the preceding paragraph "the relevant date" means—

(a) in relation to any benefits granted before the commencement of this Constitution the date on which those benefits were granted;

(b) in relation to any benefits granted or to be granted after the commencement of this Constitution to or in respect of any person who was a public officer before such commencement, the day immediately preceding such commencement; and

(c) in relation to any benefits granted or to be granted to or in respect of any person who becomes a public officer after the commencement of this Constitution, the date on which he becomes a public officer.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this article, be deemed to be more favourable to him than the other law or laws.

(4) Any benefit to which this article applies (not being a benefit that is a charge upon some other public funds of Guyana) shall be a charge upon the Consolidated Fund.

(5) In this article references to the law applicable to any benefits to which this article applies include (without prejudice to their generality) references to any law relating to the time at which and the manner in which any person may retire in order to become eligible for those benefits.

Power of Commissions in relation to pensions, etc.

214. (1) Where under any law any person or authority has a discretion—

(a) to decide whether or not any benefits to which this article applies shall be granted; or

(b) to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the appropriate Commission concurs in the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any benefits to which this article applies that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the

appropriate Commission concurs in his being granted benefits of a smaller amount.

(3) The appropriate Commission shall not concur under paragraph (1) or paragraph (2) in action taken on the ground that any person who holds or has held the office of a Judge of the Supreme Court of Judicature, Director of Public Prosecutions, Auditor General or Commissioner of Police has been guilty of misbehaviour unless he has been removed from office by reason of such misbehaviour.

(4) In this article "the appropriate Commission" means—

(a) in the case of benefits for which any person may be eligible or that have been granted in respect of the service in the public service of a person who, immediately before he ceased to be a public officer—

(i) was a Judge of the Supreme Court of Judicature, or was the Director of Public Prosecutions and provision was then in force under article 203(6), or was subject to the disciplinary control of the Judicial Service Commission, the Judicial Service Commission;

(ii) was a teacher in the public service, the Teaching Service Commission;

(iii) was the Commissioner of Police or other member of the Police Force, the Police Service Commission; and

(b) in any other case, the Public Service Commission.

Interpretation.

215. (1) The preceding two articles apply to any benefits that are or may become payable under any law providing for the grant of pensions, compensation, gratuities or other like allowances to persons in respect of their service as public officers or to the widows, children, dependants or personal representatives of such persons in respect of such service.

(2) The said two articles and paragraph (1) of this article shall have effect as if service as a Judge of the Supreme Court of Judicature or as the Clerk or Deputy Clerk of the National Assembly were service in the public service.

Public Service Appellate Tribunal

Establishment and functions of the Public Service Appellate Tribunal.
[17 of 1984].

215A. (1) Parliament may, by law, provide for the establishment of a Public Service Appellate Tribunal (hereafter in this article referred to as the "Tribunal") consisting of a chairman and such number of other members, being not less than two, as may be provided by that law.

(2) The chairman of the Tribunal shall be appointed by the President by instrument in writing and shall be a person who—

(a) holds or has held the office of a Judge of the Court of Appeal; or

(b) is qualified to be appointed as a Judge of the Court of Appeal and holds or has held the office of a Judge of the High Court.

(3) A person shall be disqualified for appointment as a member of the Tribunal if he is a member of the Public Service Commission, the Teaching Service Commission or the Police Service Commission or is a public officer.

(4) A person shall not, while he holds the office of a member of the Tribunal or within a period of three years commencing with the date on which he last held that office, be eligible for appointment to, or act in, any office power to make appointments to which is vested by this Constitution in—

(a) the President acting in accordance with the advice of, or after consultation with, the Public Service Commission or the Police Service Commission; or

(b) the Public Service Commission, the Teaching Service Commission or the Police Service Commission.

(5) Where a Tribunal has been established under paragraph (1), an appeal shall lie to the Tribunal, subject to such conditions (if any) as may be specified by or under the law by which it is established, in respect of any matter so specified, being a matter in respect of which the Public Service Commission, the Teaching Service Commission, the Police Service Commission or the Commissioner of Police is empowered to make a decision under any provision of this Constitution:

Provided that no appeal shall lie to the Tribunal—

(a) from any decision of the Public Service Commission or the Police Service Commission in respect of appointment to any office to which article 225 applies or in respect of any matter concerning any person holding, or acting in, any such office;

(b) from any decision of the Public Service Commission, the Teaching Service Commission or the Police Service Commission in respect of any appointment, in a case where such appointment is required by this Constitution to be made after consultation with such Commission; and

(c) from any decision of the Public Service Commission in respect of any matter referred to in article 201(6) to which the Judicial Service Commission has concurred.

(6) Subject to the provisions of this Constitution, the law referred to in paragraph (1) may make, or authorise the making of, provisions with respect to all matters connected with the Tribunal.

(7) Without prejudice to the generality of the provisions of the preceding paragraph, but subject to the provisions of this article, such law may, in particular, make, or authorise the making of, provisions for all or any of the following matters—

(a) the constitution of the Tribunal;

(b) the terms and conditions of the appointment of the members of the Tribunal and the qualifications and disqualifications for such appointment;

(c) the matters in respect of which, and the persons by whom, an appeal to the Tribunal may be brought and all other matters relating to the jurisdiction, powers and duties of the Tribunal;

(d) the manner in which and the conditions, if any, subject to which an appeal to the Tribunal may be brought, including conditions with respect to the time within which the appeal may be brought and the fee payable in respect of the appeal or any application made to the Tribunal; and

(e) the practice and procedure of the Tribunal.

(8) The provisions of article 225 (which relate to removal from office) shall apply to the office of the chairman of the Tribunal, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister.

(9) For the avoidance of doubt it is hereby declared that the prohibition in article 226(6) against enquiry in any court into the question referred to therein shall not apply to proceedings before the Tribunal.

(10) Save as otherwise provided by Parliament by law, the Public Service Commission, the Teaching Service Commission, the Police Service Commission, the Commissioner of Police, every person to whom any power of any of the aforesaid Commissions or of the Commissioner of Police has been delegated and every public officer, whether or not he is a person to whom any such power has been delegated, and authority shall give effect as expeditiously as possible to the decision of the Tribunal on any appeal brought to it or any application made to it.

(11) In deciding any question arising in an appeal brought to the Tribunal or an application made to it, no member of the Tribunal shall be subject to the direction or control of any other person or authority.

(12) Any question whether—

(a) the Tribunal or any bench thereof has validly performed any function vested in it by or under this Constitution; or

(b) any member of the Tribunal or any other person has validly performed any function in relation to the work of the Tribunal, shall not be enquired into in any court.

TITLE 8

FINANCE

Establishment of Consolidated Fund.

216. All revenues or other moneys raised or received by Guyana (not being revenues or other moneys that are payable, by or under an Act of Parliament,

into some other fund established for any specific purpose or that may, by or under such an Act, be retained by the authority that received them for the purpose of defraying the expenses of that authority) shall be paid into and form one Consolidated Fund.

Withdrawals from Consolidated Fund or other public funds.

217. (1) No moneys shall be withdrawn from the Consolidated Fund except—

(a) to meet expenditure that is charged upon the Fund by this Constitution or by any Act of Parliament; or

(b) where the issue of those moneys has been authorized by an Appropriation Act; or

(c) where the issue of those moneys has been authorized under article 219.

(2) Where any moneys are charged by this Constitution or any Act of Parliament upon the Consolidated Fund or any other public fund, they shall be paid out of that fund by the Government of Guyana to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by or under an Act of Parliament.

(4) Parliament may prescribe the manner in which withdrawals may be made from the Consolidated Fund or any other public fund.

Authorisation of expenditure from Consolidated Fund by appropriation
[6 of 2001]

218. (1) The Minister responsible for Finance or any other Minister designated by the President shall cause to be prepared and laid before the National Assembly before or within ninety days after the commencement of each financial year estimates of the revenues and expenditure of Guyana for that year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or any Act of Parliament) have been approved by the Assembly a Bill, to be known as an Appropriation Bill, shall be introduced in the Assembly, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found—

(a) that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; or

(b) that any moneys have been expended for any purpose in excess of the amount appropriated for that purpose by the Appropriation Act or for a purpose for which no amount has been appropriated by that Act, a supplementary estimate or, as the case may be, a statement of excess showing the sums required or spent shall be

laid before the Assembly by the Minister responsible for Finance or any other Minister designated by the President.

Authorisation of expenditure in advance of appropriation. [6 of 2001].

219. (1) Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister responsible for finance may authorise the withdrawal of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government of Guyana until the expiration of four months from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.

(2) Where a supplementary estimate or statement of excess is laid before the National Assembly under paragraph (3) of the preceding article or paragraph (2) of the next following article and is approved by the Assembly by resolution, that resolution shall be authority for the issue of the sums in question from the Consolidated Fund, but the aggregate sums the issue of which is so approved shall be included, under appropriate heads, in a supplementary Appropriation Bill.

(3) Where at any time Parliament has been dissolved before any provision or any sufficient provision is made under this Title for the carrying on of the Government of Guyana, the Minister responsible for finance may authorise the withdrawal of such sums from the Consolidated Fund as he may consider necessary for the purpose of meeting expenditure on the public services until the expiry of a period of three months commencing with the date on which the National Assembly first meets after that dissolution, but a statement of the expenditure so authorised shall, as soon as practicable, be laid before the Assembly by the Minister responsible for Finance or any other Minister designated by the President and, when the statement has been approved by the Assembly, that expenditure shall be included, under the appropriate heads, in the next Appropriation Bill.

Contingencies Fund. [6 of 2001].

220. (1) Parliament may make provision for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance to make advances from that Fund if he is satisfied that there is an urgent need for expenditure for which no other provision exists.

(2) Where any advance is made from the Contingencies Fund a supplementary estimate shall, as soon as practicable, be laid before the National Assembly by the Minister responsible for Finance or any other Minister designated by the President for the purpose of authorising the replacement of the amount so advanced.

Public debt.

221. The public debt of Guyana and the service of that debt (including the interest on that debt, sinking funds payments and redemption moneys in respect of that debt and costs, charges and expenses of and incidental to the management of that debt) are hereby charged on the Consolidated Fund.

Remuneration of holders of certain offices.

222. (1) There shall be paid to the holders of the offices to which this article applies such salaries and such allowances as may be prescribed by or under

any law or, in the case of the Clerk and Deputy Clerk of the National Assembly, as may be determined under article 158(4).

(2) The salaries and allowances payable to the holders of the offices to which this article applies are hereby charged on the Consolidated Fund.

(3) The salary and allowances payable to the holder of any office to which this article applies and his other terms of service shall not be altered to his disadvantage after his appointment, and, for the purposes of this paragraph, in so far as the terms of service of any person depend upon the option of that person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

(4) This article applies to the offices of President, Speaker, Deputy Speaker, Clerk and Deputy Clerk of the National Assembly, any Judge of the Supreme Court of Judicature, members of the Elections Commission, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission or the Police Service Commission, the Ombudsman, the Director of Public Prosecutions, the Auditor General and the Commissioner of Police.

Overarching clause on financial autonomy
[6 of 2001]
Third Schedule.

222A. In order to assure the independence of the entities listed in the Third Schedule-

(a) the expenditure of each of the entities shall be financed as a direct charge on the Consolidated Fund, determined as a lump sum by way of an annual subvention approved by the National Assembly after a review and approval of the entity's annual budget as a part of the process of the determination of the national budget;

(b) each entity shall manage its subvention in such a manner as it deems fit for the efficient discharge of its functions, subject only to conformity with the financial practices and procedures approved by the National Assembly to ensure accountability; and all revenues shall be paid into the Consolidated Fund;

(c) the terms and conditions applicable to grants and donations destined for the entities shall be approved by, and disbursements shall be made through, such appropriate government agency or department as determined by the National Assembly.

Office and functions of Auditor General.
[6 of 2001]

223.(1) There shall be an Auditor General for Guyana, whose office shall be a public office.

(2) The public accounts of Guyana and of all officers and authorities of the Government of Guyana (including the Commissions established by this Constitution) and the accounts of the Clerk of the National Assembly and of all courts in Guyana shall be audited and reported on by the Auditor General, and for that purpose the Auditor General or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Auditor General shall submit his reports to the Speaker of the National Assembly, who shall cause them to be laid before the National Assembly.

(4) In the exercise of his functions under this Constitution, the Auditor General shall not be subject to the direction or control of any person or authority;

(5) The Public Accounts Committee may exercise general supervision over the functioning of the office of the Auditor General in accordance with the Rules, Policies and Procedures Manual for the functioning of the office of the Auditor General as prepared by the Auditor General and approved by the Public Accounts Committee.

(6) The Auditor General shall prepare and submit to the Public Accounts Committee reports, on a quarterly basis, on the performance and operation of the office of the Auditor General.

(7) The Auditor General shall submit annually a copy of an Annual Systems and Financial Audit Report with respect to the office of the Auditor General to the Public Accounts Committee.

(8) In this article -

(a) "Public Accounts Committee" means the Public Accounts Committee established by order 70 (2) of the Standing Orders of the National Assembly; and

(b) "public accounts of Guyana" includes the accounts of –

(i) all central and local government bodies and entities;

(ii) all bodies and entities in which the State has a controlling interest; and

(iii) all projects funded by way of loans or grants by any foreign State or organization.

TITLE 9

MISCELLANEOUS

Rules of court.

224. Where under this Constitution any provision may be made by rules of court, rules for the purpose may be made by the authority for the time being empowered generally, by law in force in Guyana, to make rules of court in relation to civil proceedings in the High Court or, in so far as the provision relates to the bringing of any appeal to, or the institution of other proceedings in, or the practice and procedure of, the Court of Appeal, by the authority so empowered in relation to civil proceedings in that Court.

Removal from office of certain persons. [17 of 2000]

225. (1) Where it is provided in this Constitution that this article shall apply to any office, a person holding such office (in this article referred to as "the office") shall not be removed therefrom or suspended from the exercise of

the functions thereof except in accordance with the provisions of this article; and the prescribed authority

for the purpose of paragraph (4) or (6) shall, in relation to any office, be the authority prescribed for that purpose by the provision of this Constitution by which this article is applied to that office.

(2) The officer may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause whatsoever) or for misbehaviour.

(3) The officer shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under this article and the tribunal has recommended to the President that the officer ought to be removed from office for inability as aforesaid or for misbehaviour.

(4) If the prescribed authority advises the President that the question of removing the officer from office under this article ought to be investigated then—

(a) the President shall act in accordance with the advice of the Judicial Service Commission, in appointing a tribunal which shall consist of a Chairman and not less than two other members, selected by the Judicial Service Commission from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who are qualified to be admitted to practice in Guyana as attorneys-at-law and have been so qualified for such period as is prescribed by Parliament for the purposes of subparagraph (b) of article 129(1) in relation to the office of Puisne Judge; and

(b) that tribunal shall enquire into the matter and report on the facts thereof to the President and recommend to him whether the officer ought to be removed under this article.

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(5) The provisions of the Commissions of Inquiry Act as in force immediately before the commencement of this Constitution shall, subject to the provisions of this article and of article 197(9), apply as nearly as may be in relation to tribunals appointed under this article, or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act, and in such application shall have effect as if they formed part of this Constitution.

(6) If the question of removing the officer from office has been referred to a tribunal under this article, the President, acting in accordance with the advice of the prescribed authority, may suspend the officer from performing the functions of his office, and any such suspension may at any time be revoked by the President, acting in accordance with such advice as aforesaid, and

shall in any case cease to have effect if the tribunal recommends to the President that the officer should not be removed from office.

Powers and procedure of Commissions
[2 of 2000]
[5 of 2001]

226. (1) Save as otherwise provided in this Constitution, in the exercise of its functions under this Constitution a Commission shall not be subject to the direction or control of any other person or authority.

(2) Subject to affirmative resolution of the National Assembly, a commission shall make rules, relating to the procedure of the commission; and until such rules are made, the commission shall regulate its own procedure.

(3) A Commission may, subject to the next following paragraph, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

(4) Any question for decision by a Commission shall be determined by a majority of the votes of the members of the Commission present and voting at a meeting of the Commission at which a quorum is present, and if on any question the votes are equally divided the Chairman or other member presiding shall have a casting vote in addition to his original vote:

Provided that, where the votes are equally divided on the question whether any power to remove a public officer from his office should be exercised, the Chairman or other member presiding shall not have a casting vote and the Commission shall be deemed to have decided that power should not be exercised.

(5) For the purposes of the preceding paragraph a quorum shall consist, in the case of the Elections Commission, of the Chairman and not less than four members, two of whom have been appointed by the President in his own deliberate judgment and two from among members appointed on the advice of the Leader of the Opposition tendered in accordance with article 161(3)(b):

(i) without just cause, such just cause being determined by the Chairman, the meeting shall stand adjourned to a day not later than two days; or

(ii) in the case of the declaration of the results of the election of the President, the meeting shall stand adjourned to the following day, at the same time and place and notice of such adjournment shall be given to the absent members; and if at the adjourned meeting a quorum is not present, the members then present, being not less than four including the Chairman, shall be deemed to constitute a quorum and any decision made at that or any such meeting shall be valid in law and binding.

(6) Any question whether—

(a) a Commission has validly performed any function vested in it by or under this Constitution;

(b) any member of a Commission or any other person has validly performed any function delegated to such member or person by a Commission in pursuance of the provisions of this Constitution; or

(c) any member of a Commission or any other person has validly performed any other function in relation to the work of the Commission or in relation to any such function as is referred to in the preceding subparagraph, shall not be enquired into in any court.

(7) In this article, except as otherwise provided or required by the context, the expression "Commission" means the Elections Commission, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission, or the Police Service Commission:

Provided that (without prejudice to the power of Parliament to make provision in relation to the functions of the Elections Commission) in the preceding paragraph that expression does not include the Elections Commission.

Disqualification for office of persons exciting racial hostility.

227. Notwithstanding any provision of this Constitution relating to the making of appointments to, removal of persons from, or the vacation of, any office, Parliament may provide for the imposition of disqualification for any office prescribed by Parliament on any person convicted by a court of an offence relating to excitement of hostility or ill-will against any person or class of persons on the grounds of his or their race.

TITLE 10

INTERPRETATION

Appointments

228. (1) Where any person has vacated any office established by this Constitution (including any office established under article 100, 124 or 125) he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any public office, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this paragraph, then for the purposes of any function conferred upon the holder of that office the person last appointed shall be deemed to be the sole holder of the office.

(3) The preceding paragraph shall have effect in relation to the office of any Judge of the Supreme Court of Judicature or the Clerk or Deputy Clerk of the National Assembly as if that office were a public office.

Resignations..

229. (l) Any person who is appointed or elected to or otherwise selected for any office established by this Constitution (including any office established under article 100, 124 or 125) may resign from that office and, save as otherwise provided by articles 156(1), 157 and 178(1), shall do so by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected.

(2) The resignation of any person from any such office as aforesaid signified by writing under his hand shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorised by that person or authority to receive it or employed to assist that person in the performance of the functions of his office.

Vacation of office on attaining a prescribed age.

230. Where by this Constitution a person is required to vacate an office when he attains an age prescribed by or under the provisions of this Constitution nothing done by him in the performance of the functions of that office shall be invalid by reason only that he has attained the age so prescribed.

231. [Article 231 repealed by Act No.17 of 2000].

Interpretation
[14 of 2000]
[17 of 2000]

232. (1) In this Constitution, except as otherwise provided or required by the context—

"alien" means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

"attorney-at-law" means a person having a general right of audience in the Supreme Court of Judicature;

"Commissioner of Police" means the officer, however styled, commanding the Police Force;

"the Commonwealth" means Guyana and any country to which article 47 applies and any dependency of any such country;

"court" means any court of law in Guyana;

"elected member of the National Assembly" means any person elected as a member of the National Assembly pursuant to the provisions of paragraph (2) of article 60 or article 160 (2);

"election" means an election of members to serve in the National Assembly, or other elected body established by or under this Constitution, as the case may be;

"financial year" means any period of twelve months beginning on the first day of January in any year or such other date as Parliament may prescribe;

"Guyana" includes, in relation to any period before the day on which this Constitution commences, or anything done before that day, Guyana as it was before that day as well as the former Colony of British Guiana;

"law" includes any instrument having the force of law and any unwritten rule of law and "lawful" and "lawfully" shall be construed accordingly;

"local democratic organ" means any local government authority;

"consultation" or "meaningful consultation" means the person or entity responsible for seeking consultation shall-

(a) identify the persons or entities to be consulted and specify to them in writing the subject of the consultation and an intended date for the decision on the subject of consultation;

(b) ensure that each person or entity to be consulted is afforded a reasonable opportunity to express a considered opinion on the subject of the consultation and

(c) cause to be prepared and archived a written record of the consultation and circulate the decision to each of the persons or entities consulted;

"oath" includes affirmation;

First Schedule

"oath of office" means, in relation to any office, the oath for the due execution of that office set out in the Schedule to this Constitution or such other oath in that behalf as may be prescribed by Parliament;

"Parliament" means the Parliament of Guyana;

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"the Police Force" means the Police Force established by the Police Act and includes any other police force established by or under an Act of Parliament to succeed to or to supplement the functions of that Force but does not include any police force forming part of any naval, military or air force or any police force established by any local democratic organ.

"public office" means an office of emolument in the public service and for the avoidance of doubt it is hereby declared that the expression includes the office of a teacher in the public service and any office in the Police Force;

"public officer" means the holder of any public office and includes any person appointed to act in any such office;

"the public service" means, subject to the provisions of paragraph (5), the service of the Government of Guyana in a civil capacity;

"regional democratic council" means the local democratic organ for any region established under article 72;

"session" means, in relation to the National Assembly, the sittings of the Assembly, commencing when it first meets after this Constitution comes into force or after the prorogation or dissolution of Parliament at any time and terminating when Parliament is prorogued or is dissolved without having been prorogued;

"sitting" means, in relation to the National Assembly is sitting continuously without adjournment and includes any period during which the Assembly is committee; and;

"the State" means the Co-operative Republic of Guyana.

(2) In this Constitution. unless it is otherwise provided or required by the context—

(a) a reference to power to make appointments to any office shall be construed as including a reference to power to make appointments on promotion and transfer and to confirm appointments and the power to appoint a person to act in or perform the functions of that office at any time when the office is vacant or the holder thereof is unable (whether by reason of absence or infirmity of mind or body or any other cause) to perform the functions of that office; and

(b) a reference to the holder of the office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or performing the functions of that office.

(3) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint or elect a person, to perform the functions of an office if the holder thereof is unable to perform those functions, the validity of any performance of those functions by the person so directed or of any appointment or election made in exercise of that power shall not be called in question in any court on the ground that the holder of the office was not or is not unable to perform the functions of the office.

(4) For the purposes of this Constitution, a person shall not be considered to hold a public office by reason only that he is in receipt of a pension or other like allowance in respect of public service.

(5) In this Constitution references to the public service shall not be construed as including service in—

(a) the office of President, Minister, Attorney General, Parliamentary Secretary, Speaker, Deputy Speaker, Leader of the Opposition, Ombudsman, or member of the National Assembly;

(b) the office of a member of any Commission established by this Constitution or of the Public Service Appellate Tribunal;

(c) the office of a member of any board, committee or other similar body (whether incorporated or not) established by any law in force in Guyana;

(d) the office of any Judge of the Supreme Court of Judicature or Clerk or Deputy Clerk of the National Assembly except for the purposes of the next following paragraph and save as otherwise provided in any other provision of this Constitution; or

(e) any body of persons organized as a national service within the meaning of article 154.

(6) References in this Constitution to the power to remove a public officer from his office shall be construed as including a reference to any power conferred by any law to require or permit that officer to retire from the public service:

Provided that —

(a) nothing in this paragraph shall be construed as conferring on any person or authority power to require a Judge of the Supreme Court of Judicature, the Director of Public Prosecutions, the Commissioner of Police, the Auditor General or the Clerk or Deputy Clerk of the National Assembly to retire from his office; and

(b) any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Commission that, if he were to retire, would be the appropriate Commission in relation to him for the purposes of article 214.

(7) Any provision in this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish that office or to any law providing for the compulsory retirement of public officers generally or any class of public officers on attaining an age specified by or under that law.

(8) Subject to article 226(6) and article 215A(12), no provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions shall be construed as precluding a court from exercising jurisdiction in relation to any question whether that person or authority has exercised those functions in accordance with this
Constitution or any other law.

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(9) The Interpretation and General Clauses Act as in force immediately before the commencement of this Constitution, shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applied for the purpose of interpreting, and in relation to, any Act in force immediately before such commencement, and in such application shall have effect as if it formed part of this Constitution.

FIRST SCHEDULE — Article 232

FORM OF OATH
OATH OF OFFICE

I ....., do hereby solemnly declare that I will bear true faith and allegiance to the People of Guyana, that I will faithfully execute the office of ....without fear or favour, affection or ill-will and that in the execution of the functions of that office I will honour, uphold and preserve the Constitution of the Co-operative Republic of Guyana.

SECOND SCHEDULE — Articles 4, 5, 6 and 6A

1. The National Flag
2. The Coat of Arms
3. The National Anthem
4. The National Pledge

The Golden Arrowhead

The heraldic description of the Guyana flag – known as the "Golden Arrowhead" – presented by the Garter King of Arms from the Royal College of Arms, England, reads as follows:

"Vert on a pile throughout issuant from the dexter or, fimbriated argent; white upon a pile gules fimbriated sable, upon the same base".
The design and the colour of Guyana Flag are interpreted as follows-
The green background symbolises the agricultural and forested nature of Guyana.
The white symbolises its waters and rivers potential.
The golden arrow symbolises Guyana's mineral wealth and its forward thrust.
The black border the endurance that will sustain the golden arrow's forward thrust into the future.
The red triangle represents the zeal and dynamic nature of the nation building that lies before this young and independent country.
The Flag is designed to be of a proportion 3 * 5 on land and 1 * 2 at sea.
The colour proportions are:
green 50" gold 24" white 67" and black 1"

Guyana Coat-of –Arms

The design of Guyana's Coat of Arms is interpreted as follows: -
The Amerindian head-dress, the Cacique Crown, symbolises the Amerindians as the indigenous people of the country.
The two diamonds at the sides of the head-dress represent the country's mining industry.
The helmet, on which the Cacique Crown rests, is the monarchical insignia.
The two jaguars rampant, holding a pick-axe, a sugar cane, and a stalk of rice symbolise labour and the two main agricultural industries of the country sugar and rice.
The shield which is decorated with the national flower, the Victoria Regina Lily, is to protect the nation.
The three blue wavy barrulets represent the three great rivers and many waters of Guyana.
The Canje Pheasant at the bottom of the shield is a rare bird found principally in this part of the world, and represents the rich fauna of Guyana.
The streamer below bears the national motto: 'One People, One Nation, One Destiny.'

Guyana National Anthem

The National Pledge

I pledge myself to honour always the flag of Guyana, and to be loyal to my country, to be obedient to the laws of Guyana, to love my fellow citizens, and to dedicate my energies towards the happiness and prosperity of Guyana.

THIRD SCHEDULE **Article 222A**

Entities

The Ethnic Relations Commission
The Human Rights Commission
The Women and Gender Equality Commission
The Indigenous Peoples' Commission
The Rights of the Child Commission
The Judiciary
The Office of the Auditor General

FOURTH SCHEDULE **Articles 154A and 212O(1)**

Convention on the Rights of the Child
Convention on the Elimination of All Forms of Discrimination against Women
Convention on the Elimination of All Forms of Racial Discrimination
Convention Against Torture and Other Inhuman or Degrading Treatment or Punishment
Covenant on Economic, Social and Cultural Rights
Covenant on Civil and Political Rights
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.

END OF CONSTITUTION

REPRESENTATION

OF THE

PEOPLE ACT – CHAPTER 1:03

S4

LAWS OF GUYANA

CHAPTER 1:03

REPRESENTATION OF THE PEOPLE ACT

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CHAPTER 1:03

REPRESENTATION OF THE PEOPLE ACT

Reg. 24/1964
O. 50/1980

AN ACT to make provision for the election of members of the National Assembly under a system of Proportional Representation and for purposes connected therewith.

[25TH SEPTEMBER, 1964]

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Representation of the People Act.

Interpretation.
[16 of 1968;
4 of 1972;
Reg. 6/1973;
O. 50/1980;
16 of 1985;
22 of 1997;
15 of 2000]
c. 1:01

2. (1) In this Act—

"carriage" includes a mechanically propelled vehicle;

"certificate of employment" means a certificate issued under section 29(4);

"Commission" means the Elections Commission established by article 161 of the Constitution;

[15 of 2000]

"disciplined force" has the same meaning as in article 154 of the Constitution,

"district" means a polling district constituted under section 6(1);

"division" means a polling division as defined by section 6(2);

"election" means an election in accordance with article 60(2) of the Constitution of members to the National Assembly, and "elector" shall be construed accordingly;

"election day", in relation to any election, means the day appointed under article 61 of the Constitution for the holding of the election;

"election expenses declaration" means a declaration as to election expenses as required by section 108;

"election officer" means—

[15 of 2000]

(a) the Chief Election Officer;
(aa) the Deputy Chief Election Officer
(b) a returning officer;
(c) a deputy returning officer;
(d) an election clerk;
(e) a presiding officer;
(f) an assistant presiding officer;
(g) a poll clerk;

"elector", in Parts IV, V, VI, VII, VIIB, VIII and IX, means an elector whose name is on the official list of electors;

"Form" means Form in the Schedule;

"group of candidates" means the candidates named in a list of candidates;

"geographical constituencies" means one of the ten constituencies into which Guyana is divided under section 11A.

c. 19:08

"identity paper" means an identification card issued under the National Registration Act and includes a replacement identification card so issued:

[15 of 2000].

Provided that the identity paper tendered to a presiding officer on the day of an election by an elector shall be the latest identity paper issued to him by the Commissioner under this Act, as amended by the Election Laws (Amendment) Act 2000.

[15 of 2000].

"member", in relation to a disciplined force, has the same meaning as in article 154 of the Constitution.

"official list of electors" means the official list of electors for a polling division as prescribed by subsection (3);

"official mark" means such official mark as the Chief Election Officer shall approve for the purpose of stamping ballot papers;

"payment" includes any pecuniary or other reward;

"personal expenses", in relation to the expenses of a candidate, includes his reasonable travelling expenses and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to the election;

"poll" means the poll, by voters whose names are on the official lists of electors, for the purpose of any election;

"presiding officer" means—

(a) a presiding officer of a polling place;
(b) an assistant presiding officer;

"registration card" has the same meaning as in the National Registration Act;

"region" means any of the ten regions which may be established under article 72(1) of the Constitution;

c. 19:08

"returning officer" means—

(a) a returning officer of a polling district;
(b) a deputy returning officer.

(2) In this Act the expression "committee room" does not include any house or room occupied by a candidate at an election as a dwelling, by reason solely of the candidate there transacting general business with his agents in relation to the election;

nor shall any room or building be deemed to be a committee room for the purposes of this Act by reason only of the candidate or any agent of the group of candidates addressing therein electors, committee men, or others.

c. 19:08

(3) The official list of electors for any division shall be the preliminary list of the electors resident in that division, prepared before election day in pursuance of section 14 of the National Registration Act or last prepared in pursuance thereof before such day, as the case may be, but with every such modification as may be necessary to bring that list into conformity with the divisional register—

(a) as altered under section 15(6) of the National Registration Act to give effect to claims and objections finally determined before the said election day;

(b) pursuant to any alteration thereto made under section 8 of the National Registration Act, prior to compliance with section 34(2)(a)(iv) in respect of the said official list, for the purpose of changing the registered address of any elector's residence within Guyana or the registered name or occupation of any elector; or

(c) pursuant to the cancellation of any elector's registration therein effected in contravention of section 11(1) of the National Registration Act, or relating to an elector who is dead, under section 8 of the National Registration Act,

and every reference made to the official list of electors in the provisions hereinafter contained shall, in relation to any time on or before election day, be construed as a reference to such preliminary list as aforesaid with such modifications thereto (if any) as, at that time, shall have been made in conformity with this subsection.

(4) In subsection (3) reference to a preliminary list is a reference to such list read in conjunction with any supplementary list prepared for a revision of that preliminary list pursuant to regulations made under the Act for the purpose of showing the aforementioned modifications.

Electoral system.
[16 of 1968]

3. (1) An election shall be conducted by secret ballot in conformity with this Act.

(2) Throughout Guyana, votes shall be cast in favour of lists of candidates published in accordance with section 19.

Other functions of Commission.
c. 19:08
[16 of 1968]

4. The Commission shall have, in addition to the functions assigned to it by the Constitution, such functions as are assigned to it by this Act and, in the execution of this Act, such authority of the Commission as is exercised in pursuance of the provisions of the Constitution shall be duly deferred to.

Extension of time.
[16 of 1968]
[12 of 1996]

5. Where under this Act any act is required to be done not later than a specified number of days before election day, the Elections Commission may by direction under its hand, if it deems it requisite or desirable so to do, extend the time allowed by reducing the number of days so specified; and the following provisions shall have effect in relation to that power—

(a) the power may be exercised either generally or specially;
(b) the power may be exercised so as to make valid anything already done after the expiration of the time allowed;

(c) the Commission shall, as soon as practicable after any exercise of the power, publish in the *Gazette* a notification thereof, which shall include a brief statement of the reasons for, and the effect of, that exercise.

Polling districts and divisions.
[16 of 1968]
[4 of 1972]
[O. 50/1980]
[O. 68/1980]
[12 of 1996]

6. (1) Guyana shall be divided into polling districts, each of which shall consist of such polling divisions, and be distinguished by such names, as may be specified by order of the Elections Commission:
Provided that no polling district shall extend across the boundary of any region.

c. 19:08.

(2) Subject to any orders made by the Elections Commission under subsection (1), every registration division as constituted under section 5(2) of the National Registration Act shall be a polling division for the purposes of this Act.

(3) Subject to subsections (4) and (5), there shall be for each division such polling places as the returning officer of the district in which the division is situate, subject to the approval of the Chief Election Officer, may appoint; and each polling place shall bear such numerical or other designation as may be approved by the Chief Election Officer.

(4) Where the Chief Election Officer is satisfied that it is impracticable to appoint a polling place within a division or any part thereof, he may appoint some other place in another division within the same district as a polling place at which electors of the first-mentioned division or that thereof shall be entitled.

(5) The Chief Election Officer shall publish in the *Gazette* not later than the 20th day before election day a notice of any polling place appointed under subsection (4).

Election officers and staff.
[30 of 1990]

7. There shall be—

(a) a Chief Election Officer;

(b) for each district a returning officer and an election clerk;

(c) for each polling place a presiding officer, a poll clerk and a counting assistant;

(d) such deputy returning officers, assistant presiding officers and other staff as may be necessary or desirable for the implementation of this Act.

Oaths.
Form 1.

8. (1) Every election officer shall, before performing any of his functions under this Act, take and subscribe an oath in Form 1 before a Justice of the Peace or an election officer.

(2) Every Justice of the Peace and every election officer is authorised and empowered to administer any oath required by or under this Act:
Provided that no election officer shall administer an oath until he has himself taken the oath prescribed in pursuance of subsection (1).

(3) Forthwith upon taking the oath prescribed in pursuance of subsection (1), the returning officer of every district shall establish an office in his district and cause an advertisement to be inserted in a newspaper circulating in the district specifying the place at which he has established his office.

PART II

LISTS OF CANDIDATES

Notice of date for submission of lists.
[16 of 1968]
[Reg. 6/1973]
[12 of 1996]

9. The Elections Commission shall, by notice published in the *Gazett*e, appoint the day, being a day not later than the 32nd day before election day, on which lists of candidates may be submitted to the Chief Election Officer; and there shall be included in the notice particulars of the hours between which and the place at which the Chief Election Officer will attend to receive the lists.

Chief Election Officer to receive lists.

10. The Chief Election Officer shall attend in accordance with the notice given under section 9 to receive the lists of candidates; and no list shall be received at any other time or place.

Requirements of lists.
[16 of 1968]
[Reg. 32/1964]
[Reg. 6/1973]
[O. 50/1980]
[O. 68/1980]
[22 of 1997]
[15 of 2000]
Form 2.

11. (1) A list of candidates comprising registered voters who are eligible to be members of the National Assembly may be submitted by not less than three hundred and not more than three hundred and thirty persons for national top-up lists, and for each geographical constituency not less than one hundred and fifty and not more than one hundred and seventy-five persons whose names appear at the time of submission on the preliminary list mentioned in section 2(3), whether or not that list has at that date been modified as required by that section and shall be handed together with one copy thereof to the Chief Election Officer by the representative or the deputy representative of the list or by two of the persons named as candidates on the list at the time and place appointed; and the Chief Election Officer shall forthwith cause the copy of the list to be posted in a conspicuous place outside his office.

(2) A list of candidates shall be in Form 2; and the submission shall bear the signature of each person submitting the same together with his name and the serial number of his registration card:

Provided that if any such person is unable to sign his name, his mark, made against his name written by some other person, shall be deemed to be his signature for the purposes of this paragraph but not for the purposes of section 12.

(3) A list of candidates shall set out the names, one below the other in such order as each party may determine of the surnames and other names of at least 42 persons qualified to be elected to the National Assembly and who have consented to the inclusion of their names in the list as candidates for election, together with the address and occupation of each such person.

Form 3.

(4) Each list of candidates shall be accompanied by a statutory declaration, in Form 3, by each person named therein as a candidate of his qualifications and consent, made before a justice of the peace, commissioner of oaths, notary public or other person authorised by law to administer an oath in the place where the declaration is made.

(5) Each list of candidates shall bear a title selected by the persons by whom it is submitted.

(6) Subject to section 11B, no person shall be a candidate on more than one list of candidates and no person shall be a signatory to more than one list.

(7) For the avoidance of doubt it is declared that a person may be a signatory to a list of candidates notwithstanding that he is named therein as a candidate.

(8) Stamp duty shall not be chargeable on any statutory declaration made for the purposes of this section.

(9) In the event of the name of the person designated by any list of candidates as a Presidential candidate being deleted pursuant to section 21 from the list—

(a) the representative of the list; or

(b) if there is no representative or if the representative is unwilling or unable (by reason of absence, illness or any other cause) to act, the deputy representative of the list; or

(c) in the case of any such unwillingness or inability on the part of the deputy representative or if there is no deputy representative, a majority of persons named as candidates in the list may designate in writing any such person able and willing to act, who shall forthwith and before election day, by written notice signed by him and delivered to the elections Commission, amend the list by designating any person whose name remains as a candidate on the list as the Presidential candidate designated by that list.

(10) On receipt of any notice of amendment pursuant to subsection (9), the Elections Commission shall forthwith and before elections day give public notice of the amendment in such manner as it may in all the circumstances deem the most practicable and with effect from the time when such notice is given the new Presidential candidate specified in the notice shall be the Presidential candidate designated by that list.

Requirements for geographical constituencies
[15 of 2000]
[2 of 2001]

11A (1) The National Assembly shall contain at least sixty-five elected members, and their election shall be on a party lists basis to which the system of proportional representation shall be applied; in this section and in section 11C the system of proportional representation referred to is known as the largest remainder system using the "Hare quota".

(2) Guyana shall be divided in ten geographical constituencies for the purpose of electing members of the National Assembly from each geographical constituency.

(3) Each of the ten regions of Guyana constituted as a registration district and a polling district under the Local Democratic Organs (Regional Democratic Councils) Order 1980 shall be deemed to be a geographical constituency.

(4) The ten geographical constituencies shall elect twenty-five of the members of the National Assembly. The number of members to be elected from each geographical

constituency mentioned in the first column of the Table below shall be as shown in the corresponding entry in the second column of the Table.

TABLE

GEOGRAPHICAL CONSTITUENCIES	NUMBER OF MEMBERS OF THE NATIONAL ASSEMBLY ELECTED
No. 1	2
No. 2	2
No. 3	3
No. 4	7
No. 5	2
No. 6	3
No. 7	2
No.8	1
No.9	1
No.10	2

(5) The remaining elected members of the National Assembly shall be chosen from lists supplied by contesting parties and such lists shall be designated "national top-up lists".

Characteristics that party lists must satisfy. [15 of 2000].

11B (1) Each party shall contest in a minimum of six of the ten geographical constituencies, and shall also satisfy the criterion that a contesting party is contesting at least thirteen of the twenty-five seats specified in section 11A(4) in respect of the geographical constituencies.

(2) Each party shall submit, for each geographical constituency in which it is contesting the general election, a list of names of persons qualified to be elected to the National Assembly; and each such list shall comprise two more names than the number of members of the National Assembly specified in section 11A(4) for the specific geographical constituency for which the list is submitted.

(3) Each party shall submit a national top-up list, separate and distinct from lists relating to geographical constituencies, comprising at least forty-two names of persons qualified to be elected to the National Assembly, and the party's Presidential Candidate shall be so identified on, and only on, its national top-up list.

(4) Each party may duplicate names on its geographical constituency lists and its national top-up list, subject to the following provisions-

(a) a candidate's name can appear on only one geographical constituency list;

(b) a candidate's name can appear on only one party's lists;

(c) a candidate's name can appear on a geographical constituency list and also on the national top-up list of a party, but if the candidate is allocated a seat based on the results in a geographical constituency that candidate's name cannot also be extracted from the national top-up list, and ***vice versa*,** for membership of the National Assembly.

(5) The total number of females on each party's national top-up list shall be at least one-third of the total number of persons on that list.

(6) The total number of females on any party's lists for geographical constituencies, taken together, shall be at least one-third of the total number of persons on those lists taken together for the geographical constituencies in which that party is contesting.

(7) There shall be no more than twenty percent of the number of geographical constituencies in which a party is contesting for which the party's geographical constituency list contains no female.

(8) In the extraction from the lists and declaration of names of the candidates who have been elected account shall be taken-

(i) of the total number of females on each party's national top-up lists and the lists for geographical constituencies, taken together, being at least one-third of the number of persons on those lists as mentioned in paragraphs (5), (6) and (7); and

(ii) of the proportion that women formed of the electorate.

(9) The order in which a party states the names of candidates on its lists shall be as the party deems fit.

Voting and allocation of seats in the National Assembly
[15 0f 2000].
[2 of 2001]

11C. (1) Every elector shall have only one vote which shall be cast in the geographical constituency in which he is registered and votes in respect of the list of his choice, and that vote shall be counted to determine the outcomes of both the election for that geographical constituency and for the country taken as a whole: a vote for a party's geographical constituency list is simultaneously a vote for that party's national top-up list.

(2) Within each geographical constituency, the seats allocated to a party for membership of the National Assembly from the geographical constituency shall be determined by application of the system of proportional representation to the valid votes cast in that geographical constituency in relation to the total number of seats being contested in that geographical constituency, thereby allocating to parties the twenty-five seats under section 11A(4).

(3) Subject to the proviso to subsection (5) for the country taken as a whole, the total seats allocated to a party for membership of the National Assembly shall be determined by application of the system of proportional representation to the valid votes for parties countrywide in relation to the sixty-five elected seats of the National Assembly.

(4) For each geographical constituency, each party shall extract from its geographical constituency list the candidates to become members of the National Assembly on the basis of the seats allocated under subsection (2)

(5) The number of seats in the National Assembly that is additional to the number of seats allocated to a party from the geographical constituencies as determined under subsection (2) shall be determined by subtracting the number determined under

subsection (2) from the total number of seats that is to be allocated to the party under subsection (3):

Provided that in the event that the arithmetical calculations of total seats allocated to a party for membership of the National Assembly in accordance with subsection (3) produce the result that a party is allocated a fewer number of seats than those it has already obtained on the basis of the calculations that are in accordance with subsection (2), the allocations based on the distribution of sixty-five seats shall be made; the number of geographical constituency seats already allocated to parties shall not be changed, thereby maintaining the total number of geographical constituency seats at twenty-five; the total number of elected members of the National Assembly shall be increased to accommodate the allocations of the number of non-geographical members and no further calculation based on the increased size of the Assembly shall be done.

(6) Each party shall extract from its national top-up list candidates who together comprise the additional number of seats allocated to the party under subsection (4), provided that the provisions in section 11B(4)(c) are observed.

Representatives of lists.
[16 of 1968]
[2 of 2001].

12. (1) The persons submitting a list of candidates may nominate one of their number as representative of the list and another as deputy representative, both of whom shall be candidates named in that list, and—

(a) where neither a representative nor a deputy representative is so nominated, the persons (other than persons who are not candidates) whose signatures appear first and second in the submission shall be deemed to have been nominated as representative and deputy representative respectively;

(b) where a representative is not so nominated, the person nominated as deputy representative shall be deemed to have been nominated as representative and the person (other than the person nominated as deputy representative and persons who are not candidates) whose signature appears first in the submission shall be deemed to have been nominated as deputy representative; and

(c) where a deputy representative is not so nominated, the person (other than the person nominated as representative and persons who are not candidates) whose signature appears first in the submission shall be deemed to have been nominated as deputy representative.

(2) Notwithstanding anything in this Act or in any other written law-

(i) the provisions of subsection (1) shall apply *mutatis mutandis* to the national top-up list;

(ii) the representative and deputy representative of the national top-up list may serve as representative and deputy representative of-

(a) each of the list for the ten geographical constituencies; and
(b) each of the lists for the ten regional democratic councils.

Examinations of lists.
[16 of 1968]
[15 of 2000]

13. On receipt of the lists of candidates the Chief Election Officer shall examine them for the purpose of ascertaining whether they have been submitted in accordance with section 11 or section 11A as the case may be, and shall, after examination,

deliver them to the Commission together with his report thereon.

Defective lists.
[16 of 1968]
[Reg. 6/1973]
[15 of 2000]

14. (1) If it appears to the Commission that a list of candidates is defective, that is to say, that the list or its submission does not comply in all respects with the requirements of section 11(1), (2), (3), (4) and (5) or section 11B or bears a misleading title, the Chief Election Officer shall, not later than the 30th day before election day, so inform the representative and the deputy representative of the list, specifying the defects:

Provided that if the list does not bear a title the Commission may, if it seems to them just and proper to do so, instead of treating the list as defective, allocate a title thereto.

(2) If the name of any person appears as a candidate on two or more lists of candidates the Chief Election Officer shall—

(a) not later than the 30th day before election day inform the representatives and deputy representatives of the lists concerned;

(b) delete the name of that person from any list on which the Commission are satisfied he did not consent to the inclusion of his name;

(c) delete his name from each list on which it appears if the Commission are satisfied that he consented to the inclusion of his name on more than one list.

(3) If the name of any person appears as a signatory to the submission of more than one list, his signature shall be inoperative on any list other than the one first delivered to the Chief Election Officer and the Chief Election Officer shall delete his name from each other list, and if by reason of such deletion it appears to the Commission that any list is defective in that in the case of the national top-up lists there remain less than three hundred signatories thereto or in case of a geographical constituency there remain less than one hundred and fifty of the registered voters as signatories thereto, such list shall be treated as defective.

Corrections to lists.
[16 of 1968]
[Reg. 6/1973]

15. The representative and deputy representative of a list of candidates, or either of them, may, not later than the 29th day before election day, submit to the Chief Election Officer corrections of any defects in the list (whether or not those defects are defects which have been notified under section 14); and the Chief Election Officer shall forward the corrections to the Commission together with his report thereon.

Applications for symbols.
[16 of 1968]
[Reg. 6/1973]

16. (1) The representative and deputy representative of a list of candidates, or either of them, may, not later than the 32nd day before election day, make application in writing addressed to the Chief Election Officer for the allocation of a symbol which shall be a symbol approved by the Commission.

(2) Applications for symbols shall be considered by the Commission in the order in which they have been received but no right shall be conferred by priority of application to the allocation of the symbol for which application is made or for any particular symbol.

Approval of lists.
[16 of 1968]
[Reg. 6/1973]
[O. 50/1980]

17. (1) Subject to section 18 no list of candidates shall be valid unless it has been approved by the Commission not later than the 28th day before election day.

(2) If it appears to the Commission that a list of candidates is not defective or that defects in it have been cured by corrections submitted in accordance with section 15, they shall approve it and allocate thereto such symbol as they in their discretion decide; and if it appears to the Commission that a defective list has not been so corrected, they shall refuse to approve it.

(3) Not later than the 28th day before election day, the Commission shall notify the representative and deputy representative of each list that the list is or is not approved and shall publicly declare the titles of the approved lists and the names of candidates thereon.

(4) The refusal of the Commission to approve a list shall not be called in question in any court except by appeal under section 18, and the approval of a list by the Commission shall not be called in question in any court except in accordance with a law made under article 163 of the Constitution.

Appeal against refusal of approval.
[16 of 1968]
[Reg. 6/1973]

18. (1) Where the Commission have refused to approve a list of candidates, the representative and deputy representative of the list, or either of them, may, not later than the 26th day before election day, appeal to the High Court against such refusal.

(2) The High Court shall hear the appeal and deliver judgment within such time before election day as will enable the Commission duly to comply with the requirement of section 19 relating to publication of the list; and the judgment of the court shall not be subject to appeal.

(3) The court may—

(a) dismiss the appeal; or

(b) approve the list to which the Commission have refused to give their approval; or

(c) approve that list with such modifications as to the court may seem just;

and when the court approves a list, with or without modification, the list as approved by the court shall have effect as if it had been approved by the Commission under section 17.

Publication of lists.
[16 of 1968]
[Reg. 6/1973]

19. The Commission shall, not later than the 23rd day before election day, cause to be published in the *Gazette* the titles and symbols of the lists approved by them or the High Court and the names of the candidates on those lists and may cause such further publication of the same, for the information of electors, as the Commission considers desirable.

Withdrawal of lists.

20. A list of candidates may be withdrawn by notice in writing addressed to the Chief Election Officer and signed by both the representative and deputy representative of the list:

Provided that a list shall not be withdrawn after the Commission have notified the representative and deputy representative thereof that it has been approved.

Death or withdrawal of candidate.
[16 of 1968]
[Reg. 6/1973]

21. (1) If a person whose name is included in a list of candidates which has been submitted to the Chief Election Officer dies or, by notice in writing signed by him and addressed and delivered to the Chief Election Officer, withdraws his candidature, his name shall be deleted from the list and, if the list has already been published under section 19, the Commission shall cause notification of the deletion to be published in like manner:

Provided that no such notice shall be delivered as aforesaid after the 31st day before election day.

(2) The deletion of the name of any candidate by reason of his death from any list of candidates after its approval by the Commission shall not render the list defective; and correction of any defect caused by deletion of a dead candidate's name from any list of candidates may, notwithstanding anything to the contrary provided in section 15, be submitted at any time before the approval of such list:

Provided that where, by reason of any deletion first mentioned in this paragraph no names remain on a list of candidates, such list shall cease to have effect.

Joinder of lists.
[16 of 1968]
[Reg. 6/1973].

22. (1) Subject to subsection (2), two or more lists of candidates shall be joined for the distribution of seats (but not for the purpose of voting) if the representative and deputy representative of each list to be so joined gives notice accordingly in writing to the Chief Election Officer not later than the 25th day before election day; and lists so joined are hereinafter referred to collectively as a combination of lists.

(2) No list of candidates shall be included in more than one combination of lists and if any notice given under subsection (1) would, if given effect, result in a contravention of this section, that list shall not be included in any combination of lists.

(3) The Commission shall cause a notification of combinations of lists to be published not later than the 23rd day before election day in the *Gazette* and may cause such further publication of the same, for the information of electors, as the Commission considers desirable.

PART III

AGENTS

Appointment of election agents.
[Reg. 6/1973]

23. (1) The representative of each list of candidates shall not later than the 32nd day before election day give notice in writing to the Chief Election Officer appointing himself or some other person to be the election agent of the candidates in the list and if the appointment of an election agent is revoked or the election agent dies and no further appointment is made, the representative of the list of candidates shall be deemed to have been appointed to be the election agent of the candidates.

(2) The Chief Election Officer shall cause a notice to be published in the *Gazette* of the name and address of the person appointed or deemed to be appointed as election agent.

Appointments of assistant agents, counting agents and polling agents.

24. (1) An election agent may appoint—

(a) an assistant agent for each district;

(b) a counting agent for each district;
(c) a polling agent for each polling place.

(2) Notice in writing of every appointment of an assistant agent, counting agent and polling agent, stating the name and address of the person appointed shall be given not later than the 7th day before election day by the election agent to the returning officer of the district for which the assistant agent or counting agent is appointed or in which is situate the polling place for which the polling agent is appointed.

(3) The returning officer shall upon receiving a notice of an appointment of an assistant agent give public notice of the name and address of the person appointed.

(4) There shall not be, at the same time, more than one assistant agent or more than one counting agent of a group of candidates for any one district nor shall there be more than one polling agent of that group for any one polling place.

(5) Upon the revocation of the appointment of or upon the death of an assistant agent, counting agent or polling agent the election agent shall forthwith give notice in writing thereof to the returning officer to whom notice of appointment was given and shall give notice in writing of any further appointment made in accordance with subsection (2):

Provided that the appointment of an assistant agent, counting agent or polling agent shall not be vacated solely by reason of the revocation of the appointment or the death of the election agent who appointed him.

(6) Nothing in this section shall preclude the appointment of a person as an assistant agent for two or more districts or as polling agent for two or more polling places or as both assistant agent and counting agent, or as both assistant agent and polling agent, or as both counting agent and polling agent, or as assistant agent, counting agent and polling agent.

Actions of assistant agents, polling agents and counting agents.

25. (1)Every election agent may act, in relation to any matter required to be done in any district, by the assistant agent for that district; and anything done for the purposes of this Act by an assistant agent in his district shall be deemed to have been done by the election agent.

(2) Any act or default by an assistant agent which, if he were an election agent, would be an illegal practice or other offence against this Act, shall be an illegal practice or other offence against this Act committed by the assistant agent who shall be liable to punishment accordingly.

(3) Where in this Act any action or thing is required to be done in the presence of candidates, polling agents or counting agents, the non-attendance of any such candidate, polling agent or counting agent at the time and place appointed for the purpose shall not, if any act or thing is otherwise properly done, invalidate the act or thing done.

Liability of candidates for offences by election agents.

26. Where any corrupt or illegal practice or any illegal payment, employment or hiring, or other offence under this Act, is proved to have been committed by an election agent or assistant agent with the consent or connivance of a candidate, such candidate shall also be deemed to have been guilty of such corrupt or illegal practice or illegal payment, employment or hiring or other offence.

PART IV

ENTITLEMENT TO VOTE

Electors to have one vote and to vote in person.
[16 of 1968]

27. (1) An elector shall be entitled to vote in a polling place at an election if he complies with this Act and with requirements made and directions given thereunder and if the presiding officer of the polling place at which he applies for a ballot paper is satisfied as to the matters specified in section 70(1).

(2) No person shall be entitled to vote in a polling place at an election unless he is entitled to do so under subsection (1).

(3) Every elector who votes at an election shall, subject to the provisions of this Act relating to voting by proxy and to the marking of ballot papers on behalf of blind and incapacitated electors, vote at a polling place in person.

(4) Without prejudice to the provisions of this Act relating to voting as a proxy and to the marking of ballot papers on behalf of blind and incapacitated electors, no elector shall vote more than once at the election.

Voting to be at polling place where elector's name displayed.
[16 of 1968]
[Reg. 6/1973]
[16 of 1985].

28. An elector shall be entitled to vote (whether in person or as a proxy on behalf of another elector) at the polling place where is displayed in pursuance of section 36 the official list of electors or part thereof, as the case may be, on which his name appears; and no elector shall, subject to section 29, be entitled to vote (either in person or as a proxy on behalf of another elector), at any other polling place.

Right of electors in certain cases to vote at other polling places.
[16 of 1968]
[O. 50/1980]
[O. 80/1980]
[12 of 1996]

29. (1) The Elections Commission may by notice published in the *Gazette* specify divisions or groups of divisions to which subsections (2) and (3) shall apply:

Provided that divisions which form part of different districts shall not be grouped together.

(2) An elector whose name appears on the official list of electors of a division which is one of a group of divisions specified by the Elections Commission by notice under this section may vote at any polling place in that group of divisions.

(3) An elector whose name appears on the official list of electors of a division which is specified by the Elections Commission by notice under this section may vote at any polling place in that division.

(4) An elector who, in the district in which his address as entered in the official list of electors affixed under section 34(2)(a)(iv) is situate is employed as an election officer, member of the Police Force or of the Guyana Defence Force for a purpose connected with the election at a polling place other than that where his name is displayed under section 28 may vote at that polling place if, not later than the day before election day, he obtains from the returning officer of that district a certificate

Form 4.

under his hand, in Form 4, authorising him to vote at that polling place, which certificate shall state the name of the elector, the number of his identity paper and the fact that he is to be so employed.

Entitlement to vote by proxy.
[16 of 1968]
[Reg. 21/1968]
[6 of 1973]
[16 of 1985].

30. (1) The following electors shall be entitled to vote by proxy at an election—

(a) those unable, or likely to be unable, to go in person to the polling place, at which they are entitled to vote, for any of the following reasons—

(i) the particular circumstances of that person's employment on the election day either as a member of a disciplined force, or as a rural constable, or for a purpose connected with the election, by a returning officer;

(ii) the fact that at the election that person is acting as returning officer for a district other than the district in which his address as entered in the official list of electors is situate;

(iii) the particular circumstances of that person's employment on the election day by the returning officer for a district, other than the district in which his address as entered in the official list of electors is situate, for a purpose connected with the election in that district;

(iv) the fact that that person is an employee of the Transport and Harbours Department engaged in running a vessel on the election day;

(b) a candidate at the election, where he is unable, or likely to be unable, to go in person to the polling place at which he is entitled to vote, by reason of being engaged in any activity connected with the election in a district other than the district in which that polling place is situate;

(c) those unable, or likely to be unable, by reason either of blindness or any other physical incapacity, to go in person to the polling place or, if able to go, to vote unaided.

(2) Not more than one person shall be appointed to vote as a proxy on behalf of any one elector.

(3) No person shall be appointed to vote as a proxy—

(a) on behalf of another elector unless he is himself an elector who is entitled to vote at the same polling place as that at which the elector on whose behalf his appointment is sought is entitled to vote;

(b) for more than two electors.

(4) An elector voting as a proxy on behalf of another elector so shall do at the same polling place and at the same time as he votes on his own behalf.

Application for appointment of proxy.

[16 of 1968]
Form 5.

31. Every application for any such appointment of an elector to vote as proxy at an election shall—

(a) be in writing in Form 5;

(b) be addressed to the returning officer of such district as shall comprise the division in which the applicant's name is displayed under section 34(2)(a)(iv), and be sent to that officer so as to be received by him not later than the 10th day before election day;

(c) be accompanied by the consent in writing of the elector, named as proxy therein to his appointment.

Notice of appointment as proxy and list of proxies.
[16 of 1968]
[22 of 1997]
[15 of 2000]
Form 6.

32. (1) If a returning officer is satisfied that an application for the appointment of another elector to vote as a proxy on behalf of the applicant has been duly submitted in accordance with section 31 and that the person whose appointment is sought is entitled to vote as a proxy on behalf of the applicant and consents to his appointment, he shall issue to that person a notice of appointment as a proxy in Form 6 and shall notify the applicant accordingly.

(2) If the returning officer refuses the application he shall notify the applicant of his refusal and of his reasons therefor.

Form 7.

(3) The returning officer of each district shall keep a list of proxies which shall be in Form 7 and shall set out the names, addresses and the serial numbers of the registration cards of the electors for whom the proxies have been appointed and of the electors who have been appointed to vote as proxies on their behalf; and the returning officer shall on the request of an election agent allow him, on the 4th day before election day, to inspect and copy the list.

Cancellation of appointment as proxy.
Form 8.

33. An elector may cancel the appointment of another person to vote as a proxy on his behalf by giving notice in writing in Form 8 addressed and sent to the returning officer who issued the notice of appointment so that the notice of cancellation is received by the returning officer not later than the 10th day before election day; and thereupon the notice of appointment shall be void and the returning officer shall—

(a) so notify the elector whose appointment as a proxy is cancelled;
(b) delete the names of both electors from the list of proxies.

PART V

PREPARATIONS FOR THE POLL

Notice of poll.
[Reg. 6/1973]
[16 of 1985]
[12 of 1996]
Form 9.

34. (1) Not later than the 20th day before election day the returning officer of each district shall give a notice of poll which shall be in Form 9 and which shall specify—

(a) the day on and the hours between which the poll will be taken; and
(b) the situation of each polling place in the district.

(2) Not later than the 14th day before election day the returning officer shall—

(a) cause to be affixed to one building in each division of his district the following:

(i) a copy of the notice of poll;

(ii) a copy of each list of candidates published in accordance with section 19;

(iii) notification of joinder of any such lists; and

(iv) a copy of the official list of electors for that division;

(b) cause such further publication of such lists and notification as he may think desirable to bring their contents to the attention of electors in his district.

(3) The hours between which the poll shall be taken shall be from 6 o'clock in the forenoon until 6 o'clock in the afternoon at all polling places in all districts unless the Elections Commission shall prescribe different hours, being twelve consecutive hours, for any polling place.

(4) Nothing in subsection (2) shall be construed as precluding the returning officer from annexing to the copy of the official list of voters affixed under that subsection copies of such supplementary lists as are mentioned in section 2(4).

Division of official list of electors.
[16 of 1968]

35. Where more than one polling place is established for any division the returning officer of the district in which the division is situate shall apportion in such manner as he thinks fit, between the polling places so established, the entries in the official list of electors for that division and shall compile such lists of electors as comprise the entries allotted to such polling places, respectively; and each list so compiled shall be regarded and dealt with as a part of the said official list.

Display of lists at polling places.
[16 of 1968]
[O. 68/1980]

36. The returning officer for each district shall cause to be displayed at every polling place therein a copy of the official list of electors for the division in which that polling place is situate or, as the case may be, a copy of such part of the said list as has been allotted to that polling place under section 35 and the foregoing provisions of this section shall apply ***mutatis mutandis*** in the case of any polling place established under subsections (4) and (5) of section 6.

Preparation of polling places.
[16 of 1968]

37. The returning officer of each district shall before election day cause every polling place in his district to be provided with—

(a) such doors, barriers, tables, chairs and other conveniences as are necessary or desirable, or as the Chief Election Officer may direct, for the purpose of implementing this Act;

(b) such number of compartments as are necessary or desirable and in which electors can vote free from observation.

Printing of directions for voting and ballot papers.
Form 10.
Form 11.
Form 12.

38. The Chief Election Officer shall cause to be printed in Forms 10, 11 and 12 and sent to the returning officer of each district before election day a sufficient number of the following documents—

(a) directions for voting;
(b) ballot papers;
(c) tendered ballot papers.

Requirements of ballot papers.
[16 of 1968]

39. (1) Every such ballot paper shall—

(a) contain, serially numbered on the left hand side and in alphabetical order of the initial letters of the title of each list of candidates, the initial letters, title and symbol of each list of candidates;

(b) be capable of being folded up;

(c) be attached to a counterfoil bearing, printed on the face, a serial number and the words and dots "Elector's number ..... "

(2) In the printing of the ballot paper—

(a) no letter, word or design shall be printed on the face except the initial letters, titles and symbols of the lists of candidates;

(b) no rule shall be printed on the face except the horizontal rules separating the particulars of the lists of candidates from one another and the vertical rules separating those particulars from the numbers on the left hand side and from the spaces on the right where the symbols are shown and separating the spaces for symbols from the spaces on their right where the vote is to be marked;

(c) the whole space between the top and bottom of the paper shall be equally divided between the lists of candidates by rules separating their

(d) the initial letters of each list of candidates shall be printed in large capitals and the full titles of each list in small capitals.

(3) Tendered ballot papers shall be of a different colour from ordinary ballot papers but, subject to such difference of colour, this section shall apply to tendered ballot papers as it does to ordinary ballot papers.

particulars;

Requirements of ballot paper for geographic constituencies.
[15 of 2000]

39A. (1) Every ballot paper for a geographical constituency shall-

(a) contain, serially numbered on the left hand side, and in alphabetical order of the initial letters of each list of a contesting party, the title and symbol of each contesting party; but the serial numbering on the ballot paper under paragraph (a) and the serial numbering on the counterfoil, under paragraph (c) shall be done in such a manner as to ensure that the two sets of serial numbers cannot be correlated;

(b) be capable of being folded;

(c) be attached to a counterfoil bearing, printed on the face, a serial number and the words and dots-
"Elector's No. .....in the Official List".

(2) In the printing of the ballot paper-

(a) no letter, wood or design shall be printed on the face except the initial letters, title and symbol of the contesting parties;

(b) no rules shall be printed on the face except the horizontal rules separating the particulars of the contesting parties from one another and the vertical

rules separating those particulars from the numbers on the left hand side and from the spaces on the right where the symbols are shown and separating the spaces for symbols from the spaces on their right where the vote is to be marked;

(c) the whole space between the top and the bottom of the paper shall be equally divided between the contesting parties by rules separating their particulars;

(d) the initial letters of each contesting party shall be printed in large capitals and the full titles of each in small capitals.

(3) The symbol shall be printed between the party's particulars and the vertical rule separating the parties' particulars from the spaces where the vote is to be marked.

(4) Tendered ballot papers shall be of a different colour from ordinary ballot papers but, subject to difference of colour, this section shall apply to tendered ballot papers as it does to ordinary ballot papers.

(5) The ballot paper shall be in Form 11 in the Schedule.

Supplies of election material.
[16 of 1968]
[O. 68/1980]

40. (1) The returning officer of each district shall supply to every presiding officer in his district the following—

(a) a sufficient number of ballot papers and tendered ballot papers, together with a statement showing the numbers supplied and their serial numbers;

(b) a sufficient number of copies of the directions for voting;

c.2:02

(c) a sufficient number of copies of this Act (including any amendments made thereto for the purpose of holding any election pursuant to article 60(2) of the Constitution but not yet incorporated in the text thereof as published in any revision thereof made pursuant to the Law Revision Act);

(d) a sufficient number of copies of the official list of electors or part thereof, as the case may require, containing the names of the electors entitled to vote at the polling place;

(e) a sufficient number of copies of the list of proxies;

(f) a ballot box and materials for affixing thereto or stamping thereon the seal of the presiding officer;

(g) the several forms of oaths to be administered to electors;

(h) a poll book;

(i) the necessary envelopes and such other forms, documents and supplies as may be authorised by, or furnished at the direction of, the Chief Election Officer**;**

(j) a sufficient number of copies of each list of candidates published in accordance with section 19.

(2) The ballot box shall be of convenient size and so constructed that the ballot papers can be placed therein, but cannot be withdrawn therefrom, without the box being unlocked.

Form 13.

(3) The poll book shall be in Form 13.

Display of lists of candidates and directions for voting.

41. The presiding officer of each polling place shall before the opening of the poll post up in a conspicuous position outside the polling place a copy of—

(a) the directions for voting;
(b) the lists of candidates published in accordance with section 19.

Safe custody of election material.

42. The presiding officer of each polling place shall, until the opening of the poll, keep the documents supplied to him in pursuance of section 40 (other than those required to be posted up by section 41) locked in the ballot box or other depository and shall take every precaution to prevent any person having unauthorised access thereto.

Application of section 12 of the National Registration Act
c. 19:08.
[16 of 1968]
[Reg. 30/1968]
[22 of 1997]
[15 of 2000]

43. Section 12 of the National Registration Act shall apply in relation to every person who is an elector but, in such application, shall have effect as if—

(a) the words, "and cause them to be issued in such manner as he thinks fit to," had been deleted therefrom; and

(b) the words "and shall cause every such registration card to be issued in such manner as the Commissioner thinks fit to the person for whom it has been prepared, or to be made available for his procurement in such manner as the Commissioner may specify by notice published in the *Gazette*" had been inserted immediately after the word "Act" therein:

Provided that if the Commissioner of Registration finds it for any reason impracticable—

(a) for a print of the photograph of any elector to be affixed to such identification card of that elector as may be required for the purposes of this Act;

Sub. Leg.
c. 19:08

(b) for any such identification card of an elector as aforesaid to be prepared in conformity with regulation 20(2)(b) of the National Registration (Residents) Regulations;

the lack of any such print or preparation, as the case may be, shall not invalidate the identification card for the said purposes.

PART VI

PREPARATION FOR NON-RESIDENT ELECTORS' BALLOT

Interpretation of Part VI.
[Reg. 25/1968]
[Reg. 6/1973]
[16 of 1985]
[3 of 1991]
[11 of 1992]

44. (1) In this Part—

"ballot officer" means-

(a) an ambassador or High Commissioner resident in any country and representing Guyana therein;

(b) any person appointed to be a ballot officer in any other country in which an ambassador or High Commissioner is accredited but is not resident therein;

"non-resident elector" means an elector whose name is on the non-resident electors' roll;

"non-resident electors' roll" means the non-resident electors' roll as prescribed by subsection (2).

c. 19:08

(2) The non-resident electors' roll shall be the preliminary list of the electors not resident in Guyana comprising the persons specified in subsection (2A), prepared before election day in pursuance of section 14 of the National Registration Act or last prepared in pursuance thereof before such day, as the case may be, but with every such modification as may be necessary to bring that list into conformity with the central register (to the extent to which it consists of the registration cards of electors aforesaid)—

(a) as altered under section 15(6) of the National Registration Act to give effect to claims and objections finally determined before the said election day;

(b) pursuant to any alteration thereto made under section 8 of the National Registration Act, prior to the date of publication in the *Gazette* under section 19 of the names of candidates, for the purpose of changing the registered address, name or occupation of an elector;

(c) pursuant to the cancellation therein under section 8 aforesaid of an elector's registration effected in contravention of section 11(1) of the National Registration Act, or of relating to an elector who does not exist by reason of death or otherwise ought not to be registered;

and every reference made to the non-resident electors' roll in the provisions hereinafter contained shall, in relation to any time on or before election day, be construed as a reference to such preliminary list as aforesaid with such modifications thereto (if any) as, at that time, shall have been made in conformity with this subsection.

(2A) The preliminary list of electors not resident in Guyana shall consist of the names of every elector not resident in Guyana who is—

(i) an Ambassador or a High Commissioner;

(ii) the wife or husband or child of an Ambassador or a High Commissioner;

(iii) a member of the staff of an Embassy or High Commission;

(iv) the wife or husband or child of a member of the staff of an Embassy or High Commission.

(3) In subsection (2) or (2A) reference to a preliminary list is a reference to such list read in conjunction with any supplementary list prepared for a revision of that preliminary list pursuant to regulations made under the National Registration Act for the purpose of showing the aforementioned modifications.

Display of non-resident electors' roll.
[3 of 1991]

45. The Chief Election Officer shall cause a copy of the non-resident electors' roll to be displayed for public information, or for the information, of non-resident electors, at every such place as the Commission may appoint by notice published in the *Gazette*.

45A. [Repealed by Act No.3 of 1991].

Printing of ballot officers' supplies.
[16 of 1985]

46. The Chief Election Officer shall cause to be printed and supplied to each ballot officer a sufficient number of the following:

(a) copies of directions for balloting by non-resident electors;

(b) ballot papers;

(c) such envelopes and forms as are requisite;

to enable the ballot officer to carry out his functions under this Act; and the Chief Election Officer shall make the necessary arrangements to be provided with a sufficient number of the same for the purpose of carrying out his like functions under Part VII.

Non-resident electors' ballot papers.
[16 of 1985]

47. (1) Ballot papers supplied to ballot officers and used by non-resident electors shall be of a different colour from all other ballot papers conforming to the requirements of section 39 but, subject to such difference of colour, shall conform to those requirements in the like manner as such other ballot papers.

(2) Reference in subsection (1) to ballot papers supplied to ballot officers shall be construed to include reference to ballot papers with which the Chief Election Officer is provided under section 46.

Additional supplies for ballot officers.
[16 of 1985]

48. In addition to the supplies to be furnished under section 46, the Chief Election Officer shall provide every ballot officer with—

(a) a sufficient number of copies of this Act;

(b) a sufficient number of copies of the non-resident electors' roll in so far as it comprises entries relating to electors resident in the country in which that ballot officer is accredited to represent Guyana or appointed to be a ballot officer, as the case may be;

(c) a statement showing the number of ballot papers supplied to him under section 46(b) and their serial numbers; and

(d) such other documents and supplies as the Chief Election Officer may consider expedient;

for use by that ballot officer in the execution of his functions; and the Chief Election Officer shall record every such statement and the number of ballot papers with which he is provided under arrangements mentioned in section 46 and the serial numbers of the ballot papers so provided.

Safe custody of officers' supplies.

49. Every officer shall be responsible for the safe custody of all supplies with which he is furnished or provided under section 46 or 48 and shall take every precaution to prevent any person having unauthorised access thereto.

PART VII

NON-RESIDENT ELECTORS' BALLOT

Interpretation of Part VII.
[Reg. 31/1968]
[16 of 1985]
[22 of 1997]
[15 of 2000]

50. (1) In this Part—

"ballot attendant" means an officer appointed under section 53(1);

"ballot officer", "non-resident elector" and "non-resident electors' roll" shall have the meanings assigned to them, respectively, by section 44.

(2) Reference in this Part to the serial number of a non-resident elector shall be construed as reference to the serial number of his registration card.

(3) A ballot officer may exercise any powers, and perform any duties, of a ballot attendant under any provisions of Part VII and references in any such provisions to a ballot attendant shall be construed accordingly with such modifications to the context as may be necessary for the purpose.

Issue of ballot papers to non-resident electors.
[Reg. 6/1973]
[16 of 1985]

51. Not later than the 14th day before election day, there shall be posted to every non-resident elector—

(a) by such ballot officer as shall be provided under section 48(b) with copies of entries in the non-resident electors' roll which include the name of that non-resident elector; or

(b) in any case where there is no such ballot officer, by the Chief Election Officer;

a sealed envelope, which shall be directed to the non-resident elector at his address appearing on the non-resident electors' roll and shall contain the following—

(i) an unsealed envelope (hereafter referred to in this Part as the addressed envelope) addressed in the name, and to the office, of the officer issuing the same, which shall be recognisable by him on its return as having been issued under this paragraph;

Form 14.

(ii) a declaration of identity in Form 14 which shall bear the serial number of the non-resident elector on its reverse side;

Form 15.

(iii) an unsealed envelope (hereinafter referred to in this Part as the ballot envelope) addressed with the words "To the Chief Election Officer" and capable of containing a ballot paper and of being enclosed, together with the last-mentioned form, in the addressed envelope;

Form 15

(iv) a copy of the directions for balloting by non-resident electors as set out in Form 15;

(v) a ballot paper stamped with the official mark.

Notes of ballot papers issued.
[16 of 1985]

52. Upon issuing a ballot paper to any non-resident elector under section 51, a ballot officer or the Chief Election Officer, as the case may be, shall—

(a) show that a ballot paper has been issued to the non-resident elector, but without showing the particular ballot paper issued, place a mark on such copy of entries in the non-resident electors' roll as shall be used by him for the purposes of this paragraph; and

(b) enter on the counterfoil of the ballot paper the serial number of the non-resident elector.

Ballot attendants.
[16 of 1985]

53. (1) There shall be appointed such number of officers as the Chief Election Officer may consider requisite for the performance in any country of the functions of ballot attendants under this Act.

(2) The Chief Election Officer shall cause notice of the name and address of every ballot attendant to be published in the *Gazette* and may cause such further publication of the same, for the information of non-resident electors, as the Chief Election Officer considers desirable; and the address of the office of each ballot officer shall be notified under the foregoing provisions of this subsection as being also the address of a ballot attendant.

(3) The ballot attendant at every such office as aforesaid shall permit any person having authority by virtue of section 118(1)(f) for promotion of the election of a group of candidates, and designated in writing by their election agent, to attend the balloting there by non-resident electors in the presence of the ballot attendant and shall afford that person, if and when he attends, all such reasonable facilities for observing the said balloting as that attendant can afford consistently with the orderly conduct of the proceedings, the discharge of his duties in connection therewith and the maintenance of the secrecy of the ballot.

(4) There shall not be more than one person designated as aforesaid by the election agent of each list of candidates to attend at the same office.

Recording of non-resident elector's vote.
[16 of 1985]
Form 13.

54. Every non-resident elector in receipt of the addressed and ballot envelopes, Form 13 and ballot paper issued to him under section 51(i), (ii), (iii) and (v)—

(a) may upon satisfying any ballot attendant as to his identity by way of production of his passport, travel document or other proof of such identity, and of the envelope directed to him under section 51, not later than the 9th day before election day—

(i) exhibit the said envelopes, Form 14 and ballot paper (unmarked) to the ballot attendant;

(ii) secretly mark and fold the ballot paper in the like manner as provided by section 72(2), enclose it in the ballot envelope and seal that envelope, in the presence of the ballot attendant, but so that the ballot attendant does not observe the said manner of marking the ballot paper; and

Form 14

Form 16

(iii) give the ballot envelope so sealed and Form 14 to the ballot attendant, who shall forthwith complete the said Form in the presence of the non-resident elector and issue to him a receipt in Form 16:

Provided that—

(a) if the non-resident elector is incapacitated by blindness or other physical cause from personally complying with the foregoing provisions of this paragraph, the ballot attendant may, at the request of the non-resident elector, comply or permit a person appointed by the non-resident elector to comply with any such provisions on his behalf, in his presence and according to his directions;

(b) the person so appointed shall be a non-resident elector, who shall, before the form of declaration is given to the ballot attendant under subparagraph (iii) of this paragraph, endorse on the reverse side of the form a certificate in the following terms:

"I, .

(names in block letters)

hereby certify that the non-resident elector whose serial number appears next hereto is physically incapacitated and voted with my assistance rendered at his request.

.....

(Signature)"; or

(b) if he prefers so to do, or if no ballot attendant is available, may—

(i) secretly mark and fold the ballot paper in the like manner as provided by section 72(2) and enclose it in the ballot envelope;

(ii) seal the ballot envelope;

Form 13.

(iii) complete Form 13 and enclose it, together with the ballot envelope, in the addressed envelope for posting under section 55(b).

Transmission of non-resident elector's vote to ballot officer.
[16 of 1985]

55. For the purpose of causing the vote recorded by him to be cast in the manner provided by section 62(1), every non-resident elector—

(a) having complied with section 54(a), shall thereupon surrender to the ballot attendant the addressed envelope exhibited under subparagraph (i) of that paragraph to such attendant, who shall—

(i) forthwith, in the presence of the non-resident elector, enclose therein the ballot envelope, and the declaration in the form, given by him under subparagraph (iii) of the said paragraph and seal the addressed envelope;

(ii) until its delivery to the officer mentioned in the next following subparagraph, keep the addressed envelope so sealed in safe custody and take every precaution to prevent its being opened or unauthorised access being had thereto; and

(iii) be responsible for delivering the addressed envelope not later than the 5th day before election day to the officer to whose office it is so addressed;

(b) having complied with section 54(b), shall seal the addressed envelope containing its enclosures under that paragraph and post it so as to be received by the officer to whose office it is so addressed not later than the 7th day before election day.

Safe custody of votes returned.
[16 of 1985]

56. (1) Each officer to whom the addressed envelope issued by him in pursuance of section 51(a) or (b) to any non-resident elector is returned as having been duly sealed by a ballot attendant, or as a sealed envelope presumably with enclosures under section 54(b), shall keep it in safe custody, and take every precaution to prevent its being illegally opened or unauthorised access being had thereto, prior to the discharge of his other duties and responsibilities in respect thereof:

Provided that any such envelope returned after the time allowed for its delivery or receipt under section 55(a)(iii) or (b), as the case may be, shall be kept separately from all other such envelopes returned in due time; and every ballot officer to whom any such envelope is returned after the time allowed as aforesaid shall cause it to be delivered to the Chief Election Officer as soon as practicable after such return thereof.

(2) For the purposes of section 137, and without prejudice to the generality of the provisions thereof, every envelope which has been sealed by a ballot attendant under section 55(a)(i), or has been returned to any officer as a sealed envelope mentioned in subsection (1) of this section, shall be deemed to be, until removal of the ballot paper therefrom according to law, a packet referred to in section 137(1)(d).

(3) Where the addressed envelope, form (whether completed or not), marked or unmarked ballot paper and the ballot envelope therefor, or any of the foregoing, issued by any officer in pursuance of section 51(a) or (b) are returned to him in such manner or condition as to preclude the application of subsection (1) in relation thereto, such officer shall nevertheless keep them in safe custody, and take every precaution to prevent unauthorised access being had thereto or any such envelope (if sealed) from being illegally opened, prior to the discharge of his other duties and responsibilities in respect thereof and, if he is a ballot officer, shall cause the same to be delivered to the Chief Election Officer as soon as practicable after their return as aforesaid.

Officers' responsibilities
[16 of 1985]

57. (1) Each officer referred to in section 56 shall make up into separate packets, sealed with his seal—

(a) all the addressed envelopes returned to him as mentioned in section 56(1) and to which the proviso to that paragraph does not apply;

(b) such copy of entries in the non-resident electors' roll as has been used by him for the purposes of section 52(a);

(c) the counterfoils with entries made thereon by him under section 52(b);

(d) any ballot papers with which he was furnished under section 46 and which have not been issued to non-resident electors pursuant to section 51;

Form 17.

(e) a statement in writing, to be called "the non-resident electors ballot papers account" prepared by him in Form 17,

and, if he is a ballot officer, shall deliver such packets, so sealed, not later than the day next preceding election day to the Chief Election Officer and be responsible for their safe custody until such delivery.

(2) The Chief Election Officer shall keep each packet sealed by him under subsection (1)(a), or delivered to him pursuant to compliance with paragraph (a) aforesaid, in safe custody and shall take every precaution to prevent any person from having unauthorised access to it, or from opening it except for the purposes of section 61.

(3) For the purposes of section 137, and without prejudice to the generality of the provisions thereof, each packet made up in pursuance of subsection (l)(a) of this section shall be deemed to be, until it is opened for the purposes of section 61, a packet referred to in section 137(1)(d).

Balloting by non-resident electors in particular cases.
[Reg. 6/1973]
[16 of 1985]

58. (1) Notwithstanding anything in the foregoing provisions of this Part, where any non-resident elector present in Guyana has reason to apprehend his being unable to vote (apart from subsection (4)) on account of his absence from the address to which any sealed envelope is required by section 51 to be directed to him by post, such address being situated outside Guyana, the non-resident elector may apply to the Chief Election Officer for a ballot paper.

Form 18.

(2) Such application shall be in Form 18 and shall be posted to the office of the Chief Election Officer so as to be received by him not later than the 7th day before election day.

(3) Unless the Chief Election Officer is not satisfied as to the identity of the applicant upon comparison of his signature with that of the said non-resident elector on his registration card, which shall be made available for the purpose by the Commissioner of Registration, the Chief Election Officer shall grant the application and comply with sections 51 and 52, whether or not previously complied with, in relation to that non-resident elector as if—

(a) for the reference in section 51 to the 14th day before election day there had been substituted a reference to the 5th day before election day; and

(b) his address appearing in the non-resident electors' roll were, by virtue of section 44(2)(b), such address in Guyana as shall be given by him in the said application.

(4) Where a non-resident elector is in receipt of a sealed envelope directed to him at an address in Guyana by virtue of the last preceding subsection, sections 54 and 55 apply in relation to such non-resident elector as if—

(a) reference in section 54(a) to proof of identity in lieu of (but not in so far as it may be requisite in addition to) a passport or travel document had been omitted;

(b) for every reference in section 54 or 55 to a ballot attendant there had been substituted a reference to the returning officer for the district in which that non-resident elector's address given as mentioned in subsection (3)(b) is situated;

(c) for the reference in section 54(a) to the 9th day before election day there had been substituted a reference to the second day next before election day;

(d) for the reference in section 55 to the 5th day before election day there had been substituted a reference to election day:

Provided that section 54(b) or 55 does not apply to any non-resident elector in receipt of a sealed envelope directed to him as aforesaid.

(5) For the purposes of section 56(2), a returning officer acting by virtue of subsection (4)(b) of this section shall be deemed to be a ballot attendant.

(6) Where after the 10th day before election day a non-resident elector who apprehends his being unable to vote, apart from this subsection, on account of no ballot paper having been received by him, satisfies as to his identity the ballot attendant at the office of any ballot officer required to have issued a ballot paper to the non-resident elector that ballot officer shall cause such a sealed envelope as is mentioned in section 51 to be thereupon handed to the non-resident elector and this Act applies to the envelope so handed to the non-resident elector and its contents as if they had been posted to him by the ballot officer not later than the 14th day before election day:

Provided that—

(a) section 54(b) or 55 does not apply as aforesaid and no ballot attendant, other than the ballot attendant so satisfied, shall be deemed referred to by subsection (a) of either such section in its application as aforesaid;

(b) the addressed envelopes duly returned to the ballot officer by virtue of the foregoing provisions of this paragraph shall be parcelled together, separately from the other enclosures, in his packet containing addressed envelopes under section 57(1)(a).

Time and place for casting non-resident electors' votes.
[Reg. 32/1968]
[O. 68/1980]
[12 of 1996]
[15 of 2000]

59. (1) The provisions of the following sections of this Part shall be executed at such place in Guyana, and during such period commencing on election day, as may be specified by the Chief Election Officer by notice published in the *Gazette* and no person, other than—

(a) the Chief Election Officer and such staff appointed under section 7(d) as he may designate to assist him in the execution of those provisions;

(b) members of the Commission;

(c) candidates appointed under subsection (2);

(d) election agents;

(e) members of the Police Force, the Guyana Defence Force and the bodies known as the Guyana National Service and the Guyana People's Militia;

(f) such other persons as, in the opinion of the Chief Election Officer, have good reason to be present, shall be present at the execution of any such provisions:

Provided that notwithstanding anything provided by any law or specified as aforesaid, but without prejudice to section 4, the execution of the provisions of the following sections of this Part may, in so far as the Chief Election Officer finds necessary for the purpose of ensuring the casting of the votes of non-resident electors duly delivered to him in accordance with this Act, be continued and completed after the expiration of the said period whether it expired during or with election day.

(2) The election agent of each group of candidates may appoint one of the candidates for the purposes of subsection (1)(c).

(3) Notice in writing of such appointment, stating the name and address of the candidate, shall be signed by the election agent and delivered to the Chief Election Officer not later than the 7th day before election day.

(4) There shall not be more than one candidate appointed from the same list of candidates for the said purposes.

Commencement of proceedings on election day for casting non-resident electors' votes. [40 of 1964]. [0.50/1980] [16 of 1985]

60. At the commencement of the period mentioned in section 59, the Chief Election Officer shall—

(a) open a ballot box, which shall confirm to the requirements of section 40(2) but shall not be used for the purpose of casting the votes of any electors other than non-resident electors;

(b) ensure that there are no ballot papers or other papers in the ballot box;

(c) lock the ballot box, retain the key thereof and place his seal upon the ballot box in such manner as to prevent it being opened without breaking the seal;

(d) place the ballot box on a table in full view of all present where it shall remain until the ballot papers have been removed therefrom under section 92(1)(b)

Opening packets of non-resident electors' ballot papers. [O. 50/1980] [16 of 1985]

61. (1) The Chief Election Officer shall open each packet made up in pursuance of section 57(1)(a) and the addressed envelopes contained therein or delivered to him by virtue of section 58(4)(d); and in the course of execution of the foregoing provisions of this paragraph, the Chief Election Officer shall count and record the number of envelopes contained in each packet aforesaid and the number of envelopes so delivered to him.

Form 14.

(2) Upon opening any such envelope under subsection (1) of this section, the Chief Election Officer shall, if requested so to do by a candidate appointed under section 59 or election agent, satisfy himself as to the identity of the signatory of any declaration therein, made in Form 14, or of any certificate on the reverse side of any such Form, by comparing such signature with—

(a) the signature made on his registration card by the non-resident elector; or

(b) the signature (of which a specimen shall for purposes of record to enable the due execution of the provisions of this paragraph, have previously been required by the Chief Election Officer) of the ballot attendant or returning officer,

as the case may be, who the said signatory represents himself to be:

Provided that—

(a) the Chief Election Officer shall not accede to any such request if he has decided that, for any reason, section 62 does not require a vote to be cast from the addressed envelope in question or in cases where in his opinion having regard to all the circumstances the request is unreasonable;

(b) every decision taken by the Chief Election Officer under the foregoing Provisions of this section shall be final unless and until it is reversed by the High Court on an election petition presented under the National Assembly (Validity of Elections) Act.

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(3) The Commissioner shall cause to be made available such registration cards as are required by the Chief Election Officer for the purposes of subsection (2)(a).

Casting non-resident electors' votes.
[Reg. 25/1968]
[O. 50/1980]
[16 of 1985]
[15 of 2000]
[2 of 2001]

62. (1) The casting of every vote dealt with in accordance with section 55 shall be effected by way of the ballot paper being removed without being unfolded from the envelope which contains it and being placed in the ballot box by the Chief Election Officer as soon as he shall have opened the addressed envelope so dealt with and, in the event of any request having been duly made in that behalf, satisfied himself under section 61(2) that the identity of the signatory of the declaration enclosed with the ballot envelope conforms to the requirements of this Act; and upon every such casting, the Chief Election Officer shall place a mark on his copy of the non-resident electors' roll against the name of the non-resident elector whose serial number appears on the reverse side of the declaration enclosed as aforesaid.

(2) For the purposes of the preceding subsection, a vote shall be deemed to have been dealt with in accordance with section 55 notwithstanding that the ballot envelope containing the same is found open except the ballot envelope appears to the Chief Election Officer to have been tampered with after having been sealed.

(3) Notwithstanding anything in the foregoing provisions of this section, a vote shall not be cast if upon opening the addressed envelope containing the same, there is disclosed a declaration bearing under section 51(ii) the like serial number—

(a) as was entered on any counterfoil under section 52(b) and by virtue of section 58(3), the addressed envelope aforesaid not having been delivered as mentioned in section 61(1); or

(b) as belongs to any non-resident elector against whose name an additional mark has been placed under section 52(a) and by virtue of section 58(6), the addressed envelope aforesaid not having been among parcelled enclosures referred to in the proviso to the last-mentioned subsection.

Casting of non-resident vote for geographical constituencies.
[15 of 2000]
[2 of 2001]

62A.(1) The ballot officer shall supply to every person entitled to ballot at the balloting place his ballot paper in an unsealed envelope; on the envelope shall be stated his name, polling district, division, code number and polling place.

(2) Upon issuing the unsealed envelope to the person entitled to ballot such person shall cast his ballot and place it in the envelope which he shall seal before placing it in the ballot box provided by the ballot attendant .

(3) Upon receipt of the envelopes containing the ballots cast the Chief Election Officer or his duly authorised representative shall sort the envelope in a packet for the relevant polling station in the relevant polling station in the relevant geographical district and prepare a written statement of the number of envelopes so sorted.

(4) The Chief Election Officer shall transmit all sealed envelopes with the cast ballots to the respective returning officers for each geographical district, together with a copy of the written record of the envelopes so despatched.

(5) The Elections Commission shall in respect of each geographical constituency publish the names of polling stations in each polling district where the sealed envelopes with the cast ballot shall be sent by the Returning Officer for the votes to be cast at such polling stations before the close of poll.

(6) In the presence of the polling agents, the presiding officer shall verify and record the number of envelopes with the cast ballots before casting the ballots contained in the envelopes at each polling station.

(7) The persons who balloted in accordance with this section shall be deemed to have cast their votes at the election in the districts in which the relevant balloting places are situated.

(8) The votes deemed to have been cast at the election in each district under subsection (7) shall be counted by the respective presiding officer and the provisions of section 83 shall apply ***mutatis mutandis*** in relation to the counting of votes under this section.

Further duties of Chief Election Officer in relation to packets.
[Reg. 25/1968]
[16 of 1985]

63. (1) The Chief Election Officer shall not leave outside any addressed envelope opened under section 61(1) such contents thereof as are not placed in the ballot box under section 62(1); and he shall make up into separate packets, sealed with his seal—

(a) all such envelopes from which votes have not been cast by reason of their containing declarations or certificates in respect of which the Chief Election Officer, having been duly requested to satisfy himself as to the identities of the signatories thereof, is not satisfied as mentioned in section 62(1);

(b) all such envelopes which contained votes cast under section 62(1);

(c) all other such envelopes from which such casting was not effected by reason of their having been found, upon being opened as aforesaid, to contain enclosures which appear not to have been dealt with in accordance with section 55;

(d) all the addressed envelopes from which votes were precluded by virtue of section 62(3) from being cast;

(e) all the addressed envelopes returned as mentioned in the proviso to section 56(1), or delivered under that proviso, to him on or before election day;

(f) everything returned in such manner (not being the manner provided by virtue of section 58(4)(b) or condition as mentioned in section 56(3), or delivered in pursuance of that subsection, to him on or before election day);

(g) the copy of the non-resident electors' roll marked under section 62(1).

(2) The Chief Election Officer shall, for the purpose of compliance with section 62(3), open the packet made up by each officer in pursuance of section 57(1)(b), and the packet made up by him in pursuance of subsection (c) of that section and containing counterfoils with entries made under section 52(b) and by virtue of section 58(3), and shall reseal every packet so opened as soon as its contents cease to be in use for the said purpose.

(3) The Chief Election Officer shall open the packet made up by each officer pursuant to section 57(1)(d), and the packet containing the non-resident electors' ballot papers account prepared by that officer under section 57(1)(e), for the purpose of verification of the said account by comparing it with the contents of the packet made up by him as aforesaid and with the relevant records made under sections 48 and 61(1) and the Chief Election Officer shall thereafter reseal both such packets.

Ballot boxes.
[Reg. 25/1968]

64. More than one ballot box may be used for the purposes of this Part if the Chief Election Officer considers or finds a single ballot box to be inadequate, or the use thereof to be inexpedient, for those purposes; and the provisions of section 60 shall, in so far as they are applicable, be complied with in relation to every ballot box which the Chief Election Officer decides shall be used as aforesaid.

Delegation of Chief Election Officer's functions.
[Reg. 25/1968]

65. The Chief Election Officer may depute officers belonging to the staff appointed under section 7(d) to carry out his functions, or any of them, (including, without prejudice to the generality of the foregoing, the exercise of his authority for the casting of any vote), under such provisions of the foregoing sections of this Part as are to be executed in conformity with section 59(1); and the officers so deputed, who shall be called overseas presiding officers, shall subject to any general or special directions given by the Chief Election Officer, have and exercise all the powers and perform all the duties, delegated under this section to them, respectively.

PART VIIA

POLL BY NON-RESIDENTS OTHER THAN NON-RESIDENT ELECTORS

[Sections 65A-65F repealed by Act No.3 of 1991].

PART VIIB

PROCEDURE FOR VOTING BY SPECIFIED DISCIPLINED FORCES

Definitions.
[16 of 1985]
[15 of 2000]

65G. (1) In this Part—

(a) "ballot attendant" means a person appointed as such under section 65 I;

(b) "balloting place" means a place appointed as a balloting place under section 65 I;

(c) "ballot officer" means a person appointed as such under section 65 I;

(d) "specified disciplined force" means a disciplined force specified for the purposes of this Part by order under section 65H.

(2) [Deleted by Act No.15 of 2000].

Application of Part.
[16 of 1985]
[12 of 1996]

65H. In order to allow members of any disciplined force or disciplined forces to exercise their right to vote at an election without affecting the performance by them of their duties on the election day, the Elections Commission may by order direct that the provisions of this Part shall apply to the exercise of that right, by any member of such disciplined force or disciplined forces as may be specified in the order, in an election and if the Elections Commission makes such an order the provisions of this Part shall apply to voting by any member of a specified disciplined force or specified disciplined forces at any election held after the date of the order.

Appointment of ballot officers, ballot attendants and balloting places for the purposes of this Part.

65 I. (1) The Chief Election Officer shall appoint by notification in the *Gazette*—

(a) one ballot officer for each of the specified disciplined forces;

(b) such number of ballot attendants, as he thinks fit, so that there will be one ballot attendant for each balloting place; and

(c) such place or places, as he thinks fit, in each district as balloting place or balloting places.

(2) Different ballot attendants and different balloting places may be appointed in relation to electors who are members of different specified disciplined forces.

(3) A ballot clerk may be appointed by the Chief Election Officer in relation to a balloting place:

Provided that it shall be lawful for the Chief Election Officer to appoint the same person as ballot attendant and ballot clerk.

List of electors entitled to vote under this Part.
[16 of 1985]
[12 of 1996]
[22 of 1997]
[15 0f 2000]

65J. (1) Each ballot officer shall prepare a list of persons whose names are on any official list of electors and who are members of the specified disciplined force, in relation to which he has been appointed ballot officer.

(2) The list prepared by a ballot officer under subsection (1) shall be divided into parts according to the division, in the official list of electors for which the names of the persons mentioned in that part are included, and shall state the identity paper number of each such person, his serial number of registration in the official list of electors to which division the official list of electors relates, the district in which that division is situate, and such other particulars as may be prescribed by the Elections Commission by regulations.

(3) Each of the ballot officers shall forward a copy of the list prepared by him under subsection (1) (but excluding therefrom the names of the persons referred to in the proviso to section 65K(6) to the Chief Election Officer.

(4) The Chief Election Officer shall forward those parts of the copy of the list referred to in subsection (3) as are relevant in respect of the divisions in any district to the returning officer of that district and the returning officer shall cause to be displayed at each polling place in the district the names and other particulars included in the copy of the list, referred to in subsection (1), of those who are, but for this Part, entitled to vote at that polling place.

Balloting.
[2 of 2001]

65K. (l) The Chief Election Officer shall by notification in the *Gazette* appoint a day on which, and the hours during which, persons entitled to vote under this Part may ballot and different days and hours may be appointed in relation to different balloting places:

Provided that any day appointed under this subsection for balloting shall not be more than ten days earlier than the election day or later than five days before the election day.

(2) The Chief Election Officer shall forward to each ballot officer sufficient number of ballot papers having regard to the names in the copy of the list forwarded by that ballot officer to the Chief Election Officer under section 65J(3).

(3) The ballot officer shall, before the hour appointed for the commencement of balloting under this Part at a balloting place, cause to be displayed at the balloting place a list containing the names, and other particulars referred to in section 69(2), of the persons entitled to ballot under this Part at that balloting place, such names being of persons who are, but for this Part, entitled to vote at a polling place in the district where that balloting place is situate.

(4) The ballot officer shall cause to be supplied to the ballot attendant for a balloting place, the day before the day fixed for balloting at the balloting place, sufficient number of ballot papers having regard to the names in the list, referred to in subsection (3), of persons entitled to ballot at that balloting place.

(5) Any person whose name is on a list prepared by a ballot officer under section 65J(1) and who desires to vote at an election may exercise his right to ballot under this Part at the balloting place where a list containing his name is displayed under subsection (3).

(6) Nothing in this Part shall be deemed to prevent any person whose name is included in a list prepared under section 65J(1) from exercising his right to vote in accordance with any other provision of this Act and not in accordance with this Part:

Provided that where any such person desires to vote in accordance with any other provision of this Act he shall intimate to the ballot officer in relation to such list wherein his name is included, not later than fifteen days before the day appointed under subsection (1) for balloting at the balloting place where he is entitled to ballot under this Part, of his desire so to do and thereupon the ballot officer shall make a note of it in that list and his name shall not be included in the list referred to in subsection (3) or in the copy of the list referred to in section 65J(3) and forwarded by the ballot officer to the Chief Election Officer.

(7) Subject to the provisions of this Part, the provisions of this Act in relation to presiding officers and their functions, polling clerks and their functions, polling places, preparation for poll and polling shall ***mutatis mutandis*** apply respectively to, and in relation to, ballot attendants, ballot clerks, balloting places, preparation for ballot and balloting under this Part.

Ballot attendant to hand over ballot box to ballot officer.
[16 of 1985]
[30 of 1990]
[15 of 2000]

65L. (1) As soon as possible after the expiry of the hour appointed for the closing of balloting in relation to a balloting place, on the day of the balloting, the ballot attendant shall deliver personally the sealed ballot box containing the sealed envelopes with the marked ballots and the sealed packets referred to in section 83 (10)(b) together with the key of the ballot box to the ballot officer.

(2) The ballot attendant shall be responsible for the safe custody of the ballot box and the aforesaid sealed packets until they are delivered to the ballot officer under subsection (1) and thereafter the ballot officer shall deliver them to the Chief Election Officer who shall be responsible for their safe custody.

(3) The provisions of 62A as they apply in relation to the non-resident electors' ballot shall apply ***mutatis mutandis*** to voting by the disciplined forces.

Application of certain provisions relating to penalties to balloting under this Part.
[16 of 1985]

65M. (1) The provisions of sections 119, 122(1)(a), 126(a) in so far as it relates to voting on his own behalf, 126(d) (i) and (ii), 127(a) and (b), 129, 130, 131(a), (b), (c), (d), (h) and (i), 131(e) and (f), in so far as they relate to vote of any elector at an election, 132 in so far as it relates to voting in person and 138, shall apply in relation to balloting under this Part subject to the modification that references therein to—

(a) poll and voting shall be construed as references to balloting under this Part; and

(b) a poll clerk and presiding officer shall be construed as references to a ballot clerk and ballot attendant respectively.

(2) Subsection (1) shall not be deemed to modify the law relating to any other offences under this Act.

Modification, etc. of provisions of Act.
[16 of 1985]
[12 of 1996]

65N. (1) In order to give effect to the right of an elector, who is a member of any of the disciplined forces, to exercise his right to ballot in accordance with the provisions of this Part, and consistently with the interests of defence, public safety and public order, the Elections Commission may by order direct that the provisions of this Act, other than the provisions of this Part, shall apply to, and in relation to, the exercise by members of the disciplined forces of any right they have to vote at an election, with such adaptations, modifications, exceptions or qualifications as may be specified in the order.

(2) An order made under subsection (1) shall be subject to negative resolution of the National Assembly.

Over-riding effect of this Part.
[16 of 1985]

65 O. The provisions of this Part shall have effect notwithstanding anything contained in any other Part of this Act.

PART VIII

THE POLL

Place and time of poll. [Reg. 24/1964]

66. The poll shall be taken at each polling place on election day in accordance with this Part during the hours specified in the notice of poll:

Provided that if at the hour of the closing of the poll there are any electors waiting at the polling place to vote, the poll shall remain open for sufficient time to enable those electors to vote.

Appointment of candidate to attend poll.

67. (1) The election agent of each group of candidates may appoint one of the candidates, hereinafter in this Part referred to as the "duly appointed candidate" to attend the poll at a polling place.

(2) Notice in writing of the appointment of a duly appointed candidate, stating his name and address, shall be signed by the election agent and delivered to the returning officer of the district in which the polling place is situate not later than the 7th day before election day.

(3) There shall not be more than one duly appointed candidate of the same list of candidates for any one polling place.

(4) Nothing in this section shall preclude a candidate being a duly appointed candidate for two or more polling places whether or not in the same district.

Opening of poll. [15 of 2000]

68. At the hour specified in the notice of poll for the opening of the poll the presiding officer, in the presence of such persons, if any, (being persons entitled to enter the polling place) as are present, shall—

(a) open the ballot box and ensure that there are no ballot papers or other papers therein and allow any authorised person present to make an entry in the poll book attesting to this fact;

(b) lock the ballot box, retain the key thereof and place his seal upon the ballot box in such manner as to prevent it being opened without breaking the seal;

(c) place the ballot box on a table in full view of all present where it shall remain until the poll is closed;

(d) call upon the electors to vote.

Applicant to vote to hand identity paper to poll clerk.
[Reg. 30/1968]
[22 of 1997]
[15 of 2000]

69. (1) Each applicant to vote shall, upon entering the room where the poll is held, and after procuring his identity paper if made available for his procurement at the polling place in pursuance of section 43, state to the poll clerk his name, address and occupation and hand to him—

(a) his identity paper; and

(b) if he has been appointed to vote as a proxy on behalf of another elector, the identity paper of that elector and his notice of appointment to vote as proxy; and

(c) if he claims to be entitled to vote at the polling place by virtue of section 29(4) his certificate of employment.

(2) The poll clerk shall ascertain if the name of the applicant and that of any elector on whose behalf he holds a notice of appointment to vote as a proxy appear on the official list of electors, or part thereof, for the polling place and shall further ascertain whether any notice of appointment to vote as proxy is recorded in the copy of the list of proxies.

(3) Where there is contained in the official list of electors, or part thereof, a name or other particulars which correspond so closely with the name or other particulars entered on the identity paper of an applicant to vote as to suggest that the entry in the official list or part thereof is intended to refer to him, the applicant shall, upon taking an oath of identity in Form 19, be deemed to be the person so named in the official list or part thereof.

Form 19.

(4) Where an applicant to vote hands to the poll clerk both his identity paper and his certificate of employment, the poll clerk shall add his name to the official list of electors or part thereof and shall make an appropriate entry in the poll book.

(5) The poll clerk shall, after the foregoing provisions of this section have been complied with, return to the applicant to vote his identity paper together with any other documents he has received from the applicant and direct him to hand the same to the presiding officer and apply to him for a ballot paper.

Duty of presiding officer upon application for a ballot paper.
[Reg. 32/1964]
[16 of 1968]
[22 of 1997]
[15 of 2000]

70. (1) Upon receipt of the identity paper and other documents as directed under section 69(5) and upon application made to him for a ballot paper the presiding officer shall satisfy himself as to the following—

(a) that the applicant has not already voted;

(b) the identity of the applicant and his entitlement to vote at the polling place;

(c) the authority of the applicant to vote as a proxy on behalf of another elector (if he applies so to vote).

(2) For the purposes of subsection (1) the presiding officer may—

(a) examine the applicant's fingers to ascertain if there appears on them any stain of electoral ink;

(b) compare the signature of the applicant with that on his identity papers;

(c) compare any photograph on his identity paper with his face;

(d) compare the thumb print or other finger print recorded on his identity paper with that of the applicant;

(e) [Repealed by Act No. 22 of 1997];

(f) examine his notice of appointment (if any) to vote as a proxy on behalf of another elector and compare the particulars in the notice with those recorded in the copy of the list of proxies;

(g) make such further comparisons as are reasonably necessary between the particulars recorded on his identity paper and those of the applicant;

(h) require the applicant to take an oath of identity in Form pursuant to section 69(3).

(3) An applicant shall—

(a) comply with any requirement of the presiding officer made pursuant to subsection (2)(h);

(b) comply with such requirements of the presiding officer for the examination of his fingers, the taking and recording of his thumb or finger print, of his signature and of his height as are reasonably necessary for the purposes of subsection (1);

(c) answer such questions as the presiding officer may ask as are reasonably necessary to ask for the aforesaid purposes.

(4) References in subsection (2) to the identity paper of any applicant shall be construed to include references to his registration card if available pursuant to any direction given under section 40(1)(i).

Issue of ballot paper to elector.
[16 of 1968]
[Reg. 30/1968]
[22 of 1997]
[15 of 2000]

71. (1) The presiding officer shall refuse to issue a ballot paper to any applicant therefor who does not hand to him his identity paper and other documents as directed under section 69(5) and he shall refuse to issue a ballot paper to any applicant if he is not satisfied as required by section 70(1); but if such identity paper and other documents are handed to him and he is so satisfied he shall—

(a) deliver to the elector a ballot paper stamped with the official mark;

(b) enter on the counterfoil of the ballot paper the serial number of the elector on the official list of electors;

(c) add to his copy of the official list of electors or part thereof the name of an elector who has produced to him a certificate of employment;

(d) place a mark on his copy of the official list of electors, or part thereof, to show that a ballot paper has been delivered to the elector but without showing the particular ballot paper issued;

(e) return to the elector his identity paper, and also if he has been appointed to vote as proxy on behalf of another elector the identity paper of that elector unless any such identity paper has been provided at the polling place in pursuance of section 43.

(2) If the elector has been appointed to vote as a proxy on behalf of another elector the presiding officer shall—

(a) deliver to him, in addition to his own ballot paper, a ballot paper for each elector on whose behalf he has been appointed to vote as a proxy and shall enter on the counterfoil of such ballot paper the number on the official list of electors of the elector on behalf of whom he has been appointed and place a mark as prescribed by subsection (1)(d) on his copy of the official list of electors, or part thereof, to show that a ballot paper has been issued on behalf of each such elector;

(b) retain the notice of appointment to vote as proxy of the elector.

Mode of voting.
[6 of 1997]
[15 of 2000]

72. (1) The presiding officer shall by demonstration by the use of a specimen ballot paper ensure that the elector understands how and where to place his mark (without indicating that the elector should vote for any particular list of candidates) and how to fold the ballot paper and shall direct him to return with it when marked, folded as shown.

(2) The elector shall enter one of the polling compartments and there record his vote by secretly marking his ballot paper within the space opposite the name and symbol of the list of candidates for whom he wishes to vote and shall then fold his ballot paper so as to conceal the vote; and if he has been appointed to vote as a proxy he shall record the vote of the elector on whose behalf he has been so appointed, for the list of candidates for whom that elector wishes to vote by secretly marking, in the manner aforesaid, the ballot paper issued to him for that elector and shall then similarly fold that ballot paper.

(3) The elector shall, having recorded his vote (and if such be the case that of an elector for whom he has been appointed a proxy), show the folded ballot paper (or papers) to the presiding officer so as to disclose the official mark appearing on the reverse thereof and shall place it (or them) so folded in the ballot box in the presence of the presiding officer:

Provided that the presiding officer shall not permit any elector whether voting on his own behalf or as a proxy on behalf of another elector to put a ballot paper in the ballot box unless, immediately before he does so, one of his fingers has been stained by immersion in a container of electoral ink.

(4) Notwithstanding the proviso to subsection (3), where the presiding officer is satisfied that an elector is suffering from an injury to any finger of such a nature as to render it undesirable for that finger to be stained with electoral ink, he shall not require that finger to be stained but shall stain another finger.

(5) If an elector fails or refuses to comply with a lawful requirement of the presiding officer for the staining of one of his fingers, the presiding officer shall order him to return to him any ballot paper issued to him and to leave the polling place forthwith; and the presiding officer shall destroy any ballot paper so returned and make an entry in the poll book as to the facts of such failure or refusal.

(6) An elector who refuses or fails to return a ballot paper when so ordered under subsection (5) shall be liable on summary conviction to a fine of thirty-two thousand five hundred dollars or to imprisonment for six months.

(7) An elector who has inadvertently dealt with a ballot paper in such a manner that it cannot conveniently be used as a valid ballot paper may, on delivering such ballot paper to the presiding officer and after satisfying him that it has been spoiled by inadvertence, obtain another ballot paper in its place and the spoiled ballot paper and its counterfoil shall be marked as cancelled.

(8) An elector shall not show the marks which he has placed on his ballot paper to any person and if he does so the ballot paper shall be treated as a spoiled ballot paper:

Provided that this subsection shall not apply if an elector shows a ballot paper to a presiding officer solely for the purpose of ascertaining if he has carried out his duties correctly.

(9) An elector shall vote without delay and shall leave the polling place as soon as he has put his ballot paper and that of any person on whose behalf he has voted as a proxy in the ballot box.

Form 20.

(10) Whenever in the opinion of the presiding officer an elector does not understand the language spoken to him he may appoint and swear, in Form 20, an interpreter; and the interpreter, so sworn, shall be the means of communication between the presiding officer and the elector with regard to all matters required to enable the elector to vote.

Blind and incapacitated electors.
[22 of 1997]
[15 of 2000]
Form 21

73. (1) The presiding officer shall, on the application of any elector who is incapacitated by blindness or other physical cause from voting in the manner prescribed by section 72 and who takes an oath in Form 21, mark the ballot paper of such elector in his presence and in the manner directed by him.

Form 22.

(2) The presiding officer may, at the request of any elector incapacitated in the manner prescribed in subsection (1) and who has taken the oath in Form 21 and is accompanied by a friend who has taken the oath in Form 22, permit such friend, if he is an elector entitled to vote at the polling place, immediately after he has voted on his own behalf, and notwithstanding that his finger has been immersed in electoral ink, to accompany the elector into the voting compartment and mark his ballot paper for him:

Provided that no person may mark the ballot paper of more than one elector as his friend under this subsection or mark such ballot paper unless he first takes an oath in the form prescribed.

(3) Whenever the ballot paper of an elector has been marked in accordance with this section, the poll clerk shall enter in the poll book opposite the name of the elector the fact that the ballot paper was so marked, the reason therefor and, if marked by a friend, the name and the number in the official list of electors of that friend.

Tendered ballot papers.
[16 of 1968]
[22 of 1997]
[15 of 2000]

74. (1) If an applicant to vote represents himself to be an elector whose name appears on the official list of electors or part thereof for a polling place and there has already been placed a mark against the name of such elector on the presiding officer's copy of such list or part thereof, the presiding officer shall issue to such applicant a tendered ballot paper if—

(a) the applicant hands to him his identity paper;
(b) the applicant takes an oath of identity in the form prescribed; and
(c) the presiding officer is satisfied as to the matters set out in section 70(1).

(2) A tendered ballot paper shall not be put in the ballot box but shall be given to the presiding officer and endorsed by him with the name of the elector and his number in the official list of electors; and the tendered ballot paper shall be set aside in a separate packet and shall not be counted by the returning officer.

(3) The poll clerk shall enter in the poll book the name of every elector to whom a tendered ballot paper is given and a note of his having marked such a ballot paper.

74A. **[Repealed by Act No.15 of 2000].**

Presiding officer to accept other identification in certain circumstances.
[22 of 1997]
[15 of 2000]

75. The presiding officer shall, in the event of his needing to be satisfied of the identity of any elector whose name is on the official list of electors accept in lieu of the prescribed identity paper such other identification as is authorised by the Commission and entailing the same stringency for its generation as to leave no doubt as to its authenticity as in the case of the identity paper and permit an elector to vote in the same manner as if his identity paper had been produced.

Entries in poll book.

76. The poll clerk shall—

(a) make in the poll book such entries as are required by this Act or directed by the presiding officer;

(b) enter in the poll book the word "SWORN" opposite the name of each elector to whom any oath is administered and "REFUSED TO BE SWORN" or "REFUSED TO ANSWER" opposite the name of each elector who has refused to take an oath or who has refused to answer any question when legally so required.

Maintenance of secrecy at polling place.
[6 of 1997].

77. (1) Every person specified in section 79(1)(b) attending the polling place shall maintain and aid in maintaining the secrecy of the voting and shall not, except for a purpose authorised by law, communicate to any person before the poll is closed any information as to—

(a) the name of any elector who has or has not applied for a ballot paper or voted whether on his own behalf or as a proxy on behalf of another elector;

(b) the number in the official list of electors of any elector who, or whose proxy on his behalf, has or has not applied for a ballot paper or voted;

(c) the official mark.

(2) No person shall—

(a) except in the performance of his duty under this Act interfere with or attempt to interfere with an elector when casting his vote or, as a proxy, that of another elector;

(b) obtain or attempt to obtain in a polling place information as to the list of candidates for whom an elector in that polling place is about to vote or has voted either on his own behalf or as a proxy on behalf of another elector;

(c) communicate at any time to any person any information obtained in a polling place as to the list of candidates for whom an elector in that

polling place is about to vote or has voted either on his own behalf or as a proxy on behalf of another elector;

(d) directly or indirectly induce an elector to display his ballot paper or that of another elector for whom he has voted as a proxy after he has marked it, so as to make known the list of candidates for whom he has or has not voted either on his own behalf or on behalf of an elector for whom he has voted as a proxy.

(3) No person having undertaken to assist an elector incapacitated by blindness or other physical cause to vote shall communicate at any time to any person any information as to the list of candidates for whom that elector intends to vote or has voted.

(4) Any person who contravenes any of the provisions of this section shall be liable on summary conviction to a fine of sixty-five thousand dollars and to imprisonment for six months.

Molestation of electors.
[6 of 1997]

78. (1) No person shall anywhere within a distance of two hundred yards of a polling place annoy, molest or otherwise interfere with an elector or attempt to obtain any information as to the list of candidates for whom any elector in the polling place is about to vote or has voted either on his own behalf or as a proxy on behalf of another elector.

(2) Any person who contravenes any of the provisions of this section shall be liable on summary conviction to a fine of sixty-five thousand dollars and to imprisonment for six months.

Obstruction.
[Reg. 13/1973]
[6 of 1997]

78A. (1) Any person who, without due authority, obstructs, or otherwise interferes with—

(a) access to, or egress from, a polling place;

(b) the voting at an election by any person registered as an elector;

(c) the conveyance of documents, supplies and other material pertaining to an election, including ballot boxes and ballot papers;

(d) the counting of the votes cast at an election; or

(e) an election officer in the exercise of any function conferred upon him by this Act,

shall be liable on summary conviction to a fine of sixty-five thousand dollars together with imprisonment for a term of one year and shall, in addition, be incapable during a period of five years from the date of conviction—

(i) of being registered as an elector; and
(ii) of being elected as a member of the National Assembly.

(2) Section 128(2), as the same applies in relation to a person convicted of an illegal practice, applies ***mutatis mutandis*** in relation to a person convicted of an offence under this section.

Preservation of order.
[Reg. 37/1964]

[16 of 1968]
[O. 68/1980]
[12 of 1996]
[15 of 2000]

79. (1) The presiding officer may, for the purpose of maintaining order at the polling place—

(a) regulate the admission of electors and may, if he deems it advisable, direct that not more than one elector for each compartment shall at the same time enter the room where the poll is held;

(b) exclude all other persons except—

(i) members of the Commission;

(ii) election officers;

(iii) duly appointed candidates;

(iv) polling agents for the polling place;

(v) members of the Police Force, the Guyana Defence Force and the bodies known as the Guyana National Service and the Guyana People's Militia;

(vi) election agents;

(vii) assistant agents for the district in which the polling place is situate;

(c) issue such directions as may be necessary for such purpose.

(2) If any person (whether entitled to enter or not) misconducts himself at a polling place or fails to obey any lawful direction, requirement or order of the presiding officer, whether given or made under this or any other section, he may immediately, by order of the presiding officer, be removed therefrom by a member of the Police Force or by any other person authorised in writing by the presiding officer to remove him, and the person so removed shall not, without the permission of the presiding officer, again enter the polling place on election day:

Provided that the powers conferred by this subsection shall not be so exercised as to prevent an elector entitled to vote at a polling place having an opportunity to vote thereat.

(3) Any person removed from a polling place under subsection (2) may, if charged with the commission of an offence at or anywhere within a distance of two hundred yards of the polling place, be dealt with as a person taken into custody by a police officer for an offence without warrant.

Closing of spirit shops.
[6 of 1997]
c. 82:21

80. (1) All premises to which spirit shop licences, off-licences and railway station or stelling licences have been issued under the Intoxicating Liquor Licensing Act shall be closed and kept closed on election day.

(2) No intoxicating liquor shall be sold, offered for sale, or given away at any premises to which a licence issued under the Intoxicating Liquor Licensing Act applies, at any time between the opening of and the closing of the poll on election day.

c. 82:26

(3) No intoxicating liquor shall be supplied to any person at any premises to which a licence issued under the Registration of Clubs Act applies at any time between the opening of and the closing of the poll on election day.

(4) Any person who contravenes any of the provisions of this section shall be liable on summary conviction to a fine of sixty-five thousand dollars and to imprisonment for six months.

Employers to allow employees period for voting.

81. (1) Every employer shall permit every elector in his employ, other than any elector on whose behalf another elector has been appointed to vote as a proxy, to be absent from his work on election day for a reasonable time, in addition to the normal midday meal hour, for the purpose of voting at the election; and no employer shall make any deduction from pay or other remuneration of any such elector or impose on him or exact from him any penalty by reason of his absence during such period.

(2) Employees of the Transport and Harbours Department shall be deemed to be employees for the purposes of this section except such as are actually engaged in running trains and vessels and to whom time cannot be allowed without interfering with the running of the trains and vessels; and the General Manager of the Transport and Harbours Department shall be deemed to be the employer of such employees.

Penalty for breach of section 81.
[6 of 1997]

82. Any employer who, directly or indirectly, refuses or who by intimidation, undue influence or in any other way interferes with the granting to any elector in his employ of the period for voting prescribed by section 81, shall on summary conviction be liable to a fine of thirty-two thousand five hundred dollars or to imprisonment for six months.

Procedure on closing of poll.
[30 of 1990]
[15 of 2000]

83. (1) The presiding officer, as soon as practicable after the closing of the poll, in the presence of such of the persons entitled under section 79(1)(b) to be present, as attend shall—

(a) count the number of spoiled ballot papers and tendered ballot papers, if any, and place them in separate special envelopes supplied for that purpose, indicate thereon the number of the spoiled ballot papers and tendered ballot papers and seal the envelopes;

(b) count the used tendered ballot papers without unfolding them and place them back in the special envelope supplied for that purpose, indicate thereon the number of the used tendered ballot papers and seal the envelope;

(c) count the unused ballot papers and tendered ballot papers, undetached from the books of ballot papers and tendered ballot papers, place them with the counterfoils of all used ballot papers and tendered ballot papers in separate special envelopes supplied for that purpose, indicate thereon the number of unused ballot papers and tendered ballot papers and seal the envelopes;

(d) check the number of ballot papers and tendered ballot papers supplied by the returning officer against the number of spoiled ballot papers and tendered ballot papers, if any, the number of unused ballot papers and tendered ballot papers and the number of destroyed ballot papers and tendered ballot papers, as recorded in the poll book, and the number of electors who voted at the polling place as reflected from the counterfoils of the ballot papers and tendered ballot papers issued at the polling place, in order to ascertain that all ballot papers are accounted for;

(e) record the number of ballot papers and tendered ballot papers received by the presiding officer, issued to electors, unused, and spoiled, in the ballot paper account and tendered ballot paper account in Form 23;

(f) open the ballot box and empty its contents upon a table;

(g) distribute tally sheets to the assistant presiding officer, the poll clerk and the duly appointed candidates and polling agents present;

(h) count and record the number of ballot papers that were in the ballot box;

(i) sort out the ballot papers on the basis of lists for which the votes have been cast; and

(j) count the number of votes recorded for each list of candidates on his tally sheet, giving full opportunity for those present to examine each ballot paper.

(2) Subject to the provisions of this section, section 87 shall ***mutatis mutandis*** apply to the counting of votes under subsection (1).

(3) In counting the votes the presiding officer shall, wherever his decision on a ballot paper is questioned, record the fact by writing the letter "Q" at the back of the ballot paper and appending his initials.

(4) The decision of the presiding officer as to the validity or otherwise of a ballot paper shall be final subject to review by the returning officer.

(5) The presiding officer shall place the ballot papers cast for each list of candidates and counted under this section in a separate envelope, whether or not any such ballot paper is a questioned ballot paper.

(6) All rejected ballot papers shall be placed in a separate envelope by the presiding officer.

(7) The envelopes referred to in subsections (5) and (6) shall be endorsed as to indicate their contents and shall be sealed by the presiding officer and the number of any questioned ballot papers and the total number of ballot papers contained in the envelopes shall be indicated on their outside.

(8) The presiding officer shall affix his seal to the envelopes referred to in the preceding subsections and shall invite such of the duly appointed candidates and the polling agents as are present to do likewise.

(9) After the completion of the counting, the presiding officer shall complete the ballot paper account and tendered ballot paper account in Form 23, the Statement of Poll in Form 23A, and prepare and certify a sufficient number of copies of the same for distribution as follows—

(a) to the returning officer;

(b) to the assistant presiding officer;

(c) to such of the duly appointed candidates or the polling agents as are present;

(d) to the Chief Election Officer.

(9A). The statement of poll prepared in accordance with subsection (9) shall be posted in a conspicuous place outside the polling place as conclusive evidence of the result of the election for that polling place unless there is a recount of the votes.

(10)The presiding officer shall then—

(a) place the sealed envelope containing the counted and rejected ballot papers in the ballot box, and secure and seal, with his seal and with the seals of such of the duly appointed candidates and polling agents as desire to affix their seals, the ballot box in such manner that it cannot be opened and that nothing can be inserted therein or taken therefrom without breaking the seals; and

(b) make up in separate packets, the marked copies of the official list of electors or part thereof, notices of appointments to vote as proxy and copies of the lists of proxies, the poll book, the ballot paper account and tendered ballot paper account and such other election documents as may be decided upon by the Commission, and seal the packets with his seal and with the seals of such of the duly appointed candidates and polling agents as are present and desire to affix their seals; and

(c) deliver the sealed ballot box, the sealed packets referred to in paragraph (b), and together with an envelope containing the key of the ballot box and a Statement of the Poll in Form 23A placed in one envelope sealed in the manner referred to in paragraph (b), to the returning officer of the district in which the polling place is situated.

(11) A presiding officer may in writing delegate all or any of his functions under this section to a counting assistant and where any function of a presiding officer is delegated to a counting assistant, in respect of the function so delegated references in the preceding subsections to the presiding officer of a polling place shall be deemed to be references to the counting assistant of the same polling place.

Accompanying ballot boxes.
[30 of 1990]

83A. (1) Subject to the availability of space in the conveyance carrying ballot boxes from polling places for delivery to a returning officer, the polling agents or the duly appointed candidates for the polling places, who are desirous of accompanying the ballot boxes, may travel in such conveyance:

Provided that where the conveyance carrying the ballot boxes can accommodate only one or some of the polling agents or duly appointed candidates for a polling place, desirous of accompanying the ballot boxes from that polling place, the polling agent or agents or duly appointed candidate or candidates who shall accompany the ballot boxes shall be determined by the majority of the polling agents and duly appointed candidates for the polling place.

(2) Nothing in this section shall be deemed to affect the right of any polling agent or duly appointed candidate for a polling place to follow, in a separate conveyance, a conveyance carrying ballot boxes from the polling place for delivery to a returning officer.

PART IX
COUNTING OF VOTES POLLED

Counting of votes.
[30 of 1990]
[3 of 1991]

84. (1) As soon as practicable after the receipt of all the ballot boxes and the envelopes and packets delivered to him in pursuance of section 83(10), the Returning Officer shall, in the presence of such of the persons entitled under section 86(1) to be present as attend, ascertain the total votes cast in favour of each list in the district by adding up the votes recorded in favour of the list in accordance with the Statements of Poll, and thereupon publicly declare the votes recorded for each list of candidates.

(2) Where before twelve noon of the day following the declaration under subsection (1) any counting agent for the district does not request the Returning Officer to conduct a final count of the votes counted by the presiding officers in the district under section 83, the declaration of the votes obtained by the lists under subsection (1) shall be final; but where any counting agent for the district seeks a final count of the votes already counted by the presiding officers in the district under section 83, the Returning Officer shall count such votes in accordance with the provisions contained in the following subsections and section 87 and on the basis of such recount confirm or vary the declaration of the votes recorded in the district for each list of candidates under subsection (1).

(3) Where any counting agent for the district requests a final count, he shall indicate whether he requests a general count or a limited count, and in the latter case shall specify the polling places in respect of which the final count is to be conducted and the Returning Officer shall conduct the count as requested.

(4) Where a limited final count is conducted, the Returning Officer shall review only the decisions of the presiding officers as regards questioned and rejected ballot papers at the polling places specified in the request for the final count, and in such a case all ballot papers marked "Q" by the presiding officers of those polling places and all ballot papers rejected by them shall be examined by the Returning Officer.

(5) Where in a limited final count the Returning Officer agrees with the decision of a presiding officer as regards any questioned or rejected ballot paper, he shall write the word "confirmed" at the back of the ballot paper, and where he disagrees with the decision of the presiding officer as regards any such ballot paper, he shall write the word "varied" at the back of the ballot paper.

(6) Where a general final count is conducted, the Returning Officer shall review all used ballot papers, including rejected ballot papers, received from all polling places, and where he agrees with the decision of a presiding officer as regards any questioned or rejected ballot paper, he shall write the word "confirmed" at the back of the ballot paper and where he disagrees with the decision of any presiding officer as regards any such ballot paper, he shall write the word "varied" at the back of the ballot paper.

(7) Where a duly appointed candidate or any counting agent for the district disagrees with the Returning Officer as regards any ballot paper, the Returning Officer shall write the letter "Q" on the back of the ballot paper.

(8) All ballot papers marked in any way by the Returning Officer in a final count shall be marked with his initials.

(9) All markings on a ballot paper by the Returning Officer shall be made on the back of the ballot paper in ink different in colour from that used by the presiding officer.

(10) At the conclusion of any final count, the Returning Officer shall comply with section 89 in respect of the polling places to which the final count related.

(11) On ascertaining the votes cast in the district for each list of candidates in accordance with the preceding subsections, the returning officer shall communicate to the Chief Election Officer, by the quickest available means, the total number of valid votes cast in the district for each list of candidates.

Candidates appointed to attend count.

85. (1) The election agent of each group of candidates may appoint one of the candidates, hereinafter in this Part referred to as the "duly appointed candidate" to attend at the counting of the votes in a district.

(2) Notice in writing of appointments made under subsection (1), stating the names and addresses of the candidates appointed shall be signed by the election agent and delivered to the returning officer of the district not later than the 7th day before election day.

(3) There shall not be more than one duly appointed candidate of the same list of candidates for any one district.

Attendance at count.
[Reg. 37/1964]
[16 of 1968]
[12 of 1996]

86. (1) No person shall be present at the counting of the votes except—

(a) the returning officer and such other election officers as he may appoint to assist him in the counting;

(b) members of the Commission;

(c) duly appointed candidates;

(d) counting agents;

(e) such other persons as, in the opinion of the returning officer, have good reason to be present.

(2) The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings and all such information with respect thereto as he can give them consistent with the orderly conduct of the proceedings and with the discharge of his duties in connection therewith.

Method of counting.
[30 of 1990]

87. (1) Where a returning officer is required to have a final count of the votes cast for all, or some, of the polling places, he shall in the presence of such of the persons entitled under section 86(1) to be present as attend—

(a) open each ballot box;
(b) take out the ballot papers;
(c) count and record the number of ballot papers taken from each ballot box;
(d) **[deleted by Act No.30 of 1990].**.

(2) In counting the votes the returning officer shall, subject to subsection (3), reject as invalid and not count any ballot paper—

(a) which does not bear the official mark;

(b) which has not been marked for any list of candidates or is void for uncertainty;

(c) on which votes have been given for more than one list of candidates;

(d) on which there is any writing or mark by which the elector can be identified.

(3) A ballot paper on which the vote is marked—

(a) elsewhere than in the proper place;

(b) otherwise than by means of a cross;

(c) by more than one mark;

shall not be rejected solely by reason thereof if—

(i) an intention that the vote shall be for one or other of the lists of candidates clearly appears; and

(ii) the elector is neither identified nor can be identified by the manner in which the ballot paper is marked.

(4) The returning officer shall endorse the word "rejected" on any ballot paper which he may reject as invalid and shall add to the endorsement the words "rejection objected to" if any objection to his decision be made by a duly appointed candidate or a counting agent present during the counting.

(5) The decision of the returning officer as to any question arising in respect of any ballot paper shall be final.

Recounts.

88. A duly appointed candidate, or counting agent present when the counting or any recount of votes is completed, may request the returning officer to have the votes recounted or again recounted; but the returning officer may refuse such request if in his opinion it is unreasonable.

Procedure on conclusion of count. [30 of 1990]

89. (1) Upon the conclusion of the final counting, under section 84, of the votes the returning officer, in the presence of such of the persons entitled under section 86(1) to be present as attend, shall—

(a) seal in separate packets the counted and rejected ballot papers;

(b) verify the ballot papers account given by each presiding officer by comparing it with—

(i) the number of ballot papers recorded under section 87(1)(c);
(ii) the unused and spoiled ballot papers in his possession; and
(iii) the record of tendered votes contained in the poll book;

(c) reseal the packets of unused and spoiled ballot papers;

(d) prepare a written statement as to the result of the verification of the ballot papers account and on request allow any counting agent present to make a copy thereof;

(e) publicly declare the result of the final counting;

Form 24.

(f) deliver to the Chief Election Officer a return in writing in respect of the final counting in Form 24 which shall set out the number of—

(i) valid votes cast for each list of candidates as aforesaid;

(ii) rejected ballot papers together with, in each case, the reason for rejection;

(iii) spoiled ballot papers delivered to him;

(iv) tendered ballot papers;

(v) persons who appear to have voted.

(2) The returning officer shall not open the sealed packets containing tendered ballot papers, marked copies of the official list of electors or part thereof or counterfoils of used ballot papers.

(3) Any counting agent may copy the return made under subsection (1)(f).

Maintenance of secrecy at count.

90. Every person attending at the counting of votes shall maintain and aid in maintaining the secrecy of voting and shall not communicate any information obtained at the count as to the list of candidates for which any vote has been given.

PART X

COUNTING NON-RESIDENT ELECTORS' VOTES

Persons who may be present at count.
[Reg. 25/1968]
[12 of 1996]

91. (1) No person, other than—

(a) the Chief Election Officer and such staff appointed under section 7(d) as he may designate to assist him in the counting;

(b) members of the Commission;

(c) candidates appointed under subsection (2);

(d) election agents;

(e) such other persons as, in the opinion of the Chief Election Officer, have good reason to be present,

shall be present at the counting of the votes cast under Part VII.

(2) The election agent of each group of candidates may appoint one of the candidates for the purposes of subsection (1)(c).

(3) Notice in writing of such appointment, stating the name and address of the candidate, shall be signed by the election agent and delivered to the Chief Election Officer not later than the 7th day before election day.

(4) There shall not be more than one candidate appointed from the same list of candidates for the said purposes.

(5) The Chief Election Officer shall give persons present by virtue of subsection (l) (c) or (d) all such reasonable facilities for overseeing the proceedings and all such information with respect thereto as he can give them consistent with the orderly conduct of the proceedings and with the discharge of his duties in connection therewith.

Method of counting non-resident electors' votes.
[Reg. 25/1968]
[O. 50/1980]

92. (1) The Chief Election Officer shall, as soon as practicable after the discharge of his functions assigned by Part VII with reference to election day, in the presence of such of the persons entitled under section 91(1) to be present as attend—

(a) open each ballot box used for the purposes of that Part;

(b) take out the ballot papers;

(c) mix together the ballot papers which were contained in each ballot box;

(d) count and record the number of such votes for each list of candidates as were cast in each ballot box.

(2) The provisions of section 87(2), (3), (4) and (5) shall, as they apply in relation to the counting of votes by a returning officer, apply ***mutatis mutandis*** in relation to the counting of votes under this section:

Provided that subsection (4) aforesaid shall, in its application by virtue of the foregoing provisions of this subsection, have effect as if for the reference in that subsection to a counting agent there had been substituted reference to an election agent.

Recounts of non-resident electors' votes.

93. A candidate appointed under section 91 or an election agent may, when the counting or recounting of the votes cast in any ballot box is completed in conformity with section 92(1)(e), request the Chief Election Officer to have the votes recounted or again recounted; but the Chief Election Officer may refuse such request if in his opinion it is unreasonable.

Procedure on conclusion of count of non-resident electors' votes.
[16 of 1985]

94. (1) Upon the conclusion of the counting of the votes under this Part the Chief Election Officer, in the presence of such of the persons entitled under section 91(1) to be present as attend, shall—

(a) seal in separate packets the counted and rejected ballot papers;

(b) prepare a written statement as to the result of the verification of the non-resident electors' ballot papers accounts under section 63(3) and on request allow any candidate appointed under section 91 or election agent present to make a copy thereof;

(c) publicly declare the aggregate number of valid votes cast under section 62(1) for each list of candidates;

Form 25.

(d) record, in Form 25, the number of—

(i) valid votes cast as aforesaid for each list of candidates;

(ii) rejected ballot papers together with, in each case, the reason for rejection;

(iii) persons who appear to have voted under Part VII.

(2) Any candidate appointed as aforesaid or election agent may copy the record made under subsection (l)(d).

Delegation of Chief Election Officer's functions under this Part.

95. The Chief Election Officer may delegate to any overseas presiding officers deputed under section 65 his functions, or any of them, under sections 92, 93 and 94, and such officers shall, subject to any general or special directions given by the Chief Election Officer, have and exercise all the powers and perform all the duties, delegated under this section to them, respectively.

PART XI

ASCERTAINMENT OF ELECTION RESULTS

Totalling of votes.
[16 of 1968]
[30 of 1990]
[15 of 2000]

96. The Chief Election Officer shall, after calculating the total number of valid votes of electors which have been cast for each list of candidates, on the basis of the votes counted and the information furnished by returning officers under section 84(11), ascertain the result of the election in accordance with sections 97 and 98.

Allocation of seats.
[Reg. 6/1973]

97. (1) The total number of votes cast for all the lists of candidates shall be divided by fifty-three and the whole number resulting from that division shall be known as "the electoral quota".

(2) The number of votes cast for any list shall be divided by the electoral quota; there shall be allocated to that list a number of seats equal to the whole number resulting from that division; and the number of votes represented by a fraction so resulting shall be known as "surplus votes" of the list; and if the number of votes cast in accordance with this Act for any list is less than the electoral quota, those votes shall accordingly be treated as surplus votes of that list.

(3) Any seat or seats remaining unallocated after seats have been allocated in accordance with subsection (2) shall be allocated as follows—

(a) one seat shall be allocated to the list with the largest number of surplus votes;

(b) if the number of seats so remaining is two or more, one seat shall be allocated to the list with the next largest number of surplus votes, and so on until all the seats so remaining have been allocated;

(c) for the purposes of this paragraph, where two or more lists have equal numbers of surplus votes, then lots shall be drawn by the Chairman of the Commission in the presence of the representatives of the lists affected to determine which list or lists shall be deemed to have more surplus votes than the other list or lists.

(4) For the purposes of the foregoing provisions of this section a combination of lists shall be treated as one list.

(5) The seats allocated to a combination of lists shall be allocated among the lists comprised in the combination in accordance with subsections (2) and (3), the electoral quota for that purpose being the whole number found by dividing the total

number of votes cast for the combination of lists by the number of seats allocated to the combination.

Membership of National Assembly.
[16 of 1968]
[O. 50/1980]
[O. 80/1980]

98. When seats have, in pursuance of section 97, been allocated to any list of candidates—

(a) the representative of the list; or

(b) if the representative is unwilling or unable (by reason of absence, illness or any other cause when he is called upon by the Chief Election Officer) so to do, the deputy representative of such list; or

(c) in case of any such unwillingness or inability on the part of the deputy representative, a majority of the persons named in that list may designate in writing any such person able and willing (when called upon as aforesaid) so to do, who,

shall extract from the said list as many names belonging to candidates selected by him for the purpose, including his own name, if he has not been declared elected as President under article 177 of the Constitution, as can be so extracted without their number exceeding the number of seats allocated to that list; and the Chief Election Officer shall declare such names, in the order of their extraction as aforesaid, to be the names of the candidates on such list who have been elected.

Publication of election results.

99. As soon as practicable after election day the Commission shall publicly declare the results of the election and shall cause to be published in the *Gazette* a notification thereof, specifying—

(a) the number of votes cast for each list of candidates;

(b) the number of rejected ballot papers;

(c) the number of seats allocated to each list of candidates; and

(d) the names of the persons who, as a result of the election, have become members of the National Assembly;

and, as respects a combination of lists, such notification shall be so arranged as to give the particulars required by paragraphs (a), (c) and (d) with reference to both the combination and each list comprised therein.

Filling of casual vacancies in the case of members elected under article 60(2) of the Constitution.
[O. 50/1980]

99A. (1) If the seat of a member of the National Assembly who was elected pursuant to article 60(2) of the Constitution is vacant for any cause other than a dissolution of Parliament, the vacancy shall be filled by the person who is not such an elected member of the Assembly but is qualified for election as, and willing to become, such a member and whose name is taken from the relevant list of candidates by way of further extraction therefrom in accordance with the provisions of section 98 by the representative or deputy representative of such list or a person designated by a majority of persons named in such list, as the case may be, as shall be called upon so to do by the Speaker, following as nearly as may be the like method as was observed at the preceding election of members under article 60(2) of the Constitution, the name of every person who became an elected member of the Assembly at that preceding election, or has since become such a member, being ineligible for extraction under the foregoing provisions of this subsection; and if there is no person whose name is eligible therefor the seat shall remain vacant until it is filled consequent upon an ensuing election under article 60(2) aforesaid.

(2) In subsection (1) "the relevant list of candidates" means the list in which was included the name of the member of the Assembly vacating his seat or, where the vacancy exists because a person is held in proceedings under article 163 of the Constitution not to have been qualified to be elected as such a member, the name of that person.

Certificates of election.

100. The Commission shall furnish each of the persons who have become members of the National Assembly with a certificate that he has been so elected.

Election Report.
[16 of 1968]
c. 19:08

101. The Chief Election Officer shall as soon as practicable after the election cause to be prepared and printed a general report on the election including the particulars specified in section 99 and the total number of electors registered under the National Registration Act.

Custody of election documents.
[16 of 1968]
[Reg. 25/1968]
[O. 50/1980]
[30 of 1990]
[15 of 2000]

102. (1) The returning officer of each district shall, as soon as practicable after making the return required by section 89(1)(f) make up in one parcel the packets he has received in pursuance of section 83(10)(b) and the other papers used at the polling places and in his possession and shall seal the parcel so that it cannot be opened without breaking the seals and deliver it to the Chief Election Officer.

c. 1:01.

(2) The Chief Election Officer shall keep all parcels received in pursuance of subsection (1) in safe custody and, subject to the provisions of this Act and any law made under article 163 of the Constitution, allow no person to have access thereto.

(3) The returning officer of each district shall, as soon as practicable after delivering the election documents, in accordance with subsection (1), cause the ballot boxes used at the election, together with their locks and keys, to be deposited in the custody of Commission.

(4) The Chief Election Officer shall, as soon as practicable after the discharge of his functions under Part X, cause the ballot boxes used for the purposes of Part VII, together with their locks and keys, to be deposited in the custody of the Commission.

(5) Subject to the requirements of section 63(2) and (3), the provisions of section 102(2) shall, as they apply to the parcels mentioned therein, apply to every packet delivered to, or made up by, the Chief Election Officer pursuant to section 57(1)(b), (c), (d) or (e), or made up under section 94(1)(a), and to everything not dealt with under section 63(1)(e) or (f) by reason of its having been returned or delivered to the Chief Election Officer after election day.

PART XII

ELECTION EXPENSES

Making of contracts through election agents.

103. (1) The election agent of a group of candidates shall appoint every clerk and messenger employed for payment on behalf of the group at the election and shall hire every committee room hired on behalf of the group.

(2) A contract whereby any expenses are incurred on account of or in respect of the conduct or the management of the election shall not be enforceable against a candidate unless made by the candidate or by the election agent of the group to which the candidate belongs:

Provided that the inability under this Act to enforce such contract against a candidate shall not relieve such candidate from the consequences of any corrupt or illegal practices committed by the election agent or assistant agent of his group with the consent or connivance of such candidate.

Payment of expenses.
[16 of 1968]
[24 of 1990]

104. (1) Except as permitted by this section or in pursuance of section 111, no payment and no advance or deposit shall be made by a candidate or by any other person at any time in respect of election expenses otherwise than by or through the election agent of the group of candidates to which the candidate belongs.

(2) A candidate may pay personal expenses incurred by him on account of or in connection with or incidental to the election to an amount not exceeding twenty-five thousand dollars; and such candidate shall send to the election agent of his group of candidates not later than the 14th day after the declaration of the results of the election under section 99 a written statement of personal expenses so paid.

(3) Any personal expenses in excess of twenty-five thousand dollars incurred by a candidate shall be paid by the election agent.

(4) If a candidate pays personal expenses in excess of the sum specified in subsection (2) he shall be guilty of an illegal practice.

Petty and overseas expenditure.
[16 of 1968]

105. (1) A person authorised in that behalf by an election agent may pay any necessary expenses for stationery, postage, telegrams and other petty expenses, or may pay any expenses incurred outside Guyana on account of or in respect of the conduct or the management of the election, to a total amount not exceeding that named in the authority; and such person shall send to the election agent not later than the 14th day after the declaration of the results of the election under section 99 a written statement of the payments so made together with particulars thereof.

(2) Any petty expenses incurred in excess of the amount named in the authority of the election agent shall be paid by the election agent.

Maximum expenses.
[Reg. 32/1964]
[16 of 1968]
[24 of 1990]

106. (1) No expense shall be incurred by or on behalf of a group of candidates and no payment shall be made on their behalf whether before, during or after the election, on account of or in respect of the conduct and management of the election—

(a) in excess of the sum of fifty thousand dollars multiplied by the number of candidates not exceeding 53 on the list of candidates;

(b) for purposes other than the following—

(i) the expenses of printing, advertising, publishing, issuing and distributing addresses and notices;

(ii) the expense of stationery, messages, postages and telegrams;

(iii) the expense of holding public meetings and holding outside Guyana meetings open to electors generally;

c.19:08.

(iv) the expenses of committee rooms, no more than one such room being situated in each district within the meaning of the National Registration Act;

(v) expenses permitted under section 118;

(vi) the personal expenses of candidates.

(2) In determining the total expenditure incurred by a group of candidates no regard shall be had to amounts paid by candidates under section 104(2).

(3) If an election agent incurs or pays election expenses in excess of the sum specified in subsection (1), or for purposes other than those therein specified, he shall be guilty of an illegal practice.

(4) If a candidate pays any election expenses except his personal expenses otherwise than by or through the election agent of his group of candidates or in pursuance of section 111 he shall be guilty of an illegal practice.

Remuneration of election agent.

107. So far as circumstances permit, this Part shall apply to a claim for his remuneration by an election agent and to the payment thereof in like manner as if he were any other creditor; and, if there is any dispute as to the amount due, such claim shall be a disputed claim within the meaning of this Part and dealt with accordingly.

Election expenses return and declarations. Form 26.

108. (1) Not later than the 35th day after the declaration of the results of the election under section 99 the election agent of each group of candidates shall forward to the Chief Election Officer a return which shall be in Form 26 and shall contain statements of—

(a) all payments made by the election agent;

(b) the amount of personal expenses paid by each of the candidates;

(c) all disputed claims of which the election agent is aware;

(d) all unpaid claims of which the election agent is aware in respect of which application has been or is about to be made to the High Court;

(e) all money, securities and equivalent of money received by the election agent from the candidates or any other person for the purposes of expenses incurred or to be incurred on account of or in respect of the conduct or management of the election and the name of every person from whom such money, securities and equivalent of money were received;

(f) any duly authorised expenses incurred for any purpose referred to in section 114(1).

(2) Every payment made by an election agent, in respect of any expenses incurred on account of or in respect of the conduct or management of the election shall except where less than one hundred dollars be vouched for by a receipt or by a bill stating the particulars; and all such bills and receipts shall be sent to the Chief Election Officer with the election expenses return.

Form 27
Form 28.

(3) The election expenses return shall be accompanied by a declaration by the election agent as to election expenses, in Form 27 and each candidate shall make and transmit, or cause to be transmitted, to the Chief Election Officer not later than the 35th day after the declaration of the results of the election under section 99, a declaration as to election expenses in Form 28.

(4) Where, after the election expenses return has been forwarded to the Chief Election Officer, leave is given by the High Court for any claim to be paid, the election agent shall, within seven days of the payment of such claims, forward to the Chief Election Officer a return of the sums paid together with a copy of the order of the court.

(5) If without an authorised excuse a candidate or an election agent fails to comply with any requirement imposed on him by this section, he shall be guilty of an illegal practice.

Publication of summary of election expenses return.
[24 of 1990]
[6 of 1997]

109. (1) The Chief Election Officer shall, as soon as may be after the receipt of each election expenses return, cause to be published in the *Gazette* a summary thereof, accompanied by a notice of the time and place at which the election expenses return and accompanying documents and the election expenses declarations can be inspected.

(2) Election expenses returns and accompanying documents and election expenses declarations shall at all reasonable times during a period of two years after their receipt be open to inspection at the office of the Chief Election Officer by any person on payment of a fee of fifteen dollars; and the Chief Election Officer shall on demand furnish copies thereof or of part thereof on payment of a fee of fifteen dollars for every one hundred and twenty words or part of one hundred and twenty words.

(3) After the expiration of two years the Chief Election Officer may cause the election expenses return and accompanying documents and the election expenses declarations to be destroyed unless any election agent requires them to be sent to him.

Authorised excuse for failure to submit return and declarations.
[6 of 1997]

110. (1) Where the election expenses return or any expenses declaration has not been submitted as required by section 108, or having been submitted contains an error or a false statement, then—

(a) if any candidate applies to the High Court, and shows that his failure to submit an election expenses declaration or any part thereof, or any error or false statement therein has arisen by reason of his illness, or of the absence, death, illness or misconduct of another candidate or of the election agent or of an assistant agent or of any clerk or officer employed by the election agent, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant; or

(b) if an election agent applies to the High Court and shows that his failure to submit the return and his declaration, or either of them, or any part thereof, or any error or false statement therein, has arisen by reason of his illness, or by reason of the absence, death, illness or misconduct of a candidate or of a former election agent of the group or of an assistant agent or of any clerk or officer employed by the election agent, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant;

the court may, on being satisfied that notice of the application has been published in two newspapers circulating in Guyana, and on production of such evidence of the grounds stated in the application, and of the good faith of the application, and otherwise, as to the court seems fit, make an order allowing an authorised excuse for

the failure to submit the return or any declaration as the case may be or for any error or a false statement therein, as to the court seems just.

(2) Where it appears to the court that any person being or having been a candidate, an election agent or assistant agent has refused or failed to make such return or declaration or supply such particulars as to enable any candidate or an election agent to comply with any requirement imposed on him by section 108, the court, before making an order allowing an authorised excuse, shall order such person to attend before the court; and, on his attendance shall, unless he shows cause to the contrary, order him to make and deliver such return or declaration or supply such particulars within such time and to such person and in such manner as to the court seems just, or may order him to be examined with respect to such particulars, and may, in default of compliance with any such order, order him to pay a fine of thirty-two thousand five hundred dollars.

(3) An order allowing an authorised excuse may be made conditional upon the making of the election expenses return or any election expenses declaration or upon the making of them in a modified form or within an extended time and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of these regulations; and an order allowing an authorized excuse shall relieve the applicant for the order from any liability or consequences under this Act in respect of the matter excused by the order.

(4) The date of the order allowing an authorised excuse, or if conditions and terms are to be complied with, the date on which the applicant for the order fully complies with them, is in this Act referred to as the date of the allowance of the excuse.

Period of claims for payment of election expenses.
[16 of 1968]

111. (1) Every claim against any candidate or against an election agent in respect of any expenses incurred on account of or in respect of the conduct or management of an election shall be sent to the election agent not later than the 14th day after the publication under section 99 of the results of the election.

(2) Any such claim as is specified in subsection (1) which is not sent to the election agent within the time therein prescribed shall be barred and not paid.

(3) An election agent who pays a claim in contravention of subsection (2) shall be guilty of an illegal practice.

(4) All expenses incurred on account of or in respect of the conduct or management of the election shall be paid not later than the 28th day after the publication under section 99 of the results of the election.

(5) An election agent who makes a payment in contravention of subsection (4) shall be guilty of an illegal practice.

(6) If an election agent disputes any claim received by him within the time limited by subsection (1) or if he refuses or fails to pay such claim within the period mentioned in subsection (4), such claim shall be deemed to be a disputed claim.

(7) A claimant may, if he thinks fit, bring an action for a disputed claim in any competent court; and anything paid by a candidate or by an election agent in

pursuance of the judgment or order of the court shall be deemed to be paid within the time limited by subsection (1) and to be an exception from the provisions of this Act requiring claims to be paid by the election agent.

(8) The High Court may, on application by the claimant or by a candidate or by an election agent and on cause shown to its satisfaction, by order give leave for the payment by a candidate or by an election agent of a disputed claim or for a claim in respect of expenses incurred on account of or in respect of the conduct or management of an election, notwithstanding that such claim was sent after the time limit prescribed by subsection (1), and notwithstanding the sending of such claim to a candidate and not to the election agent.

(9) Any sum specified in any order of the court made under subsection (8) may be paid by a candidate or by an election agent and when paid in pursuance of such order shall be deemed to be paid within the time limited by subsection (1).

Exemption of act done in good faith from being an illegal practice.
[16 of 1968]

112. Where, on application made, it is shown to the High Court by such evidence as to the court seems sufficient that—

(a) any act or omission of any candidate or of any election agent or of any other agent or person, would, by reason of being a payment, contract, engagement, employment or hiring, or the incurring of an expense in excess of the maximum allowed, in contravention of any of the provisions of this Act pertaining thereto, be but for this section an illegal practice, payment, employment or hiring; and

(b) such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and

(c) notice of the application has been published in two newspapers circulating in Guyana,

and in the circumstances it seems to the court to be just that such candidate, election agent and other agent or person, or certain of them should not be subject to any of the consequences under this Act of the act or omission the court may make an order allowing such act or omission to be an exception from the provisions of this Act which would otherwise make the same an illegal practice, payment, employment, hiring or an incurring of an expense in excess of the maximum allowed, and such candidate, election agent or other agent or person as the court may specify in its order shall not be subject to any of the consequences under this Act of the act or omission.

Saving for creditors.

113. The provisions of this Act prohibiting certain payments and contracts for payments, and the payment of any sum and the incurring of any expense in excess of the prescribed maximum, shall not affect the rights of any creditor who when the contract was made or the expense incurred was ignorant that such contract, payment or expense was in contravention of this Act.

Prohibition of expenses not authorised by election agent.
[16 of 1968]
[24 of 1990]

114. (1) No expenses shall, with a view to promoting or procuring the election of a group of candidates, be incurred by any person other than the election agent of the group or by a person authorised in writing by him on account of—

(a) holding any meetings mentioned in section 106(1)(b)(iii) or organising—

(i) any public display; or
(ii) any display, outside Guyana, open to electors generally;

(b) issuing advertisements, circulars or publications;

(c) otherwise presenting to the electors the candidates of the group or any of them or their views or the extent or nature of their backing or of disparaging the candidates of another group or any of them:

Provided that paragraph (c) shall not—

(i) restrict the publication of any matter relating to the election in a newspaper or other periodical; or

(ii) apply to any expenses not exceeding in the aggregate the sum of one hundred dollars which may be incurred by an individual and are not incurred in pursuance of a plan suggested by or concerted with others, or to expenses incurred by any person travelling or in living away from home or similar personal expenses.

(2) Any person other than an election agent or a person authorised in that behalf in writing by him who incurs expenses prohibited by subsection (l) shall be guilty of a corrupt practice.

(3) Any expenses incurred on account of any purpose referred to in subsection (1) and duly authorised by the election agent shall be returned as part of the election expenses of the group of candidates.

False election expenses declarations. [16 of 1968]

115. Any candidate or election agent who makes an election expenses declaration containing any statement false in fact, which he knows or believes to be false or does not believe to be true, shall be guilty of a corrupt practice.

PART XIII

ILLEGAL PAYMENT, EMPLOYMENT, HIRING

Providing money for illegal purposes.

116. Any person who knowingly provides money—

(a) for any payment which is contrary to this Act;

(b) for any expenses in excess of the maximum allowed by this Act;

(c) to replace any money expended in any such payment or expenses,

shall be guilty of illegal payment.

Corrupt withdrawal of candidate.

117. Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment shall be guilty of illegal payment; and any person withdrawing in pursuance of such inducement or procurement, shall also be guilty of illegal payment.

Prohibition of certain forms of employment. [16 of 1968]

118. (1) No person shall, for the purpose of promoting or procuring the election of a group of candidates at an election be engaged or employed for payment or promise of payment for any purpose or in any capacity whatsoever, except for the following—

(a) one election agent;

(b) one assistant agent for each district;

(c) one polling agent in each polling place;

(d) one counting agent for each district;

(e) two clerks and two messengers for each committee room;

(f) persons to exercise outside Guyana such authority mentioned in section 105 or 114 as may be conferred upon them, respectively.

(2) If any person is engaged or employed in contravention of this section the person engaging or employing him shall be guilty of illegal employment; and the person so engaged or employed shall also be guilty of illegal employment if he knew that he was so engaged or employed contrary to law.

Illegal hiring of transport for electors.

119. (1) No person shall let, lend or employ for the purposes of the conveyance of electors to or from the poll, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse or other animal which he keeps or uses for the purpose of letting out for hire; and any person who contravenes this subsection knowing the purpose of the letting, lending or hiring shall be guilty of illegal hiring.

(2) No person shall hire, borrow or use for the purpose of the conveyance of electors to or from the poll any carriage, horse or other animal which he knows the owner thereof is prohibited by subsection (1) from letting, lending or employing; and any person who contravenes this subsection shall be guilty of illegal hiring.

(3) Nothing in this section or in section 122 shall prevent a carriage, horse or other animal being let to or hired, employed or used by an elector or several electors at his own or their own joint cost, for the purpose of being conveyed to or from the poll.

Use of certain premises as committee room prohibited.

120. (1) No person shall let, hire or use as a committee room for the purpose of promoting or procuring the election of a group of candidates at an election any of the following premises—

(a) any premises wherein the sale by wholesale or retail of any intoxicating liquor is authorised by any licence, whether such licence authorises the sale for consumption on or off the premises;

(b) any premises where any intoxicating liquor is sold or supplied to members of a club, society or association other than a permanent political club;

(c) any premises wherein refreshment of any kind, whether food or drink, is ordinarily sold for consumption in the premises.

(2) Any person who hires or uses premises in contravention of subsection (1) shall be guilty of illegal hiring and any person who lets or permits to be used such premises or part thereof shall also, if he knew it was intended to use such premises or part thereof as a committee room, be guilty of illegal hiring.

(3) Nothing in this section shall apply to any part of premises described in subsection (1) which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or arbitrations if such part has a separate entrance and no direct

communication with any part of the premises on which intoxicating liquor or refreshment is sold or supplied.

Penalty for illegal payment, employment or hiring.
[16 of 1968]
[6 of 1997]

121. Any person guilty of an offence of illegal payment, employment or hiring shall be liable on summary conviction to a fine of thirty-two thousand five hundred dollars or, if the offence be not triable summarily by reason of anything comprehended therein having been done, omitted or situated anywhere beyond the limits of summary jurisdiction exercisable in Guyana, he shall, unless it is proved that he was not a citizen of Guyana at the time of the offence, be liable upon conviction on indictment in Guyana to a fine of sixty-five thousand dollars or to imprisonment for one year and any candidate or election agent who is guilty of such an offence shall be guilty of an illegal practice.

PART XIV

ILLEGAL PRACTICES

Certain expenditure to be illegal practice.

122. (1) No payment or contract shall, for the purpose of promoting the election of a group of candidates at an election, be made—

(a) on account of the conveyance of electors to or from the poll, whether for the hiring of horses or carriages or for railway fares, water or air transport fares or otherwise; or

(b) to an elector on account of the use of any house, land, building or premises for the exhibition of any address, bill or notice, or on account of the exhibition of any address, bill or notice:

Provided that where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector, if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section.

(2) If payment or contract for payment is knowingly made in contravention of this section either before, during or after an election, the person making such payment or contract for payment shall be guilty of an illegal practice; and any person receiving such payment, or being a party to any such contract, knowing it to be in contravention of this section, shall also be guilty of an illegal practice.

Disorderly behaviour at election meeting.

123. Every person who, at a lawful political meeting held before election day, acts or incites any other person to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice.

False statements concerning candidates.

124. (1) Any person who, before or during an election, shall, for the purpose of affecting the return of any group of candidates, make or publish any false statement of fact in relation to the personal character or conduct of the candidates of that group or any of them shall, subject to subsection (2), be guilty of an illegal practice.

(2) No person shall be deemed to be guilty of illegal practice under this section if he can show that he had reasonable grounds for believing, and did believe, the statement made by him to be true.

(3) A person making or publishing a false statement of fact in contravention of subsection (1) may be restrained by interim or perpetual injunction by the High Court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate, and, for the purposes of granting an interim injunction, ***prima facie*** proof of the falsity of the statement shall be sufficient.

Election publications.
[16 of 1968]
[6 of 1997]

125. (1) No person shall—

(a) print or publish, or cause to be printed or published, any bill, placard or poster having reference to an election or any printed document distributed for the purpose of promoting or procuring the election of a group of candidates;

(b) post or cause to be posted any such bill, placard or poster as specified in paragraph (a);

(c) distribute or cause to be distributed any printed document for the purpose specified in paragraph (a), unless the bill, placard, poster or document bears upon the face thereof the names and addresses of the printer and publisher.

(2) For the purposes of this section, any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the word "printer" shall be construed accordingly.

(3) Any candidate, or any election agent who contravenes this section shall be guilty of an illegal practice; and any other person who contravenes this section shall be liable on summary conviction to a fine of thirty-two thousand five hundred dollars, or if the offence be not triable summarily by reason of anything comprehended therein having been done, omitted or situated anywhere beyond the limits of summary jurisdiction exercisable in Guyana, he shall, unless it is proved that he was not a citizen of Guyana at the time of the offence, be liable upon conviction on indictment in Guyana to a fine of sixty-five thousand dollars or to imprisonment for one year.

Miscellaneous illegal practices.
[22 of 1997]
[15 of 2000]

126. Any person who—

(a) votes either on his own behalf or as a proxy on behalf of another person or procures any person to vote either on his own behalf or as a proxy on behalf of another person, at an election, knowing that he or such other person is not an elector;

(b) applies for the appointment of a person to vote on his behalf at an election as a proxy knowing that he or the person for whose appointment he applies is not an elector or who in such application makes a false statement as to his entitlement to vote by proxy;

(c) before or during an election knowingly publishes a false statement of the withdrawal of a list of candidates or of any of the candidates named therein for the purpose of promoting or procuring the election of the candidates named in another list;

(d) hands to a poll clerk or a presiding officer—

(i) a forged identity paper; or

(ii) save as permitted by these regulations the identity paper of some other person; or

(iii) a forged notice of appointment to vote as a proxy on behalf of some other person;

(e) for the purpose of affecting the return of a list of candidates causes any person to cast an invalid vote;

(f) conspires with persons known or unknown to deprive a qualified person of the right to be registered or to cause a person not qualified to register as a voter;

(g) except as otherwise provided in section 29, with intent to vote enters, or who votes in, a polling division other than the polling division where he is registered,

shall be guilty of an illegal practice.

Plural voting to be illegal practice.
[16 of 1968]
[Reg. 21/1968]
[6/1973]

127. Any person who—

(a) votes on his own behalf more than once; or

(b) votes in person on his own behalf when there is in force an appointment of another person to vote as a proxy on his behalf; or

(c) applies for a person to be appointed as a proxy to vote on his behalf without applying for the cancellation of an existing appointment of some other person to vote as a proxy on his behalf or without withdrawing a pending application for such appointment; or

(d) votes as a proxy more than once on behalf of the same elector; or

(e) votes as a proxy on behalf of more than two electors,

shall be guilty of an illegal practice.

Penalty for illegal practice.
[16 of 1968]
[6 of 1997]

128. (1) Any person guilty of an illegal practice—

(a) shall, on summary conviction, be liable to a fine of thirty-two thousand five hundred dollars and to imprisonment for six months or, if the offence be not triable summarily by reason of anything comprehended therein having been done, omitted or situated anywhere beyond the limits of summary jurisdiction exercisable in Guyana, he shall, unless having been neither a candidate nor an election agent at the time of the offence he is proved not to have been a citizen of Guyana at that time, be liable on conviction on indictment in Guyana to a fine of sixty-five thousand dollars or to imprisonment for one year; and

(b) subject to subsection (2), shall be incapable during a period of five years from the date of his conviction, whether summarily or on indictment, of being registered as an elector.

(2) In the case of any conviction of an illegal practice the court may, if it deems it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by this section.

PART XV

CORRUPT PRACTICES

Treating.

129. The following persons shall be deemed guilty of the corrupt practice of treating—

(a) every person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly, gives or provides or pays wholly or in part the expense of giving or providing any food, drink, entertainment or provision to or for any person for the purpose of corruptly influencing that person, or any other person, to vote or to refrain from voting, at the election, or on account of such person, or any other person, having voted or refrained from voting, or being about to vote or refrain from voting, at the election;

(b) every elector who corruptly accepts or takes any such food, drink, entertainment or provision.

Undue influence.

130. The following persons shall be deemed guilty of the corrupt practice of using undue influence:

(a) every person who directly or indirectly by himself or by any other person on his behalf—

(i) makes use of, or threatens to make use of, any force, violence or restraint; or

(ii) inflicts, or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person, in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election; or

(b) every person who by abduction, duress, or any fraudulent contrivance, impedes or prevents the free exercise of the franchise of any elector, or thereby compels, induces or prevails upon any elector either to vote or to refrain from voting at any election.

Bribery.

131. The following persons shall be deemed to be guilty of the corrupt practice of bribery:

(a) every person who, directly or indirectly, by himself or by any other person on his behalf—

(i) gives or agrees to give; or
(ii) lends or agrees to lend; or
(iii) offers or promises; or
(iv) promises to procure or promises to endeavour to procure—

any money or valuable consideration to or for any elector, or to or for any other person, in order to induce any elector to vote or to refrain from voting;

(b) every person who, directly or indirectly, by himself or by any other person on his behalf, corruptly-

(i) gives or agrees to give; or

(ii) lends or agrees to lend; or
(iii) offers or promises; or
(iv) promises to procure or promises to endeavour to procure—

any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, on account of such elector having voted or refrained from voting at any election;

(c) every person who, directly or indirectly, by himself or by any other person on his behalf, corruptly—

(i) gives or agrees to give; or
(ii) procures or agrees to procure; or
(iii) offers or promises; or
(iv) promises to procure or promises to endeavour to procure—

any office, place or employment or to or for any elector or to or for any person on behalf of any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting;

(d) every person who, directly or indirectly, by himself or by any other person on his behalf, corruptly—

(i) gives or agrees to give; or
(ii) procures or agrees to procure; or
(iii) offers or promises; or
(iv) promises to procure or promises to endeavour to procure—

any office, place or employment to or for any elector or to or for any person on behalf of any elector, or to or for any other person, on account of any elector having voted or refrained from voting at any election;

(e) every person who, directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person, in order to induce such person to procure the return of a group of candidates, as members of the National Assembly, or the vote of any elector at any election;

(f) every person who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any group of candidates as members of the National Assembly, or the vote of any elector at any election;

(g) every person who—

(i) advances or pays, or causes to be paid, any money to or to the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election; or

(ii) knowingly pays, or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election;

(h) every elector who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election;

(i) every person who, after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election.

Personation. [16 of 1968]

132. (1) A person shall be deemed to be guilty of the corrupt practice of personation at an election if he—

(a) votes as some other person whether as an elector on his own behalf or as a proxy on behalf of another elector, and whether that other person is living or dead or is a fictitious person; or

(b) having any mark of electoral ink upon any of his fingers applies for a ballot paper for the purpose of voting as an elector; or

(c) votes in person or as proxy—

(i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or

(ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force.

(2) For the purpose of subsection l(a) and (c), a person who has applied for a ballot paper for the purpose of voting shall be deemed to have voted.

General penalty for corrupt practices. [6 of 1997]

133. Every person who is guilty of a corrupt practice other than as specified in section 134, shall, on conviction on indictment be liable to a fine of sixty-five thousand dollars and to imprisonment for one year.

Penalty for personation.

134. Every person who is guilty of personation or aiding, abetting, counselling or procuring the commission of the offence of personation shall, on conviction on indictment, be liable to imprisonment for two years.

Disqualification. [16 of 1968]

135. (1) Subject to this section, every person who is convicted of a corrupt practice shall, in addition to any other punishment, be incapable during a period of five years from the date of conviction—

(a) of being registered as an elector;
(b) of being elected as a member of the National Assembly.

(2) In the event of any conviction under section 114, the court may, if it deems it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by this section.

PART XVI

MISCELLANEOUS ELECTION OFFENCES

136. **[Repealed by Act No.24 of 1990]**

Offences in respect of ballot boxes and ballot papers, identity papers, and appointments as proxy.
[16 of 1968]
[Reg. 25/1968]
[O. 50/1980]
[6 of 1997]
[22 of 1997]
[15 of 2000]

137. (1) Every person who—

(a) forges or counterfeits or fraudulently defaces, or destroys, any ballot paper or the official mark thereon or any identity paper or notice of appointment of a person to vote as a proxy; or

(b) without due authority supplies a ballot paper to any person; or

(c) fraudulently puts or causes to be put into any ballot box any paper other than the lawful ballot paper; or

(d) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of any election; or

(e) wilfully or negligently fails to discharge any duty or responsibility imposed on him by any of the provisions of Part VII and relating to any packet to which paragraph (d) applies by virtue of section 56(2)(d); or

(f) being present at any proceedings under section 54 or 55(a) of these sections to be executed in conformity with section 59(1) or section 92, 93 or 94—

(i) interferes or attempts to interfere with any person, balloting as an elector, or obstructs or attempts to obstruct the course of any such proceedings, except in the exercise of any functions required by law to be discharged for the purposes of such balloting or proceedings, as the case may be; or

(ii) obtains or attempts to obtain (except for the purposes of the proviso to section 54(a)) information as to the list of candidates for whom any person is about to vote or has voted; or

(iii) acquires any such information as aforesaid and, at any time thereafter, communicates it to any person; or

(iv) directly or indirectly induces any person balloting as an elector to display his ballot paper so as to make known the list of candidates for whom he has or has not voted; or

(v) is guilty of any wilful act or omission inconsistent with the maintenance of the secrecy of the ballot**;** or

(g) undertakes to assist any person under the proviso to section 54(a) and at any time thereafter communicates any information as to the list of candidates for whom such person intends to vote, or has voted, to any other person; or

(h) being a ballot attendant participating in any proceedings under section 54 or 55, influences or attempts to influence any person either not to vote or in his choice of a list of candidates to vote for at those proceedings; or

(i) in any Form, or in any certificate on the reverse side thereof, makes any declaration or statement that he does not believe to be true, or has reasonable grounds to believe to be false, in any material respect;

shall be guilty of a misdemeanour, and be liable on conviction—

(i) if he is an election officer or other person exercising powers or performing duties connected with or relating to the conduct of elections, to a fine of sixty-five thousand dollars and to imprisonment for two years;

(ii) if he is not an election officer or such a person, to a fine of sixteen thousand two hundred and fifty dollars and to imprisonment for six months.

(2) Any person who attempts to commit an offence under this section shall be deemed to be guilty of an offence under this section.

Voting when not entitled.
[16 of 1968]
[6 of 1997]
c. 19:08

138. Without prejudice to section 126(a), every person who—

(a) not being registered as a qualified person on an electoral register compiled under the National Registration Act, votes at an election; or

(b) induces or procures any person not so registered to vote at an election, shall be liable on summary conviction to a fine of sixteen thousand two hundred and fifty dollars and to imprisonment for six months.

Interference with notices and lists.
[6 of 1997]

139. Every person who wilfully mutilates, tears down, destroys, obscures, or makes any alteration in any list or notice published in accordance with this Act, shall be liable on summary conviction to a fine of sixteen thousand five hundred dollars or to imprisonment for three months.

Terror intimidation causing withdrawal of candidate.
[22 of 1997]
[15 of 2000]

139A. Any person who through intimidation, terror or force causes any other person to withdraw from being a candidate at any election shall be guilty of an offence and shall be liable on summary conviction to a fine of forty thousand dollars together with imprisonment for one year.

Abetment of offence under this Act.
[22 of 1997]
[15 of 2000]

139B. Save as otherwise provided in this Act, every person who aids, abets, counsels, causes, or procures, the commission of any offence under this Act shall be liable to be proceeded against and convicted for that offence, either together with the principal offender or before or after his conviction, and shall be liable on summary conviction to the same punishment as that to which the principal offender is liable by law.

Attempt and incitement to commit offence under this Act.
[22 of 1997]
[15 of 2000].

139C. Every person who attempts to commit, or incites any other person to commit any offence under this Act shall be liable to one-half of the punishment prescribed for that offence.

Person causing racial or ethnic violence or hatred.
[1 of 2001].

139D. (1) Any person who-

(a) makes or publishes or causes to be made or published any statement; or

(b) takes any action,

which results or can result in racial or ethnic violence or hatred among the people shall be liable on conviction on indictment to a fine of one hundred thousand dollars together with imprisonment for two years.

(2) Every person convicted of an offence under subsection (1) shall, in addition to any punishment under the said subsection, be incapable, during a period of five years from the date of the conviction, of being a member of the National Assembly or being a member of any local democratic organ or of the holder of any constitutional or statutory office.

(3) Where a person is convicted of an offence under subsection (1), the Registrar of the Supreme Court shall send the particulars of the conviction to the chairperson of the Ethnic Relations Commission who shall, subject to the provisions of subsection (7), take such measures or issue such instructions as are required or necessary to give effect to the provisions of subsection (2).

(4) In all cases considered by the Court that relate to subsection (1), the registrar of the Supreme Court shall send a copy of the notes of evidence to the chairperson of the Ethnic Relations Commission, and the registrar shall take such measures or issue such instructions as are required to give effect to the provision of this Act.

(5) Subject to the provisions of subsection (8) where in the opinion of the Judge or the chairperson of the Ethnic Relations Commission the notes of evidence disclose the involvement of any political party in the matter considered under subsection (1) the chairperson of the Ethnic Relations Commission shall summon as a representative of the party the Leader of the political party or if there is no Leader the General Secretary of the political party, by whatever name either office is designated to attend meeting of the Commission for the purpose of participating in investigations by the Ethnic Relations Commission with regard to the aforesaid involvement; and if after hearing the Leader of the party or the General Secretary, as the case may be, the Commission is satisfied that the statement or action, the subject of the enquiry related to subsection (1), was made or published or it was caused to be made or published on behalf of the political party, or the action was taken on behalf of the political party, and the political party has not publicly disassociated itself from the statement or the action, the chairperson of the Ethnic Relations Commission shall send, in such form as he or she thinks fit, the findings of the Commission to the chairperson of the Elections Commission, and also deliver a copy with a clearly stated date of notification to the representative of the party who participated in the investigations.

(6) The representative of the political party referred to in subsection (5) shall have the right to appeal in a summary way to the Full Court against the findings of the Ethnic Relations Commission, but shall be deemed to have forfeited that right if such appeal is not made within fourteen days of the date of receipt of notification of those findings.

(7) The chairperson of the Elections Commission shall, subject to the provisions of subsection (9), on receipt of the findings referred to in subsection (5) in respect of a political party, not accept any list of candidates with the name of that political party thereon for a period of five years from the date of the notification of those findings by the Ethnic Relations Commission; and , subject to the provisions of subsection (9),

there shall not for the period aforesaid, be a ballot containing the name of that political party.

(8) The Ethnic Relations Commission shall not take any action under subsection (3) or initiate any formal inquiry under subsection (5) in any case where an appeal against a conviction under subsection (1) has not been determined or has been allowed.

(9) The Elections Commission shall not take the actions under subsection (7) if, within fourteen days of the date of receipt of notification by the Ethnic Relations Commission of its findings, the representative of the party referred to in subsection (5) has exercised the right of appeal under subsection (6), and the Commission shall act only after it has been specifically directed by the Ethnic Relations Commission consequent upon the determination of the appeal.

Complaint of statement or action by Political party on racial and ethnic violence or hatred.
[1 of 2001].

139E. (1) Where there is a written complaint to the Ethnic Relations Commission that any political party -

(a) has made or published or caused to be made or published any statement; or

(b) has taken any action, which results or can result in racial or ethnic violence or hatred, the Leader or General Secretary of the Political party shall be summoned by the Ethnic Relations Commission to participate in investigations of the matter by the Ethnic Relations Commission as the Commission deems fit, provided that such investigations be conducted in a manner open to the public.

(2) With respect to the investigations referred to in subsection (1) the party shall have the right to make representations by itself or by attorney-at-law during such investigations by filing defences, being heard, and making submissions, in accord with the procedures determined by the Ethnic Relations Commission, which procedures shall make adequate provision for receiving such representations.

(3) The findings of the Ethnic Relations Commission deriving from the investigation referred to in subsection (1) shall be notified promptly to the representative of the political party, a copy shall be delivered to the chairperson of the Elections Commission, and shall be published in a daily newspaper.

(4) Where the findings of the Ethnic Relations Commission determine that the political party is culpable, the party shall pay promptly a fine of five hundred thousand dollars to the Ethnic Relations Commission.

(5) The provisions of section 139D(6), (7) and (9) shall ***mutatis mutandis*** apply to this section.

Elections Commission proceedings [Reg.21/1968] [0.50/1980]

140. (1) Except to the extent that jurisdiction in that behalf has been conferred, and the exercise thereof is required, by the Constitution or any law made under article 163 thereof (which provides for the determination by the Supreme Court of Judicature of questions as to membership of the National Assembly and elections thereto) and save as hereinbefore provided to the contrary, no question whether any function of the Elections Commission or of any of its members has been performed validly or at all shall be enquired into in any court.

(2) No evidence of any deliberations of the Elections Commission or communications between members of the Commission regarding its business shall be admissible in any court.

PART XVII

GENERAL

Property in election material

141. In any indictment, information or complaint for an offence in relation to ballot boxes, ballot papers and other election material, the property in them may be stated to be in the Chief Election Officer.

Certificate of Chief Election Officer

142. In any prosecution under this Act, whether on indictment or summarily, the certificate of the Chief Election Officer that the election was duly held and that the person or persons named therein were named as a candidate or candidates at such election, shall be sufficient evidence of the facts therein stated.

Offences by bodies corporate

143. Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to be guilty of the offence and punished accordingly.

Limitation of time [16 of 1968]

144. A complaint or information against a person in respect of any offence under this Act shall be made or filed within one year or, in the case of an offence to be tried on indictment, two years after the offence was committed.

Special provisions as to convictions.

145. (1) Any person charged with illegal payment, employment or hiring, may, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice, be found guilty of illegal payment, employment or hiring, as the case may be, if the circumstances warrant such finding.

(2) A person charged with an illegal practice or other offence not being a corrupt practice may, notwithstanding that the act constituting the offence amounted to a corrupt practice, be found guilty of an illegal practice or other offence, as the case may be, if the circumstances warrant such finding.

(3) Any person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice and for that purpose the offence of an illegal practice shall be an indictable offence.

Rules of Court
c 3:02

146. Rules of Court may, for any of the purposes of this Act, be made from time to time in the manner prescribed by the High Court Act.

Duty not to disclose finger-prints

147. No election officer shall produce for inspection or supply the thumb-print of an elector, or a copy thereof except—

(a) for the purposes of this Act and its enforcement;
(b) for purposes connected with the conduct of an election;
(c) as otherwise expressly provided by law.

Extra-territorial application of penal provisions of this Act.
[16 of 1968]

148. (1) No charge laid, and no proceedings taken, in Guyana against any person on or with a view to his indictment for any offence under this Act shall, unless the contrary intention hereinbefore appears, be deemed to be unsanctioned by law, or otherwise untenable, on the ground that anything to which the indictment relates or might relate was done, omitted or situated outside Guyana or beyond any territorial limitation affecting the exercise of jurisdiction by the High Court, whether within the territory of any other State or not, provided that such person was a candidate, election agent or citizen of Guyana at the time of the offence in question.

(2) For the purposes of subsection (1), a person against whom any charge is laid as aforesaid shall, in any proceedings taken against him as aforesaid, be deemed to have been a citizen of Guyana at the said time unless the contrary is proved.

(3) No objection to any such proceedings as aforesaid on indictment for an offence punishable under the provisions of section 121 or 125(3) or 128(1) shall be taken or allowed for inconsistency with any such provision conditioning the proceedings upon the absence of summary jurisdiction:

Provided that where the person so indicted is convicted on such indictment and the judge is satisfied that the offence could have been tried summarily, such person shall be liable to no more than the like punishment as on summary conviction for such an offence.

(4) The foregoing provisions of this section are in addition to, and not in derogation of, such provisions of any other laws as sanction the prosecution of indictable offences.

Expenses.

149. The expenses of carrying out the provisions of this Act shall be defrayed from moneys provided by Parliament except in so far as any such expenses may otherwise lawfully be defrayed out of the Consolidated Fund.

Regulations.
[16 of 1968]
[16 of 1985]
[12 of 1996]

150. The Elections Commission may make regulations for giving effect to the provisions of this Act and for amending the Schedule, including, subject to the provisions of the Constitution and this Act, regulations to make provision for all matters, in respect of the conduct of an election, for which in its opinion it is necessary or expedient to make provision, and, without prejudice to the generality of the foregoing, any such regulation may prescribe the hours between which an act may be done on any day not later than which the act is required by virtue of this Act to be done before election day and the particulars to be included in a list prepared under section 65J(1)

Overseas time and delivery by hand instead of post. [Reg. 25/1968]

151. (1) For the purposes of any requirement under this Act that anything be done in a country other than Guyana not later than a specified number of days before election day, election day shall be deemed to be the like date in that country as is appointed in Guyana for the holding of the election.

(2) Anything required by this Act to be posted by a non-resident within the meaning of Part VII to any officer shall nevertheless be deemed to have been duly transmitted if delivered at his office by the non-resident within the time allowed for its transmission to such officer in accordance with such requirements.

(3) Any requirement of this Act that anything for the use of a non-resident be posted to his address by any officer shall nevertheless be deemed to have been duly complied with if the officer, acting within the time allowed for its posting under this Act, causes such thing to be delivered by hand to that address so that the non-resident may avail himself thereof in conformity with this Act.

Commission to be consulted on emoluments of officers and staff [0.50/1980]

152. The Commission shall be consulted by Government with regard to the emoluments to be paid to election officers and other staff employed under this Act.

[16 of 1968]
[r. 5/1964]
[3/1968]
[30 of 1990]

SCHEDULE

TABLE OF FORMS

NO.

1. Oath (a) by election officer.
2. List of candidates.
3. Statutory declaration of a candidate named in a candidates' list.
4. Certificate of Employment.
5. (Part A) Application for appointment of a proxy.
   (Part B) Consent of person named in application for proxy paper.
6. Appointment as proxy.
7. List of proxies.
8. Cancellation of proxy.
9. Notice of poll.
10. Directions for voting.
11. Form of ballot paper.
12. Tendered ballot paper.

12A. Application for inclusion of name in non-resident electors' roll.

13. (Page 1) Poll book.
    (Page 2) Blind or incapacitated electors.
    (Page 3) Tendered ballots.
    (Page 4) Ballot papers refused.
    (Page 5) Certificates of employment (Section 69(4)) and entries directed by the Presiding Officer (Section 76(a)).
14. Declaration of identity.
15. Directions for balloting.
16. Receipt for ballot envelope sealed by non-resident elector and form of declaration of his identity.
17. Non-residents' ballot papers account.
18. Application by non-resident to vote in Guyana.
19. Oath (a) of identity.
20. Interpreter's oath (a).
21. Oath (a) of blind and incapacitated elector.
22. Oath of friend of incapacitated or blind elector.
23. Ballot paper account.

23A. Statement of poll.

24. Election return.
25. Election return—votes of non-residents.
26. Election expenses return.
27. Declaration of election expenses—by election agent.
28. Declaration of election expenses—by candidate.

s. 8(1)
[O. 50/1980]

FORM 1

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

OATH (a) BY ELECTION OFFICER

I.....(b).....having been appointed .....(c) .....swear (d) that I will faithfully perform the duties of the said office according to law, without partiality, fear, favour or affection.

So help me God (e).

.....(f).....

Sworn (g) before me at.....this.....day of.....l9

.....
Justice of the Peace (h)
Chief Election Officer
Election Officer

Notes:

(a) In the case of an affirmation, substitute “Affirmation” for “Oath”.

(b) Full names in BLOCK CAPITALS.

(c) Title of appointment and (except for the Chief Election Officer) the name of the Polling District and/or Polling Division to which appointed.

(d) In the case of an affirmation substitute “solemnly, sincerely and truly declare and affirm” for “swear”.

(e) Delete in the case of an affirmation.

(f) Signature of election officer.

(g) In the case of an affirmation substitute “affirmed” for “sworn”.

(h) Delete as necessary.

s. 11(2)
[O. 50/1980]
[O. 57/1980]

FORM 2

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

LIST OF CANDIDATES

(Form of front of paper)

To the Chief Election Officer.

We, whose signatures appear overleaf, do hereby submit this our list of ..... candidates numbered serially and in the alphabetical order of their surname, whose election to the National Assembly is sought. The title of our list is.....

The candidate named ..... and numbered ..... hereunder is hereby designated as Presidential candidate in accordance with Article 177(1) of the Constitution.

CANDIDATES

Name	Address	Occupation

(Form of back of paper)

We nominate Mr .....of ..... to be representative of the list and Mr .....of..... to be deputy representative. We, the persons submitting the list shown on the face of this form are:

Name	Registration Card Number	Signature

Received by me at ..... o'clock this .....day of .....l9..

.....
Chief Election Officer

s. 11(4)
[O. 50/1980]

FORM 3

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

STATUTORY DECLARATION OF A CANDIDATE NAMED IN A CANDIDATES' LIST

Note: This form completed in respect of each candidate named in a list of candidates is to accompany the list of candidates submitted to the Chief Election Officer.

I, (full names)..... of (address) ..... having been nominated as a candidate in the list of candidates for the ..... party for election as Members of the National Assembly in the general election to be held on the ..... day of ..... l9...

Do solemnly and sincerely declare:

(1) that I consent to the inclusion of my name in the said list of candidates.

(2) that I am aware of the provisions of articles 53 and 155 of the Constitution with respect to the qualifications and disqualifications for election as a Member of the National Assembly.

(3) that I may, consistently with such provisions be elected as a Member of the National Assembly at the election for which I have been nominated as aforesaid.

I make this declaration conscientiously believing the same to be true and according to the Statutory Declarations Act.

Signed.....
(Declarant)

Declared before me .....at .....this .....day of .....19....

.

Signed.....
Justice of the Peace
Commissioner of Oaths

s. 29(4)
[O. 50/1980]

FORM 4

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

CERTIFICATE OF EMPLOYMENT

In the ..... Polling District I certify that (name) ..... who holds identity paper No. ..... and is registered under serial No. ..... in the No. .....Polling Division of the..... Polling District is likely to be unable to go in person to the Polling Place allotted to him for the election to be held on the ..... day of ..... 19 ..... by reason of his employment on that date at the ..... Polling Place as a .....

Date.....

Signed.....

Returning Officer

s. 31
[O. 50/1980]

FORM 5

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

PART A

APPLICATION FOR APPOINTMENT OF A PROXY

To the Returning Officer

.....Polling District

I (surname) ……

(BLOCK CAPITALS)

other names.....

of (address) .....

and holder of identity paper No .....

being registered in Polling Division No ..... of the .....

Polling District, hereby certify that I am entitled to vote by proxy by reason of ..... Not having any person appointed as proxy to vote for me, I do hereby apply for the issue of a proxy paper appointing the following person as proxy to vote for me:—

Full names .....

Occupation.....

Address.....

Signature of applicant ..... Date .....

Notes

1. This application if approved entitles the proxy to vote for you and disentitles you from voting in person.
2. You may cancel this application if you give notice on Form 8 to the Returning Officer so that he receives the form not later than the tenth day before election day.
3. To be your proxy a person must be entitled to vote at the same polling place as you are and must not already have been appointed proxy for more than one other elector.
4. You are entitled to vote by proxy if you are–

(a) unable, or likely to be unable, to go in person to the polling place for any of the following reasons–

(i) the particular circumstances of your employment on the election day either as a member of a disciplined force or as a rural constable, or for a purpose connected with the election, by the returning officer;

(ii) the fact that at the election, you are acting as a returning officer for a district other than the district in which your address as entered in the official list of electors is situate;

(iii) the particular circumstances of your employment on the election day by the returning officer for a district, other than the district in which your address as entered in the official list of electors is situate, for a purpose connected with the election in that district;

(iv) the fact that you are an employee of the Transport and Harbours Department engaged in running a vessel on the election day;

(b) a candidate at the election and is unable, or likely to be unable, to go in person to the polling place at which you are entitled to vote by reason of being engaged in any activity, connected with the election, in a district other than the district in which that polling place is situate;

(c) unable, or likely to be unable, by reason either of blindness or any other physical incapacity to go in person to the polling place, or if able to go, to vote unaided.

PART B

CONSENT OF PERSON NAMED IN APPLICATION FOR PROXY PAPER

I (full names) ..... of (address) .....

Occupation ..... identity paper No ..... being

registered in No. ..... Polling Division of the …..... Polling District

hereby consent to act as proxy for the above named..... .

.....19..... Signed ……

Date

s. 32(1)
[O. 50/1980]

FORM 6

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

APPOINTMENT AS PROXY

Polling District .....

Polling Division No .....

Polling Place .....

Name of Proxy .....

No. of identity paper .....

No. on official list ..... is hereby appointed as proxy for

Name of voter .....

No. on official list ..... to vote for him/her at the election to

be held on the ..... day of, ...19…..

…….....

Returning Officer

Date.....

s 32(3)

FORM 7

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

LIST OF PROXIES

…….Polling District

Elector's name	Elector's address	Elector's identity paper No.	Proxy's name	Proxy's address	Proxy's identity paper No.	Polling Division of Elector and Proxy

I hereby certify that proxy papers were issued to the electors whose names appear in the fourth column above to vote as proxies on behalf of the electors whose names appear opposite thereto in the first column.

……..
Returning Officer

s. 33
[O. 50/1980]

FORM 8

THE REPRESENTATION OF THE PEOPLE ACT GENERAL AND REGIONAL ELECTIONS

CANCELLATION OF PROXY

To the Returning Officer

.....Polling District

I (full names) ..... being registered in No .....Polling Division hereby cancel the appointment of (name of proxy)..... as proxy to vote for me at the election to be held on the ..... day of ....., 19……

Signed.....

Address.....

Date .....

---

s. 34(1)

FORM 9

THE REPRESENTATION OF THE PEOPLE ACT GENERAL AND REGIONAL ELECTIONS

NOTICE OF POLL

In the ..... Polling District

TAKE NOTICE that

a poll will be held on the ..... day of ....., 19..., between the hours of .....a.m. and ..... p.m. to elect fifty-three members of the National Assembly.

The situation of each polling place in the ..... Polling District and the names of the electors who are entitled to vote thereat are given in the papers attached hereto.

…….....

Returning Officer

Date .....

s. 38(a)
[O. 50/1980]

FORM 10

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

DIRECTIONS FOR VOTING

1. You can vote for only one list of candidates at this election.

2. You should see that the ballot paper, before it is handed to you, has been stamped with the official mark.

3. You are to go into one of the compartments and there place a cross within the blank space opposite the name and symbol of the list of candidates for which you wish to vote. You are to make the cross like this: X

4. When you have marked your vote, fold your ballot paper so as to conceal your vote but so as to show the official mark appearing at the back. Then show that mark to the officer presiding and permit your finger to be immersed in electoral ink. After that put your ballot paper in the ballot box and leave the polling place.

5. If you accidentally spoil your ballot paper you may return it to the presiding officer who on being satisfied of the fact will give you another.

6. If you vote for more than one list of candidates or place any mark on the ballot paper by which you can afterwards be identified your vote will be void and will not be counted.

Chief Election Officer

s. 38(b)
[O. 50/1980]

FORM 11

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

FORM OF BALLOT PAPER

Counterfoil No	1.	C.O.N. The Conservative Party Candidates' List	
…… Elector's No. in Official List	2.	L.A.B. The Labour Party Candidates' List	
……	3.	L.I.B. The Liberal Party Candidates' List	

---

s. 38(c)
[O. 50/1980]

FORM 12

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

TENDERED BALLOT PAPER

(Form 12 shall be identical with For 11 save that it shall be printed on paper of a different colour.)

[O. 50/1980]

FORM 12A

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIIONAL ELECTIONS

APPLICATION FOR INCLUSION OF NAME IN
NON-RESIDENT ELECTORS' ROLL

To the Chief Election Officer

I (surname) .....

(block capitals)

(other names).....

of (address .....

and holder of identity paper No.

..... being an elector whose name

is included in the non-resident's roll in……..
(country)

(at serial No……

*being employed by the government of Guyana.....

.....
(name of public corporation or corporate

.....
body in which the controlling interest

.....
vests in the State or any agency on behalf

.....
of the State)

being a full-time student at .....
(give name and

.....hereby apply for
address of educational institution)

the inclusion of my name in the non-resident electors' roll.

2. I am submitting herewith a certificate* from my employer about my employment/the educational institution where I am studying as to my being a full-time student in that Institution.

Date .....

.....
Signature of applicant.

.....
Signature of witness.

*Strike out the words that are not applicable.

s. 40(3)
[O. 50/1980]

FORM 13

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

POLL BOOK
Page 1

VERIFICATION OF ELECTOR'S IDENTITY

(Section 69(3) and 76(b))

Entries on this page to be made only when a voter is required under section 69(3) to take the oath of identity because his name or other particulars in the official list do not quite correspond with those in his identity paper.

Name of elector	No. on official list	No. of identity paper	Oath of identity (Form 19) sworn or refused

FORM 13
Page 2

BLIND OR INCAPACITATED ELECTORS

(Sections 73(3) and 76(b))

Entries on this page only to be made to show:

(1) the name etc. of any blind or incapacitated elector whose ballot paper is marked by a friend or by the Presiding Officer.

(2) the reason therefor (i.e. the nature of his incapacity).

(3) the oath taken by such elector and his friend, and the friend's particulars.

Name of Elector	No. on official list	No. of identity paper	Whether marked by friend or P.O.	Reason for marking	Oath Form 21 sworn or refused	Oath of friend Form 22 sworn or refused Friend's name and Serial No.

FORM 13
Page 3

TENDERED BALLOTS

(Sections 74(3) and 76(b))

Entries on this page only to be made to show the name etc. of any elector who is given a tendered ballot paper and the oath taken by such elector.

Name of elector	No. on official list	No. of identity paper	If tendered paper marked	Reason for issuing of tendered paper	Oath of identity Form 19 sworn or refused

FORM 13
Page 4

BALLOT PAPERS REFUSED

(Sections 71(1) and 72(5))

Entries on this page only to be made to show the name etc. of an elector to whom a ballot paper of any kind (ballot or tendered ballot) was refused by the Presiding Officer under section 71(1) or 72(5).

Name of elector	No. on official list	Identity paper No. if any	Regulation under which refused	Reason for refusal

FORM 13
Page 5

CERTIFICATES OF EMPLOYMENT (SECTION 69(4)) AND ENTRIES DIRECTED BY THE PRESIDING OFFICER

(Section 76(a))

Entries on this page only to be made of persons submitting certificates of employment and entries, other than those covered by previous pages, directed by the Presiding Officer.

Name of elector	Reference to Certificate of Employment or other particulars

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s. 54(a)(iii), 61(2) [O. 50/1980]

FORM 14

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

DECLARATION OF IDENTITY

I .....hereby declare that I am * [satisfied that
(NAMES IN BLOCK LETTERS)
the person whose vote is enclosed herewith is] the person to whom the ballot paper in the ballot envelope enclosed by me herewith was issued.

Dated.....…….

…….
(Signature of Non-resident/Ballot attendant/Returning Officer)

* Delete the words in square brackets unless signing as a ballot attendant or returning officer.

---

s.51(b)(iv)

FORM 15

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

DIRECTIONS FOR BALLOTING BY NON-RESIDENT

ELECTORS ISSUED WITH BALLOT PAPERS

Election day for determining membership of the National Assembly of Guyana is the .....day of ....., 19....

1. Enclosed herewith for the exercise of your single vote are—

(i) a ballot paper;
(ii) an envelope addressed "To the Chief Election Officer";
(iii) a larger envelope addressed to the officer who has issued the ballot paper to you; and
(iv) a form of Declaration of Identity.

2. You may vote in one of the following ways—

A. In the presence of a ballot attendant — not later than the ..... day of.....,
19 ..... to whom you must—

(a) produce proof of your identity, including any passport or other document;
(b) exhibit all the abovementioned enclosures.

If you need assistance to vote on account of physical incapacity, get another non-resident elector to be present with you before the ballot attendant and to certify in his presence the rendering of such assistance.

OR

B. If no ballot attendant is available—

(i) secretly mark the ballot paper, fold it so as to conceal your vote, enclose it in the envelope addressed "To the Chief Election Officer" and seal that envelope;

(ii) complete the form of Declaration of Identity and enclose it, together with the envelope you have sealed, in the larger envelope addressed to the officer who issued the ballot paper to you;

(iii) seal the last-mentioned envelope and post or deliver it to the office of that officer so that he receives it not later than the.....

BUT

C. If you belong to the particular class of non-resident electors that took special steps to obtain the ballot paper in order to ensure your being able to vote you may, in case of your having obtained the ballot paper at the office of a ballot officer, vote only as at A above in the presence of the ballot attendant at that office.

3. Whichever way you may vote, the Chief Election Officer or an overseas presiding officer deputed by him will be authorised on election day in Guyana to cast your vote from the larger addressed envelope. The officer to whom that envelope is addressed will be responsible for making it available, unopened, in Guyana where it will be opened when the casting of your vote is about to be effected by inserting the envelope addressed "To the Chief Election Officer" in a ballot box.

4. In order to ensure that your vote will be counted, you should comply strictly with paragraph 2 of these Directions. You should mark the ballot paper like this: "X" within the blank space opposite the name and symbol of the list of candidates for which you wish to vote. If you vote for more than one list of candidates or place any mark on the ballot paper by which you can be identified, your vote will not be counted.

Chief Election Officer

s. 54(a)(iii)
[O. 50/1980]

FORM 16

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

Receipt for ballot envelope sealed by non-resident elector and form of declaration of his identity.

I
.....of……
……..

.....
.....
(ADDRESS)

a ballot attendant, hereby acknowledge receiving from the non-resident elector whose serial number is ..... a ballot envelope sealed by him and a form of declaration of his identity.

Dated.....

Signed.....
Ballot Attendant

57(1)(e)

FORM 17

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

Non-residents' ballot papers account.

1. Number of ballot papers furnished.....

Serial Numbers from
.....
to .....

Dated .....

2. Number of ballot papers issued to non-residents in sealed envelopes .....

3. Number of ballot papers not issued to non-residents
.....

4. Number of addressed envelopes packaged in pursuance of section57(1)(a) .....

…….....
Chief Election Officer/Ballot Officer

---

s. 58(2)
[O. 50/1980]

FORM 18

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

APPLICATION BY NON-RESIDENT TO VOTE IN GUYANA

To the Chief Election Officer.
I
(surname).....
.....
(BLOCK CAPITALS)
other names
.....
of (address outside Guyana)
.....
being present in Guyana, apprehending my being unable to vote on account of my absence from the abovementioned address and whose registration card number is ..... hereby apply for a ballot paper to vote at the election to be held on the ..... My address in Guyana is: ..... situate in ..... polling district-

No. ....
(State name and number of polling district)
Dated .....

.....
Signature of Applicant

---

s. 69(3), 74(1)
[O. 50/1980]

FORM 19

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

OATH (a) OF IDENTITY

You swear that you verily believe that you are the person intended to be referred to by entry in the Official list of the name of ..... whose occupation is given as ..... whose address is given as ..... and whose identity paper number is given as ..... and that you have not already voted at this election.

SO HELP YOU GOD

Note:
(a) In the case of an affirmation substitute “solemnly and sincerely declare” for “swear” and omit “SO HELP YOU GOD”.

---

s. 72(10)
[O. 50/1980]

FORM 20

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

INTERPRETER'S OATH (a)

You swear that you will true interpretation make between the languages of ..... and ..... to the best of your knowledge and belief.

SO HELP YOU GOD

Note:
(a) In the case of an affirmation substitute "solemnly and sincerely declare" for "swear" and omit "SO HELP YOU GOD".

---

s. 73(1)
[O. 50/1980].

FORM 21

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

OATH (a) OF BLIND AND INCAPACITATED ELECTOR

You swear that you are incapable of voting without assistance by reason of physical incapacity/blindness.

SO HELP YOU GOD

Note:
(a) In the case of an affirmation substitute "solemnly and sincerely declare" for "swear" and omit "SO HELP YOU GOD".

---

s. 73(2)
[O. 50/1980]

FORM 22

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

OATH OF FRIEND (a) OF INCAPACITATED OR BLIND ELECTOR

You swear

that you will keep secret the name of the candidates' list for whom you mark the ballot paper of the incapacitated/blind elector on whose behalf you act AND that you have not already marked the ballot paper of any other such incapacitated/blind elector at this election.

SO HELP YOU GOD

Note:

(a) In the case of an affirmation substitute "solemnly and sincerely declare" for "swear" and omit "SO HELP YOU GOD".

s. 83(c)
[O. 50/1980]

FORM 23

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

BALLOT PAPER ACCOUNT

Ballot Box No. .....
General Election, 19 ...
Polling District .....
Polling Place .....

Ballott Paper Account

---

(1) Number of ballot papers received ..... Serial numbers ..... from ..... to	(2) Ballot papers in the ballot box. (3) Ditto unused ..... (4) Ditto spoiled .....

Tendered Ballot Paper Account

---

(1) Number of tendered ballot papers received ..... Serial Numbers ..... from ..... to	(2) Tendered ballot papers in packet ..... (3) Ditto unused ..... (4) Ditto spoiled .....

Dated ..... day of ....., 19 ....

.....
Presiding Officer

[O. 50/1980]

FORM 23A

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS
STATEMENT OF POLL

For the Polling Place.....

In Polling District .....

1. No. of valid votes cast for each list of candidates

List of	total .....votes
List of	total .....votes
List of	total .....votes
List of	total .....votes
List of	total .....votes
List of	total .....votes

2. Total valid votes for all lists

3. ADD total number of rejected ballot papers (See statement below) _____

4. Grand total of persons who appear to have voted in the polling place _____

5. Total number of spoiled ballot papers _____

6. Total number of tendered ballot papers used _____

7. Statement of rejected ballot papers in the polling place

No. of ballot papers rejected for—

(a) want of official mark _____

(b) unmarked or void for uncertainty _____

(c) marked for more than one list of candidates _____

(d) marked so that the elector can be identified _____

Total _____

Presiding Officer

Date:…….

s. 89(1)(f)
[O. 50/1980]

FORM 24

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

ELECTION RETURN

for the Polling District of .....

1. Number of valid votes cast for each list of candidates.

List of	total .....votes
List of	total .....votes
List of	total .....votes
List of	total .....votes
List of	total .....votes
List of	total .....votes

2. Total valid votes for all lists ……..

3. ADD total number of rejected ballot papers (see statement below)……..

4. Grand total number of persons who appear to have voted……

5. Total number of spoilt Ballot Papers .....

6. Total number of Tendered Ballot Papers used .....

7. Statement of Rejected Ballot Papers in the Polling District.....

Number of ballot papers rejected for—

(a) want of official mark .....
(b) unmarked or void for uncertainty .....
(c) marked for more than one candidates' list .....
(d) marked so that the elector can be identified .....

Total

Returning Officer

Date.....

s. 94(1)(d)
[O. 50/1980]
[30 of 1990]

FORM 25

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

ELECTION RETURN - VOTES OF NON-RESIDENT ELECTORS

1. Number of valid votes cast for each list of candidates.

List of.....total .....votes
List of .....total .....votes
List of .....total .....votes
List of .....total .....votes
List of .....total .....votes
List of .....total .....votes

2. Total valid votes for all lists
3. ADD total number of rejected ballot papers
4. Grand total number of persons who appear to have voted in accordance with Part X of this Act
5. Statement of rejected ballot papers.

Number of ballot papers rejected for—

(a) want of official mark
(b) unmarked or void for uncertainty
(c) marked for more than one candidates' list
(d) marked so that the elector can be identified.

Dated this ..... day of....., 19... Chief Election Officer

s. 108(1)
[O. 50/1980]

FORM 26

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

ELECTION EXPENSES RETURN

I, (name) ..... being election agent to the group of candidates entitled the ..... at the general election held on the ..... day of ....., 19..., make the following return in respect of the election expenses of the said (title) ..... group of candidates at the said election.

RECEIPTS

Received of

(name)..... $
.....

(name) ..... $
.....

(Here enter the name and description of every person—including every candidate--club, society or organisation from whom any money, securities or the equivalent of money was received towards defraying the expenses of the (title) ..... group incurred on account of the above election, and the amount received from each).

EXPENDITURE

Personal Expenses

Personal expenses of each candidate named in the candidates' list and paid by himself, as per schedule attached hereto

Total $.....

(The amount of personal expenses paid by each candidate himself must be shown separately in the schedule.)

Personal expenses paid by me for the candidates, as per schedule attached hereto

Total $.....

(The amount of personal expenses paid for each candidate by the election agent must be shown separately in the schedule)

Payment of Agents

Received by me for my services as Election Agent $.....

Total paid to assistant agents, polling agents, counting agents, clerks, typists, messengers as per attached schedule $.....

(The names and descriptions of every such agent, clerk, messenger, etc. and the sum paid to each must be set out separately in the schedule.)

Goods supplied or work done

To .....(for printing) $.....
To .....(for advertising) $.....
To .....(for stationery) $.....

(The name and description of each person and the nature of the goods supplied or work done by each must be separately set out either here or in a separate schedule.)

Postage and telegrams

Paid for postage total $.....
Paid for telegrams total $.....

Hire of rooms

Paid for hire for public meetings $.....

Paid for hire for Committee rooms as in the attached schedule $.....

(The schedule must show the full address of and the amount paid for each room hired and the name and description of the person to whom payment was made for it.)

Miscellaneous

Paid for other matters as per attached schedule.....total $.....

(The schedule must show the name and description of each person paid, the amount paid to him and the reason therefor).

Disputed and unpaid claims

I am aware as election agent for the (title)..... group of the following disputed and unpaid claims namely:

By (names) ..... for ..... $.....
(here set out the name and description of each person whose claims is disputed the amount of the claim and the nature of the goods work or services on which the claim is based).

Unpaid claims allowed by the High Court

By (names) ..... for ..... $.....

(here set out the name and description of each person to whom any such claim is due, the amount of the claim and the nature of the goods, work or services on which it is based).

Signed
Date .....

Election Agent of the.....group

_____

FORM 27

s. 108(3)
[[O. 50/1980]

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

DECLARATION OF ELECTION EXPENSES BY ELECTION AGENT

I ..... being election agent to the ..... group of candidates at the general election held on the ..... day of ..... 19 ..... do hereby solemnly and sincerely declare that I have examined the return of election expenses about to be transmitted by me to the Chief Election Officer at the said election, and now shown to me and marked ..... and to the best of my knowledge and belief that return is correct.;

And I hereby further solemnly and sincerely declare that except as appears from that return I have not and to the best of my knowledge and belief no other person nor any club, society or organisation has on behalf of the said group of candidates made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election;

And I further solemnly and sincerely declare I have received from the said group of candidates ..... dollars and no more (or nothing) for the purpose of the said election, and that, except as specified in the said return sent by me, no money, security or equivalent for money has been paid, advanced, given, or deposited by any one to me or in my hands, or, to the best of my knowledge and belief, to or in the hands of any other person for the purpose of defraying any expenses incurred on behalf of the said group of candidates on account of, or in respect of the conduct or management of the said election.

Signature of declarant .....

Signed and declared by the above-named declarant on the ..... day of ..... at ..... before me

(Signed) .....
Justice of the Peace

s. 108(3)
[O. 50/1980]

FORM 28

THE REPRESENTATION OF THE PEOPLE ACT
GENERAL AND REGIONAL ELECTIONS

DECLARATION OF ELECTION EXPENSES BY CANDIDATE

I ..... having been one of the candidates in the ..... party's group of candidates for the 19 ..... general election do hereby solemnly and sincerely declare that I have examined the return of election expenses (about to be) transmitted by the election agent of the ..... group of candidates to the Chief Election Officer at the said election, a copy of which is now shown to me and marked ..... and to the best of my knowledge and belief that return is correct;

And I further solemnly and sincerely declare that, except as appears from that return, I have not, and to the best of my knowledge and belief no person, nor any club, society, or organisation, has on behalf of the said group of candidates made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election;

And I further solemnly and sincerely declare that I have paid to the group's election agent the sum of ..... dollars and no more for the purpose of the said election, and that, except as specified in the said return, no money, security, or equivalent for money has to my knowledge or belief been paid, advanced, given, or deposited by any one to or in the hands of the group's election agent or any other person for the purpose of defraying any expenses incurred on my behalf on account of or in respect of the conduct or management of the said election;

And I further solemnly and sincerely declare that I will not, except so far as I may be permitted by law, at any future time make or be party to the making or giving of any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide, or be party, to the providing of any money, security, or equivalent for money for the purpose of defraying any such expenses.

Signature of declarant .....

Signed and declared by the above-named declarant on the ..... day of
..... at .....
Before me

Signed.....
Justice of the Peace

END OF REPRESENTATION OF THE PEOPLE ACT, CHAPTER 1:03

NATIONAL ASSEMBLY (VALIDITY OF ELECTIONS) ACT

CAP. 1:04

CHAPTER 1:04

NATIONAL ASSEMBLY (VALIDITY OF ELECTIONS) ACT

ARRANGEMENT OF SECTIONS

SECTION

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CHAPTER 1:04

NATIONAL ASSEMBLY (VALIDITY OF ELECTIONS) ACT

Reg. 40/1964
[O. 50/1980]

An Act to provide for the determination of questions relating to the validity of elections of members of the National Assembly under a system of proportional representation, to other matters affecting such elections, to the allocation of seats of such members in the Assembly, and to vacancies in such seats.

[5TH DECEMBER, 1964]

Short title.
[16 of 1968]

1. This Act may be cited as the National Assembly (Validity of Elections) Act.

Interpretation.
[O. 80/1980]

2. (1) In this Act—

c. 1:03

"assistant agent" means an assistant agent appointed under section 24(1) of the Representation of the People Act;

"candidate" means a person whose name is included in a list of candidates submitted to the Chief Election Officer under section 11 of the Representation of the People Act and approved or, having effect as if approved, by the Commission;

"Commission", "election", "election day", "group of candidates", have the meanings respectively assigned to them by section 2 of the Representation of the People Act;

"costs" includes charges and expenses;

c. 3:02

"Court" means the High Court;

"election agent" means an election agent appointed under section 23(1) of the Representation of the People Act;

"elector" shall be construed as provided in the definition of "election" in section 2 of the Representation of the People Act;

"judge" means a judge of the Court;

"prescribed" means prescribed by rules of court;

"Registrar" means the Registrar of the Supreme Court;

c.1:01

"rules of court" has the same meaning as in article 163(4) of the Constitution;

"Speaker" means the Speaker of the National Assembly.

(2) In this Act, any references to a corrupt or illegal practice, or to illegal payments, employments or hirings shall be construed according to the Representation of the People Act.

Method of questioning validity of election.
[16 of 1968]
[O. 50 of 1980]

3. (1) Any question referred to in article163(1)(a), (b) and (c) of the Constitution may, in respect of an election referred to in article 60(2) of the Constitution and with a view to securing appropriate remedial orders, be referred to the Court and shall thereupon be determined by it, in accordance with this Act.

(2) Every such reference shall be by a petition (hereinafter referred to as an election petition) presented to the Court in accordance with this Act.

Presentation and service of election petition.
[16 of 1968]
[O. 50/1980]

4. (1) An election petition may be presented by an elector or by a candidate.

(2) The person hereinafter referred to as the respondent is the representative of such list of candidates for election as comprises the names of persons with whose interests arising out of the election any contention in the election petition conflicts; and if the petition complains of any act or omission on the part of the Commission, or any member thereof, or any such person as is mentioned in article 162(1)(b) of the Constitution, the Chief Election Officer shall, for the purposes of this Act, be deemed to be a respondent and, if it questions the qualification of any person to be elected to the National Assembly, he shall, for the said purposes, be deemed a respondent.

c.1:01

(3) Reference in subsection (2) to the representative of any list of candidates shall be construed as reference to the person who was nominated or regarded as such for the purpose of the Representation of the People Act, and the foregoing provisions of this section shall, in his absence or in respect of the performance under this Act of any functions delegated by him to his deputy, have effect as if for each reference in such provisions to the representative there were substituted a reference to the deputy representative.

c.1:03

(4) An election petition shall be in the prescribed form, state the prescribed matters and be signed by the petitioner or all of the petitioners if more than one, and shall be presented by delivering it at the office of the Registrar; and the Registrar or the officer of the registry of the Supreme Court to whom the petition is delivered shall, if required, give a receipt therefor.

(5) The Registrar shall cause a copy of the petition to be transmitted to such persons as may be prescribed and shall cause the petition to be published in the prescribed manner.

(6) An election petition shall be served in such manner as may be prescribed.

Time for presentation of election petition. [16 of 1968] c. 1:03.

5. (1) Subject to this section, an election petition shall be presented within twenty-eight days after the results of the election out of which the matter in question on the petition arose are published in the *Gazette* under section 99 of the Representation of the People Act.

(2) If the petition questions the effect of the election upon an allegation of a corrupt practice and specifically alleges a payment of money or other reward to have been made by the date referred to in subsection (1) in pursuance or furtherance of the alleged corrupt practice, it may be presented within twenty-eight days after the date of the payment.

(3) An election petition questioning the effect of the election upon an allegation of an illegal practice may, so far as respects that illegal practice, be presented—

(a) within fourteen days after section 109(1) of the Representation of the People Act has been complied with in relation to the election expenses of the group of candidates comprised in any list mentioned in section 5 with reference to that election petition;

(b) if specifically alleging a payment of money or some other act to have been made or done since such compliance, in the pursuance or in furtherance of the alleged illegal practice, within twenty-eight days after the date of the payment or other act:

Provided that when there is an authorised excuse for failing to make an election expenses return or election expenses declaration section 109(1) of the Representation of the People Act shall, for the purposes of this subsection, be deemed to have been complied with on the date of the allowance of the excuse, or, if there was such a failure in two or more respects and the excuse was allowed at different times, on the date of the allowance of the last excuse as defined in section 110(4) of the Representation of the People Act.

(4) Subsection (3) shall apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice.

(5) For the purposes of this section, the allegation that corrupt or illegal practices or illegal payments, employments or hirings were committed in reference to the election and had so extensively prevailed that they may have affected, or have affected, the allocation of seats under section 97 of the Representation of the People Act, shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.

Amendment of election petition.

6. The Court may, at any stage before conclusion of the trial of an election petition, allow the petitioner to alter or amend the petition in such manner and on such terms as may seem just:

Provided that no amendment for the purpose of inserting an allegation of a corrupt or illegal practice in a petition shall be allowed, unless made within the time within which a petition might have been presented under section 5.

Security for costs.

7. (1) At the time of presenting an election petition or within three days afterwards the petitioner shall give security for all costs which may become payable by him to any witness summoned on his behalf or to any respondent.

(2) Security shall be of an amount of one thousand dollars and shall be given in the prescribed manner by recognisance entered into by any number of sureties not exceeding four or by a deposit of money, or partly in one way and partly in the other.

Service of petition. [16 of 1968]

8. Within the prescribed time, not exceeding five days after the presentation of an election petition, the petitioner shall in the prescribed manner serve on the respondent a notice of the presentation of the petition, and of the nature of the security or proposed security, and a copy of the petition, unless the Court otherwise directs on the application of the petitioner.

Objections to security.

9. (1) Within a further prescribed time, not exceeding ten days after service of the notice of the presentation of the petition, the respondent may object in writing to any recognisance on the ground that any surety is insufficient or dead or cannot be found or ascertained for want of a sufficient description in the recognisance, or that the person named in the recognisance has not duly acknowledged the recognisance.

(2) An objection to the security shall be heard and decided by a judge, whose decision shall be final, and if the objection be allowed, the petitioner may, within such time as may be allowed, remove the objection by giving further security either in the form of an additional recognizance with a surety or sureties approved by the judge, or by deposit in the prescribed manner of such sum of money as the judge may deem sufficient.

(3) The costs of hearing or deciding objections made as to security shall be paid as ordered by the judge or, in the absence of such order, shall form part of the general costs of the petition.

Dismissal of petition on failure to give security.

10. (1) If security as in section 7 provided is not given by the petitioner, or if any objection is allowed and not removed as in section 9 provided, no further proceedings shall, subject to section 11, be had on an election petition and the respondent may apply to a judge for an order directing the dismissal of the petition and for the payment of the respondent's costs.

(2) The costs of hearing and deciding such application shall be paid and ordered by the judge or, in the absence of such order, shall form part of the general costs of the petition.

Substitution of petitioner on failure to give security.

11. (1) On the hearing of an application under section 10 any person who might have been a petitioner in respect of the matter to which the election petition relates may apply to the judge to be substituted as a petitioner for the original petitioner and the judge may, if he thinks fit, dismiss the original petitioner from the petition and substitute as the petitioner such applicant, who shall provide security in the sum of one thousand dollars and subject to the like conditions and to the same rights of objection as in the case of the original petitioner.

(2) Such security shall be given within three days of the making of the order of substitution and on the failure of the applicant to comply with this subsection the petition shall stand dismissed.

Petition at issue.

12. On the expiration of the time limited for objections or, after objection made, on the objection being disallowed or removed whichever last happens, the election petition shall be at issue.

Trial of petition.
[16 of 1968]

13. (1) An election petition shall be tried by the Court in open court, without a jury, and notice of the time and place of trial shall be given in the prescribed manner not less than fourteen days before the day of trial.

(2) The Court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day, not being a holiday observed by the Court, until conclusion:

Provided that an election petition may be presented and heard and all other necessary proceedings thereunder may be taken during any period appointed as a vacation to be observed by the Court.

(3) The trial of an election petition shall be proceeded with notwithstanding the prorogation of Parliament and notwithstanding the resignation of any person as a member of the National Assembly.

(4) On the trial of the petition, unless the Court otherwise directs, any charge of a corrupt or illegal practice may be gone into and evidence in relation thereto received, before any proof has been given of agency on behalf of any candidate in respect of the corrupt or illegal practice.

Witnesses.

14. Witnesses shall be summoned and sworn in the same manner as in an ordinary action within the jurisdiction of the Court and shall be subject to the same penalties for perjury.

Power of Court to summon witnesses.

15. (1) On the trial of an election petition the Court may by order require any person who appears to it to have been concerned in the election to attend as a witness and any person refusing to obey this order shall be guilty of contempt of court.

(2) The Court may examine any person so required to attend or who is in court, although he is not called or examined by any party to the petition.

(3) A witness may, after his examination by the Court under subsection (2), be cross-examined by or on behalf of the petitioner and respondent, or either of them.

(4) The Director of Public Prosecutions shall obey any direction given him by the Court with respect to the summoning and examination of any witness to give evidence at the trial:

Provided that the examination of a witness may be conducted by such counsel as the Director of Public Prosecutions may appoint as his representative for that purpose and it shall not be necessary for a person appointed as the representative of the Director of Public Prosecutions under any provision of this Act to produce any commission or other proof of his having been so appointed.

(5) The Director of Public Prosecutions shall without any direction from the Court cause any person appearing to him to be able to give material evidence as to the subject of the trial to attend the trial and either himself or his representative shall, with the leave of the Court, examine him as a witness.

Obligation of witness to answer.

16. (1) A person called before the Court as a witness respecting an election shall not be excused from answering any question relating to any offence at or connected with the election on the ground that the answer thereto may criminate or tend to criminate him or on the ground of privilege:

Provided that—

(a) a witness who answers truly all questions which he is required by the Court to answer shall be entitled to receive a certificate of indemnity from the Court stating that the witness has so answered; and

(b) an answer by a person to a question put by or before the Court when trying an election petition shall not, except in the case of any criminal proceedings for perjury in respect of the evidence, be in any proceedings, civil or criminal, admissible in evidence against him.

c.1:03

(2) Where a person has received a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against him for any corrupt or illegal practice, or any illegal payment, employment or hiring, or any offence under section 125 of the Representation of the People Act or section 23 of this Act, committed by him previously to the date of the certificate at or in relation to the election, any court having cognisance of the case shall, on production of the certificate, stay the proceeding and may, in its discretion, award to the said person such costs as he may have been put to in the proceeding.

(3) Nothing in this section shall be deemed to relieve a person receiving a certificate of indemnity from any incapacity under any law relating to elections or from any proceedings (other than a criminal prosecution) to enforce such incapacity.

Elector not to be asked for whom he voted.
[16 of 1968]

17. No communication in contravention of section 77(2)(c) or (3) of the Representation of the People Act, and no disclosure by any person of which list or lists of candidates he voted or did not vote for, or intended or did not intend to vote for, shall be admissible in evidence in any proceeding on an election petition.

Expenses of witnesses.

18. (1) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses in the trial of civil actions before the Court may be allowed to such person under the hand of a judge or the Registrar, and the amount to be paid to any such witness shall be ascertained and certified by the Registrar.

(2) The expenses of a witness called by a party shall be deemed to be costs of the petition but the expenses of a witness called by the Court shall be deemed part of the expenses of the Court and paid out of moneys provided by Parliament.

Production of Election documents.
c. 1:03

19. Any document or paper relating to an election and required to be kept thereafter in safe custody by the Chief Election Officer under section 102 of the Representation of the People Act, may be inspected or produced under an order of the Court for the purpose of an election petition and the order may be made by a judge on his being satisfied by evidence on oath that such inspection or production is required for the purpose aforesaid:

Provided that the Chief Election Officer shall, after the expiration of twelve months from the date of an election, burn all such documents and papers relating thereto.

Scrutiny.

20. (1) On a scrutiny at the trial of an election petition any tendered vote proved to be a valid vote shall, on the application of any party to the petition be added to the poll and any vote given on a ballot paper in contravention of section 87(2) of the Representation of the People Act shall be struck off.

(2) Any decision referred to in section 87(5) of the Representation of the People Act shall be subject to reversal by the Court on an election petition.

Withdrawal of petition.

21. (1) A petitioner shall not withdraw an election petition without the leave of the Court on special application, made in the prescribed manner and at the prescribed time and place.

(2) The application shall not be made until the prescribed notice of the intention to make it has been given in the prescribed manner.

(3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.

(4) If a petition is withdrawn the petitioners shall be liable to pay the costs of the respondent.

Evidence required for withdrawal of petition.

22. (1) Before leave for the withdrawal of an election petition is granted, there shall be produced affidavits by all the parties to the petition and their solicitors and by the election agents of all the said parties who were candidates at the election, but the Court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds to be just so to do.

(2) Each affidavit shall state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into, in relation to the withdrawal of the petition; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.

(3) The affidavits of the applicant and his solicitor shall further state the grounds on which the petition is sought to be withdrawn.

(4) Copies of the said affidavit shall be delivered to the Director of Public Prosecutions a reasonable time before the application for the withdrawal is heard, and the Court may hear the Director of Public Prosecutions, or his duly appointed representative, in opposition to the allowance of the withdrawal of the petition, and shall have the power to receive the evidence on oath of any person or persons whose evidence the Director of Public Prosecutions or his representative may consider material.

(5) Where more than one solicitor is concerned for the petitioner or respondent, whether as agent for another solicitor or otherwise, the affidavit shall be made by all such solicitors.

Punishment for corrupt withdrawal. [6 of 1997]

23. If any person makes any agreement or terms or enters into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms or undertaking is or are for the withdrawal of the petition in consideration of any payment, or in consideration

that a seat shall at any time be vacated, or in consideration of the withdrawal of any other such election petition, or is or are (whether lawful or unlawful) not mentioned in the aforesaid affidavits, he shall be guilty of a misdemeanour and shall be liable on conviction on indictment to a fine of sixty-five thousand dollars and to imprisonment for twelve months.

Substitution of new petitioner on withdrawal of petition.

24. (1) On the hearing of the application for leave to withdraw a petition any person who might have been a petitioner in respect of the matter to which the petition relates may apply to the Court to be substituted as the petitioner and the Court may, if it thinks fit, substitute him accordingly.

(2) If the proposed withdrawal is in the opinion of the Court the result of any agreement, terms or undertaking prohibited by section 23 or induced by any corrupt bargain or consideration, the Court may by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that, to the extent of the sum named in the security, the original petitioner and his surety shall be liable to pay the costs of the substituted petitioner.

(3) If no such order is made with respect to the security given by or on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition and subject to the like conditions and to the same right of objection shall be given by or on behalf of the substituted petitioner within three days after the making of the order of substitution and before he proceeds with the petition; and if the substituted petitioner fails to comply with this subsection the petition shall stand dismissed.

(4) Subject as aforesaid, a substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities as the original petitioner.

Report on withdrawal.

25. (1) Where an election petition is withdrawn, the Court shall make a report to the Speaker.

(2) The report shall state whether in the opinion of the Court the withdrawal of the election petition was the result of any agreement, terms or undertaking or was in consideration of any payment, or in consideration that a seat should be at any time vacated or in consideration of the withdrawal of any other such election petition or for any other consideration, and if so, shall state the circumstances attending the withdrawal.

Abatement of petition.

26. (1) An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2) The abatement of the petition shall not affect the liability of the petitioner or any other person to the payment of costs incurred in respect of any proceeding taken prior to the abatement.

(3) On the abatement of a petition the prescribed notice thereof shall be given in the prescribed manner; and any person who might have been a petitioner may, within the prescribed time after the notice is given, apply to the Court in the prescribed manner to be substituted as a petitioner; and the Court may if it thinks fit, substitute him accordingly.

(4) Security shall be given on behalf of a petitioner so substituted as in the case of a new petition.

Withdrawal and substitution of respondents before trial. [16 of 1968]

27. (1) If before the trial of an election petition—

(a) a respondent other than the Chief Election Officer gives the prescribed notice that he does not intend to oppose the petition or dies, the Registrar shall give notice thereof in the prescribed manner and any person who might have been a petitioner in respect of the election may, within the prescribed time after the notice is given, apply to the Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly;

(b) a majority of the members of the National Assembly whose names appear on the list of candidates represented by the respondent apply to the Court for any person to be admitted as a respondent, or substituted for the respondent (other than the Chief Election Officer or a respondent whose qualification to be elected as such a member is questioned), the Court may, if it thinks fit, grant the application on such terms and conditions as the Court considers just.

(2) A respondent who has given the prescribed notice that he does not intend to oppose the petition or for whom any person has been substituted shall not be allowed to appear or act as a party against the petition in any proceedings thereon.

Avoidance of election ofcandidate for lack of qualification. [16 of 1968]

28. (1) Where, on an election petition questioning the qualification of any person to be elected as a member of the National Assembly, the Court determines that he was not qualified to be so elected, the Court shall declare his election as aforesaid to have been void.

(2) Every vacancy in the Assembly in consequence of any such declaration shall be filled in the manner provided by article 70 of the Constitution.

Re-allocation of seats in National Assembly. [16 of 1968]

c.1:03

29. (1) Where on an election petition the Court determines that the seats in the National Assembly were not allocated in accordance with section 97 of the Representation of the People Act, the Court shall so declare and may order that the seats be re-allocated in accordance with those provisions and that the membership of the Assembly be re-determined and re-declared in accordance with section 98 of the Representation of the People Act, so, however, that candidates selected thereunder from any list of candidates upon the defective allocation shall, in the order of extraction of their names upon such selection as aforesaid, be entitled to retain their seats in so far as the number of seats re-allocated to that list permits.

(2) Where on an election petition the Court, on a scrutiny, determines that the number of valid votes cast for any list of candidates differs from the number of votes upon which seats in the National Assembly were allocated to that list, the Court may so declare and thereupon the allocation of seats to that list shall be reviewed by the Commission and, on it appearing to the Commission from such review that any seat was unlawfully allocated in consequence of such difference, the Commission shall direct the re-allocation of such seat in accordance with section 97 of the Representation of the People Act and in keeping with the number of valid votes cast as aforesaid, whereupon the membership of the Assembly shall be re-determined and re-declared in like manner as if the seat had been so re-allocated under subsection (1).

Unlawful acts or omissions affecting results.
[16 of 1968]
[O. 50/1980]

30. (1) Where it is determined by the Court, being satisfied for the purpose beyond reasonable doubt on an election petition, that any unlawful act or omission (not remediable under section 28 or 29) affected the result of an election which would otherwise have lawfully resulted—

c.1:03

(a) in different placing of the respective lists of candidates in the order of magnitude of the allocations of seats to such lists under section 97 of the Representation of the People Act, or in different placing of any of the lists in that order, from their placing as aforesaid according to the result so affected; or

(b) in more than half the members of the National Assembly being persons whose names appear on any list the seats allocated to which under section 97 of the Representation of the People Act are occupied by not more than half the members of the Assembly according to the result affected as aforesaid;

the Court may, in consequence of such determination, declare the election, or any part thereof if the Court is satisfied that the remainder is conveniently severable and was not affected by such unlawful act or omission, to have been ineffective and may accordingly order a fresh election to be held in whole or part for the purpose of rectifying the said result and give such incidental, ancillary or supplementary directions as the Court deems meet for the purpose of such rectification, including (without prejudice to the generality of the foregoing) the re-allocation of seats in the National Assembly.

(2) Where the Court—

(a) is satisfied beyond reasonable doubt on an election petition that, contrary to law, any votes of persons who are electors belonging to any class were precluded from being cast; and

(b) determines that the result of the election may thereby have been substantially affected;

the Court may order a fresh ballot on the part of that class of electors and may, to the extent deemed meet by the Court, exercise in relation to the election, or its result, any such other powers as are exercisable under subsection (1) in consequence of any determination mentioned therein.

(3) It shall not be a ground for rectification of the result of an election that—

c.1:01

(a) any person purported to have been appointed to exercise powers or perform duties referred to in article 162(1)(b) of the Constitution was not duly appointed;

(b) the names of any persons have been wrongfully omitted from or included in any preliminary list of electors, as modified for the purpose of bringing it into conformity with the appropriate register of electors, unless the Court is satisfied beyond reasonable doubt that such names were omitted or included as aforesaid otherwise than in good faith;

(c) any illegality or irregularity was committed in the compilation or revision of any register of electors unless the Court is satisfied beyond reasonable doubt that such illegality or irregularity, as the case may be, was committed otherwise than in good faith.

(4) Nothing in subsection (3) shall be construed to authorise the rectification of any such result of an election as is not liable to be rectified apart from that subsection.

(5) The result of an election shall not be impugned on the ground that the application of any elector entitled to vote by proxy so to vote was refused or that the application of any elector not entitled so to vote was granted; and such refusal and grant shall be deemed not to be procedural irregularities and notwithstanding any of the provisions of this section or the Representation of the People Act no votes shall be deemed invalid by reason thereof.

Effect and manner of exercise of Court's powers. [16 of 1968] [O. 80 of 1980]

31. (1) Every declaration made by the Court under section 28, 29 or 30 shall, at the order of the Court, take effect at such time, and be subject to such saving of the validity of things done before that time, as the Court may in the circumstances, due regard being had to the interests of effective government of Guyana, consider expedient, but without prejudice to the making, giving or execution of such order or direction pursuant to that declaration as may be just:

Provided that no saving to which any declaration is subject as aforesaid shall prevent the subsistence of anything (its validity having been so saved) from being terminated or otherwise affected in due course.

(2) If Parliament is dissolved at any time after the making of an order under section 29 or 30, or the giving thereunder of any direction, and before completion of the execution of that order or direction, as the case may be, such execution shall not be proceeded with.

(3) The result of an election shall not be liable to rectification in consequence of the determination by the Court of any question mentioned in section 3(1), or whether an election has been lawfully conducted, except under section 28, 29 or 30.

Conclusion of trial of petition. [16 of 1968]

32. At the conclusion of the trial of an election petition the Court shall forthwith certify in writing its determination to the President and the Speaker; and the Court may in addition to giving the certificate and at the same time, make a special report to the Speaker as to matters arising in the course of the trial an account of which in the judgment of the Court ought to be submitted to the National Assembly.

Costs of petition.

33. (1) All costs of and incidental to the presentation of an election petition and the proceedings consequent thereon, except such as are by this section otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportion as the Court may determine; and in particular any costs which in the opinion of the Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful.

(2) If a petitioner neglects or refuses for six months after demand to pay to any person summoned as a witness on his behalf or to the respondent any costs certified or adjudged to be due to him and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the Court, every person who in accordance with section 7 entered into a recognisance relating to the petition shall be held to have made default in the recognisance and such default shall be dealt with under section 208(1) and (2) of the Criminal Law (Procedure) Act as though committed at the then current sitting of the Court in the exercise of its criminal jurisdiction in the county where the petition was

c. 10:01

tried, or, if the Court is not then so sitting, such default shall be deemed to have been dealt with under those subsections as though committed at the last preceding sitting of the Court as aforesaid, and the recognisance shall be enforceable accordingly.

Further provision as to costs of petition.

34. (1) Where upon the trial of an election petition it appears to the Court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to the election to which the petition relates, the Court may, after giving that person or those persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person or those persons or any of them and may order that if the costs cannot be recovered from one or more of those persons they shall be paid by some other of those persons or by either of the parties to the petition.

(2) Where any person appears to the Court to have been guilty of a corrupt or illegal practice, the Court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the Court in relation to the said offence or to the said person to be paid by the said person to such person or persons as the Court may direct.

Report of the Court to the Speaker. [16 of 1968]

35. (1) Where, in an election petition a charge is made of a corrupt practice or an illegal practice having been committed at the election to which the petition relates, the Court shall, when certifying its determination as herein before provided, report in writing to the Speaker, who shall submit such report to the National Assembly—

(a) whether any corrupt practice or illegal practice has or has not been proved to have been committed by or with the consent or connivance of any candidate at the election, and the nature of the corrupt practice or illegal practice;

(b) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice or illegal practice;

(c) whether corrupt practices or illegal practices have, or whether there is reason to believe that corrupt practices or illegal practices have, extensively prevailed at the election to which the petition relates; and

(d) if any person is reported to have been guilty of any corrupt practice or of any illegal practice, whether he has or has not been furnished with a certificate of indemnity.

(2) Before a person, not being a party to the petition, is reported by the Court to have been guilty, at the election, of any corrupt or illegal practice, the Court shall cause notice to be given to such person.

(3) If the person appears in pursuance of the notice, the Court shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

(4) Every person who is reported by the Court to have been personally guilty of any corrupt or illegal practice at the election shall, whether he obtained a certificate of indemnity or not, be subject to the same incapacities as he would be subject to if he had

at the date of such election been convicted of the offence of which he is reported to have been guilty.

(5) If the Court reports that any corrupt practice has been proved to have been committed by an election agent or assistant agent in reference to the election by or with the consent or connivance of a candidate at the election, the candidate shall be subject to the same incapacities as if at the date of the said report he had been convicted of such corrupt practice by virtue of section 26 of the Representation of the People Act.

c.1:03

(6) If the Court reports that any illegal practice has been proved to have been committed by an election agent or assistant agent in reference to the election by or with the consent or connivance of a candidate at the election, the candidate shall be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice by virtue of section 26 of the Representation of the People Act.

Exemption from liability. [16 of 1968] c. 1:03.

36. (1) Where a person who is subject to incapacity by reason of his conviction of a corrupt or illegal practice is reported under section 34 to be guilty of such corrupt or illegal practice, no further incapacity shall be imposed on him under subsection (4) of that section.

(2) Where a person who is subject to incapacity under section 35(4) for any corrupt or illegal practice is convicted of such corrupt or illegal practice no further incapacity shall be deemed to be imposed on him by reason of the conviction.

(3) Every reference to consequences under the Representation of the People Act in sections 110 and 112 thereof shall be construed to include a reference to consequences under this Act and nothing provided in this Act shall abridge any powers of the Court under those sections.

Removal of incapacity if acquitted on prosecution. [16 of 1968] [O. 50/1980]

37. (1) Where any person is subject to any incapacity by virtue of conviction of an offence or the report of the Court under section 34 and he or some other person in respect of whose act the incapacity was imposed, is on a prosecution acquitted of any of the matters in respect of which the incapacity was imposed, the acquittal shall, thereafter or, if an appeal be made, after the expiration of the ordinary period allowed for making an appeal or, if an appeal is made and the acquittal is affirmed, after the appeal is finally disposed of or, if an appeal is made and is abandoned or fails by reason of non-prosecution thereof, after the appeal is abandoned or so fails, be reported to the Court which may, if it thinks fit, order that the incapacity shall henceforth cease so far as it is imposed in respect of those matters.

(2) Where a person becomes subject to any incapacity by virtue of conviction of an offence or the report of the Court under section 34, and any witness who gave evidence against such incapacitated person upon the proceeding for such conviction or report is subsequently convicted of perjury in respect of that evidence, the incapacitated person may apply to the Court, and the Court, if satisfied that the conviction or report regarding such person was based upon perjury, may order that such incapacity shall henceforth cease, and the same shall cease accordingly; and if by reason of the conviction or report a vacancy has occurred in the National Assembly and such vacancy has been filled by another person in accordance with section 99A of the Representation of the People Act (as modified by the Constitution of the Co-operative Republic of Guyana (Adaptation and

Cap.1:03

Modification of Laws) (Representation of the People) Order 1980) such other person shall cease to be a member of the Assembly and the person whose incapacity has ceased shall be reinstated as a member of the Assembly.

Observance of principles and rules of U.K. Parliament.

38. Subject to this Act and rules of court, the principles, practices and rules on which committees of the House of Commons of the Parliament of the United Kingdom used to act in dealing with election petitions shall be observed, so far as may be, by the Court in the case of election petitions.

Certain powers of the Court to be exercisable by a single judge.

39. Any of the powers of the Court conferred by or under any of the provisions of this Act may be exercised by a single judge.

Service of notices.

40. Any summons, notice or document required to be served on any person with reference to any proceeding under this Act for the purpose of causing him to appear before the Court or otherwise, or of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any Court for any purpose of this Act, may be served—

(a) by delivering it to that person; or

(b) by leaving it at, or sending it by post by a registered letter to, his last known place of abode; or

(c) in such manner as may be—

(i) prescribed; or
(ii) directed by any judge before whom the proceeding is taken.

Costs.
[16 of 1968]

41. Subject to the provisions of this Act and rules of court made for the purposes of any such provisions, the rules of court with respect to costs in actions, causes and matters in the Court shall, so far as practicable, apply in relation to costs of petitions and other proceedings under this Act.

Powers of Court.
[16 of 1968]
[O. 50/1980]

42. The Court shall, subject to this Act and rules of court, have the same powers, jurisdiction and authority with respect to any proceedings brought under or by virtue of this Act as if the proceedings were an ordinary action within the jurisdiction of the Court, and without prejudice to the generality of the foregoing provisions of this section, may exercise the power of the Court to consolidate hearings in relation to the hearing of any such proceedings and any proceedings in respect of any election of members of a regional democratic council where the elections in respect of which all the proceedings have been brought were held on the same day.

Vacancy disputes.
[O. 50/1980]

43. Any such question as is referred to in sub-paragraphs (iii) and (iv) of paragraph (b) or in paragraph (c) of article 163(1) of the Constitution may, in respect of a seat to which an election under article 60(2) is applicable, be referred to the Court, and shall thereupon be determined by it in accordance with the provisions of sections 181 to 187 (inclusive) of the Local Authorities (Elections) Act, which shall apply for that purpose with such modifications, adaptations, qualifications and exceptions as may be necessary.

Cap. 28:03

END OF NATIONAL ASSEMBLY VALIDITY OF ELECTIONS ACT [CAP 1:04]

REPRESENTATION OF THE PEOPLE (ADAPTATION AND MODIFICATION OF LAWS) ACT– CHAPTER 1:09

CHAPTER 1:09

REPRESENTATION OF THE PEOPLE

(ADAPTATION AND MODIFICATION OF LAWS) ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Reduction of the age of majority from twenty-one years to eighteen years.
3. Time at which person attains a particular age.
4. Persons under full age may be described as minors instead of infants.

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7 of 1973

An Act for reducing the age of majority generally and for matters connected therewith.

[1ST JANUARY, 1974]

Short title.

1. This Act may be cited as the Representation of the People (Adaptation and Modification of Laws) Act.

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Reduction of the age of majority from twenty-one years to eighteen years

2. (1) As from the 1st January, 1974 a person shall attain full age on attaining the age of eighteen years instead of on attaining the age of twenty-one years; and a person shall attain full age on that date if he has then already attained the age of eighteen years but not the age of twenty-one years.

(2) Subsection (1) applies for the purposes of any rule of law and, in the absence of a definition or of any indication of a contrary intention, for the construction of the expressions "full age", "infant", "infancy", "minor", "minority" and similar expressions in—

(a) any law, enacted before, on or after the 1st January, 1974; and

(b) any deed, will or other instrument of whatever nature (not being a law) made on or after that date.

(3) The President may, by order, which shall be subject to negative resolution, amend any provision in any law enacted before the 1st January, 1974 by substituting a reference to the age of eighteen years for any reference therein to the age of twenty-one years; and any such order may contain such other provisions for the purpose of giving effect to this subsection.

(4) Notwithstanding any rule of law, a will or codicil executed before the 1st January, 1974 shall not be treated for the purposes of this section as made on or after that date by reason only that the will or codicil is confirmed by a codicil executed on or after that date.

Time at which a person attains a particular age.

3. (1) The time at which a person attains a particular age expressed in years shall be the commencement of the relevant anniversary of the date of his birth.

(2) This section applies only where the relevant anniversary falls on a date after that on the 1st January, 1974, and, in relation to any law, deed, will or other instrument, has effect subject to any provision therein.

Persons under full age may be described as minors instead of infants.

4. Anything in any law to the contrary notwithstanding a person who is not of full age may be described as a minor instead of as an infant.

END OF REPRESENTATION OF THE PEOPLE (ADAPTATION AND MODIFICATION OF LAWS) ACT [CAP 1:09]

GENERAL ELECTIONS (OBSERVERS) ACT, NO. 17 OF 1990

ACT NO. 17 OF 1990

GENERAL ELECTIONS (OBSERVERS) ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Observers at general elections.
4. Rights of observers.
5. Privileges and immunities of observers.
6. Obstruction of or interference with an observer.
7. Personation.

A.D. 1990

An Act empowering the President of Guyana to invite observers at general elections and for matters connected therewith.

[5TH JULY, 1990]

Short title.

1. This Act may be cited as the General Elections (Observers) Act 1990.

Interpretation.

2. (1) In this Act "election" means an election of members of the National Assembly referred to in article 60(2) of the Constitution.

cap. 1:03

(2) Expressions used in this Act but not defined herein shall have the same meanings as in the Representation of the People Act.

Observers at general elections.

3. (1) The President may, after consultation with the Chairman of the Elections Commission, invite persons from outside Guyana to visit Guyana for the purpose of observing the democratic processes of the State as enshrined in the Constitution, and more specifically the conduct of any election.

(2) The name of any person so invited shall be published in the *Gazette* and he shall be issued with an identity card by the Chairman of the Elections Commission.

Rights of Observers.

4. (1) Any other law to the contrary notwithstanding, an observer may scrutinise the official list of electors, enter polling places and places appointed for the counting of votes, and seek information from the Chairman of the Elections Commission, the Chief Election Officer and other election officers.

(2) An observer shall have the right to obtain from the Chairman of the Elections Commission a copy of the official list of electors for one or more polling divisions and of any written law governing or regulating any election.

(3) The Chairman of the Elections Commission, the Chief Election Officer and other election officers shall co-operate with the observers and shall comply with any reasonable request made by the observers in the performance of their functions.

Privileges and immunities of observers.
cap. 18:01

5. The person of every observer shall be inviolable and he shall enjoy as well such other privileges and immunities as are afforded diplomatic agents under the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act.

Obstruction of or interference with an observer.
[6 of 1997]

6. Everyone who assaults an observer or obstructs or interferes with him in the performance of his functions or the exercise of his rights under this Act shall be liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for eighteen months.

Personation.
[6 of 1997]

7. Everyone who falsely personates any observer with intent to obtain admission to any polling place or any place appointed for the counting of votes or in order to avail himself of any of the other rights conferred on observers under the provisions of section 4 shall be liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for eighteen months.

END of: GENERAL ELECTIONS (OBSERVERS) ACT [NO.17 OF 1990]

ELECTION LAWS (AMENDMENT)

ACT NO. 12 OF 1996

ELECTION LAWS

(AMENDMENT) ACT NO.12 OF 1996

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement.
2. Interpretation.
3. Preparation of official list of electors and non-resident elector's roll.
4. Registration of persons.
5. Preliminary list, claims and objections and official list of electors.
6. Non-resident electors' roll.
7. Revision of official list of electors and non-resident electors' roll in certain circumstances.
8. Scrutineers.
9. Issue of identification cards.
10. Transfer of functions conferred on the Minister, to the Elections Commission.
11. Special provisions regarding regional democratic councils.
12. Amendment of Representation of the People Act.
13. Amendment of National Registration Act.
14. Mode of exercise of functions of Elections Commission.
15. Employees of Elections Commission.
16. Chief Elections Officer and commissioner of Registration subject to direction and control of Elections Commission.
17. Supervision of employment of certain officers.
18. Local Observers.
19. Expenses of Elections Commission.
20. Removal of difficulties.
21. Over-riding effect of this Act.
22. Repeal.

ELECTIONS LAWS (AMENDMENT) ACT

A.D. 1996

AN ACT to make certain amendments in the laws relating to registration of persons and to elections to choose the President, the members of the National Assembly and the members of the regional democratic councils and for matters connected therewith.

Short title and commencement.

1. This Act may be cited as the Elections Laws (Amendment) Act 1996 and shall be deemed to have come into operation on 26th January, 1996.

Interpretation.
Cap. 1:03
Cap. 19:08
[No.12 of 1980]

2. Expressions used in this Act and not defined herein but defined in the Representation of the People Act, the National Registration Act or the Local Democratic Organs Act 1980 shall have the meanings assigned to them in those Acts.

Preparation of official list of electors and non-resident electors' roll.

3. (1) The Commissioner shall as expeditiously as possible on being instructed in writing by the Commission to do so, cause to be prepared an official list of electors for every polling division, and a non-resident electors' roll with reference to the qualifying date which shall be such date as the Commission shall by order specify.

(2) The official list of electors and the non-resident electors' roll shall be prepared in accordance with sections 4, 5, 6 and 7.

(3) An official list of electors for a polling division or a non-resident electors' roll, prepared under subsection (1) shall remain in force until the Commissioner on the instructions of the Commission prepares a new official list of electors for such polling division or a new non-resident electors' roll.

Cap. 1:03
Cap. 19:08.

(4) For the purpose of preparing the official list of electors or a revised official list of electors under this section each people's co-operative unit shall be deemed to be a registration division and polling division and references to registration division and polling division in the Representation of the People Act and the National Registration Act shall be construed accordingly.

Cap. 1:03.

(5) The official list of electors for any polling division prepared under subsection (1), before the date of any election to choose the President, the members of the National Assembly or the members of a regional democratic council shall be the official list of electors for the polling division for such election; and the non-resident electors' roll prepared under subsection (1), before the date of such election shall be the non-resident electors' roll for that election, and references in the Representation of the People Act to official list of electors and non-resident electors' roll shall be construed accordingly.

(6) If the Elections Commission so directs by order, notwithstanding anything contained in any other written law, the list of electors to choose the members of any local democratic organ (other than a regional democratic council) or other local government authority shall consist of names extracted from the official list of electors prepared under this section and resident in the area of that local democratic organ or local government authority.

Registration of persons.
Cap. 19:08.

4. (1) Every divisional registrar shall, either by himself or officers appointed under the section 6(4) of the National Registration Act (hereinafter referred to as "enumerators"), by house to house visits within the registration division assigned to him, obtain as far as practicable the application for registration of every person, who is on the appointed date of the age of fourteen years or above for the purpose of ascertaining every person qualified for registration as an elector for election to the National Assembly and is resident in that division, to have his name included in the official list of electors for the registration division.

(2) Registration of persons under subsection (1) shall begin and end on such dates as may be specified by the Elections Commission.

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(3) Sections 6(6) and (7), 8, 10, 11 and 13 of the National Registration Act shall ***mutatis mutandis*** apply to, and in relation to, registration of electors under the preceding subsections.

(4) The Commissioner shall establish a central register which shall consist of the originals of the registration cards of all electors registered under this section or such copies thereof prepared in conformity with section 7 (1) of the National Registration Act as made applicable by subsection (3) to registration of electors under this section.

Cap. 19:08.

(5) Every registrar shall establish for each registration division in his registration district a divisional register which shall consist of the duplicate registration cards of all persons registered under this section as resident in that registration division or such other copies thereof prepared in conformity with section 7(1) of the National Registration Act as made applicable by subsection (3) to registration of persons under this section.

Preliminary list, claims and objections and official list of electors.

5. (1) Within such time, after the date for the end of the registration of persons, as may be specified by the Elections Commission, the Commissioner shall prepare a preliminary list in which he shall enter the full name, the address, the occupation and the serial number of the registration card of every person registered under section 4 who is qualified to be an elector.

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(2) Sections 14(2) and 15 of the National Registration Act and the regulations made under that Act shall ***mutatis mutandis***, apply to, and in relation to, the preliminary list referred to in subsection (1), claims and objections in respect of such preliminary list as revised and other matters provided for in the aforesaid sections 14(2) and 15, as if references therein to the preliminary list were references to the preliminary list prepared under subsection (1).

(3) The official list of electors for any polling division shall be the preliminary list of electors for the registration division, corresponding to the polling division, prepared under subsection (1)—

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(a) as altered under section 15(6) of the National Registration Act, as made applicable by subsection (2), to give effect to claims and objections finally determined before the election day;

Cao. 19:08

Cap. 1:03.

(b) with such modifications as may be necessary pursuant to any alteration thereto under section 8 of the National Registration Act, as made applicable by section 4(3), prior to compliance with section 34(2) (a) (iv) of the Representation of the People Act in respect of the said official list, and for the purpose of changing the registered address of any elector's residence within Guyana or the registered name or occupation of any elector;

(c) with such modifications as may be necessary pursuant to the cancellation of any elector's registration therein effected in contravention of section 11(1), or relating to an elector who is dead, under section 8, of the National Registration Act as made applicable by section 4(3); and

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(d) with such modifications as may be necessary pursuant to any revision under section 7.

(4) In subsection (3) reference to a preliminary list is a reference to such list read in conjunction with any supplementary list prepared for a revision of that preliminary list pursuant to regulations made under the National Registration Act for the purpose of showing the alterations and modifications referred to in that subsection.

Cap. 19:08.

Non-resident electors' roll. Cap. 1:03. Cap. 19:08.

6. The non-resident electors' roll shall be prepared by the Commissioner in accordance with section 44(2) of the Representation of the People Act and the provisions of the National Registration Act referred to therein, with such modifications as may be necessary pursuant to any revision under section 7 and section 45 of the Representation of the People Act shall ***mutatis mutandis*** apply in relation to the display of the non-resident electors' roll so prepared.

Revision of official list of electors and non-resident electors' roll in certain circumstances.

7. (1) Where there is an interval of more than three months after the qualifying date with reference to which the official list of electors or the non-resident electors' roll is prepared under section 3(1) and the day appointed for the next election after that date, the Commissioner shall cause the official list of electors and non-resident electors' roll to be revised, in accordance with procedure established by the Elections Commission by regulations—

(a) by adding thereto the names of persons who have or may become qualified for registration as electors after the said qualifying date and before the day appointed for the election; and

(b) by deleting therefrom the names of persons who are registered as electors, but have ceased to be qualified to be so registered after the said qualifying date and before such date, being a date prior to the date appointed for the election, as may be specified by the Elections Commission by notification in the *Gazett*e.

(2) The revision of the official list of electors and the non-resident electors' roll, under subsection (1), shall be by way of the annexation thereto of supplementary lists, in such form as may be determined by the Commissioner, containing the changes determined under subsection (1).

Scrutineers. [22 of 1997]

8. (1) In connection with the preparation of the official list of electors under section 3(1), every organisation or group of persons proposing to submit a list of candidates may, by writing under the hand of such person as may be duly authorised by that organisation or group of persons (hereinafter referred to as the "authorised person") appoint a chief scrutineer for the whole of Guyana, a deputy chief scrutineer and an assistant chief scrutineer for each registration district or part thereof and one scrutineer for each registration division and any subdivision thereof, and the appointment shall terminate on the date on which the preliminary list as revised is published under section 5:

Provided that one scrutineer in each registration division and one in any subdivision thereof appointed by—

(a) the majority party;
(b) the combined minority parties,

in the National Assembly shall be paid such remuneration by, and as may be determined by, the Elections Commission in accordance with section 19.

(2) The Commissioner shall be given notice in writing of the appointment of a person as scrutineer, by the authorised person appointing him and the Commissioner shall issue to him an identification card, which shall be promptly surrendered by the scrutineer to the Commissioner on the termination of his appointment; and references in the following subsections to a scrutineer shall, unless the context otherwise requires, be deemed to be

references to a person appointed as a scrutineer under subsection (1) and to whom an identification card has been issued by the Commissioner.

(3) The authorised persons that appointed a scrutineer may revoke the appointment, and intimate to the Commissioner and the scrutineer of such revocation and on the receipt of the intimation of such revocation the scrutineer shall promptly surrender to the Commissioner the identification card issued to him under subsection (2).

(4) Where a scrutineer is, in the opinion of the Commissioner, guilty of misconduct, the Commissioner shall direct the scrutineer to surrender the identification card issued to him, whereupon the scrutineer shall promptly surrender to the Commissioner the identification card issued to him under subsection (2).

(5) A scrutineer for any registration division—

(a) may inspect any of the following documents, whether completed or not, in possession of the divisional registrar of the registration division for which he is appointed, and may make copies or take extracts thereof—

(i) applications for registration of persons and registration cards; or

(ii) copies of notices issued to applicants for registration disallowing the applications for registration;

(b) may accompany an enumerator, while the enumerator is performing his duties under this Act, in the registration division for which the scrutineer is appointed and shall be entitled to receive from the enumerator as soon as may be after he has obtained any application for the registration of a person the particulars given by the person;

(c) may submit to the registrar, having jurisdiction over the registration division for which he is appointed, claims for listing any person who is entitled to be so listed, and is resident in that registration division, or objection to the listing of any person as resident in that registration division.

(6) Where a claim is submitted by a scrutineer to have the name of any person included in the official list of electors, scrutineer and such person shall both be deemed to be parties to the claim and where a scrutineer submits an objection, he shall be deemed to be a party to the objection.

(7) A chief scrutineer shall in respect of the whole of Guyana, a deputy chief scrutineer and an assistant chief scrutineer shall in respect of the registration district or part thereof, for which he is appointed, be entitled to perform all the functions, and shall have all the rights, of a scrutineer and, subject to the above, references in this Act to a scrutineer shall be deemed to include references to the chief scrutineer, every deputy chief scrutineer and every assistant chief scrutineer.

Cap. 19:08

(8) A scrutineer shall not interfere with the performance, by any person referred to in section 4 of the National Registration Act, of his functions or obstruct any such person in the performance of his functions.

(8A). Notwithstanding anything in the foregoing provisions of this section, a person appointed as a scrutineer, whose appointment stands terminated, shall be deemed to be re-appointed for the sole purpose of observing and monitoring the distribution of the voter identification card.

(9) Where a scrutineer, having become liable to surrender to the Commissioner the identification card issued to him under subsection (2), without reasonable cause refuses or fails to surrender the same in accordance with subsections (2), (3) or (4), or represents that he is a scrutineer or performs or attempts or purports to perform any of the functions of a scrutineer or contravenes subsection (8), he shall be liable, on summary conviction, to a fine of five thousand dollars and to imprisonment for six months.

Issue of identification cards. [22 of 1997] Cap. 19:08.

9. Persons whose names are included in the official list of electors for a polling division, or in the non-resident electors' roll shall be issued voter identification cards by the Commissioner and section 12 of the National Registration Act shall apply in respect of the issue of such voter identification cards as if that person has been registered under the aforesaid Act.

Transfer of functions conferred on the Minister, to the Elections Commission. Cap. 1:03 Cap. 19:08

10. (1) The functions conferred on the Minister by the sections of the Representation of the People Act and the National Registration Act specified in subsection (2) shall, with effect from the commencement of this Act be performed by the Elections Commission, and accordingly references in the said sections to the Minister shall be construed as references to the Elections Commission.

(2) The sections referred to in subsection (1) are sections 5, 6, 9, 29, 34(3), 65H, 65J(2), 65N(1) and 150 of the Representation of the People Act and sections 14 and 15 of the National Registration Act.

Special provisions regarding regional democratic councils. Cap. 1:03 Cap. 19:08.

11. (1) The Elections Commission shall have in regard to elections to choose the members of regional democratic councils the same functions as that Commission has in relation to elections to choose members of the National Assembly, under articles 62 and 162 of the Constitution, this Act, the Representation of the People Act and the National Registration Act.

(2) The modifications made in the Representation of the People Act by sections 10 and 12 shall have effect also in relation to elections to choose the members of regional democractic councils.

Amendment of Representation of the People Act. Cap. 1:03.

12. The Representation of the people Act is hereby amended—

(a) by the substitution for sections 59(1)(b), 86(1)(b) and 91(1)(b) of the following—
"(b) members of the Commission:";

(b) by the substitution for section 79(1)(b)(i) of the following—
"(i) members of the Commission:".

Amendment of the National Registration Act. Cap. 19:08.

13. The National Registration Act is hereby amended in the following respects-

(a) in section 3 –

(i) in subsection (3)(a), for the word "responsible" substitute the words "responsible to the Elections Commission";

(ii) in subsection 3(b), for the words "may issue to persons employed under the Commissioner directions" of the words "may, on the authority of the Elections Commission, issue to persons employed by the Elections Commissions directions";

(iii) in subsection 3(c), for the word "shall" substitute the words "shall in accordance with the directions of the Elections Commission";

(b) in section 5(2), for "Commissioner", substitute "Commissioner, with the approval of the Elections Commission";

(c) in section 6(1), for "Minister" substitute "Minister, on the advice of the Elections Commission";

(d) in section 9, by the substitution for the word "prescribed" wherever it occurs, of the words "prescribed by the Minister, on the advice of the Elections Commission", and in section 9(2) by the substitution for the word "register" of the word "registrar";

(e) in section 19(1), in the opening portion, by the insertion after the words "Minister may" of the words, "on the advice of the Elections Commission";

(f) in section 19(2), 20(1) and (2), 21, 22, 23(1) and (2), 25(3) and (4), and 27, by the substitution of the words "five thousand dollars" for the words "two hundred and fifty dollars";

(g) in section 24, by the substitution of the words "two thousand dollars" for the words "one hundred dollars";

(h) in section 26-

(i) by the insertion of the words "or appointed as a scrutineer," after the words "section 3 or 4";

(ii) by the substitution of the words "five thousand dollars" for the words "two hundred and fifty dollars".

Mode of exercise of functions of Elections Commission. Cap. 1:03 Cap. 19:08.

14. (1) All directions or instructions of the Elections Commission, in exercise of the functions conferred on it by article 162 of the Constitution, this Act, the Representation of the People Act or the National Registration Act, shall be issued orally or in writing through the Chairman of that Commission or any person authorised by him in writing in that behalf.

(2) All communications or instruments from or made by the Elections Commission shall be issued or made under the signature of the Chairman of that Commission or any person authorised by him in writing and all communications to that Commission shall be addressed to the Chairman thereof.

Permanent Secretariat of the Elections Commission, appointment of staff.
[9 of 2000]

15. (1) There shall be a Permanent Secretariat to the Elections Commission to ensure institutional memory and capacity and the Elections Commission shall be responsible for the efficient functioning of the Secretariat.

(2) The Elections Commission shall be responsible for appointing on such terms and conditions as may be determined by the Commission such permanent and temporary staff to the offices of the Commission as are considered by the Commission to be necessary for the discharge of its functions under the Constitution and any written law.

(3) The staff of the Commission shall be-

(a) designated by the Commission on such terms and conditions as it deems fit with the consent of the appropriate authority, from among persons holding appointments in the public service;

(b) appointed from among persons who had held appointments in the public service and had retired or resigned therefrom; or

(c) appointed from among fit and proper persons who are not public officers

(4) In subsection (3), "appropriate authority" means the authority vested by law with power to appoint the public officer in the public service.

Chief Election Officer and Commissioner of Registration subject to direction and control of Elections Commission.

16. The Chief Election Officer and the Commissioner of Registration shall, notwithstanding anything in any written law be subject to the direction and control of the Elections Commission.

Supervision of employment of certain officers.

17. For the removal of doubts it is hereby declared that the power of the Elections Commission to supervise the functioning of any election officer and the Commissioner or Deputy Commissioner shall include the power to issue directions to any such officer or the Commissioner or Deputy Commissioner in respect of the employment of any person by him in relation to the registration of electors or the conduct of elections.

Local observers.

18. The Elections Commission may approve of local organizations observing the democratic process involved in any election providing such organisations fulfill such conditions as may be stipulated by the Elections Commission.

Expenses of Elections Commission.
Cap. 1:03.
Cap. 19:08.

19. The expenses incurred by the Commission, or with its approval, for or in connection with the exercise and discharge of the functions conferred on the Elections Commission by articles 62 and 162 of the Constitution, this Act, the Representation of the People Act and the National Registration Act (including the payment of emoluments of persons designated or appointed under section 15), shall be paid out of funds provided by Parliament.

Removal of difficulties.
Cap. 1:03
Cap. 19:08..

20. (1) If any difficulty arises in connection with the application of this Act, the Representation of the People Act or the National Registration Act, the Minister shall, on the advice of the Elections Commission, by order, make any provision that appears to the Commission to be necessary or expedient for removing the difficulty; and any such order may modify any of the said Acts in respect of any particular matter or occasion so far as may appear to the Elections Commission to be necessary or expedient for removing the difficulty.

(2) Any order under subsection (1) shall be subject to negative resolution of the National Assembly and shall not be made after the expiry of three years from the commencement of this Act.

Overriding effect of this Act.
Cap. 1:03
Cap. 19:08.

21. (1) The Representation of the People Act and the National Registration Act shall, to the extent to which any provision thereof is inconsistent with any provision of this Act, be construed as amended and modified by this Act.

Cap. 19:08.

(2) Subject to subsection (1) and the preceding provisions of this Act, the provisions of the National Registration Act, shall ***mutatis mutandis*** apply to, and in relation to the registration of electors, preparation of preliminary lists, claims and objections, appeals from decisions in respect of claims and objections and all other matters dealt with in the preceding sections of this Act or connected therewith, and offences and penalties relating to any such matter, in the same manner as they apply to and in relation to, the registration of persons and the preparation of a central register under the National Registration Act.

Cap. 19:08..

Repeal No.25 of 1990.
No.29 of 1990.

22. The Elections Laws (Amendment) Act 1990 and the Election Laws (Amendment) (No.2) Act 1990 are hereby repealed.

END OF: ELECTION LAWS (AMENDMENT) ACT, NO.12 OF 1996.

GUYANA CITIZENSHIP ACT

CAP. 14:01

CHAPTER 14:01

GUYANA CITIZENSHIP ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. References in existing laws to British subject to be construed as references to Commonwealth citizen.
4. Registration of certain persons as citizens.
5. Registration of minors.
6. Effect of registration as a citizen.
7. Minister's discretionary powers.
8. Additional grounds for citizenship.
9. Naturalisation of aliens and British protected persons.
10. Renunciation of citizenship.
11. Deprivation of citizenship.
12. Certificate of citizenship in cases of doubt.
13. Evidence.
14. Offences.
15. Application of article 47 of the Constitution of the Co-operative Republic of Guyana - **[Repealed by Order No. 80/1980].**
16. Regulations.

FIRST SCHEDULE - Form of oath.

SECOND SCHEDULE - Qualifications for Naturalisation.

THIRD SCHEDULE - Countries to which article 47 of the Constitution of the Co-operative Republic of Guyana applies – **[Repealed By Order No. 80/1980].**

CHAPTER 14:01

GUYANA CITIZENSHIP ACT

[14 of 1967]
[O. 80/1980].

An Act to make provision for the acquisition of citizenship of Guyana by persons who do not become citizens of Guyana by virtue of Chapter IV of the Constitution of the Co-operative Republic of Guyana, for deprivation and renunciation of citizenship of Guyana and for purposes incidental thereto or connected therewith.

[26TH MAY, 1966]

Short title.

1. This Act may be cited as the Guyana Citizenship Act.

Interpretation.
[O. 4/1974]
[19 of 1990]

2. (1) In this Act—

"alien" means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

"British protected person" means a person who is a British protected person for the purposes of the British Nationality Act, 1948, of the United Kingdom;

"the Commonwealth" has the meaning assigned to it by the Constitution;

"Commonwealth citizen" means a person who under the Constitution has the status of a Commonwealth citizen;

"foreign country" means a country (other than the Republic of Ireland) that is not part of the Commonwealth;

"Guyana" includes, in relation to any period commencing prior to the 26th May, 1966, and prescribed by this Act for the purposes of any requirement as to residence, the former Colony of British Guiana;

"minor" means a person who is not of full age;

First Schedule

"oath of allegiance" means an oath of allegiance set out in the First Schedule to this Act.

(2) For the purposes of this Act, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) For the purposes of this Act, a person shall be of full age if such person attains the age of eighteen years and is not of unsound mind.

(4) For the purposes of this Act, a person shall be deemed not to have attained a given age until the commencement of the relevant anniversary of the day of his birth.

References in existing laws to British subject to be construed as references to Commonwealth citizen.

3. A reference to a British subject in any law in force in Guyana on the commencement of this Act shall be construed as a reference to a Commonwealth citizen.

Registration of certain persons as citizens.

4. (1) A Commonwealth citizen or a citizen of the Republic of Ireland, being of full age and capacity, may, on making application therefor under this subsection to the Minister in the prescribed manner, be registered at the discretion of the Minister as a citizen of Guyana if he satisfies the Minister that he—

(a) has been ordinarily resident in Guyana; or

(b) has been in the service of the Government of Guyana; or

(c) has had partly such residence and partly such service, throughout the period of five years ending with the date of his application, or such shorter period so ending as the Minister may in the special circumstances of any particular case accept.

(2) Subject to section 7, a person shall be entitled, on making application under this subsection to the Minister in the prescribed manner, to be registered as a citizen of Guyana if he satisfies the Minister that he is and always has been stateless and—

(a) if he was born before the 25th May, 1966, that his mother was a citizen of the United Kingdom and Colonies at the time of his birth by reason of her having been born in the former Colony of British Guiana; or

(b) if he was born after the 25th May, 1966, that his mother was a citizen of Guyana at the time of his birth; or

(c) that he was born in Guyana.

(3) Subsection (2) (a) and (b) apply to persons born illegitimate as well as to persons born legitimate.

(4) An application for the registration under subsection (2) of a minor may be made by his parent or guardian or, if he has attained the age of sixteen years, by the minor himself or by his parent or guardian.

Registration of minors.
[19 of 1990]

5. (1) The Minister may, at his discretion, cause the minor child of any citizen of Guyana to be registered as a citizen of Guyana upon application made under this subsection in the prescribed manner by a parent or guardian of the child.

(2) The Minister may, in such special circumstances as he thinks fit, cause any minor to be registered as a citizen of Guyana.

(3) Where under a law in force in Guyana relating to the adoption of children an adoption order is made in respect of a minor not a citizen of Guyana then if the adopter or in the case of a joint adoption one of the adopters is a citizen of Guyana the minor shall become a citizen of Guyana as from the date of the order.

Effect of registration as a citizen.

6. A person, upon being registered under section 4 or 5, shall become a citizen of Guyana by registration with effect from the date on which he is registered.

Minister's discretionary powers. [O. 80/1980] c. 1:01

7. (1) The Minister may, if he is satisfied that the interests of national security or public policy so require, refuse to register as a citizen of Guyana any person to whom the proviso to article 42(1) or 45 of the Constitution or section 4(2) of this Act applies.

(2) The Minister shall not be required to assign any reason for the exercise of any discretionary power conferred on him as to the registering as a citizen, the naturalizing, or certifying the citizenship, of any person and no exercise of any such power shall be subject to appeal or review in any court.

Additional grounds for citizenship.

8. (1) A person born in Guyana after the commencement of this Act shall be a citizen of Guyana by birth if his mother was a citizen of Guyana at the time when he was born and he would, apart from this subsection, be stateless.

(2) Where after the commencement of this Act a new-born infant is found abandoned in Guyana, that infant shall, unless the contrary is shown, be deemed to have been born in Guyana.

Naturalisation of aliens and British protected persons. Second Schedule [11 of 1968].
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9. The Minister may, at his discretion, if application therefor is made to him in the prescribed manner by any alien or British protected person of full age and capacity who satisfies him that he is qualified under the Second Schedule for naturalisation grant to him a certificate of naturalisation, and the person to whom the certificate is granted shall, on taking the oath of allegiance, become a citizen of Guyana by naturalisation with effect from the date on which that certificate is granted.

Renunciation of citizenship. [O.80/1980] c. 1:01

10. (1) Subject to subsection (2) if any citizen of Guyana of full age and capacity who is or is about to become—

(a) a citizen of any country to which article 47 of the Constitution applies, or of the Republic of Ireland; or

(b) a national of a foreign country,

makes in the prescribed manner a declaration of renunciation of citizenship of Guyana, the Minister shall cause the declaration to be registered, and upon the registration, that person shall cease to be a citizen of Guyana:

Provided that the Minister may, at his discretion, withhold registration of any such declaration if it is made by a person who is or is about to become a national of a foreign country during any war in which Guyana is engaged.

(2) A declaration of renunciation of citizenship of Guyana made under subsection (1) by a person who is not a citizen of any other country shall be registered only if the Minister is satisfied that that person will after the registration become a citizen or national of some other country; and if that person does not become such a citizen or national within six months from the date of registration he shall be, and be deemed to have remained, a citizen of Guyana notwithstanding the registration.

Deprivation of citizenship.

11. (1) Subject to this section, the Minister may, at his discretion, by order deprive of his citizenship any citizen of Guyana who is such by registration or naturalisation if the Minister is satisfied that the registration or certificate of naturalisation was obtained by means of fraud, false representation or the concealment of any material fact.

(2) Subject to this section, the Minister may at his discretion, by order, deprive of his citizenship any citizen of Guyana, who is such by registration or naturalisation if the Minister is satisfied that that citizen—

(a) has shown himself by act or speech to be disloyal or disaffected towards the Constitution; or

(b) has, during any war in which Guyana was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(c) has within five years after becoming naturalised been sentenced in any country to imprisonment for a term of not less than twelve months; or

(d) has done any voluntary act which is incompatible with his loyalty to the Constitution.

(3) The Minister shall not deprive a person of his citizenship—

(a) under this section unless he is satisfied that it is not conducive to the public good that that person should continue to be a citizen of Guyana;

(b) on the ground mentioned in subsection (2)(c) if it appears to him that that person would thereupon become stateless.

(4) Before making an order under this section, the Minister shall give the person against whom the order is proposed to be made, notice in writing informing him of the ground on which it is proposed to be made and of his right to an enquiry under this section.

(5) If the person against whom the order is proposed to be made applies in the prescribed manner for an enquiry, the Minister shall, and in any other case the Minister may, at his discretion, refer the case for enquiry and report to a committee consisting of a chairman, being a person possessing judicial experience, appointed by the Minister and of such other members appointed by the Minister as he thinks proper.

(6) The Minister may make rules for the practice and procedure to be followed in connection with a committee of enquiry appointed under this section, and such rules may, in particular, provide for conferring on such committee any powers, rights or privileges of any court, and for enabling any powers so conferred to be exercised by one or more members of the committee; and, subject to any such rules, the committee may regulate its own procedure.

(7) A person who is deprived of his citizenship of Guyana by an order under this section shall, upon the making of the order, cease to be a citizen of Guyana.

Certificate of citizenship in cases of doubt.

12. (1) The Minister may in such cases as he thinks fit, on application made by or on behalf of any person with respect to whose citizenship of Guyana a doubt exists, whether on a question of fact or law, certify that that person is a citizen of Guyana.

(2) A certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that that person was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at any earlier date.

Evidence

c. 1:01.

13. (1) Every document purporting to be a notice, certificate, order or declaration, or an entry in a register or a subscription of an oath of allegiance, given, granted or made under this Act or under Chapter IV of the Constitution shall be received in evidence and shall, unless the contrary is proved, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made.

(2) ***Prima facie*** evidence of any such document as aforesaid may be given by production of a document purporting to be certified as a true copy thereof by such person and in such manner as may be prescribed.

(3) Any entry in a register under this Act or under Chapter IV of the Constitution shall be received as evidence of the matters stated in the entry.

c. 5:03

(4) Nothing in this section shall prejudice the admissibility of anything in evidence, or the effect of any such evidence, pursuant to any provisions of the Evidence Act.

Offences.
[13 of 1997]
[14 of 1998]

14. (1) Any person who for the purpose of procuring anything to be done or not to be done under this Act or under Chapter IV of the Constitution makes any statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, shall be liable on summary conviction to a fine of not less than twenty-five thousand dollars nor more than fifty thousand dollars and to imprisonment for six months.

(2) Any person who fails to comply with any requirement imposed on him by regulations made under this Act with respect to the delivering up of certificates of naturalisation, shall be liable on summary conviction to a fine of not less than twenty-five thousand dollars nor more than fifty thousand dollars and to imprisonment for six months.

(3) Every person who—

(a) forges a passport; or

(b) utters a passport knowing it to be forged; or

(c) for the purpose of procuring a passport whether for himself or any other person, makes a statement which is to his knowledge untrue,

shall be liable—

(i) on summary conviction to a fine of not less than twenty thousand dollars nor more than forty thousand dollars and to imprisonment for twelve months;

(ii) on conviction on indictment to a fine of not less than forty thousand dollars nor more than eighty thousand dollars and to imprisonment for four years.

c. 8:01

(4) In this section the expression "forgery" has the same meaning as it has in section 240 of the Criminal Law (Offences) Act.

15. Application to article 47 of the Constitution of the Co-operative Republic of Guyana- **[Repealed by Order 80/1980].**

Regulations. [O. 80/1980].

16. The Minister may make regulations generally for giving effect to this Act, and in particular but without prejudice to the generality of the foregoing may make regulations—

c. 1:01.

(a) prescribing anything which is required by this Act or by Chapter IV of the Constitution to be prescribed;

(b) for the registration of anything required or authorized under this Act or under Chapter IV of the Constitution to be registered;

(c) for the administration and taking of oaths of allegiance under this Act or Chapter IV of the Constitution, for the time within such oaths shall be taken and for the registration of such oaths;

(d) fixing the fees to be paid in respect of—

(i) any application made to the Minister under this Act or pursuant to Chapter IV of the Constitution; or

(ii) any registration, or the making of any declaration, or the grant of any certificate, or the taking of any oath of allegiance, required or authorised to be made, granted or taken by or under this Act; or

(iii) supplying a certified or other copy of any notice, certificate, order, declaration or entry, given, granted or made under this Act or pursuant to Chapter IV of the Constitution, and providing for the application of any such fees;

(e) for the giving of any notice required or authorised to be given to any person by or under any provisions of this Act other than section 11(6);

(f) for the cancellation of the registration of, and the cancellation and amendment of certificates of naturalization relating to, persons deprived of citizenship under this Act or under Chapter IV of the Constitution, and for requiring such certificates to be delivered up for such purposes;

(g) for the registration by consular officers or other officers in the service of the Government of Guyana of the births and deaths of persons of any class or description born or dying outside Guyana;

(h) for enabling the births and deaths of citizens of Guyana born or dying in any country in which the Government of Guyana has for the time being no diplomatic or consular representatives, to be registered—

(i) by persons serving in the diplomatic consular or other foreign service of any country which, by arrangement with the Government of Guyana, has undertaken to represent that Government's interest in that country; or

(ii) by a person authorised in that behalf by the Minister.

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s. 2(1)
[O. 15/1970]

FIRST SCHEDULE

FORM OF OATH

I .....do swear [solemnly affirm] that I will be faithful and bear true allegiance to Guyana and will honour, uphold and preserve the Constitution of the Co-operative Republic of Guyana.

So help me God [to be omitted in affirmation].
Sworn [Affirmed] and subscribed this ..... day of ..... 19.....before me ..... at ..... Magistrate, Justice of the Peace or other official title.

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s. 9
[11 of 1968]

SECOND SCHEDULE

QUALIFICATIONS FOR NATURALISATION

1. Subject to paragraph 2 the qualifications for naturalisation of an alien who applies therefor are—

(a) that he has resided in Guyana throughout the period of twelve months immediately preceding the date of the application;

(b) that during the seven years immediately preceding the said period of twelve months he has resided in Guyana for periods amounting in the aggregate to not less than five years;

(c) that he is of good character; and

(d) that he intends in the event of a certificate being granted to him to reside in Guyana.

2. The Minister may, if in the special circumstances of any particular case he thinks fit—

(a) allow a continuous period of twelve months ending not more than six months before the date of the application to be reckoned for the purposes of paragraph l(a), as if it had immediately preceded that date;

(b) allow residence in any part of the Commonwealth to be reckoned for the purposes of paragraph l(b);

(c) allow periods of residence earlier than eight years before the date of the application to be reckoned in computing the aggregate mentioned in paragraph l(b);

(d) allow such shorter periods of residence as he may determine to be reckoned in lieu of the periods mentioned in paragraph l(a) and (b).

3. The qualifications for naturalisation of a British protected person who applies therefor are—

(a) that he is ordinarily resident in Guyana and has been so resident throughout the period of five years, or such shorter period as the Minister may, in the special circumstances of any case accept, immediately preceding his application; and

(b) the qualifications specified in paragraph l(c) and (d).

THIRD SCHEDULE

COUNTRIES TO WHICH ARTICLE 47 OF THE CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA APPLIES

[REPEALED BY ORDER 80/1980]

END OF: GUYANA CITIZENSHIP ACT: CAP 14:01

NATIONAL REGISTRATION ACT

CHAPTER 19:08

S10

CHAPTER 19:08

NATIONAL REGISTRATION ACT

ARRANGEMENT OF SECTIONS

PART I
PRELIMINARY

SECTION

1. Short title.
2. Interpretation.

PART II

ADMINISTRATION

3. Commissioner and Deputy Commissioner of Registration.
4. District supervisors, registrars, deputy registrars, divisional registrars, and other officers.

PART III
REGISTRATION

5. Registration districts and registration divisions.
6. Registration of persons.
7. Registration cards.
8. Cancellation and alteration of registration.
9. Registers.
10. Adaptation of registers on change in districts or registration divisions.
11. Registration to be in one registration division.
12. Identification cards **[Repealed by Act No.15 of 2000].**
13. Power of Commissioner to require information.
14. Preparation of preliminary lists.
15. Publication of preliminary lists and claims and objections in respect thereof.

PART IV
GENERAL

16. Supervision by Elections Commission.
17. Statistics.
18. Expenses in carrying out this Act.
19. Regulations.

PART V
MISCELLANEOUS OFFENCES

20. Breach of duty.
21. Illegal registration.
22. Destroying or defacing identification cards or other documents.
23. Making false objection or statement.
24. Selling, purchasing or pledging identification cards.
25. False registration cards and identification cards.
26. Personation of officers.
27. Divulging and obtaining information without lawful authority.
SCHEDULE – Oath of Office.

CHAPTER 19:08

NATIONAL REGISTRATION ACT

[24 of 2967] **AN ACT to provide for the establishment of a National Register, for the issue of identification cards, and for purposes connected therewith.**

[18TH NOVEMBER, 1967]

PART I
PRELIMINARY

Short title. **1.** This Act may be cited as the National Registration Act.

[Interpretation **2. (1)** In this Act –

"central register" means the register established by the Commissioner under section 9;

"district" means a registration district constituted under section 5(1);

"divisional register" means a divisional register established by a registrar under section 9;

c. 1:01 "Elections Commission" means the Elections Commission established by virtue of article 161 of the Constitution;

Schedule. "oath of office" means, in relation to any office, the oath for the due execution of that office set out in the Schedule;

"prescribed" means prescribed by regulations;

"qualifying date", in relation to the registration of any person, means the date appointed under section 6(1) and with reference to which such person shall be so registered;

"registration division" means such part of a district as is comprised in any sub-division thereof appointed under Section 5(2);

"regulations" means regulations made under this Act.

(2) Where the qualifying date falls during or after the period appointed by virtue of section 6(1) for the registration of applicants, any question as to the eligibility for registration, or the residence in any registration division on the qualifying date, of any person shall, until that date, be determined on the basis of the likelihood of his being eligible or resident as aforesaid, as the case may be, and this Act shall be construed accordingly.

PART II
ADMINISTRATION

Commissioner and Deputy Commissioner of Registration.
[12 of 1996]
[15 of 2000].

3. (1) There shall be a Commissioner of Registration, hereinafter referred to as "the Commissioner", and a Deputy Commissioner of Registration, hereinafter referred to as the "Deputy Commissioner".

(2) Forthwith on their appointment the Commissioner and the Deputy Commissioner shall respectively take and subscribe the oath of office before a Judge of the Supreme Court.

(3) The Commissioner –

(a) shall be responsible to the Commission for the making of such arrangements and the doing of such things as are requisite for the compilation and maintenance of the central and divisional registers in conformity with this Act, including the making of arrangements for preparation of the requisite forms and instruments, the issue of such forms and instruments, the collection or reception of the forms when filled in, and the keeping of such records as may be requisite;

(b) may, on the authority of the Commission, issue to persons employed by the Commission directions for the purposes of execution of the provisions of this Act, and any directions issued pursuant to this paragraph may confer upon any such person general or special authority to issue directions for purposes aforesaid to any other such person subordinate to him;

(c) shall in accordance with the directions of the Commission exercise and perform all other powers and duties that by or under this Act are conferred and imposed upon the Commissioner.

(4) The Deputy Commissioner shall, subject to any general or special directions of the Commissioner, act as assistant generally to the Commissioner and, in his absence, exercise all the powers and perform all the duties of the Commissioner.

(5) The provisions of subsection (4) shall have effect without prejudice to the jurisdiction of the Deputy Commissioner under section 15(3) and nothing in the said provisions shall be deemed to confer upon the Deputy Commissioner power to determine appeals under section 15(4) from the exercise of such jurisdiction.

District supervisors, registrars, deputy registrars, divisional registrars, and other officers.

4. (1) There shall be appointed such numbers of district supervisors, registrars, deputy registrars, divisional registrars, official photographers, clerks, messengers and other officers and servants as may be requisite for the execution of the provisions of this Act; and, subject thereto the persons appointed as such shall respectively perform such functions in that behalf as they may from time to time, under the authority of the Commissioner, be directed to perform.

(2) Without prejudice to subsection (1), section 3(4) shall apply in relation to a registrar and deputy registrar as they apply in relation to the Commissioner and Deputy Commissioner, respectively.

(3) A registrar shall be assigned to each district, and a divisional registrar to one or more registration divisions, by direction of the Commissioner.

(4) Forthwith upon their appointment every district supervisor, registrar, deputy registrar and divisional registrar, shall take and subscribe the oath of office.

(5) Every oath under the preceding subsection shall in the case of a district supervisor, registrar or deputy registrar be taken and subscribed before the Commissioner, and in the case of a divisional registrar, before any registrar.

(6) Every oath administered by a registrar under subsection (5) shall be transmitted by him to the Commissioner.

PART III
REGISTRATION

Registration districts and registration divisions.
[12 of 1996]
[15 of 2000].

5. (1) Guyana shall be divided into registration districts having such boundaries, and distinguished by such names, as shall be specified by order of the President.

(2) The districts shall be subdivided into registration divisions having such boundaries, and distinguished by such numbers, as the Commissioner, with the approval of the Commission may appoint.

Registration of persons.
[12 of 1996]
[6 of 1997]
[5 of 2000].

6. (1) It shall be lawful for the Commission by order from time to time to appoint a date with reference to which persons to whom the order applies shall be registered, a day on which the registration of such persons upon their application therefore pursuant to the order shall begin and a day on which such registration shall end.

(2) Subject to subsection (3), such order shall apply to all persons who at the said date have attained such age as shall be specified in the order and who at that date –

(a) are resident in Guyana; or

(b) have such other connection with Guyana as may be specified in the order.

(3) Any such order may exclude from its application any person or class of persons.

(4) Every divisional registrar shall, by house to house visits within the registration division assigned to him and in such other manner (if any) as is prescribed, obtain in so far as practicable the application for registration of every persons eligible therefore and resident at the qualifying date in that division:

Provided that –

(a) the Commissioner may establish an office situated at such place in any district, and at which there shall be received the applications for registration of persons who are at the qualifying date resident therein or in such part thereof, as he may specify by notice published in the *Gazette* and, subject to anything to the contrary provided by regulations, no divisional registrar is required to visit houses in any district or part thereof (as the case may be) in relation to which an office is so established;

(b) persons to whom an order applies under subsection (2)(b) may apply for registration in such manner as may be prescribed.

(5) The parent or guardian of any child who has not attained the age of fourteen years and is eligible for registration may apply therefore on his behalf.

(6) Every person who refuses to make application for registration to the divisional registrar for any registration division in the prescribed manner, or fails without reasonable excuse (the proof whereof shall be upon him) so to do at any office established under proviso (a) to subsection (4) for the purpose, or who, being the parent or guardian of any child under the age of fourteen years, refuses to make such an application on his behalf, or fails as aforesaid so to do at any such office, shall, if the eligibility of such person or child (as the case may be) for registration and his residence in the registration division on the qualifying date are proved to the satisfaction of the court, be liable on summary conviction to a fine of sixteen thousand two hundred and fifty dollars or to imprisonment for six months.

(7) At the trial of an offence under the preceding subsection it shall be deemed a defence to prove that, before the hearing, the person charged with the offence paid a penalty therefore of three thousand two hundred and fifty dollars to the registrar of the district in reference to which the offence was committed; and every registrar shall be accountable to the Commissioner for all moneys received by him in pursuance of this subsection:

Provided that, notwithstanding anything provided in the foregoing provisions of this section, the court may, upon such proof, order the person to apply (as nearly as may be in the manner provided by this Act and any regulations) for registration to the divisional registrar at such place and within such time, prior to the expiration of the period (if any) prescribed under section 14(1), as shall be specified in the order and, if the said person fails to comply with such order he shall be guilty of an offence and shall be liable on summary conviction to a fine of sixteen thousand two hundred and fifty dollars and to imprisonment for six months.

Registration cards.

7. (1) A registration card shall be prepared in not less than duplicate for the registration of a person under this Act.

(2) For the purposes of the preparation as mentioned in the preceding subsection of a registration card for the registration of any person, it shall be lawful to make such amendments as are necessary to bring into conformity with subsection (3), in relation to such registration, any card prepared in conformity with subsection (1) for any previous registration of that person; and any card so amended for the purpose of the registration of any person shall be deemed to have been prepared therefor in conformity with subsection (1).

(3) A registration card shall contain such matters and particulars as may be prescribed.

Cancellation and alteration of regisgtration.

8. Without prejudice to the provisions of section 26(6), the registration of a person may be cancelled or altered in accordance with any regulations made in that behalf.

Registers.
[12 of 1996]
[15 of 2000].

9. (1) The Commissioner shall establish a central register which shall consist of the originals of the registration cards of all persons registered under this Act or such copies thereof prepared in conformity with section 7(1) as may be prescribed by the Commission.

(2) Every registrar shall establish for each registration division in his district a divisional registrar which shall consist of the duplicate registration cards of all persons registered under this Act as resident in that registration division or such other copies thereof prepared in conformity with section 7(1) as may be prescribed.

Adaptation of registers on change in districts or registration divisions.

10. Where any change is made in the number or the boundaries of districts or registration divisions, the Commissioner in consultation with the registrar of any district affected thereby shall combine or divide any registers or transfer registration cards from one register to another or make such other adjustments in the registers affected as are rendered necessary by the changes.

Registration to be in one registration division.

11. (1) No person shall be registered in more than one divisional register or more than once in any register established under section 9.

(2) A person resident at the qualifying date in more than one registration division may not apply to be registered in reference to more than one such division and, where a refusal to apply to the divisional registrar of any such division for such person's registration, together with his decision in writing (made on his behalf by his parent or guardian, in the case of a child under the age of fourteen years) to be registered in reference to any other such division, has been communicated to such divisional registrar, section 6(6) shall not apply, in relation to such person's registration, except with reference to his residence in that other division.

12. **[Repealed by Act No.15 of 2000].**

Power of Commissioner to require information.

13. (1) Without prejudice to any powers of a registrar or divisional registrar under this Act or any regulations, the Commissioner or any officer duly authorised by him in that behalf may by notice require any person, within such time and in such manner as may be specified in such notice, to furnish such information as may be or become relevant to the registration, or the cancellation or alteration of the registration, of a person under this Act.

(2) Any person who, without reasonable cause (the burden of proof whereof shall lie upon him), fails to comply with any requirement under subsection (1), shall be liable on summary conviction to a fine of sixteen thousand two hundred and fifty dollars and to imprisonment for six months.

Preparation of preliminary lists. [7 of 1973] [15 of 2000].

14. (1) After the day appointed under section 6(1) for the end of the registration of applicants for the purposes of any order the Commission shall direct the Commissioner to prepare a preliminary list in which he shall enter the full name, the address, the occupation and the serial number on the registration card of every person registered for those purposes who is qualified for registration, with reference to such date, being not later than the qualifying date, as may be appointed in such directions, as an elector for elections to the National Assembly, or who belongs to such other class of persons as may instead be prescribed for the time being.

(2) A sufficient number of copies of the preliminary list, in so far as it comprises entries relating to persons resident in each registration division of any district, shall be certified and sent to the registrar for such district by the Commissioner, and the registrar shall transmit four of such copies to the division registrar for that division.

Publication of preliminary lists and claims and objections in respect thereof. [7 of 1973] [15 of 2000].

15. (1) On the prescribed day, the Commissioner shall cause a copy of the preliminary list prepared under section 14(1) to be affixed to such buildings as the Commission shall appoint by notice published in the *Gazette*, and every such divisional registrar as may have received copies of any list pursuant to section 14(2) shall cause a copy of such list to be affixed to each of not less than two buildings in his registration division, together with a notice to submit within the prescribed times claims and objections in respect of entries in the list a copy of which the Commissioner or divisional registrar, as the case may be, has caused to be affixed as aforesaid.

(2) Claims and objections under subsection (1) shall be made in the prescribed manner.

(3) Such claims and objections shall be determined by the registrar, in the case of claims and objections that may affect any list copies of which have been received as mentioned in subsection (1) from him, and by the Deputy Commissioner in any other case.

(4) Decisions by the Deputy Commissioner or by a registrar under subsection (3) shall be subject to appeal to the Commissioner, whose decision shall be final.

(5) Subject as may be prescribed, the Commissioner, the Deputy Commissioner and every registrar shall regulate his own procedure in determining claims and objections under any of the provisions of subsections (3) and (4).

(6) The Commissioner shall cause to be made to the central and divisional registers such alterations as may be required to give effect to the decisions on claims and objections.

PART IV
GENERAL

Supervision by Elections Commission. [O. 80/1980] [15 of 2000].

c. 1:01

16. (1) For the purpose of securing the registration of persons eligible therefor under any order made in pursuance of section 6 and who are qualified to be registered as electors for elections to the National Assembly and of ensuring the effectiveness of the central and divisional registers (in so far as such persons are registered therein) as registers of such electors, registration pursuant to this Act shall be under the general direction and supervision of the Elections Commission; and, accordingly, article 162 of the Constitution shall apply to this Act.

(2) For the avoidance of doubt, it is hereby declared that, for the purposes of this section and any regulations relating to the Elections Commission under section 19(3)(d) or (e), the Elections Commission shall have the like powers, privileges and authority as are conferred on, and may exercise them and otherwise act in the like manner as is provided in relation to, that Commission by article 119 of the Constitution.

Statistics.

17. The Minister responsible for statistics as for the time being assigned may direct the Commissioner to cause any matters or particulars contained in any register established under section 9 to be compiled and tabulated, or to cause any such compilation or tabulation or abstracts thereof or extracts therefrom to be published, with or without observations, for statistical purposes in such manner as the said Minister thinks fit; and the Commissioner shall comply with any such directions:

Provided that no publication, or report issued in respect of anything done, in compliance with any such directions as aforesaid shall contain any matters or particulars comprised in any individual registration card so arranged as to enable their identification as being matters or particulars pertaining to any individual person, except with his previous consent in writing.

Expenses in carrying out this Act.

18. There shall be defrayed out of moneys provided by Parliament for the purpose, all expenses incurred in the execution of the provisions of this Act and any regulations and not otherwise lawfully charged on the Consolidation Fund.

Regulations. [12 of 1996] [15 of 2000].

19. (1) Subject to negative resolution of the National Assembly, the Commission may, make regulations -

(a) prescribing remuneration and allowances to be paid to persons appointed under sections 3 and 4;

(b) imposing duties upon applicants for registration pursuant to this Act;

(c) assigning functions to persons employed for the purposes of this Act;

(d) prescribing any such forms as are referred to in section 3(3)(a);

(e) prescribing the grounds on which claims and objections may be made under section 15;

(f) providing for the extension (whether before or after the expiration) of any time ending with a prescribed day, or as otherwise prescribed, within which anything is required by or under this Act to be done;

(g) providing for the revision, with reference to such date as the Commission may from time to time appoint, of the central and divisional registers by way of the preparation and publication of preliminary lists, to which sections 14 and 15 shall apply ***mutatis mutandis*** and, in particular, with the following modification, that is to say, the substitution of references to the said date for the references in section 14(1) to the qualifying date;

(h) prescribing anything to be prescribed under this Act;

(i) generally for the better carrying out of the provisions of this Act.

(2) Any regulation may impose liability to a fine not exceeding five thousand dollars, or imprisonment for a term not exceeding six months, on summary conviction of the breach of any regulation.

(3) Without prejudice to the generality of the foregoing provisions of this section, regulations may -

(a) make provision for specified cases or classes of cases defined by reference to any circumstances specified therein, including provision having due effect outside Guyana;

(b) make different provisions for different cases or classes of cases defined as aforesaid;

(c) impose conditions;

(d) require acts or things to be performed or done to the satisfaction of the Elections Commission or any person referred to in subsection 1(c);

(e) empower person or the Elections Commission, to require acts or things to be performed or done or prohibit acts or things from being performed or done;

(f) prescribe periods or dates within or on which acts or things shall be performed or done or conditions shall be fulfilled;

(g) provide for appeal against any requirement or prohibition by the Commission or any person as aforesaid under paragraph (e).

PART V
MISCELLANEOUS OFFENCES

Breach of duty.
[12 of 1996]
[15 of 2000].

20. (1) Every officer required to take the oath of office who -

(a) willfully or without reasonable excuse omits to register any person eligible in that behalf;

(b) willfully or without reasonable excuse enters in any register established under section 9 the registration card of any person who is not eligible to be registered or the registration card of any fictitious or non-existent person;

(c) willfully or without reasonable excuse enters any false or incorrect matter or thing upon a registration card or an identification card;

(d) willfully or without reasonable excuse omits to enter upon a registration card or in any divisional register any relevant matter or thing that he knows or reasonably believes to be true; or

(e) willfully or negligently otherwise fails in any material respect to perform the undertaking given by him in the oath of office,

shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months. In this subsection, reference to a registration card includes reference to any copy thereof prepared under section 7(1).

(2) If any person, being employed under any officer mentioned in subsection (1), is guilty of any wilful or negligent act or omission in material breach of his duty imposed by this Act or any regulations, he shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

(3) An action for damages does not lie in respect of the breach of any undertaking or duty referred to in the preceding subsections of this section.

Illegal registration. [12 of 1996] [15 of 2000].

21. Every person who procures, or induces another person to procure, his registration in more than one divisional register or more than once in any register established under section 9 shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

Destroying or defacing identification cards or other documents. [12 of 1996] [15 of 2000].

22. Every person who without lawful authority, the proof thereof shall lie upon him -

(a) wilfully destroys, mutilates, defaces or makes any alteration to an identification card; or

(b) destroys, mutilates, defaces or removes, or makes any alteration in the central register or any divisional register or any notice published in pursuance of this Act or any document or copy thereof that has been made available for inspection by the public in pursuance of this Act,

shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

Making false objection or statement. [12 of 1996] [15 of 2000].

23. (1) Every person who, upon any grounds that he knows or has reasonable grounds to believe to be false, objects under section 15 to any entry in a list, shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

(2) Every person who knowingly makes a false statement for the purpose of being registered, or of remaining registered, shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

Selling, purchasing or pledging identification cards. [12 of 1996] [15 of 2000].

24. Every person who sells or attempts to sell, or purchases or attempts to purchase, or pledges or attempts to pledge, or receives by way of pledge in any manner whatsoever an identification card shall be liable on summary conviction to a fine of two thousand dollars and to imprisonment for three months.

False registration cards and identification cards.
[12 of 1996]
[15 of 2000].

25. (1) Every person who, with intent to deceive, forges or counterfeits any registration card or identification card, or utters any identification card knowing it to be forged, shall be guilty of felony and shall be liable on conviction on indictment for five years.

c. 8:01

(2) In subsection (1), references to forgery and a registration card shall be construed according to the meanings assigned thereto by section 240 of the Criminal Law (Offences) Act and section 20(1), respectively.

Personation of officers.
[12 of 1996]
[15 of 2000].

26. Every person who assumes, either in whole or in part, the name, designation or description of any person appointed under section 3 or 4, or appointed as a scrutineer, to which he is not entitled, for the purpose of registering any person under this Act or for any other purpose in connection therewith or of doing any other act which he would not by law be entitled to do on his own authority, shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

Divulging and obtaining information without lawful authority.
[12 of 1996]
[15 of 2000].

27. If any person -

(a) having been employed for the purposes of this Act, without lawful authority publishes or communicates to any person otherwise than in the ordinary course of such employment any information acquired by him in the course of his employment, or

(b) having possession of any information which to his knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any other person, or

(c) in the pretended performance of duties under this Act or any regulations obtains, or seeks to obtain, information which he is not authorised to obtain,

he shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

s. 2

SCHEDULE

FORM I

OATH OF OFFICE

I, ……do swear [or solemnly affirm] that I will faithfully execute the office of…….. In accordance with the National Registration Act, and any regulations made thereunder. So help me God [To be omitted in affirmation].

FORM 2

GUYANA IDENTIFICATION CARD
Identity No.

Surname
Forenames

Sex
Date of Birth
Height **cm**
Colour of Eyes
Distinguishing Marks
Nationality

(photo)

Date of Issue

Signature_____
Facsimile Signature

Note:

Forenames is a concatenation of first name and middle names

G U Y A N A

IDENTIFICATION CARD

Commissioner, National Registration

END OF: NATIONAL REGISTRATION ACT, CAP. 19:08.

NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

CHAPTER 19:08

S11

NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

ARRANGEMENT OF REGULATIONS

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S**CHEDULE** - Forms

[Reg. 16/1967]
[2/1968]
[6/1968]
[26/1968]
[10/1969]
[7/1973]
[15/1973]

NATIONAL REGISTRATION (RESIDENTS) REGULATIONS[1]

Made under section 19

Citation.

1. These Regulations may be cited as the National Registration (Residents) Regulations.

Interpretation.
[Reg. 7/1973].

2. (1) In these Regulations-

"application" means an application for registration;

"Form" means Form in the Schedule;

"identity number" - **[Repealed by Act No.15 of 2000].**

"list' means a preliminary list of persons prepared under section 14 and includes any list affixed under subsection (1) of section 15;

"registered" means registered under the Act;

"registrant" means any person whose registration is allowed by a divisional registrar;

"registration office" means the office of a registrar, deputy registrar or divisional registrar;

"section" means a section of the Act.

*Nothing in these Regulations are to apply to matters provided for in the National Registration Regulations (No. 6/1968, page 79 below); see regulation 32 of the latter Regulations.

L.R.O. 1/1975

(2) The provisions of section 2(2) shall, as they apply in relation to a person's residence, apply in relation to a person's other particulars required for his application and registration card, and these Regulations shall be construed accordingly.

(3) In these Regulations reference to a qualifying date in relation to the preparation or revision of a preliminary list is a reference to such date as may be appointed by directions under section 14(1).

Division of district into registration divisions.

3. (1) In determining the boundaries of registration divisions the Commissioner shall have regard to geographical and other factors which may affect facility of registration or communications within such registration divisions.

(2) The Commissioner may from time to time increase or decrease the number of registration divisions within a registration district and vary the boundaries of any such registration division.

(3) Where the Commissioner makes any change in the number or boundaries of registration divisions within any district, he shall direct the registrar of such district to make the requisite adjustments to the divisional registers and notify such registered persons as may be affected by the change.

Registration offices.

4. (1) Registrars shall use as their offices for the performance of duties assigned to them by these Regulations such places as may be appointed by the Commissioner, who may also, if he thinks fit, appoint a place for use as aforesaid by any deputy registrar or divisional registrar.

(2) The Commissioner shall cause to be published in the *Gazette* and in a newspaper circulating in Guyana the addresses of the registration offices.

Supply of lists of cancellations and registered persons.

5. The Commissioner shall from time to time communicate to every registrar the names, addresses, occupations and identity numbers of all persons-

(a) who are registered in the central register;

(b) whose registrations have been cancelled, and the dates of such cancellation.

Manner of application. [Reg. 2/1968].

6. (1) A divisional registrar shall tender application forms and receive applications when visiting houses under section 6(4):

Provided that -

(a) applications for the registration of persons referred to in proviso (a) to section 6(4) and who are resident at the qualifying date in any registration division may be made to the divisional registrar therefor, who shall furnish application forms to such applicants, at the office established for the purpose under that proviso;

(b) if the divisional registrar is satisfied that it is unlikely to be practicable to obtain any application in accordance with the foregoing provisions of this paragraph, he may obtain the application at such place within his registration division as he may reasonably choose to tender an application form for the purpose.

(2) Every person making any such application as aforesaid shall-

Form 1

(a) furnish the particulars regarding himself as at the qualifying date which are required for the purpose of completing Form 1;

(b) furnish such documentary or other proof of any of the particulars referred to in sub-paragraph (a) as the divisional registrar may in any particular case reasonably require to satisfy him of the truth thereof:

Provided that where the person fails to furnish such documentary or other proof, if required in respect of the date of his birth, as is to the satisfaction of the divisional registrar, the divisional registrar shall, from the person's appearance or such other evidence as the divisional registrar deems sufficient, determine the person's age at the qualifying date and, if a registration card is prepared for him, enter on such card, in place of the said date, a note of that age as having been determined by the divisional registrar;

(c) comply with such requirements of the divisional registrar as may be reasonably necessary for the measurement and recording of his height;

(d) comply with such requirements of the divisional registrar as may be reasonably necessary for the taking and recording of his left thumb print or, in case that is not practicable, of some other single finger print, a note being made in such case by the divisional registrar to indicate which of the applicant's fingers is so printed.

(e) answer any questions which the divisional registrar may, in any particular case, reasonably consider necessary to put for the purpose of enabling him to decide whether the applicant is eligible to be registered as resident in the divisional registrar's registration division at the qualifying date.

Form 1

(3) Every application under this regulation shall-

(a) be in Form 1;
(b) be in duplicate;
(c) subject to paragraph (4), be completed on the part of the applicant in the presence of the division registrar;
(d) subject to regulation 10, be signed by the applicant; and
(e) have a printed serial number,

and the applicant shall be classified therein as Category A, in any case where his particulars are such as to qualify him for electoral registration as mentioned in section 14(1), and as Category B in any other case.

(4) The divisional registrar may prepare the application of any person who is unable to read or write.

Allowance, disallowance and election in respect of registration.

7. (1) If a divisional registrar, on receipt of an application for the registration in reference to his registration division of any person, is satisfied that there is no previous application by that person for such registration with reference to the qualifying date and that the application so received may be granted, the divisional registrar shall cause a registration card and an identification card to be prepared for such person and signed by him, respectively, in accordance with these Regulations.

Form 2

(2) If the divisional registrar is not satisfied as mentioned in paragraph (1) of this regulation he shall cancel the person's application by writing thereon the word "disallowed", issue to him a notice of disallowance in Form 2 and send a copy of such notice to the registrar for the district comprising the said registration division.

(3) Where a person by communication of his decision in writing to the divisional registrar in accordance with section 11(2), elects to be registered in reference to any registration division, the divisional registrar shall transmit such communication to the registrar to whom the divisional registrar is subordinate, and the registrar shall transmit a copy thereof to such other registrar (if any) as has been assigned to the district comprising that registration division.

Registration cards. Form 3.

8. (1) The registration card shall, in Form 3 and subject to the requirements thereof, be prepared in triplicate:

Provided that, where the front of any card is incapable of accommodating anything required to be entered therein, the required entry shall be made on the back of the card. A divisional registrar shall initial every entry made by him under this proviso and, subject to regulation 10, shall require every registrant of whom particulars are contained in any such entry to sign a statement below it that the entry is true to his knowledge.

(2) Every registration card shall have a printed serial number thereon.

Registration cards to be read over and signed.

9. (1) After the applicant's particulars as at the qualifying date which are required under the preceding regulation by the said form have been entered therein, the divisional registrar shall sign it and, subject to regulation 10, shall require him to read his registration card, for the purpose of ensuring that its contents are true and correct, and sign it as a registrant.

(2) The divisional registrar shall take and record on the original and duplicate registration cards the left thumb print of the registrant or, if that is not practicable, some other single finger print with a note indicating which of the registrant's other fingers is so printed, and the registrant shall comply with such requirements of the divisional registrar as may be reasonably necessary for the purpose.

(3) Subject to regulation 18, the divisional registrar shall give the triplicate copy of the registration card to the registrant.

Persons unable to read or write or otherwise incapacitated.

10. (1) Where a person is unable to read, the divisional registrar shall read over to him, before such witness (if any) of his choice as is present, the contents of his application form and registration card for the purpose of ensuring that the contents are true and correct.

(2) Where the person is unable to sign his name, the divisional registrar shall take and record, in place of such signature, the person's left thumb print or, if that is not practicable, some other single finger print with a note indicating which of the person's other fingers is so printed, and shall initial that print; and the persons shall comply with such requirements of the divisional registrar as may be reasonably necessary for the purpose.

(3) If by reason of any physical defect or injury it is impracticable to comply with any requirement that some finger of a person (other than his left thumb) be printed under the

foregoing provisions of these Regulations, the divisional registrar shall enter and sign a note to that effect, and of the reason, in place of such print.

Identification card. Form 4.

11.(1) A registrant shall in the presence of the divisional registrar sign a blank identification card which shall be in Form 4.

(2) Regulation 10(2) and (3) shall apply ***mutatis mutandis*** to the signing of an identification card under paragraph (1).

Spoilt and disallowed application forms and registration cards.

12. (1) A divisional registrar, if satisfied that the application form or a registration card of any person cannot conveniently be used or that any such form or card, having been partly prepared, cannot conveniently be completed, shall cancel it by writing the word "spoilt" thereon, without prejudice to the completion of another such form or card in respect of that person.

(2) If, before completion of an application form or registration card which has been partly prepared, the divisional registrar is satisfied that he should issue, or ought to have issued, a notice of disallowance under the provisions of regulation 7(2), he shall cancel such form or card, as the case may be, and thereupon comply with those provisions in so far as applicable.

Correction of mistakes.

13. (1) Any clerical or other error or omission in the application or registration card of any person which has been caused by inadvertence may be corrected or supplied by way of the requisite alteration being made thereto either by the divisional registrar having for the time being such application or card, or by the registrar of the district in reference to which such person's application or registration was made or effected, as the case may be.

(2) Every alteration made pursuant to this regulation by a registrar or divisional registrar shall be initialled by him; and, if made by a divisional registrar, the alteration shall be intialled by the person to whom the application or card relates, who shall, in addition, initial such corresponding alteration to the duplicate or the duplicate and triplicate of the application or card (as the case may be) as shall also be made by the divisional registrar.

(3) Regulation 10 shall apply ***mutatis mutandis*** in relation to alterations made by a divisional registrar under this regulation and their initialling by the said person as that regulation applies in relation to the contents of a form to which it refers and signature thereof.

(4) Where the registrar makes any alteration under this regulation, he shall give to the said person notice thereof, which may be sent by registered post to his last known address.

(5) Reference in the foregoing provisions of this regulation to the making by registrar of any alteration to an application or registration card shall be construed to include reference to his making the same in his files or divisional register, and to his causing it to be made by way of notification to the Commissioner under the next following paragraph, to the original, duplicate and any triplicate copy thereof.

(6) Upon notification of any alteration by a registrar pursuant to this regulation, the Commissioner shall make or cause to be made the like alteration to any original or copy of the relevant application or registration card which is kept by him; and the Commissioner instead of the registrar (notwithstanding the provisions of any regulation), shall initial every alteration made under this paragraph.

(7) Where the description of the address of any person has been altered by lawful authority, the foregoing provisions of this regulation shall apply to any resulting misdescription of such address in his application and registration card as they apply to any error mentioned in paragraph (1).

Claims for corrections.

14. (1) Any person registered for the purposes of any order made under section 6(1)-

(a) being a person who believes that any error or omission has been made in his application or registration card, may, on or before the qualifying date or the day appointed by such order for the end of the registration of applicants, which ever is later, submit a claim to the registrar in whose divisional register the person is registered; or

(b) being a person who desires to notify the registrar aforesaid of any changes occurring after the qualifying date in the particulars recorded by way of such registration, may, after the expiration of such period following the certification of revised lists of persons registered for the said purposes as is mentioned in regulation 37, submit a claim to the registrar,

to make the requisite alteration:

Provided that where the alteration is claimed under subparagraph (a) in consequence of the person's change of residence from one district to another on or before the qualifying date, or under sub paragraph (b) in consequence of such a change after the said date, the claim shall be submitted to the registrar for the latter district.

Form 5

(2) Any such claim by a person registered for the purposes of any order as aforesaid shall be in writing in Form 5 and, in the case of a claim under paragraph (1) (a) in respect of any alteration which entails a change of the claimant's registered name, address, occupation, identity number or category mentioned in regulation 6(3), shall be determined under paragraph (3) or (4) of this regulation, so that the alteration (if any) required in consequence of such determination may be made, prior to the completion of preparation of the list of persons registered for the purposes of the said order.

(3) The registrar may allow a claim made under paragraph (1) and, in that event, he shall make the requisite alteration to the application form or the registration card, as the case may require, initial such alteration and, in the case of a change referred to in subparagraph (b) of that paragraph, insert the date of such change.

(4) A registrar who is not satisfied that any claim made under the said paragraph should be allowed shall hold a public enquiry to determine the matter:

Provided that in the case of a claim under paragraph (1) (a), whenever such registrar is satisfied that the matter may be determined under regulation 27 in the event of a claim being made under regulation 23(1) for the purpose, he shall, without prejudice to the making of such a claim, disallow the first-mentioned claim and shall notify the claimant accordingly.

(5) Regulation 13(4), (5) and (6), and regulations 27 to 33 (inclusive), in so far as applicable, shall apply *mutatis mutandis* in relation to an alteration in accordance with paragraph (3), and an enquiry and decision under paragraph (4), respectively, of this regulation.

(6) Where the registrar allows a claim in respect of a change of residence and such change is from one registration division to another within his district he shall make the necessary transfers in his files and divisional registers and where such change is to his district from another district, he shall arrange for the necessary transfers with the registrar of the last-mentioned district.

(7) Where the registrar allows a claim under paragraph (1)(a) in respect of a change of the name of any person, he shall make or cause to be made the requisite alteration to such person's application and shall cause a new registration card to be prepared for him and shall give any directions which he considers expedient for the purpose.

(8) Where any claim in respect of a registration card is allowed and such card is incapable of accommodating the requisite alteration, the registrar shall attach to the said card a continuation registration card bearing the same identity number as the first-mentioned card and make such alteration on the continuation card; and reference in paragraph (5) to any alteration includes a reference to any such attachment.

Documents to be safely kept and delivered to registrar by divisional registrar.

15. (1) Every divisional registrar shall keep in a safe place and, subject to these Regulations, otherwise treat as secret and confidential-

(a) application forms;
(b) identification cards;
(c) notices of disallowance of registration; and
(d) acknowledgments under paragraph (1) of regulation 17,

received completed or otherwise used by him in the performance of his duties.

(2) Subject to these Regulations, a divisional registrar shall, at such times as the Commissioner may direct, deliver to the appropriate registrar all cards, forms, and other documents that have been received, completed or otherwise used by the divisional registrar in the performance of his duties, and all such documents which were required to be treated by him in the manner provided by the preceding paragraph shall be treated by the registrar in like manner.

Performance of one divisional registrar's function by another.

16. Within any registration division, the divisional registrar therefor acting on behalf of any other divisional registrar may, in such circumstances as the Commissioner may direct, obtain applications for registration in reference to such other divisional registrar's registration division and perform his functions in connection with any such applications and the applicants' registration and identification cards under regulations 6 to 13 (inclusive), 15 and 17, which shall, in so far as applicable, have effect ***mutatis mutandis*** for the purposes of this regulation.

Photograph of registrant.

17. (1) After giving to any registrant the triplicate copy of his registration card as required by regulation 9(3), the divisional registrar shall direct the registrant to deliver the said copy to an official photographer within such time and at such place as shall be specified in such direction; and every registrant so directed shall, in writing under his hand, acknowledge in the presence of the divisional registrar such direction.

(2) Regulation 10 shall ***mutatis mutandis*** apply in relation to such acknowledgement and signature thereof as it applies in relation to a form to which it refers and signature thereof.

(3) Subject to paragraph (6), the photographer shall upon delivery to him of the triplicate copy of a registrant's registration card, require the registrant to sign his name on the said copy and take and record his left thumb print thereon or, if that is not practicable, some other single finger print with a note indicating which of the registrant's other fingers is so printed.

(4) The photographer shall thereafter photograph such registrant, his identify number having been set up on the camera so as to appear on such photograph.

(5) The photographer, after signing, detaching and giving to such registrant the counterfoil of the said copy, shall sent it and the exposed film of his photograph to the commissioner.

(6) Regulation 10(2) and (3) shall ***mutatis mutandis***, apply to the photographer as they apply to the divisional registrar.

Exemption from taking of photograph.

18. (1) Where a registrant objects to the taking of his photograph for the reason that his face is disfigured or on any other grounds he may apply for exemption from compliance with the requirements of regulation 17.

For 6.

(2) An application under this regulation shall be in Form 6 and shall be delivered to the divisional registrar on the occasion of the allowance of the applicant's registration.

(3) On receipt of such application the divisional registrar shall endorse his recommendation thereon and forward it for determination to the registrar to whom the divisional registrar is subordinate; and the divisional registrar shall not give to the registrant the triplicate copy of his registration card as required by regulation 9(3) unless and until the registrar refuses such application.

(4) If the registrar grants the application he shall endorse on the application and in the space for the photograph on the identification card and the registration card of the registrant the words "Exempted from being photographed" together with his signature and shall record in such place as shall be reserved for remarks on the back of the registration card the reason for such exemption.

Power of Minister to exempt persons from taking of photograph. [Reg. 26/1968].

19. (1) The Minister may, in his discretion, exempt any person by notice served on him by registered post, or any class of persons by notice published in the *Gazette*, from compliance with any of the requirements of regulation 9(3) or regulation 17.

(2) Where any person is exempted under paragraph (1) from compliance with any directions given to him by a divisional registrar under regulation 17, the Commissioner may direct the divisional registrar to require the surrender to him by such person of the triplicate copy of his registration card.

(3) Regulations 15 and 19 shall, ***mutatis mutandis*** apply in relation to all triplicate copies of registration cards retained under paragraph (1), or obtained under paragraph (2) by divisional registrars.

(4) The registrar shall endorse on the application and in the space for the photograph on the identification card and the registration card of a person exempted under this regulation the words "Exempted from being photographed", together with his signature.

Delivery of documents by registrar to Commissioner.

20. (1) A registrar shall, at such times as the Commissioner may direct, transmit to the Commissioner, who shall treat in like manner as provided by regulation 15(1), the original applications, registration cards and identification cards received from divisional registrars or completed by the registrar in the performance of his duties under these Regulations and such triplicate copies of registration cards as he may have so received under regulation 15(2) and by virtue of regulation 18, but the registrar shall retain the duplicate copies of all applications and registration cards.

Completion of registration card and identification card by Commissioner.

(2) [Repealed by Act No.15 of 2000].

Remedy in respect of undelivered, lost or incorrect documents or films.

21. (1) Subject to regulation 42, the Commissioner may direct the appropriate registrar, deputy registrar, divisional registrar or official photographer, as the case may require, where a document or film sent or required to be sent to the commissioner under these Regulations is not received by him or is lost, mutilated, defaced or destroyed or there is any error or deficiency therein, to remedy such non-delivery, loss, mutilation, defacement, destruction, error or deficiency, as the case may be.

(2) Such remedy shall be effected in conformity with these Regulations, ***mutatis mutandis***, in so far as applicable for the purpose.

(3) A triplicate copy which any person is directed under regulation 17(1) to deliver to an official photographer shall, for the purposes of paragraph (1), be deemed to be a document required to be sent to the Commissioner under these Regulations.

Time for preparing and posting up preliminary lists. [Reg. 7/1973].

22. (1) Lists shall be affixed under section 15(1) on the second day following that on which directions have been given under section 14 for the preparation of the lists.

(2) Residents shall, under section 14(1), be listed under separate heads with reference to the respective registration divisions in which they are registered as residing on the qualifying date.

Claims and objections. [Reg. 7/1973].

23. (1) A claim determinable by a registrar under section 15(3) may be made on the ground that-

(a) the claimant, not having been listed under any head mentioned in regulation 22(2), should be listed as resident in any registration division comprised in the registrar's district-

(i) on account of the claimant's qualifications as mentioned in section 14(1) or his belonging to any class referred to therein, whichever is required under that subsection; and

(ii) by reason of his satisfying the qualification as to residence in such division on the qualifying date;

(b) the claimant is listed as aforesaid by way of an entry which is precise or incorrect and should be rectified.

(2) An objection determinable by a registrar under section 15(3) may be made on the ground that-

(a) the entry with respect to any person listed as resident in any registration division comprised in the registrar's district should not have been made; or

(b) the entry claimed by any person whose claim is determinable by the registrar, pursuant to paragraph (1)(a) of this regulation, should not be made, on account of such person not being qualified as mentioned in section 14(1) or not belonging to any class referred to therein, whichever is required thereunder, or not having been eligible to be, for the purposes mentioned in that subsection, registered as resident on the qualifying date in the registration division in question, provided (in the case of every such objection as aforesaid) that the objector is listed as resident in such registration division.

Form 7. Form 8. Form 9.

(3) A claim under paragraph (1) (a) or (b) shall be in Form 7 or Form 8, respectively, and an objection under paragraph (2) shall be in Form 9.

(4) Every reference hereinafter in these Regulations to a registrar in relation to a claim or objection made under section 15 shall be construed as including a reference to a deputy registrar.

Submission of claims and objections. [Reg. 7/1973] Reg. 5/1997].

24. (1) Every claim made under regulation 23(1) shall be submitted to the registrar mentioned in such paragraph, and every objection made under regulation 23(2) shall be submitted to the registrar mentioned in that paragraph.

(2) A submission under the preceding paragraph may be made by sending the claim or objection, as the case may be, to the registrar by registered post so as to be received by him within the respective times prescribed by regulation 7.

(3) Notwithstanding anything to the contrary in paragraphs (1) and (2) a claimant referred to in regulation 23 (1)(a) who had not made an application shall deliver his submission to the divisional registrar for transmission to the registrar and at the time of delivery do all such things as are required of a person making application to a divisional

registrar in accordance with regulation 6 and the provisions of that regulation and of regulation 7 shall, subject to the effect of the decision on the submission apply ***mutatis mutandis*** in respect of anything to be done by the claimant by virtue of this paragraph.

Times for submission and publication of claims and objections. [Reg. 7/1973].

25. (1) Every such submission shall be made, in the case of a claim, within eleven days after the day prescribed by regulation 22(1) and, in the case of an objection, within two days after the day prescribed by paragraph (2)(a) of this regulation.

(2) Every registrar shall-

Form 10.

(a) on the first day after the expiration of the time prescribed by paragraph (1) for the submission to him of claims relating to any registration division, cause a list of such claims in Form 10; and

Form 11.
Form 12.

(b) on the first day after the expiration of the time prescribed by paragraph (1) for the submission to him of objections relating to any registration division, cause a list of such objections in Form 11, and a notice in Form 12 of the commencement of the public enquiry mentioned in regulation 26, to be affixed to each of not less than two buildings in such registration division.

Review of registration by registrar.

26. (1) Subject to paragraph (2) of this regulation every registrar shall hold a public enquiry which shall commence not later than the fourteenth day after the expiration of the time referred to in regulation 25(2)(b) and at which claims and objections duly submitted to, and received by, him in pursuance or regulations 23 and 24 and regulation 25(1) shall be investigated and determined.

(2) Every registrar may, without holding a public enquiry, allow claims submitted in accordance with regulation 23 if-

(a) no notice of objection thereto has been submitted; and

(b) he is satisfied that the claim may be duly allowed.

(3) When a registrar allows any claim without holding a public enquiry he shall notify his decision to the Commissioner.

Enquiry by registrar. [Reg. 7/1973] [Reg. 5/1997].

27. (1) The registrar shall give notice of every public enquiry into a claim or objection-

(a) in the case of a claim under regulation 23(1)(a), to the divisional registrar and to any divisional registrar who disallowed the claimant's registration or prepared his registration card in reference to any registration division;

(b) in the case of a claim under regulation 23(1)(b), to any person objecting thereto under regulation 23(2)(b) and to any divisional registrar who disallowed the claimant's registration or prepared his registration card in reference to any registration division;

(c) in the case of an objection, to the claimant or other person to whom the entry objected to relates, and to the divisional registrar who prepared the registration card of such other person (if any); and

(d) to the claimant or objector, as the case may be:

Provided that no failure to give notice of the public enquiry to any party or divisional registrar shall affect the validity of any proceedings at the enquiry or under any of the following provisions of this regulation .

(2) A notice under paragraph (1) to a party shall be given in Form 13 not less than two days before such day as shall be fixed for enquiry into the claim or objection, as the case may be, without prejudice to the registrar's power to adjourn the enquiry as he thinks fit; and any such notice may be given to a party by sending it by registered post to his last known address.

(3) The registrar who shall have all the powers of a magistrate, in relation to the summoning and examining of witnesses, may summon such witnesses and order the production of any document that he may consider necessary.

(4) The registrar shall permit any party or divisional registrar referred to in paragraph (1)(a), (b), (c) or (d), and any witnesses summoned under paragraph (3), to appear before him and be heard.

(5) The registrar may require any person at the enquiry to testify upon oath or affirmation and in such case shall administer the oath or take the affirmation.

(6) The registrar shall make and keep a record of such proceedings at the enquiry, in such form, as the Commissioner shall direct and the record shall show the reasons for the registrar's decision.

(7) Forthwith upon the completion of a public enquiry under regulation 7, the registrar shall inform the Commissioner of his decisions.

(8) Any person who fails without reasonable excuse (the proof whereof shall lie upon him) to comply with any summons, order or requirement of the registrar pursuant to paragraph (3) or (5) or, before the registrar at a public enquiry, makes a statement that he knows or has reasonable grounds to believe to be false, or does not believe to be true, in any material respect shall be liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for six months.

Right of appeal. [Reg. 6/1968].

28. Any party mentioned in regulation 27(4) may appeal from the decision of the registrar to the Commissioner.

Notice of appeal to be served on registrar. [Reg. 5/1997].

29. (1) Any such party desiring to appeal from the decision of a registrar shall, within three days after the date on which the decision was given , serve a written notice of appeal on the registrar specifying the list and entry in respect of which the claim or objection in question was made and the grounds of appeal.

(2) The registrar shall cause such notice of appeal to be forwarded to the Commissioner and a copy thereof to be served on the opposite party, if any, forthwith upon receipt thereof at his registration office.

(3) Every notice of appeal shall be served personally on the Registrar, or any person duly authorized by him to receive such notice at his registration office.

Registrar to furnish statement of facts.

30. (1) The registrar shall forward to the Commissioner a statement of the material facts which in his opinion were established at the hearing of the objection or claim in respect of which an appeal is brought and of his decision upon the whole matter and upon any point specified as a ground of appeal.

(2) The registrar shall furnish the commissioner with such other information in his possession as the commissioner may require.

(3) The Commissioner shall on the application of any other party to the appeal, furnish that party with a copy of the statement of the registrar under paragraph (1)

(4) Where it appears to the registrar from the notices of appeal that any appeals are based on similar grounds he shall so inform the Commissioner and, without prejudice to the generality of the powers conferred upon him by section 15(5), the Commissioner may, if he thinks fit, consolidate such appeals.

Parties to appeal.

31. On any appeal under regulation 28, the registrar and the opposite party, if any, shall be the respondents.

Hearing of appeal.

32. (1) The Commissioner shall give notice of the hearing of an appeal, and of such place as shall be fixed therefor, to each of the parties to the appeal not less than three days before such day as shall be fixed for the hearing, but without prejudice to the Commissioner's power to adjourn the hearing as he thinks fit; and any such notice may be given by sending it by registered post to the party's last known address.

(2) The Commissioner shall permit any party to the appeal to appear before him and be heard.

(3) If, on the day of hearing the appellant does not appear, the matter shall be struck out and the decision of the registrar affirmed.

(4) The Commissioner shall for the purposes of the hearing of any appeal, have the like powers in relation to summoning and examining witnesses, ordering the production of documents, and administering oaths and affirmations, as are vested in a registrar by regulation 27.

(5) Regulation 27(8) shall, *mutatis mutandis*, apply in relation to the Commissioner and the hearing of an appeal as it applies in relation to the registrar and a public enquiry respectively.

(6) The Commissioner shall make and keep a record of such proceedings at the hearing of an appeal, in such form, as he thinks fit and the record shall show the reasons for his decision.

Forfeiture of deposit made in respect of claims, objections and appeals.

33. If a claim or objection made, or an appeal brought, under regulation 23 or 28, respectively, is disallowed, the registrar, in the case of a claim or objection, and the Commissioner, in the case of an appeal, may, if he is of the opinion that the claim or objection or the appeal, as the case may be, was made or brought without reasonable cause, order the deposit accompanying the notice thereof to be forfeited to the government. If no such order is made the deposit shall be refunded.

Commissioner's directions to registrars to rectify registers, cards etc.
[Reg. 6/1968].

34. (1) For the purpose of causing alterations to be made as required by section 15(6) and incidental alterations, the Commissioner shall issue such directions to registrars, whether for the purposes of the registration of successful claimants or the cancellation of any person's registration or the rectification of any registration cards or the transfer from one division register to another of any person's registration successfully objected to in respect of the former but thereupon shown by him to be appropriate for the latter register, or otherwise, as may be requisite.

(2) Such alterations and directions shall be carried out in conformity with these Regulations***, mutatis mutandis***, in so far as applicable for the purpose.

(3) Where, for any such purpose as aforesaid, a person's cards in the central and divisional registers are dealt with in any manner, the original and duplicate of his application shall respectively be dealt with in corresponding manner.

Preparations of revised lists on determination of claims and objections.
[Reg. 6/1968]
[7/1973]
[15/1973].

35. The Commissioner shall revise the list (including that for each registration division) by way of the annexation thereto of supplementary lists in such form as determined by the Commissioner containing all such changes and additions to the list (including that for any registration division) as are necessary from time to time by virtue of the final determination of claims and objections or by virtue of the Commissioner being satisfied that at the time of the publication of the preliminary list entries thereof were omitted and a supplementary list, together with the list or that for any division shall constitute the revised list or that for the respective division, as the case may be, at the date of the latest of such supplementary list.

Certification and publication of revised lists.

36. (1) A sufficient number of copies of the revised list for each registration division comprised in any district shall be certified and sent to the registrar for such district by the Commissioner.

(2) The registrar shall cause a copy of such list to be affixed to each of not less than two buildings in that registration division and notice that a copy thereof is open for inspection at his registration office shall be published in the *Gazette*.

Correction to revised list by Commissioners..

37. If within the period of twenty-one days after he had certified the revised lists, the Commissioner is satisfied that any entry or omission in any list as revised pursuant to regulation 35 is incorrect through inadvertence in the course of such revision, he shall make or cause to be made the requisite correction to that list and such copy thereof as is open for inspection at any registration office and the commissioner shall give to the person to whom such correction relates notice thereof, which may be sent by registered post to his last known address.

Cancellation of registration.

38. (1) A registrar shall cancel the registration of any person if-

(a) the registrar is satisfied that such person is dead;
(b) new registration card is to be prepared for him;
(c) the registrar is directed so to do under regulation 34;
(d) such registration was effected in contravention of section 11 (1);
(e) the registrar is satisfied that such person is not qualified to be registered:

Provided that no cancellation shall be made under this subparagraph after the commencement of the preparation under subsection (1) of section 14 of any list in which the persons should be listed pursuant to such registration.

(2) Where a new registration card is to be prepared for any person, the registrar shall cancel such person's registration card for which the new registration card shall be substituted; and where a person's registration is discovered to have been effected in contravention of section 11(1), the registrar shall cancel the registration card prepared for the purposes of such registration.

(3) The registrar shall give notice to a person whose registration he intends to cancel under paragraph (1) (b), (c), (d), or (e)-

(a) setting out the reason why he intends to cancel such registration;

(b) indicating the time when he intends to cancel such registration; and

(c) requiring such person to produce to the registrar before such time any identification card issued in consequence of such registration.

Form 14.

(4) A notice under paragraph (3) shall be in Form 14 and may be sent by registered post to such person's last known address.

(5) If a person to whom any such notice of intended cancellation under paragraph (1)(d) has been sent satisfies the registrar that the cancellation of his registration is not justified, the registrar shall not cancel the registration, and if so satisfied after he has cancelled the registration he shall restore the registration and make the necessary correction to the registration card.

(6) Where the registrar cancels the registration of any person under this regulation he shall stamp or write the word "cancelled", and date and initial the same, on the face of his registration card and application pertaining to such registration or, in the case of any cancellation under paragraph (1) (b), on the face of the registration card to be replaced.

(7) Regulation 13(5) and (6) shall, *mutatis mutandis*, apply to the stamping or writing of the word "cancelled" and the dating of the same, under the last preceding paragraph, on a registration card and application as they apply to any alteration thereto under that regulation.

c. 12:01.

(8) Every person who is required by virtue of section 10, 12, 14 or 33 of the Deceased Persons Estates' Administration Act to make or cause to be made an inventory shall forthwith, upon becoming so required, transmit to the Commissioner any identification card issued to the deceased, together with notice of his death.

(9) Any person who, without reasonable excuse (the proof whereof shall lie upon him), fails to produce his identification card to the registrar when required to do so under paragraph (3) (c), or contravenes paragraph (8), shall be liable on summary conviction to a fine of one hundred dollars or to imprisonment for three months.

Disposal of disused registration cards and identification cards.

39.(1) The Commissioner and the registrars shall remove cancelled cards from the central and divisional registers, respectively, and shall keep them separately.

(2) The Commissioner and the registrars shall keep such cards for a period of two years or for any greater period that the Commissioner may in special circumstances think fit, and on the expiration of such period, they shall destroy such cards.

(3) Registrars shall send all cards which have been used but have not been completed to the Commissioner who shall keep them in safe custody, and on expiration of one year after the date of their receipt shall destroy them.

(4) The Commissioner shall keep a record of the identify numbers on registration cards destroyed by him under this regulation.

(5) Registrars shall send to the Commissioner such identification cards produced under regulation 38 (3) (c) as were issued to persons whose registration is cancelled, and the Commissioner shall destroy them; and, as soon as the Commissioner shall have satisfied himself that the registration of any person whose identification card has been transmitted under paragraph (8) of that regulation is cancelled, the Commissioner shall destroy such card.

Emigration of persohs.

40. (1) The Chief Immigration Officer shall, from such day as may be appointed by the first order under section 6(1) for the commencement of registration, cause everyone leaving or returning to Guyana to be required to disclose to the best of his knowledge whether he is a registrant or registered person leaving or returning as aforesaid in the course of any change in his residence and, if so, his residential address as shown on his registration card.

(2) The Chief Immigration Officer shall send to the Commissioner once in every three months a report of the names, the dates of departure from Guyana or return to Guyana, as the case may be, and the residential addresses, as disclosed under the preceding paragraph, of all persons who have prior to the date of such report, disclosed any such change as mentioned in that paragraph and whose departure or return on the said dates has not been referred to in any previous report under this paragraph:

Provided that the interval between the dates of any such reports shall be such period as the Commissioner may direct in any particular case and, in the absence of such direction, shall not exceed three months.

(3) The Commissioner shall, in so far as practicable, as certain to his satisfaction whether a change in the residence or domicile of every person named in each report as aforesaid has taken place and, in the event of a change in that person's residence being so ascertained, his new residential address, and the Commissioner, when satisfied that is requisite so to do, shall cause the person's registration to be cancelled under regulation 38(1)(e), or to be altered as if a claim had been made in that behalf under regulation 14(1), as the circumstances permit.

Replacement of identification cards.

41. **[Repealed by Act No.15 of 2000].**

Partial or total loss of registration cards.

42. (1) If an original registration card or the duplicate copy thereof is lost, mutilated, defaced, or destroyed, the Commissioner shall cause to be prepared a photostatic copy from whichever remains intact and that photostatic copy shall, to all intents and purposes, be deemed to replace the lost, mutilated, defaced or destroyed registration card or duplicate copy thereof, as the case may be, and shall be dealt with accordingly.

(2) The Commissioner shall make and sign a certificate on the photostatic copy prepared by under paragraph (1) to the effect that it is a true and correct reproduction.

Forms.

43. (1) Forms prescribed for the purpose of completion by any claimant, objector, or applicant for exemption from being photographed or replacement of his identification card, under these regulations shall be obtainable free of cost at any registration office for that purpose.

(2) Any employee referred to in section 19(1)(c) from whom a form is so obtained for completion by any person as aforesaid shall at his request, if he is unable by reason of illiteracy or physical defect to complete the form without assistance, assist such persons to complete it.

(3) Forms prescribed by these Regulations may be used with such variations and additions, not affecting the substance or calculated to mislead, as the Commissioner considers it expedient to sanction, whether generally or in any particular case, from time to time.

Interpreter.

44. (1) Whenever the Commissioner, a registrar, deputy registrar or divisional registrar in performance of his duties does not understand the language spoken by any person he may appoint an interpreter who shall be the means of communication between him and such person.

Form 16.

(2) An interpreter appointed under this regulation shall take an oath in Form 16.

Authorised disclosures to Police.

45. The Commissioner may authorize the communication or delivery of any information acquired for the purposes of the Act, or of any document wholly or partly prepared for those purposes, to any member of the Police Force for ascertainment or investigation of the commission of any offence under the act or in connection with elections to the National Assembly, and may, for the purposes of the trial of any offence aforesaid, authorized the disclosure or production of any information or document so acquired or prepared.

Indications of regulations to govern execution of Commissioner's directions.

46. The Commissioner may include in any directions given under regulation 21(1) or 34(1) special indication in writing or any provisions of these regulations which shall be observed for the purposes of compliance in any respect with paragraph (2) of either of those regulations and every such indication shall have effect as if provided by that paragraph.

Extension of time. [Reg. 5/1997].

47. (1) Any period, exceeding one day, within which anything is required by the Act to be done may, at any time before or after its expiration, be extended by direction of the Elections Commission issued under the hands of the Chairman of the Elections Commission.

(2) The Elections Commission may extend from day to day, by direction given under the hand of the Chairman of the Elections Commission prior to the expiration of the last-mentioned day in the case of every such extension, the time for doing anything which is required to be done on a day prescribed by these Regulations.

Service of document.

48. Every notice or other document which may, under any provisions of these Regulations, be served on, or given or submitted to, any person by registered post shall also be deemed to be duly served, given or submitted, as the case may be, if delivered to him or (in the case of any officer accommodated under regulation 4(1)) at his registration office by hand.

Deference to authority of Elections Commission. [Reg. 2/1968] [26/1968] c. 1:01

49. In giving effect to the foregoing provisions of these Regulations, such authority of the Elections Commission as may be exercised in pursuance of article 161 of the Constitution and section 16 shall be duly deferred to.

Offences

50. (1) Everyone who-

(a) being an applicant or registrant, without reasonable excuse (the proof whereof shall lie upon him), fails to comply with regulation 6(2) or with any requirement or direction of a divisional registrar under regulation 8,9 or 17 or regulation 6(2) has been entered on his registration regulation 11(1) or to acknowledge under regulation 17 any such direction;

(b) being an applicant or registrant, refuses to receive the triplicate copy of his registration card to be given to him as required by regulation 9(3) or to permit anything to be read over to him under regulation 10(1);

(c) being an applicant or registrant, in the course of compliance with any requirement of a divisional registrar under regulation 9(1) or with regulation 10(1), neglects to point out to the divisional registrar any particular which he knows or has reasonable grounds to believe to be untrue or incorrect, or does not believe to be true and correct, in his application form or registration card, as the case may be;

(d) without reasonable excuse (the proof whereof shall lie upon him), refuses to comply with regulation 13(2) in respect of his application or registration card or the duplicate or triplicate thereof;

(e) makes any claim under regulation 14 or 23, or any application under regulation 18 or regulation 41(1) upon any grounds that he knows or has reasonable grounds to believe to be false;

(f) without reasonable excuse (the proof whereof shall lie upon him), fails, in the course of the preparation of a new registration card for him under regulation 14(7) to comply with any such requirements of a divisional registrar or official photographer with which his compliance is reasonably necessary for the carrying out of any directions given under that paragraph for the purpose of such preparation;

(g) having complied with any direction of a divisional registrar under regulation 17(1), without reasonable excuse (the proof whereof shall lie upon him), fails

to comply with any requirements of the official photographer which it is reasonably necessary that he comply with for the purposes of regulation 17(3) or (4);

(h) in the course of transmission of any identification card to the Commissioner, falsely represents (whether directly or by implication) such transmission to be for the purposes or regulation 38(8);

(i) without reasonable excuse (the proof whereof shall lie upon him) fails to comply with any requirement under regulation 19 or 40(1) or 41(4);

(j) being an interpreter, willfully or negligently fails in any material respect to perform the undertaking given by him under regulation 44 (2),

shall be liable on summary conviction to a fine of two hundred and fifty dollars or imprisonment for sixth months.

(2) For the avoidance of doubt it is hereby declared that no person who is required to furnish any information, particulars or document by or under any such provisions of these Regulations as are referred to in the preceding paragraph complies with such requirement by furnishing any information, particulars or document that he knows or has reasonable grounds to believe to be false, or does not believe to be true or genuine, in any material respect.

(3) Any provision made by paragraph (1) for enforcement of the fulfillment of, or compliance with, any provisions of these Regulations or any direction or requirement for the purposes thereof shall, in relation to the application of those provisions ***mutatis mutandis*** under any other provisions of these Regulations, be construed with such modifications and adaptations as are necessary for like enforcement in the case of such application.

SCHEDULE

FORM I

Reg. 6. ……District Serial No.

R. Div. No.

GUYANA

REGISTRATION APPLICATION

Pursuant to Order No. ……. of 19…..

Name ……

(surname) (other names)

Maiden Name (if married woman) ……..

Address at which resident in Guyana ……..

Are you domiciled in Guyana…… Nationality……

Period of residence in Guyana immediately preceding qualifying date

……..

Date of birth …… . Age last birthday ……

(day) (month) (year)

Place of Birth…….

Sex……Height…….ft.……in……...

Colour of eyes…….

Personal distinguishing marks……..

Marital status ……

Name and address of husband/wife …….

Name of any reputed husband/wife with whom resident …….

……

Occupation……..Industry…….

Employment Status …….(1) Employer
(enter one) (2) Self-employed
(3) Salary/wage earner
(4) Unpaid family worker
(5) Not stated

Economic situation ……..

1. (a) Working
   (b) In a job but not at work
2. Out of employment
3. (a) House duties
   (b) At school
   (c) Retired
   (d) Sick and disabled
   (e) Other (specify)

Average weekly wage/salary …….

Average weekly pension ….....

(other than Gov't old age pension)

Do you suffer from total blindness? …….Total deafness?.....

Are you a deaf mute? ……..

If an Amerindian, is your birth registered?

…….

Passport or travel document number ……...

left thumb/
Finger print†

Signature of applicant…….…….
(A or B)

Category ……Identity number ……

…….
Signature of Divisional Registrar
Date of Divisional Registrar's Signature ……...

† Note to be entered by divisional registrar indicating which finger, if other than left thumb, print taken.

Reg.7.

FORM 2

THE NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

Notice of disallowance of registration

Registration Division No……. of the ……..…….District

Take notice that the registration of …….....

of….....in reference to the above

registration division has this day been disallowed by me on the grounds that…….

……
……
……

Dated this ……day of ……...19……

……

Divisional registrar

NOTE -- To be completed in duplicate.

FORM 3

ORIGINAL MASTER REGISTRATION CARD GUYANA Identity No:	DUPLICATE DIVISIONAL REGISTRAR'S COPY GUYANA Identity No:	TRIPLICATE PHOTOGRAPHIC COPY GUYANA Identity No:	COUNTERFOIL Identity No:
Lot No: / Surname / First / Middle	Lot No: / Surname / First / Middle	Lot No: / Surname / First / Middle	The person whose identity number appears at the right has been photographed and thumb/finger -printed by me. ……. Date …… Official Photographer
Residential Address in Guyana / Whether Domiciled / Occupation	Residential Address in Guyana / Whether Domiciled / Occupation	Residential Address in Guyana / Whether Domiciled / Occupation	
No: / For……. ……before qualifying date / Ft. in	No: / For……. ……before qualifying date / Ft. in	No: / For……. ……before qualifying date / Ft. in	
Registration District / R. Div. / Date of Birth / Place of Birth / Residence in Guyana / Height / Sex	Registration District / R. Div. / Date of Birth / Place of Birth / Residence in Guyana / Height / Sex	Registration District / R. Div. / Date of Birth / Place of Birth / Residence in Guyana / Height / Sex	
Photograph of Thumb/ finger print	Thumb/ finger print if in this position on original	Thumb/finger print	
Colour Eyes / Distinguishing Marks / Disability	Colour Eyes / Distinguishing Marks / Disability	Colour Eyes / Distinguishing Marks / Disability	
Nationality / The statements herein before contained are true to my knowledge	Nationality / The statements herein before contained are true to my knowledge	Nationality Category / Signature of registrant	
Category	Category		
A / B / Registrant	A / B / Registrant	A / B / Signature of Divisional Registrar	
Application Number: / I have allowed the above registration	Application No: / I have allowed the above registration	Application Number:	
Pursuant to Order No. 19 / Date: Divisional Registrar	Pursuant to Order No. 19 / Date: Divisional Registrar	Pursuant to Order No.19	

FORM 4

Reg. 11

Name …… Identity No……

Sex Colour of eyes Height ft. Ins.

Date of birth ..... …….Nationality ……

Distinguishing Marks ……

Date of Issue ..... …….....

…….
Signature.

(Reverse side)

(Photo)

GUYANA

[Seal]

IDENTIFICATION CARD
(facsimile signature)

COMMISSIONER

FORM 5

THE NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

Claim for requisite alteration by registrar

To: The registrar for the ……District

……
(address of registration office)

From :……
(full name)

…… (address)

Error in particulars, required to be registered with reference to qualifying date, may arise ***inter alia*** from change in particulars occurring before that date but since application.]

Identity No:

* I, being registered as resident in registration division No. of the …….

District, believe that the following error/omission has been made in my registration card and/or application:.

……

……

……
(here state error/commission)

* I, being registered as resident in registration division No. of the District, Desire to give notice that the following changes have occurred after the qualifying date, i.e. the day of, 19 , in the particulars recorded for the purposes of my registration:……

……

……

……
(here state change)

Dated the .....day of 19

…… Signature of claimant

……† Signature of witness

* Delete if inapplicable.
† Need be signed by witness only if claimant makes his mark instead of signing.

Reg.7.

FORM 6

THE NATIONAL REGISTRATION REGULATIONS

Application for exemption from taking photograph

To: The registrar for the ……District
(address of registration office)

…….

From: ……..
(full name)

……
(address)

Identity No:…….

I hereby inform you that I object to the taking of my photograph on the following grounds –

…….
…….
…….
…….
(here state grounds of objection)

I accordingly apply to you to be exempted from compliance with regulation 17 of the above Regulations.

Dated this day of , 19 .

……..
Signature of applicant

……..
† Signature of Witness

To: The registrar for the …….. District.

- I recommend that this application be granted.
- I recommend that this application be refused for the following reasons:
  ……
  ……
  ……

……..
Divisional Registrar for the above-mentioned registration division.

- Delete if inapplicable.

† Need to be signed by witness only if claimant makes his mark instead of signing.

Reg.23

FORM 7

THE NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

Claim to entry in a preliminary list

To: The registrar for the .....District

……
(address of registration office)

From: ……
(full name)

……
(address)

Take Notice that I * (, who have been disallowed registration as resident in registration division No. of the ……. District,) hereby claim, on the grounds prescribed by sub-paragraph (a) of paragraph (1) of regulation 23 of the above Regulations, to be listed as resident in registration division No. of your District by way of entry in the list therefore-

(a) of my full name, being……..

(b) of my residential address, being .....

..... ……

(c) of my occupation, being……..

on the qualifying date, i.e. the day of , 19 . *
(and of my identity No: .....).

No entry relating to me appears in the list for any registration division.

Dated the day of , 19 .

……..
Signature of claimant

……
† Signature of witness

* Delete if inapplicable

† Need be signed by witness only if claimant makes his mark instead of signing.

Reg.23

FORM 8

THE NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

Claim for rectification of an imprecise or incorrect entry in a preliminary list

To: The registrar for the .....District

.....
(address of registration office)

From: .....
(full name)

....
(address)

Take Notice that I am listed by way of the following incorrect/imprecise entry as resident in registration division No .....

of your District .....

.....
...

.....

.....
.

and I hereby claim to have such entry rectified as follows:-.....

.....

.....

.....

Dated this day of , 19 .

.....
Signature of claimant

..... *
Signature of witness

* Need be signed by witness only if claimant makes his mark instead of signing.

Reg.23

FORM 9

THE NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

Notice of objection to an entry in a preliminary list

To: The registrar for the .....District

.....
(address of registration office)

From:.....
(full name)

.....
(address)

Take Notice that in pursuance of sub-paragraph (a)/(b) of paragraph (2) of regulation 23 of the above Regulations, I hereby object to the inclusion of the entry in the list for registration division No. .....of your District, the particulars of which are set out in the claim in that behalf) as follows-

Full name Address Occupation * Identity No.

.....

on the following grounds:

.....

.....
(here state grounds)

I am listed as resident in the above registration division.

Dated this day of , 19 .

.....
Signature of objector

.....
† Signature of witness

* Delete **if** inapplicable.
† **Need** be signed **by witness only** if claimant makes his mark instead of signing.

Reg.25

FORM 10

THE NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

List of claims in respect of entries in the preliminary list for registration **division No. of the .....District**

Take Notice that the persons (hereinafter referred to as "claimants") whose names, addresses and occupations on the qualifying date and identity numbers, if any (as specified in their respective claims), are set out in Part I of the schedule to this Notice, have, in pursuance of the provisions of subparagraph (a) of paragraph (1) of regulation 23 of the above Regulations, claimed to be listed accordingly as resident in the above registration division, and that persons listed as resident therein have, in pursuance of sub-paragraph (b) of the said paragraph, claimed that the entries whereby they are so listed should be rectified to conform with the names, addresses in the above registration division, occupation and identity numbers, respectively, which are set out in Part II of the schedule to this Notice.

And further take notice that any person listed as resident in the above registration division who objects, on the grounds prescribed by paragraph (2) of the said regulation, to the listing of any claimant, or to any other person having been listed, as resident in the above registration division may submit his objection to the registrar for the above District not later than the day of 19 . .

SCHEDULE

PART I			
Full name	Address	Occupation	Identity No.(if any)
PART II			
Full name	Address	Occupation	Identity No.

Dated this day of *, 19*

Registrar for the ..... District.

Reg.25

FORM 11

THE NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

List of objections to entries in preliminary list for registration division No. of the…… ....District

Take Notice that the persons whose names and addresses are specified in the first column of the schedule to this Notice have objected, on the grounds referred to in the second column of that schedule, to entries claimed or made in the above list, as the case may be, particulars of which are, in other columns of the said schedule, set out opposite such references, respectively.

SCHEDULE

Full name and address of objector *	Grounds of objection	Full name in entry objected to	Address in entry objected to	Occupation in entry objected to	Identity No. (if any) in entry objected to

- Against names of claimants.

Dated this day of ,19 .

Registrar for the ……...…….District

Reg.25

FORM 12

THE NATIONAL FREGISTRATION (RESIDENTS) REGULATIONS

Notice of commencement of a public enquiry into claims and objections

Take Notice that public enquiry into the claims/objections in respect of entry of the …….will commence at ……..o'clock in the forenoon/afternoon on the ……day of …….19 …. , in my registration office at ……
……

Dated this ……day of ……. 19….. .

Registrar for the ……. District.

Reg.27

FORM 13

THE NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

Notice of commencement of public enquiry into a claim/objection

Take Notice that a public enquiry mentioned in regulation 26 of the above Regulations following-

Full name Address Occupation * Identity No.

in the preliminary list for registration division No. …… of the ……...

District will be held under regulation 27 of the above Regulations by me between the hours of…….

and…… Dated this……day of ……19….., in my registration office at……..in the course of proceedings at the public enquiry into such claim/objection, whether after any adjournment or not, the matter may be determined in your absence if you are not in attendance.

Dated the……..day of……. , 19…… .

Registrar for the.…… District.

* Delete if inapplicable.

Reg.38

FORM 14

THE NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

Notice of intention to cancel registration

From: The registrar for the ..... …….....District

……
(address of registration office)

To : ……..
(Full name)

of ……..
(last known address)

Take Notice that I …….
intend to cancel your registration on the…….. day of……..
19…… ,at the hour of…… o'clock in the…….noon for the reason that

(herein state reason for cancellation)

† (unless you satisfy me that such cancellation is not justified).

* (You are required to produce your identification card to me before the above-mentioned time at my registration office at the above address.)
Dated this……..day of……, 19……. .

……
Registrar

* Delete if identification card not yet issued.
† Delete if cancellation not by reason of plural registration.

Reg.41

FORM 15

THE NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

Application for replacement of identification card

To: The Commissioner of Registration

……
(address of office)

I ……...
(Full name)

of ……..
(address)

being registered as resident in registration division No. ……of the ……..District hereby apply for a replacement identification card on the following grounds-

……

……

……
(here state grounds)

……
Signature of applicant

……
† Signature of witness

† Need be signed by witness only if claimant makes his mark instead of signing.

Reg.44

FORM 16

THE NATIONAL REGISTRATION (RESIDENTS) REGULATIONS

Oath of Interpreter

I ……..
swear (or solemnly affirm) that I will well and faithfully interpret and truly explain
to …….
(here insert name of officer)

……

and ……..
(here insert name of person)
and understanding.

SO HELP ME GOD (to be deleted in affirmation)

……
Signature

Sworn (Affirmed) before me at ……this…… day

of……..,19……. .

……
Commissioner/Registrar/Deputy Registrar/
Divisional Registrar

END OF: CAP. 19:08 - NATIONAL REGISTRATION (RESIDENTS) REGULATIONS [Subsidiary]

LOCAL GOVERNMENT ACT

CAP. 28:02

CHAPTER 28:02

LOCAL GOVERNMENT ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Officers to be appointed.

PART I
CENTRAL ADMINISTRATION

4. Power to borrow money.
5. Power to purchase property sold for non-payment of rate.
6. Power in the Minister to make inquiries.
7. Powers of officer directed to inquire.
8. Contribution where work performed in a district benefits another district.
9. Mode of enforcing obligation of local authority.
10. Effect of certificate of the Minister as to expenses and necessity of a loan.
11. Loan.
12. Institution of proceedings on behalf of village or country district.
12A. Amendment of section 12.
13. Power of the Minister to act as local authority.
14. General powers of the Minister.
15. By-laws.

PART II
VILLAGE, COUNTRY AND RURAL DISTRICTS, AND LOCAL AUTHORITIES THEREOF

16. Village, country and rural districts.
17. Village and country districts at commencement of Act.
18. Declaration, etc., of village and country districts and alteration of boundaries.
19. Rural districts.
20. Local authorities.
21. Rural authority.

PART III
LOCAL ADMINISTRATION IN VILLAGE AND COUNTRY DISTRICTS

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22. Constitution of village councils.

Qualifications, Disqualifications and Membership of Elected Councillors

23. Disqualifications for election as a councillor.
24. Vacation of office by elected councillor.

25. Vacancy on village council.
26. Penalty for unqualified person sitting and voting.
27. Mode of publication of notices, etc.

Election of Chairman of a Village Council

28. Election of a chairman and deputy chairman.
29. Election of chairman of a council where vacancy occurs in the office of chairman.

Dissolution of Village Council

30. Dissolution of village council.

Country Authorities

31. Constitution of country authority.

General

32. Village councils and country authorities to be bodies corporate.
33. Change of name of local authority.
34. Use of common seal.
35. Appointment of public officers to be a member of a local authority.
36. Quorum of village council or country authority.
37. Power to appoint committees.
38. Powers of chairman of local authority between meetings thereof.
38A. Remuneration of councillors of a local authority.
39. Attendance of district commissioners at meetings of village councils and country authorities.
40. Procedure at meetings of local authority or committee thereof.
41. Protection of chairman and members of local authority.

PART IV
OFFICERS AND SERVANTS OF VILLAGE COUNCILS AND COUNTRY AUTHORITIES

42. Appointment and duties of overseers and other officers and employment of servants by village councils and country authorities.
43. Overseer, assistant overseer and clerk.

PART V
VESTING OF PROPERTY IN VILLAGE COUNCILS AND COUNTRY AUTHORITIES AND MANAGEMENT OF UNDIVIDED LANDS

44. Vesting of property in local authority.
45. Property in rates and other moneys of village and country districts.
46. Vesting of ungranted State land or empolder.
47. Management of undivided property, pasture lands, dams, trenches, roads, streets and bridges.
48. Letting of undivided lands, pasture lands and woods.
49. Trespass.
50. Grazing of animals on common lands of village or country district.
51. Cutting wood on common lands of village or country district.
52. Charging tolls for passage of craft and animals.
53. Fishing and mooring of bateaux in trenches of local authority.

PART VI
ESTIMATES AND RATES
Levy of Rates

54. Annual estimate and rate.
55. Power of local authority to make contributions, donations or grants in certain cases.
56. Supplementary estimate and rate.
57. Levying additional rate.
58. Estimate and rate for work benefiting limited portion of district.
59. Special estimate and rate.
60. Private improvement expenses.
61. Power of Minister to direct execution of works, and costs to be defrayed by private improvement rate.
62. Levy of private improvement rate.
63. Preferent lien for private improvement expenses and rate.
64. Recovery of private improvement expenses and rate.
65. Redemption of private improvement rate.
66. When estimate and rate valid.
67. Date on which rate becomes due and payable.
68. Exemption of certain property from payment of rates.
69. Power to exempt property from payment of rates on the ground of poverty of proprietor.

COLLECTION OF RATES

70. Delay in collecting rates or rents.
71. Liability for and mode of recovery of rate.
72. Restriction on sub-division of lots.
73. Apportionment of rate where lot is sub-divided.
74. Enforcement of contribution from co-proprietor of lot or building.
75. Demand for payment of rate and levy on movable property.
76. Power to recover property or value thereof where movable property of person other than person Liable for payment of rate is levied or for recovery thereof.
77. Form of warrant of distress.
78. Execution of distress warrant.
79. Fees on distress.
80. Condition of granting writ of execution.
81. Service of summation when more than one lot proceeded against.
81A. Conditions governing sale of property by parate execution.
82. Distribution of proceeds of sale.
83. Return of results of sale.
84. Fees on parate or summary execution.
85. Validity of proceedings.
86. Informality in proceedings for recovery of rates.
87. Officer of local authority not to purchase property sold at execution at the instance of the local authority for the recovery of rates.
88. Power of local authority to purchase lot or building sold for recovery of rates.
89. Transport of lot sold at execution sale for recovery of rates.
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PART VII
GENERAL PROVISION AS TO LOCAL ADMINISTRATION

91. Drainage by local authority.
92. Issue of water from a tank or reservoir.
93. Offensive watercourse.
94. Power of local authority to require proprietor or occupier of land to maintain dams, trenches and sluices thereof.
95. Regulation of trades and erection of machinery.
96. Markets.
97. Continuing of offence in respect of construction of a market place or other conveniences for the purpose of holding a market without permission.
98. Slaughter-houses.
99. Baths and wash-houses.
100. Burial fees.
101. Overhanging trees.
102. Straying of animals.
103. Power to purchase, etc., lands.
104. Sale of surplus lands.
105. Purchase of lands.
106. Power to let lands.
107. Mode of reference to arbitration.
108. Provisions as to arbitrators.
109. Reference to magistrate of claim under $500.
110. Defraying expenses incurred by local authority.
111. Payment of rate by occupier and recovery of amount thereof from proprietor.
112. Recovery of expenses where a plantation is included in a district.
113. Local authority may borrow on credit of rates.

PART VIII
DRAINAGE OF VILLAGE AND COUNTRY DISTRICT THROUGH ADJOINING LANDS

114. Making agreement with neighbours.
115. Application for leave to make drain in land of another.
116. Proceedings in case of dissent by proprietor to application.
117. Diagram of scheme of drainage.
118. Entry upon land to clear drains.
119. Alteration of drains.
120. Resisting or obstructing making of drains.
121. Payment of costs of application.

PART IX
WORKS OF SPECIAL MAGNITUDE IN VILLAGE AND COUNTRY DISTRICTS

122. Declaration by Minister of special works.
123. Procedure.
124. Order of Minister as to work to be executed.
125. Power to enter on lands to survey.
126. General powers of local authority.
127. Rates under Part VI.

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LOANS AND GRANTS

128. Power to borrow on behalf of village or country district.
129. Repayment of loan.
130. Grants.

PART XI
ACCOUNTS AND EXPENDITURE OF VILLAGE AND COUNTRY DISTRICTS

131. Financial year of village or country district.
132. Form of accounts.
133. Keeping books and accounts.
134. Inspection of books and accounts.
135. Receipt of moneys.
136. Final receipt and custody of moneys.
137. Payment of amounts recovered under distress warrants or writs of execution.
138. Payment for work done.
139. Making out weekly paylists.
140. Local authority may make contracts.
141. Work of emergency.

PART XII
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142. Giving false evidence.
143. Failure to quit land or building of a local authority or the Minister.
144. Failure of occupier to assist in carrying this Act into effect.
145. Damaging document.
146. Wilfully damaging works of local authority.
147. Miscellaneous offences.

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148. Conveyance of partitioned lands.
149. Entry of officer of local authority in certain cases.
150. Compensation by local authority for damage.
151. Proof of amount of money sued for.
152. Proof of minutes of a local authority.
153. Execution of document by local authority.
154. Notice to proprietor or occupier.
155. Service of notices, orders and other documents.
156. Service of process.
157. Notice of action against local authority or a member or officer thereof.
158. Tender of amends.
159. Protection of local authority and its officers from personal liability.
160. Proof of name of local authority.
161. Appearance of local authority.
162. Restriction on recovery of penalties.
163. Recovery of penalties by authorised officer of local authority.

164. Penalties to be paid to local authority.
165. Procedure.
166. Authentication of by-laws.
167. By-laws to be approved by Minister.
168. Notification of by-laws of local authority.
169. Supply of copies.
170. Penalties for breach of by-laws.

PART XIV
CONSTRUCTION, REPEAL AND SAVINGS

171. Public property not to be disturbed.
172. Powers of Act to be cumulative.
173. Repeal and savings.
174. Application and modification.
175. Validation.

FIRST SCHEDULE —Forms.
SECOND SCHEDULE —Fees payable for process of distress.
THIRD SCHEDULE —Fees for Execution and Sale.

CHAPTER 28:02

LOCAL GOVERNMENT ACT

1953 Ed.
c. 150

[14 of 1945]

An Act to make provision for local government in village districts, country districts and rural districts and for matters related thereto.

[4TH DECEMBER, 1945]

Short title

1. This Act may be cited as the Local Government Act.

Interpretation.
[23 of 1969]
[4 of 1972]

2. In this Act—

"building" includes any kitchen, bathroom or outhouse appurtenant thereto;

"by-laws" means any by-laws made under the authority of this Act and for the time being in force;

"district" means any village, country and rural district constituted under this Act;

"district commissioner" means the district commissioner of the area, and includes the assistant district commissioner;

"drain" means any drain of one lot or two lots or of premises within the same curtilage, made for the purpose of conveying the water received thereon to any main drain or trench;

"lot" means any portion of land separately appraised, and any subdivision of a lot, together with any easement attached thereto;

"local authority" means village council, country authority and rural authority;

"main drain" includes drains and trenches of every description except drains to which the word "drain" defined as aforesaid applies;

"the marshal" means the Registrar of Deeds, and includes any marshal in the registry of deeds;

"officer" includes any person employed temporarily or otherwise by local authority to perform any duty;

"overseer" means the overseer of a district and includes an assistant overseer;

"proprietor" includes the person in whose name any lot or building is rated in the assessment book for rates;

"street" includes any highway and any public bridge, also any road, land, footway, square, court, alley, or passage, whether a thoroughfare or not;

"village" means any place duly declared to be a village district within the meaning and for the purposes of this Act.

Officers to be appointed.
[4 of 1972]

3. (1) There shall be such number of public officers as may be necessary to assist the Minister in the performance of his functions under this Act.

(2) The Minister may, by notice published in the *Gazett*e, designate any public officer to perform any of the functions conferred on the Minister by this Act.

PART I
CENTRAL ADMINISTRATION

Power to borrow money.

4. With the approval of the Minister, a local authority shall have power to borrow money for the execution of any of the purposes of this Act, and may mortgage any rate for the repayment thereof.

Power to purchase property sold for non-payment of rate.
[4 of 1972]

5. If it appears to the Minister that property being sold for non-payment of any rate should be purchased by the State, the Minister may designate a public officer to purchase such property at the execution sale and to hold such property on behalf of the State for the purposes of this Act.

Power in the Minister to make inquiries.

6. The Minister may, from time to time, cause to be made any inquiries directed by this Act and any inquiries it sees fit in relation to any matters with respect to which their consent, sanction, or approval is required by this Act.

Powers of officer directed to inquire.
[4 of 1972]

c. 7:01

7. (1) A public officer designated by the Minister for the purposes of any inquiry, shall have, in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which magistrates have under the Summary Jurisdiction (Petty Debt) Act.

(2) Every person duly summoned to attend any such inquiry as a witness who does not attend at the time and place specified in the summons, or who refuses to be sworn or to answer any question, or to produce any document, may be summoned before a magistrate on the complaint of a public officer designated by the Minister, and the magistrate may deal with him in the same manner as if he were a witness duly summoned before a magistrate's court in the exercise of its jurisdiction under the Summary Jurisdiction (Petty Debt) Act.

Contribution where work performed in a district benefits another district

8. Whenever the Minister is of opinion that work performed or to be performed in a district has benefited or will benefit another district, or any part thereof, the Minister shall determine the amount to be contributed by the local authority of the other district and such local authority shall be authorised and empowered to levy a rate for the recovery of such amount to enforce payment thereof.

Mode of enforcing obligation of local authority.

9. (1) Where complaint is made to the Minister that the local authority of a village or country district has made default—

(a) in providing the district with sufficient drains, or

(b) in the maintenance of existing drains, or

(c) in providing the district with a supply of water in cases where the existing supply is either insufficient or unwholesome and a proper supply can be obtained at a reasonable cost, or

(d) in enforcing any of the provisions of this Act which it is its duty to enforce,

the Minister may, if satisfied after due inquiry that the local authority has been guilty of the alleged default, make an order limiting a time for the performance by the local authority of its duty in the matter of the complaint, and the order shall be served upon the local authority.

(2) If the duty is not performed within the time limited by the order, the order may be enforced by ***mandamus***, or the Minister may appoint some person to perform the duty and shall, by order, direct that the expenses of performance, together with a reasonable remuneration to the person appointed as aforesaid, amounting to a sum specified in the order, shall be paid by the authority in default.

(3) Any person appointed under subsection (2) for the purposes of his appointment and in the performance of the duty as aforesaid, shall have and may exercise all the powers, other than the power to levy rates, of the local authority in default.

(4) The Minister may from time to time, by order, remove any person so appointed and appoint another person in his place.

(5) In this section and in section 10 the expression "expenses" includes all sums payable under the said sections by or by order of the Minister or the person appointed by the Minister under this section.

Effect of certificate of the Minister as to expenses and necessity of a loan.

10. (1) The Minister may from time to time certify the amount of the expenses which have been incurred, or an estimate of the expenses about to be incurred, by any person appointed by the Minister under section 9, and also the amount of any loan which may be

required to be raised for the purpose of defraying expenses so incurred, or estimated as about to be incurred.

(2) Any such certificate of the Minister shall be conclusive as to the matters to which it relates.

Loan

11. (1) Whenever the Minister certifies under section 10 that a loan is required, the Minister or the person appointed under section 9 may, by any document duly executed, charge the district rate with the principal and interest payable in respect of the loan.

(2) The charge shall have effect as if the local authority of the district to which the charge relates were empowered to raise the loan on the security of the district rate and had duly executed a document charging the loan on the district rate.

(3) Any principal or interest due or payable from time to time in respect of any loan certified by the Minister to be required as aforesaid shall be a debt due by the local authority of the district to which the loan relates.

Institution of proceedings on behalf of village or country district.
[4 of 1972]
[25 of 1973]

c. 7:02
c. 60:02

12. (1) A public officer designated by the Minister may institute and carry on or defend any action or prosecution in any court of justice for and on behalf of any village or country district.

(2) The Limitation Act and the Title to Land (Prescription and Limitation) Act do not, in so far as they prescribe a period of limitation within which a sum of money may be recovered, apply to a claim by a local authority.

Amendment of section 12.
[17 of 1974]

12A. Section 12 of the Act shall have effect as if—

(a) there had been substituted for section 23(1)(a) of the Municipal and District Councils (Amendment) (No. 2) Act 1973 at the time of its enactment the following provision—

c. 28:02

"Amendment of the Local Government Act.

23. The Local Government Act is hereby amended in the following respects—

c. 7:02
c. 60:02

by renumbering section 12 as section 12(1) and by adding the following subsections as subsections (2) and (3) thereof—

(2) The Limitation Act and the Title to Land (Prescription Limitation) Act do not, in so far as they prescribe a period of limitation within which a sum of money may be recovered, apply to a claim for a sum of money by a local authority and whether or not such sum would have been irrecoverable prior to the enactment of this subsection* by virtue of either of the said enactments.

(3) Where by virtue of subsection (2) a sum of money is claimed as rates due in respect of property from the owner thereof for a period during which he was not the owner of the property any sum of money paid by him in satisfaction of that claim shall, subject to any agreement to the

* **31st May 1974.**

contrary, be deemed to be money paid by him at the request of the person who was the owner during the said period.**"**

(b) Section 23(2) had never been enacted.

Power of the Minister to act as local authority.

13. The Minister shall have and may exercise in any village or country district any or all of the powers of a local authority whenever it appears to the Minister expedient so to do, and may exercise any or all of those powers in any of those districts, whether there is or is not a local authority thereof.

General powers of the Minister. [4 of 1972]

14. (1) Subject to this Act and the by-laws, the Minister shall have the superintendence of all village and country districts in Guyana, and shall have and exercise general powers of supervision, inspection, and control over the several local authorities and the officers and servants thereof.

(2) In the exercise of those general powers the Minister may—

(a) review the order or decision of any village council or country authority, or of a committee or any chairman of a village council or country authority, and declare such order or decision to be invalid in which case the order or decision shall ***ipso facto*** be void, and may substitute for the order or decision any order or decision which he deems proper, and any order or decision so substituted shall have the same force and effect in all respects as if it had been made by the village council or country authority;

(b) for good cause remove from office the chairman or any member of a country authority, or any overseer or other officer of a village council or country authority and in his stead appoint a chairman, member, overseer or other officer, as the case may be.

[4 of 1972](3) An overseer or other officer removed from his office as aforesaid shall not be entitled to any damages or payment of salary or other emolument in lieu of notice of termination of his engagement.

By-laws. [24 of 1956]

15. (1) The Minister may make by-laws with respect to all or any of the following matters—

(a) the definition and regulation of the respective rights and liabilities of the parties interested in the case of company canals or dams between any two contiguous villages or country districts or between or through a village or country district and any adjoining plantation or land;

(b) the definition and regulation of the powers and duties of village councils and country authorities and of their officers and the regulation of pensions and gratuities payable by village councils and country authorities;

(c) the management and administration of villages or country districts generally;

(d) the quorum, proceedings, and place of meeting of committees of the local authority of a village or country district.

(2) The Minister may for any purpose for which a local authority is authorised to make by-laws to have effect in any village or country district, and those by-laws, shall have effect in every village or country district, or in any village or country district specified in the by-laws.

(3) The Minister may by order direct that any by-laws so made and approved shall also have effect in any rural district specified in the order.

PART II
VILLAGE, COUNTRY AND RURAL DISTRICTS, AND LOCAL AUTHORITIES THEREOF

Village, country and rural districts.
[24 of 1969]
[25 of 1973]

16. For the purposes of this Act, Guyana exclusive of the City of Georgetown, the Town of New Amsterdam, other towns and local government districts shall be divided into village districts, country districts and rural districts.

Village and country districts at commencement of Act.
[4 of 1972]
c. 28:01

17. Every area of land which at the commencement of this Act is a village district or a country district and has not been brought within the operation of the Municipal and Districts Councils Act shall be a village district or a country district, as the case may be, under this Act.

Declaration, etc. of village and country districts and alteration of boundaries.
[9 of 1969]
[24 of 1969]
[4 of 1972]
[25 of 1973]

18. (1) The Minister may, by notice published in the *Gazett*e—

(a) declare any portion of Guyana not included in the City of Georgetown or the town of New Amsterdam or any other town or any local government district to be a village district or a country district;

(b) declare that any village district or any country district shall cease to be a village district or a country district, as the case may be;

(c) alter the boundaries of any village district or of any country district.

(2) In every notice under subsection (l)(a) the village district or the country district, as the case may be, shall be described by a name and its boundaries shall be defined.

(3) Where a notice is published under subsection (1), the Minister may make any orders or perform any acts which may be necessary to give effect to the notice.

(4) Where notices are published under subsection (1) disestablishing a district and constituting another district incorporating the area of the district so disestablished, the following provisions shall apply:

(a) the local authority of the district so constituted shall for all purposes be the successor of the local authority of the district disestablished and without prejudice to the generality of the foregoing provisions of this paragraph, the property, rights, powers, liabilities and obligations of the last-mentioned local authority shall thereupon be transferred to and vest in the first-mentioned authority accordingly;

(b) no notice hereinbefore mentioned shall be deemed to abrogate any appraisements, rates, estimates or other things provided, prescribed or done in the course of, or pursuant to, the execution of the functions of the Minister or the local authority in relation to a district so disestablished so, however, that every provision, prescription or other thing which would cease to have effect but for the foregoing provisions of this paragraph shall, except in so far as otherwise provided, prescribed or disposed in the course of, or pursuant to, the execution of the functions of the Minister and the local authority of the district so constituted, continue to have effect as if the disestablished district remained constituted and the last-mentioned authority were the local

authority thereof, and the functions of the Minister and the local authority of the district so constituted shall be exercisable accordingly in so far as is expedient on account of anything continuing to have effect as aforesaid;

(c) all enactments, instruments thereunder and other documents whatsoever having special reference to a district immediately before its disestablishment as aforesaid shall (subject to variation or rescindment by any competent authority and to such modifications, adaptations, qualifications and exceptions as are necessary for the purpose of conformity with the provisions of this subsection) have effect with like reference to the area as was comprised in that district;

(d) except for the purpose of giving effect to the right to any payment of a person who, at the coming into operation of a notice disestablishing a district, is on leave of absence pending his relinquishment of any appointment to the service of the local authority of that district, nothing in this subsection shall be deemed to provide for the subsistence thereafter of any contract of service with a local authority and, subject to the provisions of the next succeeding paragraph of this subsection, no liabilities or obligations (other than in respect of superannuation rights or benefits or of leave, whether earned, accrued, inchoate or contingent) arising upon and in respect of the termination by virtue of the said notice, or for the purpose of carrying into effect any notice hereinbefore mentioned, of any service of any employee shall be deemed to be incurred by, or assigned to, the local authority of a district constituted as aforesaid or the Minister; and

(e) the local authority of a district so constituted shall afford to every employee, whose service is terminated as mentioned in paragraph (d), an opportunity of serving it, with effect from such termination, upon such terms and conditions as may be agreed upon between the local authority and him:

Provided that such terms and conditions preferred by the local authority shall, when taken as a whole, be no less favourable than those which the employee enjoyed with the authority of the disestablished district.

(5) Any question whether the provisions of paragraph (e) of the last preceding subsection are complied with shall be decided by the Minister.

Rural districts.
[24 of 1969]
[25 of 1973]

19. Every district proclaimed under the District Government Act exclusive of those portions which are within the City of Georgetown, the town of New Amsterdam or any other town, any local government district, any village district or any country district, shall be a rural district.

Local authorities

20. (1) Village districts, country districts and rural districts shall be subject to the jurisdiction of local authorities.

(2) The local authority of a village district, a country district, and a rural district shall be called a village council, a country authority, and a rural authority, respectively.

Rural authority.
[4 of 1972]

21. (1) The Minister shall be the rural authority of every rural district.

(2) The Minister, as a rural authority, shall have and may exercise all the powers conferred by this Act upon the local authority of a village or country district.

(3) The Minister shall not be under any obligation to perform any act required by this Act to be performed by the Minister as a rural authority where it appears to the Minister that it is inexpedient so to do.

(4) The Minister, as rural authority, may by notice published in the *Gazett*e, appoint an agent consisting of one or more persons in any rural district and thereupon that agent shall perform all the functions of, and may be dealt with as, the rural authority of the district for all the purposes of this Act subject to such qualifications as may be specified in the appointment.

PART III
LOCAL ADMINISTRATION IN VILLAGE AND COUNTRY DISTRICTS

Village Councils

Constitution of village councils.
[19 of 1959]
[23 of 1969]
[4 of 1972]

22. (1) In every village there shall be constituted a village council which shall be entrusted with the management of the administrative and financial business of the village and with its government generally.

(2) Each village council shall consist of such number of councillors not less than six, as the Minister may, from time to time determine.

c. 28:03

(3) All village councillors shall be elected at elections held every third year during the period commencing on 1st November and ending on 7th December in accordance with the Local Authorities (Elections) Act; and every village council shall be a local authority to which that Act applies and a local authority within the meaning of that Act, and the overseer shall be the clerk of the local authority for the purposes of that Act.

c. 28:03

(4) The number of registered voters who may, under section 43 of the Local Authorities (Elections) Act submit a list of candidates shall be not less than twenty and not more than thirty.

c. 28:03

(5) The amount of the personal expenses which may be incurred under section 107(2) of the Local Authorities (Elections) Act by a candidate at an election to a village council shall not exceed one hundred dollars and the expenses which may be incurred under section 109(1) by or on behalf of a group of candidates shall not exceed five hundred dollars.

(6) Where any portion of Guyana has been declared to be a village district under section 18, the following provisions shall have effect—

(a) if the village, at the time of the declaration, was a country district, the local authority of the country district shall discharge the powers, duties and functions of a village council of the district until the village council of the district has been constituted under paragraph (e) of this subsection, and the assessment book of the country district shall be the assessment book of the village;

(b) if the village, at the time of the declaration, was not a country district, the Minister shall appoint a local authority, and a chairman thereof, and the local authority shall discharge the powers, duties and functions of a village council of the district until the village council of the district has been constituted under paragraph (e) of this subsection, and the Minister shall cause to be prepared an appraisement, and the assessment book, of the village;

(c) the Minister shall, not later than ten days after the publication in the *Gazette* of the notice declaring the village district, determine the number of members of which the village council shall consist, and the Minister shall publish a notice of its determination in the *Gazett*e;

(d) the Minister shall fix a day, hour and place for which the overseer shall summon a meeting of the councillors of the village district for the purpose of electing a chairman and a deputy chairman of the village council and a day and place upon which an election by the registered voters shall be made, if there is no election by the councillors on account of an equality of votes;

(e) when the first chairman of the village council has been elected, the village council shall be constituted;

(f) subject to the foregoing provisions of this subsection, the provisions of this Part of this Act shall apply to the first election of councillors of a village district and the first election of a chairman and of a deputy chairman of a village district.

c. 28:03

(7) Except as is otherwise provided in this Act the term of office of councillors shall be three years commencing on the first day of January after the declaration under section 101 of the Local Authorities (Elections) Act of the election results for the village.

(8) A person filling a vacancy in the office of councillor in accordance with section 103 of the Local Authorities (Elections) Act shall hold office for the unexpired term of office of his predecessor.

Qualifications, Disqualifications and Membership of Elected Councillors

Disqualifications for election as a councillor.

23. If a member of a village council is either directly or indirectly pecuniarily interested in any contract with the council he shall, at any meeting of the council at which the contract is the subject of consideration, disclose the fact and shall not take part in the consideration or discussion of or vote on any question with respect to the contract:

Provided that a person shall not be deemed to be so interested in any contract within the meaning of this section by reason only of his having any share or interest in—

(a) any agreement for the loan of money only; or

(b) any newspaper in which any advertisement relating to the affairs of the council is inserted; or

(c) any incorporated company or society in which he does not hold more than one-fifth of the shares; or

(d) any lease, sale or purchase of land, or any agreement for the same.

Vacation of office by elected councillor. [23 of 1969

24. If an elected member of a village council—

(a) fails throughout a period of three consecutive months to attend any meeting

of the council, unless the failure was due to some reason approved by the council; or

(b) by letter under his hand addressed to the chairman of the council resigns his seat; or

(c) is not qualified to be elected; or

(d) is disqualified for being or is disqualified from continuing to be a councillor,

he shall cease to be a member of the council.

Vacancy on village council.

c. 28:03

25. Whenever a vacancy occurs in the office of a councillor of a village council the overseer shall report the same at the next meeting of the council and the council shall publish notice thereof, and the provisions of section 103 of the Local Authorities (Elections) Act shall apply to the filling of that vacancy.

Penalty for unqualified persons sitting and voting. [23 of 1969] [6 of 1997]

26. (1) Every person who, having been returned as an elected member of a village council not being at his election qualified or being then disqualified to be elected a member of the council, shall sit or vote in the council, shall for every day he sits or votes, and every person who shall sit or vote in a village council after his office has been declared to be vacant, shall for every day on which he sits or votes after his office has become vacant, be liable to a penalty of ten dollars for every day on which he sits or votes.

(2) The penalty may be recovered by action in the magistrate's court of the magisterial district in which the village is situate by any registered voter of the village; but no process shall issue out of the court unless the person suing out the process first deposits with the clerk of the court the sum of one thousand three hundred dollars as security for any costs which may become payable by him.

(3) No action under this section shall be brought after three months from the date of publication under section 35 of notice of the vacancy.

Mode of publication of notices, etc. [23 of 1969]

27. Where it is provided in this Part that any notice, list or register shall be published, such publication shall be made by posting the notice, list or register, signed by the person whose duty it is to publish it, on the village office and in such other conspicuous places in the village as he may deem necessary.

Election of Chairman of a Village Council

Election of a chairman and deputy chairman. [23 of 1969]

28. (1) The councillors of every village council shall, as hereinafter provided in this section, elect out of their number a chairman and a deputy chairman, of the council.

(2) The overseer shall not later than the 16th December of each year summon a meeting of the councillors for the ensuing year for the purpose of electing a chairman and a deputy chairman for the ensuing year and not less than three days' notice of the meeting shall be given.

(3) The overseer shall preside at the meeting but shall not be entitled to vote.

(4) On the day of the election the overseer shall attend at the hour of eight in the forenoon and for thirty minutes thereafter at the place specified in the notice, and shall receive the nominations of candidates for the offices of chairman and deputy chairman. No nomination shall be valid unless it is seconded.

(5) If only one candidate is nominated for the office of chairman or for the office of deputy chairman that candidate shall forthwith be declared to have been elected chairman or deputy chairman as the case may be.

(6) If more councillors than one are nominated for the office of chairman the overseer shall forthwith proceed to take the votes of the councillors present and the councillor securing the greatest number of votes shall forthwith be declared to be elected as chairman, but if there is no election on account of an equality of votes the overseer shall immediately fix a day within the last ten days of the year for the election, by the registered voters, of a chairman from the councilors receiving the greatest number of equal votes, and the election shall be held and conducted and a return or election made in all respects in the same manner as provided for the election of village councillors.

(7) Where by reason of an equality of votes cast at the election by the voters no person is elected chairman, the Minister shall select one of the councillors receiving the greatest number of equal votes to be chairman.

(8) The provisions of subsections (6) and (7) with respect to the election of a chairman shall, ***mutatis mutandis***, apply to the election of a deputy chairman.

Election of chairman of a council where vacancy occurs in the office of chairman.
[23 of 1969]
[4 of 1972]

29. (1) Where a vacancy occurs in the office of the chairman of a village council prior to the determination of the office at the end of a year the overseer shall within ten days of the occurrence of the vacancy summon a meeting of the councillors for the purpose of electing a chairman and not less than three days' notice of the meeting shall be given.

(2) The overseer shall preside at the meeting but shall not be entitled to vote.

(3) On the day of election the overseer shall attend at the hour of eight in the forenoon and for thirty minutes thereafter at the place specified in the notice, and shall receive the nominations of candidates for the office of chairman. No nomination shall be valid unless it is seconded.

(4) If only one councillor is nominated that councillor shall forthwith be declared to be elected as chairman.

(5) If more councillors than one are nominated the overseer shall proceed to take the votes of the councillors present and the councillor securing the greatest number of votes shall forthwith be declared to be elected as chairman.

(6) If there is no election under subsection (5) on account of an equality of votes, the overseer shall through the commissioner report to the Minister the names of the councillors who have received the greatest number of equal votes, and the Minister shall as early as possible select one of those councillors to be chairman and shall forthwith inform the overseer through the commissioner.

(7) A vacancy in the office of the chairman of a village council shall be deemed to have occurred under this section where—

(a) the chairman ceases to be a member of the council or dies or his office as councillor is declared to be vacant;

(b) the chairman notifies the council either in person or in writing of the resignation of his office as chairman and has in writing informed the Minister through the commissioner of his resignation;

(c) the chairman is granted leave of absence by the council;

(d) the chairman departs from Guyana without leave from the council.

(8) A councillor elected as chairman to fill a vacancy occurring under this section shall hold office for the unexpired portion of the year:

Provided that in the case of a vacancy occurring under subsection (7)(c) such councillor shall hold office only until such time as the chairman who has been granted leave of absence by the council has returned from such leave and has notified the Minister in writing through the commissioner that he has resumed the office of chairman.

(9) The preceding subsections of this section shall, ***mutatis mutandis***, apply to the deputy chairman of a village council.

Dissolution of Village Council

Dissolution of village council. [4 of 1972]

30. (1) Where twelve registered voters of a village district represent to the Minister that the further continuance in office of the village council is prejudicial to the welfare of the inhabitants of the village district, the Minister may direct an inquiry to be made by a person appointed by him, at which inquiry opportunity shall be given to the councillors and to the inhabitants to be heard in the matter of the representation, and the Minister may after such inquiry, by order, declare the village council to be dissolved.

(2) In the event of such dissolution, the Minister may appoint such officers, whether salaried or otherwise, as he thinks necessary for carrying out the provisions of this Act and of any other enactment in relation to the village as and in lieu of the council, and from time to time may revoke and determine those appointments or any of them.

(3) The Minister may define and direct the execution of the duties of the officers respectively and fix the salaries, if any, payable to them respectively; and the salaries shall be chargeable on and payable out of the village funds.

(4) The officers aforesaid shall continue so long as the Minister may direct and the Minister shall by order appoint—

(a) a day for the election of the councillors and prescribe their terms of office;

(b) a day for the election of the chairman and vice chairman and prescribe their terms of office,

and notwithstanding any other provisions of this Act relating to the dates for holding such elections, a day appointed by the Minister under this subsection may be any day the Minister thinks fit.

Constitution of country authority. [25 of 1969] [4 of 1972] [25 of 1973]

Country Authorities

31. (1) In every country district there shall be constituted a country authority, which shall be entrusted with the management of the administrative and financial business of the district, and its government generally.

(2) The country authority of a district shall consist of not less than four members of whom one at least shall be a person who resides within the boundaries of the district.

(3) The members shall be appointed by the Minister and the Minister shall appoint a chairman and deputy chairman of the country authority from among them.

(4) Members appointed shall take office on the 1st January after appointment or on such other date as the Minister may direct; they shall vacate office on 31st December in the year next ensuing the year in which they were appointed, and they shall be eligible for re-appointment.

(5) A person appointed in the place of a member who has ceased for any cause to be a member shall hold office for the unexpired portion of the term of his predecessor.

(6) Subject to subsection (2), the Minister may add to or reduce the number of members of the local authority of any country district and any person becoming a member of a country authority by virtue of an increase in the membership thereof under this subsection shall vacate office at the same time as those members of the country authority who assumed office in accordance with subsection (4).

General

Village councils and country authorities to be bodies corporate. [4 of 1972]

32. The local authority of a village or country district shall be a body corporate by the name of "The Village Council of....." (naming the village district) or "The Country Authority of ...." (naming the country district) as the case may be.

Change of name of local authority.

33. (1) The local authority of a village or country district may, with the approval of the Minister, change its name.

(2) Notice of every change of name shall be published in the *Gazette* and in a daily newspaper.

(3) No change of name shall affect any rights or obligations of the local authority, or render defective any legal proceedings instituted by or against it; and any legal proceedings may be continued or commenced against the local authority by its new name which might have been continued or commenced against it by its former name.

Use of common seal.

34. The local authority of every village and country district may, if it thinks fit, have and use a common seal

Appointment of public officers to be a member of a local authority.

35. Where the Minister appoints the holder of any office in the public service to be a member of the local authority of a village or country district, the person for the time being performing the duties of that office shall, unless the Minister otherwise directs, be a member of the local authority.

Quorum of village council or country authority.

36. The quorum of members of a village council or country authority for the despatch of business shall be fixed by the Minister.

Power to appoint committees.
[4 of 1972]

37. (1) The local authority of any village or country district may appoint one or more committees of its own body for the transaction of special or, of general business. The Chairman and the deputy chairman of a village council and the chairman of a country authority shall be ***ex officio*** members of every such committee.

(2) Every committee shall report its proceedings to the local authority, and any order or decision of a committee, of which the local authority disapproves, shall be null and void.

Power of chairman of local authority between meetings thereof.
[25 of 1973]

38. (1) The chairman of the local authority of a village or country district may, between any two meetings of the authority, exercise all the executive powers of the local authority.

(2) All acts done by the chairman under subsection (1) shall be reported to the local authority at the meeting next ensuing, and any act of the chairman of which the local authority disapproves shall be null and void.

(3) The deputy chairman of a village council shall have and may exercise the powers, duties and functions of the chairman—

(a) during the period of a vacancy which is deemed, under section 29(7), to have occurred in the office of chairman; or

(b) during any period while the chairman is temporarily absent from the village district.

Remuneration of councillors of a local authority.
[25 of 1973]

38A . A local authority may, in each year, with the approval of the Minister, appropriate out of the funds of the local authority a sum to be utilised for the remuneration of councillors (other than travelling and subsistence expenses incurred in the course of duty) and may, with that approval, determine the amount which shall be payable to each councillor and the additional remuneration, if any, payable to the chairman and deputy chairman in respect of their offices as such.

Attendance of district commissioners at meetings of village councils and country authorities.

39. The district commissioner shall be entitled to attend any meeting of a village council or country authority and to take part in the proceedings at the meeting but not to vote thereat.

Procedure at meetings of local authority or committee thereof.

40. (1) The chairman of a village council shall preside at all meetings of the village council or any committee thereof which he attends. In the absence of the chairman from any such meeting the deputy chairman shall preside and in the absence of the chairman and the deputy chairman from any such meeting the members present may elect one of their number to preside.

(2) The chairman of a country authority shall preside at all meetings of the country authority or any committee thereof which he attends. In the absence of the chairman from any such meeting the members present may elect one of their number to preside.

Protection of Chairman and members of local authority.

41. (1) The chairman or deputy chairman of a village council or the chairman of a country authority shall not be personally liable in respect of any act, matter or thing done or committed by him within his jurisdiction as chairman or deputy chairman as the case may be.

(2) A member of a village council or country authority shall not be personally liable in respect of any act, matter or thing done or committed by him within his jurisdiction as member.

PART IV
OFFICERS AND SERVANTS OF VILLAGE COUNCILS AND COUNTRY AUTHORITIES

Appointment and duties of overseers and other officers and employment of servants by village councils and country authorities.
[24 of 1956]
[19 of 1959]
[4 of 1972]

42. (1) The local authority of a village or country district may, subject to the approval of the Minister, appoint fit and proper persons to be overseer, assistant overseer, clerk, or other officer of the local authority, and the local authority may employ such servants as may be necessary for the efficient execution of the powers, duties and functions of the local authority under this Act.

(2) Every overseer, assistant overseer, clerk or other officer, and every servant, shall receive the salary, remuneration, or wages assigned to him by the local authority with the sanction of the Minister.

(3) The same person may, with the approval of the Minister, be appointed overseer, assistant overseer, clerk or other officer of two or more local authorities, and in such case the Minister shall by direction in writing prescribe the terms of the appointment and the proportions in which the expenses of the appointment and the salary and charges of the overseer, assistant overseer, clerk or other officer shall be borne by those authorities.

(4) Every overseer, assistant overseer, clerk or other officer shall, when required so to do, give security for the faithful performance of his duties in the sum and in the manner directed by the Minister.

(5) The local authority of a village or country district may make by-laws with reference to the duties and the conduct of the overseer, assistant overseer, clerk or other officers and the servants appointed or employed by the authority.

(6) Every overseer, assistant overseer, clerk or other officer and every servant shall perform the duties prescribed by the by-laws of the local authority and, where the by-laws do not apply or where there are no by-laws, the duties specified from time to time by the local authority.

(7) No overseer, assistant overseer, clerk or other officer, and no servant appointed or employed by the local authority of a village or country district shall in any manner be concerned or interested in any bargain or contract made with that authority for any of the purposes of this Act; and if such overseer, assistant overseer, clerk or other officer, or servant is so concerned or interested, or under colour of his office or employment exacts or accepts any fee or reward whatsoever other than his proper salary, remuneration, wages or allowances, the Minister may declare him to be, and upon such declaration he shall be, incapable of holding or continuing in any office or employment under this Act.

(8) The local authority of a village or country district may, in accordance with by-laws made by the Minister for such purpose award pensions and gratuities to any of its officers or servants and a gratuity to the legal personal representative of any of its officers or servants who dies in service after qualifying for a pension or gratuity and such pensions and gratuities shall be paid out of the general revenue of the local authority.

Overseer, assistant overseer and clerk

43. (1) Every overseer or assistant overseer, shall, unless the Minister otherwise directs, be the collector or assistant collector, as the case may be, of rates of the village or country district, and when required by the local authority, shall be the clerk of the local authority and as such he shall take the minutes of proceedings and keep the record thereof.

(2) The remuneration of an overseer or assistant overseer may consist, either in whole or in part, of a percentage of the moneys collected by the overseer or assistant overseer, as the case may be.

(3) The district commissioner or any person authorised by him in writing shall have power, at any time whatsoever, to require any collector or assistant collector of rates to deliver to him all moneys in the hands of the collector or assistant collector which are the property of the local authority.

(4) No overseer, assistant overseer, collector of rates, assistant collector of rates, or clerk to a local authority shall be dismissed by the local authority except with the prior approval of the Minister.

PART V
VESTING OF PROPERTY IN VILLAGE COUNCILS AND COUNTRY AUTHORITIES, AND MANAGEMENT OF UNDIVIDED LANDS

Vesting of property in local authority. c. 64:03

44. There shall be vested in the local authority of a village or country district all property, whether movable or immovable, owned by the village or country district, and, subject to the Drainage and Irrigation Act, all machinery and every article used or intended for the drainage or irrigation of the village or country district and every building and erection used in connection therewith.

Property in rates and other moneys of village and country districts.

45. All rates, land rents, empolder rents or instalments of purchase money, house rents or purchase money of lots, fees for pasturage or for wood-cutting, waterside fees, grazing fees, loan moneys, and all other moneys whatsoever receivable or payable for the general revenue of any village or country district shall be deemed the property of the local authority thereof.

Vesting of ungranted State land or empolder.

46. Wherever a village or country district has been or is permitted to occupy any ungranted State land or any empolder, all that land or empolder shall be vested for the purposes of this Act in the local authority thereof.

Management of undivided property, pasture land, dams, trenches, roads, streets and bridges. c. 51:01

47. All undivided lands or portions of land, undivided empolders, pasture lands, woods, dams, kokers, sluices, watercourses, navigation and draining trenches, roads, streets and bridges (not being public roads, streets and bridges under the Roads Act) of every village or country district shall be under the control and management of the local authority.

Letting of undivided lands, pasture lands and woods.

48. (1) The local authority of a village or country district may let to any person by monthly or yearly tenancy or for a term of years, and at such rent as may be fixed by the

local authority with the approval of the Minister, any undivided lands, undivided empolders, pasture lands, woods, or any portion thereof, for the time being under the control and management of the local authority.

(2) Where the letting is for a term of years it shall not be enforceable against the local authority unless the agreement to let is in writing, and unless it is signed by the chairman of the authority with the approval of the Minister.

(3) All persons occupying any undivided lands, empolders, pasture lands, woods, or any portion thereof for the time being under the control and management of the local authority of a village or country district shall pay to the local authority the rent thereof fixed by the local authority with the approval of the Minister.

(4) Where any local authority refuses or neglects to fix the amount of the rent, the Minister may fix the amount of the rent to be paid to the local authority under subsection (3).

(5) All arrears of rent may be recovered—

(a) by an action against the person liable for the payment thereof; or

(b) by warrant of distress in the same manner as is hereinafter provided in respect of arrears of rates:

Provided that under any such warrant of distress any movable property, wherever found, of the person liable for the payment of the rent may be levied upon and sold.

(6) The overseer, under the direction of the local authority but subject to an appeal to the Minister, may enter upon and take possession of all the lands in respect of which two months rent or more is due and payable, and of all crops, provisions and other things then growing or being on the lands and of the possession thereof dispossess the tenant or occupier in arrear, and may dispose of them to the best advantage; and any surplus shall be handed over to the dispossessed tenant or occupier.

Trespass.
[6 of 1981]
c. 8:02

49. (1) Every notice under Title 5 in Part III of the Summary Jurisdiction (Offences) Act by the local authority of a village or country district forbidding and warning trespassers shall conclude with the words "By order of the Village Council of ....." (naming the village district) or "By order of the Country Authority of....." (naming the country district), as the case may be.

c. 8:02

(2) Any tenant or occupier who, after service upon him either personally or at his last or most usual place of abode, of notice that possession of any land has been taken under section 48(6), enters upon the said land shall be deemed to be a wilful trespasser within the meaning and for the purposes of Title 5 in Part III of the Summary Jurisdiction (Offences) Act and the said Title shall have effect and be construed accordingly.

Grazing of animals on common lands of village or country district.
[19 of 1959].

50. (1) The local authority of any village or country district may, with the approval of the Minister, fix fees to be paid by the owners of any animals grazing or kept on the common lands of any village or country district or on State or Government lands held by such local authority.

(2) Where such lands are held jointly by two or more local authorities, such local authorities may, in like manner, fix fees to be paid by the owners of any animals grazing or kept on such lands.

(3) Such local authorities may, with the approval of the Minister, make by-laws providing for the appointment of a committee or joint committees of management and for any matters necessary for the management and supervision of such lands.

(4) Any fees fixed by this subsection shall be paid to the overseer or, if there is no overseer, to the chairman of the local authority, for and on account of the general revenue of the village or country district.

(5) Any animals in respect whereof any such fees are due and payable may, in default of payment thereof, be sold by order of the local authority on the expiration of seven days after notice of the intended sale has been posted up on the office of the local authority; and any surplus shall be paid over to the owner of the animal.

(6) In this section, the expression "animal" means any horse, mare, gelding, colt, filly, mule, ass, bull, cow, ox, steer, heifer, calf, sheep, goat or swine.

Cutting wood on common lands of village or country district.

51. (1) The local authority of any village or country district may, subject to the approval of the Minister, make by-laws with respect to the cutting of wood on the common lands of the village or country district and the fees to be paid therefor.

(2) All moneys received under and by virtue of such by-laws shall be paid by the persons liable to pay them to the overseer or, if there be no overseer, to the chairman of the local authority for and on account of the general revenue of the village or district.

Charging tolls for passage of craft and animals.

52. The local authority of any village or country district may charge tolls, according to a tariff to be posted up at the village office or some other conspicuous place within the district, for bateaux, punts, or other craft, passing through any of the trenches, aqueducts, or kokers, under the control of the authority, and for animals using the roads and dams within the boundaries of the district, but no toll shall be charged until the tariff has been approved by the Minister.

Fishing and mooring of bateaux in trenches of local authority.

53. The local authority of every village or country district may, with the approval of the Minister, make by-laws for the prevention of fishing and of the mooring of bateaux, punts or other craft in any of the trenches or aqueducts under the control of the authority.

PART VI
ESTIMATES AND RATES

Levy of Rates

Annual estimate and rate.
[19 of 1959]
[25 of 1973]

54. (1) On or before the 31st December in every year, or, with the consent of the Minister, before the 15th February in any year, the chairman of the local authority of every village or country district shall submit to the authority an estimate of the expenditure for the ensuing year or for the current year, as the case may be, the rate on the total appraised value of the lots and buildings, or of the lots, or of the buildings, in the district proposed by him to be levied to meet the expenditure, and the amount of the total appraised value as aforesaid.

(2) If, after discussing and, if necessary, altering and amending the estimate and the rate proposed, the local authority by a majority of votes agrees upon an estimate and a rate, such estimate and rate shall be transmitted to the Minister for approval, and the Minister may approve of them either in their entirety or subject to such changes as he may think fit.

(3) If the local authority does not by a majority of votes agree upon an estimate and a rate, the estimate and rate proposed by the chairman shall be transmitted to the Minister with a statement of the objections of the local authority if they have been recorded, and thereupon the Minister may prepare an estimate and fix a rate.

(4) Where an estimate and proposed rate are not transmitted to the Minister, before the 15th February in any year, for its approval, the Minister may prepare an estimate and fix a rate.

(5) The estimate and rate under this section are hereinafter in this Act respectively referred to as the annual estimate and rate.

(6) A rate under this Act may be levied by way of a monthly proportionate contribution from the lots and buildings, or the lots, or the buildings, in the district, determined in such manner as may be approved by the Minister.

(7) It shall be lawful for the Minister or a local authority in the exercise of their powers under this section to fix a different rate in respect of different parts of the district if in the opinion of the Minister or the local authority, as the case may be, it is expedient to do so.

(8) The exercise by a local authority of the power conferred upon it by subsection (7) is subject to the approval of the Minister.

Power of local authority to make contributions, donations or grants in certain cases.
[37 of 1955]

55. The local authority of a village or country district may make contributions, donations or grants—

(a) to any voluntary association or institution for the promotion of public health or welfare;

(b) to any scholarship fund established by any local authority or association of local authorities;

(c) to any association of local authorities or to the body known as the Guyana Village Chairman's Conference;

(d) towards the establishment or maintenance of any public library or museum or to any association existing for the promotion of arts and crafts or recreation and sport;

(e) for the improvement of handicrafts, agriculture or livestock in the village or country district;

(f) for the establishment and equipment or maintenance of social centres in the village or country district;

(g) generally for the welfare and good government of the village or country district:

Provided that the amount of any contribution, donation or grant to be made under the provisions of this section shall be subject to the prior approval of the Minister.

Supplementary estimate and

56. The chairman of the local authority of a village or country district may, if he thinks it necessary, submit to the authority at any time a supplementary estimate and the supplementary rate proposed to meet it, and the provisions of this Act relating to an annual estimate and rate shall, ***mutatis mutandis***, apply to that estimate and rate.

Levying additional rate.

57. (1) If any rate levied under this Act is found insufficient, the local authority of any village or country district is hereby authorized and required to levy, in the same manner as is herein provided with respect to an annual rate, any further and additional rate or rates necessary to meet the required expenditure according to the estimate approved as aforesaid.

(2) When it appears to the Minister that any rate levied under this Act is insufficient, and that the local authority has made default in levying an additional rate, the Minister may levy any additional rate or rates necessary to meet the required expenditure according to the estimate approved as aforesaid, and every additional rate shall have the same preference and shall be recovered in the same manner as is herein provided with respect to an annual rate.

Estimate and rate for work benefiting limited portion of a district.

58. (1) When it appears to the local authority of a village or country district that it is desirable to perform any work in the district and that that work will benefit only a limited portion thereof, the chairman of the local authority may submit to the authority a report setting forth the work to be performed, and the portion of the district for the benefit of which it is to be performed, and also an estimate of the expenditure required for its performance, and of the rate proposed to meet the expenditure, and affecting only the property comprised in the limited portion of the district, and the estimate and rate when settled and approved shall be legal, valid and binding on all persons concerned.

(2) All the provisions of this Act relating to annual estimates and rates and the collection and enforcement of payment of rates, shall with the necessary modifications, apply to any estimate and rate made and levied under this section.

Special estimate and rate.

59. A special estimate may be made and a special rate levied by the local authority of a village or country district for any portion of a financial year remaining unexpired after the constitution of that authority, and the provisions of this Act relating to an annual estimate and rate shall, ***mutatis mutandis***, apply to that estimate and rate.

Private improvement expenses.
[4 of 1972]

60. Any local authority, or the Minister, may—

(a) perform any work which by this Act, the proprietor or occupier of property is or may be required to perform; or

(b) perform any work which the proprietor requests should be performed and which is necessary to place the property in a proper sanitary condition,

and declare the expenses expended or incurred by it in so doing to be private improvement expenses.

Power of Minister to direct execution of works, and costs to be defrayed by private improvement rate.
[4 of 1972]

61. (1) The Minister may, by order, direct a local authority to perform any work which a local authority is authorised to perform, and to declare the expenses to be expended or incurred by it in so doing to be private improvement expenses, and to levy such private improvement rate as may be necessary or as the Minister may direct.

(2) If a local authority, when so directed, neglects to comply with any of those directions, it shall be deemed to have made default in enforcing a provision of this Act and the Minister shall enforce the direction and shall have the same power to execute the work as the local authority; and the Minister shall have power to levy and recover the private improvement rate directed to be levied, and shall have the same powers, rights, and preferences as the local authority for enforcing and securing payment thereof.

Levy of private improvement rate.

62. Where a local authority or the Minister has incurred or becomes liable for any expenses which by this Act or any other Act for the time being in force, are declared to be private improvement expenses, that authority may, if it thinks fit, make and levy a rate in addition to all other rates on the property in respect of which the expenses have been incurred, to be called a "private improvement rate" of an amount sufficient to discharge those expenses with interest thereon at a rate not exceeding six per cent *per annum*, payable at the times and in the period, not exceeding ten years, which the authority in each case determines.

Preference lien for private improvement expenses and rate.

63. (1) Where a local authority or the Minister has incurred or becomes liable for any expenses which, by this Act or any other Act for the time being in force, may be declared to be private improvement expenses, that authority shall have a preferent lien on the property in respect of which the expenses have been incurred for all sums advanced, with interest thereon at a rate not exceeding six per cent *per annum*, over and above all other liens or claims whatsoever, save and except claims due to the State and save and except claims due in respect of taxes or rates levied by the authority to defray its general expenditure.

(2) That lien shall continue in full force until the whole sum advanced has been repaid in full, with all interest thereon, and continue to be attached to the property notwithstanding any change of ownership thereof, whether by devolution or private or execution or other public sale.

(3) Where the authority levies a private improvement rate, it shall have the same preferent lien for the payment of that rate as for the payment of private improvement expenses.

(4) Where any property subject to the payment of a private improvement rate is sold at execution sale, the authority levying the rate may, if it thinks fit, require the amount realised by the sale, after payment of all claims preferent thereto, to be applied in payment of the whole amount, with interest, levied by the rate then remaining unpaid, so far as the proceeds may suffice for the purpose.

Recovery of private improvement expenses and rate.

64. Private improvement expenses, and every private improvement rate, may be recovered by parate or summary execution against the proprietor of the property in respect of which those private improvement expenses are payable or in respect of which the private improvement rate is levied, without naming him.

Redemption of private improvement rate.

65. At any time before the expiration of the period for which a private improvement rate

is made, the owner of the property liable thereto may redeem the rate by paying to the local authority the expenses in respect of which the rate was made, or such part thereof as has not been defrayed by sums already levied in respect of the same:

Provided that money paid in redemption of any private improvement rate shall not be applied by the authority otherwise than in defraying expenses incurred by it in works of private improvement or in discharging the principal of any moneys borrowed by it to meet those expenses, whether by means of a sinking fund or otherwise.

When estimate and rate valid. [6 of 1981]

66. (1) No estimate or rate shall be valid unless

(a) it has been approved, or prepared or fixed, by the Minister; and

(b) notice of its approval, preparation or fixing has been published in the *Gazett*e.

(2) Upon the publication of such notice, the estimate or rate shall be binding on all persons concerned, and the rate referred to in the notice shall be levied by the local authority of the village or country district accordingly.

Date on which rate becomes due and payable. [42 of 1957]

67. (1) In every village or country district in which the estimate of expenditure is, with the approval of the Minister, to be met by a monthly contribution from lots and buildings, or lots, or buildings, in the district, the contribution shall, on publication in the *Gazette* of the notice under section 66(1)(b), be due and payable as from the first day of each and every month included in the period during which the contribution is required to be made:

Provided that where the notice is published after the commencement of the said period the contributions for the month or months which but for this proviso would have been payable prior to the date of such publication shall be deemed to have become due and payable on the date of such publication.

(2) In every village or country district in which the estimate of expenditure is, with the approval of the Minister, to be met by the levy of a rate on lots and buildings, lots, or buildings, in the district the amount of the rate shall be due from the date of publication in the *Gazette* of the notice under section 66(1)(b).

(3) The amount of the rate under subsection (2) may be paid either in full or in four equal instalments payable respectively on publication as aforesaid and on the 1st April, 1st July and 1st October:

Provided that where the notice is published on or after the 1st April the instalments which but for this proviso would have been payable prior to the date of such publication shall be deemed to have become due and payable on the date of such publication.

(4) On failure to pay any instalment of rate under this section within thirty days of the date on which it becomes due and payable under subsection (1) or (3)—

(a) the person liable for payment of the rate shall be deemed to be in arrears for the purposes of this Act; and

(b) the rate for the whole year together with interest at the rate of five per cent *per annum* shall thereupon become due and payable and the rate or any portion of it together with interest aforesaid may be recovered as hereinafter provided.

Exemption of certain property from payment of rates. [25 of 1961]

68. (1) The following shall not be liable or subject to any rate under this Act:

(a) subject to subsection (2), all public lands;

(b) every building the property of the State;

(c) every church, chapel or school-house devoted to the purposes of religion or education, and the land whereon every such church, chapel, or school-house is situate;

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(d) every burial ground established with the approval of the Central Board of Health under section 64 of the Public Health Ordinance;

(e) any land which a local authority is satisfied is kept and used mainly as a playing field in connection with the activities of any school or other educational institution.

(2) Where public lands within a village or country district are held under a lease or are occupied or used under any licence or permission, the lands may be appraised and they shall be liable to rates under this Act, but in proceedings for the recovery of any such rate, only the right, title and interest of the lessee, licensee or permittee, as the case may be, in the lands shall be taken in execution or sold at execution.

Power to exempt property from payment of rates on the ground of poverty of proprietor.

69. The local authority of a village or country district may, with the approval of the Minister, exempt, on the ground of the poverty of the proprietor, any lot or building from the payment of any rates under this Act.

Collection of Rates

Delay in collecting rates or rents.

70. Whenever it appears to the Minister that the collection of rates or rents in any village or country district is unduly delayed, he may by a direction in writing require the collector of rates forthwith to proceed in the manner prescribed by this Act for the recovery of the rates or rents overdue, as the case may be, and may, on failure of the collector of rates forthwith to comply with such order, deal with him as provided by section 14(2)(b).

Liability for and mode of recovery of rate.
[25 of 1961]

71. (1) Where a rate under this Act is levied in respect of the lots only, in a village or country district, there shall be liable and executable for the amount of the rate payable under this Act in respect of the lot—

(a) the lot with the buildings (if any) thereon belonging to the proprietor of the lot, and

(b) all movable property of the aforesaid proprietor on the lot or in any building thereon.

(2) Where a rate under this Act is levied in respect of the lots and the buildings in a village or country district, the following provisions shall apply—

(a) all buildings shall be rated separately from the lots on which they are situate;

(b) where a building is owned by the proprietor of the lot on which it is situate, the lot and the building and all movable property of the proprietor on the lot or in the building shall be liable and executable for the total amount of the rate payable under this Act in respect of the lot and the building;

Delay in collecting rates or rents.

(c) where a building is not owned by the proprietor of the lot on which it is situate, the building and all movable property belonging to the proprietor of

the building, whether in the building or on the lot, shall be liable and executable for the amount of the rate payable under this Act in respect of the building;

(d) where a lot is not owned by the proprietor of the building situate on the lot, the lot and all movable property belonging to the proprietor of the lot, whether in the building or on the lot, shall be liable and executable for the amount of the rate payable under this Act in respect of the lot.

(3) Where a rate under this Act is levied in respect of the buildings only in a village or country district, there shall be liable and executable for the amount of the rate payable under this Act in respect of any building, the building and all movable property of the proprietor of the building, whether in the building or on the lot.

(4) The amount of every rate under this Act shall be and is hereby declared to be preferent over and above all claims of whatever nature they may be, not being claims due to the State.

(5) The amount of every rate levied under this Act in a village or country district shall be recoverable—

(a) by an action against the person liable for the payment thereof; or

(b) subject to section 75, by parate or summary execution against the lot and building, the lot, or the building, as the case may be,

and the process shall be at the instance and in the name of the local authority of the village or country district, as the case may be:

Provided that where an order has been made under section 70 the process shall be at the instance and in the name of the collector of rates to whom the order has been issued.

(6) The payment of any rate levied under this Act may be enforced notwithstanding that the period or purpose in respect of which it has been levied has expired or terminated.

Restriction on subdivision of lots.

72. (1) No lot in a village or country district may be divided into portions of less size than quarter lots, without the consent of the Minister first had and obtained.

(2) No lot in a village or country district shall be subdivided into portions of less than one-fifteenth of an acre.

(3) Any subdivision which is made contrary to this section shall be null and void.

Apportionment of rate where lot is subdivided.

73. If any lot is subdivided, the local authority of the village or country district, or if the authority fails so to do on application made for the purpose, the Minister may apportion the payment of the rate payable in respect of the lot among the several portions thereof.

Enforcement of contribution from co-proprietor of lot or building

74. Where any lot or building in a village or country district is owned by two or more persons, and one of the co-proprietors has paid more than his proper proportionate share of a rate levied under this Act, he may recover, by action, from those of his co-proprietors

who have paid or contributed less than their proper share as aforesaid the amount of the said excess, but, in relation to the local authority, each of the co-proprietors shall be liable for the payment of the whole rate payable under this Act in respect of the lot or building.

Demand for payment of rate and levy on movable property.

First Schedule Form 1.

75. (1) Wherever there is any movable property which is liable or executable under section 71 for the amount of any rate under this Act in respect of any lot or building in a village or country district it shall be the duty of the overseer, or, if there be no overseer, then of the chairman of the local authority of the district, before application is made for the process of parate or summary summation, to cause a notice, according to Form 1 in the First Schedule, of the amount of the rate due and payable in respect of the lot and building, the lot, or the building to be served on the proprietor thereof by posting it up in some conspicuous position on the lot or building thereon, or on the lot, or on the building thereon, as the case may be.

(2) The production of the duplicate or copy of the notice signed by the collector of rates shall be sufficient evidence that the amount stated therein to be due in respect of the lot and building, or of the lot, or of the building, as the case may be, is in fact due and payable.

(3) If payment is not made within two weeks after the notice is served on the proprietor as aforesaid, the overseer or chairman, as the case may be, may make application to the magistrate of the magisterial district in which the village or country district is situate for a warrant of distress, and the magistrate, upon the production of the duplicate or copy of the notice with the return of service thereon duly sworn before him, shall grant a warrant of distress for the recovery of the rate, under and by virtue of which the movable property as aforesaid may be levied on and sold for the amount of the rate with costs.

(4) The movable property shall be sold in some public place by any person authorised by the magistrate.

(5) Notice of the time and place of the sale shall be given not less than three days before the sale, and in the manner directed by the magistrate.

(6) The proceeds of the sale, after payment of the expenses thereof, shall be applied in satisfaction of the claim of the local authority and the surplus, if any, shall be paid to the owner of the movable property which was sold.

Power to recover property or value thereof where movable property of person other than person liable for payment of rate is levied on for recovery thereof.
[25 of 1961]

76. Where, notwithstanding the provisions of this Act, as a result of the execution of a warrant of distress for the recovery of a rate, the movable property of a person other than the proprietor liable for the payment of the rate is levied on, the owner of the movable property shall be entitled to recover by action the property, or if it has been sold, the full value thereof, from the local authority, together with costs.

Form of warrant of distress.
First Schedule.
Form 2.

77. Every warrant of distress issued under this Act may be drawn up according to Form 2 in the First Schedule.

Execution of distress warrant.

78. All warrants of distress issued under this Act shall be executed in the same manner as warrants of distress issued by a magistrate in the exercise of his summary jurisdiction.

Fees on distress.
Second Schedule.

79. The fees specified in the Second Schedule shall be the fees legally payable for any process of distress issued under this Act, and shall be paid in the first instance by the party applying for the process, but they shall be costs in the matter of the distress.

Condition of granting writ of execution.
[4 of 1972]

80. No writ or order of execution in any proceeding by parate or summary execution against any lot for the payment of a rate shall be granted, unless there is produced with the summation a certificate signed by the chairman or the collector of rates of the local authority of the village or country district or a public officer designated by the Minister to the effect that there was no movable property whereon to levy or that it had proved insufficient.

Service of summation where more than one lot proceeded against

81. Where two or more lots are owned by one and the same person, the service of a summation or other legal process for the recovery of a village or country district rate in respect of such lots—

(a) upon the principal or township lot, where one of the lots proceeded against is a principal or township lot; and

(b) upon any one of the lots proceeded against, where no one of such lots is a township lot,

shall be, and is hereby declared to be legal, valid and sufficient.

Conditions governing sale of property by parate execution.
[18 of 1988]
[6 of 1997]
c. 28:04

81A. (1) Before any property is put up for sale in pursuance of the proceedings brought by parate execution under this Act the property shall be valued by the Chief Valuation Officer appointed to value property for rating purposes under the Valuation for Rating Purposes Act.

(2) A reserve price based on the price of the property fixed by the Chief Valuation Officer below which, subject to the other provisions of this section, the property shall not be sold, shall be fixed by the Registrar.

(3) The sale of the property shall be advertised by the Registrar in three issues (as far as possible in consecutive issues) of at least one newspaper having circulation in Guyana, on a conspicuous part of the property and on the notice board of the Court or office where the auction is proposed to be held and the advertisement shall contain—

(a) a description of the property with its location;
(b) the reserve price of the property;
(c) the date, time and place of the sale;
(d) any other matter that may be prescribed by the Minister by regulations.

(4) The Registrar shall give a minimum of one week's notice to the Central Housing and Planning Authority established under the Housing Act of the date and time of every sale of property at auction for the recovery of rates.

(5) The sale of the property shall not take place until the expiry of at least three days from the date of the last advertisement as provided for in this section.

(6) The Registrar shall in the first instance restrict the bidding to a bidder who furnishes proof by affidavit to the Registrar that he or any member of his family does not own a house or a housing plot or who furnishes proof that though he owns a house or a housing plot such house or housing plot is far removed from the location of his place of employment or business, and that he wants the property he is bidding for as a residence or for business:

Provided that if there is no such bidder willing to purchase the property at a price equal to or higher than the reserve price, and there are other bidders, who are willing to do so the Registrar may allow those other bidders to bid at the said auction.

(7) In subsection (6) "family" means the person, his spouse and minor children (whether born in or out of wedlock).

(9) On the day fixed for the sale of the property if there are no buyers or if all the biddings fall below the reserve price, on a request made therefor by the Central Housing and Planning Authority established under the Housing Act, the Registrar shall sell the property at the reserve price to that Authority and notwithstanding anything contained in the Housing Act the aforesaid Authority shall have power to purchase the property under this section:

Provided that if the Central Housing and Planning Authority does not request to purchase the property, the sale shall be postponed to a date to be fixed by the Registrar, which shall be not later than twenty-one days from that day and thereupon the sale shall be re-advertised in the same manner provided for in subsection (3) and the property sold by the Registrar to the highest bidder without reserve.

(10) If before, or on the date of, the sale, at any time before the sale is completed, the owner of the property or any other person authorised by him to do so produces before the marshal conducting the sale certificate from the treasurer of the council stating that a sum equivalent to the amount of rates and interest due thereon up to the day of sale, as certified by the treasurer of the council, together with costs, including costs of the proceedings related to the sale, has been paid to the treasurer, the marshal shall cancel the proposed sale.

(11) The provisions of this section shall apply to parate execution under this Act notwithstanding any other law to the contrary.

(12) The Minister may by regulations make provisions with respect to all or any of the following matters:-

(a) the matters to be taken into account in valuing any property for the purposes of this section;

(b) subject to the provisions of this section and the rules of the High Court, the procedure relating to the sale of the property;

(c) requiring the council to pay the cost of advertisement in a newspaper subsection (3) and for payment of the sums to the council from the proceeds of the sale of the property.

(13) In this section "Registrar" means the Registrar of the Supreme Court of Judicature.

Distribution of proceeds of sale. [4 of 1972]

82. On the sale of any property by parate or summary execution under this Act the marshal, after deducting the amount sued for and all legal and just costs and charges, shall pay over to a public officer designated by the Minister or the district commissioner the amount of rates certified to be due in respect of any property sold by parate or summary execution including any rates which have accrued due and in respect of which and of the amount of which the public officer aforesaid or the district commissioner has given to the Registrar notice in writing not later than the day before the sale.

Return of results of sale. [4 of 1972]

83. Within one month after the sale of property at execution sale for the recovery of rates under this Act, the marshal shall without any charge furnish a public officer designated by the Minister or the district commissioner with a return showing the date of sale, the amount realised, the name of the purchaser, the amount of costs and charges, and the amount of the surplus, if any, after payment of the amount sued for and of the costs and charges.

Fees on parate or summary execution. Third Schedule

84. (1) The fees for the process of parate or summary execution shall be as specified in the Third Schedule.

(2) No charge shall be made for travelling expenses, distance money, conditions of sale, copies of documents, printing, or any other matter not specified in the said Schedule.

Validity of proceedings.

85. No proceeding in any parate or summary execution under this Act shall be void for want of form.

Informality in proceedings for recovery of rates.

86. (1) No misnomer, mistake, or informality, committed in any proceeding for the recovery of a village or country district rate shall prejudice the recovery thereof; nor shall the proceeding lapse, cease, or abate, by reason of the death, resignation, or removal, of the officer instituting it, or of any change in any person holding office in connection with the village or country district; but the officer for the time being may prosecute and continue the proceeding commenced and carried on in the name of any previous officer in all respects as if the proceeding had been taken by himself.

(2) No person may sue and no court of justice may entertain any action or proceeding against an officer or other person employed in executing any warrant of distress in reference to a village or country district rate, by reason of any misnomer, mistake or informality if the movable property seized or sold under that warrant and belonging to the proprietor liable for the payment of the rate was in fact found upon or in any lot or building liable under section 71 for the payment of the rate.

Officer of local authority not to purchase property sold at execution at the instance of the local authority for the recovery of rates.

87. (1) Except as otherwise provided in subsection (2), no officer of a local authority shall purchase, either directly or indirectly or by the intervention of a trustee, any property sold at execution at the instance of the local authority for the recovery of rates, and every such purchase shall be null and void.

Power of local authority to purchase lot or building sold for recovery of rates.

(2) It shall be lawful for any such officer to purchase at an execution sale any property which it may be necessary for him to purchase in order to protect the interests of himself, his wife or his child.

88. (1) The local authority of a village or country district may purchase for the benefit of the village or country district any lot with or without the buildings (if any) thereon, or any building, sold for the recovery of rates.

(2) The local authority shall have power to receive title therefor, and may subject to this Act, lease, sell or otherwise deal with the same.

Transport of lot sold at execution sale for recovery of rates.
[6 of 1997]

89. (1) The Registrar of the Supreme Court shall, upon the delivery to him of a certificate of the marshal (which certificate shall be given free of charge) to the effect that the person described in the certificate has, at execution sale for the recovery of rates under this Act, purchased a lot and paid the full purchase price therefor, transport or cause to be transported to the purchaser the lot so purchased.

(2) The Registrar of Deeds shall charge and receive for the said transport the sum of sixty-five dollars.

c. 5:01

(3) Nothing in this section shall be construed as affecting the operation of the Deeds Registry Act, or any rules, regulations or tariff of fees for the time being in force thereunder.

Recovery of interest.
[29 of 1961]

90. Sections 70 to 89 (both inclusive) of this Part shall apply to the recovery of any interest that becomes payable under section 67(4) as they apply to the recovery of rates.

PART VII
GENERAL PROVISIONS AS TO LOCAL ADMINISTRATION

Drainage by local authority.

91. Every local authority shall—

(a) cause to be made, and shall at all times maintain in good order, the dams and trenches and main drains, having the outfall and with the kokers or sluices, necessary for effectually draining the authority's district for sanitary purposes;

(b) when required by the Minister, cause its district, or the part thereof specified by the Minister, to be drained by machinery;

(c) cause all trenches and main drains used for draining any portion of the district so to be kept as not to be a nuisance or injurious or likely to be injurious to health and to be properly cleansed and emptied.

Issue of water from a tank, or reservoir.

92. Every local authority may, subject to the approval of the Minister, make by-laws regulating the issue of water from any tank or reservoir under its charge.

Offensive watercourse.

93. (1) Where the proprietor of any watercourse, main drain or drain near or forming the boundary of the district of a local authority wilfully or negligently keeps the said watercourse, main drain or drain foul and offensive and thereby injuriously affects the district or where the proprietor of any estate adjoining such district wilfully or negligently fails to repair or maintain any dam, sluice, koker, canal, or trench on his estate and such failure endangers the safety, or materially impairs the efficiency of any work under the control or management of the local authority, the local authority may, by notice in writing, require the said proprietor forthwith to clean such watercourse, main drain, or

drain or effect such repairs to his dam, sluice, koker, canal or trench (as the case may be) as may be specified in the said notice.

(2) Where any proprietor—

(a) fails within seven days of the service of any notice under the preceding subsection to commence the work required to be done specified in the notice; or

(b) having commenced the work specified in such notice unreasonably delays completing such work,

the local authority may itself perform the work or complete the work, as the case may be, and any expenditure incurred by the local authority under this subsection shall be recoverable from such proprietor.

Power of local authority to require proprietor or occupier of land to maintain dams, trenches and sluices

94. (1) The proprietor or occupier of land in a district shall maintain all works upon the land to the satisfaction of the local authority in order to prevent flooding of any lands within the district and also to prevent the wastage of water and for these purposes the local authority may, by order, require the proprietor or occupier of land in the district to repair or maintain the dams, trenches or sluices thereon, or any portion thereof, in the manner and within the time directed by the local authority.

(2) The order shall be in writing and shall be served upon the proprietor or the occupier, as the case may be.

(3) If the proprietor or occupier fails to comply with the order, the local authority, or any person authorised in writing by the authority, may enter upon the land whereon the dam, trench or sluice is situate and cause the dam, trench or sluice, or portion thereof, as the case may be, to be repaired or maintained in accordance with the terms of the order, and the cost of so doing shall be recoverable by the local authority from the proprietor.

Regulation of trades and erection of machinery.

95. (1) Every local authority may, subject to the approval of the Minister, make by-laws regulating the mode and place in which any trade or manufacture may be carried on within its district and prescribing the conditions under which machinery may, with the consent of the authority, be erected in the district.

(2) The by-laws may authorise any officer of the local authority or any police constable to enter and inspect at all reasonable times any premises or place where the trade or manufacture is carried on.

Markets.
[47 of 1955]
[4 of 1972]
[6 of 1997]
Cao.. 145
1953 Ed.

96. (1) Subject to the Public Health Ordinance, any local authority may, with the consent of the Minister, do the following things or any of them within its district:

(a) provide a market-place and construct a market house and other conveniences for the purpose of holding a market;

(b) make convenient approaches to the market;

(c) provide all matters and things necessary for the convenient use of the market;

(d) purchase, or take on lease, land and public or private rights in markets and tolls for any of the foregoing purposes; and

(e) take stallages, rents and tolls in respect of the use of the market by any person.

(2) Subject to the Public Health Ordinance, any local authority may, with the consent of the Minister do the following things or any of them within its district:

(a) give permission to any person to provide a market-place and construct a market house and other conveniences for the purpose of holding a market;

(b) fix the stallages, rents and tolls which may be taken in respect of the use of the market by any person.

(3) The local authority may, subject to the approval of the Minister, make by-laws for the purposes mentioned in subsections (1) and (2) and for the regulation of any market aforesaid.

(4) No person shall in any district provide a market-place or construct a market house or other conveniences for the purpose of holding a market without first having obtained the permission of the local authority thereof so to do.

(5) No person shall in respect of the use of a market in any district demand or take or cause or permit to be taken any stallage, rent or toll greater than that fixed by the local authority thereof.

(6) Any person who contravenes any of the provisions of subsection (4) or of subsection (5) shall be liable on summary conviction to a fine of sixty-five thousand dollars or to imprisonment for six months.

Continuing offence in respect of construction of a market place or other conveniences for the purpose of holding a market without permission. [47 of 1955]

97. (1) Where the construction of a market place or other conveniences for the purpose of holding a market is an offence in respect whereof the offender is liable under this Act to a penalty, the existence of the construction in any form or state contravening the same shall be deemed to be a continuing offence.

(2) Where a construction of a market-place or other conveniences for the purpose of holding a market is commenced or maintained in contravention of this Act, the magistrate may order the person who causes the construction to be commenced or maintained to take it down and to pay all expenses incurred thereby.

(3) Where the order is not complied with the Minister may, at the expiration of the time specified in the order, cause the construction to be taken down and recover from the owner the expenses incurred by so doing.

Slaughter-houses

98. Any local authority may, if it thinks fit, provide slaughter-houses, and may, subject to the approval of the Minister, make by-laws with respect to the management and charges for the use of any slaughter-houses so provided, and, where slaughter-houses are

provided, for prohibiting the slaughter of any animal except in a slaughter-house, and for the examination of all animals before they are slaughtered.

Baths and wash houses.

99. The local authority of every village and country district may, and when required by the Minister shall, erect and maintain baths and wash houses, and may, subject to the approval of the Minister, make by-laws for the due regulation thereof.

Burial Fees.
[29 of 1956]

100. Where there is a cemetery or other place used as a burial ground in a village, country or rural district and the cemetery or burial ground is under the control of the local authority or of the Minister, the local authority may with the prior approval of the Minister determine the fees to be paid for graves and in respect of burials in the cemetery or burial ground, and for any copy of an entry in a register of burials.

Overhanging trees

101. Any local authority may require the owner of any tree overhanging any public street, road, or thoroughfare or any drainage trench in its district in such a manner as may likely injure the street, road or thoroughfare or drainage trench, or the drainage thereof, or endanger the safety of the inhabitants, or overhanging the boundary between two lots, to cause the tree to be cut down or pruned, or anything dangerous to be removed therefrom in the manner and within the time directed by it by an order in writing to be served upon the owner, and if the owner fails to comply with the order, the authority, or any person duly authorised in writing by it, may enter upon any land in the district wherein the tree is growing and cause it to be cut down or pruned, or anything dangerous to be removed therefrom, in accordance with the order, and the cost of so doing shall be recoverable from the owner.

Straying of animals.
[6 of 1997

102. (1) If any animal grazes, or strays, on or in any main drain, or on a public road, street, dam, bridge, or other public place, within the boundaries of the district of a local authority, the person having the possession or control of the animal shall be liable on summary conviction to a fine of six hundred and fifty dollars, unless he proves that the animal was so grazing or straying through no act or default on the part of himself or his servants or agents.

(2) Any animal grazing or straying on any place mentioned in subsection (1), may be seized and impounded by any member of the police force or of the rural constabulary, or by any officer of the local authority, or by any person authorised in writing by the local authority.

(3) Swine straying on any place mentioned in subsection (1) may be destroyed by any of the persons mentioned in subsection (2), and the carcasses so destroyed shall be the property of the local authority.

c. 71:04

(4) Any animal impounded under this section shall be impounded in the nearest pound and the Pounds Act shall apply to the impounding.

(5) In this section the expression “animal” means any horse, mare, gelding, colt, filly, mule, ass, bull, cow, ox, steer, heifer, calf, sheep, goat or swine.

Power to purchase, etc., lands

103. A local authority may, with the consent of the Minister, for the purpose and subject to this Act, purchase, accept as a gift, take on lease, sell, exchange, or mortgage any lands, whether situate within or without its district; and a local authority may also purchase any dam or watercourse which interferes with the proper drainage of, or the supply of water to, its district.

Sale of surplus lands.

104. Lands acquired by a local authority in pursuance of any powers in this Act contained and not required for the purpose for which they were acquired shall (unless the Minister otherwise directs) be sold at the best price that can be obtained for them; and the proceeds of sale shall be applied as the local authority, with the consent of the Minister, directs.

Purchase of lands.
[4 of 1972]

1 of 1846

105. With respect to the purchase of lands by a local authority for the purposes of this Act, the following provisions shall be observed:

(a) the provisions of the Companies' Clauses and Powers Consolidation Ordinance, 1846,* with respect to-

(i) the taking of lands otherwise than by agreement;

(ii) the application of the purchase money or compensation coming to parties having limited interests;

(iii) small portions of intersected lands;

(iv) lands subject to mortgage; and

(v) lands subject to leases,

shall be incorporated with this Act; and in construing those provisions for the purposes of this Act, this Act shall be deemed the special Ordinance, and the local authority shall be deemed to be the promoters of the undertaking;

(b) all arbitrations required under the incorporated Ordinance shall be conducted in the manner provided in this Act, and all things authorised or required to be done by two justices of the peace may be done by a magistrate;

(c) the local authority, before putting in force any of the powers of the incorporated Ordinance with respect to the purchase and taking of lands, otherwise than by agreement, shall—

(i) publish, once at least in each of three consecutive weeks, in the *Gazette* and in a local newspaper in Guyana, an advertisement describing shortly the nature of the undertaking in respect of which the lands are proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours and stating the extent of land the authority requires; and

(ii) serve a notice on every owner or reputed owner, lessee or reputed lessee, and occupier of those lands, defining in each case the particular lands intended to be taken, and requiring an answer stating whether the person so served assents, or dissents, or is neutral, in respect of the taking of the lands;

(d) on compliance with the provisions of this section with respect to advertisements and notices, the local authority may, if it thinks fit, present a

* The present Companies Act is No. 29 of 1991

petition to the Minister, wherein shall be stated the lands intended to be taken, the purposes for which they are required and the names of the owners, lessees, and occupiers thereof who have assented, dissented, or are neutral in respect of the taking of them, or who have returned no answer to the notice; and the petition shall pray that the local authority may with reference to those lands, be allowed to put in force the powers of the incorporated Ordinance with respect to the purchase and taking of lands otherwise than by agreement; and the prayer shall be supported by the evidence which the Minister requires;

(e) on receipt of the petition, the Minister, on due proof of the proper advertisements having been published and notices served, shall take the petition into consideration and direct a local inquiry as to the propriety of assenting to the prayer; and

(f) after the completion of the inquiry the Minister may, if he sees fit so to do, empower the local authority to put in force, with reference to the lands mentioned in the order, the powers of the incorporated Ordinance with respect to the purchase and taking of lands otherwise than by agreement, or any of them, and either absolutely or with any conditions and modifications he directs; and it shall be the duty of the local authority to serve a copy of the order so made in the manner and on the person or persons in which and on whom notices in respect of the lands are required to be served:

Provided that any notices or orders by this section required to be served on a number of persons (being more than three) having any right in, over, or on lands in undivided shares may be served on any three of those persons on behalf of all of them.

Power to let lands

106. A local authority may, with the consent of the Minister, let for any term any lands it possesses, as and when it can conveniently spare them.

Mode of reference to arbitration.

107. In case of dispute as to the amount of any compensation to be made under this Act (except where the mode of determining the amount is specially provided for), and in the case of any matter which by this Act is authorised or directed to be settled by arbitration, then, unless both parties concur in the appointment of a single arbitrator, each party shall appoint an arbitrator to whom the matter shall be referred.

Provisions as to arbitrators.

108. With respect to arbitrations under this Act the following provisions shall be observed:

(a) every appointment of an arbitrator under this Act shall be in writing, shall be delivered to the arbitrators, and shall be deemed a submission to arbitration by the parties making it;

(b) after the making of an appointment, it shall not be revoked without the consent of both parties, nor shall the death of either party operate as a revocation;

(c) if, for the space of fourteen days after any matter by this Act authorised or directed to be settled by arbitration has arisen, and notice in writing by one party who has duly appointed an arbitrator has been given to the other party, stating the matter to be referred and accompanied by a copy of the appointment, the party to whom notice is given fails to appoint an arbitrator,

the arbitrator appointed by the party giving the notice shall be deemed to be appointed by, and shall act on behalf of, both parties;

(d) if, before the determination of any matter so referred, an arbitrator dies, or refuses or becomes incapable to act, the party by whom that arbitrator was appointed may appoint in writing another person in his stead; and if that party fails to do so for the space of seven days after notice in writing from the other party in that behalf, the remaining arbitrator may proceed ***ex parte***; and every arbitrator so appointed shall have the same powers and authorities as were vested in the arbitrator in whose stead the appointment is made;

(e) if a single arbitrator dies, or becomes incapable to act, before he makes his award, or fails to make his award within twenty-one days after his appointment, or within any extended time he has duly appointed for that purpose, the matters referred to him shall be again referred to arbitration under this Act, as if no former reference has been made;

(f) where there are more arbitrators than one, the arbitrators, before they enter on the reference shall, by writing under their hands, appoint an umpire; and if the person appointed to be umpire dies, or becomes incapable to act, the arbitrators shall forthwith appoint another person in his stead; and if the arbitrators refuse or neglect to appoint an umpire for seven days after being requested to do so by any party to the arbitration, the Minister, on the application of that party, shall appoint an umpire;

(g) if the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within any extended time they have duly appointed for that purpose, the matters referred shall be determined by the umpire;

(h) the time for making an award by arbitrators under this Act shall not in any case be extended beyond the period of two months from the date of the submission; and the time for making an award by an umpire under this Act shall not in any case be extended beyond the period of two months from the date of the reference of the matters to him;

(i) before any arbitrator or umpire enters on a reference under this Act he shall make and subscribe the following declaration before a magistrate:

> "1, A.B., solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the Local Government Act.—A.B."

and the declaration shall be annexed to the award when made; and any arbitrator or umpire who wilfully acts contrary to the declaration shall be guilty of a misdemeanour;

(j) any arbitrator, arbitrators, or umpire, appointed by virtue of this Act may require the production of any documents in the possession or power of either party they or he may think necessary for determining the matters referred, and may examine the parties or their witnesses upon oath;

(k) the costs of and consequent upon the reference shall be in the discretion of the arbitrator or arbitrators, or, in case the matters referred are determined by an umpire, of the umpire;

(l) any submission to arbitration under this Act may be made a rule of the High Court in its civil jurisdiction on the application of any party thereto; and

(m) the award of an arbitrator or arbitrators, or of an umpire, under this Act shall be final and binding on all parties to the reference.

Reference to magistrate of claim under $500. [4 of 1972]

109. All questions referable to arbitration under this Act, when the amount in dispute is less than five hundred dollars, may be determined, at the option of either party, before a magistrate; but the magistrate, if he thinks fit, may require that any work in respect of which the claim of the local authority is made, and the particulars of the claim, shall be reported on to him by any qualified person not being a member or officer of the local authority; and the magistrate may determine the amount of costs incurred in that behalf and by whom they or any part of them shall be paid.

Defraying expenses incurred by local authority.

110. All expenses incurred or payable by a local authority in the execution of this Act and not otherwise provided for shall be defrayed out of the general rates levied by the authority.

Payment of rate by occupier and recovery of amount thereof from proprietor.

111. (1) Where the proprietor of property in any district makes default in paying to the local authority thereof or the Minister any rate, or amount levied, or due, in respect of the property, as and when it becomes payable, the occupier of, or any person having any interest in, that property or any portion thereof, may pay the rate, or amount and recover it from the owner of the property, together with interest at the rate of six per cent *per annum* until repaid, with all costs of suit.

(2) Where there are several proprietors, the occupier or person may so recover from any of them, and the part proprietor so paying shall be entitled to recover from the other part proprietors of the property the amount of their proper contribution.

Recovery of expenses where a plantation is included in a district.

112. Wherever a plantation forms part of a district, any rate levied under this Act shall be levied on the plantation as a whole.

Local authority may borrow on credit of rates.

113. Every local authority may, with the sanction of the Minister, for the purpose of defraying any costs, charges, and expenses incurred or to be incurred by it in the execution of this Act, borrow any sum of money on the security of the rates, and may mortgage the rates for the repayment thereof.

PART VIII
DRAINAGE OF VILLAGE AND COUNTRY DISTRICTS THROUGH ADJOINING LANDS

Making agreement with neighbours.

114. The local authority of any village or country district may, subject to the approval of the Minister, enter into any agreement on behalf of the village or country district with the proprietor of any neighbouring plantation or land for the purpose of affording to the village or country district effectual drainage for a term of years, in consideration of the payment of such sums of money or as may be otherwise agreed upon.

Application for leave to make drain in land of another.

115. (1) Where the lands of a village or country district previously formed part of an adjoining plantation the drainage of which was connected with the drainage system of the adjoining plantation, and where the village council or country authority (hereinafter referred to as "the applicants") consider it necessary to drain the lands of the village or country district, or any part or portion of them, through lands belonging to the proprietor of the adjoining plantation (hereinafter referred to as "the adjoining proprietor") and deem it necessary that new drains should be made through lands belonging to the adjoining proprietor or that existing drains through lands belonging to the adjoining proprietor should be cleaned, widened, or otherwise improved, the applicants may, with the approval of the Minister, apply to the adjoining proprietor for leave to make the drains or improvement in drains through or on his land.

(2) The application shall be by notice in writing under the hand of the chairman of the local authority and shall be served on the adjoining proprietor, and also on the occupier if the proprietor is not the occupier; and the notice shall state the nature of the drains or improvements in drains, and shall be accompanied by a diagram on which the length, width and depth of the proposed drains or improvements in drains shall be delineated, and shall further state the compensation, if any, which the applicants propose to pay.

(3) The adjoining proprietor may, by an instrument signed by him in the presence of two witnesses, assent to the application on the terms and payment of the compensation which he requires, and any assent so given shall be binding on all parties having any estate or interest in the land, subject to the following provisions:

(a) no arrangement entered into by the guardian of an adjoining proprietor under any disability or incapacity shall be valid unless it be approved by order of a Judge of the High Court;

[1 of 1846]

(b) unless otherwise ordered by a Judge of the High Court, any compensation to be paid by the applicants, to the adjoining proprietor in any case where he is under any disability or incapacity shall be applied in the manner in which the compensation coming to parties having limited interests, or prevented from treating and not making title, is applicable, under the Companies' Clauses and Powers Consolidation Ordinance, 1846,* and

(c) any occupier, other than the proprietor, interested in the lands, shall be entitled to compensation for any injury which he sustains by the making of the proposed drains or improvements in drains; the claim for such compensation shall be made within twelve months after the completion of the drains or of the improvements in drains; and the amount of the compensation shall be determined, in case of dispute, by arbitration.

Proceedings in case of dissent by proprietor to application.

116. (1) The adjoining proprietor shall be deemed to have dissented from the application made to him if he fails to express his assent thereto within one month after the service of the notice of application on him, and, in the event of his dissent, the following questions shall be decided by the magistrate of the magisterial district in which the village or country district is situate, unless the adjoining proprietor requires them within the aforesaid period of one month to be decided by arbitration—

* The present Companies Act is No.29 of 1991.

(a) whether the proposed drains or improvements in drains will cause any injury to the adjoining proprietor, or to the occupier or other person interested in the lands; and

(b) whether that injury is or is not capable of being fully compensated by money.

(2) The following provisions shall apply to a decision under subsection (1):

(a) if the decision is that no injury will be caused to the adjoining proprietor, or to the occupier, or to other parties interested in the lands, the applicant may proceed forthwith to make the proposed drains or improvements in drains;

(b) if the decision is that injury will be caused to the adjoining proprietor, or to the occupier or to other parties interested in the lands, but that it is capable of being fully compensated by money, the magistrate, or the arbitrators, as the case may be, shall proceed to assess the compensation and to apportion it amongst the parties in his or their judgment entitled thereto; and, on payment of the sum so assessed, the applicants may proceed to make the proposed drains or improvements in drains; and

(c) if the decision is that injury will be caused to the adjoining proprietor, or to the occupier, or to other parties interested in the lands, and that it is not capable of being fully compensated by money, the applicants shall not be entitled to make the proposed drains or improvements in drains.

1 of 1846

(3) All the provisions of sections 149 to 157 (inclusive) of the Companies' Clauses and Powers Consolidation Ordinance, 1846,* relating to proceedings for assessing compensation shall be deemed to be incorporated with this Act, subject nevertheless to the special provisions thereof; and all things in those sections authorised or required to be done by two justices of the peace may be done by the magistrate of the district; and all things in those sections authorised or required to be done by the promoters of an undertaking may be done by the chairman of the local authority and, in case of the refusal or neglect of arbitrators so to do, the Minister may appoint an umpire in the manner provided by section 152 of the said Ordinance and for all the purposes thereof.

(4) When the compensation assessed by the magistrate or the arbitrators, as the case may be, is payable to any proprietor or person who is under any disability or incapacity, or is not entitled to receive it for his own benefit, it shall, unless otherwise ordered by a Judge of the High Court, be applied in the manner in which the compensation coming to parties having limited interests, or prevented from treating and not making title, is applicable under the said Act.

Diagram of scheme of drainage.

117. The magistrate, or the arbitrators, as the case may be, in the event of his or their approving of a scheme of drainage as proposed by the applicants or as modified by him or them, shall cause a diagram thereof to be prepared, and shall certify under his or their hand or hands the correctness of the diagram.

Entry upon land to clear drains.

118. After any drains or improvements in drains aforesaid have been made, the officers and servants of the local authority may, whenever necessary, enter upon the lands

* The present Companies Act is No.29 of 1991

Alteration of drains.
[4 of 1972]

through or in which the drains or improvements in drains have been made for the purpose of clearing out, scouring, and otherwise maintaining them in a due state of efficiency; and if they are not kept so cleared, scoured, and maintained in a due state of efficiency, the proprietor or occupier for the time being of the lands through or in which they have been made may clear out, scour, and otherwise maintain them in a due state of efficiency and recover the expenses incurred in so doing from the local authority.

119. The proprietor for the time being of the lands through or in which drains or improvements in drains are made under this Act may, with the sanction of the Minister, fill up, divert, or otherwise deal with them, on condition of first making and laying down in lieu thereof drains equally efficient for the purposes of the village or country district; and any dispute arising as to the efficiency of the drains so made shall be decided by the Minister.

Resisting or obstructing making of drains.
[4 of 1972]
[6 of 1997]

120. Every person who—

(a) wilfully resists or obstructs any person making any drain or improvement in drains under this Act, or

(b) wilfully dams up, obstructs, or in any way injures any drain or improvement in drains so made,

shall be liable to a fine of six thousand five hundred dollars.

Payment of costs of application.
[4 of 1972]

121. All costs, charges, and expenses reasonably incurred by the adjoining proprietor in respect of any application made in pursuance of this Part shall be paid out of the funds of the village or country district; and any dispute arising as to the amount thereof shall be decided by the Minister.

PART IX

WORKS OF SPECIAL MAGNITUDE IN VILLAGE AND COUNTRY DISTRICTS

Declaration by Minister of special works.
[4 of 1972]

122. Where in the opinion of the Minister any works of empoldering or drainage or irrigation in a village or country district are of such magnitude as to necessitate special provisions the Minister may declare those works to be special works.

Procedure.
[4 of 1972].

123. Where the Minister, acting under the powers conferred on him by section 122, declares any works to be special works the following procedure shall be observed—

(a) the local authority of the district shall prepare specifications, and if necessary plans, of the proposed works, together with an estimate of the cost thereof, and also particulars of the lands of which it proposes to take possession for the purposes of the works;

(b) the local authority shall also prepare a statement showing the property which it is proposed shall be made liable to contribute to the cost of, or to provide labour for, the execution of any of the works and the proportions and manner in which it is proposed to assess the amounts to be paid for the work to be done by each separate proprietor;

(c) a copy of the documents, and plans if any, hereinbefore required to be prepared, shall be kept at the office of the local authority of the district, or, if

there be no office at some convenient place within the district to be approved by the Minister;

(d) a notice intimating that the documents and plans (if any) have been so lodged and that they are open to inspection shall be posted up in some conspicuous place within the district;

(e) the documents and plans (if any) shall remain open for the inspection of every person interested on every day, not being a public holiday, during reasonable hours for one month after the date of posting the notice;

(f) any person who objects to the execution of any of the works, or to the taking of any of the lands proposed to be taken therefor, or to the proportion or manner in which it is proposed to assess any property in which he is interested, shall, within the period of one month, lodge with the local authority his objections in writing and the grounds on which he bases his objections; and

(g) after the expiration of that period the local authority shall transmit the documents and the objections (if any) with a full report thereon, to the Minister.

Order of Minister as to work to be executed. [4 of 1972]

124. The Minister, after considering the expediency of executing the proposed works and all the objections thereto, may make such order as he thinks fit.

Power to enter on lands to survey.

125. When it is proposed to prepare any specifications or plans for special works in any village or country district the chairman of the local authority may, by an order under his hand, authorise any person accompanied by such assistants as may be necessary, to enter at all reasonable times upon any lands for the purpose of making the necessary surveys for the preparation of the specifications or plans of the works and an estimate of the cost thereof; and the cost of the survey may, at the discretion of the local authority, be included in any rate levied under this Act.

General powers of local authority. [4 of 1972]

126. The local authority in carrying out any order made by the Minister under section 124 shall have the following powers, that is to say, it may—

(a) hold the necessary lands for the construction and maintenance of the works and for any other works connected therewith approved or directed by the Minister;

(b) enter into all contracts and do all acts necessary or expedient for the proper carrying out of the works;

(c) dig earth, cut wood, and take materials of every kind, from or on any of the lands benefitted which may be necessary for the works.

Rates under Part VI. [4 of 1972]

127. All the provisions as to the levy, collection and recovery of rates enacted in Part VI shall ***mutatis mutandis*** apply to rates levied under this Part for the construction of special works, and in addition the following provisions shall have effect—

(a) the local authority may exempt from payment thereof, wholly or partially, any portion of the district or any property which, in its opinion, does not derive benefit or does not derive benefit equally with other portions of the district or other properties, from the work; and

(b) where, in the opinion of the local authority, any portion of the district or any property derives greater benefit from the work than other portions of the district or other properties, the local authority may levy on such portion of the district or such property a rate which is higher than the rate levied on the other portions of the district or the other properties, as the case may be.

PART X
LOANS AND GRANTS

Power to borrow on behalf of village or country district. [4 of 1972]

128. The local authority of a village or country district may, with the sanction of the Minister, borrow any sum of money required for the purposes of the district, and may pledge the security of the rates and of the property generally of the local authority for the repayment of the loan together with interest.

Repayment of loan. [4 of 1972]

129. In every case of borrowing, it shall be the duty of the Minister, and he is hereby empowered, to cause adequate provision to be made in the annual rate of the village or country district, as the case may be, for repayment of the loan together with interest; and if he thinks it necessary so to do, to levy a further rate or rates for the purpose; and such rate shall have the same preference and be recoverable in the same manner as the annual rate of the village or country district.

Grants. [4 of 1972]

130. (1) There may be paid to local authorities out of moneys provided by Parliament, grants in respect of any expenditure incurred or to be incurred by them in discharging any of their functions, of such sums as the Minister may direct and subject to such terms and conditions as he may determine; and different sums may be paid, subject to different terms and conditions to different local authorities.

(2) Every application for a grant made to the Minister by a village council or a country authority shall be submitted in the form prescribed by the Minister.

PART XI
ACCOUNTS AND EXPENDITURE OF VILLAGE AND COUNTRY DISTRICTS

Financial year of village or country districts.

131. The financial year of village and country districts shall be the twelve months ending the 31st December, and the accounts of the receipts and expenditure of every village council and country authority shall be made up to the end of each financial year.

Form of accounts. [4 o Keeping

132. The accounts of the receipts and expenditure of every village or country district shall be in the form for the time being prescribed by the Minister.

Keeping books and accounts. [4 of 1972]

133. All the books and accounts of every village or country district employing an overseer or clerk shall be kept at the office of the overseer or clerk as the case may be, who shall be responsible for their correctness, or if there be no overseer or clerk then in the manner approved by the Minister:

Provided that the Minister may, by order published in the *Gazette*, direct the books and accounts of any village or country district to be kept at the office of the district commissioner.

Inspection of books and accounts. [18 of 1977] [6 of 1997]

134. (1) The Auditor-General or district commissioner or any person authorised in writing by either of them, or the chairman of the local authority, may at anytime call for,

examine, and make extracts from, the books, documents, plans, charts, vouchers and accounts of a village or country district, and may require the overseer, assistant overseer, collector or assistant collector of rates, clerk or other officer of the district to produce for his inspection any moneys in the hands of such overseer, assistant overseer, collector or assistant collector of rates, clerk or other officer.

(2) Any person who, having the custody of any of the books, documents, plans, charts, vouchers, accounts or moneys as aforesaid, refuses or neglects, on demand made by any person mentioned in subsection (1), to produce them for inspection, or to allow extracts to be made therefrom if desired, shall be liable to a fine of thirteen thousand dollars.

Receipt of moneys.

135. All payments to be made in a village or country district on account of any undivided lands, or any empolder, or any loan, or for pasturage or woodcutting, or for rates or rents, and all other moneys payable on the general account of the village or country district, shall be payable to the collector of rates, or assistant collector of rates and his receipt for the payment, on a form approved by the Minister, duly signed by him, shall be a good and valid discharge for any moneys so paid.

Final receipt and custody of moneys. [4 of 1972].

136. (1) Every officer of a village or country district shall, in the manner and at the times prescribed by the Minister, transmit to the district commissioner all moneys whatsoever received by him on account of the village or country district and all documents and accounts; and the district commissioner shall forthwith deposit all those moneys in a bank approved by the Minister or in the post office savings bank, to the credit of the village or country district.

(2) No officer shall at any time keep in his hands more than the amount for which he has given security.

Payment of amounts recovered under distress warrant or writs of execution. [25 of 1973]

137. All amounts recovered under and by virtue of a distress warrant issued under this Act shall be paid to the collector of rates of the district and all amounts recovered under and by virtue of parate or summary execution shall be paid to a public officer designated by the Minister or the district commissioner.

Payment for work done.

138. All work done or accounts contracted for or on behalf of a village, or country district shall be paid for by the district commissioner or the overseer, or, if there be no overseer, then by the chairman of the local authority of the district.

Making out weekly pay-lists.

139. (1) The overseer, or, if there be no overseer, any person appointed for that purpose by the local authority of any village or country district, shall, under the direction of the chairman of the authority, cause all the work to be done in the village or country district for which provision has been made on the annual or any other estimate of such village or country district; and, during the performance of any work, the overseer or other person aforesaid shall in every week make out a pay-list showing the amount due to each person at work, and also the wages of the watchman and of every other person employed at weekly wages, and after the pay-list is certified by any two members of the authority it shall be transmitted to the district commissioner.

(2) In like manner, the pay-lists for the salaries of the overseer and all other officers employed in a village or country district shall, on being certified by any two of the members of the authority, be transmitted to the district commissioner for payment.

(3) Where it appears to the district commissioner that a refusal to certify any pay-list is unreasonable he may, notwithstanding that the pay-list is not certified, cause the same to be paid; but in such case it shall be the duty of the district commissioner to report the matter to the Minister.

Local authority may make contracts.
[19 of 1959]
[4 of 1972]
[14 of 1996]

140. (1) The local authority of any village or country district may enter into contracts for executing any work and for the supply of any materials or articles for which provision has been made on the annual or any other estimate, but no contract involving an expenditure exceeding one hundred thousand dollars shall be valid or binding unless it has been approved by the Minister.

(2) The Minister may by regulations which shall be subject to negative resolution of the National Assembly amend the sum prescribed in subsection (1).

Work of emergency.
[4 of 1972]

141. (1) At any time when any unforseen accident or occurrence happens in a village or country district of such a nature as to render necessary the immediate performance of any work not provided for in any estimate, the local authority of such village or country district shall immediately commence and perform the work; and shall as soon as practicable prepare an estimate of its cost and agree upon an additional rate to defray the cost in like manner as is hereinbefore provided with respect to other estimates and rates; and shall forthwith transmit copies of the estimate and rate to the Minister for his approval.

(2) If the local authority refuses or neglects to execute the work, or to prepare an estimate or agree upon an additional rate in respect thereof, the Minister shall designate a public officer to take any proceedings thereon he thinks fit for the execution of the work or for the levy of a rate to defray the cost thereof.

PART XII
OFFENCES

Giving false evidence.

142. Every person who, on any examination upon oath under any of the provisions of this Act, wilfully and corruptly gives false evidence shall be guilty of a misdemeanour, and on conviction on indictment shall be liable to imprisonment for seven years.

Failure to quit land or building of a local authority or the Minister.
[4 of 1972]
[6 of 1997]

143. Where a person occupies, without permission any land or building owned by or under the control of a local authority or the Minister, he shall quit the land or building on being required so to do by the local authority or the Minister, as the case may be, and if he fails so to do, he shall be liable to a fine of one thousand three hundred dollars or to imprisonment for one month.

Failure of occupier to assist in carrying this Act into effect.
[6 of 1997]
First Schedule. Form 3.

144. (l) Where the occupier of any land or building refuses to permit the proprietor thereof to execute any work on or in relation to the land or building which the proprietor desires to execute in order that he might be able to obey or to carry into effect any of the provisions of this Act or of any order made thereunder or of the by-laws, the proprietor may make a complaint against the occupier, and on the hearing of the complaint against the defendant the court may make an order, in Form 3 in the First Schedule, directing the defendant as occupier to permit the complainant as proprietor to execute the work as aforesaid.

(2) Where an occupier fails to comply with an order made under subsection (1), he shall be liable to a fine of three thousand two hundred and fifty dollars for every day while the non-compliance continues, but he shall not be liable to any penalty for any day before the expiration of three days after the date of the order.

(3) Where the occupier of any land or building in a district, when requested by or on behalf of the local authority to state the name of the proprietor of the land or building, refuses or wilfully omits to disclose, or wilfully misstates, the name of the proprietor, he shall be liable to a fine of three thousand two hundred and fifty dollars.

Damaging document.
[6 of 1997]

145. Every person who wilfully damages, destroys, defaces, or otherwise injures, in any manner, any list, notice, appraisement, estimate or other document posted up, under this Act or under the by-laws, in any district, shall be liable to a fine of three thousand two hundred and fifty dollars.

Wilfully damaging works of local authority.
[6 of 1997]

146. Every person who wilfully damages any works or property owned by or under the control of any local authority shall, where no other penalty is provided by this Act, be liable to a fine of three thousand two hundred and fifty dollars.

Miscellaneous offences.
[4 of 1972]
[6 of 1997]

147. Every person who—

(a) obstructs or prevents the execution of any of the provisions of this Act; or

(b) assaults, resists, or obstructs any public officer designated by the Minister to perform any function under this Act, any district commissioner, or any village councillor or member of a country authority or any officer or servant of a village council or country authority, in the performance of his duty; or

(c) obstructs, or places any obstruction on any dam, road, street, or bridge, or in any navigation or draining trench, or in any freshwater canal, in a village or country district; or

(d) makes any opening or cut in any dam or stop-off in a village or country district; or

(e) opens or shuts any sluice or koker in a village or country district without the sanction of the local authority; or

(f) makes a fire on any dam, road, street, or bridge, in a village or country district; or

(g) digs or removes earth, burnt brick or road metal from any dam, road slope, street, drain, main drain, fresh water canal, or public place, in any village or country district, without the sanction of the local authority; or

(h) places any plank or bridge across a trench without the sanction of the local authority; or

(i) removes or destroys any barrier placed on a road, dam, or bridge in any district by the local authority thereof or by any person authorised by the local authority; or

(j) unlawfully destroys or damages any dam, fence, gate, koker, sluice, paal-off, bridge, building, or stelling, constructed or maintained by a local authority; or

(k) unlawfully leaves open or unlocks a gate the property of or under the control of any local authority where damage is thereby caused to the authority,

shall be liable to a fine of six thousand five hundred dollars.

PART XIII
MISCELLANEOUS MATTERS

Conveyance of partitioned land. [4 of 1972]

148. All lands of which partition or re-allotment has been already made under any Act for the time being in force relating to partition or re-allotment, and which have not yet been transported, and all lands of which partition or re-allotment is hereafter made under any Act at the time of the partition or re-allotment in force relating thereto, and all lands requiring to be transported under any of those Acts, may be transported by a public officer designated by the Minister to the persons entitled to transport thereof in accordance with the terms of each partition or re-allotment, or of any agreement relating to any of the lands so requiring to be transported, anything in those Acts or any of them to the contrary notwithstanding.

Entry of officer of local authority in certain cases.

149. Whenever it becomes necessary for a local authority or any of its officers to enter, examine, or lay open, any lands for the purpose of making plans, surveying, measuring, taking levels, making, or keeping in repair, or examining works, ascertaining the course of drains, or ascertaining or fixing boundaries, and the proprietor or occupier of those lands refuses to permit them to be entered upon, examined, or laid open for the purposes aforesaid or any of them, the local authority may, after written notice to the proprietor or occupier, apply to a magistrate for an order in Form 4 in the First Schedule authorising the local authority to enter, examine, and lay open the lands and premises for the purposes aforesaid or any of them, and the magistrate may, if he thinks fit, make such order.

Compensation by local authority for damage. [4 of 1972]

150. Where any person sustains damage by reason of the exercise of any of the powers conferred by this Act, in relation to any matter as to which he is not himself in default, full compensation shall be made to him by the local authority exercising those powers; and any dispute as to the fact of damage or amount of compensation shall be settled by arbitration in manner provided by this Act; or, if the compensation claimed does not exceed the sum of five hundred dollars, it may, at the option of either party, be ascertained by and recovered before a magistrate.

Proof of amount of money sued for. [25 of 1973]

151. In any proceeding for the recovery of any rate, rent, fee or toll, of a village or country district, or of the purchase money or any instalment of the purchase money of any lot, with the buildings (if any) thereon, or of any building in the village or district, a statement purporting to be signed by the public officer designated for the purpose by the Minister by notice published in the *Gazette* or by the chairman of the local authority of the village or country district shall, without proof of the signature or of the official position of the person signing it, be ***prima facie*** evidence, in all courts of justice and for all other purposes, of the amount and validity of the claim.

Proof of minutes of a local authority. [4 of 1972]

152. An extract minute of the proceedings of a local authority of any village or country district, purporting to be certified as a true extract by the chairman of the local authority, shall be received, without further proof, in all courts of justice and for all other purposes as ***prima facie*** evidence of such extract minute and of every matter or thing contained therein.

Execution of document by local authority

153. (1) Except as otherwise provided in this Act, any document requiring to be signed by a local authority may be executed by two members thereof one of whom shall be the chairman.

(2) Where the document is a notice, order or other like document, it may be signed on behalf of the local authority by any member or officer thereof.

(3) In any legal proceedings it shall not be necessary to prove any signature purporting to be the signature of a member or officer of a local authority or that the person so signing was a member thereof, but the burden of proof shall be on the person disputing the fact.

Notice to proprietor or occupier.

154. Any notice by this Act required to be given to the proprietor or occupier of any premises may be addressed by the description "proprietor" or "occupier" of the land or building (describing it) in respect of which the notice is given, without further name or description.

Service of notices, orders and other documents.

155. (1) Any notice, order, or other document required or authorized to be served under this Act, may be served by delivering it to or at the residence of the person to whom it is addressed; or, where it is addressed to the proprietor or occupier of land or building, by delivering it, or a true copy thereof, to some person on the land or building; or, if there be no person on the land or building who can be so served, by fixing it on some conspicuous part of the land or building.

(2) A notice, order, or other document aforesaid may also be served by post.

Service of process

156. In all legal proceedings against a local authority of a village or country district service or process on the chairman of the authority shall be sufficient service.

Notice of action against local authority or a member or officer thereof.

157. (1) No process shall be issued against or served on any local authority, or any member thereof, or any officer of a local authority or person acting in his aid, for anything done, or intended to be done, or omitted to be done, under this Act until the expiration of one month after notice in writing has been served on the local authority, member, officer, or person, clearly stating the cause of action, and the name and place of abode of the intended plaintiff and of his attorney or agent (if any) in the cause.

(2) On the trial of the action, the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in the notice so served; and unless the notice is proved, the defendant shall have judgment in his favour.

(3) The action shall be commenced within six months next after the cause of action accrues, and not afterwards.

Tender of amends.

158. (1) Any person to whom a notice of action is given as aforesaid may tender amends to the plaintiff, or his attorney or agent, at any time within one month after service of the notice and, in case the tender is not accepted, may plead it in bar.

(2) If amends have not been tendered as aforesaid, or if the amends tendered are insufficient, the defendant may, by leave of the court, at any time before trial pay into court under plea such sum of money as he thinks proper.

(3) If upon issue joined, or upon any plea pleaded for the whole action, the plaintiff is non-suited or judgment is given for the defendant, then the defendant shall be entitled to the full costs of suit and have judgment accordingly.

Protection of local authority and its officers from personal liability

159. No matter or thing done, and no contract entered into by a local authority, and no matter or thing done by any member of a local authority, or by any officer, or other person whomsoever acting under the direction of a local authority, shall, if the matter or thing was done or the contract entered into in good faith for the purpose of executing this Act, subject it or them or any of them personally to any action, liability, claim, or demand whatsoever; and any expense incurred by the authority, member, officer, or other person acting as last aforesaid shall be borne and repaid out of the fund or rate applicable by the authority to the general purposes of this Act.

Proof of name of local authority.

160. In any proceeding instituted by or against a local authority under this Act, it shall not be necessary for the plaintiff to prove the corporate name of the local authority or the constitution or boundaries of its district.

Appearance of local authority.

161. A local authority may appear before a magistrate by the chairman of the local authority in person, or by any person authorized by the chairman in writing either generally or in respect of any special proceedings so to appear.

Restriction on recovery of penalties.

162. Proceedings for the recovery of a penalty under this Act shall not (except as in this Act is provided) be had or taken by any person, other than by a party aggrieved, or by the local authority of the district in which the offence is committed, without the consent in writing of the Director of Public Prosecutions.

Recovery of penalties by authorized officer of local authority.

163. Any proceedings by a local authority for the recovery of a penalty under this Act may be taken by any officer of the authority, if duly authorised in writing by the chairman thereof, either generally, or in respect of any particular offence; and an authorisation may be cancelled at any time by writing under the hand of the chairman.

Penalties to be paid to local authority.

164. The amount of all penalties for offences under this Act shall be paid over to the local authority by which or at the instance of which the proceedings for their recovery were taken.

Procedure.

165. All offences under this Act or the by-laws may be prosecuted, and all penalties directed to be recovered before a magistrate or the recovery of which is not otherwise provided for may be recovered under the Summary Jurisdiction Acts.

Authentication of by-laws.
[4 of 1972]

166. All by-laws made by a local authority under and for the purposes of this Act shall, if the authority possesses a seal, be under its seal, and if not shall be under the hand of two of its members, one of whom shall be the chairman.

By-laws to be approved by Minister.
[25 of 1973]

167. No by-laws made by a local authority under this Act shall take effect unless and until they have been submitted to and approved by the Minister who may amend or supplement them as he may think fit.

Notification of by-laws of local authority.

168. (1) All by-laws made by a local authority under this Act shall be printed and exhibited in the office of that authority.

(2) A copy of any by-laws made by a local authority shall be open to the inspection of any ratepayer at all reasonable hours.

Supply of copies. [6 of 1997].

169. A local authority shall, on the application of any ratepayer, furnish him with a copy of any by-laws made or proposed by it, or of any part thereof, on payment of such sum, not exceeding sixty-five dollars for each copy, as the local authority determines.

Penalties for breach of by-laws. [6 of 1997]

170. Any local authority may, by by-laws made by it under this Act, impose on offenders against them any reasonable penalties it thinks fit, not exceeding the sum of six thousand five hundred dollars for each offence, and in the case of a continuing offence a further penalty, not exceeding one thousand three hundred dollars, for each day after written notice of the offence from the local authority.

PART XIV

CONSTRUCTION, REPEAL AND SAVINGS

Public property not to be disturbed.

171. Subject to sections 46 and 68, nothing in this Act shall be construed to authorise a local authority to disturb or interfere with any lands or other property vested in the State.

Powers of Act to be cumulative.

172. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act, law or custom; and those other powers may be exercised in the same manner as if this Act had not been enacted; and nothing in this Act shall exempt any person from any penalty to which he would have been subject if this Act had not been enacted.

Repeal and savings. [4 of 1972]

173. (1) Notwithstanding the repeal of the Local Government Ordinance 1907 (1929 Edition, Chapter 84), and by-laws made thereunder and in force immediately before such repeal shall, in so far as the by-laws could have been made under the corresponding provisions of this Act, shall continue in force and shall have effect as if they were by-laws made under the authority of this Act.

(2) All property real or personal and all rights, interests, obligations and liabilities vested in, or subsisting for or against, and all legal proceedings pending by or against, the Local Government Board immediately before the commencement of the Law Revision Act 1972 shall vest in, or subsist for or against, the State for the purposes of this Act.

c. 28:04

174. So long as sections 96 to 103* (inclusive) of the Act continue in force by virtue of section 44 of the Valuation for Rating Purposes Act—

(a) the Second Schedule to the Valuation for Rating Purposes Act applies for the purposes of any appraisement made after the 31st December 1973 in pursuance of those sections and, for that purpose, every reference therein—

(i) to the Chief Valuation Officer shall be construed as a reference to the appraisers appointed pursuant to section 96;

(ii) to the draft list and the valuation list shall be construed as a reference to the assessment book;

* Former sections 96 to 103 (inclusive) of this Act.

(b) every reference in sections 96, 97 and 98 to the requirement of posting up any notice or other information in a conspicuous place in a village or country district shall be construed and have effect as including the requirement to publish the notice or other information on at least three occasions in a newspaper circulating in the district.

(c) section 100(3) shall be construed and have effect as if the words "and in at least one newspaper circulating in the village or country district" had been included in that subsection after the word "*Gazett*e".

Validation.
[25 of 1973]

175. (1) Where prior to the 31st December, 1973, a local authority or the Local Government Board, or the Minister, as the case may be, fixed a different rate in respect of different parts of a district under the Local Government Act, the fixing and levying of such a rate shall for all purposes be deemed to have been lawfully and validly done.

(2) Nothing in subsection (1) shall affect any proceedings in relation to the liability for the payment of rates or the recovery thereof, determined before the 31st December, 1973.

s. 75

FIRST SCHEDULE
FORMS

FORM 1

ACCOUNT AND NOTICE OF SUM DUE FOR RATES

Village* district of .....in the county of .....
Country

The proprietor of lot No. ..... in section ..... of the said district (or, of a building, situated on lot No. ..... in section..... of the said district) to the local authority of the said district. Dr..... money due for labour hired.....and the.....

To amount of cost of materials and superintendence
Rates due

on account of the above lot, with the buildings thereon (or, on the above building) at the appraised value of .....from the ..... day of .....19....., to the .....day of .....19.....

Take notice that unless the above sum of ..... is paid within two weeks from the date of the service of this notice, application will be made to the magistrate of the district for a warrant for the recovery of the same by distress and sale of movable property in accordance with section 71 of the Local Government Act. Dated this ..... day of..... 19.....

c. 28:02

Collector of rates of the village district of .....
country

(Signed) .....

I hereby declare that an account and notice, of which the within document is a true copy, was duly served by me by posting up the same†.....

in the ..... village district of .....
country
on the……..day of …… 19 ….. .

(Signed) .....

* Strike out "village" or "country".
† State the place where the document was posted.

Collector of rates of the village district of …….
country

Sworn before me this .....day of .....19 .....

(Signed)……..

I hereby certify that there .....
on the premises within described whereon to levy.

Dated this ..... day of .....19.....

(Signed) .....

_____

s. 77

FORM 2
WARRANT OF DISTRESS

DISTRICT

To ..... and to all other rural constables.

Whereas application has been duly made to me by .....
in and for the local authority of ..... …….....
Village* district of ..... for a warrant of distress against the
country
movable property upon or in the said district, for the purpose of levying the rate of .....due in respect of such ..... with costs, and whereas the duplicate or copy of the notice, with return of service thereof duly sworn, to before me, has been produced in due form of law—This is, therefore, to require and command you to levy the said sum of .....with costs, upon the said movable property, according to law.

Dated this ..... day of .....19.....

(Signed).....
...

Magistrate .....District

_____

* Strike out "village" or "country".

s. 144 (1)

FORM 3
ORDER TO PERMIT EXECUTION OF WORKS BY OWNER

DISTRICT

Whereas complaint has been made to me, the undersigned magistrate for the ..... district by A.B., proprietor, within the meaning of the Local Government Act, of a lot or building (describe the situation of the lot or building); that C.D., the occupier of the said lot or building, prevents the said A.B. from obeying and carrying into effect the provisions of the said Act in this, to wit, that he, the said C.D., prevents the said A.B. from (here describe the works generally according to circumstances).

And whereas the said C.D., having been duly summoned to answer the complaint and not having shown sufficient cause against the same, and it appearing to me that the said works are necessary for the purpose of enabling the said A.B. to obey and carry into effect the provisions of the said Act, I do hereby order that the said C.D. do permit the said A.B. to execute the same in the manner required by the said Act.

Dated this ..... day of .....19.....

(Signed) .....
Magistrate

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s. 149

FORM 4
ORDER OF MAGISTRATE FOR ADMISSION OF OFFICER OF LOCAL AUTHORITY

DISTRICT

Whereas (describe the local authority) has by its officer (naming him) made application to me, the undersigned magistrate for the ..... district, and the said officer has made oath to me that demand has been made pursuant to the provisions of the Local Government Act for admission to (describe the situation of the premises so as to identify them) for the purpose of (describing the purpose, as the case may be), and that such demand has been refused.

Now, therefore, I do hereby require you (name the person having custody of the premises) to admit the said (name the local authority, or the officer of the local authority) to the said premises for the purpose aforesaid.

Dated this .....day of .....19.....

(Signed).....
Magistrate

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s. 79
[6 of 1997]

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FEES PAYABLE FOR PROCESS OF DISTRESS

		Dollars
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2.	Issuing warrant of distress, including levy and sale of Property thereunder and the return … … … …	65

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s. 84
[6 of 1997]

THIRD SCHEDULE

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	$
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For service of summation	65
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END OF LOCAL GOVERNMENT ACT CAP. 28:02

LOCAL AUTHORITIES (ELECTIONS) ACT

CAP. 28:03

CHAPTER 28:03

LOCAL AUTHORITIES (ELECTIONS) ACT

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CHAPTER 28:03
LOCAL AUTHORITIES (ELECTIONS) ACT

[23 of 1969]

AN ACT to make provision for the election of members of Local Authorities, for the preparation of Electoral Registers for the purposes of such elections, for the determination of disputes in connection with such elections and of disputes in connection with elections to certain offices in Local Authorities and for matters incidental to and connected with the aforesaid purposes.

[28TH APRIL, 1970]

PART I
PRELIMINARY

Short title

1. This Act may be cited as the Local Authorities (Elections) Act.

Interpretation.
[12 of 1994]

2. In this Act—

"assistant agent" means an assistant agent appointed by an election agent under section 56;

"carriage" includes a mechanically propelled vehicle;

"central register" means the register for the time being in which the names of persons appear by reason of their respective registration and pursuant to which an identification card is issued to each of them;

"certificate of employment" means a certificate issued under section 61;

"Chief Election Officer" means the person appointed as such for elections to the National Assembly;

"clerk of the local authority" means the officer of a local authority declared by the Act under which it is constituted to be the clerk thereof for the purposes of this Act;

"costs" includes charges and expenses;

"councillor" means a councillor of a local authority;

"Court" means the High Court;

"disciplined force" has the same meaning as in article 154 of the Constitution, and for the removal of doubts, it is hereby declared, that expression includes the Guyana National Service;

"election" means an election of councillors;

"election day" means the day appointed by order of the Minister under section 35 for the holding of an election;

"election officer" means—

(a) a returning officer;
(b) a deputy returning officer;
(c) an election clerk;
(d) a presiding officer;
(e) an assistant presiding officer;
(f) a poll clerk;

"group of candidates" means the candidates named in an official list of candidates;

"Guyana National Service" means the organisation known as the Guyana National Service and established by the Government;

"identification card" means the document, or copy thereof, pertaining to the identity of a person and which is issued to him pursuant to the enactment for the time being in force regulating his registration;

"Judge" means a Judge of the Court;

"local authority" means any local authority which is declared by the Act or the Ordinance under which it is constituted to be a local authority to which this Act applies and to be a local authority within the meaning of this Act;

"local authority area" means the area administered by a local authority;

"member", in relation to a disciplined force, has the same meaning as in article 154 of the Constitution, and, for the removal of doubts, it is hereby declared that, in relation to the Guyana National Service, that expression includes every person who is an officer or other employee of that Service and every person who is enlisted therein;

"payment" includes any pecuniary or other reward;

"personal expenses" when used in relation to the personal expenses of a candidate include his reasonable travelling expenses and the reasonable expenses of his living at hotels or elsewhere for the purpose of or in connection with an election;

"preliminary list" means a preliminary list of voters having residential qualifications prepared under section 11;

"presiding officer" includes an assistant presiding officer;

"qualifying date" means such date as may be appointed by the Minister with reference to which a register of voters shall be compiled;

"register of voters" means a register of voters for a local authority area compiled under this Act;

"registered voter" means a person whose name appears on a register of voters;

"Registrar" means the Registrar of the Court;

"registration officer" means—

(a) an electoral registrar;
(b) a deputy registrar;
(c) an assistant electoral registrar;

"registration order" means an order made by the Minister under section 8;

"returning officer" includes a deputy returning officer;

"signature" includes the mark of a person who is unable to read or write;

"supplementary list" means a supplementary list of voters registered as such and prepared under this Act.

Supervision of Elections

Supervision of elections by Minister.

3. (1) The Minister shall—

(a) exercise general direction and supervision over the registration of voters and over the administrative conduct of elections;

(b) issue such instructions and take such action as appears to him necessary or expedient to ensure impartiality, fairness and compliance with Parts II and III on the part of registration and election officers and other persons exercising powers or performing duties connected with or relating to the registration of voters and the administrative conduct of elections;

(c) exercise such other powers and discharge such other duties as he is required or empowered to exercise or discharge by or under this Act.

(2) The Minister shall have power, if he thinks it necessary or desirable so to do, to extend the time for doing anything required to be done by or under Parts II and III, and

where by or under those Parts any act is required to be done not later than a specified number of days before election day he shall have power, if he thinks it necessary or desirable so to do, to extend the time allowed by reducing the number of days so specified; and the following provisions shall have effect in relation to any power conferred by this subsection:

(a) the power may be exercised either generally or specially;

(b) the power may be exercised so as to make valid anything already done after the expiration of the time allowed;

(c) the Minister shall, as soon as practicable after any exercise of the power, publish in the *Gazette* a notification thereof, which shall include a brief statement of the reasons for, and the effect of, that exercise.

Chief Election Officer and Registration and other Election Officers

Staff of Chief Election Officer.

4. The Chief Election Officer shall have such staff as may be necessary or desirable to enable him to exercise his functions under this Act.

Appointment of registration and election officers.

5. (1) There shall be appointed for any local authority area for which a registration order is made an electoral registrar and such deputy registrars, assistant electoral registrars and other staff as may be necessary or desirable for the preparation of the register of voters for that area, but an electoral registrar may be appointed for more than one local authority area.

(2) There shall be appointed for any local authority area in which an election is to be held a returning officer and an election clerk and for each polling place therein a presiding officer and a poll clerk; and there may further be appointed such deputy returning officers and assistant presiding officers and other staff as may be necessary or desirable for the conduct of the election.

(3) The electoral registrar and the returning officer shall forthwith after they have taken their respective oaths of office establish offices and shall publish notices specifying the addresses thereof.

Responsibility of registration and election officers. [7 of 1994]

6. All registration officers and all election officers shall in the exercise of the powers and discretions vested in them and of the duties required to be discharged by them be responsible to the Elections Commission.

Oaths of office.

7. (1) The Chief Election Officer, every registration officer and every election officer shall, before performing any of the functions of their offices under this Act, take the appropriate oath for his office in the prescribed form.

(2) The Chief Election Officer shall take his oath of office before a justice of the peace; and registration officers and election officers shall take their oaths of office before a justice of the peace, the Chief Election Officer, another registration officer or another election officer.

(3) Every justice of the peace is hereby empowered to administer any oath required by this Act; and the Chief Election Officer and every registration officer and every election

officer is empowered to administer any such oath other than the oath of office of the Chief Election Officer:

Provided that the Chief Election Officer and no registration officer and no election officer shall administer an oath until he has taken his oath of office.

PART II
REGISTRATION OF VOTERS

Preparation of Register of Voters

Registration order.

8. (1) The Minister may by order require the preparation of a register of voters for any local authority area and may by such order require the preparation of a register for each of more than one such area.

(2) An order made under this section may prescribe or provide for—

(a) a qualifying date;

(b) the day not later than which the electoral registrar shall publish under section 12 the preliminary list;

(c) the days to be specified in the notice published under section 12 on which applications may be made for registration as voters;

(d) the days on which objections may be lodged against the inclusion of names in appear in the preliminary list for correction of their particulars as shown in the list;

(e) the day not later than which the supplementary lists and all forms of objections and applications for correction of particulars shall be sent by the assistant electoral registrar to the electoral registrar under section 19;

(f) the day not later than which the electoral registrar shall hear and determine under section 20 objections and applications for correction of particulars;

(g) the day not later than which the electoral registrar shall correct the preliminary and supplementary lists under section 22.

(3) An order made under this section shall be published in the *Gazette* and a copy thereof published by the local authority to which it relates.

Manner of compilation of register of voters.

9. The register of voters for each local authority area shall be compiled in accordance with the provisions of this Part.

Registration division and polling division. [7 of 1994]

9A. In the compilation of the register of voters each people's co-operative unit shall be deemed to be a registration division and the register of voters prepared separately in respect of each people's co-operative unit.

Qualifications for registration

10. (1) A person shall be qualified to be registered as a voter for a local authority area if, and shall not be so qualified unless, on the qualifying date he is qualified to be registered as an elector for elections to the National Assembly and he is ordinarily resident within the local authority area.

(2) The following rules shall apply to the interpretation of the expression "ordinarily resident" with reference to the qualification of a person to be registered as a voter:

(a) subject to this subsection, the question whether a person is or was ordinarily resident at any material time or during any material period shall be determined by reference to all facts of the case;

(b) the place of ordinary residence of a person is generally that place which has always been, or which he has adopted as, the place of his habitation or home to which place, when away therefrom, he intends to return; and in particular, when a person normally sleeps in one place and has his meals or is employed in another place, his place of residence is where he sleeps;

(c) in general, a person's place of residence is where his family is; if he is living apart from his family with intent to remain apart in another place, his place of residence is such other place;

(d) temporary absence from a place of residence does not cause a loss or change of residence; but where a person is, by reason of his employment, absent on the date of his application to be registered as a voter from the place where he is ordinarily resident, he shall be deemed, if he so elects, to be ordinarily resident at the place of his employment instead of at his place of residence.

Compilation of preliminary list

11. (1) The electoral registrar shall compile the preliminary list of voters for the local authority area by extracting from the central register the names and other particulars therein given of persons whose addresses are recorded in such register as within the area; and the electoral registrar shall certify the preliminary list in the prescribed form.

(2) Any person whose name appears in the preliminary list as certified under subsection (1) may give notice, within the period specified in a registration order and in the manner hereinafter mentioned, objecting to the inclusion in the preliminary list of any person.

Notice inviting application for registration. [7 of 1994]

12. (1) The electoral registrar shall, not later than such day as may be prescribed by the registration order, publish a copy of the preliminary list, together with a notice in the prescribed form inviting—

(a) every person, whose name does not appear in the preliminary list, who believes himself to be qualified to be registered as a voter for the local authority area, to apply to an assistant electoral registrar to be so registered;

(b) any person whose name appears in the preliminary list to—

(i) lodge an objection in writing in the prescribed form with an assistant electoral registrar to the inclusion in the preliminary list of any person, on the ground that by reason of the facts stated in the objection such person is not qualified to be registered as a voter for the local authority area; and

(ii) forward by registered post a copy of his objection to the person to whose inclusion in the preliminary list objection is made;

(c) any person whose name appears in the preliminary list whose particulars are incorrectly stated in the preliminary list to lodge an application in writing in the prescribed form with an assistant electoral registrar for the appropriate corrections to be made.

(2) **[Deleted by Act No. 7 of 1994].**

(3) The electoral registrar shall send copies of the preliminary list to the Elections Commission and to the Registrar of births and deaths.

(4) The notice required to be published under subsection (1) shall specify the days on which (which shall be the days prescribed by the registration order) and the hours between which and the place or places where application may be made or objections lodged.

(5) Not later than three days after the latest day allowed for the lodging of objections to the inclusion of any person in the preliminary list, the assistant electoral registrar shall affix at the place or places appointed for the lodging of objections a list of objections which shall state—

(a) the name, occupation, place of residence and postal address of any person to whose inclusion in the preliminary list objection has been made;

(b) the name, occupation, place of residence and postal address of the person making the objection;

(c) the grounds of each objection.

Assistant electoral registrar to receive Applications.

13. An assistant electoral registrar shall attend on the days and between the hours and at the place or places specified in the notice given under section 12 to receive applications made and objections lodged pursuant to that notice.

Applications to be made personally.

14. Every application for registration as a voter for the local authority area made pursuant to section 12(1) shall be made personally and in the manner hereinafter provided to an assistant electoral registrar at a place and on a day, and at an hour on such day, specified in the notice given under section 12.

Applications for registration

15. (1) Every applicant for registration as a voter, in so far as the following requirements may be applicable in relation to him, shall—

(a) furnish in writing in the prescribed form the following particulars, namely—

(i) his surname and other names;

(ii) the address at which he is ordinarily resident;

(iii) his occupation;

(iv) his nationality;

(v) the place and date of his birth;

(vi) the country of his domicile;

(vii) whether his name is included in the preliminary list or in the central register and if the latter the place of registration;

(viii)the serial number of his identification card (if any);

(ix) such further particulars as the assistant electoral registrar may, in any particular case, reasonably consider necessary for the purpose of enabling him to determine the application;

(b) produce a birth or baptismal certificate, if so required by the assistant registrar;

(c) furnish such documentary or other proof of any of the particulars specified in paragraph (a) of this subsection as the assistant electoral registrar may in any particular case reasonably consider necessary to satisfy himself of the truth thereof;

(d) comply with such requirements of the assistant electoral registrar as may be reasonably necessary for the measurement and recording of his height;

(e) comply with such requirements of the assistant electoral registrar as may be reasonably necessary for the taking and recording of his left thumb-print, or if this is not possible, of some other single fingerprint;

(f) answer any questions which the assistant electoral registrar may, in any particular case, reasonably consider necessary to ask for the purpose of enabling him to decide whether the applicant is qualified to be registered as a voter.

(2) Every application under this section shall—

(a) be completed in the presence of the assistant electoral registrar;
(b) be signed by the applicant.

(3) No application shall be entertained under this section, unless the applicant produces his identification card to the assistant electoral registrar, or the assistant electoral registrar is otherwise satisfied as to the identity of the applicant.

(4) An applicant for registration under this section as a voter in the local authority area shall, if he is registered as a voter in another local authority area or if his name appears in a preliminary list of another such area, at the time of his application under this section for registration as a voter, request the assistant electoral registrar to cause his name to be deleted from the register of voters or the preliminary list, as the case may require, for the other local authority area; and thereupon the assistant electoral registrar shall complete the prescribed form at the direction of the applicant and forward it duly completed to the electoral registrar of that other local authority area, who shall delete the applicant's name from the register of voters or the preliminary list therefor, as the case may be.

Allowance of application for registration.

16. If the assistant electoral registrar is satisfied that an applicant for registration as a voter, who has complied with the requirements of sections 14 and 15, is qualified to be registered as a voter for the local authority area, he shall allow his application.

Disallowance of application for registration.

17. (1) The assistant electoral registrar shall disallow the application to him of any person for registration as a voter for the local authority area who—

(a) is not entitled to apply to him under sections 14 and 15;
(b) being entitled so to apply has not complied with the provisions of thosesections or has not satisfied him that he is qualified to be registered as such a voter.

(2) The assistant electoral registrar shall prepare in duplicate, and shall deliver to a person whose application for registration as a voter for the local authority area has been disallowed by him the original of a notice of disallowance which shall—

(a) be in the prescribed form;
(b) specify the grounds upon which the application has been disallowed;
(c) be signed by the assistant electoral registrar.

(3) The assistant electoral registrar shall deliver the duplicate of every notice of disallowance to the electoral registrar.

Preservation of order.
[7 of 1994]

18. (1) An assistant electoral registrar may, for the purpose of maintaining order at a place appointed for applying for registration as a voter—

(a) regulate the admission of applicants;

(b) exclude all other persons except—

(i) the Chairman and other members of the Elections Commission;

(ii) the Chief Election Officer;

(iii) registration officers;

(iv) members of the Police Force on duty;

(iva) local observers approved by the Elections Commission;

(v) such other persons who, in his opinion, have good reason to be admitted;

(c) issue such directions as may reasonably be necessary for such purposes.

(2) If any person (whether entitled to enter or not) misconducts himself at a place appointed for applying for registration as a voter or fails to obey the lawful directions of the assistant electoral registrar, he may immediately, by order of the assistant electoral registrar, be removed therefrom by a member of the Police Force or by any other person authorized in writing by the assistant electoral registrar to remove him, and the person so removed shall not, without the permission of the assistant electoral registrar, again enter the place during that day.

(3) Any person removed from a place appointed for applying for registration as a voter may, if charged with the commission of an offence at that place, be dealt with as a person taken into custody by a member of the Police Force for an offence without warrant.

Submission of supplementary lists

19. Not later than such day as may be prescribed by the registration order, each assistant electoral registrar shall send to the electoral registrar—

(a) a supplementary list of persons registered as voters by him in which he shall set out the name, the address, the occupation and the serial number of the identification card of every person whose application to be registered as a voter for the local authority area he has allowed under section 16 together with—

(i) all application forms to be registered as a voter for the area;
(ii) the duplicates of all notices of disallowance issued under section 17;

(b) all forms of objection received by him pursuant to section 12 together with all relevant documents;

(c) all applications for corrections of particulars in the preliminary list received by him pursuant to section 12.

Hearing of objections by electoral registrar

20. (1) The electoral registrar shall not later than such day as may be prescribed by the registration order, hear and determine objections and applications for corrections of particulars duly lodged under section 12.

(2) The electoral registrar shall—

(a) publish a notice of the place at which, the day on and hours between which he will hear objections, applications for corrections of particulars in the preliminary list and the names of the persons and the reasons involved in such objections and applications;

(b) send by registered post a notice of hearing in the prescribed form to the parties to each objection and application to be heard thereat.

(3) At the hearing of the objection or application for correction of particulars, the objector, the applicant and any person whose registration as a voter for the local authority area is complained of shall have a right to appear and to be heard either in person or by his legal representative or by any other person authorized by him in writing:

Provided that the electoral registrar may proceed to determine the objection or application in the absence of any such person.

(4) The electoral registrar may regulate the procedure at any hearing under this section.

(5) The electoral registrar shall have, for the purposes of hearing and determining an objection, all the powers of an assistant electoral registrar under sections 15 to 17 inclusive.

(6) If an objection to the registration of a person, whose name is included in the preliminary list issued under section 11, is allowed by the electoral registrar, the latter shall delete the entry of such name from that list.

(7) If the electoral registrar quashes a decision of an assistant electoral registrar allowing the application of a person to be registered as a voter for the local authority area, he shall endorse to that effect the application of such person to be so registered.

(8) The electoral registrar may, if he is of opinion that an objection was made without reasonable cause, order the deposit accompanying the objection to be forfeited to the council; but if no such order is made the deposit shall be refunded.

(9) A deputy registrar shall, if directed by the Minister so to do, hear and determine objections and applications lodged under section 12, and he shall, for such purposes, have all the powers of an electoral registrar under this section

Registrar General to supply information as to births and deaths.

c.44:01

21. The Registrar General of births and deaths upon the request of a registration officer made under this section shall furnish free of charge to such registration officer—

(a) information whether the birth of any applicant for registration as a voter for the local authority area has been registered under the Registration of Births and Deaths Act;

(b) particulars of any entries pertaining to any such applicant in any register of births or certified copy thereof kept by him under that Act.

Correction of lists.

22. (1) Not later than such day as may be prescribed by the registration order the electoral registrar shall correct the preliminary list—

(a) by deleting therefrom the names of persons so as to give effect to his or a deputy registrar's determination under section 20 of objections, and the names of persons who have, on application to be registered as voters for another local authority area, applied under section 15(4) to have their names deleted;

(b) by making such corrections thereto so as to give effect to his or a deputy registrar's determination under section 20 of applications for corrections of particulars therein and by way of rectification of clerical errors, removal of duplicate entries, insertion of names accidentally omitted, amendment of particulars of entries or otherwise as are necessary to ensure that the preliminary list is complete and accurate.

(2) Not later than such day as may be prescribed by the registration order the electoral registrar shall correct the supplementary lists by way of rectification of clerical errors, removal of duplicate entries, insertion of names accidentally omitted, amendment of particulars of entries or otherwise to ensure that the supplementary lists are complete and accurate.

Certification of lists.
[7 of 1994]

23. (1) Upon completion of the correction of the preliminary list and of the supplementary lists the electoral registrar shall certify them in the prescribed form and shall publish a copy thereof so certified and shall send to the Elections Commission a certified copy.

(2) At the time of the publication pursuant to subsection (1), the electoral registrar shall likewise publish a notice setting out the names of persons deleted from the preliminary and supplementary lists.

(3) When certified under subsection (1) the preliminary list and the supplementary lists shall together constitute the register of voters for the local authority area.

(4) The register of voters for the local authority area shall come into force at such time as shall be prescribed by the Elections Commission by notice published in the *Gazette* and shall be open for inspection at all reasonable times at the offices of the local authority, and copies thereof shall be printed.

Insertion in register of names omitted through inadvertence.
[7 of 1994]

24. If at any time after the register of voters for the local authority area has come into force under section 23 the Elections Commission is satisfied that the name of any person whose name was included in the preliminary list or a supplementary list prior to correction by the electoral registrar under section 22 has through inadvertence been omitted from that register of voters, the Elections Commission shall instruct the Chief Election Officer to insert in the register the name and other particulars of the person concerned, initial the correction and notify the person of the insertion.

Correction of register of voters by Elections Commission.
[12 of 1994]

24 A. If at any time whether before or after the register of voters for a council area or a local authority area has come into force the Elections Commission is satisfied from evidence brought to its attention that any person who is eligible to be listed as a voter, and has satisfied the conditions therefore, has been omitted from the register of voters or any person who is not eligible to be registered as a voter has been included therein and

that the said register of voters could not be corrected by the normal procedure set out in this Part, the Elections Commission shall cause the register of voters to be corrected in such manner as it considers appropriate or direct the Chief Election Officer or any other person regarding the extent to, and the manner in, which the register of voters shall be corrected.

Miscellaneous Registration Offences

Offences by registration officers.

25. Any registration officer who—

(a) willfully omits from a preliminary or supplementary list or from a register of voters the name of any person entitled to have his name entered therein;

(b) willfully enters in a preliminary or supplementary list of voters or in a register of voters the name of any person who is not entitled to have his name entered therein; or

(c) when performing his functions under this Part, attempts to ascertain the manner in which any person intends to vote at an election or to influence any person as to the manner of exercise of his vote,

shall be guilty of an offence.

Destroying or altering documents.

26. Any person who, without lawful authority, destroys, mutilates, defaces or removes, or makes any alteration in, a preliminary or supplementary list or register of voters, or an identification card, notice of disallowance or other document made or issued in connection with the registration of voters shall be guilty of an offence.

False applications.

27. Any person who applies to be registered as a voter upon grounds which he knows to be false or does not believe to be true, shall be guilty of an offence.

False statements.

28. Any person who makes to a registration officer, when performing his functions under this Part, any oral or written statement which he knows to be false or does not believe to be true shall be guilty of an offence.

Obstruction.

29. Any person who assaults, resists, obstructs or willfully delays a registration officer in the performance of his duties under this Part shall be guilty of an offence.

General

Supply of forms.

30. It shall be the duty of the electoral registrar to ensure that such of the prescribed forms as may be required by the public in the local authority area for the purposes of or incidental to their registration as voters for that area are readily available, free of charge.

Mode of sending documents to electoral registrar.

31. Any notice or other document which under this Part is to be sent to the assistant electoral registrar or the electoral registrar shall be sent to him by registered post at his office or delivered by hand.

Publication of notices by registration officers.

32. Where any notice or other document is required by any provision of this Part to be published by a registration officer, he shall cause the same to be affixed to the offices of the local authority and of the electoral registrar and may cause such further publication of the document as he may think desirable to bring its contents to the attention of persons residing in the local authority area.

Assistance to incapacitated persons.

33. A registration officer shall, at the request of any applicant for registration as a voter who is unable by reason of illiteracy or physical defect, to complete a prescribed form, assist such person and shall make an endorsement thereon to the effect that he has so assisted him at his request.

Expenses of registration. [7 of 1994]

34. The expenses of the registration of voters (including the payment of emoluments of registration officers and their staffs) shall be paid out of funds provided by the local authority of the area for which the registration is ordered:

Provided that the expenses referred to in this section in respect of the first elections to a local authority shall be paid out of the funds provided by Parliament.

PART III
ELECTIONS

Day for Holding of Election and Electoral System

Election day

35. (1) An election shall be held on such day as the Minister may by order appoint.

(2) An order under this section shall be published in the *Gazette* and a copy thereof published by the local authority to which it relates.

Postponement of election day.

36. (1) If the Minister is satisfied that the holding of an election on election day would be attended by danger or serious hardship, he may by order postpone the election to a day specified in such order, which day shall then, for the purposes of this Part, be election day.

(2) An order made under this section shall be published in the *Gazette* and a copy thereof published by the local authority to which it relates.

Power to postpone election; validation. [10 of 1990] [21 of 1997] [3 of 1998] [13 of 1999] [18 of 2000] [11 of 2001] [13 of 2002] [19 of 2003] [20 OF 2004]

36A. (1) Where the Minister is satisfied, on the advice of the Elections Commission, that it is impracticable to comply with the provisions of this Act or the Local Authorities (Elections) (Amendment) Act 1990 regarding the date for the holding of an election to elect members of a local democratic organ, he may, at any time by order, postpone such date to a date specified in the said order or to a date to be specified in a subsequent order, the postponed date being not later than ninethy-six months from the date on which the election should be held, and every person who is a councillor, including the Mayor, Deputy Mayor, the Chairman or the Deputy Chairman, on the date on which the election should be held shall continue in, and discharge the functions of, his office until his successor enters upon the duties of his office.

(2) All acts done or purported to be done by such local democratic organ and the members, including the Mayor, the Deputy Mayor, the Chairman and the Deputy Chairman thereof, who continue in office in consequence of the provisions of an order made under this section shall be deemed to be lawfully and validly done and every such local democratic organ and members thereof, including the Mayor, the Deputy Mayor, the Chairman and Deputy Chairman, shall be discharged and indemnified against all persons from all legal proceedings in respect of or consequent on such acts.

Election to be by secret ballot.

37. An election shall be conducted by secret ballot.

Electoral system.

38. (1) The area of the local authority to which the councillors are to be elected shall form one electoral area for determining the result of the election; and votes shall be cast in favour of lists of candidates published in accordance with section 51.

(2) Notwithstanding subsection (1), the Minister may, by order, divide the area of a local authority into such number of electoral areas as he shall therein specify and voters resident in any such electoral area may vote for a list of candidates for such electoral area, and the Minister shall in such order, notwithstanding any other law to the contrary, prescribe the number of registered voters for any such electoral area who may submit a list of candidates for such area, and sections 41 to 54 inclusive (except section 43) shall, in so far as they are not inapplicable thereto, apply to such lists of candidates; and the Minister shall, in such order, subject to the provisions of the Municipal and District Councils Act, further prescribe the number of councilors who shall be elected for every such electoral area, and the provisions of this Act shall, in so far as they are not inapplicable thereto, apply to such electoral area as they apply to the area of a local authority which forms one electoral area.

c. 28:01

Polling places. [7 of 1994]

39. There shall be for the local authority area such polling places as the returning officer, subject to the approval of the Elections Commission, may appoint; and each polling place shall bear such numerical or other designation as may be approved by the Elections Commission.

Qualifications of Councillors

Qualifications and disqualifications.

40. (1) Subject to subsection (2), a person shall be qualified to be elected as a councillor if, and shall not be so qualified unless, he is a registered voter for the local authority area to which he seeks election.

(2) No person shall be qualified to be elected as a councillor, or if so elected to hold or continue in office as a councillor if he—

Schedule.

(a) is the holder of or is acting in an office specified in the Schedule;

(b) has been adjudged insolvent or has made a composition or arrangement with his creditors;

c. 36:02

(c) has within twelve months before election day or since his election received any assistance under the Poor Relief Act;

(d) has within five years before election day or since his election been surcharged to an amount exceeding one thousand dollars;

(e) is, on the qualifying date or at the time when he is elected a councillor, serving a sentence of imprisonment of not less than three months for any offence or has since the election been convicted of any offence and sentenced to any such term of imprisonment;

(f) has been disqualified from holding office as a councilor pursuant to any law;

(g) has within five years before election day or since the election been convicted of, or reported in the certificate of the Court in connection with, a corrupt or illegal practice;

(h) is unable to read or write the English language;

(i) is a councillor of another local authority or consents to the inclusion of his name in a list of candidates at an election to another local authority:

Provided that—

(i) the disqualification attaching to a person by reason of his having been adjudged insolvent shall cease—

(a) if the insolvency is annulled either on the ground that he ought not to have been adjudged insolvent, or that his debts have been paid in full, on the date of the annulment; or

(b) if he is discharged with a certificate that the insolvency was caused by misfortune without any misconduct on his part, on the date of his discharge; or

(c) in any other case, on the expiration of five years from the date of his discharge;

(ii) the disqualification attaching to a person by reason of his having made a composition or arrangement with his creditors shall cease—

(a) if he pays his debts in full, on the date on which the payment is completed; or

(b) in any other case, on the expiration of five years from the date on which the terms of the deed of composition or arrangement are fulfilled.

(iii) for the purposes of paragraphs (d), (e), (f) and (g) the ordinary date on which the period allowed for making an appeal or application with respect to the surcharge or conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof, shall be deemed to be the date of the surcharge or conviction as the case may be.

Lists of Candidates

Notice of day for submission of lists.
[7 of 1994]

41. (1) The Elections Commission shall by notice appoint the day, being a day not later than the 21st day before election day, on which lists of candidates may be submitted to the returning officer, and there shall be included in the notice particulars of the hours between which and the place at which the returning officer will attend to receive the lists.

(2) A notice given under this section shall be published in the *Gazette* and a copy thereof published by the returning officer.

Returning officer to receive lists.

42. The returning officer shall attend in accordance with the notice given under section 41 to receive the lists of candidates; and no list shall be received at any other time or place.

Lists to be submitted by registered voters.

43. A list of candidates may be submitted by the following numbers of registered voters for the local authority area, namely, the number set out in the Act under which the local authority is constituted.

Requirements of lists.
[13 of 1990]

44. (1) A list of candidates shall be handed, together with one copy thereof, to the returning officer by the representative or the deputy representative of the list or by two of the persons named as candidates on the list at the time and place appointed; and the returning officer shall forthwith cause the copy of the list to be posted in a conspicuous place outside his office.

(2) A list of candidates shall be in the prescribed form; and the submission shall bear the signature of each person submitting the same together with his name and the serial number of his identification card:

Provided that if any such person is unable to sign his name, his mark, made against his name written by a justice of the peace, shall be deemed to be his signature for the purposes of this subsection but not for the purposes of section 45.

(3) A list of candidates shall set out the names, one below the other in the alphabetical order of the surnames, of persons not less in number than the number of persons to be elected as councillors and not more than such number plus ten, being persons who are qualified to be so elected and who have consented to the inclusion of their names in the list as candidates for election, together with the address and occupation of each such person.

(4) Each list of candidates shall be accompanied by a statutory declaration, in the prescribed form, by each person named therein as a candidate of his qualifications and consent, made before a justice of the peace, a commissioner of oaths or other person authorised by law to administer an oath in the place where the declaration is made.

(5) Each list of candidates shall bear a title selected by the persons by whom it is submitted.

(6) No person shall be a candidate on more than one list of candidates and no person shall be a signatory to more than one list.

(7) For the avoidance of doubt it is declared that a person may be a signatory to a list of candidates notwithstanding that he is named therein as a candidate.

Representatives of lists.

45. The persons submitting a list of candidates may nominate any registered voter as representative of the list and another as deputy representative and—

(a) where neither a representative nor a deputy representative is so nominated, the persons whose signatures appear first and second in the submission shall be deemed to have been nominated as representative and deputy representative, respectively;

(b) where a representative is not so nominated, the person nominated as deputy representative shall be deemed to have been nominated as representative and the person (other than the person nominated as deputy representative) whose signature appears first in the submission shall be deemed to have been nominated as deputy representative; and

(c) where a deputy representative is not so nominated, the person (other than the person nominated as representative) whose signature appears first in the submission shall be deemed to have been nominated as deputy representative.

Defective lists.

46. (1) On receipt of the lists of candidates the returning officer shall examine them for the purpose of ascertaining whether they have been submitted in accordance with the provisions of section 44 and if it appears to him that a list of candidates is defective, that is to say, that the list or its submission does not comply in all respects with the requirements of section 44(1), (2), (3), (4) and (5) or bears a misleading title, he shall, not later than the 21st day before election day, so inform the representative and the deputy representative of the list, specifying the defects:

Provided that if the list does not bear a title the returning officer may, if it seems to him just and proper to do so, instead of treating the list as defective, allocate a title thereto.

(2) If the name of any person appears as a candidate on two or more lists of candidates the returning officer shall—

(a) not later than the 21st day before election day inform the representatives and deputy representatives of the lists concerned;

(b) delete the name of that person from any list on which the returning officer is satisfied he did not consent to the inclusion of his name;

(c) delete his name from each list on which it appears if the returning officer is satisfied that he consented to the inclusion of his name on more than one list.

(3) If the name of any person appears as a signatory to the submission of more than one list, his signature shall be inoperative on any list other than the one first delivered to the returning officer and the returning officer shall delete his name from every other list, and if by reason of such deletion it appears to the returning officer that any list is defective in that there remain less than the required number of signatories thereto, such list shall be treated as defective.

Corrections to lists.

47. The representative and deputy representative of a list of candidates, or either of them, may, not later than the 20th day before election day, submit to the returning officer corrections of any defects in the list (whether or not those defects are defects which have been notified under section 46).

Applications for symbols.
[7 of 1994]

48. (1) The representative and deputy representative of a list of candidates, or either of them, may, not later than the 21st day before election day, make application in writing addressed to the returning officer for the allocation of a symbol which shall be a symbol approved by the Elections Commission.

(2) Applications for symbols shall be considered by the Elections Commission in the order in which they have been received but no right shall be conferred by priority of application to the allocation of the symbol for which application is made or for any particular symbol.

Approval of lists.
[7 of 1994]

49. (1) Subject to section 50, no list of candidates shall be valid unless it has been approved by the returning officer not later than the 20th day before election day.

(2) If it appears to the returning officer that a list of candidates is not defective or that defects in it have been cured by corrections submitted in accordance with section 47, he shall approve it and affix thereto the symbol duly allocated by the Elections Commission, and if it appears to the returning officer that a defective list has not been corrected, he shall refuse to approve it.

(3) Not later than the 20th day before election day, the returning officer shall notify the representative and deputy representative of each list that the list is or is not approved and shall publicly declare the titles of the approved lists and the names of candidates thereon.

Appeal against refusal of approval.

50. (1) The refusal of the returning officer to approve a list shall not be called in question except by appeal under section 50, and the approval of a list by the returning officer shall not be called in question except in accordance with Part IV.**50.** (1) Where the returning officer has refused to approve a list of candidates, the representative and deputy representative of the list, or either of them, may, not later than the 20th day before election day appeal against such refusal to the magistrate of the magisterial district in which are situated the offices of the council.

(2) The magistrate shall hear the appeal and deliver judgment within such time before election day as will enable the returning officer duly to comply with the requirement of section 51 relating to publication of the list; and the judgment of the magistrate shall not be subject to appeal.

(3) The magistrate may—

(a) dismiss the appeal;

(b) approve the list to which the returning officer has refused to give his approval; or

(c) approve that list with such modifications as to the magistrate may seem just,

and when the magistrate approves a list, with or without modification, the list as approved by him shall have effect as if it had been approved by the returning officer under section 49.

Publication of lists.

51. The returning officer shall, not later than the 18th day before election day, cause a notice to be published of the titles and symbols of the lists approved by him or the magistrate, as the case may be, and the names of the candidates on those lists.

Withdrawal of lists.

52. A list of candidates may be withdrawn by notice in writing addressed to the returning officer and signed by both the representative and deputy representative of the list:

Provided that a list shall not be withdrawn after the returning officer has notified the representative and deputy representative thereof that it has been approved.

Death or withdrawal of candidate.

53. (1) If a person whose name is included in a list of candidates which has been submitted to the returning officer dies, or, by notice in writing signed by him and addressed and delivered to the returning officer, withdraws his candidature, his name shall be deleted from the list and, if the list has already been published, the returning officer shall cause notification of the deletion to be published:

Provided that where the name of a person is the only name originally included in or remaining in the list of candidates, that person shall not withdraw his candidature unless his notice of withdrawal is delivered to the returning officer not later than the 19th day before election day.

(2) Where by reason of the death of a candidate or by reason of the withdrawal of a candidate in accordance with subsection (l) no names remain on a list of candidates such list shall cease to have affect.

Election of candidates on unopposed list.

54. If only one list of candidates has been approved, the persons whose names appear on the list shall be deemed to have been elected as councillors; and the returning officer shall publicly declare their election and cause notice thereof to be published.

Agents

Appointment of election agents.

55. (1) The representative of each list of candidates shall not later than the 21st day before election day give notice in writing to the returning officer, appointing himself or some other person to be the election agent of the candidates in the list and if the appointment of an election agent is revoked or the election agent dies and no further appointment is made, the representative of the list of candidates shall be deemed to have been appointed to be the election agent of the candidates.

(2) The returning officer shall cause a notice to be published of the name and address of the person appointed or deemed to be appointed as election agent.

Appointment of assistant agents, counting agents, and polling agents.

56. (1) An election agent may appoint not more than one assistant agent and not more than one counting agent; and he may further appoint for each polling place not more than one polling agent.

(2) Notice in writing of every appointment of an assistant agent, counting agent and polling agent, stating the name and address of the person appointed shall be given not later than the 5th day before election day by the election agent to the returning officer.

(3) The returning officer shall upon receiving a notice of an appointment of an assistant agent publish notice of the name and address of the person appointed.

(4) Upon the revocation of the appointment, or upon the death of an assistant agent, counting agent or polling agent the election agent shall forthwith give notice in writing thereof to the returning officer and shall give notice in writing of any further appointment made in accordance with subsection (2):

Provided that the appointment of an assistant agent, counting agent or polling agent shall not be vacated solely by reason of the revocation of the appointment or the death of the election agent who appointed him.

(5) Nothing in this section shall preclude the appointment of a person as polling agent for two or more polling places or as both assistant agent and counting agent, or as both assistant and polling agent, or as both counting agent and polling agent or as assistant agent, counting agent, and polling agent.

Actions of assistant agents.

57. (1) Every election agent may act by his assistant agent; and anything done for the purposes of this Part by an assistant agent shall be deemed to have been done by the election agent.

(2) Any act or default by an assistant agent which, if he were an election agent, would be an illegal practice or other offence under this Part, shall be an illegal practice or other offence under this Part committed by the assistant agent who shall be liable to punishment accordingly.

(3) Where in this Part any action or thing is required to be done in the presence of candidates, polling agents or counting agents the non-attendance of any such candidate, polling agent or counting agent at the time and place appointed for the purpose shall not, if any act or thing is otherwise properly done, invalidate the act or thing done.

Liability of candidates for offences by election agents.

58. Where any corrupt or illegal practice or any illegal payment, employment or hiring, or other offence under this Part is proved to have been committed by an election agent or assistant agent with the consent or connivance of a candidate, such candidate shall also be deemed to have been guilty of such corrupt or illegal practice or illegal payment, employment or hiring or other offence.

Entitlement to Vote

Registered voter to vote in person.

59. (1) A registered voter for the local authority area shall be entitled to vote at an election if he complies with the provisions of this Part and with requirements made and directions given thereunder and if the presiding officer of the polling place at which he applies for a ballot paper is satisfied as to the matters specified in section 79(1).

(2) No person shall be entitled to vote at an election unless he is entitled to do so under subsection (1).

(3) Every registered voter who votes at an election shall, subject to the provisions of this Part relating to voting by proxy, and to the marking of ballot papers on behalf of blind and incapacitated voters, vote in person.

(4) Without prejudice to the provisions of this Part relating to voting as a proxy on behalf of other registered voters and to the marking of ballot papers on behalf of blind and incapacitated voters, no registered voter shall vote more than once at the election.

Place of voting.

60. (1) A registered voter for the local authority area shall be entitled to vote (whether in person or as a proxy on behalf of another voter or in the manner otherwise provided by this Act) at the polling place where is displayed the official list of voters or part thereof, as the case may be, on which his name appears; and no registered voter shall, subject to section 61, be entitled to vote (either in person or as a proxy on behalf of another voter) at any other polling place.

(2) The official list of voters shall be the register of voters for the local authority area.

Place of voting in special cases.

61. A registered voter who in the local authority area in which he is registered, is employed as an election officer or member of the Police Force for a purpose connected with the election at a polling place other than that at which he is authorised under section 60(1) to vote, may vote at the polling place where he is so employed if, not later than the day before election day, he obtains from the returning officer a certificate under his hand, in the prescribed form authorising him to vote at that polling place, which certificate shall state the name of the voter, the number of his identification card and the fact that he is to be so employed.

Entitlement to apply to vote by proxy.

62. (1) The following registered voters shall be entitled to apply to vote by proxy:

(a) members of the Police Force, the Special Service Unit and the Guyana Defense Force;

(b) members of a town constabulary and rural constables;

(c) employees of the Transport and Harbours Department engaged in running trains and vessels;

(d) candidates;

(e) election officers and their staff;

(f) persons unable or unlikely to be able by reason of blindness or other physical infirmity to travel to the polling place at which they are entitled to vote or, if able so to travel, to vote unaided;

(g) persons for whom it is likely to be impracticable or seriously inconvenient, by reason of the general nature of their occupation, service or employment or for other good cause, to go in person to the polling place at which they are entitled to vote.

(2) Not more than one person shall be appointed to vote as a proxy on behalf of any one registered voter.

(3) No person shall be appointed to vote as a proxy—

(a) on behalf of another registered voter unless he is himself a registered voter for the local authority area, who is entitled to vote at the same polling place as that at which the registered voter on whose behalf his appointment is sought is entitled to vote;

(b) for more than three registered voters.

(4) A registered voter voting as a proxy on behalf of another registered voter shall do so at the same polling place and at the same time as he votes on his own behalf.

Requirements of application for appointment of proxy.

63. Every application for the appointment of a registered voter to vote as a proxy shall be—

(a) in writing in the prescribed form and accompanied by any document which may be prescribed;

(b) addressed and sent to the returning officer so as to be received by him not later than the 7th day before election day;

(c) accompanied by the consent in writing of the registered voter named as proxy therein to his appointment.

Notice of appointment as proxy and list of proxies.

64. (1) If a returning officer is satisfied that an application for the appointment of another registered voter to vote as a proxy on behalf of the applicant has been duly submitted in accordance with the provisions of section 63 by a registered voter entitled to apply to vote by proxy and that the person whose appointment is sought is entitled to vote as a proxy on behalf of the applicant and consents to his appointment, he shall issue to that person a notice of appointment as a proxy in the prescribed form and shall notify the applicant accordingly.

(2) If the returning officer refuses the application he shall notify the applicant of his refusal and of his reasons therefore; and the decision of the returning officer shall be final.

(3) The returning officer shall keep a list of proxies which shall be in the prescribed form and which shall set out the names, addresses and the serial numbers of the identification cards of the registered voters for whom proxies have been appointed and of the registered voters who have been appointed as proxies on their behalf.

Cancellation of appointment as proxy

65. A registered voter may cancel the appointment of another person to vote as a proxy on his behalf by giving notice in writing in the prescribed form and addressed and sent to the returning officer so that the notice of cancellation is received by the returning officer not later than the 7th day before election day; and thereupon the notice of appointment shall be void and the returning officer shall—

(a) so notify the registered voter whose appointment as a proxy is cancelled;
(b) delete the names of both registered voters from the list of proxies.

Preparation for the Poll

Notice of poll. [7 of 1994]

66. (1) Whenever two or more lists are published under section 51 the returning officer shall, not later than the 10th day before election day, cause to be published—

(a) a notice of poll which shall be in the prescribed form and which shall specify—

(i) the day on and the hours between which the poll will be taken;
(ii) the situation of each polling place;

(b) a copy of each list of candidates published in accordance with section 51;

(c) a copy of the official list of voters.

(2) The hours between which the poll shall be taken shall be from 6 o'clock in the forenoon until 6 o'clock in the afternoon at all polling places unless the Elections Commission sh**a**ll appoint different hours, being twelve consecutive hours, for any polling place.

Division of official list of voters.

67. Where more than one polling place is established the returning officer shall divide the official list of voters into as many parts as there are polling places and shall assign to each polling place the part relating to that polling place.

Display of part of official list of voters.

68. Where more than one polling place is established, the returning officer shall cause a copy of that part of the official list of voters to be displayed at the polling place to which it relates.

Preparation of polling places.

69. The returning officer shall before election day cause every polling place to be provided with—

(a) such doors, barriers, tables, chairs and other conveniences as are necessary or desirable for implementing this Part;

(b) such number of compartments as is necessary or desirable and in which registered voters can vote free from observation.

Printing of directions for voting and ballot papers.
[7 of 1994]

70. The Elections Commission shall cause to be printed and sent to the returning officer before election day a sufficient number of the following documents—

(a) directions for voting, in the prescribed form;
(b) ballot papers, in the prescribed form;
(c) tendered ballot papers, in the prescribed form.

Requirements of ballot papers.

71. (1) Every ballot paper shall—

(a) contain, serially numbered on the left hand side and in alphabetical order of the initial letters of the title of each list of candidates, the initial letters, title and symbol of each list of candidates;

(b) be capable of being folded up;

(c) be attached to a counterfoil bearing, printed on the face, a serial number and the words and dots "Voter's number....."

(2) In the printing of the ballot paper—

(a) no letter, word, or design shall be printed on the face except the initial letters, titles and symbols of the lists of candidates:

(b) no rule shall be printed on the face except the horizontal rules separating the particulars of the lists of candidates from one another and the vertical rules separating those particulars from the numbers on the left hand side and from the spaces on the right where the symbols are shown and separating the spaces for symbols from the spaces on the right where the vote is to be marked;

(c) the whole space between the top and bottom of the paper shall be equally divided between the lists of candidates by rules separating their particulars;

(d) the initial letters of each list of candidates shall be printed in large capitals and the full titles of each list in small capitals.

(3) Tendered ballot papers shall be of a different colour from ordinary ballot papers but, subject to such difference of colour, the provisions of this section shall apply to tendered ballot papers as they do to ordinary ballot papers.

Supplies of election material

72. (1) The returning officer shall supply to each presiding officer the following:

(a) a sufficient number of ballot papers and tendered ballot papers, together with a statement showing the numbers supplied and their serial numbers;

(b) a sufficient number of copies of the directions for voting;
(c) a sufficient number of copies of this Act;

(d) a sufficient number of copies of the official list of voters or part thereof, as the case may require, containing the names of the registered voters entitled to vote at the polling place;

(e) a sufficient number of copies of the list of proxies;

(f) a ballot box and materials for affixing thereto or stamping thereon the seal of the presiding officer;

(g) the several forms of oaths to be administered to registered voters;

(h) a poll book;

(i) the necessary envelopes and such other forms and supplies as may be authorised or furnished by the Chief Election Officer;

(j) a sufficient number of copies of each list of candidates published in accordance with section 51.

(2) The ballot box shall be of convenient size and so constructed that the ballot papers can be placed therein, but cannot be withdrawn therefrom, without the box being unlocked.

(3) The poll book shall be in the prescribed form.

Display of lists of candidates.

73. The presiding officer of each polling place shall before the opening of the poll post up in a conspicuous position outside the polling place a copy of—

(a) the directions for voting;
(b) the lists of candidates published in accordance with section 51.

Custody of election material.

74. The presiding officer of each polling place shall, until the opening of the poll, keep the documents supplied to him in pursuance of section 72 (other than those required to be posted up by section 73) locked in the ballot box or other depository and shall take every precaution to prevent any person having unauthorised access thereto.

Procedure for voting by specified Disciplined Forces

Definitions.
[12 of 1994]

74A. (1) In this part—

"ballot attendant" means a person appointed as such under section 74C;

"balloting place" means a place appointed as a balloting place under section 74C;

"ballot officer" means a person appointed as such under section 74C:

"specified disciplined force" means a disciplined force specified for the purposes of this part by order under section 74B.

(2) For the purposes of this part the Guyana National Service shall be deemed to be a disciplined force and not part of any other disciplined force.

(3) In this section and sections 74B to 74I, inclusive the expression "this part" means this section and sections 74B to 74I, inclusive.

Application of part.
[12 of 1994]

74B. In order to allow members of any disciplined force or disciplined forces to exercise their right to vote at an election without affecting the performance by them of their duties on the election day, the Elections Commission may by order direct that the provisions of this part shall apply to the exercise of that right, by any member of such disciplined force or disciplined forces as may be specified in the order, in an election and if the Elections Commission makes such an order the provisions of this part shall apply to voting by any member of a specified disciplined force or specified disciplined forces at any election held after the date of the order.

Appointment of ballot officers, ballot attendants and balloting places for the purposes of this part.
[12 of 1994]

74C. (1) The Elections Commission shall appoint by notification in the *Gazette*—

(a) one ballot officer for each of the specified disciplined forces;

(b) such number of ballot attendants, as it thinks fit, so that there will be one ballot attendant for each balloting place; and

(c) such place or places, as it thinks fit, in each council area or in each local authority area as balloting place or balloting places.

(2) Different ballot attendants and different balloting places may be appointed in relation to electors who are members of different specified disciplined forces.

(3) A ballot clerk may be appointed by the Elections Commission in relation to a balloting place:

Provided that it shall be lawful for the Elections Commission to appoint the same person as ballot attendant and ballot clerk.

List of electors entitled to vote under this part.
[12 of 1994]

74D. (1) Each ballot officer shall prepare a list of persons whose names are on the official list of electors and who are members of the specified disciplined force in relation to which he has been appointed ballot officer.

(2) The list prepared by a ballot officer under subsection (1) shall be divided into parts according to the division in the official list of electors for which the names of the persons mentioned in that part are included, and shall state the identity card of each such person, his serial number of registration in the official list of electors to which division the official list of electors relates, the council area or local authority area in which that division is situate, and such other particulars as may be prescribed by the Elections Commission by regulations.

(3) Each of the ballot officers shall forward a copy of the list prepared by him under subsection (1) (but excluding therefrom the names of the persons referred to in the proviso to section 74E (6)) to the Chief Election Officer.

(4) The Chief Election Officer shall forward those parts of the copy of the list referred to in subsection (3) as are relevant in respect of the divisions in any council area or local authority area to the returning officer of the council area or local authority area and the returning officer shall cause to be displayed at each polling place in such areas the names and other particulars included in the copy of the list referred to in subsection (1), of those who are, under this part, entitled to vote at that polling place.

Balloting.
[12 of 1994]

74E. (1) The Elections Commission shall by notification in the *Gazette* appoint a day on which, and the hours during which, persons entitled to vote under this part may ballot and different days and hours may be appointed in relation to different balloting places:

Provided that any day appointed under this subsection for balloting shall not be more than ten days earlier than the election day or later than five days before the election day.

(2) The Chief Election Officer shall forward to each ballot officer a sufficient number of ballot papers having regard to the names in the copy of the list forwarded by that ballot officer to the Chief Election Officer under section 74D(3).

(3) The ballot officer shall, before the hour appointed for the commencement of balloting under this part at a balloting place, cause to be displayed at the balloting place a list

containing the names, and other particulars referred to in section 74D(2), of the persons entitled to ballot under this part at that balloting place, such names being of persons who are, under this part, entitled to vote at a polling place in the district where that balloting place is situate.

(4) The ballot officer shall cause to be supplied to the ballot attendant for a balloting place, the day before the day fixed for balloting at that balloting place, a sufficient number of ballot papers having regard to the names in the list, referred to in subsection (3) of persons entitled to ballot at that balloting place.

(5) Any person whose name is in a list prepared by a ballot officer under section 74D(1) and who desires to vote at an election may exercise his right to ballot under this part at the balloting place where a list containing his name is displayed under subsection (3).

(6) Nothing in this part shall be deemed to prevent any person whose name is included in a list prepared under section 74D(1) from exercising his right to vote in accordance with any other provision of this Act and not in accordance with this part:

Provided that where any such person desires to vote in accordance with any other provision of this Act he shall intimate to the ballot officer in relation to such list wherein his name is included, not later than fifteen days before the days appointed under subsection (1) for balloting at the balloting place where he is entitled to ballot under this part, of his desire so to do and thereupon the ballot officer shall make a note of it in that list and his name shall not be included in the list referred to in subsection (3) or in the copy of the list referred to in section 74D(3) and forwarded by the ballot officer to the Chief Election Officer.

(7) Subject to the provisions of this part, the provisions, of this Act in relation to presiding officers and their functions, polling clerks and their functions, polling places, preparation for poll and polling shall ***mutatis mutandis*** apply respectively to, and in relation to, ballot attendants, ballot clerks, balloting places, preparation for ballot and balloting under this part.

Safe custody of ballot boxes until handed over to the returning officer on election day. [12 of 1994]

74F. (1) As soon as possible after the expiry of the hour appointed for the closing of balloting in relation to a balloting place, on the day of the balloting, the ballot attendant shall deliver personally the sealed ballot box and the sealed packets to the ballot officer.

(2) The ballot attendant shall be responsible for the safe custody of the ballot box and the aforesaid sealed packets until they are delivered to the ballot officer under subsection (1) and thereafter the ballot officer shall deliver them to the Elections Commission which shall be responsible for their safe custody until the election day.

(3) On the election day, during such hours as may be fixed for that purpose by the Elections Commission by notification in the *Gazett*e, the Elections Commission shall at a place to be determined by the Elections Commission count, as provided in subsection (4), the votes from the sealed ballot boxes referred to in subsection (1), received by the Elections Commission from each ballot officer and the persons who balloted in accordance with the preceding provisions of this part shall be deemed for all the purposes of this Act to have cast their votes at the election in the council area or local authority area in which the balloting places were situated.

(4) The votes deemed under subsection (3) to have been cast, at the election, in each council area or local authority area shall be counted separately by the Elections Commission, and the provisions of sections 84, 94 and 95 shall apply ***mutatis mutandis*** in relation to the counting of votes under this section, the expression "presiding officer" in section 94 being substituted by the expression "Elections Commission".

(5) The Elections Commission shall after counting the votes but before the close of poll, on election day, communicate the valid votes cast for each list of candidates to each returning officer for the council area or local authority area in respect of which the votes were cast.

Application of certain provisions relating to penalties to balloting under this part. [12 of 1994]

74G. (1) The provisions of sections 118, 121(l)(a), 125(a) in so far as it relates to voting on his own behalf, 125(d) (i) and (ii), 126(a) and (b), 128, 129, 130(a), (b), (c), (d), (h) and (i), 130(e) and (f) in so far as they relate to the vote of any elector at any election, 131 in so far as it relates to voting in person and 136 shall apply in relation to balloting under this part subject to the modification that references therein to—

(a) poll and voting shall be construed as references to balloting under this part; and

(b) a poll clerk and presiding officer shall be construed as references to a **ballot** clerk and ballot attendant, respectively.

(2) Subsection (1) shall not be deemed to modify the law relating to any other offences under this Act.

Modification, etc. of provisions of Act. [12 of 1994]

74H. (1) In order to give effect to the right of an elector, who is a member of any of the disciplined forces, to exercise his right to ballot in accordance with the provisions of this part, and consistently with the interests of defense, public safety and public order, the Elections Commission may by order direct that the provisions of this Act, other than the provisions of this part, shall apply to, and in relation to, the exercise by members of the disciplined forces of any right they have to vote at an election, with such adaptations, modifications, exceptions or qualifications as may be specified in the order.

(2) An order made under subsection (1) shall be subject to negative resolution of the National Assembly.

Overriding effect of this part. [12 of 1994]

74I. The provisions of this part shall have effect notwithstanding anything contained in any other part of this Act.

The Poll

Place and time of poll.

75. The poll shall be taken at each polling place on election day in accordance with this Part during the hours specified in the notice of poll:

Provided that if at the hour of the closing of the poll there are any registered voters waiting at the polling place to vote, the poll shall remain open for sufficient time to enable those voters to vote.

Appointment of candidate to attend poll.

76. (1) The election agent of each group of candidates may appoint one of the candidates to attend the poll at a polling place.

(2) Notice in writing of the appointment of a candidate under this section, stating his name and address, shall be signed by the election agent and delivered to the returning officer not later than the 7th day before election day.

(3) There shall not be more than one candidate appointed under this section of the same list of candidates for any one polling place.

(4) A candidate may be appointed under this section for two or more polling places.

Opening of poll.

77. At the hour specified in the notice of poll for the opening of the poll the presiding officer, in the presence of such persons, if any (being persons entitled to enter the polling place) as are present, shall—

(a) open the ballot box and ensure that there are no ballot papers or other papers therein;

(b) lock the ballot box, retain the key thereof and place his seal upon the ballot box in such manner as to prevent it being opened without breaking the seal;

(c) place the ballot box on a table in full view of all present where it shall remain until the poll is closed;

(d) call upon the registered voters for the local authority area to vote.

Applicant to vote to hand identification card to poll clerk.

78. (1) Each applicant to vote shall, upon entering the room where the poll is held, state to the poll clerk his name, address and occupation and hand to him—

(a) his identification card (if any);

(b) if he has been appointed to vote as a proxy on behalf of a registered voter, the identification card (if any) of that voter and his notice of appointment to vote as proxy;

(c) if he claims to be entitled to vote at the polling place by virtue of section 61, his certificate of employment.

(2) The poll clerk shall ascertain if the name of the applicant and that of any registered voter on whose behalf he holds a notice of appointment to vote as a proxy appear in the official list of voters or part thereof for the polling place.

(3) Where there is contained in the official list of voters or part thereof, a name or other particulars which correspond so closely with the name or other particulars entered on the identification card of an applicant to vote as to suggest that the entry in the official list or part thereof is intended to refer to him, the applicant shall, upon taking an oath of identity in the prescribed form, be deemed to be the person so named in the official list or part thereof.

(4) Where an applicant to vote hands to the poll clerk both his identification card and his certificate of employment, the poll clerk shall add his name to the official list of voters or part thereof and shall make an appropriate entry in the poll book.

(5) The poll clerk shall, after the foregoing provisions of this section have been complied with, return to the applicant the identification card (if any) together with any other documents he may have received and direct him to hand the same to the presiding officer and apply to him for a ballot paper.

(6) Anything in the other provisions of this Act to the contrary notwithstanding the presiding officer or the poll clerk may dispense with the production of an identification card if he is satisfied that an applicant to vote is the person whose name appears on the official list of voters and in such a case he shall require the applicant to take and subscribe before him an oath of identity in the prescribed form.

Duty of presiding officer upon application for ballot paper.

79. (1) Upon receipt of the identification card (if any) and other documents pursuant to section 78(5) and upon application made to him for a ballot paper the presiding officer shall satisfy himself as to the following:

(a) that the applicant has not already voted in the local authority area;

(b) the identity of the applicant and his entitlement to vote at the polling place;

(c) the authority of the applicant to vote as a proxy on behalf of another registered voter (if he applies so to vote).

(2) For the purposes of subsection (1) the presiding officer, in so far as the following are applicable to the applicant, may—

(a) examine the applicant's fingers to ascertain if there appears on them any stain of electoral ink;

(b) compare the signature of the applicant with that on his identification card;

(c) compare any photograph on his identification card with his face;

(d) compare the thumb-print or other fingerprint recorded on his identification card with that of the applicant;

(e) compare the height recorded on his identification card with that of the applicant;

(f) examine his notice of appointment (if any) to vote as a proxy on behalf of another registered voter;

(g) make such further comparisons as are reasonably necessary between the particulars recorded on his identification card and those of the applicant.

(3) An applicant shall comply with such requirements of the presiding officer for the examination of his fingers, the taking and recording of his thumb or fingerprint, of his signature and of his height, and shall answer such questions as the presiding officer may ask which are reasonably necessary to ask for the purposes of subsection (1).

Issue of ballot paper.

80. (1) The presiding officer shall refuse to issue a ballot paper to any applicant therefore who does not hand to him his identification card and other documents as directed under section 78(5) and he shall refuse to issue a ballot paper to any applicant if he is not satisfied as required by section 79(1) but if such identification card and other documents are handed to him and he is so satisfied he shall—

(a) deliver to the applicant a ballot paper stamped with the official mark;

(b) enter on the counterfoil of the ballot paper the serial number of the registered voter on the official list of voters;

(c) add to his copy of the official list of voters or part thereof the name of a registered voter who has produced to him a certificate of employment;

(d) place a mark on his copy of the official list of voters or part thereof, to show that a ballot paper has been delivered to the applicant but without showing the particular ballot paper issued;

(e) return to the applicant his identification card (if any), and also, if he has been appointed to vote as a proxy on behalf of another registered voter, the identification card (if any) of that voter.

(2) If the applicant has been appointed to vote as a proxy on behalf of another registered voter the presiding officer shall—

(a) deliver to him, in addition to his own ballot paper, a ballot paper for each registered voter on whose behalf he has been appointed to vote as a proxy and shall enter on the counterfoil of such ballot paper the number on the official list of voters of the registered voter on behalf of whom he has been appointed and place a mark as prescribed by subsection (1)(d) on his copy of the official list of voters or part thereof, to show that a ballot paper has been issued on behalf of each such registered voter;

(b) retain the notice of appointment to vote as proxy of the voter.

Mode of voting.

81. (1) The presiding officer shall ensure that the registered voter understands how and where to place his mark (without indicating that the voter should vote for any particular list of candidates) and how to fold the ballot paper and shall direct him to return with it when marked, folded as shown.

(2) The registered voter shall enter one of the polling compartments and there record his vote by secretly marking his ballot paper within the space opposite the name and symbol of the list of candidates for whom he wishes to vote and shall then fold his ballot paper so as to conceal the vote; and if he has been appointed to vote as a proxy he shall record the vote of the registered voter on whose behalf he has been so appointed, for the list of candidates for whom that voter wishes to vote by secretly marking, in the manner aforesaid, the ballot paper issued to him for that voter and shall then similarly fold that ballot paper.

(3) The registered voter shall, having recorded his vote (and if such be the case that of a registered voter for whom he has been appointed a proxy), show the folded ballot paper (or papers) to the presiding officer so as to disclose the official mark appearing on the reverse thereof and shall place it (or them) so folded in the ballot box in the presence of the presiding officer:

Provided that the presiding officer, shall not permit any registered voter whether voting on his own behalf or as a proxy on behalf of another registered voter to put a ballot paper in the ballot box unless, immediately before he does so, one of his fingers has been stained by immersion in a container of electoral ink.

(4) Notwithstanding the proviso to subsection (3), where the presiding officer is satisfied that a registered voter is suffering from an injury to any finger of such a nature as to render it undesirable for that finger to be stained with electoral ink, he shall not require that finger to be stained but shall stain another finger.

(5) If a registered voter fails or refuses to comply with a lawful requirement of the presiding officer for the staining of one of his fingers the presiding officer shall order him to return to him any ballot paper issued to him and to leave the polling place forthwith;

and the presiding officer shall destroy any ballot paper so returned and make an entry in the poll book as to the facts of such failure or refusal.

(6) A registered voter who refuses or fails to return a ballot paper when so ordered under subsection (5) shall be guilty of an offence.

(7) A registered voter who has inadvertently dealt with a ballot paper in such manner that it cannot conveniently be used as a valid ballot paper may, on delivering such ballot paper to the presiding officer and after satisfying him that it has been spoiled by inadvertence, obtain another ballot paper in its place and the spoiled ballot paper and its counterfoil shall be marked as cancelled.

(8) A registered voter shall not show the marks which he has placed on his ballot paper to any person and if he does so the ballot paper shall be treated as a spoiled ballot paper:

Provided that this subsection shall not apply if a registered voter shows a ballot paper to the presiding officer solely for the purpose of ascertaining if he has carried out his duties correctly.

(9) A registered voter shall vote without delay and shall leave the polling place as soon as he has put his ballot paper and that of any person on whose behalf he has voted as a proxy in the ballot box.

(10) Whenever in the opinion of the presiding officer a registered voter does not understand the language spoken to him he may appoint and swear, in the prescribed form, an interpreter; and the interpreter so sworn shall be the means of communication between the presiding officer and the registered voter with regard to all matters required to enable the registered voter to vote.

Blind and incapacitated voters.

82. (1) The presiding officer shall, on the application of any registered voter who is incapacitated by blindness or other physical cause from voting in the manner prescribed by section 81 and who takes an oath in the prescribed form, mark the ballot paper of such voter in his presence and in the manner directed by him.

(2) The presiding officer may, at the request of any registered voter incapacitated in the manner prescribed by subsection (1) and who has taken the oath prescribed pursuant to that subsection and is accompanied by a friend, permit such friend, if he is a registered voter entitled to vote at the polling place, immediately after he has voted on his own behalf, and notwithstanding that his finger has been immersed in electoral ink, to accompany the registered voter into the voting compartment and mark his ballot paper for him:

Provided that no person may mark the ballot paper of more than one registered voter as his friend under this subsection or mark such ballot paper unless he first takes an oath in the prescribed form.

(3) Whenever the ballot paper of a registered voter has been marked in accordance with this section, the poll clerk shall enter in the poll book opposite the name of the registered voter the fact that the ballot paper was so marked, the reason therefor and, if marked by a friend, the name and the number in the official list of voters of that friend.

Tendered ballot papers and entries in poll book.

83. (1) If an applicant to vote represents himself to be a registered voter whose name appears on the official list of voters or part thereof for a polling place, and there has

already been placed a mark against the name of such voter on the presiding officer's copy of such list or part thereof, the presiding officer shall issue to such applicant a tendered ballot paper if—

(a) the applicant hands to him his identification card;
(b) the applicant takes an oath of identity in the prescribed form; and
(c) the presiding officer is satisfied as to the matters set out in section 79(1).

(2) A tendered ballot paper shall not be put in the ballot box but shall be given to the presiding officer and endorsed by him with the name of the registered voter and his number in the official list of voters; and the tendered ballot paper shall be set aside in a separate packet and shall not be counted by the returning officer.

(3) The poll clerk shall enter in the poll book the name of every registered voter to whom a tendered ballot paper is given and a note of his having marked such ballot paper.

(4) The poll clerk shall—

(a) make in the poll book such entries as are required by this Part or directed by the presiding officer;

(b) enter in the poll book the word "SWORN" opposite the name of each registered voter to whom any oath is administered and "REFUSED TO BE SWORN" or "REFUSED TO ANSWER" opposite the name of each registered voter who has refused to take an oath or who has refused to answer any question when legally so required.

Maintenance of secrecy at polling place.

84. (1) Every person specified in section 86(1)(b) attending the polling place shall maintain and aid in maintaining the secrecy of the voting and shall not, except for a purpose authorised by law, communicate to any person before the poll is closed any information as to—

(a) the name of any registered voter who has or has not applied for a ballot paper or voted whether on his own behalf or as a proxy on behalf of another registered voter;

(b) the number in the official list of voters of any registered voter who, or whose proxy on his behalf, has or has not applied for a ballot paper or voted;

(c) the official mark.

(2) No person shall—

(a) except in the performance of his duty under this Part interfere with or attempt to interfere with a registered voter when casting his vote or, as a proxy, that of another registered voter;

(b) obtain or attempt to obtain in a polling place information as to the list of candidates for whom a registered voter in that polling place is about to vote or has voted either on his own behalf or as a proxy on behalf of another registered voter;

(c) communicate at any time to any person any information obtained in a polling place as to the list of candidates for whom a registered voter in that polling place is about to vote or has voted either on his own behalf or as a proxy on behalf of another registered voter;

(d) directly or indirectly induce a registered voter to display his ballot paper or that of another registered voter for whom he has voted as a proxy after he has marked it, so as to make known the list of candidates for which he has or has not voted either on his own behalf or on behalf of a registered voter for whom he has voted as a proxy.

(3) No person having undertaken to assist a registered voter incapacitated by blindness or other physical cause to vote shall communicate at any time to any person any information as to the list of candidates for whom that voter intends to vote or has voted.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

Molestation of voters.

85. (1) No person shall anywhere within a distance of two hundred yards of a polling place annoy, molest or otherwise interfere with a registered voter or attempt to obtain any information as to the list of candidates for whom any registered voter in the polling place is about to vote or has voted either on his own behalf or as a proxy on behalf of another registered voter.

(2) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

Preservation of order at polling place.
[7 of 1994]

86. (1) The presiding officer may, for the purpose of maintaining order at the polling place—

(a) regulate the admission of applicants to vote and may, if he deems it advisable, direct that not more than one registered voter for each compartment shall at the same time enter the room where the poll is held;

(b) exclude all other persons except—

(i) the Chairman and other members of the Elections Commission;
(ii) the Chief Election Officer;
(iii) the election officers;
(iv) candidates appointed under section 76 to attend the poll;
(iva) local observers approved by the Elections Commission;
(v) polling agents for the polling place;
(vi) members of the Police Force on duty;
(vii) election agents;
(viii) assistant agents.

(c) issue such directions as may be necessary for such purpose.

(2) If any person (whether entitled to enter or not) misconducts himself at a polling place or fails to obey any lawful direction requirement or order of the presiding officer, whether given or made under this or any other section, he may immediately by order of the presiding officer, be removed therefrom by a member of the Police Force or by any other person authorised in writing by the presiding officer to remove him, and the person so removed shall not without the permission of the presiding officer again enter the polling place on election day:

Provided that the powers conferred by this subsection shall not be so exercised as to prevent a registered voter entitled to vote at a polling place having an opportunity to vote thereat.

(3) Any person removed from a polling place under subsection (2) may, if charged with the commission of an offence at or anywhere within a distance of two hundred yards of the polling place, be dealt with as a person taken into custody by a member of the Police Force for an offence without warrant.

Closing of spirit shops.
c. 82:21

87. (1) All premises within the local authority area for which spirit shop licenses, off licenses and railway station or stelling licenses have been issued under the Intoxicating Liquor Licensing Act shall be closed and kept closed on election day.

c. 82:21

(2) No intoxicating liquor shall be sold, offered for sale or given away at any premises within the local authority area to which a license issued under the Intoxicating Liquor Licensing Act applies at any time between the opening of and the closing of the poll on election day.

c. 82:26

(3) No intoxicating liquor shall be supplied to any person at any premises within the local authority area to which a license issued under the Registration of Clubs Act applies at any time between the opening of and the closing of the poll on election day.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

Employees to be given time to vote.

88. (1) Every employer shall permit every registered voter in his employ, other than any registered voter on whose behalf another registered voter has been appointed to vote as a proxy, to be absent from his work on election day for a reasonable time, in addition to the normal midday meal hour, for the purpose of voting at the election; and no employer shall make any deduction from pay or other remuneration of any such voter or impose on him or exact from him any penalty by reason of his absence during such period.

(2) Employees of the Transport and Harbours Department shall be deemed to be employees for the purposes of this section except such as are actually engaged in running trains and vessels and to whom time cannot be allowed without interfering with the running of the trains and vessels; and the General Manager of the Transport and Harbours Department shall be deemed to be the employer of such employees.

(3) Any employer who, directly or indirectly, refuses to grant or who, by intimidation, undue influence or in any other way interferes with the granting to any registered voter in his employ, other than a registered voter on whose behalf another registered voter has been appointed to vote as a proxy, of the period for voting prescribed by this section shall be guilty of an offence.

Adjournment of poll.
[7 of 1994]

89. (1) Where the proceedings at any polling place are interrupted or obstructed by riot, open violence, fire, flood, epidemic or other calamity, whether similar to the foregoing or not, the presiding officer shall adjourn the proceedings and shall forthwith give notice by the quickest available means to the returning officer, who shall inform the Chief Election Officer who shall inform the Chairman of the Elections Commission and the poll at the polling place shall be held at the earliest date possible as determined by the Elections Commission.

(2) Where the poll is adjourned at any polling place under subsection (1) the hours of poll on the day determined by the Elections Commission under that subsection shall be the

same as those on election day and references in this Part to the close of the poll shall be construed accordingly.

Procedure on closing of poll. [7 of 1994]

90. The presiding officer, as soon as practicable after the closing of the poll in the presence of such of the persons entitled by section 86(1)(b) to be present as attend, shall—

(a) secure and seal, with his seal and with the seals of such of the duly appointed candidates appointed under section 76 to attend the poll and polling agents as attend and desire to affix their seals, the ballot box in such manner that it cannot be opened and nothing can be inserted therein or taken therefrom without breaking the seals;

(b) make up in separate packets, sealed with his seal and with the seal of such of the persons mentioned in paragraph (a) as desire to affix their seals—

(i) the unused and spoiled ballot papers and tendered ballot papers placed together;

(ii) the used tendered ballot papers;

(iii) the counterfoils of the used and spoiled ballot papers and the certificates of employment;

(iv) the marked copies of the official list of voters or part thereof;

(v) notices of appointments to vote as proxy and copies of the lists of proxies;

(vi) the poll book.

Counting of Votes and Ascertainment of Election Results

Presiding officer to count votes. [7 of 1994]

91. The votes cast at the polling places shall be counted by the presiding officer in accordance with the provisions of sections 92 to 97 (inclusive).

Candidates appointed to attend count.

92. (1) The election agent of each group of candidates may appoint one of the candidates to attend at the counting of the votes.

(2) Notice in writing of the appointment of a candidate under this section stating his name and address shall be signed by the election agent and delivered to the returning officer not later than the 7th day before election day.

(3) There shall not be more than one candidate appointed under this section of the same list of candidates.

Attendance at count. [7 of 1994]

93. (1) No person shall be present at the counting of votes except—

(a) the Chairman and other members of the Elections Commission;

(b) the returning officer and such other election officers as he may appoint to assist him in the counting;

(c) the Chief Election Officer;

(d) candidates appointed under section 92 to attend at the counting;

(e) counting agents;

(f) the election agent appointed under section 55;

(g) the representative or deputy representative of the respective lists of candidates for the local authority area as provided for by section 45;

(ga) local observers approved by the Elections Commission;

(h) such other persons as, in the opinion of the returning officer, have good reason to be present.

(2) The presiding officer shall give the counting agents all such reasonable facilities for overseeing the proceedings and all such information with respect thereto as he can give them consistent with the orderly conduct of the proceedings and with the discharge of his duties in connection therewith.

Method of counting. [7 of 1994]

94. (1) The presiding officer shall, as soon as practicable after the close of poll, in the presence of such of the persons entitled under section 93(1) to be present as attend—

(a) open each ballot box;
(b) take out the ballot papers;
(c) count and record the number of ballot papers taken from each ballot box;
(d) mix together the whole of the ballot papers taken from the ballot boxes;
(e) count the votes recorded for each list of candidates.

(2) In counting the votes the presiding officer shall, subject to the provision of subsection (3), reject as invalid and not count any ballot paper—

(a) which does not bear the official mark;

(b) which has not been marked for any list of candidates or is void for uncertainty;

(c) on which votes have been given for more than one list of candidates;

(d) on which there is any writing or mark by which the voter can be identified.

(3) A ballot paper on which the vote is marked—

(a) elsewhere than in the proper place;
(b) otherwise than by means of a cross;
(c) by more than one mark,

shall not be rejected solely by reason thereof if—

(i) an intention that the vote shall be for one or other of the lists of candidates clearly appears; and

Recounts. [7 of 1994]

(ii) the voter is neither identified nor can be identified by the manner in which the ballot paper is marked.

(4) The presiding officer shall endorse the words "rejected" on any ballot paper which he may reject as invalid and shall add to the endorsement the words "rejection objected to" if any objection to his decision be made by a duly appointed candidate or a counting agent present during the counting.

(5) The decision of the presiding officer as to any question arising in respect of any ballot paper shall, subject to the provisions of section 163(2), be final.

95. A candidate appointed under section 92 to attend the counting of votes, or a counting agent present when the counting or any recount of votes is completed, may request the presiding officer to have the votes recounted or again recounted; but the presiding officer may refuse such request if in his opinion it is unreasonable.

Procedure on conclusion of count.
[7 of 1994]

96. (1) Upon the conclusion of the counting of the votes the presiding officer, in the presence of such of the persons entitled under section 93(1) to be present as attend, shall—

(a) seal in separate packets the counted and rejected ballot papers, place them in the ballot box, and secure and seal with his seal and with the seals of such of the duly appointed candidates and polling agents as desire to affix their seals, the ballot box in such manner that it cannot be opened and nothing can be inserted therein or taken therefrom without breaking the seals;

(b) prepare and verify the ballot papers account by comparing it with—

(i) the number of ballot papers recorded under section 94(1)(c);
(ii) the unused and spoiled ballot papers in his possession; and
(iii) the record of tendered votes contained in the poll book;

(c) reseal the packets of unused and spoiled ballot papers;

(d) prepare a written statement as to the result of the preparation and verification of the ballot papers account;

(e) prepare a written statement in the prescribed form which shall set out the number of—

(i) valid votes cast for each list of candidates;
(ii) rejected ballot papers together with, in each case, the reason for rejection;
(iii) spoiled ballot papers delivered to him;
(iv) tendered ballot papers;
(v) persons who appear to have voted.

(1A) The presiding officer shall deliver to the returning officer on the conclusion of the counting of the votes the ballot box, the packets referred to in section 90(b) and the statements referred to in subsection (1)(d) and (e).

(2) The returning officer shall not open the sealed packets containing tendered ballot papers, marked copies of the official list of voters or part thereof or counterfoils of used ballot papers delivered to him by the presiding officer.

(3) Any counting agent may copy the statements made under subsection (l)(d) or (e).

Maintenance of secrecy at count

97. Every person attending at the counting of votes shall maintain and aid in maintaining the secrecy of voting and shall not communicate any information obtained at the count as to the list of candidates for which any vote has been given.

Ascertainment of election results.
[7 of 1994]
[12 of 1994]

98. The returning officer shall, on receipt of all the ballot boxes, the relevant statements and other packets in pursuance of the provisions of section 96 and taking into account the votes submitted under section 74F, ascertain the result of the election in accordance with sections 99 to 100.

Allocation of seats.

99. (1) The total number of votes cast for all the lists of candidates shall be divided by the number of persons to be elected as councillors and the whole number resulting from that division shall be known as "the electoral quota".

(2) The number of votes cast for any list shall be divided by electoral quota; there shall be allocated to that list a number of seats equal to the whole number resulting from that division; and the number of votes represented by a fraction so resulting shall be known as "surplus votes" of the list; and if the number of votes cast for any list is less than the electoral quota those votes shall accordingly be treated as surplus votes of that list.

(3) Any seat or seats remaining unallocated after seats have been allocated in accordance with subsection (2) shall be allocated as follows:

(a) one seat shall be allocated to the list with the largest number of surplus votes;

(b) if the number of seats so remaining is two or more, one seat shall be allocated to the list with the next largest number of surplus votes, and so on until all the seats so remaining have been allocated;

(c) for the purpose of this subsection, where two or more lists have equal numbers of surplus votes, then lots shall be drawn by the returning officer in the presence of the representatives of the lists affected to determine which list or lists shall be deemed to have more surplus votes than the other list or lists.

(4) If any list of candidates contains insufficient names to fill any seat allocated in pursuance of this section, such seat shall remain vacant until it is filled consequent upon an ensuing election.

Candidates elected.

100. When seats have in pursuance of section 99 been allocated to any list of candidates—

(a) the representative of the list; or

(b) if the representative is unwilling or unable (by reason of absence, illness or any other cause when he is called upon by the returning officer) so to do, the deputy representative of such list; or

(c) in case of any such unwillingness or inability on the part of the deputy representative, a majority of the persons named in that list may designate in writing any such person able and willing (when called upon as aforesaid) so to do, who,

shall extract from the said list as many names belonging to candidates selected by him for the purpose as can be so extracted without their number exceeding the number of seats allocated to that list; and the returning officer shall declare such names, in the order of their extraction as aforesaid, to be the names of the candidates on such list who have been elected.

Notification of election results.

101. As soon as practicable the returning officer shall publicly declare the results of the election and shall cause to be published a notification thereof in the prescribed form specifying—

(a) the number of votes cast for each list of candidates;

(b) the number of rejected ballot papers;

(c) the number of seats allocated to each list of candidates; and

(d) the names of the persons who, as a result of the election, have been elected as councillors.

Certificates of election

102. The returning officer shall furnish a person who has been elected a councillor with a certificate in the prescribed form that he has been so elected.

Filling of casual vacancies.
[4 of 1972]

103. (1) When a vacancy occurs in an office of a councillor elected under this Act prior to the retirement of the holder thereof at the expiration of his term of office, the vacancy shall be filled by that person being a person who is qualified for election as, and is willing to become, a councillor whose name is on the relevant list of candidates and is extracted therefrom in accordance with the provisions of section 100 by the representative or deputy representative of such list or a person designated by a majority of persons named in such list, as the case may be, the name of every person who became a member of the council at the preceding election, or has since become such a member, being ineligible for extraction under the foregoing provisions of this subsection; and if there is no such person the representative or if he is unwilling or unable to do so the deputy representative of such list or in case of any such unwillingness or inability on the part of the deputy representative, a person designated by a majority of persons named in such list, may nominate a person who is qualified for election as, and is willing to become, a councillor of the council in respect of which the vacancy occurs to fill the vacancy and if no such nomination is made the seat shall remain vacant until it is filled consequent on an ensuing election.

(2) In this section the relevant list of candidates means that list in which was included the name of the councillor vacating his office or, when a person is held in proceedings under Part IV not to be a councillor, the name of that person.

Election report

104. The returning officer shall as soon as practicable after the election cause to be prepared and printed a general report on the election including the particulars specified in section 101 and the total number of persons whose names appear in the register of voters for the local authority area.

Custody of election documents.
[7 of 1994]

105. (1) The returning officer shall make up in one parcel the packets he has received in pursuance of section 96 and the other papers used at the polling places and in his possession and shall seal the parcel so that it cannot be opened without breaking the seals and deliver it to the Chief Election Officer.

(2) The Chief Election Officer shall keep all parcels received in pursuance of subsection (1) in safe custody and, subject to this Act, allow no person to have access thereto.

(3) The returning officer shall return the official seals to the Chief Election Officer and deposit the ballot boxes, together with their locks and keys in the custody of the member of the Police Force in charge of the nearest police station and obtain from him a receipt therefor in the prescribed form; and he shall return the polling compartments to the custody of the person from whom they were obtained and obtain a receipt therefor in the prescribed form.

(4) The returning officer shall forward to the Chief Election Officer receipts obtained pursuant to subsection (3).

Election Expenses

Making of contracts through election agents.

106. (1) The election agent of a group of candidates shall appoint every clerk and messenger employed for payment on behalf of the group at the election and shall hire every committee room hired on behalf of the group.

(2) A contract whereby any expenses are incurred on account of or in respect of the conduct or the management of the election shall not be enforceable against a candidate unless made by the candidate or by the election agent of the group to which the candidate belongs:

Provided that the inability under this Part to enforce such contract against a candidate shall not relieve such candidate from the consequences of any corrupt or illegal practices committed by the election agent or assistant agent of his group with the consent or connivance of such candidate.

Payment of expenses

107. (1) Except as permitted by this section or in pursuance of section 111, no payment and no advance or deposit shall be made by a candidate or by any other person at any time in respect of election expenses otherwise than by or through the election agent of the group of candidates to which the candidate belongs.

(2) A candidate may pay personal expenses incurred by him on account of or in connection with or incidental to the election to an amount not exceeding such amount as may be prescribed by the Act under which the local authority for which he is a candidate is constituted and such candidate shall send to the election agent of his group of candidates not later than the 14th day after the declaration of the results of the election under section 101 a written statement of personal expenses so paid.

(3) Any personal expenses incurred by a candidate in excess of the sum applicable to him by virtue of subsection (2) shall be paid by the election agent.

(4) If a candidate pays personal expenses in excess of the sum applicable to him by virtue of subsection (2), he shall be guilty of an illegal practice.

Petty expenditure.

108. (1) A person authorised in that behalf by an election agent may pay any necessary expenses for stationery, postage, telegrams and other petty expenses to a total amount not exceeding that named in the authority; and such person shall send to the election agent not later than the 14th day after the declaration of the results of the election under section 101 a written statement of the payments so made together with particulars thereof.

(2) Any petty expenses incurred in excess of the amount named in the authority of the election agent shall be paid by the election agent.

Maximum expenses

109. (1) No expense shall be incurred by or on behalf of a group of candidates and no payment shall be made on their behalf whether before during or after the election, on account of or in respect of the conduct and management of the election—

(a) in excess of the sum prescribed by the Act or Ordinance under which the local authority for which the candidates are seeking election is constituted;

(b) for purposes other than the following—

(i) the expenses of printing, advertising, publishing, issuing and distributing addresses and notices;

(ii) the expenses of stationery, messages, postage and telegrams;

(iii) the expense of holding public meetings;

(iv) the expense of one committee room in each local authority area;

(v) the expense permitted under section 117;

(vi) the personal expenses of candidates.

(2) In determining the total expenditure incurred by a group of candidates no regard shall be had to amounts paid by candidates under section 107(2).

(3) If an election agent incurs or pays election expenses in excess of the sum specified in subsection (1) or for purposes other than those therein specified, he shall be guilty of an illegal practice.

(4) If a candidate pays any election expenses except his personal expenses otherwise than by or through the election agent of his group of candidates he shall be guilty of an illegal practice.

Remuneration of election agent.

110. So far as circumstances permit this Part shall apply to a claim for his remuneration by an election agent and to the payment thereof in like manner as if he were any other creditor; and if there is any dispute as to the amount due, such claim shall be a disputed claim within the meaning of the Part and dealt with accordingly.

Period for claims for payment of election expenses.

111. (1) Every claim against any candidate or against an election agent in respect of any expenses incurred on account of or in respect of the conduct or management of an election shall be sent to the election agent not later than the 14th day after the publication under section 101 of the results of the election.

(2) Any such claim as is specified in subsection (1) which is not sent to the election agent within the time therein prescribed shall be barred and not paid.

(3) An election agent who pays a claim in contravention of subsection (2) shall be guilty of an illegal practice.

(4) All expenses incurred on account of or in respect of the conduct or management of the election shall be paid not later than the 28th day after the publication under section 101 of the results of the election.

(5) An election agent who makes a payment in contravention of subsection (4) shall be guilty of an illegal practice.

(6) If an election agent disputes any claim received by him within the time limited by subsection (l) or if he refuses or fails to pay such claim within that period, such claim shall be deemed to be a disputed claim.

(7) A claimant may, if he thinks fit, bring an action for a disputed claim in any competent court; and anything paid by a candidate or by an election agent in pursuance of the judgment or order of the court shall be deemed to be paid within the time limited by subsection (1) and to be an exception from the provisions of this Part requiring claims to be paid by the election agent.

(8) The Court may, on application by the claimant or by a candidate or by an election agent and on cause shown to its satisfaction, by order give leave for the payment by a candidate or by an election agent of a disputed claim or for a claim in respect of expenses incurred on account of or in respect of the conduct or management of an election, notwithstanding that such claim was sent after the time limit prescribed by subsection (1) and notwithstanding the sending of such claim to a candidate and not to the election agent.

(9) Any sum specified in any order of the Court made under subsection (8) may be paid by a candidate or by an election agent and when paid in pursuance of such order shall be deemed to be paid within the time limited by subsection (1).

Exemption of act done in good faith from being illegal practice.

112. Where, on application made, it is shown to the Court by such evidence as to the Court seems sufficient that—

(a) any act of omission of any candidate or of any election agent or of any other agent or person, would, by reason of being a payment, contract, engagement, employment or hiring, or the incurring of an expense in excess of the maximum allowed, in contravention of any of the provisions of this Part pertaining thereto, be but for this section an illegal practice, payment, employment or hiring; and

(b) such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and

(c) notice of the application has been published in one newspaper circulating in Guyana,

and in the circumstances it seems to the Court to be just that such candidate, election agent and other agent or person, or certain of them should not be subject to any of the consequences under this Part for the act or omission, the Court may make an order allowing such act or omission to be an exception from the provisions of this Part which would otherwise make the same an illegal practice, payment, employment, hiring or an incurring of an expense in excess of the maximum allowed, and such candidate, election agent or other agent or person as the Court may specify in its order shall not be subject to any of the consequences under this Part for the act or omission.

Saving for creditors.

113. The provisions of this Part prohibiting certain payments and contracts for payments, and the payment of any sum and the incurring of any expense in excess of the prescribed maximum, shall not affect the rights of any creditor who when the contract was made or the expense incurred was ignorant that such contract, payment or expense was in contravention of this Part.

Prohibition of expenses not authorised by election agent.

114. (1) No expenses shall, with a view to promoting or procuring the election of a group of candidates, be incurred by any person other than the election agent of the group or by a person authorised in writing by him on account of—

(a) holding public meetings or organising any public display;

(b) issuing advertisements, circulars or publications;

(c) otherwise presenting to the registered voters the candidates of the group or any of them or their views or the extent or nature of their backing or of disparaging the candidates of another group or any of them:

Provided that paragraph (c) shall not—

(i) restrict the publication of any matter relating to the election in a newspaper or other periodical; or

(ii) apply to any expenses not exceeding in the aggregate the sum of five dollars which may be incurred by an individual and are not incurred in pursuance of a plan suggested by or concerted with others or to expenses incurred by any person travelling or living away from home or similar personal expenses.

(2) Any person other than an election agent or a person authorised in that behalf in writing by him who incurs expenses prohibited by subsection (1) shall be guilty of a corrupt practice.

(3) Any expenses incurred on account of any purpose referred to in subsection (1) and duly authorised by the election agent shall be returned as part of the election expenses of the group of candidates.

Illegal Payment, Employment, Hiring

Providing money for illegal purpose.

115. Any person who knowingly provides money—

(a) for any payment which is contrary to the provisions of this Part;
(b) for any expenses in excess of the maximum allowed by this Part;
(c) to replace any money expended in any such payment or expenses,

shall be guilty of illegal payment.

Corrupt withdrawal of candidate.

116. Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment shall be guilty of illegal payment; and any person withdrawing in pursuance of such inducement or procurement, shall also be guilty of illegal payment.

Prohibition of certain forms of employment.

117. (1) No person shall, for the purpose of promoting or procuring the election of a group of candidates at an election be engaged or employed for payment or promise of payment for any purpose or in any capacity whatsoever, except for the following:

(a) one election agent;
(b) one assistant agent;
(c) one polling agent for each polling place;
(d) one counting agent;
(e) two clerks and two messengers for each committee room.

(2) If any person is engaged or employed in contravention of this section the person engaging or employing him shall be guilty of illegal employment; and the person so engaged or employed shall also be guilty of illegal employment if he knew that he was so engaged or employed contrary to law.

Illegal hiring of transport for voters.

118. (1) No person shall let, lend or employ, for the purposes of the conveyance of registered voters to or from the poll, any public stage or hackney carriage, or any horse or

other animal kept or used for drawing the same, or any carriage, horse or other animal which he keeps or uses for the purpose of letting out for hire; and any person who contravenes the provisions of this subsection knowing the purpose of the letting, lending or hiring shall be guilty of illegal hiring.

(2) No person shall hire, borrow or use for the purpose of the conveyance of registered voters to or from the poll any carriage, horse or other animal which he knows the owner thereof is prohibited by subsection (1) from letting, lending or employing; and any person who contravenes the provisions of this subsection shall be guilty of illegal hiring.

(3) Nothing in this section or in section 121 shall prevent a carriage, horse or other animal being let to or hired, employed or used by a registered voter or several registered voters at his own or their own joint cost for the purpose of being conveyed to or from the poll.

Use of certain premises as committee room prohibited.

119. (1) No person shall let, hire or use as a committee room for the purpose of promoting or procuring the election of a group of candidates at an election any of the following premises—

(a) any premises wherein the sale by wholesale or retail of any intoxicating liquor is authorised by any licence, whether such licence authorises the sale for consumption on or off the premises;

(b) any premises where any intoxicating liquor is sold or supplied to members of a club, society or association other than a permanent political club;

(c) any premises wherein refreshment of any kind, whether food or drink, is ordinarily sold for consumption in the premises.

(2) Any person who hires or uses premises in contravention of subsection (1) shall be guilty of illegal hiring and any person who lets or permits to be used such premises or part thereof shall also, if he knew it was intended to use such premises or part thereof as a committee room, be guilty of illegal hiring.

(3) Nothing in this section shall apply to any part of premises described in subsection (1) which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or arbitrations if such part has a separate entrance and no direct communication with any part of the premises on which intoxicating liquor or refreshment is sold or supplied.

Penalty for illegal payment, employment or hiring.
[6 of 1997].

120. Any candidate or election agent guilty of an offence of illegal payment, employment or hiring shall be guilty of an illegal practice; and any other person who is guilty of an offence of illegal payment, employment or hiring shall, on summary conviction, be liable to a fine of thirty-two thousand five hundred dollars.

Illegal Practices

Certain expenditure to be illegal practice.

121. (1) No payment or contract shall, for the purpose of promoting the election of a group of candidates at an election, be made—

(a) on account of the conveyance of registered voters to or from the poll, whether for the hiring of horses or carriages or for railway fares, water or air transport fares or otherwise; or

(b) to a registered voter on account of the use of any house, land, building or premises for the exhibition of any address, bill or notice, or on account of the exhibition of any address, bill or notice:

Provided that where it is the ordinary business of a registered voter as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such voter, if made in the ordinary course of business shall not be deemed to be an illegal practice within the meaning of this section.

(2) If payment or contract for payment is knowingly made in contravention of this section either before, during or after an election, the person making such payment or contract for payment shall be guilty of an illegal practice; and any person receiving such payment, or being a party to any such contract, knowing it to be in contravention of this section, shall also be guilty of an illegal practice.

Disorderly behaviour at election meeting.

122. Every person who, at a lawful political meeting held before election day, acts or incites any other person to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice.

False statements concerning candidates.

123. (1) Any person who, before or during an election, shall, for the purpose of affecting the return of any group of candidates, make or publish any false statement of fact in relation to the personal character or conduct of the candidates of that group or any of them shall, subject to subsection (2) be guilty of an illegal practice.

(2) No person shall be deemed to be guilty of illegal practice under this section if he can show that he had reasonable grounds for believing, and did believe, the statement made by him to be true.

(3) A person making or publishing a false statement of fact in contravention of subsection (1) may be restrained by interim or perpetual injunction by the Court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate, and, for the purposes of granting an interim injunction, ***prima facie*** proof of the falsity of the statement shall be sufficient.

Election publications. [6 of 1997]

124. (1) No person shall—

(a) print or publish, or cause to be printed or published, any bill, placard or poster having reference to an election or any printed document distributed for the purpose of promoting or procuring the election of a group of candidates;

(b) post or cause to be posted any such bill, placard or poster as is specified in paragraph (a);

(c) distribute or cause to be distributed any printed document for the purpose specified in paragraph (a),

unless the bill, placard, poster or document bears upon the face thereof the names and addresses of the printer and publisher.

(2) For the purposes of this section, any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the word “printer” shall be construed accordingly.

(3) Any candidate, or any election agent who contravenes the provisions of this section shall be guilty of an illegal practice; and any other person who contravenes this section shall be liable on summary conviction to a fine of thirty-two thousand five hundred dollars.

Miscellaneous illegal practices.

125. Any person who—

(a) votes either on his own behalf or as a proxy on behalf of another person or procures any person to vote either on his own behalf or as a proxy on behalf of another person, at an election, knowing that he or such other person is not a registered voter;

(b) applies for the appointment of a person to vote on his behalf at an election as a proxy knowing that he or the person for whose appointment he applies is not a registered voter or who in such application makes a false statement as to his entitlement to apply to vote by proxy;

(c) before or during an election knowingly publishes a false statement of the withdrawal of a list of candidates or of any of the candidates named therein for the purpose of promoting or procuring the election of the candidates named in another list;

(d) hands to a poll clerk or a presiding officer—

(i) a forged identification card;

(ii) save as permitted by this Part the identification card of some other person;

(iii) a forged notice of appointment to vote as a proxy on behalf of some other person,

shall be guilty of an illegal practice.

Plural voting.

126. Any person who—

(a) votes on his own behalf more than once at an election in any one local authority area;

(b) votes in person on his own behalf when there is in force an appointment of another person to vote as a proxy on his behalf;

(c) applies for a person to be appointed as a proxy to vote on his behalf without applying for the cancellation of an existing appointment of some other person to vote as a proxy on his behalf or without withdrawing a pending application for such appointment;

(d) votes as a proxy more than once on behalf of the same registered voter; or

(e) votes as a proxy on behalf of more than three registered voters,

shall be guilty of an illegal practice.

Penalty for illegal practice.
[6 of 1997]

127. (l) Any person guilty of an illegal practice shall, on summary conviction—

(a) be liable to a fine of thirty-two thousand five hundred dollars and to imprisonment for six months; and

(b) subject to subsection (2) be incapable, during a period of five years from the date of his conviction, of being registered as a voter or voting at an election.

(2) In the case of any conviction of an illegal practice the Court may, if it deems it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by this section.

Corrupt Practices

Treating.

128. The following persons shall be deemed guilty of the corrupt practice of treating:

(a) every person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly, gives or provides or pays wholly or in part the expense of giving or providing any food, drink, entertainment or provision to or for any person for the purpose of corruptly influencing that person, or any other person, to vote or to refrain from voting, at the election, or on account of such person, or any other person, having voted or refrained from voting, or being about to vote or refraining from voting, at an election;

(b) every registered voter who corruptly accepts or takes any such food, drink, entertainment or provision.

Undue influence.

129. The following persons shall be deemed guilty of the corrupt practice of using undue influence:

(a) every person who directly or indirectly by himself or by any other person on his behalf—

(i) makes use of, or threatens to make use of, any force, violence or restraint;

(ii) inflicts, or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss,

upon or against any person, in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election;

(b) every person who by abduction, duress, or any fraudulent contrivance, impedes or prevents the free exercise of the franchise of any registered voter or thereby compels, induces or prevails upon any voter either to vote or to refrain from voting at an election.

Bribery.

130. The following persons shall be deemed to be guilty of the corrupt practice of bribery:

(a) every person who, directly or indirectly, by himself or by any other person on his behalf—

(i) gives or agrees to give;
(ii) lends or agrees to lend;
(iii) offers or promises;
(iv) promises to procure or promises to endeavour to procure,

any money or valuable consideration to or for any registered voter, or to or for any other person, in order to induce any registered voter to vote or to refrain from voting;

(b) every person who, directly or indirectly, by himself or by any other person on his behalf, corruptly—

(i) gives or agrees to give;
(ii) lends or agrees to lend;
(iii) offers or promises;
(iv) promises to procure or promises to endeavour to procure,

any money or valuable consideration to or for any registered voter, or to or for any person on behalf of any registered voter, or to or for any other person, on account of such voter having voted or refrained from voting at an election;

(c) every person who, directly or indirectly, by himself or by any person on his behalf, corruptly—

(i) gives or agrees to give;
(ii) procures or agrees to procure;
(iii)offers or promises;
(iv) promises to procure or promises to endeavour to procure,

any office, place or employment to or for any registered voter or to or for any person on behalf of any registered voter, or to or for any other person, in order to induce such voter to vote or refrain from voting;

(d) every person who, directly or indirectly, by himself or by any other person on his behalf, corruptly—

(i) gives or agrees to give;
(ii) procures or agrees to procure;
(iii)offers or promises;
(iv) promises to procure or promises to endeavour to procure,

any office, place or employment to or for any registered voter or to or for any person on behalf of any registered voter, or to or for any other person, on account of any registered voter having voted or refrained from voting at any election;

(e) every person who directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement as aforesaid, to or for any person, in order to induce such person to procure the return of a group of candidates as councillors, or the vote of any registered voter at an election;

(f) every person who upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any group of candidates as councillors, or the vote of any registered voter at any election;

(g) every person who—

(i) advances or pays, or causes to be paid, any money to or to the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at an election;

(ii) knowingly pays, or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at an election;

(h) every registered voter who, before or during an election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan, or valuable consideration, office, place or employment for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election;

(i) every person who, after an election, directly or indirectly, by himself or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting at an election.

Personation.

131. (1) A person shall be deemed to be guilty of the corrupt practice of personation at an election if he—

(a) votes as some other person whether as a registered voter on his own behalf or as a proxy on behalf of another registered voter, and whether that other person is living or dead or is a fictitious person;

(b) votes in person or as proxy—

(i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person;

(ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force.

(2) For the purpose of subsection (l)(b), a person who has applied for a ballot paper for the purpose of voting shall be deemed to have voted.

General penalty for corrupt practices. [6 of 1997]

132. Every person who is guilty of a corrupt practice other than as specified in section 133 shall be liable on conviction on indictment to a fine of sixty-five thousand dollars and to imprisonment for one year.

Penalty for personation.

133. Every person who is guilty of personation or aiding, abetting, counselling or procuring the commission of the offence of personation shall be liable on conviction on indictment to imprisonment for two years.

Disqualification.

134. (1) Subject to this section, every person who is convicted of a corrupt practice shall, in addition to any other punishment, be incapable during a period of five years from the date of conviction—

(a) of being registered as a voter in any local authority area or of voting at any election in any local authority area;

(b) of being elected as a councillor of any local authority.

(2) In the event of any conviction under section 114, the court may, if it deems it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by this section.

Offences in relation to ballot boxes, and ballot papers, identification cards and appointments as proxy. [6 of 1997]

Miscellaneous Election Offences

135. (1) Every person who—

(a) forges or counterfeits or fraudulently defaces, or destroys, any ballot paper or the official mark thereon or any identification card or notice of appointment of a person to vote as a proxy;

(b) without due authority supplies a ballot paper to any person;

(c) fraudulently puts into any ballot box any paper other than the lawful ballot paper;

(d) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of an election,

shall be guilty of a misdemeanour, and shall be liable—

(i) if he is an election officer employed at a polling place, to a fine of sixty-five thousand dollars and to imprisonment for two years;

(ii) if he is not an election officer, to a fine of sixteen thousand two hundred and fifty dollars and to imprisonment for six months.

(2) Any person who attempts to commit an offence under this section shall be deemed to be guilty of an offence under this section.

Voting when not entitled.

136. Every person who—

(a) not being a registered voter for a local authority area, votes at an election in that area;

(b) induces or procures any person not so registered to vote at such election,

shall be liable on summary conviction to a fine of sixteen thousand two hundred and fifty dollars and to imprisonment for six months.

Interference with notices and lists. [6 of 1997].

137. Every person who wilfully mutilates, tears down, destroys, obscures or makes any alteration in any list or notice published in accordance with this Part for the purposes of or in connection with an election shall be liable on summary conviction to a fine of six thousand five hundred dollars or to imprisonment for three months.

General

Property in election material.

138. In any indictment, information or complaint for an offence in relation to ballot boxes, ballot papers and other election material, the property in them may be stated to be in the returning officer.

Limitation of time for prosecution of election offences.

139. A complaint or information against a person in respect of any offence under this Part in relation to an election shall be made or filed within one year after the offence was committed.

Certificate of returning officer.

140. In any prosecution under this Part, whether on indictment or summarily, the certificate of the returning officer that the election was duly held or that the person or persons named therein was named as a candidate or candidates at such election, shall be sufficient evidence of the facts stated therein.

Offences by bodies corporate.

141. Where an offence under this Part committed by a body corporate is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the body corporate, or any person purporting to act in such capacity, he, as well as the body corporate, shall be deemed to be guilty of the offence and punished accordingly.

Special provision as to convictions

142. (1) A person charged with illegal payment, employment or hiring may, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice, be found guilty of illegal payment, employment or hiring, as the case may be, if the circumstances warrant such finding.

(2) A person charged with an illegal practice or other offence not being a corrupt practice may, notwithstanding that the act constituting the offence amounted to a corrupt practice, be found guilty of an illegal practice or other offence, as the case may be if the circumstances warrant such finding.

(3) A person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice and for that purpose the offence of an illegal practice shall be an indictable offence.

Publication of notices by election officers.

143. Where any notice or other document is required by any provision of this Part to be published by an election officer, he shall cause the same to be affixed to the offices of the council and of the returning officer and may cause such further publication thereof as he may think desirable to bring its contents to the attention of registered voters.

Expenses of election

144. The expenses of an election (including the payment of emoluments of election officers and their staffs) shall be paid out of funds provided by the local authority.

Meaning of "committee room".

145. In this Part the expression "committee room" does not include any house or room occupied by a candidate at an election as a dwelling by reason solely of the candidate there transacting business with his agents in relation to an election; nor shall any room or building be deemed to be a committee room for the purposes of this Part by reason solely of the candidate or any agent of the group of candidates addressing therein registered voters, committee men or others.

PART IV
ELECTION AND MEMBERSHIP CONTROVERSIES

Disputed Elections

Method of questioning validity of election.

146. (1) Any question whether any person has been validly elected as a councillor shall be referred to and determined by the Court.

(2) Every such reference shall be by a petition (hereinafter referred to as an election petition) presented to the Court.

Presentation and service of election petition.

147. (l) An election petition may be presented by a registered voter in the local authority area for which the election was held or by a candidate at the election.

(2) The person whose election is complained of is hereinafter referred to as the respondent and if the petition complains of the conduct of the Chief Election Officer he

shall be deemed to be a respondent and if it complains of the conduct of an election officer such officer shall be deemed to be a respondent.

(3) An election petition shall be in the prescribed form, state the prescribed matters and be signed by the petitioner or all of the petitioners if more than one, and shall be presented by delivering it at the office of the Registrar; and the Registrar or the officer of the registry of the Court to whom the petition is delivered shall, if required, give a receipt therefor.

(4) The Registrar shall cause a copy of the petition to be transmitted to such persons as may be prescribed and shall cause the petition to be published in the prescribed manner.

(5) An election petition shall be served in such manner as may be prescribed.

Time for presentation of election petition.

148. (1) Subject to this section, an election petition shall be presented within twenty-eight days of the publication under section 101 of the results of the election.

(2) If the petition questions the validity of the election of any person upon an allegation of a corrupt practice and specifically alleges a payment of money or other reward to have been made by the person elected who is the respondent, or by an election agent or assistant agent or other agent with his consent or connivance, since the date referred to in subsection (1) in pursuance or furtherance of the alleged corrupt practice, it may be presented within twenty-eight days after the date of the payment.

(3) For the purposes of this section, the allegation that the election of any person is avoided on the grounds that corrupt or illegal practices or illegal payments, employments or hirings were committed in reference to the election for the purpose of promoting or procuring the election of any person thereat and had so extensively prevailed that they may reasonably be supposed to have affected the allocation of seats under section 101 shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.

Amendment of election petition.

149. The Court may, at any stage before conclusion of the trial of an election petition, allow the petitioner to alter or amend the petition in such manner and on such terms as may seem just:

Provided that no amendment for the purpose of inserting an allegation of a corrupt or illegal practice in a petition shall be allowed, unless made within the time within which a petition might have been presented under section 148.

Security for costs

150. (1) At the time of presenting an election petition or within three days afterwards the petitioner shall give security for all costs which may become payable by him to any witness summoned on his behalf or to any respondent.

(2) Security shall be of an amount of five hundred dollars and shall be given in the prescribed manner by recognisance entered into by any number of sureties not exceeding four or by a deposit of money, or partly in one way and partly in the other.

Service of petition.

151. Within the prescribed time, not exceeding five days after the presentation of an election petition, the petitioner shall in the prescribed manner serve on the respondent a notice of the presentation of the petition, and of the nature of the security or proposed security, and a copy of the petition.

Objections to security.

152. (1) Within a further prescribed time, not exceeding ten days after service of the notice of the presentation of the petition, the respondent may object in writing to any recognisance on the ground that any surety is insufficient or dead or cannot be found or ascertained for want of a sufficient description in the recognisance, or that the person named in the recognisance has not duly acknowledged the recognisance.

(2) An objection to the security shall be heard and decided by a Judge, whose decision shall be final, and if the objection be allowed the petitioner may, within such time as may be allowed remove the objection by giving further security either in the form of an additional recognizance with a surety or sureties approved by the Judge, or by deposit in the prescribed manner of such sum of money as the Judge may deem sufficient.

(3) The costs of hearing or deciding objections made as to security shall be paid as ordered by the Judge or, in the absence of such order, shall form part of the general costs of the petition.

Dismissal of petition on failure to give security.

153. (1) If security as provided in section 150 is not given by the petitioner, or if any objection is allowed and not removed as in section 152 provided, no further proceedings shall, subject to section 155, be had on an election petition and the respondent may apply to a Judge for an order directing the dismissal of the petition and for the payment of the respondent's costs.

(2) The costs of hearing and deciding such application shall be paid as ordered by the Judge or, in absence of such order, shall form part of the general costs of the petition.

Substitution of petitioner on failure to give security.

154. (1) On the hearing of an application under section 153 any person who might have been a petitioner in respect of the matter to which the election petition relates may apply to the Judge to be substituted as a petitioner for the original petitioner and the Judge may, if he thinks fit, dismiss the original petitioner from the petition and substitute as the petitioner such applicant, who shall provide security in the sum of five hundred dollars and subject to the like conditions and to the same rights of objection as in the case of the original petitioner.

(2) Such security shall be given within three days of the making of the order of substitution and on the failure of the applicant to comply with this subsection the petition shall stand dismissed.

Petition at issue.

155. On the expiration of the time limited for objections or, after objection made, on the objection being disallowed or removed whichever last happens, the election petition shall be at issue.

Trial of petition.

156. (1) An election petition shall be tried by the Court in open court, without a jury, and notice of the time and place of trial shall be given in the prescribed manner not less than fourteen days before the day of trial.

(2) The Court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day, not being a holiday observed by the Court, until its conclusion:

Provided that an election petition may be presented and heard and all other necessary proceedings thereunder may be taken during any period appointed as a vacation to be observed by the Court.

(3) The trial of an election petition shall be proceeded with notwithstanding the resignation by the respondent as a councillor.

(4) On the trial of the petition, unless the Court otherwise directs, any charge of a corrupt or illegal practice may be gone into and evidence in relation thereto received, before any proof has been given of agency on behalf of any candidate in respect of the corrupt or illegal practice.

Witnesses.

157. Witnesses shall be summoned and sworn in the same manner as in an ordinary action within the jurisdiction of the Court and shall be subject to the same penalties for perjury.

Power of court to summon witnesses

158. (1) On the trial of an election petition the Court may by order require any person who appears to it to have been concerned in the election to attend as a witness and any person refusing to obey this order shall be guilty of contempt of court.

(2) The Court may examine any person so required to attend or who is in court, although he is not called or examined by any party to the petition.

(3) A witness may, after his examination by the Court under subsection (2), be cross-examined by or on behalf of the petitioner and respondent, or either of them.

(4) The Director of Public Prosecutions shall obey any direction given him by the Court with respect to the summoning and examination of any witness to give evidence at the trial:

Provided that the examination of a witness may be conducted by such counsel as the Director of Public Prosecutions may appoint as his representative for that purpose and it shall not be necessary for a person appointed as the representative of the Director of Public Prosecutions under any provision of this Part to produce any commission or other proof of his having been so appointed.

(5) The Director of Public Prosecutions shall without any direction from the Court cause any person appearing to him to be able to give material evidence as to the subject of the trial to attend the trial and either himself or his representative shall, with the leave of the Court, examine him as a witness.

Obligation of witness to answer

159. (1) A person called before the Court as a witness respecting an election shall not be excused from answering any question relating to any offence at or connected with the election on the ground that the answer thereto may criminate or tend to criminate him or on the ground of privilege:

Provided that—

(a) a witness who answers truly all questions which he is required by the Court to answer shall be entitled to receive a certificate of indemnity from the Court stating that the witness has so answered; and

(b) an answer by a person to a question put by or before the Court when trying an election petition shall not, except in the case of any criminal proceedings

for perjury in respect of the evidence, be in any proceedings, civil or criminal, admissible in evidence against him.

(2) Where a person has received a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against him for any corrupt or illegal practice, or any illegal payment, employment or hiring, or any offence under section 124 or under section 166 committed by him previously to the date of the certificate at or in relation to the election, any court having cognisance of the case shall, on production of the certificate, stay the proceedings and may, in its discretion, award to the said person such costs as he may have been put to in the proceeding.

(3) Nothing in this section shall be deemed to relieve a person receiving a certificate of indemnity from any incapacity under any law relating to elections or from any proceedings (other than a criminal prosecution) to enforce such incapacity.

Voter not to be asked for whom he voted.

160. No person who has voted at any election shall, in any proceeding on an election petition, be required to state for which list of candidates he has voted.

Expenses of witnesses

161. (1) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses in the trial of civil actions before the Court, may be allowed to such person under the hand of a Judge or the Registrar, and the amount to be paid to any such witness shall be ascertained and certified by the Registrar.

(2) The expenses of a witness called by a party shall be deemed to be costs of the petition but the expenses of a witness called by the Court shall be deemed part of the expenses of the Court and paid out of moneys provided for such expenses.

Production of election documents.

162. Any document or paper relating to an election and required to be kept thereafter in safe custody by the Chief Election Officer under section 105 may be inspected or produced under an order of the Court for the purpose of an election petition and the order may be made by a Judge on his being satisfied by evidence on oath that such inspection or production is required for the purpose aforesaid:

Provided that the Chief Election Officer shall, after the expiration of twelve months from the date of an election, burn all such documents and papers relating thereto.

Scrutiny.

163. (1) On a scrutiny at the trial of an election petition any tendered vote proved to be a valid vote shall, on the application of any party to the petition be added to the poll and any vote given on a ballot paper in contravention of the provisions of section 94(2) shall be struck off.

(2) Any decision referred to in section 94(5) shall be subject to reversal by the Court on an election petition.

Withdrawal of petition.

164. (1) A petitioner shall not withdraw an election petition without the leave of the Court on special application, made in the prescribed manner and at the prescribed time and place.

(2) The application shall not be made until the prescribed notice of intention to make it has been given in the prescribed manner.

(3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.

(4) If a petition is withdrawn the petitioners shall be liable to pay the costs of the respondent.

Evidence required for withdrawal of petition.

165. (1) Before leave for the withdrawal of an election petition is granted, there shall be produced affidavits by all the parties to the petition and their solicitors and by the election agents of all the said parties who were candidates at the election, but the Court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds to be just so to do.

(2) Each affidavit shall state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into, in relation to the withdrawal of the petition; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.

(3) The affidavits of the applicant and his solicitor shall further state the grounds on which the petition is sought to be withdrawn.

(4) Copies of the said affidavits shall be delivered to the Director of Public Prosecutions a reasonable time before the application for the withdrawal is heard, and the Court may hear the Director of Public Prosecutions, or his duly appointed representative, in opposition to the allowance of the withdrawal of the petition, and shall have the power to receive the evidence on oath of any person or persons whose evidence the Director of Public Prosecutions or his representative may consider material.

(5) Where more than one solicitor is concerned for the petitioner or respondent, whether as agent for another solicitor or otherwise, the affidavit shall be made by all such solicitors.

Punishment for corrupt withdrawal. [6 of 1997]

166. If any person makes any agreement or terms or enters into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms or undertaking is or are for the withdrawal of the petition in consideration of any payment, or in consideration that a seat shall at any time be vacated, or in consideration of the withdrawal of any other such election petition, or is or are (whether lawful or unlawful) not mentioned in the aforesaid affidavits, he shall be guilty of a misdemeanour and shall be liable on conviction on indictment to a fine of sixty-five thousand dollars and to imprisonment for twelve months.

Substitution of new petitioner on withdrawal of petition.

167. (l) On the hearing of the application for leave to withdraw a petition any person who might have been a petitioner in respect of the matter to which the petition relates may apply to the Court to be substituted as the petitioner and the Court may, if it thinks fit, substitute him accordingly.

(2) If the proposed withdrawal is in the opinion of the Court the result of any agreement, terms or undertaking prohibited by section 166 or induced by any corrupt bargain or consideration, the Court may by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the

substituted petitioner, and that, to the extent of the sum named in the security, the original petitioner and his surety shall be liable to pay the costs of the substituted petitioner.

(3) If no such order is made with respect to the security given by or on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition and subject to the like conditions and to the same right of objection shall be given by or on behalf of the substituted petitioner within three days after the making of the order of substitution and before he proceeds with the petition; and if the substituted petitioner fails to comply with the provisions of this subsection the petition shall stand dismissed.

(4) Subject as aforesaid, a substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities as the original petitioner.

Report on withdrawal.

168. (l) Where an election petition is withdrawn, the Court shall make a report to the clerk of the local authority.

(2) The report shall state whether in the opinion of the Court the withdrawal of the election petition was the result of any agreement, terms or undertaking or was in consideration of any payment, or in consideration that a seat should be at any time vacated or in consideration of the withdrawal of any other such election petition or for any other consideration, and if so, shall state the circumstances attending the withdrawal.

Abatement of petition

169. (1) An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2) The abatement of the petition shall not affect the liability of the petitioner or any other person to the payment of costs incurred in respect of any proceeding taken prior to the abatement.

(3) On the abatement of a petition the prescribed notice thereof shall be given in the prescribed manner; and any person who might have been a petitioner may, within the prescribed time after the notice is given, apply to the Court in the prescribed manner to be substituted as a petitioner; and the Court may if it thinks fit, substitute him accordingly.

(4) Security shall be given on behalf of a petitioner so substituted as in the case of a new petition.

Withdrawal and substitution of respondents before trial.

170. (1) If before the trial of an election petition—

(a) a respondent other than the Chief Election Officer or an election officer gives the prescribed notice that he does not intend to oppose the petition or dies, the Registrar shall give notice thereof in the prescribed manner and any person who might have been a petitioner in respect of the election may, within the prescribed time after the notice is given apply to the Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly;

(b) any person who might have been a petitioner in respect of the election gives notice in the prescribed manner that he intends at the trial to apply to be admitted as a respondent, then at the trial of the petition, upon the Court being satisfied that there are reasonable grounds for believing that circum-

stances have arisen that, if the original respondent (not being the Chief Election Officer or an election officer) were a councillor, would cause him to vacate his seat under section 40, the Court may admit such person as a respondent to oppose the petition:

Provided that the number of persons admitted under this subsection shall not exceed three.

(2) A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings thereon.

Avoidance of election of candidate for corrupt or illegal practice or lack of qualification.

171. (1) Where on an election petition it is shown that—

(a) a corrupt or illegal practice was committed in connection with the election by a candidate or by any agent of the candidate with his consent or connivance;

(b) a candidate was at the time of his election a person not qualified, or a person disqualified, for election,

the Court shall declare his election to be void.

(2) For the purpose of subsection (1)(b), an agent of a candidate means an election agent or assistant agent or any other person acting under the general or special authority of a candidate with reference to the election.

(3) Upon a declaration of the Court under subsection (1), the vacant seat in the local authority shall be filled in accordance with section 103.

Re-allocation of seats.

172. (1) Where on an election petition it is shown that the seats in the council were not allocated in accordance with section 99, the Court shall order that the seats be reallocated by the returning officer in accordance with those provisions and that the election of councillors be re-declared in accordance with section 100.

(2) Where on an election petition the Court, on a scrutiny determines that the number of valid votes cast for any list of candidates differs from the number of votes upon which seats in the council were allocated to that list, the Court may order that the allocation of seats to that list be reviewed by the returning officer and that, on it appearing to the returning officer from such review that any seat was not allocated in accordance with section 99, such seat shall be reallocated by the returning officer in accordance with those provisions and the election of councillors shall be re-declared by the returning officer in accordance with section 100.

Avoidance of election for widespread corrupt or illegal practices.

173. (1) Where on an election petition it is shown that—

(a) corrupt or illegal practices or illegal payments, employments or hirings committed have so extensively prevailed that they may be reasonably supposed to have affected the allocation of seats under section 99;

(b) the election was not conducted in accordance with the principles laid down in Part III (such circumstances being hereinafter referred to as "procedural irregularities") and such procedural irregularities may reasonably be supposed to have affected the allocation of seats under section 99,

the Court shall declare the election to be void.

(2) The election shall not be liable, by reason of general corruption, bribery, treating or intimidation, to be avoided otherwise than by virtue of subsection (l)(a).

(3) The election shall not be declared invalid by reason of any act or omission by the Chief Election Officer or any election officer in breach of his official duty in connection with the election or otherwise if it appears to the Court that the election was so conducted as to be substantially in accordance with the law relating to the election and that the act or omission may not reasonably be supposed to have affected the allocation of seats under section 99.

(4) The validity of the election shall not be impugned on the ground that the application of any registered voter entitled to apply to vote by proxy so to vote was refused or that the application of any registered voter not entitled to apply so to vote was granted; and such refusal and grant shall be deemed not to be procedural irregularities and notwithstanding any of the provisions of this section the election shall not be declared to be void by reason thereof.

Conclusion of trial of petition.

174. At the conclusion of the trial of an election petition the Court shall forthwith certify in writing its determination to the clerk of the local authority and upon any such certificate being given the determination of the Court shall be final; and the Court may in addition to giving the certificate and at the same time, make a special report to the clerk of the local authority as to matters arising in the course of the trial an account of which in the judgment of the Court ought to be submitted to the local authority.

Case stated.

175. (1) If, on the application of any party to an election petition made in the prescribed manner to the Court, it appears to the Court that the case raised by the petition can be conveniently stated as a special case, the Court may direct it to be stated accordingly and the special case shall be heard before the Court, and the Court shall certify in writing to the clerk of the local authority its determination in relation to the special case.

(2) If it appears to the Court on the trial of an election petition that any question of law requires further consideration by the Full Court, the Court may adjourn the further hearing of the petition or postpone its determination thereon, and reserve such questions by stating a case for the decision of the Full Court, and the Full Court shall have power to hear and decide any question so reserved; and the Court shall determine the petition in accordance with the decision of the Full Court on the question so reserved.

Costs of petition.

176. (1) All costs of and incidental to the presentation of an election petition and the proceedings consequent thereon, except such as are by this section otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportion as the Court may determine; and in particular any costs which in the opinion of the Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of the petitioner or respondent may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful.

(2) If a petitioner neglects or refuses for six months after demand to pay to any person summoned as a witness on his behalf or to the respondent any costs certified or adjudged to be due to him and the neglect of refusal is, within one year after the demand, proved to the satisfaction of the Court, every person who in accordance with section 150 entered

c. 10:01.

into a recognisance relating to the petition shall be held to have made default in the recognisance and such default shall be dealt with under section 208(1) and (2) of the Criminal Law (Procedure) Act as though committed at the then current sitting of the Court in the exercise of its criminal jurisdiction in the county where the petition was tried, or, if the Court is not then so sitting, such default shall be deemed to have been dealt with under those subsections as though committed at the last preceding sitting of the Court as aforesaid, and the recognizance shall be enforceable accordingly.

Further provision as to costs.

177. (l) Where upon the trial of an election petition it appears to the Court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to the election to which the petition relates, the Court may, after giving that person or those persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person or those persons or any of them and may order that if the costs cannot be recovered from one or more of those persons they shall be paid by some other of those persons or by either of the parties to the petition.

(2) Where any person appears to the Court to have been guilty of a corrupt or illegal practice, the Court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the Court in relation to the said offence or to the said person to be paid by the said person to such person or persons as the Court may direct.

Report of the Court

178. (1) Where, in an election petition a charge is made of a corrupt practice or an illegal practice having been committed at the election to which the petition relates, the Court shall, when certifying its determination as hereinbefore provided, report in writing to the Minister and the clerk of the local authority who shall submit such report to the council,

(a) whether any corrupt practice or illegal practice has or has not been proved to have been committed by or with the consent or connivance of any candidate at the election, and the nature of the corrupt practice or illegal practice;

(b) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice or illegal practice;

(c) whether corrupt practices or illegal practices have or whether there is reason to believe that corrupt practices or illegal practices have, extensively prevailed at the election to which the petition relates; and

(d) if any person is reported to have been guilty of any corrupt practice or of any illegal practice, whether he has or has not been furnished with a certificate of indemnity.

(2) Before a person, not being a party to the petition or a candidate on behalf of whom a seat is claimed by the petition, is reported by the Court to have been guilty, at the election, of any corrupt or illegal practice, the Court shall cause notice to be given to such person.

(3) If the person appears in pursuance of the notice, the Court shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

(4) Every person who is reported by the Court to have been personally guilty of any corrupt or illegal practice at the election shall, whether he obtained a certificate of indemnity or not, be subject to the same incapacities as he would be subject to if he had at the date of such election been convicted of the offence of which he is reported to have been guilty.

(5) If the Court reports that any corrupt practice has been proved to have been committed in reference to the election by or with the consent or connivance of a candidate at the election, the candidate shall be incapable during a period of five years next after the date of the report, of being elected a councillor of any local authority and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted of such corrupt practice.

(6) If the Court reports that any illegal practice has been proved to have been committed in reference to the election by or with the consent or connivance of a candidate at the election, the candidate shall be incapable, during a period of five years next after the date of the report, of being elected a councillor of any local authority and he shall further be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice.

Exemption from liability

179. (1) Where a person who is subject to incapacity by reason of his conviction of a corrupt or illegal practice is reported under section 178 to be guilty of such corrupt or illegal practice, no further incapacity shall be imposed on him under the provisions of subsection (4) of that section.

(2) Where a person who is subject to incapacity under section 178(4) for any corrupt or illegal practice is convicted of such corrupt or illegal practice no further incapacity shall be deemed to be imposed on him by reason of the conviction.

(3) Every reference to consequences in section 121 shall be construed to include a reference to consequences under this Part and nothing provided in this Part shall abridge any powers of the Court under that section.

Removal of incapacity

180. (1) Where any person is subject to any incapacity by virtue of conviction of an offence or the report of the Court under section 184 and he or some other person in respect of whose act the incapacity was imposed, is on a prosecution acquitted of any of the matters in respect of which the incapacity was imposed, the acquittal shall thereafter, or if an appeal be made, after the expiration of the ordinary period allowed for making an appeal or, if an appeal is made and the acquittal is affirmed, after the appeal is finally disposed of or if an appeal is made and is abandoned or fails by reason of non-prosecution thereof, after the appeal is abandoned or so fails, be reported to the Court which may, if it thinks fit, order that the incapacity shall thenceforth cease so far as it is imposed in respect of those matters.

(2) Where a person becomes subject to any incapacity by virtue of conviction of an offence or the report of the Court under section 178 and any witness who gave evidence against such incapacitated person upon the proceeding for such conviction or report is subsequently convicted of perjury in respect of that evidence, the incapacitated person may apply to the Court, and the Court, if satisfied that the conviction or report regarding such person was based upon perjury may order that such incapacity shall thenceforth cease, and the same shall cease accordingly; and if by reason of the conviction or report a

vacancy has occurred in the local authority and such vacancy has been filled by another person in accordance with section 106, such other person shall cease to be a councillor and the person whose incapacity has ceased shall be re-instated as a councillor.

Disputed Vacancies

References of questions as to vacancy in local authority.

181. **(1)** Any question whether a councillor has vacated his office shall be referred to and determined by the Court**.**

(2) Every such reference shall be by a petition (hereinafter referred to as a vacancy petition) presented to the Court by—

(a) the clerk of the local authority when so authorised by the resolution of the local authority;

(b) a registered voter for the local authority area.

Contents, delivery and service of vacancy petition

182. (1) A vacancy petition shall be in the prescribed form, state the prescribed matters and be signed by such persons as may be prescribed, and shall be presented by delivering it at the office of the Registrar, and the Registrar or the officer of the registry of the Court to whom the petition is delivered shall, if required, give a receipt therefor.

(2) The Registrar shall cause a copy of the petition to be transmitted to such persons as may be prescribed and shall cause the petition to be published in the prescribed manner.

(3) A vacancy petition shall be served in such manner as may be prescribed.

Security for costs.
[6 of 1981]

183. (1) When a vacancy petition has been presented to the Court by a registered voter pursuant to section 181(2)(b), the petitioner shall at the time of delivering the reference to the Registrar or within three days afterwards give security for all costs which may become payable by him to any witness summoned on his behalf or to any party to the petition.

(2) Security shall be an amount of five hundred dollars and shall be given in the prescribed manner by recognisance entered into by any number of sureties approved by the Court not exceeding four or by a deposit of money, or partly in one way and partly in the other.

Service of petition.

184. Within the prescribed time, not exceeding five days after delivery of a vacancy petition, the petitioner shall cause notice of the presentation of the petition, and of the nature of the security or proposed security and a copy of the petition to be served upon—

(a) the councillor whose office is the subject-matter of the petition;
(b) such other person as may be prescribed.

Parties to vacancy petition.

185. The parties to a vacancy petition shall be—

(a) the petitioner;

(b) the councillor whose office is the subject-matter of the petition;

(c) such other person as, in the opinion of the Court, is interested in the determination of the question referred, and whom the Court directs may be heard upon the hearing of the reference:

Provided that the Court shall hear the Director of Public Prosecutions or other representative appointed by him whether or not he is a party to the petition, and shall have power to receive the evidence on oath of any person whose evidence the Director or his representative may consider material.

Application of provisions.

186. Subject to such modifications and adaptations as may be necessary for the purpose, the following provisions of this Part shall so far as they are applicable, have effect on a vacancy petition presented to the Court, namely - sections 152, 153, 154 and 155, section 156(1), (2) and (3), sections 157, 158, 175 and 176:

Provided that in section 153(1) the reference to section 150 shall be deemed to be a reference to section 183.

Determination of vacancy petition.

187. The Court shall, at the conclusion of the hearing of a vacancy petition, determine the question thereby referred to it and shall forthwith certify in writing such determination to the clerk of the local authority; and the certified determination of a vacancy petition by the Court shall be final.

Disputes regarding elections to certain offices

References to the Court.

188. (1) Any question whether any person has been validly elected to an office to which this section applies, or, having been so elected, has vacated such office shall be determined by the Court upon a reference thereto.

(2) No such question shall be referred to the Court except by—

(a) the clerk of the local authority;
(b) a councillor of the local authority.

(3) This section applies to offices in a local authority (other than the office of councillor) the holder of which is a councillor elected from among their number by the councillors or the persons elected to be councillors.

Delivery of reference.

189. (1) A reference to the Court questioning whether a person was validly elected to an office to which section 188 applies shall be delivered to the Registrar within twenty-one days of the election or the appointment, as the case may be.

(2) The reference shall be in the prescribed form, state the prescribed matters and be signed by such person as may be prescribed.

(3) The Registrar shall send a copy of a reference made by a councillor to the clerk of the local authority who shall cause it to be laid before the local authority.

Security for costs

190. (1) When a question has been referred to the Court under sections 188 and 189 by a councillor, the councillor so referring the question shall at the time of delivering the reference to the Registrar or within three days afterwards, give security for all costs which may become payable by him to any witness summoned on his behalf or to any party to the reference.

(2) Security shall be an amount of five hundred dollars and shall be given in the prescribed manner by recognisance entered into by any number of sureties approved by

the Court not exceeding four or by a deposit of money, or partly in one way and partly in the other.

Parties to a reference

191. The parties to a reference to the Court under sections 188 and 189 shall be—

(a) the clerk of the local authority or the councillor referring the question as the case may be;

(b) the person whose election to or tenure in an office to which section 188 applies or whose appointment as a councillor is questioned;

(c) such other person as the Court may direct.

Determination of reference.

192. At the conclusion of the hearing of a reference under sections 188 and 189 the Court shall determine whether the person has been validly elected to an office to which section 180 applies or whether he has vacated such office or has been validly appointed as a councillor, as the case may require, and shall forthwith certify in writing such determination to the Minister and to the clerk of the local authority; and the certified determination by the Court of such reference shall be final.

General

Powers exercised by single judge.

193. Any of the powers of the Court conferred by or under any of the provisions of this Part may be exercised by a single Judge:

Provided that any power, jurisdiction or authority vested in the Court under section 196 with respect to proceedings brought by or under this Part shall only be exercisable by such number of Judges as could exercise that power, jurisdiction or authority if the proceedings were an ordinary action within the jurisdiction of the Court.

Service of notices.

194. Any summons, notice or document required to be served on any person with reference to any proceedings under this Part for the purpose of causing him to appear before the Court or otherwise, or of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any Court for any purpose of this Act, may be served—

(a) by delivering it to that person; or

(b) by leaving it at, or sending it by post by a registered letter to, his last known place of abode; or

(c) in such manner as may be—

(i) prescribed, or
(ii) directed by any Judge before whom the proceeding is taken.

Costs.

195. Subject to this Part and rules made by the virtue thereof, the rules of court with respect to costs in action, causes and matters in the Court shall, so far as practicable, apply in relation to costs of petitions and other proceedings under this Part.

Powers of Court.

196. The Court shall, subject to this Part and rules made by virtue thereof, have the same powers, jurisdiction and authority with respect to any proceedings brought under or by virtue of this Part as if the proceedings were an ordinary action within the jurisdiction of the Court.

Matters to be prescribed by rules of court.

197. Anything which this Part authorises or requires to be prescribed shall be prescribed by rules of court.

PART V
MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Regulations.

198. Subject to negative resolution of the National Assembly, the Minister may make regulations for giving effect to this Act and anything which is to be prescribed in pursuance of this Act shall, except as is provided by section 197, be prescribed by such regulations.

Rules of Court.
c. 3:02

199. The power conferred by the High Court Act to make rules of court shall be deemed to include the power to make rules of court for any of the purposes of this Act.

Exemption from stamp

200. Notwithstanding any other law, all declarations under this Act or regulations thereunder shall be exempt from stamp duty.

Publication of notices by local authority.

201. Where any notice is required to be published by a local authority under this Act, the same shall be published by affixing it to the offices of the local authority and it may also be published in such other manner, if any as is, in the opinion of the local authority, expedient to give publicity thereto.

Duty not to disclose fingerprints.

202. No election officer or registration officer shall produce for inspection or supply a copy of the thumb-print, fingerprint or photograph of an applicant for registration as a voter or of a registered voter except—

(a) for the purposes of this Act and its enforcement;

(b) for purposes connected with the registration of voters and the conduct of an election;

(c) as otherwise expressly provided by law.

Prosecutions and penalties.
[6 of 1997]

203. (l) Save as otherwise expressly provided, all offences against this Act shall be prosecuted under the Summary Jurisdiction Acts.

(2) A person guilty of an offence against this Act for which no special penalty is provided, shall be liable to a fine of thirty-two thousand five hundred dollars or to imprisonment for six months.

Expenses of Chief Election Officer.

204. The expenses of the Chief Election Officer and his staff shall be paid out of the funds provided by Parliament.

Removal of difficulties.

205. (1) If at any time any difficulty arises in connection with the application of this Act or in bringing into operation any of the provisions, the Minister may by order make any provision that appears to him necessary or expedient for removing the difficulty.

() Any such order may modify this Act in respect of any particular matter or occasion so far as may appear to the Minister to be necessary or expedient for removing the difficulty.

(3) Section 198(3) and (4) shall ***mutatis mutandis*** apply to any order made under this section as they apply to regulations made under the said section 198.

SCHEDULE

s. 40

OFFICERS DISQUALIFYING FOR OFFICE AS COUNCILLOR

Member of the National Assembly.
Judge of the Supreme Court of Judicature.
Ombudsman.
Director of Public Prosecutions.
Magistrate.
Member of the Police Force.
Member of the Guyana Defence Force.
Member of Local Government Service Commission.
Local Government Officer.
Chief Election Officer.
Election Officer.
Registration Officer.

END OF LOCAL AUTHORITIES ACT CAP. 28:03

LOCAL AUTHORITIES (ELECTIONS) (AMENDMENT) ACT

NO. 10 OF 1990

S14

LOCAL AUTHORITIES (ELECTIONS) (AMENDMENT) ACT NO.10 OF 1990

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Application and overriding effect.
3. Interpretation.
4. Amendment of the Principal Act.
5. Proceedings of Commission.
6. Exercise of functions of Chief Election Officer and supervision by Commission
7. Date of election.
8. Penalties.
9. Removal of difficulties.

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10 of 1990

AN ACT to amend the provisions of the Local Authorities (Elections) Act in respect of certain matters as they relate to the municipal councils in and for the City of Georgetown, the Town of New Amsterdam and the other towns.

[4TH JUNE, 1990]

Short title

1. This Act may be cited as the Local Authorities (Elections) Act 1990.

Application and overriding effect.

2. The amendments made by this Act in the Principal Act shall apply only in respect of the application of the Principal Act to the municipal councils in and for the City of Georgetown, the Town of New Amsterdam and the towns, and, in relation to any such municipal council, if there is any inconsistency between any provision of the Principal Act and of this Act the provisions of this Act shall prevail.

Interpretation.

3. (1)In this Act—

(a) "Chairman" means the Chairman of the Commission;

(b) "Commission" means the Elections Commission established by article 161 of the Constitution;

(c) "council" means a municipal council in and for—

(i) the City of Georgetown;
(ii) the Town of New Amsterdam; or
(iii) any town;

c. 28:03

(d) "Principal Act" means the Local Authorities (Elections) Act;

c. 28:01

(e)"town" means a town established under section 33 of the Municipal and District Councils Act.

(2) Expressions used in this Act but not defined herein, and defined in the Principal Act, shall have the same meanings as in that Act.

Amendment of the Principal Act.

4. (1)Except as otherwise provided in this Act, the functions conferred on the Minister by the Principal Act shall, with effect from the date on which this Act comes into operation and so far as they relate to councils, be performed by the Commission, and accordingly references to the Minister in the Principal Act shall be construed as references to the Commission.

(2) The functions conferred by subsection (1) on the Commission shall be exercised and discharged through the Chairman of the Commission or through any person authorised in writing by the Chairman in this behalf.

(3) Without prejudice to the provisions of subsection (2), all communications and instruments from or made by the Commission shall be issued or made under the signatureof the Chairman or any person authorised in writing by the Chairman in this behalf and all communications to the Commission shall be addressed to the Chairman.

(4) There shall be such employees of the Commission as are considered by the Commission to be necessary for the purpose of the exercise and discharge of the functions conferred on the Commission by this Act—
(a)designated by the Commission on such terms and conditions as it deems fit, with the consent of the appropriate authority, from among persons holding appointments in the public service; or
(b)appointed from among persons who had held appointments in the public service and had retired or resigned therefrom,

and such designation or appointment shall be only for such duration as is necessary for such purpose.

(5) The expenses incurred by the Chairman, or with his approval, for or in connection with the exercise and discharge of the functions conferred on the Commission by this Act (including the payment of emoluments of persons designated or appointed under subsection (4)), shall be paid out of the funds provided by Parliament.

(6) This section shall not apply to the functions conferred on the Minister by sections 198 and 205 of the Principal Act.

(7) In subsection (4) "appropriate authority", in relation to any person holding an appointment in the public service, means the authority vested by law with power to appoint him in the public service.

Proceedings of Commission.

5. (1)Except to the extent that jurisdiction in that behalf has been conferred by any written law, no question whether any function conferred on the Commission or any of its members by this Act or the Principal Act has been exercised or discharged validly or at all shall be enquired into in any court.

(2) No evidence of any deliberations of the Commission, or communications between members of the Commission, regarding its business under this Act or the Principal Act shall be admissible in any court.

Exercise of functions of Chief Election Officer and supervision by Commission.

6. (1) The functions conferred on the Chief Election Officer by the Principal Act in respect of any council, shall be exercised and discharged by him subject to the general direction and supervision of the Commission acting through the Chairman and, except as otherwise directed by the Commission, after consultation with the Commission.

(2) The Commission may, through the Chairman, issue such instructions and take such action as appear to it necessary or expedient to ensure impartiality, fairness and compliance with this Act, or Parts II and III of the Principal Act so far as they relate to councils, on the part of persons exercising or discharging functions connected with, or relating to, the registration of voters for the purpose of elections to councils or the conduct of such elections, and all such persons shall promptly comply with the instructions.

Date of election. [1 of 1993].

7. (1)Except as otherwise provided in this section, and subject to section 36 of the Principal Act as amended by this Act—

(a) the first election after the commencement of this Act to choose the members of the existing councils shall be held on the first Monday in December 1992 and thereafter elections to choose the members of the existing councils shall be held on the first Monday of the third December after the date of the immediatelv previous election;

(b) the first election to choose the members of any other council shall be held on such date as may be determined by the Minister by order, the second election to choose the members of any such council shall be held on the day on which elections to choose the members of the existing councils are to be held, under this section, next after the first election referred to in this paragraph, and every subsequent election to choose the members of any such council shall be held on the first Monday of the third December after the date of the immediately previous election.

(c) Where the Minister is satisfied on the advice of the Commission, that it is impracticable to comply with the provisions of this section, he may, at any time by order, vary any date prescribed in this section for the holding of an election to a later date within twelve months from the prescribed date, and every person who is a councillor, including the Mayor or Deputy Mayor on the prescribed date for the holding of elections shall continue in, and discharge the functions of his office until his successor enters upon the duties of his office.

(2) Where the dav on which an election to choose the members of a council is to be held under subsection (1) is a public holiday, the election shall be held on the day following that public holiday, or any public holiday or holidays immediately following that public holiday.

(3) If the date on which an election to choose the members of a council is to be held under subsection (1) or (2) falls within one month before or after the date

fixed for holding an election of the members of the National Assembly referred to in article 60(2) of the Constitution, the election to choose the members of the council shall be held on the first Monday of the third month after the month in which the election to the National Assombly is held, and if such first Monday is a public holiday the provisions of subsection (2) shall apply:

Provided that such postponement of an election shall not affect the date on which the next election to choose the members of the council shall be held.

(4) Subject to section 36 of the Principal Act as amended by this Act, references in that Act to "election day", shall, in relation to a council, be construed as the day fixed by or under this section as the day on which any election to choose the members of that council shall be held.

(5) In this section "existing council" means a municipal council in and for—

(i) the City of Georgetown;
(ii) the Town of New Amsterdam; or
(iii) the towns of Corriverton, Linden or Rose Hall.

Penalties.
[6 of 1997]

8. Any person who contravenes section 6(2) shall be guilty of an offence and shall be liable, on summary conviction, to a fine of fifteen thousand dollars and imprisonment for six months.

Removal of difficulties.

9. (l) If any difficulty arises in connection with the application of the Principal Act as amended by this Act, or any of the provisions of this Act, the Minister may, on the advice of the Commission, by order, make any provision that appears to him to be necessary or expedient for removing the difficulty.

(2) Any such order may modify this Act or the Principal Act in respect of any particular matter or occasion so far as may appear to the Minister to be necessary or expedient for removing the difficulty.

(3) Any order under subsection (1) shall be subject to negative resolution of the National Assembly and shall not be made after the expiry of three years from the commencement of this Act.

END OF : LOCAL AUTHORITIES (ELECTIONS) (AMENDMENT) ACT NO.10 OF 1990.

LOCAL DEMOCRATIC ORGANS

ACT NO. 12 OF 1980

S15

LOCAL DEMOCRATIC ORGANS ACT

ARRANGEMENT OF SECTIONS

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2. Interpretation.
3. Objectives of local government.

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LOCAL DEMOCRATIC ORGANS

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5. Constitution orders.
5A. Neighbourhood democeratic council to be local authority under Local Authorities (Elections) Act, Cap. 28:03.
6. Duties of local democratic organs.
7. Local democratic organ may make regulations.
8. Local democratic organs to be bodies corporate.
9. Full-time officers.
10. Delegation of powers to local democratic organs.
11. Petty courts.
12. Cessation of application of other laws.
13. Application of this Part to regional democratic councils.

PART III
REGIONAL DEMOCRATIC COUNCILS

14. Regional democratic councils.
15 Composition of regional democratic councils.
16. Councillors to be elected.
17. Qualifications for election as councillor.
18. Election of councillors.
19. Convening of meeting to elect chairman and vice-chairman.
20. Election of chairman and vice-chairman.
21. Election of chairman and vice-chairman on vacancy.
22. Vacancy in office of chairman or vice-chairman.
23. Performance of chairman's duties when unable to act.
24. Oath of Office.
25. Chairman and vice-chairman to be justices of the peace.
26. Leave of absence of chairman and vice-chairman.
27. Chairman, vice-chairman and councillors exempted from jury service.
28. Remuneration of chairman and councillors.
29. Vacancy in office of councillor.
30. Signification and filling of vacancy.

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PART IV
THE NATIONAL CONGRESS OF LOCAL DEMOCRATIC ORGANS

[Sections 34 - 50 repealed by Act No.15 of 2000]

PART V
ELECTION OF CERTAIN MEMBERS OF THE NATIONAL ASSEMBLY

[Sections 51 – 62 repealed by Act No.15 of 2000]

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[12 of 1980]
[15 of 2000]

LOCAL DEMOCRATIC ORGANS

AN ACT to make provision for the institution of a country-wide system of local government through the establishment of organs of local democratic power as a vital aspect of socialist democracy, enabling the Constitution set out in the Schedule to the Constitution of the Co-operative Republic of Guyana Act 1980 to function on and after the day appointed for the coming into operation of that Constitution, and for purposes connected therewith.

[6TH OCTOBER, 1980]

PART I
PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Local Democratic Organs Act 1980 and shall come into operation on the day appointed under section 4 of the Constitution of the Co-operative Republic of Guyana Act 1980 for the coming into operation of the Constitution.

2. (1) In this Act—

Interpretation. [O. 80/1980] [15 of 2000].

"area", in respect of any local democratic organ, means the area administered by that organ;

"casual vacancy" means any vacation of office for any cause other than a dissolution of the body in which the office is held, and includes any case in which a person, by reason of his having lost membership of a body by which he was elected to another body, thereupon vacates, as he is hereby required to vacate, membership of the body to which he was elected;

"clerk" means the chief executive officer, however styled, of a regional democratic council or of any other local democratic organ, as the case may be, and if there is no such officer, then such officer as may be designated for the purpose by the Minister;

"Congress" – **[deleted by Act No.15 of 2000].**;

"Constitution" means the Constitution of the Co-operative Republic of Guyana as set out in the Schedule to the Constitution of the Co-operative Republic of Guyana Act 1980.

"constitution order" means an order made pursuant to section 5;

C . 1:01

"councillor" means a member of a council elected pursuant to the provisions of section 18;

"Court" means the High Court;

Cap. 29:01.

"local democratic organ" means any local government authority, and includes that of any city or town or of any division thereof established under section 4(1), and any Council established under the Amerindian Act;

Cap. 29:01.

"local government officer" means a person who is the holder of or who is acting in an office of emolument in the service of a local democratic organ and for the avoidance of any doubt does not include any member of any council (however styled) constituting a local democratic organ or a captain appointed under the Amerindian Act;

"Minister" means the Minister responsible for local government, save that in the case of sections 11 and 67 it means the Minister responsible for legal matters;

"region" means any of the regions into which Guyana has been divided under section 4;

"regional democratic council" means any regional democratic council established by a constitution order.

(2) **[Deleted by Act No.15 of 2000].**

Objectives of local government.

3. The general objectives of the system of local government established by and under this Act are to involve as many citizens as possible in the task of managing and developing the communities in which they live and ensuring popular participation in organising the political, economic, social and cultural life of those communities.

PART II
LOCAL DEMOCRATIC ORGANS

Establishment of local government areas.
[7 of 1994]

4. (1) The Minister may by order divide Guyana as he may deem fit into ten regions, and may in like manner divide a region into sub-regions, a sub-region into neighbourhoods, and a neighbourhood into people's cooperative units:

Provided that the Minister may by order divide any area comprised in a city or town as he may deem fit.

(2) In establishing any area as a region under subsection (1) the Minister shall take into account the population, physical size, geographical characteristics, economic resources and the existing and planned infrastructure of the area, as well as the possibilities of facilitating the most rational management and use of such resources and infrastructure, with a view to ensuring that the area is or has the potential for becoming economically viable.

Constitution orders.
[6 of 1981]
[7 of 1994].

5. The Minister may by order provide for—

(a) the establishment or designation of local democratic organs for any area into which Guyana has been divided under section 4;

(b) the name of any such area and its boundaries;

(c) the name of any local democratic organ for the area;

(d) the composition, constitution, location, rights, duties, obligations and responsibilities of each local democratic organ;

(e) the election, rights, duties, obligations and responsibilities of members of each local democratic organ;

(f) sanctions (including fines and public reprimands) against local democratic organs and any members and officers thereof for breach or dereliction of duty;

(g) the due accountability of local democratic organs, members and officers thereof to the residents within their area, including provision for vacation of any office to which any person has been appointed or elected, on grounds of misconduct, inability (whether physical or mental) or loss of confidence of the electorate;

(h) the good management and administration of any area by the local democratic organ thereof;

(i) the holding of any public or private inquiry into the administration of any area by the local democratic organ thereof;

(j) the dissolution of any local democratic organ (other than a regional democratic council), and the holding of fresh elections therefor;

(k) the establishment of any interim local democratic organ during any dissolution effected under paragraph (j), or during any period prior to the establishment of an elected local democratic organ for the area;

(l) the direct administration for a temporary period by the Government of any area (including any area otherwise forming part of the area of a local democratic organ);

c. 29:01

(m) the preservation of the status of any existing city or town, or of any council established under the Amerindian Act, or of any other local democratic organ, and the regulation of their relationship with any other local democratic organ, including the making of provision for distinctions in the functions of members of a local democratic organ which are consistent with the preservation of any such status;

(n) the modification of the boundaries of the area of any local democratic organ;

(o) the financing of any local democratic organ, including the raising of revenue by the imposition of rates, taxes, dues and other means, the procedure to be followed by it in matters relating to finance, and the auditing of its accounts and the powers and duties of the auditor or of any other person in connection therewith;

(p) the transfer or secondment of officers and other employees from the service of the Government to that of any local democratic organ or the transfer or secondment of officers and other employees from the service of any local democratic organ to that of the Government, or of any other local democratic organ, and the regulation of the terms and conditions of any such transfer or secondment;

(q) the establishment of any superannuation schemes relating to the workers of any local democratic organ;

(r) the transfer of property, rights and obligations from any local democratic organ to any other such organ, or the vesting of any property or rights in, or the charging of any obligations on, any such organ;

(s) the settlement of any disputes among local democratic organs.

Neighbourhood democratic council to be local authority under Local Authorities (Elections) Act Cap. 28:03. [7 of 1994]

5A. A neighbourhood democratic council established under this Act shall be a local authority to which the Local Authorities (Elections) Act applies with all the powers conferred on a village council by the Local Government Act.

Duties of local democratic organs

6. Without prejudice to the generality of section 5, it shall be the duty of each local democratic organ and the members and officers thereof within its area—

(a) to maintain and protect public property;
(b) to protect and improve the physical environment;
(c) to improve working and living conditions;
(d) to stimulate economic activities and improve production and efficiency;
(e) to promote the social and cultural life of the people;
(f) to raise the level of civic consciousness;
(g) to preserve law and order;
(h) to consolidate socialist legality;
(i) to safeguard the rights of the people; and
(j) to give advice, encouragement and support to the people in their daily activities and to give leadership by example.

Local democratic organ may make regulations.

7. Subject to the provisions of this Act, a local democratic organ may, with the approval of the Minister, make regulations for—

(a) the proper management and administration of its area;

(b) the raising of revenues by tolls, rates, taxes and dues;

(c) the conduct by it of any business which it may be authorized to carry on under its constitution order; or

(d) acquiring land compulsorily for local government purposes.

Local democratic organs to be bodies corporate.

8. Every local democratic organ shall be a body corporate by the name prescribed for it by its constitution order.

Full-time officers.
[6 of 1981]

9. (1) The following office-holders shall be full-time officers of their respective local democratic organs—

(a) the Mayor and Deputy Mayor of any city or town; and

(b) the chairman and vice-chairman of any regional democratic council, unless the Minister, where he considers it justifiable, having regard to the time which such chairman or vice-chairman is required to devote for the discharge of the functions of his office, in any case has by written notice to the chairman or vice-chairman, as the case may be, directed that he should not be a full-time officer of the council; and

(c) the chairman of any local democratic organ for any sub-division of a region who may by direction of the Minister be specified for the purpose.

(2) The Minister may by order prescribe the emoluments, if any, to be paid by a local democratic organ to any officer serving full-time as aforesaid.

Delegation of powers to local democratic organs

10. (1) Subject to any conditions which the Minister may by local order prescribe, any Minister, department of Government or statutory authority may, with the consent of the first mentioned Minister, delegate any of his or its statutory power or authority to a local democratic organ where the power or authority relates to matters within the responsibility of that organ.

(2) Subject to any conditions which the Minister may in writing specify, any local democratic organ may appoint any other local democratic organ as its agent for purposes agreed between them.

Petty courts.
[6 of 1997]

11. (1) Subject to the Constitution, the Minister may by order, which shall be subject to affirmative resolution of the National Assembly, establish courts for the trial of petty offences committed within the area of any local democratic organ and any such order may prescribe—

(a) the offences triable in any such court;

(b) the punishment which any such court may impose;

(c) a summary method of appeal from any decision of any such court;

(d) the procedure relating to the functioning of any such court or the making of any such appeal from its decision; and

(e) all other matters which the Minister deems it necessary or expedient to provide for in order to enable such courts to administer justice fairly, effectively, economically and speedily.

(2) In this section "petty offences" means any offence punishable on summary conviction by a fine not exceeding twenty-two thousand dollars or imprisonment for a term not exceeding two months, or by both such fine and such imprisonment, and, subject to such limitations on punishment, any offence punishable on summary conviction and relating to theft of or damage to any livestock, or any agricultural or dairy product, or any thing connected with the production thereof.

Cessation of application of other laws.

12. Where provision has been made by a constitution order for the local government of any area, any provision of any other law relating to the local government of that area shall cease to apply with effect from such day, to such extent and subject to such conditions as may be specified in the order.

Application of this Part to regional democratic councils.

13. In the case of a regional democratic council the provisions of this Part shall apply subject to the provisions of Part III.

PART III
REGIONAL DEMOCRATIC COUNCILS

Regional democratic councils.

14. A local democratic organ established for a region by an order made under section 5 shall be called a regional democratic council and shall have such functions as may be vested in it by or under this Act or any other law.

Composition of regional democratic councils.

15. Every council shall consist of such number of members (including the chairman and the vice-chairman) as, being not less than twelve and not more than thirty-six, may be prescribed by its constitution order.

Councillors to be elected

16. Councillors shall be elected in accordance with the provisions of section 18.

Qualifications for election as councillor.
[6 of 1981]
[15 of 2000]

17. (1) Subject to subsection (2), a person shall be qualified for election as a Councillor if, and shall not be so qualified unless, he is qualified for election as a member of the National Assembly under article 53 of the Constitution.

(2) No person shall be qualified for election as a councillor, or, if so elected, to hold or continue in office as a councillor, if he is—

(a) disqualified for election as a member of the National Assembly under paragraphs (1), (6), (7) and (8) of article 155 of the Constitution;

(b) [Deleted by Act No.15 of 2000].

(c) a magistrate;

(d) a member of the Police Force;

(e) a member of the Guyana Defence Force;

(f) a local government officer;

(g) the Chief Election Officer;

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(h) in relation to the election, a returning officer within the meaning of section 2(1) of the Representation of the People Act as applied by section 18;

(i) any person who has within five years before election day been removed from any elected office pursuant to any provision made under section 5(g);

(j) a person who has within five years before election day or since his election been surcharged under any law to an amount exceeding one thousand dollars;

(k) a person who has been disqualified from holding office as a councillor pursuant to any law:

Provided that for the purpose of paragraphs (j) and (k) the ordinary date on which the period allowed for making an appeal or application with respect to an order imposing the surcharge or the disqualification respectively expires or, if such an appeal or application is made, the date on which the application is finally disposed of or abandoned or falls by reason of the non-prosecution thereof, shall be deemed to be the date on which the surcharge or disqualification was imposed, as the case may be.

(3)Notwithstanding anything in subsection (2)(a), a person who holds or acts in any office of emolument in a civil capacity in the service of the Government of Guyana or of any other Commonwealth territory, not being the holder of any such office specified in any paragraphs of subsection (2), shall be qualified for election as a councillor and if so elected, to hold or continue in office as a councillor.

Election of councillors. Cap. 1:03

18. (1) Subject to subsection (2), the provisions of the Representation of the People Act (as modified by the Constitution of the Co-operative Republic of Guyana (Adaptation and Modification of Laws) (Representation of the People) Order 1980) shall apply ***mutatis mutandis*** to the election of councillors as they apply to an election of members of the National Assembly under article 60(2) of the Constitution.

c. 1:03

(2) Where the day appointed under article 73(2) of the Constitution for holding elections of councillors is the same as the day appointed under article 61 of the Constitution for holding an election of members of the National Assembly under article 60(2) thereof, the

Representation of the People Act, as applied by subsection (1), shall, for the purpose of such application, be construed subject to the following modifications—

(a) any reference to a list of candidates shall be construed as including a reference to a list of candidates for election as councillors of the council of the region in respect of which their election is sought;

(b) persons entitled to vote at an election of councillors shall be electors whose names appear on the official list of electors for any division within the region of the council in respect of which the election is held;

(c) an elector who votes by proxy at one election shall, if he intends to vote at the other election, vote thereat by proxy and shall appoint one and the same person as his proxy in relation to both elections, and accordingly any cancellation of the appointment of a proxy shall be deemed to apply in relation to both elections;

(d) an elector who votes as a postal voter at one election shall, if he intends to vote at the other election, vote thereat as a postal voter;

(e) the ballot paper for each election shall be set out on the same sheet of paper and shall each bear the same serial number but shall be separated from each other by a perforated line and distinguished from each other by different colours, the sheet being in the form of Form 11 of the Schedule to the Act as amended by this subsection, the upper half thereof comprising the ballot paper for the election of members of the National Assembly and the lower half thereof comprising the ballot paper for the election of members of the council of the region;

(f) an elector, whether acting for himself or as a proxy, shall only once enter the room where the poll is held, and, having entered, shall there and then vote in all his capacities and in respect of each election at which he intends to cast a vote, each step relating to one election being taken either simultaneously with or immediately after the corresponding step relating to the other, as may be practicable, and where any two corresponding steps are substantially the same (such as proof of identity or inking of fingers) a step taken in relation to one election shall be deemed to have been also taken in relation to the other;

(g) an elector voting at both elections shall cast his ballots for both elections at the same time and in the same ballot box, but ballot papers for one election shall be separated from ballot papers for the other election immediately after removal from the ballot box and shall be counted separately:

Provided that a ballot paper shall not be invalidated by reason only that it has become separated from the other ballot paper on the same ballot sheet prior to its removal from the ballot box;

(h) unless the Commission otherwise decides, where the same person has been named as representative of a list of candidates for election as members of a council for a region as well as representative of a list of candidates for election as members of the National Assembly, or where the same symbol has been applied for in respect of both lists, and where any person holds an appointment as election agent, assistant agent, counting agent or polling agent in respect of the second mentioned list for any area within that region, no one other than that person may be appointed to, or, if previously appointed, no one other than that person may continue to hold the

corresponding post in relation to the first-mentioned list in respect of that area;

(i) any person holding office as an election officer in relation to the election of members of the National Assembly shall be deemed to be holding the like office in relation to the holding of the election of councillors;

(j) the administrative machinery and arrangements for the holding of the election of councillors shall as far as practicable be the same as those for the holding of the election of members of the National Assembly subject to due care being taken to ensure that there is no confusion between the holding of the two elections;

(k) where any form is prescribed or modified by this subsection so as to be capable of being used in relation to both elections, or partly in relation to one and partly in relation to the other, it shall be so used, and accordingly any corresponding form which would have been used if either election was held alone shall not be applicable; and

Cap. 1:03.
Subsidiary legislation.

(l) the provisions of that Act specified in the first column of the First Schedule are hereby amended in the manner specified in the second column of that Schedule.

(3) In an election to elect members of the regional democratic council, a list of candidates referred to in this section shall be submitted by not less than one hundred and seventy-five persons.

Convening of meeting to elect chairman and vice-chairman.
c. 1:03.

19. (1) Within seven days after the declaration under section 99 of the Representation of the People Act (as modified as aforesaid) of the results of any election of councillors, the clerk of the council to which the election has been made shall call a meeting, to be held not later than fourteen days after the date of the declaration, of the persons elected thereat to be councillors for the purpose of electing the chairman and the vice-chairman of the council.

(2) The clerk shall, not less than three days before a meeting held pursuant to subsection (1), publish notice of the time and place of the intended meeting and cause a copy thereof to be served upon the persons elected as councillors:

Provided that want of service of a copy of a notice shall not affect the validity of the meeting.

Election of chairman and vice-chairman.
[6 of 1981]

20. (1) The election of the chairman shall be the first business transacted at a meeting called pursuant to section 19 and the election of the vice-chairman shall take place immediately thereafter.

(2) The clerk shall, until the chairman has been elected, preside at and shall determine any question arising at the meeting during the election of the chairman, but shall not have any vote; and upon his election the person so elected shall preside at all meetings and determine any such question and shall have a second or casting vote whenever there is an equality of votes on any question.

(3) Every candidate for election as chairman and vice-chairman shall be a councillor proposed by another councillor and seconded by another, all of whom are present at the meeting.

(4) If there is only one candidate for election as chairman, the clerk shall declare that candidate to be elected; and if, the chairman having been elected, there is only one candidate for election as vice-chairman, the chairman shall declare that candidate to be elected.

(5) If there are two or more candidates for election as chairman, the clerk shall take the votes of the councillors present and shall declare the candidate who secures the greatest number of votes to be elected; and, if, the chairman having been elected, there are two or more candidates for election as vice-chairman, the chairman shall declare the candidate who secures the greatest number of votes to be elected.

(6) Where by reason of an equality of votes cast at an election of a chairman no person is elected chairman the Minister shall select one of the councillors receiving the greatest number of equal votes to be chairman.

(7) Where the chairman or vice-chairman is a full-time officer of the council and is the holder of, or is acting in, any office of emolument in a civil capacity in the service of the Government of Guyana or of any other Commonwealth territory, he shall, unless he is granted leave of absence from his office in such service by the authority competent to grant such leave for the period for which he functions as such full-time officer of the council, resign from the office in such service before he takes the oath prescribed for his office as chairman or vice-chairman under section 24.

Election of chairman and vice-chairman on vacancy.

21. (1) If any vacancy occurs under section 23 in the office of chairman or vice-chairman, the clerk shall call a meeting of the council to elect a councillor to the vacant office.

(2) Section 20 shall, in so far as it is applicable, apply to a meeting called under this section.

Vacancy in office of chairman or vice-chairman.
[6 of 1981]
[14 of 1985]

22. (1) Subject to the other provisions of this Act, a vacancy shall occur in the office of chairman or vice-chairman prior to normal retirement if the holder of the office—

(a) dies;

(b) resigns;

(c) ceases to be a councillor;

(d) does not within twenty-eight days after his election to the office take before the President the oath prescribed for his office by section 24, unless his failure to take such oath within the said period is for any reason approved by the council;

(e) being a full-time officer of the council and the holder of, or acting in, any office of emolument in a civil capacity in the service of the Government of Guyana or of any other Commonwealth territory, does not, unless he is granted leave of absence from his office in such service by the authority competent to grant such leave, resign from his office in such service before he takes the oath prescribed for his office by section 24;

(f) being a full-time officer of the council, becomes the holder of, or acts in, any office of emolument referred to in paragraph (e) after he takes the oath prescribed for his office by section 24.

(2) A vacancy shall occur in the office of vice-chairman if the holder thereof is elected to the office of chairman.

(3) Where a person who holds the office of chairman or vice-chairman of a council ceases to be a member thereof by virtue of a dissolution of that council under article 73(2) of the Constitution, he shall not by reason thereof vacate the office of chairman or vice-chairman, as the case may be, until a chairman or vice-chairman, as the case may be, of the council is elected under this Act after the election, following such dissolution, of the members of the council.

Performance of chairman's duties when unable to act.

23. (1) During any period when the chairman is for any reason unable to perform the functions of his office, those functions shall be assumed and performed by the vice-chairman.

(2) If the vice-chairman is for any reason unable to perform the functions of the office of chairman in accordance with subsection (1), the clerk shall call a meeting of the council to elect a councillor to perform those functions, and the councillor so elected shall assume and perform those functions until such time as the chairman or vice-chairman, as the case may be, is able to act.

(3) Section 20 shall, in so far as it is applicable, apply to a meeting called under this section.

(4) Where at an election under subsection (2) two or more councillors secure an equal number of votes the Minister shall direct which of those councillors shall perform the functions of the office of chairman; and that councillor shall assume and perform those functions until such time as the chairman or vice-chairman, as the case may be, is able to act.

(5) In the event of the vice-chairman or a councillor performing the functions of the office of chairman for seven consecutive days or more, the vice-chairman or councillor, as the case may be, shall, during such period, have at his disposal, in lieu of the chairman, the funds placed under section 28(1) at the disposal of the said office in the manner specified for the payment of such funds.

Oath of Office.

Second Schedule.

24. The chairman and vice-chairman shall, before performing any of the functions of their respective offices (save those referred to in section 20) take before the President an oath of office in the form set out in the Second Schedule.

Chairman and vice-chairman to be justices of the peace.

25. The chairman and the vice-chairman, shall, by virtue of their offices, be justices of the peace for their region, but shall, before acting as such, take the oaths required by law to be taken by such justices unless they are, on the day on which they become entitled to act as chairman or vice-chairman, such justices and have taken the oaths required by law to be taken to act as such justices.

Leave of absence of chairman and vice-chairman.

Chairman, vice-chairman and councilors exempted from jury service.

26. A council may grant leave of absence to its chairman and vice-chairman for any period or periods not exceeding three months in the aggregate during any continuous twelve-month period of continuance in office.

27. The chairman, the vice-chairman and other councillors shall, during their continuance in office, be exempted from jury service.

Remuneration of chairman and councillors

28. (1) A council may in each year appropriate out of its funds a sum not exceeding in amount any sum for the time being prescribed by its constitution order to be placed at the disposal of its chairman in any manner specified in the order.

(2) A council may in each year, with the approval of the Minister, appropriate out of its funds a sum to be utilised for the remuneration of councillors other than travelling and subsistence expenses incurred in the course of duty and may, with such approval, determine what sum shall be payable to each councillor.

Vacancy in office of councillor.

29. A vacancy shall occur in the office of a councillor if the holder thereof–

(a) dies;

(b) ceases to be qualified for election as a councillor;

(c) is disqualified from being or is disqualified from continuing to be a councillor;

(d) is removed from office pursuant to any provision made under section 5 (g);

(e) resigns;

(f) does not, within fourteen days of his election, take before the clerk the oath prescribed for his office by section 31, unless his failure to take such oath within that period is for a reason approved by the council.

Signification and filling of vacancy.

30. (l) Whenever a vacancy occurs in an office of councillor, the clerk shall report the same at the next meeting of the council and publish notice thereof.

Cap. 1:03.

(2) Any such vacancy shall be filled pursuant to section 99A of the Representation of the People Act, as modified by section 18.

Oath of office of councillor.
Second Schedule.

31. No councillor shall take part in the proceedings of a council or a committee thereof until he has taken before the clerk an oath of office in the form set out in the Second Schedule.

Performance of functions of council by chairman or vice-chairman in certain circumstances.
[14 of 1985]

31A. During the period commencing on the date on which a council is dissolved under article 73(2) of the Constitution and ending with the date on which the first meeting of the members of the council, elected at an election following such dissolution, is held, the functions conferred on the council by this Act or any other written law shall be performed—

(a) by the chairman of the council; or

(b) in the event of a vacancy arising in the office of the chairman on account of his death or resignation, or during any period when the chairman is unable to perform the functions of his office, by the vice-chairman.

Application of certain provisions of the Municipal and District Councils Act.
Cap. 28:01.

32. (1) The provisions of the Municipal and District Councils Act specified in subsection (2) shall apply in relation to a regional democratic council as they apply in relation to a council under that Act and for that purpose shall be construed with any necessary

modifications, adaptations, qualifications and exceptions, and, without prejudice to the generality of the foregoing, subject, in particular, for the purpose of such application, to the following modifications—

(a) where a provision applies to the City Council, the Town Council and any other council it shall apply to a regional democratic council as it applies to such other council;

(b) any references to the clerk or treasurer shall be construed as a reference to the clerk or chief finance officer (however styled) respectively of a regional democratic council;

(c) the power conferred by section 305 to suspend or dissolve a council shall be inapplicable to a regional democratic council;

Third Schedule.

(d) the provisions specified in the first column of the Third Schedule are hereby amended in the manner specified in the second column of that Schedule.

(2) The provisions of that Act specified for the purposes of subsection (1) are—

sections 43 to 332 (inclusive) but exclusive of sections 58(1) and (2), 72, 73, 81 to 89 (inclusive), 95 to 120 (inclusive), 123, 125 to 142 (inclusive), 153 to 154 (inclusive), 200 to 227 (inclusive), 265 to 300 (inclusive), 301, 319, 321 to 331A (inclusive).

Duty of council to be guided by general policies of Government

33. In the management and development of its region, every council shall be guided by the general policies of the Government and the national objectives as set by the Government, and shall devise its development plans and programmes to ensure consistency with such policies and objectives; and in the performance of his functions each councillor shall endeavour to co-operate with every other councillor and with all socio-economic institutions in the area.

PART IV
THE NATIONAL CONGRESS OF LOCAL DEMOCRATIC ORGANS

[Sections 34 – 50 repealed by Act No.15 of 2000].

PART V
ELECTION OF CERTAIN MEMBERS OF THE NATIONAL ASSEMBLY

[Sections 51 – 62 repealed by Act No.15 of 2000].

PART VI
ELECTION DISPUTES

Determination of questions as to membership and elections relating to councils.

Disputed elections to regional democratic councils

63. (1) Any question —

(a) regarding the qualification of any person to be elected as a member of a council;

(b) whether—

(i) either generally or in any particular place, an election to a council has been lawfully conducted or the result thereof has been, or may have been, affected by any unlawful act or omission;

(ii) the seats in a council have been lawfully allocated;

(iii) a seat in a council has become vacant; or

(iv) any member of a council is required under the provisions of any law to cease to exercise any of his functions as a member thereof;

(c) regarding the filling of a vacant seat in a council; and

(d) whether any person has been validly elected as chairman or vice-chairman, of a council or, having been so elected, has vacated the office of chairman or vice-chairman, as the case may be,

may, with a view to securing any appropriate remedial orders, be dealt with as provided in subsection (2).

c. 1:04

(**2**) Any such question as is referred to in subsection (l)(a), (b) and (c) may be referred to the Court, and shall thereupon be determined by it, in accordance with the provisions of the National Assembly (Validity of Elections) Act which shall apply for that purpose with any necessary modifications, adaptations, qualifications and exceptions, and, without prejudice to the generality of the foregoing, subject, in particular, for the purpose of such application, to the following modifications—

(a) any references however made in that Act to—

(i) an election;
(ii) an elector;
(iii) a candidate;
(iv) a list of candidates;
(v) any person being elected as a member of the National Assembly;
(vi) Parliament or the National Assembly; or
(vii) the Speaker,

shall be construed as a reference respectively to—

(i) an election of members of the council for the region in respect of which the election petition is brought;
(ii) an elector at that election;
(iii) a candidate at that election;
(iv) a list of candidates for that election;
(v) any person being elected as a member of such council;
(vi) such council; and
(vii) the person for the time being presiding over such council.

Fourth Schedule.

(b) the provisions of that Act specified in the first column of the Fourth Schedule are hereby amended in the manner specified in the second column of that Schedule.

Disputed elections to Congress and to chairmanship and vice-chairmanship of Congress and councils

64. **[Repealed by Act No.15 of 2000].**

Disputed elections by Congress and councils of members of National Assembly

65. **[Repealed by Act No.15 of 2000].**

Appeals.

66. An appeal shall lie to the Court of Appeal—

(a) from the decision of a judge of the Court granting or refusing leave under any law to institute proceedings for the determination of any question referred to in this Part;

(b) from the determination by the Court of any such question, or against any order of the Court made in consequence of such determination.

Rules of procedure.

67. Subject to the provisions of this Act and of article 163 of the Constitution, the Minister may by order make provision with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred upon it by or under this Part and of that Court and the Court of Appeal in relation to appeals to the Court of Appeal under this Part, and, subject to any provision so made, provision may be made with respect to the matters aforesaid by rules of court.

PART VII
MISCELLANEOUS

Regulations.

68. The Minister may make regulations—

(a) where by this Act any provision of any other law is applied with or without modification to a council or the Congress, for rescinding, varying, modifying or otherwise amending such application of any such provision (inclusive of any such modification);

(b) for amending any Schedule to this Act;

(c) for prohibiting, wholly or partially, the receipt by any person of separate payments in respect of any separate offices held by him under this Act;

(d) generally for giving effect to the provisions of this Act.

Saving of power to amend subsidiary legislation amended by or under this Act.

69. Any amendment by or under this Act of any subsidiary legislation shall be without prejudice to any power conferred by any law upon any person or authority to make, amend, modify or revoke such legislation, and any such power shall be exercisable even in respect of any such amendment.

Authority of Elections Commission.

70. The exercise by the Elections Commission of any authority in pursuance of the provisions of the Constitution shall be duly deferred to in the operation of this Act and by each and every person or authority acting under this Act.

Negative resolutions

71. Any regulations made by the Minister under this Act and, except as provided in section 11, any order made by him under this Act shall be subject to negative resolution of the National Assembly.

———

Section 18
[30 of 1990]
[22 of 1997]

FIRST SCHEDULE
AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT CAP 1:03

Provision	How amended
Section 2(1)	(a) For the definition of "election" substitute the following— ' "election" means an election of members of a regional democratic council under section 18 of the Local Democratic Organs Act 1980, and 'elector' shall be construed accordingly'. (b) In the definition of "election day" for "61" substitute "73(2)". (c) In the definition of "elector" delete "VI, VII," and before the semicolon insert "for any division within the region of the council in respect of which the election is held". (d) Insert in their proper alphabetical order the following new definitions: ' "council" means a regional democratic council; "councillor" means a member of a council; "regional democratic council" means a regional democratic council established for any region under section 5 of the Local Democratic Organs Act 1980.'
Section 2(3)	After "division" in the first line insert "within a region in respect of which the election is held."
Section 3(2)	Substitute the following— "(2) The region of the council to which the councillors are to be elected shall form one electoral area for determining the result of the election; and votes shall be cast in favour of lists of candidates published in accordance with section 19. "
Section 8(1)	Substitute a colon for the full stop at the end and insert the following proviso— "Provided that an officer shall be required to take only one oath where he is acting both in respect of an election of members of the National Assembly and in respect of an election of members of a council."
Section 11(1)	(a) For "one hundred and not more than one hundred and twenty" substitute "one hundred and fifty and not more

Provision	How amended
	than one hundred and seventy-five". (b) After "section 2(3)" insert "for any division in the region of the council in respect of which the election is held."
Section 11(3)	Substitute the following— "(3) A list of candidates shall set out the names, one below the other in the alphabetical order of the surnames, of a number of persons who are qualified to be elected to the council in respect of which the election is held and who have consented to the inclusion of their names in the list as candidates for election, together with the address and occupation of each such person, such number being not less than the number of members prescribed under section 15 of the Local Democratic Organs Act for that council and not more than the number so prescribed plus ten."
Section 12	(a) For "one of their number" substitute "any elector whose name is on the official list of electors for any division of any region" . (b) In paragraph (a) delete "(other than persons who are not candidates)". (c) In paragraphs (b) and (c) delete "and persons who are not candidates."
Section 14(3)	After "more than one list" insert "in respect of the same region."
Section 22	Delete.
Section 34(2)(a)(III)	Delete.
Section 40(1)(c)	Before the semicolon insert "and of the Local Democratic Organs Act 1980."
Section 83(1)(f)	Before the semicolon insert "and separate the ballot papers relating to the election of councillors, if they have not yet become separated, from any ballot papers relating to election of members of the National Assembly".
Section 97(1)	After "candidates" insert "in a region" and for "fifty-three" substitute "such number as may be prescribed for the membership of the council of that region under section 15 of

Provision	How amended
	the Local Democratic Organs Act 1980.”
Section 97(4)	Delete.
Section 97(5)	Delete.
Section 98	After “including his own name” insert “if he is a candidate”.
Section 99	(a) In paragraph (d) for “National Assembly” substitute “council in respect of which the election was held.” (b) Substitute a full stop for the semicolon at the end of paragraph (d) and delete the remainder of the section.
Section 99A	Substitute the following—
	“Filling of casual vacancies in the case of members of a regional democratic council. 99A.(1) If the seat of a member of a council is vacant for any cause other than a dissolution of the council, the vacancy shall be filled by the person who is not a member of the council but is qualified for election as, and willing to become, such a member and whose name is taken from the relevant list of candidates by way of further extraction therefrom in accordance with the provisions of section 98 by the representative or deputy representative of such list or a person designated by a majority of persons named in such list, as the case may be, as shall be called upon so to do by the chairman of the council, following as nearly as may be the like method as was observed at the preceding election of members under that section, the name of every person who became a member of the council at that preceding election, or has since become a member, being ineligible for extraction under the foregoing provisions of this subsection; and if there is no person whose name is eligible therefor the seat shall remain vacant until it is filled consequent upon an ensuing election under that section. (2) In subsection (1) “relevant list of candidates” means the list in which was included the name of the member of the council vacating his seat or, where the

Provision	How amended
	vacancy exists because a person is held in proceedings under section 63 of the Local Democratic Organs Act 1980 not to have been qualified to be elected as such a member, the name of that person."
Section 100	For "the National Assembly" substitute "the council."
Section 104(2)	For "one thousand" substitute "five hundred."
Section 104(3)	For "one thousand" substitute "five hundred".
Section 106(1)(a)	Substitute the following— "(a) in excess of the sum of five hundred dollars multiplied by the number of candidates on the list of candidates but not exceeding the number of members prescribed under section 15 of the Local Democratic Organs Act 1980 for the council in respect of which the election is held;"
Section 131(e)	For "the National Assembly" substitute "any council."
Section 131(f)	For "the National Assembly" substitute "any council."
Section 135(1)(b)	For "the National Assembly" substitute "any council or any other local democratic organ."
Section 151	Delete.
Section 152	Substitute a colon for the full stop and insert the following proviso— "Provided that no person shall be entitled to any additional emoluments in respect of any election of members of any council which is held on the same day as any election of members of the National Assembly."

SCHEDULE

	For the subheading "General Elections" (as inserted by the Constitution of the Cooperative Republic of Guyana) (Adaptation and Modification of Laws) (Representation of the People) Order, 1980) substitute the subheading "General and Regional Elections."
Forms 1, 4, 5, 6, 7, 8, 9, 12, 13, 19, 20, 21 and 22.	For the subheading "General Elections" (as inserted by the Constitution of the Cooperative Republic of Guyana) (Adaptation and Modification of Laws) (Representation of the People) Order, 1980) substitute the subheading "Regional Elections."
Forms 2, 3, 23, 24, 26, 27 and 28.	
Form 2	(a) In the heading, after "List of Candidates" insert "for Region No." (b) For "National Assembly" substitute "regional democratic council for Region No. "
Form 3	(a) For "Members of the National Assembly in the general" substitute "members of the regional democratic council for Region No. in the regional". (b) For the paragraph numbered (2) in the declaration substitute— "(2) that I am aware of the provisions of section 17 of the Local Democratic Organs Act 1980 with respect to the qualifications and disqualifications for election as a member of a regional democratic council;" (c) In paragraph (3) of the declaration for "Member of the National Assembly" substitute "member of the regional democratic council for Region No. "
Form 4	For "the election" substitute "the elections."
Form 5	For Note 1 in Part A substitute— "1. This application, if approved, entitles the proxy to vote for you at both elections and disentitles you from voting in person at either of the two elections."

Forms 6 and 8	For "the election" substitute "the elections."
Form 9	After "National Assembly" insert "and the members of the regional democratic council for each region of Guyana".
Form 10	Substitute the following—

FORM 10
GENERAL AND REGIONAL ELECTIONS
DIRECTIONS FOR VOTING

1. The ballot sheet that is issued to you is divided by a horizontal perforated lime into two ballot papers of different colours. The top ballot paper relates to the National Assembly election and the bottom ballot paper relates to the Regional Democratic Council election.

2. You can vote for only one list of candidates on each ballot paper.

3. You should see that each ballot paper before it is handed to you has been stamped with the official mark at the back.

4. You are to go into one of the compartments and there place a cross within the blank space opposite the name and symbol of the list of candidates for which you wish to vote on each ballot paper.

You are to make the cross like this: "**X".**

5. When you have marked both of your votes, fold your ballot sheet so as to conceal your two votes but so as to show the official mark appearing at the back of each ballot paper. Then show that mark to the officer presiding and permit your finger to be immersed in electoral ink. After that fold the folded ballot sheet a second time and put it in the ballot box and leave the polling place.

6. If you accidentally spoil a ballot paper you may return your ballot sheet to the presiding officer who, on being satisfied of that fact, will give you another.

7. If you vote on any ballot paper for more than one list of candidates your vote on that ballot paper will be void and will not be counted. Likewise, both of your votes will be void and will not be counted if you place any mark on the ballot sheet by which you can afterwards be identified.

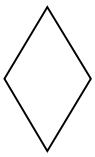
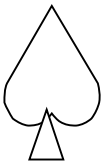
8. You must not tear or cut the ballot sheet.

Chief Election Officer.

Provision	How amended
Form 11	Substitute the following—

FORM 11
THE REPRESENTATION OF THE PEOPLE ACT

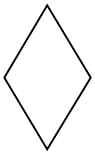
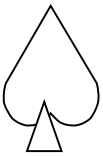
FORM OF BALLOT PAPER
GENERAL ELECTIONS

Counterfoil No ……	1.	C.O.N. The Conservative Party Candidates' List	
	2.	L.A.B. The Labour Party Candidates' List	
Elector's No . in Official List ……	3.	L.I.B. The Liberal Party Candidates' List	

……
……

Perforated Line

Provision	How amended
	REGIONAL ELECTIONS FOR REGION No……

Elector's No. in Official List ……..	1	F.A.R. The Farmers' Party Candidates' List	
	2	M.I.N. The Miners' Party Candidates' List	
	3	L.O.G. The Loggers' Party Candidates' List	

Provision	How amended
Form 19	For "this election" substitute "either of these two elections".
Form 22	For "list", "paper" (where it first occurs) and "this election" substitute respectively "lists", "papers" and "either of these two elections."
Form 23	For "General Election, 19...." substitute "Regional Election, 19...."
Form 26	For "general election held on the day of , 19 ," substitute "regional election held on the day of , 19 , for Region No. ,".
Form 27	In the second line of the first paragraph for "general election" substitute "regional election for Region No. ".
Form 28	In the second line of the first paragraph for "general election" substitute "regional election for Region No. ".
ELECTIONS (FORMS FOR POSTAL VOTERS) REGULATIONS	
Forms 1, 2, 3 and 4	For the subheading "General Elections" (as inserted by the Constitution of the Cooperative Republic of Guyana) (Adaptation and Modification of Laws) (Representation of the People Order 1980) substitute the subheading "General and Regional Elections."
Form 1	For "National" substitute "General and Regional".
Form 3	(a) In the statement by the witness, for "ballot paper" substitute "ballot sheet". (b) For the back of the form substitute the following— **"(Back of Form)** **Instructions to Postal Voter** 1. Enclosed herewith for the exercise of your votes at the General Elections and the Regional Elections, respectively, are— (i) a ballot sheet; (ii) an envelope marked "for ballot sheet only"; (iii) a larger envelope addressed to the Chief Election Officer who

Provision	How amended
	issued the ballot sheet to you; and (iv) a form of Declaration of Identity. 2. The ballot sheet is divided by a horizontal perforated line into two ballot papers of different colours. The top ballot paper relates to the General Elections and the bottom ballot paper relates to the Regional Elections. 3. You may vote in the following manner— (i) sign the Declaration of Identity in the presence of the witness; (ii) secretly mark the ballot paper in the manner set out below, fold it so as to conceal your vote, enclose it in the envelope marked "for ballot sheet only" and seal the envelope; (iii) enclose the signed Declaration of Identity together with the ballot envelope in the larger envelope addressed to the Chief Election Officer; (iv) seal the last mentioned envelope and post or deliver it to the office of the Chief Election Officer or deliver it to any returning officer for transmission to the Chief Election Officer; (v) obtain a receipt from the postal employee, returning officer or Chief Election Officer, for addressed envelope. 4. If you vote on any ballot paper for more than one list of candidates your vote on that ballot paper will be void and will not be counted. Likewise, both of your votes will be void and will not be counted if you place any mark on the ballot sheet by which you can afterwards be identified. 5. You should see that each ballot paper received has been stamped with the official mark. 6. You vote by making a cross like this "X" within the blank space on the right opposite the name and symbol of the List of Candidates for which you wish to vote on each ballot paper. 7. You should mark each ballot paper secretly; if you cannot vote without the assistance of some other person, that person must not disclose how you have voted. 8. If you receive more than one ballot paper in respect of the same election, remember that it is illegal to vote more than

Provision	How amended
	once. 9. As a postal voter at these elections you cannot vote at the polling place or by proxy. 10. Your vote to be counted should reach the returning officer or the Chief Election Officer not later than..... 11. You must not tear or cut the ballot sheet.”
Form 4	For “GENERAL ELECTIONS 19 ” substitute “GENERAL AND REGIONAL ELECTIONS 19 ”.

Sections 22, 24, 31

SECOND SCHEDULE
FORMS OF OATHS OF OFFICE

I, ...do hereby solemnly declare that I will faithfully execute the office

of..... ..... without fear or favour, affection or ill-will,

according to the best of my judgment and ability.

Section 32

THIRD SCHEDULE
AMENDMENTS TO THE MUNICIPAL AND DISTRICT COUNCILS ACT, CAP 28:01

Provision	How amended
Section 48(2)	Delete "Mayor, Deputy Mayor,".
Section 51	For the words before the semicolon substitute the following— "For the transaction of general business a council shall hold meetings at such intervals as may be specified under its constitution order or as it or the Minister may determine".
Section 170(c)	For "the City Council or the Town Council" substitute "a council".
Section 189(1)	For "section 40 of the Local Authorities (Elections) Act" substitute "section 17(1) of the Local Democratic Organs Act 1980".
Section 189(1)	For "section 40 of the Local Authorities (Elections) Act" substitute "section 17(1) of the Local Democratic Organs Act 1980.".
Section 190(2)	For "section 40 of the Local Authorities (Elections) Act" substitute "section 17(1) of the Local Democratic Organs Act 1980".
Section 257	Substitute the following— "257. A person who has a right to compensation under section 241 shall be paid compensation in accordance with article 142 of the Constitution."

Section 63

FOURTH SCHEDULE
AMENDMENTS TO THE NATIONAL ASSEMBLY (VALIDITY OF ELECTIONS) ACT CAP. 1:04

Provision	How amended
Section 13(3)	Substitite the following— The trial of an election petition shall be proceeded with notwithstanding the adjournment of the regional democratic council in respect of which the election was held and notwithstanding the resignation of any person as a member of that council."
Section 2 (1)	Substitute a colon for the full stop at the end of the subsection and insert the following proviso— "Provided that the number of persons admitted under this subsection shall not exceed three."
Section 28(2)	Substitute the following— Cap. 1:03 "(2) Every vacancy in any regional democratic council in consequence of any such declaration shall be filled in the manner provided by section 99A of the Representation of the People Act as modified by section 18 (2) of the Local Democratic Organs Act 1980."
Section 31(1)	(a) After "effective" insert "local". (b) In the proviso insert a full stop after "in due course" and delete the remainder of the proviso.
National Assembly (Validity of Elections) Rules, Cap. 1:04 Appendix Form I	In the heading, for "NATIONAL ASSEMBLY" substitute "REGIONAL DEMOCRATIC COUNCIL FOR REGION NO."
Forms 2, 3, 4, 5, 6, 7, 8 and 9	Between the end of the heading or headings and the commencement of the text insert the following subheading— "(Regional Election for Region No.)"

END OF: LOCAL DEMOCRATIC ORGANS ACT NO. 12 OF 1980

AUDIT ACT NO. 5 OF 2004

S16

GUYANA

AUDIT ACT NO. 5 OF 2004

I assent,

Bharrat Jagdeo
President
28th April, 2004.

ARRANGEMENT OF SECTIONS

SECTION

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43. Performance and financial report
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PART VIII
REPEAL

46. Repeal
47. Power to remove difficulties.

AN ACT to set out the responsibilities and authority of the Auditor General; to strengthen Parliamentary oversight over the work of the Auditor General; to provide for the establishment and administration of an independent Audit Office; and to regulate such other matters connected with or incidental to the independent auditing of the finances of Guyana.

A.D. 2004 **Enacted by the Parliament of Guyana.**

PART I
PRELIMINARY

Short title and commencement.

1. (1) This Act may be cited as the Audit Act 2004.

(2) This Act shall come into operation on such date as the Minister responsible for Finance may, by Order, prescribe:

Provided that the Act shall come into operation no later than one year from the date of its enactment.

Interpretation

2. In this Act, unless the context otherwise requires -

No.20 of 2003

"annual budget proposal", "appropriation", "Budget Circular", "budget agency", "Head of a budget agency", "official", and "Programme Performance Statement" have the same meanings as in the Fiscal Management and Accountability Act 2003.

No.7 of 1991.

"Chartered Accountant in public practice" means a Chartered Accountant or firm of Chartered Accountants authorized by the Institute of Chartered Accountants of Guyana to engage in public practice under section 11 of the Institute of Chartered Accountants of Guyana Act 1991.

"concerned Minister" means the Minister assigned responsibility for the relevant budget agency or other public entity;

No.20 of 2003

"consolidated financial statements" means the consolidated financial statements prepared under section 73 of the Fiscal Management and Accountability Act 2003;

"expenditure" means payments of public moneys authorized by an appropriation Act or any other law or a resolution of the National Assembly;

"prescribed date" means the date prescribed by the Minister responsible for finance under section 1(2);

"Public Accounts Committee" referred to in article 223(5) of the Constitution means the Public Accounts Committee established by order 70(2) of the Standing Orders of the National Assembly;

"revenue" means all tolls, taxes, imposts, rates, duties, fees, fines penalties, forfeitures, rents, dues, proceeds of sale and all other receipts of the Government, from whatever

source arising, over which parliament has the power of appropriation, including the proceeds of all loans raised and all grants and gifts received by the Government;

"Rules, Policies and Procedures Manual" means the Rules, Polices and Procedures Manual made under section 11.

PART II
THE AUDITOR GENERAL

Auditor General; Audit Office.

3. (1) There shall, in accordance with article 223 of the Constitution, be an Auditor General for Guyana, whose office shall be a public office.

(2) There shall be an Audit Office comprising the Auditor General and the officers and employees appointed thereto.

Functions.

4. (1) The Auditor General shall be the external auditor of the public accounts of Guyana and, in the discharge of his functions, shall have complete discretion in examining and reporting on the receipt, disbursement, and control of public moneys and on the economy, efficiency and effectiveness in the use of such moneys.

(2) Without prejudice to subsection (1), the Government may cause an additional audit to be conducted by an auditor other than the Auditor General where an agreement entered into between the Government and an international financial institution so dictates.

(3) Without prejudice to subsections (1) and (2), the Minister responsible for Finance may request the Public Accounts Committee to cause an additional audit to be conducted by an auditor other than the Auditor General.

(4) Notwithstanding anything in this Act or any other law, Government's right to conduct or cause to be conducted internal audits remains unimpaired.

Independence.

5. The Auditor General shall, in accordance with article 223(4) of the Constitution, act independently in the discharge of his functions.

Conflict of interest.

6. (1) The Auditor General shall not have a direct or indirect official role in any private or professional entity or activity that he could profit from or influence through his powers as Auditor General and he shall declare to the Public Accounts Committee any of his commitments, obligations or investments which may present a real or perceived conflict of interest.

(2) The Auditor General may act as an officer of, collaborate with, or participate in the activities of professional auditing or accounting organizations and standard-setting bodies whose activities cannot be perceived to be in conflict with his duties.

Oath.

7. The Auditor General shall not enter upon the duties of his office unless he has taken and subscribed before the Speaker of the National Assembly the oath in the form set out in the First Schedule to the Constitution.

Conditions of Service

8. The salary, superannuation, benefits and other conditions of service of the Auditor General shall be the same as those of the Chief Justice.

Removal from office.

9. The Auditor General may be removed from office only in accordance with the provisions of article 225 of the Constitution.

Seal.

10. The Auditor General shall maintain the seal of the Audit Office and shall determine under what circumstances it shall be used.

Regulations.

11. (1) The Auditor General may, with the approval of the Public Accounts Committee, make regulations for the administration of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may include a Rules, Policies and Procedures Manual regarding the management and operation of, the conduct of audits by, and the standards by which such audits shall be conducted by the Audit Office.

(3) Within fifteen days of the publication in the *Gazette* of any regulations made under this section, the Public Accounts Committee shall cause to be lodged with the Clerk of the National Assembly a copy of the regulations and a notice of motion for the confirmation of the regulations by the Assembly.

(4) As soon as practicable thereafter, the regulations shall be laid before the National Assembly and the motion moved therein.

(5)The National Assembly may confirm the regulations with or without amendment or may revoke them, and the regulations shall come into operation upon the publication of the resolution in the *Gazette*.

Authority.

12. For the purpose of discharging the functions of his office, the Auditor General may, subject to the provisions of this Act or any other law, do anything and enter into any transaction including -

(a) establishing and implementing human resource management systems and policies;

(b) developing and maintaining such systems, whether by computer or other means, for the collection, storage, analysis, and retrieval of information; and

(c) formulating procedures for conducting audit work.

PART III

OFFICERS AND EMPLOYEES OF THE AUDIT OFFICE

Job descriptions.

13. The Auditor General shall establish job descriptions with clearly defined qualifications, responsibilities and performance expectations for all positions in the Audit Office.

Appointment and discipline

14. (1) Subject to subsection (3), within the framework of the budget approved for the Audit Office, the Auditor General shall assess staffing needs, and appoint, pay, train, assign, promote, and discipline officers and employees in accordance with the Constitution, this Act, the Rules, Policies and Procedures Manual and any other law.

(2) The officers and employees shall be appointed at such remuneration and on such other terms and conditions as the Auditor General may decide, within the framework of the budget approved for the Audit Office, taking into consideration the Rules, Policies and Procedures Manual.

(3) The Auditor General's appointment and discipline of all senior officers and senior employees shall be subject to approval by the Public Accounts Committee.

Laws administered

15. The Rules, Policies and Procedures Manual and all other laws shall be administered to ensure that -

(a) there is fair and equal treatment of individuals applying for or offered appointments;

(b) appointment and promotion decisions are made on the qualification and merit of every individual eligible for consideration; and

(c) in disciplinary matters, the right to be heard and to make representations is guaranteed.

Disengagement and re-employment.

16. (1) Before the prescribed date -

(a) the Auditor General shall identify such of the officers and employees of the existing office of the Auditor General as he wishes to re-employ in the Audit Office with effect from the prescribed date and the terms and conditions of such re-employment;

(b) the Auditor General shall notify every officer and employee in writing as to whether approval has been granted for his re-employment under paragraph (a) and, if so, the terms and conditions of such re-employment;

(c) every officer and employee in receipt of an offer of re-employment under paragraph (b) shall respond to the Auditor General in writing accepting or rejecting the offer of re-employment; and

(d) every officer and employee not in receipt of or rejecting an offer of re-employment under this subsection shall be referred to the Public Service Commission for appropriate action by that Commission.

(2) With effect from the prescribed date, every officer and employee accepting an offer of re-employment under subsection (1) shall be re-employed on such terms and conditions as determined by the Auditor General, within the framework of the budget approved for the Audit Office.

Pension.

Cap. 27:02

17. (1) For the removal of doubt, with effect from the prescribed date, the officers and employees of the Audit Office shall not be public officers, and service within the Audit Office with effect from the said date shall not be pensionable service for the purposes of the Pensions Act.

(2) Every officer and employee re-employed within the Audit Office under section 16(2) shall receive superannuation with respect to his pensionable service prior to the prescribed date on attainment of the age of fifty-five years and, for that purpose, his pensionable emoluments on attainment of the age of fifty-five years shall be deemed to be his pensionable emoluments on the date immediately preceding the prescribed date.

(3) The Auditor General may, within the framework of the budget approved for the Audit Office, make provision for the payment of pension, gratuity or other allowance in respect of the service of the officers and employees of the Audit Office on and after the prescribed date on their retirement therefrom.

PART IV
CONTRACTING OF TECHNICAL EXPERTS AND CHARTERED ACCOUNTANTS IN PUBLIC PRACTICE

Employment of contractors.

18. In the discharge of his functions, the Auditor General may engage the services of technical experts and Chartered Accountants in public practice to serve on a contract basis for limited audit engagements including those required as part of agreements with international organizations.

Guidelines for contracting..

19. In contracting with technical experts and Chartered Accountants in public practice, the Auditor General shall, subject to this Act, follow the detailed guidelines in the Rules, Policies and Procedures Manual to –

(a) recruit and determine the terms of employment and remuneration;

(b) in selecting from among applicants, receive recommendations from a committee comprising the Finance Secretary, the Governor of the Bank of Guyana, the Commissioner General of the Guyana Revenue Authority, a representative of the Institute of Chartered Accountants of Guyana (who is not in public practice) and the Head of the Department of Management Studies at the University of Guyana;

(c) award the contract;

(d) determine the manner in which the required work shall be completed;

(e) approve the audit plan and audit procedures (scope and methodology) for the assignment;

(f) review the work-papers, reports, and the opinion (in the case of a financial audit) prepared by the contractor; and

(g) request additional work if he deems it necessary to satisfy the terms of the contract.

Obligations of contractors.

20. In discharging their functions, technical experts and Chartered Accountants in public practice engaged under contract with the Audit Office shall be required to follow auditing standards approved for use by the Auditor General and shall be subject to the Rules, Policies and Procedures Manual.

Limit on tenure.

21. The Auditor General shall not contract a Chartered Accountant in public practice to perform audit services with respect to the same entity for more than six consecutive years.

Limit on scope of work..

22. Chartered Accountants in public practice contracted by the Auditor General under this part shall not provide tax or accounting advice or management consulting services to any entity with respect to which they are contracted by the Auditor General to provide audit services.

Authority.

23. The Auditor general may delegate to technical experts and Chartered Accountants in public practice contracted under this Part such of his powers under this Act and any other law as may be necessary for the purposes of performing the contracted audit engagement.

PART V
AUDITS, REPORTS AND POWERS

Types of audit.

24. (1) As external auditor of the public accounts of Guyana, the Auditor General shall be responsible for conducting –

(a) financial and compliance audits; and
(b) performance and value-for-money audits,

with respect to –

(i) the consolidated financial statements;

(ii) the accounts of all budget agencies;

(iii) the accounts of all local government bodies;

(iv) the accounts of all bodies and entities in which the State has a controlling interest; and
(v) the accounts of all projects funded by way of loans or grants by any foreign State or organization.

(2) In conducting financial and compliance audits, the Auditor General shall examine in such manner as he deems necessary the relevant financial statements and accounts and ascertain whether -

(a) the financial statements have been properly prepared, in accordance with applicable law, and properly present the operations and affairs of the entity concerned;

(b) the accounts have been faithfully and properly kept;

(c) the rules, procedures and internal management controls are sufficient o secure effective control on the assessment, collection and proper allocation of revenues;

(d) all moneys expended and charged to an account have been applied to the purpose or purposes for which they were intended; and

(e) essential records are maintained, and the internal management controls and the rules and procedures established and applied are sufficient to safeguard the control of stores and other public property.

(3) In conducting performance and value-for-money audits, the Auditor General shall examine the extent to which a public entity is applying its resources and carrying out its activities economically, efficiently, and effectively and with due regard to ensuring effective internal management control.

Annual report.

25. The Auditor General shall report at least annually, and within nine months of the end of each fiscal year, on the results of his audit of the consolidated financial statements and the accounts of budget agencies in relation to that fiscal year.

Special report.

26. During the course of the year, the Auditor General may choose to conduct special audits and at his discretion prepare special reports when such audits are completed.

Responses to draft reports.

27. At the conclusion of any audit, the Auditor General shall provide the relevant Head of a budget agency, or the governing body in the case of other public entities, with a draft report including findings and recommendations, and the Head of the budget agency or the governing body shall provide a written response to the Auditor General within thirty days, which response the Auditor General shall include in his report to be submitted for laying before the National Assembly.

Submission of report

28. The Auditor General shall, in accordance with article 223(3) of the Constitution, submit his reports to the Speaker of the National Assembly, who shall cause them to be laid before the Assembly.

Availability of reports

29. Reports of the Auditor General, when laid before the National Assembly, may be made available by the Auditor General to the public for a cost recovery fee.

Requirement to provide information.

30. The Head of a budget agency, or the governing body in the case of other public entities, shall ensure that the Auditor General has access at all reasonable times to the documents of the budget agency or entity relating to the discharge of the Auditor General's functions. This shall include providing reasonable, suitable and secure space for the Audit Office to conduct its work. The Head of a budget agency or governing body shall also furnish the Auditor General from time to time or at regular periods, as may be specified by the Auditor General, with the accounts of the transactions of the budget agency or entity.

Power to obtain information.

31. For the purpose of the discharge of his functions, the Auditor General may require a public entity, or any officer or employee of a public entity, to -

(a) produce a document in the entity's or person's custody, care or control; and

(b) provide the Auditor General with information or an explanation about any information.

Power to obtain evidence..

32. The Auditor general may, in the course of the discharge of his functions, require a person to give evidence either orally or in writing.

Power to inspect bank accounts.

33. For the purpose of the discharge of his functions, the Auditor General may examine or audit the account of any person in any bank if the Auditor General has reason to believe that moneys belonging to a public entity have been fraudulently or wrongfully paid into such person's account, except that -

(a) to exercise this authority, the Auditor General shall establish that information obtained shall not be used for any purpose other than intended, and shall first obtain a warrant from a court authorizing such examination;

(b) when presented with the warrant, the bank through its officer shall produce any documents or provide requested information relating to the relevant account; and

(c) the Auditor General may make copies of any documents so produced.

Access to premises

34. For the purpose of obtaining documents, information or other evidence relevant to any matter arising in the discharge of his functions, the Auditor General or any officer so authorized by him may, at all reasonable times and with proper identification -

(a) enter into and remain on a public entity's premises;

(b) enter into and remain on any other premises if so authorized by a warrant issued by a court on the grounds that there is reason to believe that documents or other information relating to the activities of a public entity may be held at those premises; and

(c) carry out a search for documents, examine documents, or make copies of documents.

Disclosure of information.

35. (1) No person shall, without the written consent of the Auditor General, publish or disclose information obtained in the course of an audit to any person other than in the course of his duties or when lawfully required to do so by a court.

(2) Every person conducting an audit shall regard and deal with all documents and information relating to the audit as secret and confidential and shall make and subscribe a declaration in the form prescribed to that effect before the Auditor General.

36. Where the Auditor General renders a service to an entity other than a budget agency or a foreign-funded project, he may charge a cost recovery fee which shall be paid into the Consolidated Fund.

PART VI
OFFENCES

Offences.

37. A person commits an offence who, knowingly and without lawful justification or excuse -

(a) intentionally obstructs, hinders or resists the Auditor General or an officer authorized by him in the exercise of his power under this Act;

(b) intentionally refuses or fails to comply with any lawful requirement of the Auditor General;

(c) makes a statement or gives information to the Auditor General or an officer authorized by him knowing that the statement or information is false or misleading;

(d) represents directly or indirectly that the person holds any authority under this Act when the person knowingly does not hold that authority; or

(e) contravenes or violates the provisions of section **35**.

Requests for prosecution.

38. If the Auditor General has reason to believe that an offence was committed, he shall request the Director of Public Prosecutions and the Commissioner of Police to take appropriate action and prosecute the offender if necessary.

Penalties

39. A person who is convicted of an offence under section **38** is liable, on summary conviction, to a fine not to exceed two hundred thousand dollars and to imprisonment for a term not to exceed five years; an entity or body of persons which is convicted of such an offence is liable, on summary conviction, to a fine not to exceed one million dollars.

PART VII
FINANCES AND ACCOUNTABILITY OF THE AUDIT OFFICE

Funds of the Audit Office.

40. (1) The expenditure of the Audit Office shall, in accordance with article 222A(a) of the Constitution, be financed as a direct charge on the Consolidated Fund, determined as a lump sum by way of an annual subvention approved by the National Assembly after review and approval of the Audit Office's budget as a part of the process of the determination of the national budget.

(2) For the removal of doubt, at an appropriate time within the timetable established by the Minister responsible for finance for the preparation of the annual budget proposal –

(a) the Auditor General shall prepare, in accordance with the rules, procedures and guidelines set out in the Budget Circular, and submit to the Public Accounts Committee a budget submission for the Audit Office, including work plans and programmes, for the next ensuing fiscal year;

(b) the Public Accounts Committee shall review the budget submission made under paragraph (a) and provide comments for consideration by the Auditor General;

(c) after considering comments from the Public Accounts Committee, the Auditor General shall revise the budget submission and re-submit it to the Public Accounts Committee for endorsement;

(d) the Public Accounts Committee shall, no later than ninety days before the commencement of the next ensuing fiscal year, forward the revised budget submission for that year, together with its comments thereon, to the Minister responsible for finance for consideration and inclusion in the annual budget proposal; and

(e) the Minister responsible for finance shall include in the annual budget proposal a subvention for the Audit Office within the allocations of the Parliament Office to be voted on by the National Assembly.

Application of funds.

41. (1) The Auditor General shall, in accordance with article 222A(b) of the Constitution, manage the subvention of the Audit Office in such manner as he deems fit for the efficient discharge of his functions, subject only to conformity with the financial practices and procedures approved by the National Assembly to ensure accountability.

(2) Expenses to be paid from this subvention shall include –

(a) salaries and allowances of the officers and employees of the Audit Office;

(b) the fees for such reasonable travelling transportation and subsistence allowances as required by officers and employees engaged in conducting the business of the Audit Office; and

(c) reasonable costs for training and professional development activities.

Periodic reports.

42. The Auditor General shall prepare and submit to the Public Accounts Committee, within four weeks of the end of each quarter, a quarterly report on the performance and operation of the Audit Office in the format of a Programme Performance Statement.

Performance and financial reports

43. The Auditor General shall submit to the Public Accounts Committee, within four months of the end of each fiscal year, an Annual Performance and Financial Audit Report, which shall include a Programme Performance Statement for that year, with respect to the Audit Office.

Independent audit.

44. The Public Accounts Committee shall, in respect of each fiscal year, appoint an independent auditor to audit and report on the financial statements, accounts, and other information relating to the performance of the Audit Office that year. This may include awarding the contract to an international firm.

General supervision.

45. The Public Accounts Committee may, in accordance with article 223 of the Constitution, exercise general supervision over the functioning of the Audit Office, including the functions of the Auditor General under Part III, in accordance with the Rules, Policies, and Procedures Manual and any other law.

PART VIII
REPEAL

Repeal.
Cap. 73:01

46. The unrepealed provisions (Parts I and IV) of the Financial Administration and Audit Act are hereby repealed.

Power to remove difficulties

Cap. 73:01.

47. The Minister responsible for finance may, for the purpose of removing any difficulty in giving effect to the provisions of this Act, particularly in relation to the transition from the provisions of the Financial Administration and Audit Act to the provisions of this Act, make such Order or give such direction not inconsistent with the provisions of this Act, as appears to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such Order or direction shall be made or given after the expiry of two years from the commencement of this Act.

END OF: AUDIT ACT NO. 5 OF 2004.

FISCAL MANAGEMENT AND ACCOUNTABILITY ACT

NO. 20 OF 2003

S17

FISCAL MANAGEMENT AND ACCOUNTABILITY ACT NO.20 OF 2003

I assent,

Bharrat Jagdeo,
President.
16th December, 2003.

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SCHEDULE - Budget Agencies

AN ACT **to provide for the regulation of the preparation and execution of the annual budget; the receipt, control and disbursement of public moneys; the accounting for public moneys; and such other matters connected with or incidental to the transparent and efficient management of the finances of Guyana.**

A.D. 2003

Enacted by the Parliament of Guyana:-

PART I
GENERAL PROVISIONS

Short title and commencement.

1. (1) This Act may be cited as the Fiscal Management and Accountability Act 2003.

(2) This Act shall come into operation on such date as the Minister may, by Order, prescribe, and different dates may be prescribed for different sections of the Act:

Provided that the whole Act shall come into operation no later than one year from the date of its enactment.

Interpretation.

2. (1) In this Act -

"accounting standards" means the rules and procedures relating to the measurement, valuation and disclosure of accounting transactions;

"amortisation payments" means the repayment of debt by a borrower in a series of instalments over a period of time and includes both a payment that constitutes a partial repayment of the principal of the debt and a payment that comprises a partial repayment of the principal of the debt and interest on the debt;

"annual budget" means the financial plan for the delivery of the Government's programmes and policies for a fiscal year, which financial plan shall include-

(a) estimates of the revenues from all sources during the fiscal year;

(b) estimates of the current expenditures to be made during the fiscal year;

(c) estimates of the capital expenditures to be made during the fiscal year;

(d) in the case of a projected surplus, the allocation of that surplus; and

(e) in the case of a projected deficit, the sources and amounts of financing required to fund that deficit;

"annual budget proposal" means the proposed budget for a fiscal year prepared by the Ministry in accordance with section 15;

"annual estimates" means the forecasted levels of Government receipts and expenditures, including separate estimates of all statutory expenditures, that are expected to be received or made during a fiscal year;

"appropriation" means any authority of Parliament to pay money out of the Consolidated Fund, and that stipulates the purpose of the expenditure and an amount of money representing the maximum that may be expended for the specified purpose;

"Auditor General" means the Auditor General appointed pursuant to Article 223(l) of the Constitution;

No.1 of 1995.

"bank" has the same meaning as in the Financial Institutions Act, and notwithstanding anything in the said Act, includes a deposit-taking institution that is licensed to carry on the business of banking outside of Guyana and that is endorsed by the Bank of Guyana as an institution capable of providing safe custody of public moneys;

Schedule.

"budget agency" means a public entity for which one or more appropriations are made and which is named in the Schedule;

“Budget agency receipts” means Government receipts of a budget agency,

"Budget Circular" means the circular prepared by the Minister in accordance with section 13;

"capital expenditure" means any expenditure for the acquisition of tangible and intangible fixed assets, including land, equipment, services and government stocks, of more than a prescribed value to be used for longer than one year in the process of production;

"commitment" means an amount of public moneys that must be expended now or in the future as a result of a legally enforceable contract or other arrangement for which the State is liable entered into by a Head of a budget agency or an official authorised by a Head of a budget agency;

"concerned Minister" means the Minister assigned responsibility for the relevant budget agency;

“conditional appropriation” means an appropriation that has been marked to indicate that the amount appropriated may be supplemented by a specified amount of additional appropriation tied to budget agency receipts pursuant to an agreement with the Minister referred to in section 21(4);

"Consolidated Fund" means the aggregate of all public moneys that are on deposit at the credit of the State;

“Contingencies Fund advance” means an expenditure out of the Consolidated Fund pursuant to section 41(3);

"Contingencies Fund" means the sub-fund of the Consolidated Fund established by the Minister pursuant to section 41(1);

“contingent liability” means a future commitment, usually to spend public moneys, which is dependent upon the happening of a specified event or the materialisation of a specified circumstance;

“current expenditure” means any expenditure other than a capital expenditure;

"Deposit Fund" means a fund established by the Minister pursuant to section 42;

“enabling legislation” means an Act or other law authorising the establishment of a public entity, designating a minister responsible for that public entity, and setting out the fiscal management rules and procedures under which the public entity is to operate;

"End of Year Budget Outcome and Reconciliation Report" means a report reconciling the planned execution of the annual budget for a fiscal year and the out-turn of that budget prepared by the Ministry pursuant to section 68;

"entitlement payment" means a payment to any person under a social security programme, unemployment programme or poverty alleviation programme or who meets eligibility criteria for payment set out in any other programme or pursuant to any law;

"Extra-budgetary Fund" means a fund established by an Act for a specific purpose and funded by specific earmarked revenue, that operates apart from the Consolidated Fund with the result that the transactions of the fund are not included in the annual budget;

"Finance Circular" means an instruction issued by the Finance Secretary pursuant to paragraph 9(2)(a);

“Finance Secretary” means the permanent secretary appointed pursuant to section 9;

“fiscal year” means the period beginning on January 1 of each year and ending on December 31 of that year or such other period as the Minister may by order prescribe;

"financing" means, in the case of a budget deficit, the instruments issued by the State to obtain the financial resources required to fund that budget deficit and, in the case of a budget surplus, means the allocation of that budget surplus;

"Fund", as the context requires, means the Consolidated Fund, the Contingencies Fund, an Extra-budgetary Fund, or a Deposit Fund;

"Government guarantee" means a contingent liability that is an obligation undertaken by the Government to pay the debt of a third party in the event that the third party defaults on its debt obligation;

"Government receipts" means moneys and other assets received by or owing to the State, including –

(i) taxes, excise and custom duties;

(ii) fees and charges, including royalties, licensing fees and revenues from the sale or lease of any rights controlled by the State;

(iii) non-tax receipts, including budget agency receipts and the proceeds from the sale of goods and services;

(iv) fines, penalties, forfeits, confiscations and settlements arising from judicial processes;

(v) dividends and profit-sharing paid to the State by public enterprises, statutory bodies and the Bank of Guyana;

(vi) proceeds from the sale or lease of any public property;

(vii) interest earned on the investment of assets of the State; and

(viii) transfers to and grants and gifts received by the State;

"Head of a budget agency" means the permanent secretary, acting permanent secretary or other official as may be designated by the Finance Secretary pursuant to section 10;

"long-term public debt" means public debt having a term to maturity of greater than twelve months;

"Minister" means the Minister assigned responsibility for finance;

"Ministry", unless the context requires otherwise, means the Ministry under the supervision of the Minister responsible for finance;

“official” means an individual who is in, or is part of, a budget agency as an employee of the Government on a full-time, part-time, or contracted basis;

"official bank account” means a bank account opened on behalf of the Government pursuant to section 45(1) that has been designated as "official" pursuant to section 45(2);

“out-turn” means the actual amount of Government receipts received or the actual amount of current and capital expenditures made during a fiscal year;

"programme" means a collection of activities funded by an appropriation with the aim of creating the impact or impacts set forth in the programme's statement of objective or objectives;

"programme impact" means the consequences to the community that result from the implementation of a particular programme;

"Programme Performance Statement" means the collection of programme reports prepared pursuant to section 72 by each budget agency in respect of the programmes administered by that budget agency;

"public debt" means indebtedness of the State;

"public debt obligation" means an instrument or other document evidencing public debt;

"public enterprise" means a business or entity engaged in market production in which the State has a controlling interest;

"public moneys" means all moneys belonging to the State received or collected by officials in their official capacity or by any person authorised to receive or collect such moneys and, without limitation, includes –

(a) tax and non-tax revenue collections authorised by law;

(b) grants to the Government;

(c) budget agency receipts;

(d) moneys borrowed by the State or received through the issuance and sale of securities;

(e) moneys received or collected for and on behalf of the State; and

(f) moneys that are paid to or received or collected by an official pursuant to any law, trust or other agreement which moneys are to be disbursed for a purpose set out in that law, trust or agreement;

"public property" means all property, other than moneys -

(a) belonging to or under the control of the State; and

(b) in the custody of or under the control of any person acting for or on behalf of the State in respect of that property,

including all property that is held by the State in trust for, or otherwise for the benefit of, any other person;

"Regulations" means regulations made under this Act;

“revolving fund” means a fund authorised pursuant to an appropriation Act or an appropriation amendment Act authorising the expenditure of budget agency receipts by a budget agency for specified purposes and subject to a draw-down limit;

"short-term public debt" means public debt having a term to maturity of twelve months or less;

"statutory body" means a public entity that has been established by law;

“statutory expenditure” means any expenditure that constitutes a charge on the Consolidated Fund pursuant to the Constitution.

(2) With effect from the commencement of this Act, every reference in any written law to the Secretary to the Treasury shall be read and construed as a reference to the Finance Secretary.

Delegation of functions.

3. Subject to this Act, the Minister may, by instrument in writing, delegate to an official any of the Minister's functions under this Act.

Regulation-making power.

4. The Minister may make Regulations prescribing any matter -

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for the carrying out or giving effect to the provisions of this Act.

Regulations, contents and laying.

5. (1) In particular, the Minister may make Regulations -

(a) relating to matters including -

(i) handling, spending and accounting for public moneys;

(ii) commitments to spend public moneys;

(iii) procedures for the incurring of debt by the State;

(iv) recovering amounts owing to the State; and

(v) using or disposing of public property or acquiring property that is to become public property;

(b) relating to the use of technology as it applies to the operation and management of the financial and accounting system of the State, including-

(i) electronic authorisations;

(ii) electronic certifications,

(iii) digital signatures; and

(iv) techniques relating to the security, integrity and access to financial information; and

(c) generally for ensuring or promoting -

(i) the transparent, efficient and proper use and management of public moneys, public property and the financial assets and liabilities of the State; and

(ii) proper accountability for the use and management of public moneys, public property and the financial assets and liabilities of the State.

(2) All Regulations made pursuant to this section shall, as soon as is practicable, be laid before the National Assembly.

Power to recover public moneys not affected by this Act.

6. Nothing in this Act shall extend in any way to abridge or alter the rights and powers of the Government under any other law to control, suspend or prevent the execution of any process or proceeding for the recovery of moneys owing or otherwise due to the State.

PART II
RESPONSIBILITY FOR FISCAL MANAGEMENT

Responsibilities of the Minister.

7. (1) In addition to any responsibilities that the Minister may have under any other law, the Minister shall, among other matters, be responsible for -

(a) preparing the Budget Circular;

(b) presenting the annual budget proposal to the National Assembly;

(c) presenting any supplementary or amending estimates proposals to the National Assembly,

(d) controlling and monitoring execution of the annual budget and, within the powers and authority vested in the Minister under this Act, adjusting budget allocations seeking to achieve the fiscal objectives set out in the annual budget;

(e) managing and accounting for the finances and the public debt of the State, including contingent liabilities;

(f) publishing regular reports on the progress of the execution of the annual budget; and

(g) preparing consolidated financial statements for the Government for subsequent audit by the Auditor General and presentation to the National Assembly.

(2) In addition to the responsibilities set out in subsection (1), the Minister shall determine the organisational structure of the Ministry in a manner that will best support the Minister in carrying out the Minister's responsibilities under this Act.

Responsibilities of the Ministry.

8. (1) The responsibilities of the Ministry as they pertain to the budget function shall include -

(a) managing the preparation of the annual budget proposal;

(b) providing advice to the Minister on options to improve the cost of effective delivery of programmes;

(c) setting expenditure control limits based on annual appropriations.

(d) monitoring, controlling and reporting on key fiscal aggregates during budget execution;

(e) monitoring, controlling and reporting on the execution of the current and capital components of the annual budget;

(f) coordinating the participation of the Ministry in programme evaluations;

(g) preparing an End of Year Budget Outcome and Reconciliation Report which shall form part of the annual consolidated financial statements; and

(h) advising the Minister throughout the fiscal year on adjustments that may need to be made to the financial plan contained in the annual budget to ensure that fiscal targets are met.

(2) Responsibilities of the Ministry as they pertain to the treasury function shall include-

(a) cash execution of the annual budget;

(b) management of the banking arrangements of the State;

(c) management of the public debt and cash flow;

(d) operation of the payments system;

(e) overseeing and monitoring the accounting function; and

(f) operation and management of the financial and accounting system of the State,

Appointment and responsibilities of the Finance Secretary.

9. (1) There shall be a Finance Secretary who shall be a permanent secretary.

(2) The Finance Secretary, in addition to any responsibilities delegated to him by the Minister, shall –

(a) have authority to issue Finance Circulars -

(i) to define procedures necessary for the implementation of this Act and the Regulations; and

(ii) to define procedures necessary to enhance the transparency of and accountability for the use of public moneys;

(b) take all proper steps to ensure that the provisions of this Act, the Regulations and the Finance Circulars are -

(i) complied with;

(ii) appropriately amended to ensure that they are current and reflect best fiscal management practice; and

(iii) made available to all persons having responsibility for the management of public finances;

(c) at any time, be entitled to inspect any Government office, public property or other asset in the custody of officials; and

(d) upon request to an appropriate official, be given prompt access at all times to bank account records and other financial records and documents that pertain to the management of and accounting for public moneys and the financial assets and liabilities of the State.

(3) The Finance Secretary may by instrument in writing delegate to an official all or any of the powers set out in paragraph (2)(c) or (2)(d).

Designation and accountability of a Head of a budget agency.

10. (1) In the case of a budget agency where there is no permanent secretary or acting permanent secretary, or where the responsibility for managing the affairs of a budget agency does not rest directly with a permanent secretary or acting permanent secretary, the Finance Secretary shall, on or before the time of the submission to the National Assembly of the annual budget proposal or thereafter if the need arises, designate an appropriate official as Head of that budget agency for the purposes of this Act.

(2) A Head of a budget agency shall be required to provide such explanations and information as may be required by the National Assembly in its examination of the consolidated annual financial statements.

(3). A Head of a budget agency shall comply with all relevant provisions of this Act, the Regulations, the Finance Circulars, and any other instructions in relation to the proper management of the financial resources of the State.

Responsibilities of a Head of a budget agency.

11. (1) Each Head of a budget agency shall manage the affairs of that budget agency in a manner that promotes the proper use of the public resources for which that Head of a budget agency is responsible and, in particular, shall -

(a) implement appropriate processes and procedures to prevent the incidence of fraud, embezzlement or misappropriation of public moneys for which the Head of a budget agency is responsible;

(b) maintain an effective internal audit capability within the budget agency;

(c) pursue collection of each debt for which the Head of a budget agency is responsible, unless -

(i) the debt has been written off under the authority of an Act;

(ii) the Minister is satisfied that the debt is not legally recoverable; or

(iii) with the agreement of the Minister, the Head of a budget agency deems that it is not economical to pursue collection of the debt;

(d) identify and assign clear responsibilities for -

(i) coordinating the preparation of the budget submissions for the budget agency;

(ii) the budgeting and financial management systems of the budget agency, including the allocation and management of drawing rights, and the processing of payment orders;

(iii) maintaining the financial management information system for the budget agency;

(iv) operating agency-specific bank accounts approved by the Minister;

(v) the security of and accounting for all cash and other financial assets held on the premises occupied by the budget agency; and

(vi) maintaining financial accounts and registers as required by the Minister, the Regulations, the Finance Circulars or the management of the budget agency.

(2) The Head of a budget agency shall provide to the Finance Secretary any information that is requested concerning the affairs of the budget agency for which that Head of a budget agency has responsibility.

(3) A Head of a budget agency may issue instructions to officials in his budget agency in order to give effect to the responsibilities set out in this section, provided that such instructions are consistent with any Regulations, Finance Circulars, and Public Service Rules that may be relevant.

(4) For the purposes of this section, "proper use" shall mean efficient, effective and ethical action in accordance with the provisions of this Act, any other Act, the Regulations, and the Finance Circulars specifying accepted financial management practice.

PART III
BUDGET PREPARATION AND PRESENTATION TO THE NATIONAL ASSEMBLY

Timetable for budget.

12. The Minister shall, not later than one hundred and eighty days prior to the commencement of each fiscal year, establish a timetable for the preparation of the annual budget proposal pertaining to the next ensuing fiscal year.

Budget Circular.

13. (1) The Minister shall, not later than one hundred and eighty days prior to the commencement of each fiscal year, prepare and distribute a Budget Circular to all budget agencies.

(2) The Budget Circular shall include -

(a) the timetable established pursuant to section 12;

(b) the economic situation and the fiscal policy objectives and priorities of the Government;

(c) the medium-term fiscal policy objectives and priorities of the Government, including a brief description of how the Government plans to manage the public debt;

(d) targets for budget surplus or budget deficit;

(e) *pro forma* of the annual estimates; and

(f) budget costing parameters to be used in determining the allocations to be made to budget agencies.

Budget submissions.

14. (1) A budget submission shall be prepared for each fiscal year by each budget agency in accordance with the rules, procedures and guidelines set out in the Budget Circular pertaining to that fiscal year.

(2) A budget submission shall be approved by the concerned Minister for each budget agency prior to being forwarded to the Minister.

Annual budget proposal.

15. The annual budget proposal shall include -

(a) the financial plan for the next ensuing fiscal year;

(b) an overview of the medium-term domestic and international economic outlook, together with the major economic assumptions upon which the financial plan contained in the annual budget for the next ensuing fiscal year is based;

(c) a statement of the fiscal policy objectives that the Government has set for the medium term;

(d) a statement of the Government's social and economic policy objectives and priorities for the next ensuing fiscal year that have guided the preparation of the annual budget for that fiscal year;

(e) a review of the execution of the annual budget for the current fiscal year, together with a projection of the likely outcome for the full fiscal year and explanations for any major differences between the financial plan for the current fiscal year and actual performance;

(f) tabulations and analyses of actual and projected tax, non-tax and other revenues for past relevant years, the current fiscal year, the next ensuing fiscal year, and the next following three fiscal years, including proposed changes to the Government's revenue bases required to support the expenditure proposals of the Government;

(g) in the case of non-tax revenue, details of the type of revenue to be received in the next ensuing fiscal year by each budget agency;

(h) tabulations and analyses of actual and projected expenditures, classified by government function, for the past relevant years, the current fiscal year, the next ensuing fiscal year, and the next following three fiscal years, including a discussion of any new or changed expenditure policy by the Government;

(i) estimates of all statutory expenditures, for the past relevant years, the current fiscal year, the next ensuing fiscal year and the next following three fiscal years;

(j) estimates of expenditures for investment by each budget agency for the next ensuing fiscal year and the next following three fiscal years;

(k) a statement of usage of a planned budget surplus or the sources of financing a budget deficit, as the case may be;

(l) a statement setting out the budget surplus or deficit and the stock of short-term public debt and long-term public debt;

(m) details of the fiscal relationship between the Government and the regions, including proposed general and special purpose transfers to the regions during the next ensuing fiscal year and the following three fiscal years;

(n) a Programme Performance Statement from each budget agency that administers one or more programmes of the Government for which an appropriation during the next ensuing fiscal year is to be sought;

(o) copies of the appropriation Bill referred to in section 17; and

(p) drafts of any proposed new legislation or amendments to existing legislation required to implement the revenue, expenditure and financing policies presented in the annual budget proposal.

PART IV
BUDGET APPROPRIATION, APPROVAL AND CONTROL

No expenditure without appropriation.

16. There shall be no expenditure of public moneys except in accordance with Article 217 of the Constitution.

Appropriation bills: preparation, presentation and format.

17. (1) The Minister shall cause to be prepared an appropriation Bill in respect of each fiscal year detailing the appropriation of public moneys for all current expenditures, including entitlement payments, and all capital expenditures to be made by each budget agency.

(2) The appropriation Bill shall be presented to the National Assembly as part of the annual budget proposal.

(3) The Minister shall determine the format for the presentation of the appropriation Bill and that format shall conform, so far as is practical, to accepted international standards for the classification of government finances.

Appropriation for repayment required or permitted by law.

18. (1) Where an Act or other law requires or permits the repayment of an amount received by the Government and there is no appropriation for such repayment, subject to subsection (2), the repayment shall be made out of the Consolidated Fund.

(2) Where the amount received by the Government referred to in subsection (1) was credited to a Fund other than the Consolidated Fund, the repayment shall be made out of that other Fund.

Expenditure credit.

19. Where moneys are repaid or restored to the Government after having been paid out of the Consolidated Fund under the authority of an appropriation, the appropriation shall have the same effect as if such moneys had not been paid out.

Charges and fees.

Charges and fees.

20. (1) Except where such fees or charges have been established pursuant to an Act or any subsidiary legislation, a concerned Minister may under this section prescribe fees or charges -

(a) to be paid for a right, privilege or use of a facility conferred or provided by or on behalf of the Government by means of a license, permit or other authorisation to the person or class of persons on whom the right or privilege is conferred or to whom the use is granted;

(b) in respect of services or products supplied on such terms and conditions as may be specified by the concerned Minister.

(2) The concerned Minister under subsection (1) shall prepare, and Cabinet may approve, rules for establishing the costing structure of any right, privilege, use of facility, service or product to be provided by a budget agency and for calculating the amount to be paid therefor.

Budget agency receipts and conditional appropriation.

21. (1) All budget agency receipts shall be credited to the Consolidated Fund.

(2) Subject to subsections (3), (4) and (7), the expenditure of budget agency receipts by budget agency shall be permitted only pursuant to an appropriation.

(3) An appropriation referred to in subsection (2) shall be called a "conditional appropriation" and shall consist of-

(a) an authority to a budget agency to spend a specified amount of money; and

(b) an additional authority to spend a specified amount of money, conditional upon budget agency receipts earned by that budget agency and being credited to the Consolidated Fund,

which conditional appropriation shall be presented in a form that details -

(i) the total amount of budget agency receipts to be credited to the Consolidated Fund;

(ii) the appropriation authority for expenditures out of the Consolidated Fund; and

(iii) the additional appropriation authority conditional upon an equivalent amount of budget agency receipts being credited to the Consolidated Fund.

(4) A budget agency may expend budget agency receipts under a conditional appropriation referred to in subsection (3) only pursuant to a written agreement with the Minister entered into prior to the presentation of the annual budget proposal to the National Assembly in respect of each category of budget agency receipts to be earned by that budget agency, which agreement shall include -

(a) the source of earnings for the budget agency receipts;

(b) the expected amount of earnings from budget agency receipts for the fiscal year;

(c) the formula for allocating the aggregate amount of the budget agency receipts;

(d) the appropriation under which the budget agency receipts are to be expended; and

(e) the proposed action to be taken at the end of the fiscal year in the event that a portion of the budget agency receipts remains unexpended or the receipts target is not achieved.

(5) The Minister may, at any time, cancel or vary the agreement referred to in subsection (4) without the consent of the budget agency.

(6) Any agreement relating to budget agency receipts made pursuant to subsection (4) shall lapse and have no effect at the end of the fiscal year in which that agreement was made.

(7) Where provided in an appropriation Act, a budget agency may, for such purposes and subject to the draw-down limit as specified in that Act, establish a revolving fund and expend budget agency receipts out of that revolving fund.

(8) The purposes and draw-down limit of a revolving fund referred to in subsection (7) may be amended by means of an appropriation amendment Act.

(9) The operation of a revolving fund and the expenditure of budget agency receipts by a budget agency out of that revolving fund are, in addition to any limitation imposed by this Act or any other Act, subject to such terms and conditions as the Minister may direct.

Authority to vary annual appropriations.

22. (1) The Minister may reallocate spending authority among annual appropriations during the fiscal year to which the appropriations relate, subject to the following restrictions –

(a) appropriations may only be varied across programmes within the budget agency to which they relate;

(b) appropriations for current expenditures may be moved to appropriations for capital expenditures, but appropriations for capital expenditures may not be moved to appropriation for current expenditures;

(c) the amount of an appropriation for any programme may not be varied under this section by more than ten per cent of the total amount appropriated for that programme in the applicable appropriation Act; and

(d) new appropriations shall not be created.

(2) The Minister shall include all changes to appropriations made pursuant to subsection (1) up to the end of the tenth month of the current fiscal year in an appropriation amendment Bill; otherwise any changes shall be made in accordance with section 24.

Appropriation amendment Act.

23. (1) The Minister shall present to the National Assembly any appropriation amendment Bill referred to in subsection 22(2) no later than the end of the eleventh month of the current fiscal year.

(2) The format for an appropriation amendment Bill shall be the same as for an appropriation Act.

Supplementary appropriation Act.

(3) Appropriation amendment Acts shall be numbered sequentially for each fiscal year.

24. (1) Any variation of an appropriation, other than those variations referred to in section 22, shall be authorised by a supplementary appropriation Act prior to the incurring of any expenditure thereunder.

(2) The format for a supplementary appropriation Bill shall be the same as for an appropriation Act.

(3) Supplementary appropriation Acts shall be numbered sequentially for each fiscal year.

(4) The Minister, when introducing a supplementary appropriation Bill, shall present to the National Assembly the reasons for the proposed variations and provide a supplementary document describing the impact that the variations, if approved, will have on the financial plan outlined in the annual budget.

(5) The Minister shall not, in any fiscal year, introduce more than five supplementary appropriation Bills under this section, except in circumstances of grave national emergency, where the Minister may introduce a Bill, intituled an emergency appropriation Bill, to meet the situation.

Adjustment of appropriations.

25. (1) Where a programme of one budget agency is taken over for any reason by another budget agency, the Minister may issue directions to transfer from the one budget agency to the other part or all of the amount that has been appropriated in respect of that programme.

(2) A direction issued pursuant to subsection (1) shall take effect from the time of its issue, but shall not have the effect of extending any time limit that applies to the appropriation to which the direction relates.

Appropriations to lapse.

26. Except as provided in, this Act, every appropriation of public moneys authorised by Parliament for a fiscal year shall lapse and cease to have effect as at the end of that fiscal year.

Appropriation allotment.

27. (1) At the commencement of each fiscal year or at such other time as the Minister may direct, the Head of each budget agency shall inform the Minister of the division into allotments of each appropriation applicable to that budget agency.

(2) The Minister may direct allotments to be made at a level of expenditure classification other than that set out in the applicable appropriation Act.

(3) Appropriation allotments are not effective until approved by the Minister and, upon approval, notice of such approval shall be given to the budget agency.

No variation without approval.

28. Appropriation allotments that have been approved pursuant to section 27(3) shall not be varied or amended without the prior written approval of the Minister.

Control of allotments.

29. The Head of a budget agency shall ensure that an adequate system of internal control and audit is established and maintained within the budget agency to properly manage appropriation allotments and to ensure that the allotment limits are not exceeded.

Expenditure initiation and commitment control.

30. (1) No contract or other arrangement providing for the payment of public moneys with respect to any programme for which there is an appropriation or an item included in the annual budget proposal then before the National Assembly to which that payment is

to be charged shall be entered into unless there is a sufficient unencumbered balance available in the appropriation or the proposed budget item, as the case may be, to make that payment.

(2) The Head of a budget agency or such other official charged with the administration of a programme for which there is an appropriation or an item included in the annual budget proposal then before the National Assembly to which that payment is to be charged shall establish and maintain procedures and records in respect of the control of all commitments chargeable to each appropriation or proposed budget item.

Payment authority.

31. (1) No charge shall be made against an appropriation except on the requisition of the Head of the budget agency for which the appropriation was made or of an official authorised in writing by the Head of the budget agency for the purpose.

(2) Each requisition for a payment of public moneys out of the Consolidated Fund shall be in such form, accompanied by such documents and certified in such manner as the Minister may by regulation prescribe.

(3) No requisition for the payment of public moneys shall be made in respect of any part of the Government unless the Head of the budget agency concerned or an official authorised in writing by that Head for the purpose certifies -

(a) in the case of a payment for the performance of work, the supply of goods or the provision of services -

(i) that the work has been performed, the goods supplied or the services provided, as the case may be, and that the price charged therefor is in accordance with the contract or other arrangement governing the work, goods or services or, if not specified in the contract or arrangement, that the price is fair and reasonable;

(ii) where, pursuant to a contract or other arrangement, a payment is to be made prior to the completion of the work, supply of the goods or provision of the services, as the case may be, that the payment is in accordance with the contract or arrangement; or

(iii) where, pursuant to the procedures prescribed in section 30(2), a payment is to be made in advance of verification, that the claim for payment is fair and reasonable; and

(b) in the case of any other payment, that the payee is eligible for or otherwise entitled to that payment.

(4) No requisition for the payment of public moneys shall be made pursuant to subsection (3) where that payment -

(a) would not be a lawful charge against the applicable appropriation;

(b) would result in an expenditure in excess of the applicable appropriation; or

(c) would reduce the balance available in the applicable appropriation such that it would not be sufficient to meet all of the commitments charged against that appropriation.

PART V
DRAWING RIGHTS

Drawing rights required.

32. An official shall not do any of the following except as authorised by a valid drawing right -

(a) enter into a commitment to expend public moneys;
(b) make a payment of public moneys;
(c) request that an amount be debited against an appropriation; or
(d) debit an amount against an appropriation.

Issuance, revocation and amendment of drawing rights.

33. (1) The Minister may issue a drawing right for one or more of the following purposes-

(a) to enter into a commitment to expend public moneys;
(b) to make a payment of public moneys for a specified purpose;
(c) to request the debiting of an amount against a specified appropriation; and
(d) to debit an amount against a specified appropriation.

(2) Where a payment of public moneys is required by law to be made and there is an available appropriation for that payment -

(a) the Minister shall issue sufficient drawing rights to permit the amount to be paid in full; and

(b) the recipient of any of those drawing rights shall exercise the rights in full.

(3) Where a payment of public moneys is permitted, but not required, by law to be made, there is no obligation to issue or exercise drawing rights for that payment.

(4) The Minister may at any time revoke or amend a drawing right.

(5) A drawing right shall have no force or effect unless it authorises the application of public moneys in a manner that is consistent with an appropriation or the purpose of the application as set out in the applicable legislation.

Drawing rights to be consistent with appropriation allotments.

34. The amount of money, the time period, and the purpose of the expenditure of the money stipulated in a drawing right shall be consistent with the appropriation allotment established pursuant to section 27 or as varied pursuant to section 28.

Drawing rights to lapse with appropriation.

35. (1) Except as provided in this Act, a drawing right shall lapse and cease to have effect at the close of the time period set out in that drawing right and, in all events, shall lapse when the applicable appropriation lapses at the end of the fiscal year in which that drawing right was issued.

(2) Any amounts under a commitment, previously approved by the Minister, that remain unpaid at the time that the appropriation therefor lapses shall be met out of an appropriation or appropriations approved for the next ensuing fiscal year.

Drawing rights if appropriation Act not passed.

36. (1) If an appropriation Act has not come into effect at the beginning of a fiscal year, the Minister shall be authorised to issue drawing rights on the Consolidated Fund sufficient to fund the ongoing delivery of normal services of Government in accordance with Article 219(1) of the Constitution.

(2) Drawing rights issued pursuant to subsection (1) shall, for each month in respect of each budget agency, be subject to a drawing limit of one-twelfth of the amount that was expended by that budget agency in the immediately preceding fiscal year; provided, however, that provision for a payment obligation under a multi-year contract referred to in subsection 55(l) may be included in a drawing right.

(3) The Minister shall not issue a drawing right pursuant to subsection (1) in relation to a subject matter or for a purpose for which there was no appropriation in the immediately preceding fiscal year.

(4) Public moneys expended pursuant to this section shall, at the time an appropriation Act relating to the current fiscal year comes into force, be deemed to have been expended pursuant to the provisions of that appropriation Act and shall be accounted for accordingly.

PART VI
PUBLIC FUNDS

Classification of public moneys.

37. (1) All public moneys shall be classified as either -

(a) received moneys;

(b) moneys in the Consolidated Fund, including any moneys in the Contingencies Fund;

(c) moneys in an Extra-budgetary Fund;

(d) drawn moneys; or

(e) moneys in a Deposit Fund.

(2) All public moneys shall be deemed to be received moneys from the time that they become public moneys until the time that they are credited to the Consolidated Fund, an Extra-budgetary Fund or a Deposit Fund.

(3) All public moneys that have been debited from a Fund without being credited to another Fund shall be deemed to be drawn moneys.

(4) For the purposes of this section, "public moneys" does not include any overdraft drawings under an agreement made pursuant to section 44.

Consolidated Fund.

38. (1) All public moneys raised or received by the Government shall be credited fully and promptly to the Consolidated Fund, except -

(a) moneys credited to an Extra-budgetary Fund as stipulated in the enabling legislation establishing that fund;

(b) moneys credited to a Deposit Fund; and

(c) as stipulated in the Constitution.

(2) The Consolidated Fund shall be managed by the Minister or by an official in the Ministry to whom the Minister has delegated that responsibility.

Extra-budgetary Funds.

39. (1) An Extra-budgetary Fund may be created by an Act, which legislation shall set out -

(a) the officials who will undertake the financial management of the Extra-budgetary Fund, including the responsibilities and accountabilities of the officials charged with managing the Extra-budgetary Fund;

(b) the banking arrangements that pertain to the Extra-budgetary Fund;

(c) the source or sources of public moneys to be credited to the Extra-budgetary Fund;

(d) the accounting rules and auditing requirements applicable to the Extra-budgetary Fund; and

(e) the financial reporting requirements applicable to the Extra-budgetary Fund, including the reporting of financial performance both during and at the end of each fiscal year.

(2) Officials charged with the management of an Extra-budgetary Fund shall establish close co-operation and co-ordination with the Minister and share with the Minister all relevant information necessary or desirable to ensure adherence to the principle of consolidation of Government revenues and expenditures.

(3) The Minister shall develop detailed procedures for achieving the co-operation and co-ordination referred to in subsection (2), particularly in connection with the preparation, execution and monitoring of the annual budget and the budget for each Extra-budgetary Fund.

(4) Subject to any other law, resources of an Extra-budgetary Fund may be administered either through its own accounts in selected banks pre-approved by the Minister or through the payment and banking services of the Consolidated Fund, but shall be accounted for separate and apart from any other resources.

(5) Subject to any other law, the officials charged with the management of an Extra-budgetary Fund shall, with respect to that Fund -

(a) observe the accounting methodology and reporting format prescribed by the Minister;

(b) submit to the Minister and publish for general information quarterly reports on the financial operations of the Fund;

(c) make the accounts and records of the Fund available for independent audit by the Auditor General; and

(d) prepare an annual report on the financial operations of the Fund for presentation, together with the report of the Auditor General thereon, to the National Assembly and publication for general information and any other requirements stipulated by the Minister.

Social and economic development project.

40. Subject to any other law, resources allocated from any Extra-budgetary Fund for the purpose of financing Government social or economic development projects shall be included in the relevant investment plan and programmes of expenditure contained in the annual budget and such resources shall be processed through the Consolidated Fund.

Contingencies Fund.

41. (1) Pursuant to Article 220 of the Constitution, a Contingencies Fund is hereby established as a sub-fund of the Consolidated Fund.

(2) The Minister shall have sole authority for the release of moneys from the Contingencies Fund, which authority shall not be delegated.

(3) The Minister, when satisfied that an urgent unavoidable and unforeseen need for expenditure has arisen -

(a) for which no moneys have been appropriated or for which the sum appropriated is insufficient;

(b) for which moneys cannot be reallocated as provided for under this Act; or

(c) which cannot be deferred without injury to the public interest,

may approve a Contingencies Fund advance as an expenditure out of the Consolidated Fund by the issuance of a drawing right.

(4) The total of the amounts permitted to be drawn from the Contingencies Fund pursuant to subsection (3) shall not exceed two percent of the estimated annual expenditure of the last preceding fiscal year as shown in the annual budget proposal approved by the National Assembly or such greater sum as the National Assembly may approve.

(5) The Minister shall report at the next sitting of the National Assembly on all advances made out of the Contingencies Fund since the previous report of the Minister, which report shall specify -

(a) the amounts advanced;
(b) to whom the amounts were paid; and
(c) the purpose of the advances.

(6) Upon the National Assembly approving the Contingencies Fund advance or advances and passing a supplementary appropriation Act covering such advance or advances -

(a) the drawing right or rights authorising the advance or advances, if not then utilised, shall lapse and the advance or advances shall be deemed to have been made for the purpose of the appropriation and shall be accounted for accordingly; and

(b) the amount of such advance or advances shall be added back to the total amount authorised by the National Assembly referred to in subsection (4).

(7) Upon the National Assembly approving the advance or advances, the Contingencies Fund shall be replenished in the amounts approved.

Deposit Funds.

42. (1) The Minister may establish one or more Deposit Funds into which public moneys shall be paid pending repayment or payment for the purpose for which the moneys were deposited.

(2) On the establishment of a Deposit Fund, the Minister shall notify the National Assembly of the Deposit Fund and shall specify -

(a) the source or sources of the moneys in the Deposit Fund;

(b) the purpose or purposes for which moneys may be expended from the Deposit Fund;

(c) the banking arrangements for the Deposit Fund; and

(d) the intended investment strategy for the moneys deposited in the Deposit Fund.

(3) Each Deposit Fund shall be managed and operated by the Ministry.

Unexpended balances of public moneys.

43. Except as otherwise provided in this Act or in any other law, at the end of each fiscal year, any unexpended balance of public moneys issued out of the Consolidated Fund shall be returned and surrendered to the Consolidated Fund.

PART VII
COLLECTION, CUSTODY AND USE OF PUBLIC MONEYS

Agreements with banks for custody of public moneys.

44. (1) The Minister may, on behalf of the Government, enter into an agreement with any bank -

(a) for the receipt, custody, payment or transmission of public moneys, either within or outside the State; and

(b) for any other matter relating to the conduct of the banking business of the Government.

(2) An agreement referred to in subsection (1) may provide for –

(a) the payment of interest by the bank to the Government;

(b) the payment of fees and other charges to the bank by the Government for banking services; and

(c) overdraft drawings by the Government, provided that any such overdraft drawings are repaid to the bank no later than the end of the fiscal year in which the overdraft is incurred.

(3) An agreement referred to in subsection (1) shall not be made for a period of more than one year, unless it is a condition of that agreement that it may be terminated by the Government at any time upon the giving of not more than three months prior notice.

Official bank accounts.

45. (1) The Minister may open and maintain bank accounts in accordance with an agreement made pursuant to section 44(l) and shall open and maintain at least one such bank account.

(2) A bank account holding public moneys shall include in its name the word "official".

(3) The Minister may, in writing, authorise the Head of any budget agency to open a bank account, subject to the following limitations -

(a) the agreement with the bank regarding the account shall be approved by the Minister prior to the opening of the account;

(b) instructions issued by the Minister for the operation of official bank accounts, modified as the Minister deems necessary, shall apply to any bank account opened pursuant to this section; and

(c) upon request, the operators of any bank account opened pursuant to this subsection shall promptly provide the Minister with formal bank statements and reconciliations, together with all supporting documentation.

(4) The Minister shall not delegate the authority vested in him under section 44(l).

Deposit and withdrawal of public moneys.

46. (1) An official who receives public moneys shall promptly deposit such moneys or otherwise deal with same as required by the Minister.

(2) Subject to section 47, an official shall not deposit public moneys into any account other an official bank account.

(3) An official shall not withdraw public moneys from an official bank account, except as authorised by the Minister and as specified in the Regulations.

Receipt of public moneys from an outsider.

47. (1) An official shall not enter into any agreement or arrangement for the receipt or custody of public moneys with any person, other than the Government, or an official, unless -

(a) the Minister has given written authorisation for the agreement or arrangement; or

(b) the agreement or arrangement is expressly authorised by this Act or any other law.

(2) Public moneys referred to in subsection (1) shall continue to be public moneys and subject to the rules and procedures for the management of public moneys set out in this Act.

Misuse of public moneys.

48. A Minister or official shall not in any manner misuse, misapply, or improperly dispose of public moneys.

Liability for loss of public moneys.

49. (1) If a loss of public moneys should occur and, at the time of that loss, a Minister or official has caused or contributed to that loss through misconduct or through deliberate or serious disregard of reasonable standards of care, that Minister or official shall be personally liable to the Government for the amount of the loss.

(2) Where the misconduct or disregard of the person is not the sole cause of the loss referred to in subsection (1), the person shall be liable to pay only so much of the loss as is just and equitable having regard to the person's share of the responsibility for the loss.

(3) If a loss of public moneys should occur and, at the time of that loss, a Minister or official had nominal custody of such moneys, that Minister or official shall be personally liable to the Government for the amount of the loss.

(4) For the purposes of subsection (3), a person has nominal custody of moneys where -

(a) the person holds the moneys by way of a petty cash advance, a change float, or other form of advance; or

(b) the person has received the moneys, but has not yet dealt with it as required by section 46.

(5) A person's liability under this section is not terminated or avoided upon that person ceasing to be a Minister or official.

(6) An amount payable to the Government under this section is recoverable as a debt in a court of competent jurisdiction.

(7) The Government shall not be entitled to recover amounts from the same person pursuant to both subsection (1) and subsection (3) in respect of the same loss.

(8) For the purposes of this section, "loss" includes a deficiency.

PART VIII
ACCOUNTS, ACCOUNTING AND PAYMENTS

Currency of Guyana.

50. The accounts of the State shall be kept in the currency of Guyana.

Establishment of Official Consolidated Fund.

51. Public moneys at the credit of the Consolidated Fund shall be kept in an account styled as the "Official Consolidated Fund Account" at the Bank of Guyana, but may include deposits of public moneys held at any other bank as the Minister may direct.

Payments from Official Consolidated Fund.

52. (1) No payment of public moneys shall be made from the Official Consolidated Fund Account except -

(a) to meet expenditures stipulated in the Constitution, any appropriation Act, or any other Act;

(b) where the Minister has issued drawing rights for the purpose;

(c) for the purpose of repaying any moneys that were paid into the Consolidated Fund in error; or

(d) for the purpose of paying such sums as may be required for any refund, rebate or drawback where the payment thereof is provided for in law.

(2) Any moneys forming part of the Consolidated Fund that is -

(a) on deposit with a bank; or

(b) invested in a manner prescribed by law,

shall be deemed not to have been withdrawn from the Consolidated Fund by reason only that such moneys constitute a deposit or an investment.

Finance Circulars.

53. The Finance Secretary shall issue Finance Circulars setting out the rules and procedures for the processing of payments of public moneys, including the settlement of any debt or other amount due or owing that has been recorded as a charge against an appropriation.

Suspension of payments.

54. (1) The Minister may, at any time, suspend the making of any payment or any expenditure of public moneys, other than statutory expenditures, if, in the opinion of the Minister, the financial exigencies of the public interest so require.

(2) Within two months after suspending a payment or expenditure of public moneys, the Minister shall notify the National Assembly of the suspension, setting out -

(a) the reasons for the suspension;

(b) the estimated length of time the suspension is to be in force; and

(c) the course of action being taken to address the financial exigencies within the annual budget.

Multi-year contracts.

55. (1) An official shall not enter into a multi-year contract or arrangement for the supply of goods or the provision of services to the Government without the prior written authorisation of the Minister.

(2) It shall be an express condition of any multi-year contract that any payment that falls due under that contract is subject to there being an appropriation for that payment in the fiscal year in which the payment falls due.

(3) For the purposes of this section, "multi-year contract" means any contract that -

(a) extends beyond the current fiscal year; or

(b) commences in a fiscal year subsequent to the current fiscal year and extends beyond the end of that fiscal year.

Accounting procedures.

56. (1) The Minister shall promulgate appropriate accounting standards to be employed by officials responsible for the maintenance of the accounts and records referred to in this section.

(2) The Finance Secretary shall -

(a) cause proper accounts and records to be maintained in relation to the receipt and expenditure of public moneys; and

(b) cause proper accounts and records to be maintained in relation to the financial assets and liabilities of the State, including contingent liabilities.

(3) The Head of each budget agency shall ensure that the accounts and records of the budget agency for which he is responsible are maintained as required by the Minister and the Finance Secretary.

(4) The Minister shall have full and free access at all times to the accounts and records of each budget agency.

PART IX
BORROWING, LENDING, INVESTMENTS AND GUARANTEES

Sources and purposes of borrowed funds.

57. (1) Subject to any other law, the Minister may, for and on behalf of the Government, borrow from -

(a) any bank;
(b) persons, both within and without Guyana;
(c) foreign governments; and
(d) international financial institutions,

for any of the following purposes -

(i) to meet cash shortfalls that may occur periodically during the execution of the annual budget;
(ii) to fund investment and infrastructure projects undertaken by the Government;
(iii) to finance a budget deficit; and

(iv) to meet the objectives of monetary policy.

(2) The Minister shall be responsible for

(a) the administration of all domestic and external indebtedness of the Government;

(b) authorising and recording payments on all public debt obligations, including the administration of all Government guarantees and contingent liabilities of the Government; and

(c) the maintenance of original documents evidencing and registers of all borrowing and lending arrangements, including contingent liabilities, of the Government.

Borrowing power.

58. (1) The Minister shall have the power to borrow by any means that the Minister considers appropriate for the purposes set out in section 57.

(2) The Minister shall have the authority to execute any document, agreement or instrument that renders the Government liable for a debt or evidences that indebtedness.

Consultation with the Bank of Guyana.

59. (1) Insofar as the incurring of a public debt impacts on monetary policy, the Minister shall exercise his power to borrow in consultation with the Bank of Guyana.

No.26 of 1998.

(2) Pursuant to the Bank of Guyana Act and any written agreement with the Minister, the Bank of Guyana may provide all or any of the services required for the execution of decisions on borrowing by the Government.

Overdraft facility.

60. (1) The Minister may approve the use of advances in the form of an overdraft on an official bank account to meet cash shortfalls during the execution of the annual budget.

(2) The Minister shall repay in full all advances in the form of an overdraft on an official bank account on or before the end of the fiscal year during which that overdraft was drawn.

Proceeds of borrowing.

61. Subject to this Act, the proceeds of any borrowing by the Government shall be paid into and form part of the Consolidated Fund.

Government guarantees.

62. (1) Government guarantees shall only be issued as provided for in this Act or other law.

(2) A Government guarantee may only be issued to a public entity.

(3) The Minister shall -

(a) have sole authority to execute a Government guarantee;

(b) retain all original documentation pertaining to a Government guarantee;

(c) maintain a register of Government guarantees; and

(d) report the aggregate of liabilities under Government guarantees as contingent liabilities when reporting pursuant to section 71.

(4) The authority of the Minister under paragraph (3) (a) shall not be delegated.

Government guarantee levy.

63. (1) Each public entity in receipt of a Government guarantee shall pay to the Government a levy in an amount to be determined by the Minister.

(2) Any levy paid pursuant to subsection (1) shall be deemed to be public moneys and shall be held in a Deposit Fund established by the Minister.

Ending of public moneys.

64. (1) The Government may lend public moneys to any public entity or to any individual who is a citizen of Guyana.

(2) Public moneys to be loaned pursuant to subsection (1) shall be appropriated either in annual or amended appropriation legislation.

(3) Any loan of public moneys made pursuant to subsection (1) shall be evidenced by a loan agreement signed on behalf of the Government by the Minister.

(4) A loan agreement shall include –

(a) the term of the loan;

(b) the rate of interest applicable to the loan;

(c) the schedule of repayment; and

(d) a statement of the purpose for which the funds are being lent.

(5) The Minister shall make Regulations governing the lending of public moneys, which Regulations shall include -

(a) the criteria for determining when a loan of public moneys may be made;

(b) the requirements to be met and the procedures to be followed before any loan of public moneys may be made; and

(c) the information and records to be maintained in respect of any loan of public moneys that is made.

Investment of public moneys.

65. (1) The Minister may authorise the investment of public moneys, including any public moneys on deposit in the Consolidated Fund, with one or more banks in such amounts and for such periods of time as the Minister shall, in his discretion, deem advisable.

(2) Any investment of public moneys made pursuant to subsection (1) shall be in conformity with the terms of any trust or any specified conditions that apply to the moneys to be invested.

(3) All expenses related to the investment of public moneys shall be debited against the Fund from which such public moneys were drawn.

(4) Upon maturity or realisation of an investment of public moneys, the proceeds of the investment, including any interest earned thereon, shall be credited to the Fund from which such public moneys were drawn.

(5) The Consolidated Fund shall be deemed to be appropriated to the extent required for the purposes of this section.

Provisions of this Act.

66. In the event of any conflict between the provisions of this Part IX and those of any other law, the provisions of this Act shall prevail.

PART X
ACCOUNTABILITY FOR FISCAL MANAGEMENT AND PERFORMANCE

Mid-year report.

67. (1) The Minister shall present to the National Assembly within sixty days after the end of the first half-year of each fiscal year a report on the year-to-date execution of the annual budget and the prospects for the remainder of that fiscal year.

(2) A mid-year report shall include -

(a) an update on the current macroeconomic and fiscal situation, a revised economic outlook for the remainder of the fiscal year, and a statement of the projected impact that these trends are likely to have on the annual budget for the current fiscal year;

(b) a comparison report on the out-turned current and capital expenditures and revenues with the estimates originally approved by the National Assembly with explanations of any significant variances; and

(c) a list of major fiscal risks for the remainder of the fiscal year, together with likely policy responses that the Government proposes to take to meet the expected circumstances.

End of Year Budget Outcome and Reconciliation Report.

68. (1) The Ministry shall, in each fiscal year, prepare an End of Year Budget Outcome and Reconciliation Report with respect to the immediately preceding fiscal year, which report shall include -

(a) annual estimates and out-turn for revenues and current and capital expenditures;

(b) a detailed explanation of any significant differences between annual estimates and out-turn, including the impact of -

(i) movements in the underlying economic assumptions and parameters used in the preparation of the annual budget proposal;

(ii) changes to revenue and expenditure policies during the fiscal year; and

(iii) slippages, if any, in the delivery of the budget measures.

(2) The level of statistical detail presented in the End of Year Budget Outcome and Reconciliation Report shall be consistent with, and not less than, the level of statistical detail contained in the appropriation Act for the fiscal year to which that report relates.

(3) The End of Year Budget Outcome and Reconciliation Report shall be a component of the annual consolidated financial statements to be audited and presented to the National Assembly pursuant to section 73.

Reporting of public debt.

69. (1) The Minister shall, within the annual consolidated financial statements, certify and issue an official schedule of public debt outstanding in the name of the Government, other levels of government and public enterprises.

(2) The official schedule of public debt referred to in subsection (1) shall, with respect to each issue of public debt outstanding, include -

(a) the identity of the issuer;

(b) the face value of the debt;

(c) the amount unpaid at the beginning and end of the current fiscal year, including principal, accrued interest, commissions, and any repayment arrears;

(d) the applicable rate of interest;

(e) the maturity date; and

(f) the aggregate amount of the debt service cost of the debt due and payable during the current fiscal year.

(3) Each budget agency shall, upon request, provide to the Minister, within the time prescribed, all information necessary for the compilation of the schedule of public debt referred to in subsection (1).

Reporting of public lending.

70. (1) The Minister shall, within the annual consolidated financial statements, certify and issue an official schedule of the issuance and extinguishments of all loans granted by the Government, other levels of government and public enterprises.

(2) The official schedule of public loans referred to in subsection (1) shall, with respect to each unpaid loan outstanding, include -

(a) the identity of the debtor;

(b) the face value of the loan;

(c) the amount remaining unpaid at the beginning and end of the current fiscal year, including principal, accrued interest, commissions, and any repayment arrears;

(d) the applicable rate of interest;

(e) the maturity date; and

(f) the aggregate amount of interest and amortisation payments on the loan due and payable during the current fiscal year.

(3) Each budget agency shall, upon request, provide to the Minister, within the time prescribed, all information necessary for the compilation of the schedule of public loans referred to in subsection (1).

Reporting of Government guarantees.

71. (1) The Minister shall, within the annual consolidated financial statements, certify and issue an official schedule of Government guarantees.

(2) The official schedule of Government guarantees referred to in subsection (1) shall, with respect to each Government guarantee outstanding, include -

(a) the identity of the public entity whose borrowing has been guaranteed;

(b) the identity of the creditor; and

(c) the amount of the Government's potential debt obligation in respect of the guarantee, including payments of principal and interest that remain outstanding.

Programme Performance Statement.

72. (1) Each budget agency shall prepare a Programme Performance Statement on the performance of each programme administered by that budget agency.

(2) The Programme Performance Statement shall be presented to Parliament in accordance with section 15.

(3) Each Programme Performance Statement of a budget agency presented to the National Assembly shall have attached thereto an endorsement signed by the concerned Minister.

(4) The Programme Performance Statement of each budget agency shall, with respect to each programme administered by that budget agency, include -

(a) the objective of the programme;

(b) the main programme impacts that the programme seeks to achieve;

(c) the strategies employed by the budget agency to achieve the programme impacts;

(d) both quantitative and qualitative indicators of the programme impacts achieved by the programme during the current fiscal year;

(e) the amount of funds appropriated in the current annual budget for the programme, the amount of funds estimated to be expended during the current fiscal year in respect of the programme, and the amount of funding being sought for the next ensuing fiscal year in respect of the programme; and

(f) the anticipated programme impacts the programme is aiming to achieve if the funding next ensuing fiscal year is appropriated by Parliament.

Consolidated financial statements.

73. (1) The Minister shall, as soon as is practicable after the end of each fiscal year, prepare consolidated financial statements for the fiscal year just completed in accordance with accounting standards and formats set out in the Regulations.

(2) The consolidated financial statements shall consist of -

(a) in respect of the Consolidated Fund, including each Fund that is considered to be part of the Consolidated Fund -

(i) a statement of revenues and expenditures for the fiscal year in the form of the End of Year Budget Outcome and Reconciliation Report;

(ii) a statement of contingent liabilities; and

(iii) such other financial information relating to the fiscal year that the Minister deems necessary to present fairly the financial transactions and financial position of the State;

(b) in respect of Extra-budgetary Funds, the financial reports required by the enabling legislation establishing those Funds;

(c) in respect of Deposit Funds, the financial reports required by the Minister; and

(d) in respect of any other accounts approved by the Minister, the financial reports required by the Minister.

(3) The Minister shall deliver the consolidated financial statements to the Auditor General within four months following the end of the fiscal year to which those financial statements relate.

(4) If the Minister has not delivered the consolidated financial statements to the Auditor General within four months following the end of the fiscal year to which those financial statements relate, the Minister shall provide to the National Assembly a statement as to the reasons why the consolidated financial statements have not been so delivered to the Auditor General.

Requirement to audit.

74. (1) The Auditor General shall, as soon as is practicable after receiving the consolidated financial statements pursuant to section 73, examine the financial statements and prepare an audit report thereon in accordance with law.

(2) The Auditor General shall, within nine months following the end of the fiscal year to which the consolidated financial statements relate, present those financial statements together with the audit report thereon to the Speaker of the National Assembly in accordance with law and who shall cause them to be laid before the National Assembly in accordance with Article 223(3) of the Constitution.

PART XI
CONTROL AND MANAGEMENT OF PUBLIC PROPERTY

Minister may make Regulations.

75. The Minister may make Regulations prescribing procedures for the use, application and lawful disposal of public property.

Liability for loss of public property.

76. (1) If a loss of public property should occur and, at the time of that loss, a Minister or official has caused or contributed to that loss through misconduct or through deliberate or serious disregard of reasonable standards of care, that Minister or official shall be personally liable to the Government for the amount of the loss.

(2) Where the misconduct or disregard of the person is not the sole cause of the loss referred to in subsection (1), the person shall be liable to pay only so much of the loss as is just and equitable having regard to the person's share of the responsibility for the loss.

(3) If a loss of public property should occur and, at the time of that loss, a Minister or an official had nominal custody of that property, that Minister or official shall be personally liable to the Government for the amount of the loss.

(4) For the purposes of subsection (3), a person has nominal custody of property where -

(a) the person has taken delivery of the property and has not returned it to the person entitled to receive the property on behalf of the State;

(b) at the time that the person took delivery of the public property, that person signed a written acknowledgment that the property was delivered on the express condition that the person would at all times take strict care of that property.

(5) A person's liability under this section is not terminated or avoided upon that person ceasing to be a Minister or official.

(6) An amount payable to the Government under this section is recoverable as a debt in a court of competent jurisdiction.

(7) The Government shall not be entitled to recover amounts from the same person pursuant to both subsection (1) and subsection (3) in respect of the same loss.

(8) For the purposes of this section -

(a) "amount of the loss" means -

(i) where the property is damaged, the value of the property prior to the damage or the cost of repairing the property, whichever is less; and

(ii) in all other cases, the value of the property; and

(b) "loss" includes destruction or damage.

Gifts of public property.

77. A Minister or an official shall not make a gift of public property unless the making of the gift is expressly authorised by law.

PART XII
STATUTORY BODIES

Applicable law.

78. Sections 79 and 80 shall apply to a statutory body except to the extent that other provision is made under the law establishing that statutory body.

Annual budget.

79. (1) A statutory body shall, prior to the commencement of each fiscal year established for that statutory body or, if no fiscal year has been established, prior to the commencement of each calendar year, submit to the appropriate Minister for approval -

(a) estimates of the revenue and the current and capital expenditures of the statutory body for the fiscal or calendar year;

(b) the financing activities that the statutory body intends to undertake during the fiscal or calendar year; and

(c) a statement of the short-term debt and long-term debt obligations of the statutory body.

(2). The format for the annual budget of a statutory body shall be as determined by the concerned Minister in consultation with the Minister.

(3) The concerned Minister shall, prior to the commencement of the fiscal or calendar year, as the case may be, submit to the Minister for approval the proposed annual budget for that statutory body for the fiscal or calendar year.

(4) A statutory body shall, upon request from the concerned Minister or from the Minister, furnish in a timely manner such additional financial or budgeting information as the Minister may request.

(5) The annual budget of a statutory body approved by the Minister shall not be altered or amended without the prior approval of the Minister.

(6) The Minister shall, as soon as is practicable following his approval pursuant to subsection (3) and no later than the time of submission of the annual budget proposal, submit the annual budget of each statutory body to the National Assembly.

Annual report and audited financial

80. (1) A statutory body shall, as soon as is practicable and in all events not later than four months after the end of the fiscal year established for that statutory body or, if no fiscal year has been established, after the end of each calendar year, submit an annual report to the concerned Minister.

(2) The format for the annual report of a statutory body shall be as determined by the concerned Minister in consultation with the Minister.

(3) The annual report of a statutory body shall include -

(a) a statement of assets and liabilities of the statutory body as at the end of the fiscal or calendar year;

(b) a statement of revenue and expenditures of the statutory body for the fiscal or calendar year; and

(c) a report prepared by the Auditor General on the annual financial statements of the statutory body.

(4) The concerned Minister shall, within two months following the receipt of the annual report, present the annual report of each statutory body to the National Assembly.

PART XIII
MISCELLANEOUS

Forgiveness of debts.

81. (1) Subject to subsection (2) and all other applicable laws, the Minister may forgive, postpone or reduce a debt obligation owing to the State.

(2) Where any forgiveness, postponement or reduction of a debt obligation pursuant to subsection (1) is likely to significantly affect the financial assets and liabilities of the State, such action shall only be taken by the Minister with the approval of the National Assembly.

(3) The National Assembly may set a limit on the aggregate amount of debt obligations that may be forgiven, postponed or reduced by the Minister without the approval of the National Assembly pursuant to subsection (1) in any fiscal year.

(4) The Minister shall make Regulations governing the writing off, either in whole or in part, of any debt obligation owing to the State, which Regulations shall include -

(a) the criteria for determining when a debt obligation owing to the State may be written off,

(b) the requirements to be met and the procedures to be followed before any debt obligation owing to the State may be written off, and

(c) the information and records to be maintained in respect of any debt obligation owing to the State that is written off.

(5) All indebtedness owing to the State that has been forgiven, postponed, reduced or written off pursuant to this Act or any other law during a fiscal year shall be reported in the consolidated financial statements for that fiscal year prepared pursuant to section 73.

Amendment of the Schedule.

82. The Minister may, by Order, amend the Schedule.

Classification of statutory bodies.

83. Within three months of the commencement of this section, every statutory body shall be classified as follows:

(a) public enterprises;
(b) departmental enterprises; and
(c) bodies other than those falling under paragraphs (a) and (b).

Power of statutory bodies to borrow.

84. (1) Subject to subsection (2), a statutory body with power to borrow moneys shall only exercise that power with the approval of the Minister.

(2). Notwithstanding subsection (1), the Minister may exempt from subsection (1), in the national interest, such statutory bodies as he considers appropriate.

PART XIV
OFFENCES

Liability of official.

85. An official who -

(a) falsifies any account, statement, receipt or other record issued or kept for the purposes of this Act, the Regulations, the Finance Circulars or any other instrument made under this Act;

(b) conspires or colludes with any other person to defraud the State or make opportunity for any person to defraud tile State; or

(c) knowingly permits any other person to contravene any provision of this Act,

is guilty of an indictable offence and liable on conviction to a fine of two million dollars and to imprisonment for three years.

PART XV
REPEAL

Repeal.

86. Parts II, III and V of the Financial Administration and Audit Act are hereby repealed:

Cap. 73:01.

Provided that all subsidiary legislation made and Circulars issued under the Financial Administration and Audit Act and in operation at the commencement of this Act shall, insofar as they are not inconsistent with this Act, continue in force as if made

or issued under this Act until such time as they are amended, superseded or repealed under this Act.

Power to remove difficulties.

Cap. 73:01.

87. The Minister may, for the purpose of removing any difficulty in giving effect to the provisions of this Act, particularly in relation to the transition from the provisions of the Financial Administration and Audit Act to the provisions of this Act, make such Order or give such direction not inconsistent with the provisions of this Act, as appears to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such Order or direction shall be made or given after the expiry of two years from the commencement of this Act.

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SCHEDULE
BUDGET AGENCIES

Office of the President
Office of the Prime Minister
Ministry of Finance
Ministry of Foreign Affairs
Parliament Office
Office of the Auditor General
Public and Police Service Commission
Teaching Service Commission
Guyana Elections Commission
Ministry of Local Government and Regional Development
Public Service Ministry
Ministry of Foreign Trade and International Co-operation
Ministry of Amerindian Affairs
Ministry of Agriculture
Ministry of Tourism, Commerce and Industry
Ministry of Public Works and Communications
Ministry of Education
Ministry of Culture, Youth and Sports
Ministry of Housing and Water
Georgetown Public Hospital Corporation
Ministry of Health
Ministry of Labour, Human Services and Social Security
Ministry of Home Affairs
Ministry of Legal Affairs
Guyana Defence Force
Supreme Court
Public Prosecutions
Office of the Ombudsman
Public Service Appellate Tribunal
Region 1: Barima/Waini
Region 2: Pomeroon/Supenaam
Region 3: Essequibo Islands/West Demerara
Region 4: Demerara/Mahaica
Region 5: Mahaica/Berbice
Region 6: East Berbice/Corentyne
Region 7: Cuyuni/Mazaruni
Region 8: Potaro/Siparuni
Region 9: Upper Takatu/Upper Essequibo
Region 10: Upper Demerara/Upper Berbice

END of FISCAL MANAGEMENT and ACCOUNTABILITY Act No.20 of 2003.