



GUYANA

ACT No. 26 of 2009

LOCAL AUTHORITIES (ELECTIONS) (AMENDMENT) ACT 2009

I assent.

Bharra Jagdeo
Bharra Jagdeo,
President

29th September, 2009

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Amendment of the Principal Act.
3. Removal of difficulties.

SCHEDULE

AN ACT to amend the Local Authorities (Elections) Act.

A.D. 2009

Enacted by the Parliament of Guyana:-

Short title.
Cap. 28:03

1. This Act, which amends the Local Authorities (Elections) Act, may be cited as the Local Authorities (Elections) (Amendment) Act 2009.

Amendment of
the Principal Act.
Cap. 28:03
Schedule

2. The provisions of the Principal Act mentioned in the first column of the Schedule are amended in the manner specified in the corresponding entries in the second column of the Schedule.

Removal of
difficulties.

3. (1) 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 Elections Commission may, after consultation with the Minister, by order, make any provision that appears 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 Elections Commission to be necessary or expedient for removing the difficulty.

(3) Any order made under subsection (1) shall be subject to affirmative resolution of the National Assembly.

SCHEDULE

Provisions of the Principal Act	Amendments
Section 2	<p>(1) insert after the definition of "clerk of the local authority" the following definition -</p> <p style="padding-left: 40px;">"Commission" means the Elections Commission established by article 161 of the Constitution;</p> <p>(2) in the definition of "disciplined force", delete the words beginning with the words "and" and ending with the word "Service";</p>

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	<p>(3) delete the definition of "Guyana National Service";</p> <p>(4) in the definition of "member", delete the words beginning with the words "and" and ending with the words "enlisted therein";</p> <p>(5) insert immediately after the definition of "presiding officer" the following definition – ' "public officer" has the same meaning as in article 232 of the Constitution;';</p> <p>(6) in the definition of "qualifying date", for the word "Minister" substitute the word "Commission";</p> <p>(7) in the definition of "registration order" for the word "Minister" substitute the word "Commission".</p>
Section 3, 8 (1) and 36 (1)	For the word "Minister", "he" or "him", wherever the word appears, substitute the word "Commission".
Section 38 subsection (1)	Delete all the words beginning with the words "; and votes" and ending with the words "section 51".
subsection (2)	For subsection (2), substitute the following - " (2) Elections shall be held in accordance with a mixed system of proportional representation and first past the post and shall provide for the involvement and representation of individuals and voluntary groups in addition to political parties and there shall be accountability to the electors."
Section 38A	Immediately after section 38 insert the following - "Requirement for proportional representation, constituencies and individuals. 38A. (1) A mixed system of proportional representation and first past the post shall be used within each local authority area and shall provide for 50 percent of the seats for proportional representation and 50 percent for constituencies.

(2) Members to be elected under the proportional representation system shall be elected on a party list or a voluntary group list.

(3) Members to be elected for the first past the post system shall be elected for a party, a voluntary group or as an individual whether or not nominated by a party or group.

(4) Each local authority area shall be divided into constituencies for the purpose of electing members of the municipalities and neighbourhood democratic councils.

(5) The Commission may by order combine or subdivide one or more electoral divisions to form a constituency for the purpose of electing members of that local authority.

(6) The constituencies shall elect 50 percent of the members comprising that local authority area.

(7) The other 50 percent of elected members of that local authority area shall be elected from the proportional representation list.

(8) The Minister shall by order identify the local authority areas where the election shall be held.

(9) The Minister shall state for each local authority area -

- (a) the number of seats for each local authority area provided that such number is an even number;
- (b) the number of councillors to be elected by the proportional representation component which shall be 50 percent of the numbers so named;

	<p>(c) the number of councillors to be elected by the constituency component which shall be 50 percent of the numbers so named.</p> <p>(10) To contest the proportional representation component a voluntary group or political party shall contest all the proportional representation seats for that local authority area.</p> <p>(11) A voluntary group or a political party may put up a list of candidates for the constituency component of the election.</p> <p>(12) To contest the constituency component a voluntary group or political party may contest any number of the constituencies for that local authority area.</p> <p>(13) An individual candidate shall be entitled to contest for only one seat in a single constituency.</p> <p>(14) In this section and sections 44A and 44B the system of proportional representation referred to is known as the "largest remainder system using the "Hare quota".</p>
<p>Section 44 subsection (2)</p> <p>subsection (6)</p> <p>Section 44A</p>	<p>In the proviso to subsection (2) after the words "a justice of the peace" insert the words "or a public officer";</p> <p>For the word "No" substitute the words "Subject to section 44A, no person".</p> <p>Immediately after section 44 insert the following -</p> <p>"Requisite number of registered voters submitting a list or an individual.</p> <p>44A. (1) Each voluntary group or political party shall submit for the proportional representation component which it is contesting a list of names of persons qualified to be elected for each local authority area (neighbourhood democratic councils or municipalities); and each list of candidates shall comprise ten or more names than the total number of councillors of that local authority area as specified in section 38A (9) (b) for the specific proportional representation for which the list is submitted.</p>

(2) Each voluntary group or political party shall submit for the constituency component which it is contesting a list of names of persons qualified to be elected to the local authority area (neighbourhood democratic councils or municipalities); and each list of candidates shall comprise the number of councillors specified in section 38A (9) (c) for the specific constituency for which the list is submitted.

(3) Each voluntary group or political party may duplicate names on its proportional representation list and its constituency list subject to the following -

- (a) a candidate's name can appear on only one proportional representation list;
- (b) a candidate's name can appear on only one constituency list;
- (c) a candidate's name can appear on a proportional representation list and also on a constituency list for the same political party or voluntary group save that a person shall not be a candidate for more than one political party or voluntary group and where the candidate is allocated a seat based on results in a constituency, that candidate's name cannot be extracted from the proportional representation list for membership of that local authority area;
- (d) a candidate for the proportional representation list must be a registered voter within the local authority area and a resident within that local authority area;
- (e) a candidate for a constituency seat must be a registered voter within that constituency and a resident within that constituency;
- (f) an individual candidate contesting a constituency must be a registered voter within that constituency and resident within that constituency.

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| | <p>(4) (a) The proportional representation lists of candidates for municipal elections may be submitted by not less than fifty nor more than sixty persons who are registered voters for that municipality.</p> <p>(b) The constituency lists of candidates for municipal elections may be submitted by not less than fifty nor more than sixty persons who are registered voters from the respective constituencies where the lists of candidates are identified and selected from.</p> <p>(c) The proportional representation lists of candidates for the neighbourhood democratic council elections may be submitted by not less than twenty nor more than thirty persons who are registered voters for that neighbourhood democratic council.</p> <p>(d) The constituency lists of candidates for the neighbourhood democratic council elections may be submitted by not less than twenty nor more than thirty persons who are registered voters from the respective constituencies where the lists of candidates are identified and selected from.</p> <p>(e) An individual contesting a constituency for the municipal elections may have his name submitted by not less than twenty nor more than thirty persons who are registered voters from that single constituency he is contesting.</p> <p>(f) An individual contesting a constituency for the neighbourhood democratic council elections may have his name submitted by not less than fifteen nor more than twenty persons who are registered voters from that single constituency where he is contesting.</p> |
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(5) Each candidate is required to complete a statutory declaration form which must be signed and sealed, by a Justice of the Peace or a Commissioner of Oaths to Affidavits.

Voting and allocation of seats for the proportional representation and constituency.

44B. (1) Every elector shall have two votes, one vote shall be cast for the proportional representation list and the other for the constituency candidate of his choice; the votes for proportional representation shall be counted to determine the outcome of the election for the proportional representation component and votes for the constituency candidate for the outcome of the election for the constituency component.

(2) Within each local authority area, the seats allocated to a voluntary group or political party for membership of that local authority area for the proportional representation component shall be determined by application of the system of proportional representation to the valid votes cast in that local authority area in relation to the total number of seats being contested in that local authority area, thereby allocating to the parties or groups 50 per cent of the number of seats under section 38A.

(3) Within each local authority area, the seats allocated in respect of the constituency component shall comprise 50 percent of the seats, and each of those seats shall be allocated to the candidate with the highest number of votes cast in his favour, irrespective of whether that candidate belongs to a voluntary group, political party or contested as an individual.

(4) For each proportional representation list, each party shall extract from it the candidates to become members of the council of that local authority area on the basis of the seats allocated under subsection (2).

(5) The seats for each local authority area shall comprise the total seats allocated to the proportional representation component plus the total seats allocated for the constituency list."

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Section 45	Re-number as subsection (1) and substitute for the opening portion the following - " (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 - "
subsections (2) and (3)	Insert after subsection (1), as so re-numbered, the following - "(2) Notwithstanding anything in this Act or any other written law - (a) the provisions of subsection (1) shall <i>mutatis mutandis</i> apply to the constituency list; (b) the representative, deputy representative of the proportional representation list may serve as representative, and deputy representative of a constituency list. (3) A person contesting a constituency shall be his own representative and shall identify his deputy representative who shall be his nominee."
Section 46 subsection (1)	(1) For the words "Defective lists" in the marginal note substitute the words "Examination of list; informing the representative of any defects." (2) For the words "section 44" substitute the words "sections 38A, 44 and 44A". (3) For the words "and (5) or" substitute the words "and (5) or section 44B".
Sections 71A and 71B	Insert immediately after section 71 the following-

	<p>"Requirement of ballot paper for constituencies.</p> <p>71A. (1) Each ballot paper for a constituency shall -</p> <ul style="list-style-type: none"> (a) contain serially numbered on the left hand side, and in alphabetical order of the initial letters of the name of each candidate, the title, symbol and photograph of each of the candidates, but the serial numbering on the ballot paper under this paragraph and the serial numbering on the counterfoil, under paragraph (c) shall be done in a manner to ensure that the two sets of serial numbering 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 - "Voter's No..... in the Official List", <p>(2) In the printing of the ballot paper -</p> <ul style="list-style-type: none"> (a) no letter, word or design shall be printed on the face except the initial letters, title, symbol and photograph of the candidates; (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 and photographs from the spaces on the right where the vote is to be marked;
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	<p>(c) the whole space between the top and the bottom of the paper shall be equally divided between the contesting candidates by rules separating their particulars;</p> <p>(d) the initial letters of each contesting candidate shall be printed in large capitals and the full titles of each in small capitals.</p> <p>(3) The symbols shall be printed between the candidates' particulars and the vertical rules separating candidates' particulars from the spaces where the vote is to be marked.</p> <p>(4) A voluntary group or a political party contesting any constituency may allow its candidates contesting their constituencies the use of its initial letters, titles and symbols.</p> <p>(5) Tendered ballot papers shall be a different colour from ordinary ballot papers but, subject to the difference of colour, this section shall apply to tendered ballot papers as it does to ordinary ballot papers.</p> <p>71B. (1) The Ballot paper shall be divided into two parts.</p> <p>(2) The top portion for the proportional representation component of the election shall be separated from the bottom part for the constituency component of the election by a perforated horizontal line across the paper.</p> <p>(3) The design and requirements of the ballot paper shall be in accordance with section 71 and 71A."</p>
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Separation of
ballot paper for
proportional
representation
and
constituencies.

<p>Section 94</p>	<p>For section 94 substitute the following –</p> <p>“Method of counting.</p> <p>94. 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 –</p> <ul style="list-style-type: none"> (a) open each ballot box and empty its contents upon a table; (b) distribute tally sheets; (c) count and record the number of ballot papers that were in each ballot box; (d) separate the ballot paper into two piles – <ul style="list-style-type: none"> (i) one pile relating to the ballot paper for the proportional representation component; and (ii) the other pile relating to ballot papers for the constituency component of the election; (e) count and record the number of ballot papers for the proportional representation component and the constituency component of the election. <p>Counting of votes for proportional representation.</p> <p>94A (1). The presiding officer shall –</p> <ul style="list-style-type: none"> (a) mix together the ballot papers recorded for the proportional representation component; (b) sort out the ballot papers on the basis of lists for which the votes have been cast; and (c) count the numbers of votes recorded for each list of candidates on his tally sheet, giving full opportunity for those present to examine each ballot paper.
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(2) In counting the votes the presiding 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; or
- (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; or
- (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 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 and where his decision on a ballot paper is questioned, he shall record the fact by writing the letter 'Q' at the back of the ballot paper and appending his initials.

- (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.

Counting of votes for constituencies.

94.B (1) The presiding officer shall —

- (a) mix together the ballot papers recorded for the constituency component of the election;
- (b) sort out the ballot papers on the basis of each candidate for which the votes have been cast; and
- (c) count the number of votes recorded for each candidate on his tally sheet, giving full opportunity to those present to examine each ballot paper.

- (2) In counting the votes the presiding 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 candidate or is void for uncertainty;
- (c) on which votes have been given for more than one of the candidates; or
- (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; or
- (c) by more than one mark, shall not be rejected solely by reason thereof if —

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- (i) an intention that the vote shall be for one or other of the candidates clearly appears; and
- (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 an appointed candidate or a counting agent present during the counting and where his decision on a ballot paper is questioned, he shall record the fact by writing the letter 'Q' at the back of the ballot paper and appending his initials.

(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.

Further procedure in counting.

94C. (1) The presiding officer shall place the ballot papers cast for each list of candidates for the proportional representation component and candidates for the constituency component for the election and counted under section 94 in separate envelopes whether or not any such ballot papers is a questioned ballot paper.

(2) All rejected ballot papers shall be placed in a separate envelope by the presiding officer.

(3) The envelopes referred to in subsections (1) and (2) shall be endorsed so 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.

(4) The presiding officer shall affix his seal to the envelopes referred to in the preceding subsections and shall invite the duly appointed candidates and the polling agents as are present to do likewise.

(5) After the completion of the counting, the presiding officer shall complete the ballot paper account and tendered ballot paper Account Form, the Statement of Poll Form, for both proportional representation and the constituency components of the election 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 the duly appointed candidates or the polling agents as are present; and
- (d) to the Chief Elections Officer.

(6) The Statement of Poll prepared in accordance with subsection (5) shall be posted immediately thereafter in a conspicuous place outside the polling place as evidence of the result of the election for that polling place.

(7) The presiding officer shall then -

- (a) place the sealed envelopes containing the counted and rejected ballot papers in the ballot boxes, 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;

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(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 such other election document 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 Poll Form placed in one envelope sealed in the manner referred to in paragraph (b), to the Returning Officer for that local authority area in which the polling place is situated.

(8) 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 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.

	<p>Ascertaining of votes and declaration of results by Returning Officer.</p>	<p>94D. (1) As soon as practicable after the receipt of all the ballot of boxes and the envelopes and packets delivered to him in pursuance of section 94C(7), the Returning Officer shall, in the presence of such of the persons entitled under section 93 to be present as attend, ascertain –</p> <p>(a) the total votes cast in favour of the list for the proportional representation component of the election in that local authority area by adding up the votes recorded in favour of that list in accordance with the Statements of Poll and thereupon publicly declare the votes recorded;</p> <p>(b) the total votes cast in favour of each candidate for a constituency for the election in that local authority area by recording the votes cast in favour of the candidates in accordance with Statements of Poll and thereupon publicly declare the votes recorded.</p> <p>(2)(a) Where an election officer for a polling district discovers a material error on the Statement of Poll from a polling station for that local authority area, he shall inform the presiding officer for that polling station forthwith, and the presiding officer, if the Statement of Poll had not yet been sent to the Returning Officer, in the presence of the persons who signed the original Statement of Poll shall prepare a corrected Statement of Poll signed by himself and the original signatories</p>
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present and the corrected Statement of Poll shall be sent to the Returning Officer.

(b) Where the mistake is discovered when the Statement of Poll is in possession of the Returning Officer, the presiding officer shall be informed of the mistake and the Returning Officer shall summon the presiding officer and the other persons who signed the original Statement of Poll, for the purpose of effecting the necessary correction to the Statement of Poll by the presiding officer in the presence of the other persons mentioned in this paragraph as attended.

(c) The presiding officer shall post the corrected Statement of Poll next to the original incorrect Statement of Poll at his polling station and the Returning Officer shall use the corrected Statement of Poll in making the public declaration under subsection (1).

(3) Where before twelve noon of the day following the declaration under subsection (1) any counting agent for the local authority area does not request the Returning Officer to conduct a final count of the votes counted by the presiding officers in the local authority area under section 93, the declaration of the votes obtained by the lists for both components of the election under subsection (1) shall be final; but where any counting agent for the local authority area seeks a final count of the votes already counted by the presiding officer in the local authority area under section 93, the Returning Officer shall count such votes in accordance with the provisions contained in the following subsection and on the basis of

such recount confirm or vary the declaration of the votes recorded in the local authority area or constituencies, as the case may be, for each list of candidates under subsection (1).

(4) Where any counting agent for the district requests a final count, he shall indicate whether he request 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.

(5) 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 be examined by the Returning Officer.

(6) Where in a limited final count the Returning Officer agrees with the decision of a presiding officer as regards any questioned or rejected ballot papers, 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.

(7) 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.

(8) 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.

(9) All ballot papers marked in any way by the Returning Officer in a final count shall be marked with his initials.

(10) 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.

(11) At the conclusion of any final count, the Returning Officer shall comply with section 96 in respect of the polling places to which the final count related.

(12) The decision of the Returning Officer as to any question arising in respect of any ballot paper shall be final.

(13) On ascertaining the votes cast in the local authority area, for the proportional representation component and each candidate or individual for the constituency component, the Returning Officer shall in the presence of all persons publicly announce the result of the election for that local authority area."

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Section 104	Immediately before the full stop at the end, insert the words "and forward a copy of the report to the Chief Election Officer".
Section 105	For subsections (3) and (4) substitute the following – “(3) The Returning Officer 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 the Commission.”.

Passed by the National Assembly on 30th July, 2009.

George
For S.E. Isaacs,
Clerk of the National Assembly.

(Bill No. 21/2009)