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PARLIAMENT OFFICE,
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14th October, 1968.

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

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

BILL NO. 20 OF 1968.

REPRESENTATION OF THE PEOPLE (ADAPTATION AND
MODIFICATION OF LAWS) BILL, 1968.

Arrangement of Sections.

Section

1. Short title
2. Interpretation.
3. Adaptation and modification of Regulations No. 24 of 1964 and Rules No. 5 of 1964 made thereunder.
4. Adaptation and modification of Regulations No. 40 of 1964.
5. Amendment of Article 67 of the Constitution.
6. Amendment of Article 70 of the Constitution.
7. Repeal of Ordinances Nos. 3 of 1957 and 10 and 34 of 1961 and rescindment of S.I. 1964/492.

FIRST SCHEDULE

SECOND SCHEDULE

A BILL
Intituled

An ACT to make provision for the election of members to serve in the National Assembly, and for matters incidental thereto, by way of the adaptation, modification and replacement of laws and the amendment of the Constitution in accordance with Article 73 thereof.

Enacted by the Parliament of Guyana:-

A.D. 1968

1. This Act may be cited as the Representation of the People (Adaptation and Modification of Laws) Act, 1968.

Short title.

2. In this Act

Interpretation.

"the Constitution" means the Constitution of Guyana;

"election" means an election of members to serve in the National Assembly, and "electors" shall be construed accordingly;

"the Regulations" means the Election Regulations, 1964, as for the time being adapted, modified and amended by virtue of this Act.

3.(1) In connection with every election after the commencement of this Act, the Election Regulations, 1964, shall, subject to the provisions of this section, have effect as if enacted under paragraph (4) of article 66 of the Constitution and all other provisions of the Constitution thereunto enabling and, for that purpose, be construed with any necessary adaptations and modifications and, in particular, shall have effect as aforesaid with the following amendments, that is to say -

Adaptation and modification of Regulations No.24 of 1964 and Rules No.5 of 1964 made thereunder.

- (a) such amendments to each Part thereof referred to in the first column of the first schedule to this Act as are specified in the second column of that schedule against such reference;
- (b) the substitution for the words "Supreme Court", wherever they appear therein, of the words "High Court";
- (c) the substitution for the word "Governor", wherever it appears therein, of the word "Minister";
- (d) such amendments to the Regulations as shall be prescribed by regulations made by the Governor-General to provide for -
 - (i) voting on the part of persons registered under the National Registration Act, 1967, as electors resident outside Guyana;
 - (ii) the counting of the votes of persons registered as aforesaid;
 - (iii) any matters incidental or supplementary to those mentioned in the preceding subparagraphs, including (without prejudice to the generality of the foregoing or of the provisions of the next following subparagraph) the prescription of offences

First schedule.

No.24 of 1967.

punishable in like manner as corrupt or illegal practices;

- (iv) modification of the Regulations in such respects, if any, as the Governor-General may deem requisite or expedient for the better carrying out or observance of the provisions of the Constitution that affect or relate to elections.

(2) Regulations made under paragraph (d) of the preceding subsection shall have effect as if enacted in this Act:

Provided that every such regulation shall be laid before the National Assembly as soon as practicable, and in any event within the period of fourteen days, after it is made; and if the Assembly, within the period of forty days beginning with the day on which it is laid as aforesaid, resolves that it shall be annulled, wholly or in part, it shall thereby be annulled to the extent set forth in the resolution, and the regulation, or part thereof, so annulled shall thenceforth become void and of no effect but without prejudice to the validity of anything previously done thereunder or the making of any new regulation. In reckoning any period of days for the purposes of this proviso, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the Assembly is adjourned for more than seven days.

(3) The forms, other than Forms 21 and 22, set out in the schedule to the Election (Forms) Rules 1964 may, subject to amendment, rescindment or replacement by rules made under regulation 125 of the Regulations, be used for the purposes of the Regulations with such adaptations, variations and exceptions as are necessary to bring such forms into conformity with the Regulations and, without prejudice to the generality of the foregoing -

- (a) Form 2 in the said schedule shall be varied by deleting the heading "Serial No." from the front thereof and by substituting for the headings "Polling District Number", "Polling Division Number" and "Identity Paper Number", in the form of the back of the paper, the heading "Registration Card Number"; and
- (b) Form 2A in the said schedule shall be varied by substituting for the figures "49" and "50", in paragraph (2) of the declaration contained in that Form, the figures "59" and "60", respectively, and inserting after the word "Constitution" in that paragraph the words and figures "and section 7(6) of the Guyana Independence Order 1966".

4. In connection with every election after the commencement of this Act, the House of Assembly (Validity of Election) Regulations, 1964, shall, subject to the provisions of this section, have effect as if enacted under paragraph (5) of article 71 of the Constitution and all other provisions of the Constitution thereunto enabling and, for that purpose, be construed with any necessary adaptations and modifications and, in particular, shall have effect as aforesaid with the following amendments, that is to say -

Second
schedule

- (a) such amendments to each regulation thereof referred to in the first column of the second schedule to this Act as are specified in the second column of that schedule against such reference;
- (b) the substitution for the words and figures "Election Regulations, 1964," wherever they appear therein, of the word "Regulations";
- (c) the insertion therein, immediately after regulation 30, of the following regulation -

"Effect and manner of exercise of Court's powers.

30A(1) Every declaration made by the Court under the provisions of regulation 28, 29 or 30 shall, at the order of the Court, take effect at such time, and be subject to such saving of the validity of things done before that time, as the Court may in the circumstances, due regard being had to the interests of effective government of Guyana, consider expedient, but without prejudice to the making, giving or execution of such order or direction pursuant to that declaration as may be just:

Provided that no saving to which any declaration is subject as aforesaid shall prevent the subsistence of anything (its validity having been so saved) from being terminated or otherwise affected in due course or, in particular, be construed as purporting to preclude the Governor-General from exercising his powers under paragraph (2) of article 37 of the Constitution at any time between completion, where ordered or directed pursuant to such declaration, of the holding of an election and the date on which the National Assembly first meets thereafter.

(2) If Parliament is dissolved at any time after the making of an order under regulation 29 or 30, or the giving thereunder of any direction, and before completion of the execution of that order or direction, as the case may be, such execution shall not be proceeded with.

(3) The result of an election shall not be liable to rectification in consequence of the determination by the Court of any question mentioned in paragraph (1) of regulation 3, or whether an election has been lawfully conducted, except under regulation 28, 29 or 30";

- (d) the deletion of regulation 42 thereof.

5. Article 67 of the Constitution is hereby amended by adding thereto the following proviso -

Amendment of article 67 of the Constitution.

"Provided that no balloting commenced during the period of three months aforesaid, performed before the day so appointed, and pursuant to which the votes of any persons registered as electors not resident in Guyana on the qualifying date within the meaning of article 65 of this Constitution are cast at the election, shall be deemed contrary to the requirements of this article by reason only that such balloting has been so performed."

6.(1) Paragraph (1) of article 70 of the Constitution is hereby amended by deleting the words "on the relevant list of

Amendment of article 70 of the Constitution.

candidates and appears nearest to the top thereof, disregarding the name of every person who became at the preceding election, or has since become, an elected member of the Assembly; and if there is no such person" and substituting therefor the words, bracketed letter and figures "taken from the relevant list of candidates by way of further extraction therefrom by such member of the Assembly, having been named in that list, as shall be called upon so to do by the Speaker, following as nearly as may be (without any persons, other than members of the Assembly, exercising any powers for the purpose) the like method provided under sub-paragraph (e) of article 66(4) of this Constitution as was observed at the preceding election, the name of every person who became an elected member of the Assembly at the preceding election, or has since become such a member, being ineligible for extraction under the foregoing provisions of this paragraph; and if there is no person whose name is eligible therefor".

(2) Subsection (1) of this section shall come into operation on the date on which Parliament is next hereafter dissolved.

Repeal of Ordinances Nos. 3 of 1957 and 10 and 34 of 1961 and rescindment of S.I. 1964/492.

7.(1) The Representation of the People Ordinance, 1957, the Electoral Provisions (Registration) Ordinance, 1961, and the Legislature (Appointment, Election and Membership Controversies) Ordinance, 1961, are hereby repealed.

(2) The British Guiana (Registration) Order, 1964, is hereby rescinded.

FIRST SCHEDULE

S. 3

Parts of Election Regulations, 1964.

Amendments

Part 1

(a) Substitute for paragraph (2) of regulation 2 the following -

'(2) In these regulations, unless the context otherwise requires -

No. 24 of 1967. "the Act" means the National Registration Act, 1967, and includes regulations made thereunder

"carriage" includes a mechanically propelled vehicle;

"certificate of employment" means a certificate issued under paragraph (4) of regulation 30;

"Commission" means the Elections Commission established by virtue of article 68 of the Constitution;

"the Constitution" means the Constitution of Guyana;

"district" means a polling district constituted under paragraph (1) of regulation 5;

"division" means a polling division as defined by paragraph (2) of regulation 5;

"election" means an election in accordance with the Constitution of members to the National Assembly, and "elector" shall be construed accordingly;

"election day", in relation to any election, means the day appointed under article 67 of the Constitution for the holding of the election;

"election expenses declaration" means a declaration as to election expenses as required by regulation 81;

"election officer" means -

- (a) the Chief Election Officer;
- (b) a returning officer;
- (c) a deputy returning officer;
- (d) an election clerk;
- (e) a presiding officer;
- (f) an assistant presiding officer;
- (g) a poll clerk;

"elector", in Parts IV, V, VI and VII, means an elector whose name is on the official list of electors;

"group of candidates" means the candidates named in a list of candidates;

"identity paper" means an identification card issued under the Act and includes a replacement identification card so issued;

"Minister" means the Minister to whom responsibility for elections is for the time being assigned;

"official list of electors" means the official list of electors for a polling division as prescribed by paragraph (4) of this regulation;

"official mark" means such official mark as the Chief Election Officer shall approve for the purpose of stamping ballot papers;

"Part" means a part of these regulations;

"payment" includes any pecuniary or other reward;

"personal expenses", in relation to the expenses of a candidate, includes his reasonable travelling expenses and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to the election;

"poll" means the poll, by voters whose names are on the official lists of electors, for the purpose of any election;

"prescribed" means prescribed by rules made under regulation 125;

"presiding officer" means -

- (a) a presiding officer of a polling place;
- (b) an assistant presiding officer;

"registration card" has the same meaning as in the Act;

"regulation" means a regulation of these regulations;

"returning officer" means -

- (a) a returning officer of a polling district;
- (b) a deputy returning officer;

(b) Substitute for paragraph (4) of regulation 2 the following -

"(4) The official list of electors for any division shall be the preliminary list of the electors resident

in that division, prepared before election day in pursuance of section 14 of the Act or last prepared in pursuance thereof before such day, as the case may be, but with every such modification as may be necessary to bring that list into conformity with the divisional register

- (a) as altered under subsection (6) of section 15 of the Act;
- (b) pursuant to any alteration thereto made under section 8 of the Act, prior to compliance with sub-paragraph (a)(iv) of paragraph 2 of regulation 35 in respect of the said official list, for the purpose of changing the registered address of any elector's residence within Guyana or the registered name or occupation of any elector; or
- (c) pursuant to the cancellation of any elector's registration therein effected in contravention of subsection (1) of section 11 of the Act, or relating to an elector who is dead, under section 8 of the Act,

and every reference made to the official list of electors in the provisions hereinafter contained shall, in relation to any time on or before election day, be construed as a reference to such preliminary list as aforesaid with such modifications thereto (if any) as, at that time, shall have been made in conformity with this paragraph."

- (c) Delete paragraph (5) of regulation 2.
- (d) Substitute for the words "accordance with the system of proportional representation as prescribed by", in regulation 3(1), the words "conformity with".
- (e) Substitute for the words "The Colony shall form one electoral area for determining the result of the election; and", in regulation 3(2), the words "Throughout Guyana,".
- (f) Substitute for regulation 4(1) the following -

"4. The Commission shall have, in addition to the functions assigned to it by the Constitution, such functions as are assigned to it by these regulations and, in the execution of the provisions of these regulations, such authority of the Commission as is exercised in pursuance of the provisions of the Constitution shall be duly deferred to."
- (g) Substitute in paragraph (2) of regulation 4 -
 - (i) for the word "prescribed", the word "specified";
 - (ii) for the word "Commission", wherever it appears, the word "Minister"; and
 - (iii) for the words "shall have power, if they think it necessary or desirable so to do, to" the words "may by direction under his

hand, if he deems it requisite or desirable so to do, with the approval of the Commission".

- (h) Delete paragraphs (3) and (4) of regulation 4, renumber paragraph (2) of regulation 4 as regulation 4A and insert the following marginal note thereto -

"Extension of time."

- (i) Substitute for paragraphs (1) and (2) of regulation 5 the following -

"(1) Guyana shall be divided into polling districts, each of which shall consist of such polling divisions, and be distinguished by such names, as may be specified by order of the Minister.

(2) Every registration division as constituted under subsection (2) of section 5 of the Act shall be a polling division for the purposes of these regulations."

- (j) Delete regulation 7.

Part II (a) Substitute for the word "Commission", in regulation 9, the word "Minister".

- (b) Substitute for the words and figures "qualified persons under the Registration Regulations, 1964", in regulation 11 (1), the words "electors under the Act".

- (c) Substitute for all the words and figures after the word "name" in regulation 11 (2), exclusive of the proviso thereto, the words "and the serial number of his registration card."

- (d) Substitute for paragraph (3) of regulation 11 the following -

"(3) A list of candidates shall set out the names, one below the other in the alphabetical order of the surnames, of fifty-three persons who are qualified to be elected to the National Assembly and who have consented to the inclusion of their names in the list as candidates for election, together with the address and occupation of each such person."

- (e) Delete regulation 11A.

- (f) Insert after the word "representative", where it appears for the second time in regulation 12, the words", both of whom shall be candidates named in that list,".

- (g) Insert after the word "persons", in regulation 12 (a), the words "(other than persons who are not candidates)".
- (h) Insert immediately after the word "representative" within the brackets in regulation 12 (b), and in regulation 12 (c), the words "and persons who are not candidates".
- (i) Delete regulation 13.
- (j) Substitute for the ordinal "36th", wherever it appears in regulation 15, the ordinal "37th "
- (k) Substitute for the ordinal "34th", in regulation 16, the ordinal "36th".
- (l) Substitute for the ordinal "32nd", wherever it appears in regulation 18, the ordinal "35th".
- (m) Substitute for the figures "70", in regulation 18 (4), the figures "71".
- (n) Substitute for the ordinal "30th", in regulation 19 (1), the ordinal "33rd".
- (o) Substitute for the ordinal "22nd" in regulation 20, and in paragraph (3) of regulation 23, the ordinal "30th" and insert in each such regulation, immediately before the full stop at the end thereof, the words "and may cause such further publication of the same, for the information of electors, as the Commission considers desirable".
- (p) Substitute in paragraph (1) of regulation 22, for the words
 - (i) "in the Gazette", the words and figures "under regulation 20"; and
 - (ii) "so published", the words "published in like manner".
- (q) Substitute for the proviso to paragraph (1) of regulation 22 and paragraph (2) thereof the following -
 - "Provided that no such notice shall be delivered as aforesaid after the 38th day before election day.
 - (2) The deletion of the name of any candidate by reason of his death from any list of candidates after its approval by the Commission shall not render the list defective; and correction of any

defect caused by deletion of a dead candidate's name from any list of candidates may, notwithstanding anything to the contrary provided in regulation 16, be submitted at any time before the approval of such list:

Provided that where, by reason of any deletion first mentioned in this paragraph no names remain on a list of candidates, such list shall cease to have effect."

- (r) Substitute for the ordinal "24th", in regulation 23 (1), the ordinal "32nd".

Part IV (a) Delete the words, bracketed letters and figures", unless he is on election day subject to any of the disqualifications prescribed by sub-paragraphs (a), (b), and (c) of paragraph (2) of article 48 of the Constitution," from regulation 28 (1).

(b) Insert after the word "vote", wherever it appears in regulation 28 (1) and (2), the words "in a polling place".

(c) Insert after the word "vote", in regulation 28 (3), the words "at a polling place".

(d) Substitute for the words "proxy on behalf of other electors", in regulation 28 (4), the words "a proxy,".

(e) Delete paragraph (2) of regulation 29 and re-number regulation 29 (1) as regulation 29.

(f) Substitute in regulation 30 (4) -

(i) for the words "he is registered", the words, bracketed letter, number and figures "his address as entered in the official list of electors affixed under sub-paragraph (a)(iv) of paragraph (2) of regulation 35 is situate";

(ii) for the words "British Guiana Volunteer", the words "Special Service Unit or Guyana Defence".

(g) Substitute for paragraph (1) of regulation 31 the following -

"(1) The following electors shall be entitled to vote by proxy:-

(a) members of the Police Force, the Special Service Unit and the Guyana Defence Force;

- (b) rural constables;
- (c) employees of the Transport and Harbours Department engaged in running trains and vessels;
- (d) candidates;
- (e) election officers and other staff engaged in districts other than those in which their addresses as entered in the official lists of electors affixed under subparagraph (a)(iv) of paragraph (2) or regulation 30 are situate;
- (f) persons who have ceased to reside in the districts in which their addresses as entered in the official lists aforesaid are situate;
- (g) persons unable or unlikely to be able by reason of blindness or other physical infirmity to travel to the polling place at which they are entitled to vote or, if able so to travel, to vote unaided;
- (h) persons for whom it is likely to be impracticable or seriously inconvenient, by reason of the general nature of their occupation, service or employment or for other good cause, to go in person to the polling place at which they are entitled to vote;

and references in the foregoing provisions of this paragraph to districts shall be construed as references to registration districts constituted under subsection (1) of section 5 of the Act."

(h) Substitute for the word "two", in regulation 31 (3) (b), the word "five".

(i) Substitute for regulation 32 the following -

"Applica-
tion for
appoint-
ment of
proxy.

32. Every application for any such appointment of an elector to vote as proxy at an election shall

- (a) be in writing in the form prescribed;
- (b) be addressed to the returning officer of such district as shall comprise the division in which the

applicant's name is displayed under sub-paragraph (a) (iv) of paragraph (2) of regulation 35, and be sent to that officer so as to be received by him not later than the 10th day before election day;

(c) be accompanied by the consent in writing of the elector named as proxy therein to his appointment."

(j) Substitute for the words "identity papers", in regulation 33 (3), the words "registration cards".

Part V (a) Substitute for all the words appearing in regulation 36 after the word "shall", where it occurs for the first time, the words "apportion in such manner as he thinks fit, between the polling places so established, the entries in the official list of electors for that division and shall compile such lists of electors as comprise the entries allotted to such polling places, respectively; and each list so compiled shall be regarded and dealt with as a part of the said official list".

(b) Substitute for regulation 37 the following -

" Display of lists at polling places.

37. The returning officer for each district shall cause to be displayed at every polling place therein a copy of the official list of electors for the division in which that polling place is situate or, as the case may be, a copy of such part of the said list as has been allotted to that polling place under regulation 36."

(c) Substitute for the word "for", in regulation 38(a), the words", or as the Chief Election Officer may direct, for the purpose of".

(d) Insert after the word "Every", at the commencement of regulation 40(1), the word "such".

(e) Substitute for all the words appearing in regulation 41(1)(i) after the word "forms the words", documents and supplies as may be authorised by, or furnished at the direction of, the Chief Election Officer".

- (f) Insert after regulation 43 the following regulation -

"Applica-
tion of
section
12 of
the Act.

43A. Section 12 of the Act shall apply in relation to every person who is an elector but, in such application, shall have effect as if -

- (a) the words", and cause them to be issued in such manner as he thinks fit to," had been deleted therefrom; and
- (b) the words "and shall cause every such card to be issued in such manner as the Commissioner thinks fit to the person for whom it has been prepared, or to be made available for his procurement in such manner as the Commissioner may specify by notice published in the Gazette" had been inserted immediately after the word "Act" therein.'

Part VI

- (a) Delete the words "or duplicate identity paper" wherever they appear in regulation 48(2), and the words ",and shall require if so requested by a duly appointed candidate, election agent, assistant agent or polling agent present at the polling place," from sub-paragraph (h) thereof.

- (b) Add to regulation 48 the following paragraph -

"(4) References in paragraph (2) of this regulation to the identity paper of any applicant shall be construed to include references to his registration card if available pursuant to any direction given under sub-paragraph (i) of paragraph (1) of regulation 41."

- (c) Delete the words "having stamped it with the official mark" and "so stamped" from regulation 49(1)(e).
- (d) Delete all the words appearing in regulation 52(1)(a) after the word "paper" where it occurs for the first time.

(e) Insert before the word "members", at the commencement of regulation 56(1)(b)(i), the words "the Minister,".

(f) Substitute in regulation 56(1) -

(i) for the word "the", where it appears immediately before the word "team" in sub-paragraph (b)(i), the word "any";

(ii) for all the words appearing after the word "the", where it appears for the last time in sub-paragraph (b)(i), the word "Minister";

(iii) for the words "British Guiana Volunteer Force", in sub-paragraph (b)(v), the words "Special Service Unit".

Part VII

(a) Insert before the word "members", at the commencement of regulation 63(1)(b), the words "the Minister,".

(b) Substitute in regulation 63(1)(b) -

(i) for the word "the", where it appears immediately before the word "team", the word "any";

(ii) for all the words appearing after the word "the", where it occurs for the last time therein, the word "Minister".

(c) Insert immediately after the word "candidates", in regulation 66(1)(e), the words "in the returning officer's district".

(d) Insert immediately after the word "candidates" in regulation 66(1)(f)(i) the words "as aforesaid".

Part VIII

(a) Substitute for regulation 68 the following -

⁴⁴Total-
ling of
votes.

68. The Chief Election Officer shall calculate the total number of valid votes of electors which have been cast for each list of candidates and thereupon shall ascertain the result of the election in accordance with the provisions of regulations 69 and 70."

(b) Substitute for regulation 70 the following -

70. When seats have, in pursuance of regulation 69, been allocated to any list of candidates -

Membership of National Assembly.

- (a) the representative of the list; or
- (b) if the representative is unwilling or unable (by reason of absence, illness or any other cause when he is called upon by the Chief Election Officer) so to do, the deputy representative of such list; or
- (c) in case of any such unwillingness or inability on the part of the deputy representative, a majority of the persons named in that list may designate in writing any such person able and willing (when called upon as aforesaid) so to do, who,

shall extract from the said list as many names belonging to candidates selected by him for the purpose, including his own name, as can be so extracted without their number exceeding the number of seats allocated to that list; and the Chief Election Officer shall declare such names, in the order of their extraction as aforesaid, to be the names of the candidates on such list who have been elected."

- (c) Delete regulation 73.
- (d) Substitute for all the words and figures appearing in regulation 74 after the words "number of" the words "electors registered under the Act".
- (e) Substitute for the figures "70", in regulation 75(2), the figures "71".
- (a) Substitute for the words "five hundred", wherever they appear in regulation 77, the words "one thousand".
- (b) Insert after the words "petty expenses", in regulation 78(1), the words ", or may pay any expenses incurred outside Guyana on account of or in respect of the conduct or the management of the election," and after the word "Petty", in the marginal note to regulation 78, the words "and overseas".

- (c) Substitute for the word "one", in regulation 79(1)(a), the word "two".
- (d) Insert immediately after the word "meetings", in regulation 79(1)(b)(iii), the words "and holding outside Guyana meetings open to electors generally".
- (e) Substitute for sub-paragraph (b)(iv) of paragraph (1) of regulation 79 the following -
- "(iv) the expenses of committee rooms, no more than one such room being situated in each district within the meaning of the Act;"
- (f) Insert after the word "candidates", in regulation 79(4), the word "or".
- (g) Substitute for the words "that period", in regulation 84(6), the words "the period mentioned in paragraph (4) of this regulation".
- (h) Substitute for the brackets and figure "(1)" in regulation 84(7), and in regulation 84(9), the brackets and figure "(4)".
- (i) Substitute for sub-paragraph (a) of paragraph (1) of regulation 87 the following -
- "(a) holding any meetings mentioned in sub-paragraph (b)(iii) of paragraph (1) of regulation 79 or organising -
- (i) any public display; or
- (ii) any display, outside Guyana, open to electors generally;"
- (a) Substitute for the full stop at the end of paragraph (1) of regulation 91 a semicolon and add to that paragraph the following sub-paragraph
- "(f) persons to exercise outside Guyana such authority mentioned in regulation 78 or 87 as may be conferred upon them, respectively."
- (b) Insert immediately after the word "dollars", in regulation 94, the words "or, if the offence be not triable summarily by reason of anything comprehended therein having been done, omitted or situated anywhere beyond the limits of summary jurisdiction exercisable in Guyana, he shall, unless it is proved that he was not a citizen of Guyana at the time of the offence, be liable upon conviction thereof on indictment in Guyana to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand dollars".

Part XI

- (a) Insert immediately after the word "dollars", in regulation 98(3), the words "or if the offence be not triable summarily by reason of anything comprehended therein having been done, omitted or situated anywhere beyond the limits of summary jurisdiction exercisable in Guyana, he shall, unless it is proved that he was not a citizen of Guyana at the time of the offence, be liable upon conviction thereof on indictment in Guyana to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand dollars".
- (b) Substitute for the word "two", in regulation 100(e), the word "five".
- (c) Substitute for paragraph (1) of regulation 101 the following

"(1) Any person guilty of an illegal practice

- (a) shall, on summary conviction, be liable to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment or, if the offence be not triable summarily by reason of anything comprehended therein having been done, omitted or situated anywhere beyond the limits of summary jurisdiction exercisable in Guyana, he shall, unless having been neither a candidate nor an election agent at the time of the offence he is proved not to have been a citizen of Guyana at that time, be liable upon conviction on indictment in Guyana to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand dollars; and
- (b) subject to the provisions of paragraph (2) of this regulation, shall be incapable during a period of five years from the date of his conviction, whether summarily or on indictment, of being registered as an elector."

Part XII

- (a) Substitute for the semicolon after the word "force", in regulation 105(1)(c)(ii), a full stop and delete the remainder thereafter of regulation 105(1).
- (b) Substitute for the word "seven", in regulation 108(1), the word "five".

(c) Delete the words "or of voting at any election" from regulation 108(1)(a).

Part XIII

(a) Substitute for the words "employed at a polling place", in regulation 110(1)(i), the words "or other person exercising powers or performing duties connected with or relating to the conduct of elections".

(b) Insert immediately after the words "an election officer", in regulation 110(1)(ii), the words "or such a person".

(c) Substitute in regulation 111

(i) for the word "Every", at the commencement thereof, the words, bracketed letter and figures "Without prejudice to the provisions of paragraph (a) of regulation 99, every"; and

(ii) for the words and figures "Registration Regulations, 1964", in paragraph (a) thereof, the word "Act".

Part XIV

(a) Insert after the word "year", in regulation 116, the words "or, in the case of an offence to be tried on indictment, two years".

(b) Delete the words "after consultation with the Commission" from regulation 122.

(c) Substitute for regulation 123 the following

^{Extra}
territorial
application
of penal
provisions
of these
regulations.

123.(1) No charge laid, and no proceedings taken, in Guyana against any person on or with a view to his indictment for any offence under these regulations shall, unless the contrary intention hereinbefore appears, be deemed to be unsanctioned by law, or otherwise untenable, on the ground that anything to which the indictment relates or might relate was done, omitted or situated outside Guyana or beyond any territorial limitation affecting the exercise of jurisdiction by the High Court, whether within the territory of any other State or not, provided that such person was a candidate, election agent or citizen of Guyana at the time of the offence in question.

(2) For the purposes of paragraph (1) of this regulation, a

person against whom any charge is laid as aforesaid shall, in any proceedings taken against him as aforesaid, be deemed to have been a citizen of Guyana at the said time unless the contrary is proved.

(3) No objection to any such proceedings as aforesaid on indictment for an offence punishable under the provisions of regulation 94, or paragraph (3) of regulation 98, or paragraph (1) of regulation 101, shall be taken or allowed for inconsistency with any such provision conditioning the proceedings upon the absence of summary jurisdiction:

Provided that where the person so indicted is convicted on such indictment and the judge is satisfied that the offence could have been tried summarily, such person shall be liable to no more than the like punishment as on summary conviction for such an offence.

(4) The foregoing provisions of this regulation are in addition to, and not in derogation of, such provisions of any other laws as sanction the prosecution of indictable offences."

(d) Substitute for regulation 124 the following

^uExpenses. 124. The expenses of carrying out the provisions of these regulations shall be defrayed from monies provided by Parliament, for the purpose except in so far as any such expenses may otherwise lawfully be defrayed out of the Consolidated Fund."

(e) Substitute for the words "such rule", at the end of regulation 125, the words "a rule so made and, without prejudice to the generality of the foregoing, any such rule may prescribe the hours between which an act may be done on any day not later than which the act is required by virtue of these regulations to be done before election day".

SECOND SCHEDULE

S.4

Regulations
of House of
Assembly
(Validity of
Election)
Regulations
1964.

Amendments

- Regulation 1 Substitute for the words "House of Assembly (Validity of Election)" the words "Validity of Election".
- Regulation 2 (a) Delete the expressions "district", "election officer", "elector" and "official list of electors" from paragraph (2)(a).
- (b) Delete the word and figures "or 13" from paragraph (2)(c).
- (c) Substitute for the word "Commissioner", in paragraph (2)(c) the word "Commission".
- (d) Substitute for the word "Supreme", in paragraph (2)(e), the word "High".
- (e) Insert after paragraph (2)(f) the following paragraph -
- '(ff) "elector" shall be construed as provided in the definition of "election" in regulation 2 of the Regulations;'
- (f) Insert after paragraph (2)(g) the following paragraph -
- '(gg) "prescribed" means prescribed by rules of court;'
- (g) Re-letter sub-paragraph (j) of paragraph (2) as sub-paragraph (1) thereof and insert after paragraph (2)(i) the following paragraphs -
- '(j) "the Regulations" has the meaning assigned thereto by section 2 of the Representation of the People (Adaptation and Modification of Laws) Act, 1968;
- '(k) "rules of court" has the same meaning as in paragraph (5) of article 71 of the Constitution;'
- (h) Delete paragraph (4).
- Regulation 3 Substitute for paragraph (1) the following -
- "(1) Any question regarding the qualification of any person to be elected as a member of the National Assembly, or whether the result of an election may have or has been affected by any unlawful act or omission, or whether the seats in the Assembly have been lawfully allocated, may with a view to the avoidance of such person's election, or rectification of that result, or re-allocation of seats in the

Assembly, be referred to the Court, and shall thereupon be determined by it, in accordance with the provisions of these regulations."

Regulation 4

(a) Substitute for paragraph (2) the following -

"(2) The person hereinafter referred to as the respondent is the representative of such list of candidates for election as comprises the names of persons with whose interests arising out of the election any contention in the election petition conflicts; and if the petition complains of any act or omission on the part of the Commission, or any member thereof, or any such person as is mentioned in sub-paragraph (b) of paragraph (1) of article 69 of the Constitution, the Chief Election Officer shall, for the purposes of these regulations, be deemed to be a respondent and, if it questions the qualification of any person to be elected to the National Assembly, he shall, for the said purposes, be deemed a respondent."

(b) Insert after paragraph (2) as paragraph (2A), the following -

"(2A) Reference in paragraph (2) of this regulation to the representative of any list of candidates shall be construed as reference to the person who was nominated or regarded as such for the purpose of the Regulations, and the foregoing provisions of this regulation shall, in his absence or in respect of the performance under these regulations of any functions delegated by him to his deputy, have effect as if for each reference in such provisions to the representative there were substituted a reference to the deputy representative".

(c) Insert before the word "Court", in paragraph (3) the word "Supreme".

Regulation 5

(a) Substitute for paragraph (1) the following -

"(1) Subject to the provisions of this regulation, an election petition shall be presented within twenty-eight days after the results of the election out of which the matter in question on the petition arose are published in the Gazette under regulation 71 of the Regulations".

(b) Substitute for the word "validity", wherever it appears in paragraphs (2) and (3), the word "effect".

(c) Delete the words

- (i) "of any person";
- (ii) "by the person elected who is the respondent, or by an election agent or assistant agent or other agent with his consent or connivance,"

wherever they appear in paragraphs (2) and (3).

(d) Substitute for the words "of the person elected who is the respondent", in paragraph (3)(a), the words and figures "comprised in any list mentioned in paragraph (2) of regulation 4 with reference to that

election petition".

(e) Delete the words

- (i) "that the election of any person is avoided on the grounds";
- (ii) "for the purpose of promoting or procuring the election of any person thereat";
- (iii) "reasonably be supposed to", from paragraph (5).

(f) Insert after the word "affected", in paragraph (5), the words ",or have affected,".

Regulation 8

Insert immediately after the word "petition", at the end of the regulation, the words ",unless the Court otherwise directs on the application of the petitioner".

Regulation 13

- (a) Delete the words "three judges of" from paragraph (1).
- (b) Substitute for the words "by the respondent", in paragraph (3), the words "of any person".
- (c) Delete paragraph (5).

Regulation 17

Substitute for all the words appearing after the word "No", which occurs at the commencement of the regulation, the words and figures "communication in contravention of sub-paragraph (c) of paragraph (2) or paragraph (3) of regulation 54 of the Regulations, and no disclosure by any person of which list or lists of candidates he voted or did not vote for, or intended or did not intend to vote for, shall be admissible in evidence in any proceeding on an election petition."

Regulation 27

(a) Substitute for the words "an election officer", in paragraph (1)(i), the words "the Chief Election Officer".

(b) Substitute for sub-paragraph (ii) of paragraph (1) the following -

"(ii) a majority of the members of the National Assembly whose names appear on the list of candidates represented by the respondent apply to the Court for any person to be admitted as a respondent, or substituted for the respondent (other than the Chief Election Officer or a respondent whose qualification to be elected as such a member is questioned), the Court may, if it thinks fit, grant the application on such terms and conditions as the Court considers just."

(c) Insert immediately before the word "shall" in paragraph (2), the words "or for whom any person has been substituted".

Regulation 28

(a) Substitute for paragraphs (1) and (2) the following

"(1) Where, on an election petition questioning the qualification of any person to be elected as a member of the National Assembly, the Court determines that he was not qualified to be so elected, the Court shall declare his election as aforesaid to have been void.

(2) Every vacancy in the Assembly in consequence of any such declaration shall be filled in the manner provided by article 70 of the Constitution."

(b) Delete paragraph (3).

(c) Delete the words "corrupt or illegal practice or" from the marginal note.

Regulation 29

Substitute for paragraphs (1) and (2) the following

"(1) Where on an election petition the Court determines that the seats in the National Assembly were not allocated in accordance with the provisions of regulation 69 of the Regulations, the Court shall so declare and may order that the seats be re-allocated in accordance with those provisions and that the membership of the Assembly be re-determined and re-declared in accordance with the provisions of regulation 70 of the Regulations, so, however, that candidates selected thereunder from any list of candidates upon the defective allocation shall, in the order of extraction of their names upon such selection as aforesaid, be entitled to retain their seats in so far as the number of seats re-allocated to that list permits.

(2) Where on an election petition the Court, on a scrutiny, determines that the number of valid votes cast for any list of candidates differs from the number of votes upon which seats in the National Assembly were allocated to that list, the Court may so declare and thereupon the allocation of seats to that list shall be reviewed by the Commission and, on it appearing to the Commission from such review that any seat was unlawfully allocated in consequence of such difference, the Commission shall direct

the re-allocation of such seat in accordance with the provisions of regulation 69 of the Regulations and in keeping with the number of valid votes cast as aforesaid, whereupon the membership of the Assembly shall be re-determined and re-declared in like manner as if the seat had been so re-allocated under paragraph (1) of this regulation."

Regulation 30

- (a) Substitute for paragraphs (1),(2),(3) and (4) the following

"(1) Where it is determined by the Court, being satisfied for the purpose beyond reasonable doubt on an election petition, that any unlawful act or omission (not remediable under regulation 28 or 29) affected the result of an election which would otherwise have lawfully resulted

- (a) in different placing of the respective lists of candidates in the order of magnitude of the allocations of seats to such lists under regulation 69 of the Regulations, or in different placing of any of the lists in that order, from their placing as aforesaid according to the result so affected; or
- (b) in more than half the members of the National Assembly being persons whose names appear on any list the seats allocated to which under regulation 69 of the Regulations are occupied by not more than half the members of the Assembly according to the result affected as aforesaid,

the Court may, in consequence of such determination, declare the election, or any part thereof if the Court is satisfied that the remainder is conveniently severable and was not affected by such unlawful act or omission, to have been ineffective and may accordingly order a fresh election to be held in whole or part for the purpose of rectifying the said result and give such incidental, ancillary or supplementary directions as the Court deems meet for the purpose of such rectification, including (without prejudice to the generality of the foregoing) the re-allocation of seats in the National Assembly.

- (2) Where the Court

- (a) is satisfied beyond reasonable doubt on an election petition that, contrary to law, any votes of persons who are electors belonging to any class were precluded from being cast; and
- (b) determines that the result of the election may thereby have been substantially affected,

the Court may order a fresh ballot on the part of that class of electors and may, to the extent deemed meet by the Court, exercise in relation to the election, or its result, any such other powers as are exercisable under subsection (1) of this section in consequence of any determination mentioned therein.

(3) It shall not be a ground for rectification of the result of an election that

- (a) any person purported to have been appointed to exercise powers or perform duties referred to in sub-paragraph (b) of paragraph (1) of article 69 of the Constitution was not duly appointed;
- (b) the names of any persons have been wrongfully omitted from or included in any preliminary list of electors, as modified for the purpose of bringing it into conformity with the appropriate register of electors, unless the Court is satisfied beyond reasonable doubt that such names were omitted or included as aforesaid otherwise than in good faith;
- (c) any illegality or irregularity was committed in the compilation or revision of any register of electors unless the Court is satisfied beyond reasonable doubt that such illegality or irregularity, as the case may be, was committed otherwise than in good faith.

(4) Nothing in paragraph (3) of this regulation shall be construed to authorise the rectification of any such result of an election as is not liable to be rectified apart from that paragraph."

- (b) Substitute for the words "validity of the election of any person as a member of the House of Assembly", in paragraph 5, the words "result of an election".
- (c) Substitute for the words "no votes shall be declared", in paragraph 5, the words "or the Regulations no votes shall be deemed".
- (d) Substitute for the marginal note the following

"Unlawful acts
or omissions
affecting
results."

Delete the words ", and upon any such certificate being given the determination of the Court shall be final".

- Regulation 34
- (a) Delete the words "or a candidate on behalf of whom a seat is claimed by the petition" from paragraph (2).
 - (b) Insert after the word "committed" in paragraph (5) and in paragraph (6), the words "by an election agent or assistant agent" and delete all the words appearing between the words "the candidate shall be" and the word "subject" in each such paragraph.
 - (c) Insert immediately after the word "practice" at the end of paragraph (5), and at the end of paragraph (6), the words and figures "by virtue of regulation 27 of the Regulations".
- Regulation 36
- Delete all the words and figures appearing in paragraph (2) after the word "accordingly".
- Regulation 37
- Substitute for the words "made by virtue of any such provisions" the words "of court".
- Regulation 38
- Substitute for the words and figures "Subject to the provisions of regulation 13 any" the word "Any".
- Regulation 40
- Substitute for the words "made by virtue" the words "of court made for the purposes".
- Regulation 41
- Substitute for the words "made by virtue of any such provisions" the words "of court".

EXPLANATORY MEMORANDUM

This Bill seeks to provide, by way of adaptation and modification of the Election Regulations, 1964, for their application consistently with the provisions of the Constitution of Guyana (amended as hereinafter mentioned) and with the compilation of registers of electors under the National Registration Act, 1967, in regard to every election hereafter to the National Assembly. Furthermore, in that regard, the Bill seeks to modify and adapt the House of Assembly (Validity of Election) Regulations, 1964, so as to provide for the consequences of determination of an election petition in pursuance of article 71 of the Constitution.

2. The Bill also seeks to amend the Constitution -
- (a) to allow balloting by non-resident electors to take place before the day appointed under the Constitution for the holding of an election to the National Assembly provided it is performed according to law within three months after dissolution of the Assembly; and

- (b) to enable a casual vacancy in the National Assembly to be filled by way of selection and extraction from the relevant list of candidates entered at the preceding election.

3. Finally, the Bill seeks to repeal formally the Representation of the People Ordinance, 1957, the Electoral Provisions (Registration) Ordinance, 1961, and the Legislature (Appointment, Election and Membership Controversies) Ordinance, 1961, which were enacted in reference to the election of a single representative from each of the various constituencies then constituted, and to rescind the British Guiana (Registration) Order, 1964.

C.M. LLEWELLYN JOHN,
Minister of Home Affairs.

(Bill No. 20/1968).