

# THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT 28 OF 1997

I assent,

[L.S.]

H. F. COOKE,

Governor-General

14th day of November, 1997

AN ACT to Amend the Representation of the People Act.

**[14th November, 1997]**

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows: -

## **1 Short title and construction**

This Act may be cited as the Representation of the People (Amendment) Act, 1997, and shall be read and construed as one with the Representation of the People Act (hereinafter referred to as the principal Act) and all amendments thereto.

## **2 Insertion of new section 21A in principal Act**

The principal Act is amended by inserting next after section 21 the following as section 21A -

"21A Day on which poll for taking of votes to be held

The day on which the poll for taking of the votes of the electors is to be held, in case a poll is necessary, shall not be less than sixteen days nor more than twenty-three days after the day appointed as nomination day pursuant to subsection (1) of section 21."

## **3 Amendment of section 32 of principal Act**

Subsection (1) of section 32 of the principal Act is amended by deleting the words "at least two clear" and substituting therefor the words "as near as is reasonably practicable to the time of the opening of the poll, but no earlier than two".

## **4 Amendment of section 41 of principal Act**

Section 41 of the principal Act is amended -

(a) in subsection (1) by inserting immediately after the words "the request of such elector," the words "and such other persons (hereinafter referred to as observers) to observe the election process therein";

(b) by inserting next after subsection (3) the following as subsections (4), (5), (6) and (7) -

"(4) The Chief Electoral officer may, acting on the advice of the Committee and subject to subsection (6), permit observers to enter any polling location for the purpose of observing any procedure and the voting process carried out at that polling location and the counting of votes after the poll has closed at such polling location.

(5) The observers shall, in each polling location, act in accordance with the terms and conditions as are agreed to with the Chief Electoral Officer and shall be subject to such directions as a presiding officer at that polling location may give.

(6) No more than four observers shall be permitted to remain in any polling location at any one time where polling is being carried out."

(7) In subsections (4), (5) and (6) "polling location" means any premises established for the taking of the poll and in which one or more polling stations are situated."

## **5 Insertion of new Part IVA in principal Act**

The principal Act is amended by inserting next after section 44 the following as Part IVA -

"PART IVA

Halting of the Taking of the Poll on Polling Day

44A Power to halt the taking of the poll on polling day

(1) There shall be established, on the issuing of an election notice by a returning officer under section 22 (1), a body to be known as the Constituted Authority which shall continue in force for a period ending six months after the day referred to in section 22 (2) (b).

(2) The Constituted Authority shall have the power to halt the taking of the poll in any polling station, polling division or constituency on polling day.

(3) The members of the Constituted Authority shall be -

(a) the three selected members of the Committee; and

(b) two other persons appointed by the Governor-General after consultation with the Prime Minister and the Leader of the Opposition -

- (i) one of whom shall be a retired Judge; and
- (ii) one of whom shall be a member of the Privy Council,

so, however, that where a retired Judge is not available for appointment, another member of the Privy Council shall be appointed.

(4) The chairman of the Constituted Authority shall be the retired Judge but where no retired Judge is appointed the member of the Privy Council who is the more senior shall be the chairman.

(5) The decision to halt the taking of the poll shall be by a four-fifths majority of the members of the Constituted Authority.

44B Grounds for halting of the taking of the poll

The grounds on which the taking of the poll may be halted are -

(a) that -

(i) polling stations have not opened for the taking of the poll within the period of the first five hours after the hour fixed for the opening of the poll; and

(ii) the number of electors on the official list of electors of those polling stations constitute at least twenty-five per cent of the electors in the constituency;

(b) the occurrence of any earthquake, flood, fire or other natural disaster which could substantially prevent or prejudice the holding of fair elections.

44C Period within which poll to be retaken after being halted

Where under section 44A the Constituted Authority halts the taking of a poll, the poll shall be retaken on such day within a period of twenty-eight days from the date on which the poll is halted or so sooner after such period as the Constituted Authority may deem reasonably practicable."

#### **6 Amendment of section 51 of principal Act**

Subsection (1) of section 51 of the principal Act is amended by deleting the words "Sub-Officer in charge of a police station in the electoral division" and substituting therefor the words "Chief Electoral Officer or such other person as he may direct who shall store the ballot boxes with their locks and keys at such place as the Chief Electoral Officer may deem appropriate."

#### **7 Insertion of new Part VA in principal Act**

The principal Act is amended by inserting next after section 52 the following as Part VA -

"PART VA

Voiding of Taking of a Poll

52A Provisions relating to voiding of a poll

(1) Where after the taking of a poll the Constituted Authority or a candidate is of the opinion that during the taking of the poll circumstances existed which could constitute grounds as specified in section 37 of the Election Petitions Act, the Constituted Authority may, on its own motion or at the request of the candidate, make an application under that section to the Election Court to have the taking of the poll declared void.

(2) The Constituted Authority may, before making an application under subsection (1) on its own motion, request a returning officer to furnish it with such reports as are necessary to determine that an application ought to be made and the returning officer shall furnish the Constituted Authority with such reports.

(3) A candidate who is desirous of having the Constituted Authority make an application on his behalf to the Election Court shall, within seven days of the taking of the poll, make such request and shall furnish the Constituted Authority with such evidence on which he relies so that the Constituted Authority may determine whether an application ought to be made.

(4) Where the Constituted Authority makes an application to the Election Court, until the determination of the matter, the returning officer shall not act in any manner contrary to the provisions of section 45 (7).

(5) During the period from which the filing of an application is made to the Election Court to the determination of the application, a candidate declared elected under section 45 (7) shall, subject to sections 47, 48 and 49, be entitled to become a member.

(6) A request by a candidate pursuant to subsection (1) shall be without prejudice to any right enjoyed by that candidate under section 3 (b) of the Election Petitions Act.

52B Period within which poll to be retaken after being declared void

Where the taking of a poll is declared void by the Election Court under section 36 (1) (b) (i) of the Election Petitions Act, the poll shall be retaken on such day within a period of twenty-eight days from the date of the declaration or so

soon after such period as the Constituted Authority may deem reasonably practicable."

### **8 Amendment of section 75 of principal Act**

Section 75 of the principal Act is amended -

(a) in subsection (1) -

(i) by deleting the word "six" and substituting therefor the word "three";

(ii) by deleting the words "and if he does so he shall be guilty of an illegal hiring and shall be guilty of an illegal practice" and substituting therefor the words "and if -

(a) he is a candidate in such constituency he shall be guilty of an offence against this section;

(b) he is a person other than a candidate referred in paragraph (a) he shall be guilty of an illegal hiring and shall be guilty of an illegal practice.";

(b) in subsection (2) by deleting the word "six" and substituting therefor the word "three";

(c) by deleting subsection (3) (except the proviso there, to) and substituting therefor the following -

"(3) Nothing in this section shall prevent the conveyance -

(a) into or within any constituency of -

(i) any election officer; or

(ii) any election agent duly appointed by a candidate in such constituency or any subagent duly appointed by such agent; or

(iii) any person who has reasonable grounds for believing that he is registered as a voter in such constituency;

(b) of a candidate into or within the constituency for which he is a candidate at any election taking place in the constituency on that day.";

(c) by inserting next after subsection (3) the following as subsection (4) -

" (4) Any candidate who contravenes subsection (1) or subsection (3) (b) shall be guilty of an offence against this section and on summary conviction before a Resident Magistrate shall be liable to a fine not exceeding five hundred thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding three years."

### **9 Amendment of certain enactment**

The enactments specified in the first column of the Schedule hereto are amended in the manner appearing in the second column thereto.

#### **SCHEDULE**

(Section 8)

Enactments Amendments

The Kingston and St. Andrew Corporation Act 1. Insert next after section 62 the following as section 62A -

"Halting of taking of the poll 62A. (1) Where -

(a) polling stations have not opened for the taking of the poll within the period of the first five hours after the hour fixed for the opening of the poll and the numbers of electors on the official list of electors for those polling stations constitute at least twenty-five per cent of the electors in the electoral division;

(b) there is an occurrence of any earthquake, flood, fire or other natural disaster which could substantially prevent or justice the holding of fair elections, the Constituted Authority established under section 44A of the Representation of the People Act may halt the taking of the poll so, however, that the decision to halt the taking of the poll shall be by a four-fifths majority of the members of that Authority.

(2) The Constituted Authority shall have the power to halt the taking of the poll in any polling station, polling division or electoral division on polling day.

Period within which poll to be retaken after being halted 62B Where under section 62A the Constituted Authority halts the taking of a poll, the poll shall be retaken on such day within a period of twenty-eight days from the date on which the poll is halted or so soon after such period as the Constituted Authority may deem reasonably practicable."

2. Insert next after section 67 the following as section 67A -

"Voiding of taking of poll 67A The provisions of sections 52A and 52B of the Representation of the People Act (which relate to the voiding of the taking of the poll) shall apply in relation to elections held under this Act as they apply in relation to elections held under the Representation of the People Act."

The Parish Councils Act 1. Insert next after section 40 the following as section 40A -

"Halting of taking of the poll 40A (1) Where -

(a) polling stations have not opened for the taking of the poll within the period of the first five hours after the hour fixed

for the opening of the poll and the number of electors on the official list of electors for those Councils Act, polling stations constitute at least twenty-five per cent of the electors in the electoral division;

(b) there is an occurrence of any earthquake, flood, fire or other natural disaster which could substantially prevent or prejudice the holding of fair elections, the Constituted Authority established under section 44A of the Representation of the People Act may halt the taking of the poll so, however, that the decision to halt the taking of the poll shall be by a four-fifths majority of the members of that Authority.

(2) The Constituted Authority shall have the power to halt the taking of the poll in any polling station, polling division or electoral division on polling day.

Period within which poll to be retaken after being halted 40B Where under section in which 40A the Constituted Authority poll to be retaken after halt the taking of a poll, the being halted poll shall be retaken on such day within a period of twenty-eight days from the date on which the poll is halted or so soon after such period as the Constituted Authority may deem reasonably practicable."

2. Insert next after section 46 the following as section 46A -

"Voiding of taking of the poll 46A The provisions of sections 52A and 52B of the Representation of the People Act (which relate to, the voiding of the taking of the poll) shall apply in relation to elections held under this Act as they apply in relation to elections held under the Representation at the People Act."