

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.

92-04-02.

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

M. B. Henry,
Acting Clerk of the National Assembly.



GUYANA

BILL No. 10 of 1992

ELECTION LAWS (AMENDMENT) BILL 1992

ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title.

2

PART II

ALTERATION OF THE CONSTITUTION

2. Alteration of the Constitution.

PART III

AMENDMENT OF THE REPRESENTATION
OF THE PEOPLE ACT

3. Amendment of section 44 of the Representation of the People Act.
4. Chief Election Officer and Commissioner of Registration subject to direction and control of Chairman of Elections Commission.

PART IV

AMENDMENT OF THE ELECTION
LAW (REFORM) ACT 1990

5. Amendment of short title of the Election Law (Reform) Act 1990.
6. Amendment of the Election Law (Reform) Act 1990.
7. Application of laws.
8. Validation and indemnity.

A BILL

Intituled

AN ACT to alter the Constitution in accordance with articles 66 and 164 thereof and to amend the laws relating to elections of members of the National Assembly and members of the regional democratic councils and for matters connected therewith.

A. D. 1992 Enacted by the Parliament of Guyana:—

PART I

PRELIMINARY

Short title,
Cap. 1:03
No. 2 of
1990.

1. This Act, which alters the Constitution and amends the Representation of the People Act and the Election Law (Reform) Act 1990, may be cited as the Election Laws (Amendment) Act 1992.

PART II

ALTERATION OF THE CONSTITUTION

Alteration of the Constitution.

2. During the period commencing on the date on which this Act comes into operation and ending on the expiry of three months from the date of the election held, pursuant to the provisions of article 61 of the Constitution, next following the commencement of this Act, the Constitution shall have effect as if there were inserted immediately after article 161, the following article as article 161A —

“Appoint- ment of persons by Chairman of Elections Comission.

161A. (1) Notwithstanding the provisions of this Constitution, the power to make appointments to the offices mentioned in paragraph (2) and to remove and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Chairman of the Elections Commission.

(2) The offices referred to in paragraph (1) are —

Cap. 1:03

(a) those offices to which persons are appointed under the Representation of the People Act, namely —

- (i) Chief Election Officer;
- (ii) returning Officer;
- (iii) deputy returning officer;
- (iv) election clerk;
- (v) presiding officer;
- (vi) assistant presiding officer;
- (vii) poll clerk and other offices as may be necessary or desirable under the said Act;

Cap. 19:08

(b) those offices to which persons are appointed under the National Registration Act, namely —

- (i) Commissioner of Registration;
- (ii) Deputy Commissioner of Registration;

- (iii) district supervisor;
- (iv) registrar;
- (v) deputy registrar;
- (vi) divisional registrar and other offices as may be necessary or desirable under the said Act.

(3) The Chairman of the Elections Commission may, by directions in writing and subject to such conditions as he thinks fit, delegate any of his powers under paragraph (1) to any one or more members of the Commission; or by such directions and subject to such conditions as he thinks fit, delegate to a person who holds an office mentioned in paragraph (2) (a) (i) to (iv) or (2) (b) (i) to (iv), the power to appoint a person to an office mentioned in paragraph (2) which is subordinate to the office of the person to whom the power of appointment is delegated.

(4) Before the Chairman of the Elections Commission or any member thereof or other person exercising powers under this article appoints to or to act in any office referred to in paragraph (2) any person who holds or is acting in any office power to make appointments to which is vested under this Constitution in the Judicial, the Teaching, the Police or the Public Service Commission, the Chairman of the Elections Commission or that member or other person shall first seek and obtain the approval of the Commission in which that power is vested.

(5) Where a public officer is appointed to an office referred to in paragraph (2) he shall, subject to paragraph (1), remain a public officer.

(6) Nothing in this article shall be construed as precluding the Chairman of the Elections Commission from appointing any person who is not a public officer to an office referred to in paragraph (2)."

PART III

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT

3. Section 44 (2A) of the Representation of the People Act is hereby amended by the substitution for the word "wife" wherever that word occurs of the words "wife or husband".

4. (1) For the duration of the period mentioned in subsection (2) —

Cap. 1:03

(a) the Chief Election Officer shall, notwithstanding anything in the Constitution or the Representation of the People Act;

(b) the Commissioner of Registration shall notwithstanding anything in the Constitution or the National Registration Act,

Chief Election Officer and Commissioner of Registration subject to direction and control of Chairman of Elections Commission.

Cap. 19:08

be subject to the direction and control of the Chairman of the Elections Commission.

(2) Subsection (1) shall apply during the period commencing on the date on which this Act comes into operation and ending on the expiry of three months from the date of the election held, pursuant to the provisions of article 61 of the Constitution, next following the commencement of this Act.

PART IV

AMENDMENT OF THE ELECTION

LAW (REFORM) ACT 1990

5. The short title of the Election Law (Reform) Act 1990 as given before the arrangement of sections and in section 1 is hereby amended by the substitution, for the words "Law (Reform)" of the words "Laws (Amendment)".

Amendment of short title of the Election Law (Reform) Act 1990. No. 25 of 1990

6. In the registration of persons who are qualified for registration as electors to choose the President, the members of the National Assembly and members of the regional democratic councils following the recall of Parliament by proclamation dated 28th November, 1991, the Election Law (Reform) Act 1990 shall be construed and have effect as if —

Amendment of the Election Law (Reform) Act 1990. No. 25 of 1990.

(i) immediately after section 3B the following section were inserted as section 3BB —

3BB. (1) Notwithstanding anything in this Act, the Commissioner shall cause to be prepared a new preliminary list, hereinafter referred to as the "preliminary list", and a new non-resident electors' roll, hereinafter referred to as the "non-resident electors' roll", with reference to a qualifying date which, subject to subsection (8), shall be 31st July, 1992.

"Preparation of preliminary list.

(2) The preliminary list and the non-resident electors' roll prepared with reference to the qualifying date, 31st October, 1991, with the supplementary list of final determination of claims and objections are hereby deemed to be the provisional preliminary list and the provisional non-resident electors' roll, respectively.

(3) The preliminary list shall be prepared by revising the provisional preliminary list in the same manner and following the same procedure established under section 3B for claims and objections including —

(a) the addition to the provisional preliminary list of the names of persons who have or may become qualified for registration before or on 31st July, 1992;

(b) the deletion therefrom of the names of persons who are registered as electors but have ceased to be qualified to be so registered at any time after 31st October, 1991.

(4) Every person referred to in subsection (3) (a) who is eligible to have his name entered on the preliminary list shall, on the commencement of this Act, make application therefor in the prescribed form to the registrar of the division in which he resides and the registrar shall, upon being satisfied that such person is qualified to be registered as an elector, enter his name on the preliminary list.

(5) During the period provided by section 3B for claims and objections and certification and correction of the preliminary list any person referred to in subsection (3) who is eligible to have his name entered on the preliminary list and whose name has not been so entered, or has been wrongly deleted therefrom, may apply to the registrar in the prescribed form to have his name entered on the preliminary list and his name shall be entered therein upon the registrar being satisfied that such person is qualified to be registered as an elector.

- (6) The provisions of subsections (3), (4) and (5) shall *mutatis mutandis* apply to the preparation of the non-resident electors' roll.
- (7) During the period provided by section 3B for claims and objections and certification and correction of the preliminary list or the non-resident electors' roll the Elections Commission shall, in cases where it is satisfied from evidence brought to its attention that any person who is eligible to be listed as a voter has been omitted from the preliminary list or the non-resident electors' roll, or any person who is not eligible to be registered as a voter has been included therein and that the said preliminary list or non-resident electors' roll cannot be corrected by the normal procedure set out in section 3B, cause the preliminary list or non-resident electors' roll to be corrected in such manner as it considers appropriate or direct the the Commissioner or any other person regarding the extent to, and the manner in, which the preliminary list or non-resident electors' roll shall be corrected.
- (8) Where Parliament stands dissolved under section 3 of the Constitution (Amendment) Act 1991 and elections are to be held before the qualifying date, 31st July, 1992, the President shall by order prescribe a new qualifying date, which shall be such date as would leave ample time to enable the Commissioner, under the direction of the Elections Commission, to alter the official list of electors for all the polling divisions and the non-resident electors' roll, prepared with reference to the qualifying date of 31st July, 1992, in time for the elections to be held, so that only those persons qualified for registration as electors with reference to the new qualifying date shall be on the official list of electors."
 - (ii) the provisions relating to the annual revision of the preliminary list and

No. 36 of 1991.

the non-resident electors' roll and section 3D where deleted therefrom.

Application
of laws.

7. Subject to this Act, for the removal of doubt, in relation to the elections to choose the President, the members of the National Assembly and members of the regional democratic councils following the recall of Parliament by proclamation dated 28th November, 1991, the provisions of the Representation of the People Act, the National Registration Act and the regulations made thereunder and the Election Law (Reform) Act shall *mutatis mutandis* apply to, and in relation to, the registration of electors, the preparation of the preliminary list, claims and objections, appeals from decisions in respect of claims and objections and all other related matters.

Cap. 1:03

Cap. 19:08
No. 25 of
1990

Validation
and in-
demnity,
No. 25 of
1990

8. (1) The preliminary list or the non-resident electors' roll prepared under section 3BB of the Election Law (Reform) Act (1990 shall for all purposes be deemed to be lawful and valid in spite of any non-conformity with any relevant law other than the the Constitution in the course of its preparation, where such non-conformity was authorised by the Elections Commission, to secure expeditiously the proper preparation of the preliminary list or the non-resident electors' roll, or otherwise occurred in the course of the preparation of the preliminary list or non-resident electors' roll.

(2) All acts done by or on the authority of, the Elections Commission in good faith whether or not in the preparation of the preliminary list or the non-resident electors' roll under the aforesaid section 3BB shall be deemed to be lawful and valid, and the Elections Commission and the persons by whom such acts are done are hereby discharged and indemnified from all legal proceedings of any kind in respect of such acts, and such acts by the Elections Commission or any such person shall not be enquired into in any court.

EXPLANATORY MEMORANDUM

Clause 2 of the Bill seeks to amend the Constitution to empower the Chairman of the Elections Commission to appoint the Chief Election Officer, the Commissioner of National Registration and all other officers and staff as may be necessary for the conduct of the forthcoming elections.

Under clause 4 the Chief Election Officer and the Commissioner of Registration shall be subject to the direction and control of the Chairman of the Elections Commission.

Clause 6 seeks to insert a new section 3BB in the Election Law (Reform) Act 1990, No. 25 of 1990, to provide for the preparation of a new preliminary list and the new non-resident electors' roll. The new preliminary list and