

BILL No. 23 of 1990 Monday, 9th JULY, 1990

**PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.
1990-07-09**

The following Bill which will be introduced in the National Assembly is published for general information.

F. A. Narain,
Clerk of the National Assembly.



**GUYANA
Bill No. 23 of 1990**

LOCAL DEMOCRATIC ORGANS (ELECTIONS) BILL 1990

ARRANGEMENT OF SECTIONS

SECTION

PRELIMINARY

- 1. Short title and application.**
- 2. Interpretation.**

SUPERVISION OF ELECTIONS

3. Functions of Commission in relation to elections.
4. Exercise of functions conferred on Commission by section 3.
5. Proceedings of Commission.

REGISTRATION AND ELECTION STAFF

6. Appointment of registration officers, election officers and other staff.
7. Emoluments of officers and staff and other expenses.

REGISTRATION OF VOTERS

8. Responsibility for preparation of register of voters.
9. Relevant dates in respect of preparation of register of voters.
10. Mode of preparation of register of voters.
11. Qualifications for registration.

ELECTIONS

12. Election officers.
13. Mode of elections.
14. Date of elections.
15. Postponement of election or voting.
16. Relevant dates in connection with elections.
17. Qualifications and disqualifications for voting at an election.
18. Qualifications and disqualifications for membership of a local democratic organ.
19. Nomination of candidates.
20. Objection as to nomination of candidate.
21. Acceptance and rejection of nominations.
22. withdrawal of candidate.
23. Election.
24. List of candidates.
25. Symbol of candidate.
26. Ballot paper.
27. Voting.
28. Counting of votes.

MEMBERSHIP OF LOCAL DEMOCRATIC ORGANS

29. Choosing of members.
30. Filling of casual vacancies.
31. Notification of names of persons chosen to fill casual vacancies.
32. Certificate of election.
33. Term of office of member of local democratic organ.

MISCELLANEOUS

- 34. Application of Local Authorities (Elections) Act to elections to local democratic organs.
- 35. Amendment of First Schedule.
- 36. Power to make regulations.

FIRST SCHEDULE

SECOND SCHEDULE

A BILL
Intituled

AN ACT to make provision for the election of members of local democratic organs, 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 democratic organs and for matters incidental to and connected with the aforesaid matters.

Enacted by the Parliament of Guyana:—

A.D. 1990

PRELIMINARY

1.(1) This Act may be cited as the Local Democratic Organs (Elections) Act 1990.

Short title
and
application.

(2) This Act shall not apply to, and in relation to, regional democratic councils.

2.(1) In this Act —

Interpreta-
tion

- (a) “area”, in relation to any local democratic organ, means the area for which that local democratic organ is established;
- (b) “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;
- (c) “Chairman” means the Chairman of the Commission;

First
Schedule

No. 12
of 1980

No. 12 of
1980.

No. 12
of 1980.

Cap. 28:03

Functions of
Commission
in relation
to elections.

- (d) "clerk" means the chief executive officer, however styled, of a local democratic organ and, if there is no such officer, then such officer as may be designated for the purpose by the Minister;
- (e) "Commission" means the Elections Commission established by article 161 of the Constitution;
- (f) "election" means an election to choose the members of any local democratic organ;
- (g) "Form" means a form specified in the First Schedule;
- (h) "local democratic organ" means any local government authority established under the Local Democratic Organs Act 1980 for any area into which Guyana is divided under section 4 of that Act, but does not include a regional democratic council;
- (i) "people's co-operative unit" and "neighbourhood" mean a people's co-operative unit and neighbourhood referred to in section 4 of the Local Democratic Organs Act 1980;
- (j) "region" and "regional democratic council" have the respective meanings assigned to them by section 2(1) of the Local Democratic Organs Act 1980;
- (k) "registered voter", in relation to a local democratic organ, means a person whose name appears on the register of voters for the area of the local democratic organ.

(2) Expressions used in this Act but not defined herein, and defined in the Local Authorities (Elections) Act, as made applicable to local democratic organs with modifications by section 34, shall have the same meanings as in that Act.

SUPERVISION OF ELECTIONS

3.(1) Elections shall be independently supervised by the Commission and for this purpose the Commission shall have, and exercise and discharge, all incidental functions.

(2) Without prejudice to the provisions of subsection (1), the Commission shall —

- (a) exercise general direction and supervision over the registration of voters and the conduct of all elections;
- (b) 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 Act on the part of persons exercising powers or performing duties connected with or relating to matters aforesaid, and all such persons shall promptly comply with the instructions issued by the Commission through the Chairman thereof.

(3) Subject to the provisions of this Act, the Commission shall have the power to decide the day or days on or before which, the hours between which, the place at which and the person by or before whom anything that is required to be, or may be, done by or under this Act shall be done or the person to whom any application or other communication under this Act shall be made or submitted.

4.(1) The functions conferred by this Act 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, and shall not be exercised or discharged by or through any other person.

Exercise of
functions
conferred on
Commission
by section 3.

(2) Without prejudice to the provisions of subsection (1), all communications and instruments from or made by the Commission shall be issued or made under the signature of 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.

(3) 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.

(4) The expenses incurred by the Chairman of the Commission, 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 to persons designated or appointed under subsection (3)) shall be paid out of the funds provided by Parliament.

(5) In subsection (3) and section 6 “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 this Act or any other written law, no question whether any function of the 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 Commission, or communications between members of the Commission regarding its business, shall be admissible in any court.

REGISTRATION AND ELECTION STAFF

Appointment
of registration
officers,
election
officers and
other staff.

6. Registration officers, election officers and other staff required for the purposes of this Act (not being employees referred to in section 4(3)) shall be —

- (a) designated by the Chief Election Officer, from among persons holding appointments in the public service, after consultation with the Commission and with the consent of the appropriate authority; or
- (b) appointed from among persons who had held appointments in the public service and had retired or resigned therefrom.

Emoluments
of officers
and staff
and other
expenses.

7.(1) The emoluments to be paid to registration officers, election officers and other staff to whom section 6 applies, and the other terms and conditions of their appointment, shall be determined by the Chief Election Officer after consultation with the Commission.

(2) The expenses of the Chief Election Officer, or incurred with his approval, (including the payment of the emoluments referred to in subsection (1)) for or in connection with the exercise and discharge of the functions conferred by this Act shall be paid out of the funds provided by Parliament.

REGISTRATION OF VOTERS

Responsibility
for
preparation of
register of
voters.

8.(1) There shall be an electoral registrar, for the area of each local democratic organ, to choose the members of which an election is to be held, whose responsibility shall be the preparation of a register of voters for the purposes of the election:

Provided that where elections are to be held to choose the members of more than one local democratic organ having jurisdiction over the same area, one electoral registrar may be appointed for each neighbourhood in which an election is to be held:

Provided further that one person may be appointed as electoral registrar in respect of more than one neighbourhood.

(2) There shall be such number of deputy electoral registrars and assistant electoral registrars and other staff, as the Chief Election Officer deems necessary or desirable for the preparation of the register of voters in respect of any area.

9.(1) In this section references to “the Act” shall be construed as references to the Local Authorities (Elections) Act as made applicable with modifications to and in relation to local democratic organs by section 34 of this Act.

(2) The qualifying date with reference to which the register of voters for the purposes of an election to a local democratic organ shall be prepared shall be the 31st August of the year in which the election is to be held:

Relevant
dates in
respect of
preparation
of register
of voters.
Cap. 28:03

Provided that for the purposes of the first election to a local democratic organ such qualifying date shall be specified by the Commission, by notification in the Gazette, after consultation with the Chief Election Officer.

(3) The Commission, after consultation with the Chief Election Officer, shall by notification in the Gazette specify —

(a) the day not later than which the electoral registrar shall publish under section 12 of the Act the preliminary list:

Provided that such day shall not be earlier than one hundred and twenty days and not later than forty-five days before the date on which the next election is to be held;

(b) the days to be specified in the notice published under section 12 of the Act on which applications may be made for registration as voters;

(c) the days on which objections may be lodged against the inclusion of names in the preliminary lists and on which applications may be made by persons whose names appear in the preliminary list for correction of their particulars as shown in the list;

(d) 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 of the Act;

- (e) the day not later than which the electoral registrar shall hear and determine under section 20 of the Act objections and applications for correction of particulars;
- (f) the day not later than which the electoral registrar shall correct the preliminary and supplementary lists under section 22 of the Act:

Provided that any date prescribed under section 22 of the Act shall not be later than twenty-five days before the date on which the next election is to be held.

10. The register of voters shall be prepared separately in respect of each people's co-operative unit.

11.(1) A person shall be qualified to be registered as a voter for the area of a local democratic organ 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 area of the local democratic organ.

(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 centre 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 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

Mode of preparation of register of voters.

Qualifications for registration.

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.

ELECTIONS

12.(1) There shall be for the area of any local democratic organ, to choose the members of 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:

Election
officers.

Provided that where elections are to be held to choose the members of more than one local democratic organ having jurisdiction over the same area, one returning officer shall be appointed in respect of each of such elections, but one election clerk, one presiding officer and one poll clerk may be appointed in respect of one polling place even though polls to choose members of more than one local democratic organ are to be taken at that polling place.

(2) There may be such number of deputy returning officers, assistant presiding officers and other staff as the Chief Election Officer deems necessary or desirable for the conduct of the election.

13. Elections to choose the members of local democratic organs shall be by secret ballot and shall be held in accordance with the provisions of this Act.

Mode of
elections.

14.(1) Subject to the provisions of subsections (2), (3), (4), (5) and (6) and section 15, an election to choose the members of a local democratic organ shall be held every three years on the first Monday in September.

Date of
elections.

(2) The first election to choose the members of a local democratic organ shall be held on such date as may be determined by the Minister by order.

(3) The second election to choose the members of neighbourhood democratic councils for which elections are held in 1990 shall be held, subject to the provisions of subsections (4), (5) and (6) and section 15, on the first Monday in September 1993.

(4) The second election to choose the members of a local democratic organ, other than a neighbourhood democratic council to which subsection (3) applies, shall, notwithstanding that the first election to choose the members thereof was held after the last election to choose the members of the said neighbourhood democratic councils, be held on the day on which elections to choose the members of the said neighbourhood demo-

cratic councils are to be held, under the other provisions of this section, next after the first election to such local democratic organ.

(5) Where the day on which an election to choose the members of a local democratic organ is to be held under subsection (1), (2), (3) or (4) is a public holiday, the election shall be held on the day following that public holiday or any public holiday or public holidays immediately following that public holiday.

(6) If the date on which an election to choose the members of a local democratic organ, under subsection (1), (2), (3), (4) or (5) is to be held falls within one month before or after the date fixed for holding an election of members of the National Assembly referred to in article 60(2) of the Constitution, the election to choose the members of the local democratic organ shall be held on the first Monday of the third month after the month in which the election of the aforesaid members of the National Assembly is held, and if such first Monday is a public holiday the provisions of subsection (5) shall apply.

Postpone-
ment of
election
or voting.

15. If the Commission is satisfied that the holding of an election on the day specified in, or determined under, section 14 would be attended, either generally or in a particular area, by danger or serious hardship, it may, 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 specified therein,

and thereupon references in this Act to the day on which an election is to be held hereunder shall, in respect of local democratic organs generally or in respect of such area, be deemed to be references to the day to which such election or voting is so postponed.

Relevant
dates in
connection
with
elections.

16.(1) The Commission shall, after consultation with the Chief Election Officer, by notification in the Gazette appoint the days, times and place for the following, in relation to an election to choose the members of a local democratic organ —

- (a) the submission of nominations of candidates to the returning officer;
- (b) the hearing by the returning officer of objections to the validity of the nomination of any candidate; and
- (c) the last date for withdrawal of candidates.

- (2) The date appointed under subsection (1) for —
 - (a) the nomination of candidates shall not be later than the twenty-first day before the date of the election;
 - (b) the hearing of objections to the validity of the nomination of any candidate shall not be later than eighteen days before the date of the election; and
 - (c) the withdrawal of candidates shall not be later than fifteen days before the date of the election.

(3) A notification under this section shall be published also in a newspaper having circulation in the area of the local democratic organ.

17. A person shall be qualified to vote at an election to choose the members of a local democratic organ if, and shall not be so qualified unless, his name appears in the register of voters prepared with reference to the area of that local democratic organ or any part thereof.

Qualifications and disqualifications for voting at an election.

18.(1) Subject to the provisions of subsection (2), a person shall be qualified for election as a member of a local democratic organ if, and shall not be so qualified unless, his name appears in the register of voters prepared with reference to the area of the local democratic organ or any part thereof.

Qualifications and disqualifications for membership of a local democratic organ.

(2) a person shall be disqualified for election as, or to be, a member of a local democratic organ if he is disqualified for election as, or to be, a member of a regional democratic council.

19.(1) On the day and the place specified in the notification under section 16(1) for the nomination of candidates for an election to choose the members of a local democratic organ, the returning officer shall attend during the whole period between the hours specified therefor and receive the nominations of candidates.

Nomination of candidates.

(2) The nomination of a candidate shall be in Form 1 (hereinafter referred to as the nomination form) and each candidate shall be nominated separately.

Form 1

(3) A nomination of a candidate shall not be received by the returning officer before the hour or after the hour specified therefor in the notification under section 16(1) or on any other day or at any other place than the day and place specified in such notification.

(4) Each candidate shall be nominated by not less than fifteen persons, or such larger number of persons as the Commission may by notification in the Gazette specify, whose names appear in the register

of voters for the area of the local democratic organ.

(5) A candidate nominated shall be a person qualified to be elected as a member of the local democratic organ and shall state on the nomination form his willingness to serve as such member if elected.

(6) A nomination of a candidate may be presented to the returning officer by one or more of the persons nominating the candidate.

Objection
to nomination
of
candidate.

20. (1) On the day and at the time and place fixed therefor under section 16(1) any person nominated as a candidate for an election to choose the members of a local democratic organ, may submit to the returning officer, objections to the nomination of any other person as a candidate for the election on any or all of the following grounds —

- (a) the person was not qualified under this Act to be a candidate for the election;
- (b) the nomination was by persons whose names do not appear in the register of voters for the area of the local democratic organ;
- (c) the nomination was not otherwise properly made in accordance with this Act.

(2) The returning officer shall give the person objecting and the candidate against whose nomination the objection has been made, or their representatives, if any, a reasonable opportunity of being heard.

Acceptance
and rejection
of nominations.

21. (1) The returning officer shall examine each nomination for the purpose of ascertaining whether it is in accordance with the provisions of this Act (including as to whether the person nominated is qualified to be a candidate); and if there is any defect of a formal nature in the nomination, he may allow the candidate nominated thereby to cure the defect before such date as may be specified by the returning officer, such date being not later than the date appointed for the withdrawal of candidates.

(2) After examining the nominations and after hearing the objections, if any, referred to in section 20, the returning officer shall, before the date appointed for the withdrawal of candidates, accept such nominations as are in accordance with the provisions of this Act, including nominations which had any defect of a formal nature if such defect has been cured before the date specified therefor by the returning officer under subsection (1), and shall reject the other nominations.

(3) A decision of a returning officer under this section shall not be called in question in any proceedings in any court or before any authority

except by way of an election petition questioning the validity of the election under the Local Authorities (Elections) Act, as made applicable in relation to local democratic organs by section 34.

Cap. 2^o 03.

22.(1) On or before the date and time fixed therefor under section 16(1)(c) any person nominated as a candidate may withdraw his candidature.

Withdrawal
of candidate.

(2) The withdrawal of a candidate shall be in Form 2 and shall be addressed, and delivered personally by the candidate, or through any person authorised by him, to the returning officer.

Form 2

23. If, after the rejection of any nominations under section 21 and the withdrawal of any candidates under section 22, there are no more candidates validly nominated than there are seats to be filled, the returning officer shall, as soon as may be possible after the time and date fixed for the withdrawal of candidates have expired, publicly declare those persons nominated to be elected as members of the local democratic organ and cause notice thereof to be published in the Gazette, and if there are more candidates nominated than there are seats to be filled an election shall be held on the day fixed by or under section 14 to choose the members of the local democratic organ.

Election.

24.(1) Where after the rejection of any nominations under section 21 and the withdrawal of any candidate under section 22 there are more candidates validly nominated for an election to choose the members of a local democratic organ, than there are such members, the returning officer shall, as soon as possible after the expiry of the date fixed for the withdrawal of candidates for the election, prepare a list of candidates, one name below the other, in the alphabetical order of their surnames, of all the candidates so validly nominated and contesting the election, with the symbol allocated to each candidate, and have it published before the expiry of three days from that date in the Gazette and in a newspaper having circulation in the area of the local democratic organ:

List of
candidates.

Provided that the name of any candidate who dies after the nomination and before the publication of the list of candidates under this subsection shall not be included in the list.

(2) The list of candidates shall be published on the date of the election at the place of polling, and if there are more than one place of polling, at all the places of polling within the area of the local democratic organ.

(3) The list of candidates shall be in Form 3.

Form 3

(4) For the purposes of this section and section 26 candidates contesting the election means the candidates whose nominations have been accepted by the returning officer and who have not withdrawn from the election.

Symbol of candidate.

25.(1) Each of the candidates for election to any local democratic organ shall be allocated a separate symbol.

(2) An application for the allocation of a symbol for a candidate shall be made to the returning officer by the election agent of the candidate on or before the expiry of the date appointed for the withdrawal of candidates.

(3) Applications for symbols shall be considered by the returning officer 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.

Ballot Paper.

26.(1) The ballot paper for an election to choose the members of a local democratic organ shall —

- (a) specify, serially numbered on the left hand side and in the alphabetical order of surnames, the names of all the candidates contesting the election, and, against the name of each candidate, the symbol allocated to him and a square space for marking the vote;
- (b) be capable of being folded up;
- (c) be attached to a counterfoil bearing, printed on the face the words and dots "Voters number.....in official list of voters".

(2) In addition to the particulars mentioned in subsection (1), each ballot paper shall have a number printed on the face of the counterfoil.

(3) In the printing of the ballot paper —

- (a) no letter, word, figure or design, other than the names, numbers and symbols and other particulars mentioned in subsection (1), shall be printed;
- (b) no rule shall be printed on the face except the horizontal rules separating the particulars of the 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 symbols are shown and separating the spaces for symbols from the spaces on their right where the votes are to be marked;

(c) the whole space between the top and bottom of the paper shall be equally divided between the names of candidates by rules separating their particulars; and

(d) the surname of each candidate shall be printed in large capitals and the other name or names in small capitals.

(4) The ballot paper for an election to choose the members of a local democratic organ shall be in Form 4.

Form 4.

(5) 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.

27.(1) At an election to choose the members of a local democratic organ every registered voter shall, subject to the provisions of this section, have and may exercise as many votes as the number of the members of the local democratic organ to be chosen at the election.

Voting.

(2) Votes in favour of a candidate shall be cast by clearly marking in the space provided therefor in the ballot paper against the name and symbol of that candidate.

(3) a voter shall not cast more than one vote in favour of any candidate at the election.

(4) A voter shall not cast at an election to choose the members of a local democratic organ more votes than the number of votes he is entitled to cast at the election.

(5) If a voter contravenes subsection (3), the votes cast in favour of any candidate, in whose favour he casts more than one vote, shall be invalid.

(6) If a voter contravenes subsection (4), all the votes cast by him in the election shall be invalid.

28.(1) Subject to the provisions of subsection (2), votes cast in an election to choose the members of a local democratic organ shall be counted in such place in the area administered by the local democratic organ, as may be determined by the Chief Election Officer after consultation with the Commission.

Counting of votes.

(2) Where elections are held simultaneously to choose the members of more than one local democratic organ having administrative responsibility over the same area, the votes cast in the election to each of such local democratic organs shall be counted separately and in such place or places in the area administered by each such local democratic organ as

may be determined by the Chief Election Officer after consultation with the Commission.

MEMBERSHIP OF LOCAL DEMOCRATIC ORGANS

Choosing of
members.

29.(1) After the counting of votes cast in an election to choose the members of a local democratic organ, the returning officer shall prepare a list in which the names of the candidates contesting the election shall be arranged on the basis of the valid votes cast in their favour, the name of the person polling a larger number of valid votes taking precedence over the person polling a smaller number of valid votes:

Provided that where the valid votes cast in favour of two or more candidates are equal in number, the returning officer, acting in the presence of a magistrate, or Justice of the Peace, and of the public, shall by lot determine the order in which the names of such candidates shall be arranged in the list.

(2) The list referred to in subsection (1) shall, as soon as may be possible, be forwarded by the returning officer to the Chief Election Officer, who shall as soon as possible forward a copy thereof to the Commission.

(3) The names of the members of a local democratic organ shall be extracted by the Chief Election Officer on the basis of the order in which the name of the candidates appear in the list referred to in subsection (1), the candidate whose name is higher in the list, being preferred to the candidate whose name is lower in the list, and the results of the election publicly declared accordingly by the Chief Election Officer.

Form 5

(4) The Chief Election Officer shall publish in the Gazette in Form 5 the list referred to in subsection (1) together with the names of the candidates declared elected in accordance with subsection (3).

Filling of
casual
vacancies.

30.(1) Where there is any vacancy in the membership of a local democratic organ on account of the death or resignation of any member, or for any other reason whatsoever, the matter shall be referred to the Chief Election Officer by the clerk of that local democratic organ.

(2) Where there is any name or names of any person or persons in the list referred to in section 29(1), prepared in relation to that local democratic organ, who was not earlier chosen as a member of the local democratic organ at or after the immediately preceding election, the Chief Election Officer shall —

(a) if there is the name of only one such person in the list and

he is willing to serve as a member of the local democratic organ, choose him as a member;

(b) if there are names of more than one person in the list, choose one of the persons, from among those willing to serve as a member of the local democratic organ, preferring a person whose name is higher in the list to a person whose name is lower in the list:

Provided that where any such person has, after the date of the last election to choose the members of the local democratic organ and the date on which he is proposed to be chosen to serve as a member of the local democratic organ under this section, become disqualified to be elected as a member of the local democratic organ, he shall not be chosen to serve as a member of the local democratic organ under this section.

(3) Where there is no name in the list referred to in section 29(1) prepared in relation to a local democratic organ after the immediately preceding election, who could be chosen under subsection (2) as a member thereof to fill a casual vacancy, the Chief Election Officer shall inform the clerk of the local democratic organ to that effect and thereupon the local democratic organ shall, to fill the casual vacancy, co-opt as a member thereof any person who is qualified, on the date of such co-option, to be elected as a member of the local democratic organ and is willing to serve as such member:

Provided that no casual vacancy in a local democratic organ shall be filled in the manner provided in this subsection if the period between the date on which the vacancy occurs and the date on which an election is to be held under section 14 to choose the members of the local democratic organ does not exceed three months.

(4) The clerk of a local democratic organ shall intimate the Chief Election Officer of the co-option of any person as a member thereof.

31. The name of every person chosen as a member of a local democratic organ to fill a casual vacancy shall be notified in the Gazette by the Chief Election Officer.

Notification of names of persons chosen to fill casual vacancies.

32. The Chief Election Officer shall furnish every person elected as a member of a local democratic organ a certificate to that effect.

Certificate of election.

33. A member of a local democratic organ shall hold office as such member thereof from the date on which he takes oath of office to the date on which —

Term of office of member of local democratic organ.

(a) he becomes disqualified to be a member of the local democratic organ;

- (b) he ceases to be a member of the local democratic organ by resignation, death or any other reason; or
- (c) any of the persons chosen as a member of the local democratic organ at the next election thereto takes oath of office,

whichever date is the earliest.

MISCELLANEOUS

Application
of Local
Authorities
(Elections)
Act to elec-
tions to local
democratic
organs.
Cap. 28:03
Second
Schedule.

34.(1) Subject to the provisions of this Act, the Local Authorities (Elections) Act shall, as modified in the manner specified in the Second Schedule, apply to, and in relation to, local democratic organs in respect of all matters referred to therein.

(2) If any difficulty arises in connection with the application of the Local Authorities (Elections) Act to local democratic organs, particularly as a result of any conflict between the provisions thereof and the provisions of this Act, the Minister may on the advice of the Commission, by order make any provision that appears to him necessary or expedient for removing the difficulty:

Provided that an order under this subsection shall not be made after the expiry of two years from the commencement of this Act.

(3) An order under subsection (2) shall be subject to negative resolution of the National Assembly.

Amendment
of First
Schedule.

35. The Minister may by order, which shall be subject to negative resolution of the National Assembly, amend any of the forms in the First Schedule.

Power to
make
regulations.

36.(1) Subject to negative resolution of the National Assembly, the Minister may make regulations for giving effect to this Act and without prejudice to the generality of the foregoing such regulations may, in particular, prescribe any forms required for the purposes of this Act and the procedure for the co-option of a person as a member of a local democratic organ.

Cap. 28:03

(2) Subject to the provisions of this Act and any regulations made thereunder, the regulations made under the Local Authorities (Elections) Act shall *mutatis mutandis* apply to local democratic organs in respect of the matters provided for therein:

Provided that the Minister may by order, which shall be subject to negative resolution of the National Assembly, modify any such regu-

FORM 3

s.24(3)

**LOCAL DEMOCRATIC ORGANS (ELECTIONS) ACT 1990
(No. of 1990)**

**LIST OF CANDIDATES FOR ELECTION
TO A LOCAL DEMOCRATIC ORGAN**

(NAME OF LOCAL DEMOCRATIC ORGAN)

The following are the names and other particulars of the candidates contesting the election to the above local democratic organ to be held on with the symbol allocated to each of the candidates.

Surname	Other name or names	Address	Age	Occupation	Identification Card No.	Symbol
----------------	----------------------------	----------------	------------	-------------------	--------------------------------	---------------

Returning Officer.

FORM 4

s.26(4)

**LOCAL DEMOCRATIC ORGANS (ELECTIONS) ACT 1990
(No. of 1990)**

**FORM OF BALLOT PAPER FOR
ELECTION TO A LOCAL DEMOCRATIC ORGAN**

(NAME OF LOCAL DEMOCRATIC ORGAN)

Counterfoil No.	Names of Candidates (to be arranged in alphabetical order of surnames)	Symbols of candidates	Space for marking vote
	1.		
Voter's No.	2.		
in official list of voters	3.		
	4.		

LOCAL DEMOCRATIC ORGANS (ELECTIONS) ACT 1990
(No. of 1990)

RESULTS OF ELECTIONS TO A LOCAL DEMOCRATIC ORGAN

(NAME OF LOCAL DEMOCRATIC ORGAN)

I hereby notify that in the elections to choose the members of (Name of local democratic organ) held on (date of election) the following candidates contesting the election received the votes shown against them.

Names of candidates (in the descending order of votes obtained)	No. of votes
--	--------------

The total votes polled in the election and the number of rejected ballot papers are respectively. and

Of the above candidates I hereby declare the following candidates to have been duly elected as members of the aforesaid local democratic organ —

Names of candidates

Dated this day of 19

Chief Election Officer.

SECOND SCHEDULE

s.34

AMENDMENTS TO THE LOCAL AUTHORITIES (ELECTIONS)
ACT
(Cap. 28:03)

Provision

How amended

Section 2

- (a) Delete the definitions of the expressions
 - (i) "group of candidates"; and
 - (ii) "registration order".

Provision

How amended

- (b) In the definition of “clerk of the local authority”, for all the words beginning with “means” and ending with “this Act” substitute ‘has the meaning assigned to “clerk” in section 2’(1) of the Local Democratic Organs (Elections) Act 1990’.
- (c) In the definition of “councillor” for “a councillor” substitute “a member”.
- (d) In the definition of “election”, for “of councillors” substitute “to choose the members of any local democratic organ, and in Part IV references to an election includes references to the co-option of a person as councillor”.
- (e) In the definition of “election day” for “order of the Minister under section 35 for the holding of an election” substitute “or under section 14 of the Local Democratic Organs (Elections) Act 1990 and includes any day to which any election, or voting in any area, is postponed under section 15 of that Act”.
- (f) In the definition of “local authority” for all the words beginning with “any local” and ending with “this Act” substitute “any local democratic organ as defined in section 2(1) of the Local Democratic Organs (Elections) Act 1990”.
- (g) In the definition of “qualifying date” for “such date as may be appointed by the Minister with reference to which a register of voters shall be compiled” substitute “the date specified by section 9(2) of the Local Democratic Organs (Elections) Act 1990”.

Provision	How amended
	(h) In the definition of “register of voters” for “a local authority area compiled under this Act” substitute “the area of a local democratic organ compiled under the Local Democratic Organs (Elections) Act 1990”.
Section 3	(1) Delete subsection (1). (2) In subsection (2), for “Minister”, wherever it occurs, substitute “Elections Commission”.
Section 5	Delete subsections (1) and (2).
Section 6	For “All registration officers” substitute “Subject to the provisions of section 3 of the Local Democratic Organs (Elections) Act 1990, all registration officers”.
Section 8	Delete
Section 9	For “The register” substitute “subject to the provisions of the Local Democratic Organs (Elections) Act 1990, the register”.
Section 11(2)	For “within the period specified in the registration order” substitute “on the days and between the hours specified in a notice under section 12(1)”.
Section 12(1)	For “prescribed by the registration order” substitute “specified by the Elections Commission under section 9(3)(a) of the Local Democratic Organs (Elections) Act 1990”.
Section 18(1)(b)	For subparagraph (i) substitute “(i) the Chairman and other members of the Elections Commission;”.
Section 19	In the opening portion, for “prescribed by the registration order” sub-

Provision	How amended
Section 20(1)	<p>stitute “specified by the Elections Commission under section 9(3)(d) of the Local Democratic Organs (Elections) Act 1990”.</p> <p>For “prescribed by the registration order” substitute “specified by the Elections Commission under section 9(3)(e) of the Local Democratic Organs (Elections) Act 1990”.</p>
Section 22(1)	<p>In the opening portion for “prescribed by the registration order” substitute “specified by the Elections Commission under section 9(3)(f) of the Local Democratic Organs (Elections) Act 1990”.</p>
Section 22(2)	<p>For “prescribed by the registration order” substitute “specified by the Elections Commission under section 9(3)(f) of the Local Democratic Organs (Elections) Act 1990”.</p>
Section 34	<p>(a) For “The expenses” substitute “Without prejudice to the provisions of section 7(2) of the Local Democratic Organs (Elections) Act 1990, the expenses”.</p> <p>(b) Insert the following proviso at the end— “Provided that the expenses referred to in this section in respect of the first elections to a local democratic organ shall be paid out of the funds provided by Parliament.”.</p>
Section 35	Delete.
Section 36	Delete.
Section 37	Delete.
Section 38(1)	Delete all the words beginning with “; and” and endin with “section 51”.

Provision	How amended
Section 38(2)	Delete.
Sections 40 to 52 (inclusive)	Delete.
Section 53	Delete this section and substitute the following section —
*Death of candidate.	<p>53. (1) If a person whose name is included in the list of candidates referred to in section 24 of the Local Democratic Organs (Elections) Act 1990 dies after the publication of that list under subsection (1) of that section, his name shall be deleted from the list and the returning officer shall cause a notification of the deletion published in the same manner as the list.</p> <p>(2) If consequent on the death of any person whose name is included in the list of candidates referred to in subsection (1), there are no more candidates in the list than there are seats to be filled, the returning officer shall, as soon as may be possible thereafter, publicly declare those persons whose names are in the list of candidates, after the deletion of the name of the dead person, to be elected as members of the local democratic organ and cause notice thereof to be published in the <u>Gazette</u>.”</p>
Section 54	Delete.
Section 55(1)	<p>(a) For “The representative of each list of candidates” substitute “Each candidate”.</p> <p>(b) For “candidates in the list” substitute “candidate”.</p> <p>(c) For “the representative of the list of candidates shall be deemed to have been</p>

Provision	How amended
	appointed to be the election agent of the candidates” substitute “if such election agent is not the candidate, the candidate shall be deemed to have been appointed to be his election agent”.
Section 66(1)	<p>(a) In the opening portion, for “Whenever two or more lists are published under section 51” substitute “Whenever after rejection of nominations under section 21 of the Local Democratic Organs (Elections) Act 1990 and the withdrawal of candidates under section 22 of that Act, there are more candidates nominated than there are seats to be filled”.</p> <p>(b) For paragraph (b) substitute — “(b) a copy of the list of candidates published under section 24 of the said Act;”</p>
Section 66(2)	After “Chief Election Officer” insert “ after consultation with the Elections Commission ”.
Section 71	Delete.
Section 72(1)(j)	For “each list of candidates published in accordance with section 51” substitute “the list of candidates published under section 24 of the Local Democratic Organs (Elections) Act 1990.
Section 73, marginal note	For “lists” substitute “list”.
Section 73(b)	For “in accordance with section 51” substitute “under section 24 of the Local Democratic Organs (Elections) Act 1990.”.
Section 76	Delete this section and substitute the following section —

Provision	How amended
	76. The polling agent of each of the candidates at an election to choose the members of a local democratic organ may attend the poll at a polling place.”.
Sections 81(1) and (2), 84(2) and (3) and 85	For “list of candidates”, wherever they occur, substitute “candidate”.
Section 86(1)(b)	(a) For subparagraph (i) substitute — “(i) the Chairman and other members of the Elections Commission ”. (b) For item (iv) substitute “candidate”.
Section 89(1)	(a) Delete “until the day following”. (b) After “Chief Election Officer” insert “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”.
Section 89(2)	For “day following” substitute “day determined by the Elections Commission under that subsection”.
Section 90	(a) In paragraph (a), for “duly appointed candidates appointed under section 76 to attend the poll”, substitute “candidates”. (b) In paragraph (c), after “packets to the” insert “returning officer or”.
Section 91	(a) In the opening portion — (i) for “The votes” substitute — “Subject to the provisions of section 28 of the Local Democratic Organs (Elections) Act 1990, the votes”.

Provision	How amended
	<p>(ii) For the colon at the end substitute a full stop.</p> <p>(b) Delete the proviso.</p>
Section 92	Delete this section and substitute the following section —
	<p><small>Candidate or counting agent may attend count.</small> 92. A candidate or his counting agent may attend at the counting of votes.”.</p>
Section 93(1)	<p>(a) For paragraph (a) substitute — “(a) the Chairman and other members of the Elections Commission;”.</p> <p>(b) For paragraph (d) substitute — “(d) the candidates.”.</p> <p>(c) Delete paragraph (g).</p>
Section 94	<p>(a) In subsection (1)(e), for “list of candidates” substitute “candidate”.</p> <p>(b) In subsection (2) —</p> <p>(i) in paragraph (b), for “list of candidates or is void for uncertainty” substitute “candidate”;</p> <p>(ii) For paragraph (c) substitute — “(c) which is invalid under section 27(6) of the Local Democratic Organs (Elections) Act 1990;”.</p> <p>(c) After subsection (2), insert the following as subsection (2A) — “(2A) In counting the votes, the returning officer shall ignore a vote cast in favour of any candidate which is invalid under section 27(5) of the Local Democratic Organs (Elections) Act 1990 and any vote marked in favour of a candidate where it is void for uncertainty.”.</p>

Provision	How amended
	<p>(d) In subsection (3)(i), for “lists of candidates” substitute “candidate”.</p> <p>(c) By the insertion, after subsection (4), of the following subsection as subsection (4A) —</p> <p style="padding-left: 40px;">“(4A) Where the returning officer rejects any vote marked on a ballot paper, he shall endorse the word “rejected” against the vote rejected 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.”</p> <p>(f) In subsection (5), after the words “ballot paper” insert the words “or vote”.</p>
Section 95	Delete “appointed under section 92 to attend the counting of votes”.
Section 96(1) (e)(i)	For “list of candidates” substitute “candidate”.
Section 97	For “list of candidates for which” substitute “candidate for whom”.
Section 98	For “sections 99 to 100” substitute “section 29 of the Local Democratic Organs (Elections) Act 1990”.
Sections 99-103 (inclusive)	Delete.
Section 104	For “particulars specified in section 101” substitute “particulars referred to in Form 5”.
Section 106	<p>(a) In subsection (1) —</p> <p style="padding-left: 20px;">(i) for “group of candidates” substitute “candidate”;</p>

Provision	How amended
	<ul style="list-style-type: none"> (ii) for “the group” substitute “the candidate”.
	<ul style="list-style-type: none"> (b) In subsection (2) — <ul style="list-style-type: none"> (i) in the opening portion, for “group to which the candidate belongs” substitute “candidate”; (ii) in the proviso, for “the election agent or assistant agent of his group” substitute “his election agent or assistant agent”.
Section 107	<ul style="list-style-type: none"> (a) In subsection (1), for “group of candidates to which the candidate belongs” substitute “candidate”. (b) In subsection (2) — <ul style="list-style-type: none"> (i) for “prescribed by the Act under which the local authority for which he is a candidate is constituted” substitute “specified by the Elections Commission by notification in the <u>Gazette</u>”; (ii) for “the election agent of his group of candidates” substitute “his election agent”; (iii) for the full stop at the end substitute a colon and thereafter insert the following proviso — <p style="margin-left: 40px;">“Provided that the Elections Commission may specify different amounts in respect of different local democratic organs.”</p>
Section 108(1)	For “section 101” substitute “section 29(3) of the Local Democratic Organs (Elections) Act 1990”.
Section 109	<ul style="list-style-type: none"> (a) In subsection (1) — <ul style="list-style-type: none"> (i) in the opening portion, for “group of candidates” and “their” substi-

Provision	How amended
	<p>tute “candidate” and “his” respectively;</p> <p>(ii) for paragraph (a) substitute —</p> <p style="padding-left: 40px;">“(a) in excess of such sum as may be specified by the Elections Commission by notification in the Gazette:</p> <p style="padding-left: 80px;">Provided that the Elections Commission may specify different sums in respect of different local democratic organs;”.</p> <p>(b) In subsection (2) —</p> <p style="padding-left: 20px;">(i) For “group of candidates” substitute “candidate”;</p> <p style="padding-left: 20px;">(ii) For “paid by candidates” substitute “paid by the candidate”.</p> <p>(c) In subsection (4), for “the election agent of his group of candidates” substitute “his election agent”.</p>
Section 111(1) and (4)	<p>For “section 101” substitute “section 29(3) of the Local Democratic Organs (Elections) Act 1990”.</p>
Section 114	<p>(1) In subsection (1) —</p> <p style="padding-left: 20px;">(a) in the opening portion —</p> <p style="padding-left: 40px;">(i) for “group of candidates” substitute “candidate”;</p> <p style="padding-left: 40px;">(ii) for “agent of the group” substitute “agent of the candidate”;</p> <p style="padding-left: 20px;">(b) for paragraph (c), but excluding the proviso thereto, substitute —</p> <p style="padding-left: 40px;">“(c) otherwise presenting to the registered voters the candidate or his views or the extent or nature of his backing or of disparaging the</p>

Provision	How amended
	<p>other candidates or any of them;";</p> <p>(c) in paragraph (ii) of the proviso, for "five" substitute "fifty".</p>
	(2) In subsection (3), for "group of candidates" substitute "the candidate".
Sections 117(1), 119(1) and 121(1)	For "group of candidates" substitute "candidate".
Section 123(1)	(a) For "group of candidates" substitute "candidate".
	(b) For "candidates of that group or any of them" substitute "candidate".
Section 124(1)(a)	For "group of candidates" substitute "candidate".
Section 125	For paragraph (c) substitute — “(c) before or during an election knowingly publishes a false statement of the withdrawal of a candidate for the purpose of promoting or procuring the election of any other candidate;”
Section 130(e) and (f)	For "group of candidates as councillors" substitute "candidate as councillor".
Section 144	For "The expenses" substitute "Without prejudice to the provisions of section 7(2) of the Local Democratic Organs (Elections) Act 1990, the expenses"
Section 145	For "group of candidates" substitute "candidate".
Section 148(1)	For "section 101" substitute "section 29(4) of the Local Democratic Organs (Elections) Act 1990".

Provision	How amended
Section 148(3)	For “allocation of seats under section 101” substitute “choosing of councillors under section 29(3) of the Local Democratic Organs (Elections) Act 1990”.
Section 160	Delete “list of”
Section 163(1)	For “section 94(2)” substitute “section 94(2) of this Act or section 27(5) or (6) of the Local Democratic Organs (Elections) Act 1990”.
Section 165	For “solicitors” and “solicitor”, wherever it occurs substitute “attorneys-at-law” and “attorney-at-law” respectively.
Section 170(1)(b)	For “section 40” substitute “section 18 of the Local Democratic Organs (Elections) Act 1990”.
Section 171(2)	For “subsection (1)(b)” substitute “subsection (1)(a)”.
Section 171(3)	For “section 103” substitute “section 30 of the Local Democratic Organs (Elections) Act 1990”.
Section 172	Delete this section and substitute the following section —
	<p>^{Re- allocation of seats.} 172.(1) Where on an election petition it is shown that the names of the candidates were not arranged in accordance with section 29 of the Local Democratic Organs (Elections) Act in the list referred to in that section, the Court shall order that the names in the list be rearranged as directed by the Court in accordance with that section and</p>

Provision	How amended
	<p>the members of the relevant local democratic organ chosen on the basis of the rearranged list.</p> <p>(2) Where on an election petition, the Court on a scrutiny determines that the number of valid votes cast for any candidate differs from the number of valid votes on the basis of which the names of candidates were arranged in the list prepared under section 29 of the Local Democratic Organs (Elections) Act 1990, the Court shall order that the arrangement of names in that list be reviewed by the Chief Election Officer and that, on it appearing to the returning officer from such review that the names on the list were not arranged in accordance with the aforesaid section 29, the names on the list shall be rearranged, and the election of the members of the local democratic organ redeclared by the Chief Election Officer in accordance with that section.”.</p>
Section 173(1) and (3)	For “affected the allocation of seats under section 99”, wherever they occur, substitute “generally affected the result of the election to choose the members of a local democratic organ”.
Section 177(1)	For “counsel or solicitor” substitute “attorney-at-law”.
Section 178	In the opening portion, for “Minister” substitute “Chairman of the Elections Commission”.

Provision	How amended
Section 180(1)	For “section 184” substitute “section 178”.
Section 180(2)	For “section 106” substitute “section 30 of the Local Democratic Organs (Elections) Act 1990”.
Section 186	After “they are applicable” insert “and subject to any modifications made by the Local Democratic Organs (Elections) Act 1990”.
Section 192	(a) For “section 180” substitute “section 188”. (b) For “Minister” substitute “Chairman of the Elections Commission”.
Section 204	Delete.
Section 205(3)	Delete.
Schedule	Delete.

EXPLANATORY MEMORANDUM

This Bill seeks to make provision regarding elections to local democratic organs other than regional democratic councils. The main features of the proposed electoral process are dealt with below.

2. The elections will be on a non-party basis. Individual candidates are to be nominated by not less than fifteen registered voters or such larger number of voters to be specified by the Elections Commission. (See clause 19(4) of the Bill).

3. Except in the case of the first election, there is a fixed day for the election — that is, the first Monday of September, subject to any change necessary on account of that day being a holiday or the nearness of that day to the national elections. (See clause 14 of the Bill). Elections are to be held every three years.

4. Each voter will have as many votes as the number of members to be elected, but he can cast only one vote in favour of any one candidate. (See clause 27 of the Bill).

5. After the election the names of the candidates will be arranged in a list in accordance with the votes obtained by them. If two candidates obtained the same number of votes their place in the list will be decided by drawing lot. The members of the local democratic organ will be chosen from this list, the candidate whose name is higher in the list being preferred to the candidate whose name is lower in the list. (See clause 29 of the Bill).

6. Casual vacancies are to be filled from among the names left in the list, referred to above, who had not been chosen as a member of the local democratic organ at or after the election. If there is no name left in the list, the members of the local democratic organ are empowered, except where the period of the vacancy is less than three months, to co-opt a member from among persons qualified and willing to be a member of the local democratic organ. (See clause 30 of the Bill).

7. The elections will be independently supervised by the Elections Commission, acting through its chairman. (See clauses 3 and 4 of the Bill). Provisions of the Bill require the Chief Election Officer to consult the Elections Commission in respect of certain matters. (For example, see clauses 6(a) and 7 of the Bill).

8. Various provisions of the Local Authorities (Elections) Act, Cap. 28:03, with suitable modifications, have been made applicable to elections to local democratic organs.

Stella Odie-Ali,
Minister of Home Affairs.