

**GUYANA**

**BILL No. 9 of 2018**

**LOCAL AUTHORITIES (ELECTIONS) (AMENDMENT) BILL 2018**

**ARRANGEMENT OF SECTIONS**

**Section**

1. Short title.
2. Amendment of the Municipal and District Councils Act.
3. Amendment of section 28 of the Local Government Act.
4. Amendment of the Local Authorities (Elections) Act.
5. Amendment of section 20 of the Local Democratic Organs Act.
6. Amendment of section 7 of the Local Authorities (Elections) (Amendment) Act 1990.
7. Amendment of section 7(1) of the Election Laws (Amendment) Act 2000.

**A BILL  
Intituled**

**AN ACT** to amend the Municipal and District Councils Act, Local Government Act, Local Authorities (Elections) Act, Local Democratic Organs Act, Local Authorities (Elections) (Amendment) Act 1990 and Election Laws (Amendment) Act 2000 in relation to local authorities' elections.

A.D 2018                      Enacted by the Parliament of Guyana:-

Short title.

Cap. 28:01  
Cap. 28:02  
Cap. 28:03  
Cap. 28:09  
No. 10 of  
1990  
No. 15 of  
2000

**1.** This Act, which amends the Municipal and District Councils Act, Local Government Act, Local Authorities (Elections) Act, Local Democratic Organs Act, Local Authorities (Elections) (Amendment) Act 1990 and Election Laws (Amendment) Act 2000, may be cited as the Local Authorities (Elections) (Amendment) Act 2018.

Amendment of the  
Municipal and District  
Councils Act.

Cap. 28:01

**2.** The Municipal and District Councils Act is amended as follows –

**(a)** by the substitution for section 10 of the following –

“10. The term of office of the Mayor and that of the Deputy Mayor shall, subject to this Act, be one year, commencing on the first day of January and ending on the thirty-first day of December of the same year but, the Mayor and Deputy Mayor shall, notwithstanding the expiry of their term of office, continue to hold office until a successor assumes office.”;

**(b)** in section 12, by the substitution for subsection (1) of the following –

“(1) (a) Subject to paragraphs (b) and (c), the Town Clerk shall in every year, not later than the sixteenth day of December, call a meeting of the City Councillors, for the purpose of electing the

Mayor and the Deputy Mayor for the ensuing year.

Cap.  
28:03

(b) In each year which is a year of election of City Councillors, the Town Clerk shall call, after the declaration under section 101 of the Local Authorities (Elections) Act of the results of that election, a meeting, to be held not later than the tenth day after the declaration of the persons elected to be City Councillors, for the purpose of electing the Mayor and the Deputy Mayor for the ensuing year.

(c) If for any reason an election of City Councillors, referred to in paragraph (b), is held on any day before the first day of October, the term of office of the current holders of the offices shall end and the Mayor and Deputy Mayor elected as a consequence of the election shall enter upon their offices immediately upon taking the oath.”;

(c) in section 13, by the substitution for subsections (6), (7) and (8) of the following –

“(6) (a) If there is no election under subsection (5) for the office of Mayor on account of equality of votes of the councillors present and voting, the Town Clerk shall immediately declare the councillors receiving the greatest number of equal votes as candidates for a second round of voting.

(b) At the second round of voting, the Town Clerk shall proceed to take the votes of the councillors present for the candidates and declare the councillor securing the greatest number of votes to be elected as Mayor.

(c) If there is no election on account of equality of votes of the councillors present and voting during the second round of voting, the Town Clerk shall immediately declare the councillors receiving the greatest number of equal votes as candidates for a third round of voting.

(d) At the third round of voting, the Town Clerk shall proceed to take the votes of the councillors present for the candidates and shall declare the councillor securing the greatest number of votes to be elected as Mayor.

(7) (a) If there is no election on account of equality of votes of the councillors present and voting during the third round of voting, the Town Clerk shall record the disposition of each councillor present and voting.

(b) Having recorded the disposition of each councillor under paragraph (a), the Town Clerk shall then compute the numeric seat value apportioned to each of the councillors present and voting who were selected on the basis of the Proportional Representation component of the election at which they were duly elected councillors and, in addition, assign these results accordingly to the candidate for whom each councillor voted and the Town Clerk shall then tally the result for each candidate and the candidate securing the greatest number shall immediately be declared by the Town Clerk to be duly elected as Mayor.

(c) For the purpose of the computation under paragraph (b), councillors duly elected as a result of a Proportional Representation list of candidates, shall be deemed to have each received an equal numeric seat value corresponding to the total number of votes

received by that list divided by the total number of seats allocated to that list of candidates as declared by the Returning Officer and published by the Elections Commission in the *Gazette*.

(8) Where by reason of equality of votes, following the exhaustion of the procedures outlined in subsections (6) and (7), no person is elected Mayor, the Town Clerk, acting in the presence of a designated Magistrate, the councillors present and members of the public, shall by lot choose one of the candidates from the third (final) round of voting and declare the candidate chosen to be duly elected as Mayor.”;

(d) in section 24, by the substitution for the introductory words of the following –

Cap. 28:03  
“24. Subject to section 12(1)(c), the term of office of the City Councillors shall be three years, commencing on the first day of January following upon the declaration, under section 101 of the Local Authorities (Elections) Act, of the election results for the City and ending on the last day of December of the third year, subject to and calculated in accordance with the electoral cycle as specified in section 35 of the Local Authorities (Elections) Act.”;

(e) in section 33, by the substitution for the introductory words of the following –

Cap. 28:03  
“33. Subject to section 12(1)(c), the term of office of the City Councillors shall be three years, commencing on the first day of January following upon the declaration, under section 101 of the Local Authorities (Elections) Act, of the election results for the Town and ending on the last day of December of the third year,

subject to and calculated in accordance with the electoral cycle as specified in section 35 of the Local Authorities (Elections) Act.”;

(f) by the substitution for section 41 of the following –

Cap.  
28:03

“41. Subject to section 12(1)(c), the term of office of the District Councillors shall be three years, commencing on the first day of January following upon the declaration, under section 101 of the Local Authorities (Elections) Act, of the election results for the District and ending on the last day of December of the third year, subject to and calculated in accordance with the electoral cycle as specified in section 35 of the Local Authorities (Elections) Act.”.

Amendment of section  
28 of the Local  
Government Act.  
Cap. 28:02

**3.** Section 28 of the Local Government Act is amended by the substitution for subsections (6) and (7) of the following –

“(6) (a) If more councillors than one are nominated for the office of Chairman the Overseer shall immediately proceed to take the votes of the councillors present and the councillor securing the greatest number of votes shall immediately be declared by the Overseer to be elected as Chairman.

(b) If there is no election on account of equality of votes of the councillors present and voting, the Overseer shall immediately declare the councillors receiving the greatest number of equal votes as candidates for a second round of voting.

(c) At the second round of voting, the Overseer shall proceed to take the votes of the councillors present for the candidates and the candidate securing the greatest number of votes shall immediately be declared by the Overseer to be elected as Chairman.

(d) If there is no election on account of equality of votes of the councillors present and voting during the second round of voting, the Overseer shall immediately declare the councillors receiving the greatest number of equal votes as candidates for a third round of voting.

(e) At the third round of voting, the Overseer shall proceed to take the votes of the councillors present for the candidates and the candidate securing the greatest number of votes shall immediately be declared by the Overseer to be elected as Chairman.

(f) If there is no election on account of equality of votes of the councillors present and voting during the third round of voting, the Overseer shall record the disposition of each councillor present and voting.

(g) Having recorded the disposition of each councillor under paragraph (f), the Overseer shall then compute the numeric seat value apportioned to each of the councillors present and voting who were selected on the basis of the Proportional Representation component of the election at which they were duly elected councillors and, in addition, assign these results accordingly to the candidate for whom each councillor voted and the Overseer shall then tally the result for each candidate and the candidate securing the greatest number shall immediately be declared by the Overseer to be duly elected as Chairman.

(h) For the purpose of the computation under paragraph (g), councillors duly elected as a result of a Proportional Representation list of candidates, shall be deemed to have each received an equal

numeric seat value corresponding to the total number of votes received by that list divided by the total number of seats allocated to that list of candidates as declared by the Returning Officer and published by the Elections Commission in the *Gazette*.

(7) Where by reason of equality of votes, following the exhaustion of the procedures outlined in subsection (6), no person is elected Chairman, the Overseer, acting in the presence of a designated Magistrate, the councillors present and members of the public, shall by lot choose one of the candidates from the third (final) round of voting and declare the candidate chosen to be duly elected as Chairman.”.

Amendment of the  
Local Authorities  
(Elections) Act.  
Cap. 28:03

**4.** The Local Authorities (Elections) Act is amended as follows –

**(a)** in section 35, by the substitution for subsection (1) of the following –

“(1) (a) An election to choose the members of a council shall be held once every three years on any date during the period commencing on the first day of November and ending on the seventh day of December of the third year, counting from the year in which the term of office of the current council commenced, which date shall be appointed by the Minister by Order.

(b) An election to choose the members of a council for the first time shall be held on any day appointed by the Minister by Order but the second election shall be held on the same date as the next following election for previously existing councils, as



specified in paragraph (a).”;

**(b)** by the insertion immediately after section 94D(1) of the following new subsection –

“(1A) (a) Where the Returning Officer ascertains and declares, under subsection (1)(b) that the votes cast in favour of each of two or more candidates are equal in number but greater than the number of votes cast in favour of any other candidate, the Returning Officer, acting in the presence of a designated Magistrate, the candidates or their representatives and members of the public, shall by lot choose one of the candidates and the Returning Officer shall declare the candidate chosen to be duly elected as the councillor for that constituency.

(b) The Returning Officer shall, in the prescribed form and in accordance with the time prescribed in paragraph (c), notify the concerned candidates of the date on which the procedure under paragraph (a) to choose one of the candidates shall be conducted.

(c) The Returning Officer shall give notice to the candidates under paragraph (b) –

- (i) not later than one day after the declaration of the results of the election that produced the tie; or
- (ii) at least thirteen days immediately before the date on which the procedure is to be conducted, if this Act commenced after the results that produced the tie have been declared.

(d) The candidates who have been notified in accordance with paragraph (b) may notify the Returning Officer of their withdrawal of their candidature, in the prescribed form, no later

than three days after they have been so notified by the Returning Officer.

(e) If as a result of the withdrawal of candidates, or for any other reason, there is only one valid candidate remaining, that remaining candidate shall be deemed to have been elected as the councillor for that constituency and no drawing of lot shall be conducted.

(f) Where any difficulties arise in the implementation of these procedures, the Elections Commission may make any provision or issue any instruction which in its view could resolve the difficulties.”.

Amendment of section  
20 of the Local  
Democratic Organs Act.  
Cap. 28:09

**5.** Section 20 of the Local Democratic Organs Act is amended by the substitution for subsection (6) of the following –

“(6) (a) If there is no election under subsection (5) for the office of Chairman on account of equality of votes of the councillors present and voting, the Clerk shall immediately declare the councillors receiving the greatest number of equal votes as candidates for a second round of voting.

(b) At the second round of voting, the Clerk shall proceed to take the votes of the councillors present for the candidates and declare the councillor securing the greatest number of votes to be elected as Chairman.

(c) If there is no election on account of equality of votes of the councillors present and voting during the second round of voting, the Clerk shall immediately declare the councillors

receiving the greatest number of equal votes as candidates for a third round of voting.

(d) At the third round of voting, the Clerk shall proceed to take the votes of the councillors present for the candidates and shall declare the councillor securing the greatest number of votes to be elected as Chairman.

(e) If there is no election on account of equality of votes of the councillors present and voting during the third round of voting, the Clerk shall record the disposition of each councillor present and voting.

(f) Having recorded the disposition of each councillor under paragraph (e), the Clerk shall then compute the numeric seat value apportioned to each of the councillors present and voting who were selected on the basis of the Proportional Representation component of the election at which they were duly elected councillors and, in addition, assign these results accordingly to the candidate for whom each councillor voted and the Clerk shall then tally the result for each candidate and the candidate securing the greatest number shall immediately be declared by the Clerk to be duly elected as Chairman.

(g) For the purpose of the computation under paragraph (f), councillors duly elected as a result of a Proportional Representation list of candidates, shall be deemed to have each received an equal numeric seat value corresponding to the total number of votes received by that list divided by the total number of seats allocated to that list of candidates as declared by the Returning Officer and published by the Elections Commission in the *Gazette*.

(h) Where by reason of equality of votes, following the exhaustion of the procedures outlined in paragraphs (a) to (g), no person is elected Chairman, the Clerk, acting in the presence of a designated Magistrate, the councillors present and members of the public, shall by lot choose one of the candidates from the third (final) round of voting and shall declare the candidate chosen to be duly elected as Chairman.”.

Amendment of section  
7 of the Local  
Authorities (Elections)  
(Amendment) Act  
1990.

No. 10 of 1990

**6.** Section 7 of the Local Authorities (Elections) (Amendment) Act 1990 is amended by the substitution for subsection (1) of the following –

“(1) Except as otherwise provided in this section, and subject to section 36 of the Principal Act as amended by this Act –

(a) an election to choose the members of a council shall be held once every three years on any date during the period commencing on the first day of November and ending on the seventh day of December of the third year, counting from the year in which the term of office of the current council commenced, which date shall be appointed by the Minister by Order;

(b) an election to choose the members of a council for the first time shall be held on any day appointed by the Minister by Order but the second election shall be held on the same date as the next following election for previously existing councils, as specified in paragraph (a).”.

Amendment of section  
7(1) of the Election

**7.** Section 7(1) of the Election Laws (Amendment) Act 2000, is amended

Laws (Amendment) Act 2000. by the substitution for the words “three months” of the words “six months”.  
No. 15 of 2000

## **EXPLANATORY MEMORANDUM**

Clause 2(a) and (b) of the Bill amends the Municipal and District Councils Act, Cap. 28:01, to harmonise the term of office of Mayors and Deputy Mayors with that for the Chairmen and Deputy Chairmen of NDC’s as specified in the Local Government Act, Cap 28:02.

Clauses 2(c), 3 and 5 of the Bill amend the Municipal and District Councils Act, Cap. 28:01, the Local Government Act, Cap. 28:02, and the Local Democratic Organs Act, Cap. 28:09, to provide for the utilization of the number of votes garnered by the councillors elected on the basis of Proportional Representation lists at the elections at which they were elected to resolve ties in the election of Mayors, Chairmen and Deputy Chairmen.

The final option provided for under clauses 2(c), 3 and 5 is similar to the procedure under article 177(3) of the Constitution relating to the drawing of lot to resolve the difficulty from a tie.

Clause 2 (d), (e) and (f) amends sections 24, 33 and 41 of the Municipal and District Councils Act, Cap. 28:01, to harmonise the terms of office for councillors of cities and towns with that for councillors of Neighbourhood Democratic Councils.

Clause 4(a) amends section 35(1) of the Local Authorities (Elections) Act, Cap. 28:03 to harmonise the period for election of councillors of Neighbourhood Democratic Councils with that for councillors of cities and towns provided for under section 7(1) of the Local Authorities (Elections) (Amendment) Act 1990 (as now amended in clause 6).

Clause 4(b) of the Bill amends section 94D of the Local Authorities (Elections) Act, Cap. 28:03, to provide for a procedure to resolve ties among constituency candidates which result from an election.

Clause 6 amends section 7(1) of the Local Authorities (Elections) (Amendment) Act 1990, for clarity and to harmonise the period for election of councillors of cities and towns provided for under section 7(1) with that for Neighbourhood Democratic Councils provided for under section 35 (as now amended in clause 4(a)).

Clause 7 amends section 7(1) of the Election Laws (Amendment) Act 2000 to facilitate the effective implementation of continuous registration and the availability of an electoral list which shall always be in force and which shall be routinely updated every six months.

**HON. RONALD BULKAN, M.P.  
MINISTER OF COMMUNITIES**