

THE REPRESENTATION OF THE PEOPLE (INTERIM
ELECTORAL REFORM) ACT

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THE REPRESENTATION OF THE PEOPLE (INTERIM
ELECTORAL REFORM) ACT

Acts
20 of 1979,
9 of 1984,
2 of 1990,
7 of 1995,
13 of 1996.

[7th September, 1979.]

1. This Act may be cited as the Representation of the People (Interim Electoral Reform) Act. Short title.

2.—(1) In this Act—

“Committee” means the Electoral Advisory Committee established under section 4; Interpretation.

“Director” means the Director of Elections appointed under paragraph 1(1)(c) of the Schedule;

“functions” includes powers and duties. Schedule.

(2) The Director and the officers appointed under sections 8 and 10 shall be election officers for purposes of the Representation of the People Act.

3. This Act shall continue in force until provision is made in the Constitution of Jamaica for the establishment of an Electoral Commission in terms which preclude the alteration of that provision otherwise than in accordance with the procedures prescribed by, or in relation to section 49(3) of that Constitution and shall then expire. Duration of this Act.

4.—(1) There shall be established for the purposes of this Act and during the continuance in force of this Act a body to be called the Electoral Advisory Committee. Establishment of the Electoral Advisory Committee.

(2) The Committee shall be a body corporate to which the provisions of section 28 of the Interpretation Act shall apply.

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Schedule.

(3) The provisions of the Schedule shall have effect with regard to the constitution of the Committee and otherwise in relation thereto.

Functions
of the
Committee.

5.—(1) The Committee shall be responsible for advising the Director on the performance of his functions under the Representation of the People Act.

(2) Where the Director refuses to follow any advice or recommendation of the Committee he shall report the matter to Parliament within fourteen days of such refusal.

(3) The Committee may recommend suitable personnel for selection as Special District Constables to be on duty on any election day.

Functions
of the
Director.

6. During the continuance in force of this Act the Director shall perform the functions of the Chief Electoral Officer under the Representation of the People Act and, in lieu of that officer, shall have all the powers and duties appertaining to that office under that Act.

Ministerial
responsi-
bility.

7. The Minister shall be responsible to Parliament for matters concerning the activities of the Committee and, accordingly, the Committee shall keep the Minister fully informed of all such matters, and shall furnish the Minister with such information as he may request with respect to any particular matter.

Appoint-
ment of
officers to
assist the
Director.
2/1990
S. 2.

8.—(1) The Committee may appoint and employ at such remuneration and on such terms and conditions as it thinks fit such officers as may be necessary to assist the Director in the discharge of his duties:

Provided that no salary in excess of the prescribed rate per annum shall be assigned to any post without the prior approval of the Minister.

(1A) In subsection (1) the prescribed rate means a rate of twenty-five thousand dollars per annum or such higher rate as the Minister may, by order, prescribe.

(1B) Any order made under subsection (1A) shall be subject to negative resolution of the House of Representatives.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any officer in the service of the Government to any office with the Committee and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and in relation to other rights as a public officer, be treated as continuing in the service of the Government.

9.—(1) The Committee shall have the power, with the approval of the Minister, to make regulations establishing schemes for pension, gratuities and other retiring benefits in respect of the Director, the selected members and employees of the Committee; and such regulations may include provision for the grant of benefits to the dependants or the legal personal representatives of the Director, the selected members or the employees.

Pension
scheme.
7/1995
S. 2.

(2) Whenever the Committee is satisfied that it is equitable for any regulations made under this section to be given retrospective effect in order to confer a benefit upon or remove a disability attaching to any person these regulations may be given retrospective effect for that purpose.

7/1995
S. 2.

10.—(1) During the continuance in force of this Act the provisions of sections 11, 64, 65, 66, 67 and 68 of the Representation of the People Act, in so far as those provisions relate to the appointment by the Governor-General of enumerators, returning officers, election clerks, substitute election clerks, presiding officers and poll clerks, shall not have effect.

Appoint-
ment of
returning
officers,
election
clerks, etc.

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(2) The functions of enumerators, returning officers, election clerks, substitute election clerks, presiding officers and poll clerks, respectively, under the Representation of the People Act shall, during the continuance in force of this Act, be performed, in lieu of those enumerators, officers or clerks, by persons appointed and designated for the purpose by the Committee.

(3) Any person appointed and designated by the Committee to carry out any function pursuant to this section shall take and be bound by the like oath or affirmation as would be required of persons appointed by the Governor-General under section 11, 64, 65, 66, 67 or 68 of the Representation of the People Act, as the case may be.

Funds
of the
Committee.

11. The funds of the Committee shall consist of such sums as may from time to time be placed at the disposition of the Committee by Parliament for the purposes of this Act.

Disqualifi-
cation from
voting in
elections.

12.—(1) The Director and the selected members of the Committee shall be disqualified from voting at any election of a member to serve in the House of Representatives or on the Council of the Kingston and St. Andrew Corporation or any Parish Council.

(2) Any person appointed and designated by the Committee to carry out the functions of enumerators, returning officers, election clerks, substitute election clerks, presiding officers and poll clerks pursuant to section 10 shall be subject to the like disabilities in regard to voting at elections as would be applicable to persons appointed to carry out those duties pursuant to sections 11, 64, 65, 66, 67 and 68 of the Representation of the People Act, as the case may be.

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SCHEDULE

(Section 4 (3))

1.—(1) The Committee shall consist of eight members appointed by the Governor-General by instrument in writing, as follows—

Constitu-
tion of the
Committee.

- (a) two members shall be appointed on the advice of the Prime Minister and two members on the advice of the Leader of the Opposition; and such members are in this Act referred to as the “nominated members”;
- (b) subject to sub-paragraph (2), three members shall be appointed on the recommendation of the nominated members; and the members so appointed or appointed pursuant to sub-paragraph (2) are in this Act referred to as the “selected members”;
- (c) subject to sub-paragraph (4), one member shall be appointed on the recommendation of the members appointed under (a) and (b); and the member so appointed is in this Act referred to as the “Director of Elections”.

(2) The recommendation for the appointment of each of the selected members shall be by a majority decision of the nominated members and, if the nominated members do not, within two weeks after their own appointment, complete the recommendation of all three selected members, the Governor-General shall, after consultation with the Prime Minister and the Leader of the Opposition, make such appointments as shall be necessary to establish the complement of three selected members.

(3) The selected members shall, within two weeks from their appointment, elect a Chairman of the Committee from among themselves by a majority vote and, if they fail to do so, the Governor-General shall, after consultation with the Prime Minister and the Leader of the Opposition, appoint the Chairman from among such selected members.

(4) The recommendation for the appointment of the Director shall not be made until after the Chairman is appointed and, for the purposes of such recommendation, the Chairman shall have and exercise a casting vote in any case in which the voting is equal.

(5) The Director shall not be eligible to vote at any meeting of the Committee.

(6) It is hereby declared that the provisions of section 32 of the Constitution of Jamaica apply in relation to the exercise of the Governor-General’s functions under this paragraph.

2.—(1) No person shall be qualified to be a nominated member if he—

- (a) is not a citizen of Jamaica resident in Jamaica;
- (b) has not attained the age of eighteen years;
- (c) is under sentence of death imposed on him by a court in

Disqualifi-
cations for
member-
ship of the
Committee.

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any part of the Commonwealth, or is serving a sentence of imprisonment by whatever name called of or exceeding six months imposed on him by such a court or substituted by a competent authority for some other sentence imposed on him by such a court or is under such a sentence of imprisonment the execution of which is suspended;

- (d) is disqualified for registration as an elector for elections to the House of Representatives by or under any law for the time being in force in Jamaica because he has been convicted of an offence connected with the election of members of the House of Representatives or of any local authority or body for local purposes;
- (e) is, under any law for the time being in force in Jamaica, certified to be insane or otherwise adjudged to be of unsound mind or detained as a criminal lunatic;
- (f) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state;
- (g) holds or is acting in the office of Judge of the Supreme Court or Judge of the Court of Appeal or is a member of a defence force;
- (h) is a party to, or is partner in a firm or a director or manager of a company which to his knowledge is a party to, any contract with the Government of Jamaica for or on account of the public service, and has not previously disclosed to the Governor-General the nature of such contract and his interest or the interest of such firm or company therein;
- (i) has been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth and has not been discharged; or
- (j) has at any time been convicted of any offence involving moral turpitude or dishonesty.

(2) No person shall be qualified to be a selected member or the Director if he—

- (a) is a Member of Parliament or a member of any local authority;
- (b) has been a Member of Parliament or a member of any local authority (or has been a candidate for election as a Member of Parliament or as a member of any local authority during a period of seven years prior to the date of appointment as a selected member or as Director);
- (c) is disqualified from being a nominated member under subparagraph (1).

Duration
of appointment.
13/1996
S. 2(c).

- 3.—(1) Subject to the provisions of this Schedule, the appointment of—
- (a) a nominated member of the Committee shall be for a period of eighteen months;

[The inclusion of this page is authorized by L.N. 96/1998]

- (b) a selected member of the Committee shall be for a period of four years;
- (c) the Director of Elections shall be for a period of seven years.

(2) The members of the Committee shall be eligible for reappointment.

(3) The office of a member of the Committee shall become vacant—

- (a) if he resigns his office;
- (b) in the case of a nominated member, if his appointment is revoked by the Governor-General on the advice of the Prime Minister or the Leader of the Opposition, as the case may be, having regard to which such officer advised his appointment;
- (c) in the case of a selected member or the Director, if his appointment is revoked by a resolution passed by the majority of all the members of the Committee having a right to vote or a resolution of each House of Parliament approved by not less than two-thirds of all the members of that House; and
- (d) if any circumstances arise that, if he were not a member would cause him to be disqualified for appointment as such by virtue of paragraph 2, so, however, that, in relation to paragraph 2(1) (h), the requirement of notification to the Governor-General shall be satisfied if he notifies the Governor-General within a reasonable time of the entering into the contract with the Government of Jamaica.

(4) If the office of a member of the Committee becomes vacant any other person who is qualified to be a member of the Committee may be appointed to be a member of the Committee in accordance with the provisions of paragraph 1 and the duration of the term of office of such member shall be the unexpired period of the term of office of the member whose office became vacant and for the purposes of filling the vacancy of a selected member the period of two weeks referred to in paragraph 1(2) shall be calculated from the date on which such vacancy occurred.

4.—(1) The Committee shall meet as and when necessary for the performance of its functions under this Act and such meetings may be held at such places and times and on such days as the Committee may determine. **Procedure and meetings.**

(2) The Chairman may at any time call a special meeting of the Committee and shall call a special meeting within seven days of the receipt of a written request for that purpose addressed to him by any two members of the Committee.

(3) The Chairman shall preside at all meetings of the Committee at which he is present and in the case of his absence from any meeting the members present and constituting a quorum shall elect one of the selected members to act as Chairman at that meeting.

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(4) The quorum at any meeting shall be three.

(5) Every decision of the Committee shall be by a majority vote and where the voting is equal on any matter the Chairman shall have a casting vote in addition to his original vote.

(6) Subject to the provisions of this paragraph the Committee shall have power to regulate its own proceedings.

(7) The validity of any proceedings of the Committee shall not be affected by any vacancy amongst the members or by any defect in the appointment of a member.

Remunera-
tion of
members.

5.—(1) The members of the Committee shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law or by resolution of the House of Representatives and the emoluments payable to a selected member shall not be less than the emoluments which may, from time to time, be payable to a Puisne Judge.

(2) The emoluments and terms and conditions of service of the members shall not be altered to their disadvantage during the period of their appointment or reappointment, as the case may be.

Resigna-
tion.

6.—(1) Any member, other than the Chairman, may at any time resign his office by instrument in writing addressed to the Governor-General and transmitted through the Chairman; and from the date of receipt by the Governor-General of such instrument such member shall cease to be a member.

(2) The Chairman may at any time resign his office by instrument in writing addressed to the Governor-General; and such resignation shall take effect as from the date of the receipt by the Governor-General of the instrument.

Authentica-
tion of
seal and
documents.

7.—(1) The seal of the Committee shall be authenticated by the signatures of the Chairman and another member authorized to act in that behalf.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Committee may be signified under the hand of the Chairman or any other member authorized to act in that behalf.

Publication
of com-
position of
Committee.

8. The names of all members as first appointed and every change in the composition of the Committee shall be published in the *Gazette*.

Protection
of
Committee.

9. Notwithstanding anything to the contrary no act done or proceeding taken under this Act by the Committee shall be questioned on the ground of any omission, defect or irregularity not affecting the merits of the case.

10.—(1) No member shall be personally liable for any act or default of the Committee done or omitted to be done in good faith in the course of the operation of the Committee. Protection
of member.

(2) Where any member is exempt from liability by reason only of the provisions of this paragraph the Committee shall be liable to the extent that it would be if the said member were a servant or agent of the Committee.

11. The office of nominated member shall not be a public office for the purpose of Chapter V of the Constitution of Jamaica. Member-
ship as
nominated
member.

12. Where, pursuant to paragraph 1 or paragraph 3, the Governor-General is directed to act on the advice of or after consultation with, the Leader of the Opposition and— Provisions
applicable
when there
is no
Leader of
Opposi-
tion.

(a) there is no person holding the office of Leader of the Opposition; or

(b) the holder of that office is unwilling or, by reason of his illness or absence from Jamaica, unable to perform his functions in that regard, 9/1984
S. 2.

the Governor-General shall act as if the reference in those paragraphs to the Leader of the Opposition were a reference to such person as the Governor-General, in his discretion, considers appropriate.