

BILL No. 35 of 1990

Monday, 17th December, 1990

**PARLIAMENT OFFICE,
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Georgetown,
Guyana.**

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

M. B. Henry,
Clerk of the National Assembly. (ag)



GUYANA

BILL No. 35 of 1990

REPRESENTATION OF THE PEOPLE (AMENDMENT)

BILL 1990

ARRANGEMENT OF SECTIONS

SECTION

- 1. Short title.**
- 2. Amendment of section 7 of the Principal Act.**

3. Amendment of section 65B of the Principal Act.
4. Amendment of section 65L of the Principal Act.
5. Repeal of section 83 of the Principal Act and substitution thereof of sections 83 and 83A.
6. Repeal and re-enactment of sections 84 of the Principal Act.
7. Amendment of section 87 of the Principal Act.
8. Amendment of section 89 of the Principal Act.
9. Repeal and re-enactment of section 96 of the Principal Act.
10. Amendment of section 102 of the Principal Act.
11. Amendment of the Schedule to the Principal Act.
12. Amendment of the Local Democratic Organs Act 1980.
13. Removal of difficulties.

A BILL

Intituled

AN ACT to amend the Representation of the People Act.

A.D. 1990 Enacted by the Parliament of Guyana:—

Short title.
Cap. 1:03.

1. This Act, which amends the Representation of the People Act, may be cited as the Representation of the People (Amendment) Act 1990.

Amendment of
section 7 of the
Principal Act.

2. Section 7(c) of the Principal Act is hereby amended by the substitution, for the words “and a poll clerk”, of the words “, a poll clerk and a counting assistant”.

Amendment of
section 65B of the
Principal Act.

3. Section 65B of the Principal Act is hereby amended by the insertion, after the words “the right to vote”, of the words “, the procedure on the closing of the poll, the counting of votes and other matters referred to in the provisions of this Act”.

Amendment of
section 65L of the
Principal Act.

4. Section 65L of the Principal Act is hereby amended in the following respects —

- (a) in subsection (1), by the substitution, for the words “in section 83(c)”, of the words “in section 83(10)(b) “together with the key of the ballot box”;

(b) by the insertion, after subsection (3), of the following subsection as subsection (4) —

“(4) The votes deemed under subsection (3) to have been cast, at the election, in each district shall be counted separately by the Chief Election Officer, and the provisions of sections 87, 88, 90, 92, 93 and 94 shall apply *mutatis mutandis* in relation to the counting of votes under this section:

Provided that in their application by virtue of this subsection, the aforesaid sections shall have effect as if for the reference in that subsection to a counting agent there had been substituted reference to an election agent.”.

5. Section 83 of the Principal Act is hereby repealed and the following sections substituted therefor as sections 83 and 83A:—

Repeal of section 83 of the Principal Act and substitution therefor of sections 83 and 83A.

“Procedure of poll.

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.

(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.

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.”.

Repeal and re-enactment of section 84 of the Principal Act.

6. Section 84 of the Principal Act is hereby repealed and the following section substituted therefor —

“Counting votes.

of 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 (including the Statement of Poll in relation to the special polling place referred to in section 65B), 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, including the special polling place referred to in section 65B, 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.”.

Amendment of section 87 of the Principal Act.

7. Section 87(1) of the Principal Act is hereby amended in the following respects —

- (a) in the opening portion, by the substitution, for all the words beginning with “The returning officer” and ending with “section 83(c)”, of the following —

“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”; —

- (b) by the deletion of paragraph (d).

Amendment of section 89 of the Principal Act.

8. Section 89(1) of the Principal Act is hereby amended —

- (a) by the substitution in the opening portion, for the words “the counting”, of the words “the final counting, under section 84,”;
- (b) by the substitution for paragraph (e), of the following paragraph —
- “(e) publicly declare the result of the final counting;”
- (c) in paragraph (f) by the insertion, after the words “in writing” of the words “in respect of the final counting”.

Repeal and re-enactment of section 96 of the Principal Act.

9. Section 96 of the Principal Act is hereby repealed and the following section substituted therefor —

*Ascertainment of election results.

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 under sections 65L and 92 and the information furnished by returning officers under section 84(11), ascertain the result of the election in accordance with sections 97 and 98.”.

Amendment of section 102 of the Principal Act.

10. Section 102(1) of the Principal Act is hereby amended by the substitution, for the words “of section 83(c)”, of the words “of section 83(10)(b)”.

11. The Schedule to the Principal Act is hereby amended in the following respects —

Amendment of the Schedule to the Principal Act.

(a) in the Table of Forms, by the insertion after “23. Ballot paper account” of the following —

“23A. Statement of Poll”;

(b) by the insertion, after Form 23, of the following form as Form 23A —

“FORM 23A

THE REPRESENTATION OF THE PEOPLE ACT

GENERAL ELECTION

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 a

pear to have
voted in the pol-
ling place

5. Total number of
spoiled ballot pa-
pers

6. Total number of
tendered ballot
papers used

7. Statement of re-
jected ballot pa-
pers in the pol-
ling place.

No. of ballot pa-
pers rejected for —

(a) want of of-
ficial mark

(b) unmarked
or void for un-
certainty

(c) marked for
more than one
list of candidates

(d) marked so
that the elector
can be identified

TOTAL

Presiding Officer

Date.....”;

(c) in Form 25, for the words “VOTES OF NON-RESI-
DENTS” substitute the words “VOTES OF NON-RESI-
DENT ELECTORS”.

12. The First Schedule to the Local Democratic Organs Act 1980 is hereby amended by the deletion of the reference to section 87(1)(b) in the first column and the amendment of that section specified in the second column thereof, and the substitution therefor of the following —

Provision	How amended
"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".

13.(1) If any difficulty arises in connection with the application of the Representation of the People Act or the Local Democratic Organs Act 1980 as amended by this Act, the Minister may, after consultation with the Elections Commission, by order, make any provision that appears to him to be necessary or expedient for removing the difficulty; and any such order may modify the Representation of the People Act or the Local Democratic Organs Act 1980 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.

Removal of difficulties.
Cap. 1:03
No. 12 of 1980

Cap. 1:03
No. 12 of 1980

(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.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Representation of the People Act, Cap. 1:03, so as to make provision for the preliminary counting of votes at polling places.

2. A consequential amendment is also sought to be made in the Local Democratic Organs Act 1980 (No. 12 of 1980).

K. S. Massiah.
Attorney-General and
Minister of Legal Affairs.