

LAWS OF GUYANA

CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF
GUYANA ACT

CHAPTER 1:01

Act

2 of 1980

Amended by

17	of	1984	2	of	2000	O. 38/1987
1	of	1988	11	of	2000	
23	of	1990	14	of	2000	
1	of	1991	17	of	2000	
12	of	1991	3-8	of	2001	
35	of	1991	5	of	2003	
35	of	1991	10	of	2003	
36	of	1991	16	of	2004	
11	of	1992	24	of	2006	
21	of	1993	22	of	2007	
15	of	1995	5	of	2009	

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CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA ACT

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SCHEDULE – The Constitution of the Co-operative Republic of Guyana

CHAPTER 1:01
CONSTITUTION OF THE CO-OPERATIVE REPUBLIC
OF GUYANA ACT

2 of 1980

An Act to enact a new Constitution of the Co-operative Republic of Guyana, to repeal the Guyana Independence Act 1966, the Guyana Independence Order 1966, and the existing Constitution, and to provide for matters incidental thereto or connected therewith.

[20TH FEBRUARY, 1980]

Short title.

1. This Act may be cited as the Constitution of the Co-operative Republic of Guyana Act.

Interpretation.

2. (1) In this Act –

“appointed day” means the 6th day of October, 1980;

“the Constitution” means the Constitution set out in the Schedule;

“the existing Assembly” means the National Assembly constituted under the existing Constitution;

“the existing Constitution” means the Constitution in force immediately before the appointed day;

“existing laws” means all laws which had effect as part of the laws of Guyana immediately before the appointed day and includes any Act or other written law made before that day and coming into force on or after that day;

“the existing Parliament” means the Parliament which enacted this Act;

“service commission” means the Public Service Commission, the Police Service Commission, the

Judicial Service Commission or the Teaching Service Commission in existence immediately before the appointed day;

and, save where the context otherwise requires, expressions used in sections 1 to 22(inclusive) have the same meaning as in the Constitution and the provisions of article 232 thereof shall apply for the purpose of interpreting those sections as they apply for the purpose of interpreting the Constitution.

(2) References in article 133 of the Constitution to any question as to the interpretation of the Constitution shall be construed as including references to any question as to the interpretation of any provision of this Act.

Constitutional Instruments (including the existing Constitution) repealed.

3. Subject to the provisions of this Act, on the appointed day all the provisions of the Guyana Independence Act 1966, the Guyana Independence Order 1966 (in so far as they form part of the law of Guyana) and the existing Constitution are repealed and thereupon the Constitution shall have effect as the supreme law of Guyana in place of the existing Constitution.

Appointed day [Procl. 2/1980]

4. The Constitution shall come into operation on the 6th day of October, 1980.

Exercise of powers of Parliament before appointed day.

5. At any time after the enactment of this Act, the existing Parliament may for the purpose of enabling the Constitution to function on and after the appointed day exercise any of the powers conferred on the Parliament established by the Constitution.

Exercise of power of President before appointed

6. The power conferred by section 7(2) to make orders may be exercised by the President under the existing Constitution at any time after the enactment of this Act to such extent as may, in his or her opinion, be necessary or

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day. expedient to enable the Constitution to function on and after the appointed day.

Existing laws. [23 of 1990] 7.(1) Subject to the provisions of this Act, the existing laws shall continue in force on and after the appointed day as if they had been made in pursuance of the Constitution but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act.

(2) The President may by order made at any time within the period of three years next after the commencement of the Constitution make such modifications to any existing law as may appear to him or her to be necessary or expedient for bringing that law into conformity with the provisions of this Act or otherwise for giving effect or enabling effect to be given to those provisions.

(3) Anything done under any existing law before its modification by or under this section which would, but for this subsection, cease by virtue of that modification to have effect, shall continue to have effect as if done under that law as so modified.

(4) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by Parliament or by any other authority or person is prescribed or provided for by or under any existing law (including any amendment to any such law made under this section) or is otherwise prescribed or provided for immediately before the appointed day by or under the laws repealed by section 3, that prescription or provision shall, on and after that day, have effect (with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with this Act) as if it had been made under the Constitution by Parliament or, as the case may require, by the other authority or person.

(5) All enactments passed or made by any Parliament or person or authority under or by virtue of the Guyana Independence Order 1966 and the existing Constitution and not before the appointed day declared by a competent court to be void by reason of any inconsistency with any provision of the existing Constitution and that are not repealed, lapsed or spent or that had not otherwise had their effect, shall be deemed to have been validly passed or made and to have had full force and effect as part of the law of Guyana immediately before the appointed day even if any such enactments were inconsistent with any provision of the existing Constitution.

(6) Without prejudice to the generality of the foregoing provisions of this section, if a proclamation of emergency is in force under article 16 of the existing Constitution immediately before the appointed day by virtue of a resolution of the existing Assembly, the proclamation shall on and after that day have effect as if it had been made under article 150 of the Constitution and (without prejudice to its continuance in force for further periods by virtue of the provisions of paragraph (3)(c) of the said article 150) as if its continuance in force to the date referred to in that resolution had been approved by a resolution passed by the National Assembly under the provisions of paragraph (3)(c) of the said article 150; and if any person is on the appointed day detained or restricted in the manner referred to in article 151 of the Constitution the provisions of that article requiring his or her case to be reviewed by a tribunal established for the purpose of that article not later than three months from the commencement of the detention or restriction shall, in relation to that person, have effect as if the detention or restriction had commenced on the appointed day.

(7) The provisions of this section shall be without prejudice to any powers conferred by any law upon any person or authority to make provision for any matter,

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including the making of modifications to any existing law.

(8) In this section “modification” includes amendment, adaptation or other alteration authorised by subsection (1).

(9) [Repealed by Act No. 23 of 1990]

Parliament.

8.(1) Notwithstanding any difference between the composition of the existing Assembly and that of the National Assembly established by the Constitution, with effect from the appointed day and until the National Assembly sits for the first time after the first election held pursuant to the provisions of article 60(2) of the Constitution, but subject to subsection (5), the existing Assembly shall be deemed to be the National Assembly established by the Constitution (referred to in this section in respect of that period as “the transitional National Assembly”).

(2) Without prejudice to the generality of subsection (1), the persons who immediately before the appointed day were members of the existing Assembly shall with effect from that day be members of the transitional National Assembly, and all questions concerning membership and functioning of the transitional National Assembly shall be regulated as nearly as may be practicable by the existing law applicable in the like case to the existing Assembly.

(3) All matters pending before the existing Assembly immediately before the appointed day may be continued and completed by the transitional National Assembly.

(4) Unless and until the transitional National Assembly otherwise resolves, any person who is a member of that Assembly by virtue of subsection (2) shall be deemed to have made and subscribed before the Assembly the oath

referred to in article 167 of the Constitution.

(5) Unless sooner dissolved by the President pursuant to the provisions of article 70(2) of the Constitution, the Parliament constituted by the President and the transitional National Assembly shall stand dissolved on 26th October, 1980.

(6) The first election of members of the National Assembly pursuant to the provisions of paragraphs (3) and (4) of article 60 of the Constitution shall be held on such day as the President may by proclamation appoint, being a day which he or she considers to be as early as practicable after the holding of the first election of members of the Regional Democratic Council or of the National Congress of Local Democratic Organs, as the case may be.

(7) All moneys granted, voted or appropriated by the existing Assembly in respect of the services of Guyana for the current financial year shall be deemed to have been granted, voted or appropriated by the National Assembly established by the Constitution and in accordance with the Constitution.

Standing
Orders.

9. The rules and orders of the existing Assembly as in force immediately before the appointed day shall, until it is otherwise provided for under article 165 of the Constitution, be the rules of procedure of the National Assembly established under the Constitution, but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

President.

10. (1) The person who immediately before the appointed day holds the office of Prime Minister under the existing Constitution shall, subject to the provisions of article 97 of the Constitution (relating to the taking of an oath by the President), assume office as President of the Co-operative

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Republic of Guyana that day as if he or she had been elected thereto in pursuance of the provisions of the Constitution and shall, unless he or she sooner dies or resigns or unless he or she ceases to hold office by virtue of articles 93 and 94 of the Constitution, continue in office until the person elected President in the next following Presidential election held for the purposes of article 91 of the Constitution assumes office.

(2) On the assumption of his or her office pursuant to subsection (1) the first President of Guyana shall cease to be a member of the National Assembly and his or her seat shall thereby become vacant and may be filled as nearly as practicable in accordance with the provisions of article 70 of the existing Constitution.

Prime
Minister.

11. Until a Prime Minister is appointed under article 101 of the Constitution, the person who immediately before the appointed day holds the office of Minister under the existing Constitution which, however styled, ranks next in seniority after the office of Prime Minister and who is an elected member of the existing Assembly shall, on and after that day, hold the office of Prime Minister as if he or she had been appointed thereto under that article.

Ministers,
Attorney-
General,
Parliamentary
Secretaries etc.

12. (1) Subject to the provisions of sections 10 and 11, the persons who immediately before the appointed day held office as Minister (other than as Prime Minister), Attorney General, Parliamentary Secretary, Speaker, Deputy Speaker or Minority Leader shall, on and after that day, hold the corresponding office established by the Constitution as if they had been appointed or elected thereto, as the case may be, in accordance with the provisions of the Constitution.

(2) Any person holding the office of Prime Minister or of Minister by virtue of the provisions of section 11 or of subsection (1) of this section respectively who, immediately before the appointed day, was assigned responsibility under the existing Constitution for any business of the Government

of Guyana, including the administration of any department of Government, shall, on and after that day, be deemed to have been assigned responsibility therefor under article 107 of the Constitution.

Cabinet.

13. Subject to paragraph (1) of article 106 of the Constitution, every person who does not otherwise become a member of the Cabinet established by the Constitution but who immediately before the appointed day is a member of the Cabinet under the existing Constitution shall on and after that day be a member of the Cabinet established by the Constitution as if he or she had been appointed thereto under that paragraph.

Supreme
Court of
Judicature.

14. (1) The Supreme Court of Judicature in existence immediately before the appointed day shall on and after that day be the Supreme Court of Judicature for the purposes of the Constitution as if it were established thereunder.

(2) Any decision given before the appointed day by any court forming part of the Supreme Court of Judicature in existence immediately before that day shall, for the purpose of its enforcement or for the purpose of any appeal therefrom, have effect on and after that day as if it were a decision of the corresponding court established by the Constitution.

Existing
Officers.

15. (1) Subject to the provisions of this Act, every person who immediately before the appointed day holds or is acting in a public office shall, on and after that day, hold or act in that office or the corresponding office established by the Constitution, as the case may be, as if he or she had been appointed to do so in accordance with the provisions of the Constitution:

Provided that any person who, under the laws repealed by section 3 or any other existing law, would have been required to vacate his or her office at the expiration of

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any period shall vacate his or her office at the expiration of that period.

(2) Subsection (1) shall apply in relation to the offices of Chancellor, Chief Justice, Justice of Appeal, Puisne Judge, Ombudsman, Clerk and Deputy Clerk of the National Assembly and, subject to section 17, to the offices of Chairman, Deputy Chairman (if any) and member of the Judicial Service Commission, the Public Service Commission, the Police Service Commission, the Teaching Service Commission and the Elections Commission as if those offices were public offices.

Oaths.

16. Any person who holds or acts in any office on the appointed day by virtue of the provisions of section 11, 12 or 15 shall be deemed to have taken any necessary oath under the Constitution or any other law:

Provided that the President may, at any time on or after the appointed day, require any such person to take any oath required as aforesaid.

Commissions.

17. (1) Until the expiration of the period of three months next after the day on which the first election after the appointed day has been held pursuant to the provisions of article 61 of the Constitution or until dissolved by a proclamation issued by the President, whichever shall the sooner occur, the service commissions and the Elections Commission as constituted immediately before the appointed day shall on and after that day be deemed to be the corresponding commissions under the Constitution notwithstanding any difference in composition under the existing law and under the Constitution, and any appointments to vacancies in membership and other matters relating thereto shall be made and regulated as nearly as may be practicable in accordance with the existing law.

(2) Any power of a service commission which

immediately before the appointed day is validly delegated to any person or authority shall to the extent that power could be delegated under the Constitution to such person or authority, be deemed, on and after that day, to have been delegated to that person or authority in accordance with the provisions of the Constitution.

Continuation
of
proceedings.

18. Where any proceedings are pending immediately before the appointed day before any court, body or authority in respect of which a corresponding court, body or authority is established by or under the Constitution, those proceedings may on and after that day be continued and completed by or before such corresponding court, body or authority as if they had been commenced in or before such corresponding court, body or authority:

Provided that in the case of any proceedings before any court, tribunal or the Ombudsman (including any disciplinary proceedings) where the hearing was partly completed immediately before the appointed day (in this section referred to as “the original hearing”), no person shall take part in the continued hearing, either as the sole or other member, as the case may be, of the corresponding court, body or authority established by or under the Constitution unless he or she has also taken part in the original hearing, and where the original hearing cannot be so continued the hearing shall be recommenced.

Local
democratic
organs.

19. Any local government authority in existence immediately before the appointed day shall be deemed to be a local democratic organ for the purposes of the Constitution as if it were constituted thereunder.

Amendment
of certain
provisions of
the
Amerindian
Lands

20. Notwithstanding anything contained in the Constitution, sections 2 and 3 of the Amerindian Lands Commission Act as in force immediately before the appointed day may be amended by Parliament only in the same manner as the provisions specified in article 164(2)(b)

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Commission. of the Constitution.

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districts and
list of electors.

21. (1) The polling districts and divisions constituted under any existing law in relation to elections of members of the existing Assembly shall be deemed to be the polling districts and divisions for the purposes of elections to be held under article 60(2) of the Constitution subject to any amendments duly made thereto under such law.

(2) The list of electors last prepared before the appointed day for the purposes of holding elections of members of the existing Assembly shall, subject to any further revision in accordance with law, be deemed to be the list of electors prepared by the Elections Commission under article 162 of the Constitution for the purposes of article 60(2) thereof.

Amendment
of this Act.

22. (1) Parliament may amend section 3 and this section in the same manner as it may alter any of the provisions specified in article 164 (2) (a) of the Constitution.

(2) Parliament may amend any other provision of this Act, with the exception of the Schedule thereto, in the same manner as it may alter any of the provisions specified in article 164 (2)(b) of the Constitution.

(3) Article 164(3) of the Constitution shall apply for the purpose of construing references in this section to any provision of this Act and to the alteration of any such provision as it applies for the purpose of construing references in the said article 164 to any provision of the Constitution and to the alteration of any such provision.

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CONSTITUTION OF THE CO-OPERATIVE
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**CONSTITUTION OF THE CO-OPERATIVE
REPUBLIC OF GUYANA**

PREAMBLE

[6 of 2001]

WE, THE GUYANESE PEOPLE,

Proud heirs of the indomitable will of our forebears, in a spirit of reconciliation and cooperation, proclaim this Constitution in order to:

Safeguard and build on the rich heritage, won through tireless struggle, bequeathed us by our forebears;

Affirm our sovereignty, our independence and our indissolubility;

Forge a system of governance that promotes concerted effort and broad-based participation in national decision-making in order to develop a viable economy and a harmonious community based on democratic values, social justice, fundamental human rights, and the rule of law;

Celebrate our cultural and racial diversity and strengthen our unity by eliminating any and every form of discrimination;

Value the special place in our nation of the Indigenous Peoples and recognise their right as citizens to land and security and to their promulgation of policies for their communities;

Acknowledge the aspirations of our young people who, in their own words, have declared that the future of Guyana belongs to its young people, who aspire to live in a safe society which respects their dignity, protects their rights, recognises their potential,

listens to their voices, provides opportunities, ensures a healthy environment and encourages people of all races to live in harmony and peace and affirm that their declaration will be binding on our institutions and be a part of the context of our basic law;

Demonstrate our commitment to protect our natural environment and endowment;

Create a republican community practically aware that the finances, industry, communications, education, business and technology of the world are global factors affecting all in which all must engage and from which all must benefit.

As citizens of Guyana, we adopt these fundamental laws and make provision for their amendment to reflect changes in our society, inspired by our collective quest for a perfect nation, whose characteristics include the commitments, concepts, and other principles proclaimed in this preamble.

May God protect our people.

**CONSTITUTION OF THE CO-OPERATIVE REPUBLIC
OF GUYANA**

**PART 1
GENERAL PRINCIPLES**

**CHAPTER I
THE STATE AND THE CONSTITUTION**

The State in transition to socialism.

1. Guyana is an indivisible, secular, democratic sovereign state in the course of transition from capitalism to socialism and shall be known as the Co-operative Republic of Guyana.

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- The territory. 2. The territory of the State comprises the areas that immediately before the commencement of this Constitution were comprised in the area of Guyana together with such other areas as may be declared by Act of Parliament to form part of the territory of the State.
- The capital. 3. The capital of the State is the city of Georgetown.
- The flag.
[6 of 2001]
Second
Schedule. 4. The national flag of the State is the flag known as "The Golden Arrow Head" as set out in the Second Schedule.
- The coat of
Arms.
[6 of 2001] 5. The coat of arms of the State is that in use at the commencement of this Constitution as set out in the Second Schedule.
- The anthem.
[6 of 2001] 6. The national anthem of the State is the anthem known as "Green Land of Guyana" as set out in the Second Schedule.
- The pledge.
[6 of 2001] 6A. The National Pledge of the State is the pledge as set out in the Second Schedule.
- Duty to
respect
national
symbols.
[6 of 2001] 7. It is the duty of every citizen of Guyana wherever he or she may be and of every person in Guyana to respect the national flag, the coat of arms, the national anthem, the national pledge and the Constitution of Guyana, and to treat them with due and proper solemnity on all occasions.
- Supremacy of
Constitution. 8. This Constitution is the supreme law of Guyana and, if any other law is inconsistent with it, that other law shall, to the extent of the inconsistency, be void.

CHAPTER II
PRINCIPLES AND BASES OF THE POLITICAL,
ECONOMIC AND SOCIAL SYSTEM

- Sovereignty belongs to the people.
9. Sovereignty belongs to the people, who exercise it through their representatives and the democratic organs established by or under this Constitution.
- Political parties.
10. The right to form political parties and their freedom of action are guaranteed. Political parties must respect the principles of national sovereignty and of democracy.
11. [Article 11 repealed by Act No. 10 of 2003]
- Local Government.
12. Local government by freely elected representatives of the people is an integral part of the democratic organisation of the State.
- Objective of political system.
[6 of 2001]
13. The principal objective of the political system of the State is to establish an inclusionary democracy by providing increasing opportunities for the participation of citizens, and their organisations in the management and decision-making processes of the State, with particular emphasis on those areas of decision-making that directly affect their well-being.
- Goals of economic development.
[6 of 2001]
14. The goal of economic development includes the objective of creating, promoting and encouraging an economic system capable of achieving and maintaining sustainable competitive advantage in the context of a global competitive environment, by fostering entrepreneurship, individual and group initiative and creativity, and strategic alliances with domestic and global business partners in the private sector.
- Further goal
15. The goal of economic development includes the

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of economic development.
[6 of 2001]

objective of laying the material basis for the greatest possible satisfaction of the people's growing material, cultural and intellectual requirements, as well as the dynamically stable development of their personality, creativity, entrepreneurial skills, and co-operative relations in a plural society. The State shall intervene to mitigate any deleterious effects of competition on individuals or groups of individuals.

State to foster forms of development.
[6 of 2001]

16. The State shall foster the development of such relevant forms of cooperation and of business entities as are seen to be supportive of the goals of economic development as stated in articles 14 and 15.

Private enterprise.
[6 of 2001]

17. Privately owned economic enterprises are recognised, and shall be facilitated in accord with their conformity with the aims and objectives stated or implied in articles 13, 14, 15 and 16.

Land to the tiller.

18. Land is for social use and must go to the tiller.

Personal property.

19. Every citizen has the right to own personal property which includes such assets as dwelling houses and the land on which they stand, farmsteads, tools and equipment, motor vehicles and bank accounts.

Right to inheritance.

20. The right of inheritance is guaranteed.

Role of labour.

21. The source of the growth of social wealth and of the well-being of the people, and of each individual, is the labour of the people.

The right and duty to work.
[10 of 2003]

22. (1) Every citizen has the right to be rewarded according to the nature, quality and quantity of his or her work, to equal pay for equal work or work of equal value, and to just conditions of work.

(2) Every citizen who is able to work has a duty to work.

Right to leisure.

23. Every citizen has the right to rest, recreation and leisure. The State in co-operation with co-operatives, trade unions and other socio-economic organisations will guarantee this right by prescribing hours and conditions of work and by establishing holiday arrangements for workers, including a complex of cultural, educational and health institutions.

Right to medical attention and social care in case of old age and disability.

24. Every citizen has the right to free medical attention and also to social care in case of old age and disability.

Duty to improve environment.

25. Every citizen has a duty to participate in activities designed to improve the environment and protect the health of the nation.

Right to housing.

26. Every citizen has the right to proper housing accommodation.

Right to education.
[10 of 2003]

27. (1) Every citizen has the right to free education from nursery to university as well as at non-formal places where opportunities are provided for education and training.

(2) It is the duty of the State to provide education that would include curricula designed to reflect the cultural diversities of Guyana and disciplines that are necessary to prepare students to deal with social issues and to meet the challenges of the modern technological age.

Youth.

28. Every young person has the right to ideological,

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social, cultural and vocational development and to the opportunity for responsible participation in the development of the socialist order of society.

Women's participation in public decision-making.
[10 of 2003]

29. Women's participation in the various management and decision-making processes, whether private, public or state, shall be encouraged and facilitated by laws enacted for that purpose or otherwise.

30. [Article 30 repealed by Act No. 10 of 2003]

Protection of citizens resident abroad.

31. It is the duty of the State to protect the just rights and interests of citizens' resident abroad.

Duty to prevent crime and to protect public property.

32. It is the joint duty of the State, the society and every citizen to combat and prevent crime and other violations of the law and to take care of and protect public property.

Duty to defend State.

33. It is the duty of every citizen to defend the State.

Abolition of discriminatory distinctions.

34. It is the duty of the State to enhance the cohesiveness of the society by eliminating discriminatory distinctions between classes, between town and country, and between mental and physical labour.

National culture.

35. The State honours and respects the diverse cultural strains which enrich the society and will seek constantly to promote national appreciation of them at all levels and to develop out of them a socialist national culture for Guyana.

Land and the

36. The well-being of the nation depends upon

environment.
[10 of 2003]

preserving clean air, fertile soils, pure water and the rich diversity of plants, animals and eco-systems.

External
relations.

37. The State supports the legitimate aspirations of other peoples for freedom and independence and will establish relations with all states on the basis of sovereign equality; mutual respect, inviolability of frontiers, territorial integrity of states, peaceful settlement of disputes, non-intervention in internal affairs, respect for human rights and fundamental freedoms, and co-operation among States.

National co-
operation for
development
of economy.

38. It is the duty of the State, co-operatives, trade unions, other socio-economic organisations and the people through sustained and disciplined endeavours to achieve the highest possible levels of production and to develop the economy in order to ensure the realisation of the rights set out in this Chapter.

Democratic
state with a
healthy
economy.
[10 of 2003]

38A. To ensure that Guyana is a democratic State with a healthy economy, the State shall –

- (a) facilitate the engagement of citizens in activities designed to achieve their sustainable livelihoods;
- (b) progressively remove the barriers that prohibit or limit the realisation of the potential for self-sustaining activities in such fields as agriculture, processing, manufacturing and artistic and information-based activities;
- (c) encourage and support the self-mobilisation of citizens; and
- (d) provide appropriate support to any

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group which is, or is claiming to be,
under threat of marginalisation.

The best
interest of
the child.
[10 of 2003]

38B. The best interest of the child shall be the primary consideration in all judicial proceedings and decisions and in all matters concerning children, whether undertaken by public or private social welfare institutions, administrative authorities or legislative bodies.

Adoption in
best interest
of the child.
[10 of 2003]

38C. The State shall ensure that the adoption of a child takes place only if that adoption would be in the best interest of the child.

Child's right
to
maintenance
and
accommo-
dation.
[10 of 2003]

38D. Every child has the right to maintenance and accommodation from his or her parents and guardians.

Formal
education
compulsory.
[10 of 2003]

38E. Formal education is compulsory up to the age of fifteen years.

Vilification
of religion.
[10 of 2003]

38F. No person's religion or religious belief shall be vilified.

Public service
to be free
from political
influence.
[10 of 2003]

38G.(1) The integrity of the public service is guaranteed. No public officer shall be required to execute or condone irregular acts on the basis of higher orders.

(2) The freedom of every public officer to perform his or her duties and fulfil his or her responsibilities is protected.

(3) No public officer shall be the subject of sanctions of any kind without due process.

(4) In the discharge of his or her duties a public officer shall execute the lawful policies of the government.

Guiding principles and objectives. [10 of 2003]

39. (1) It is the duty of Parliament, the Government, the courts and all other public agencies to be guided in the discharge of their functions by the principles set out in this Chapter, and Parliament may provide for any of those principles to be enforceable in any court or tribunal.

(2) In the interpretation of the fundamental rights provisions in this Constitution a court shall pay due regard to international law, international conventions, covenants and charters bearing on human rights.

**CHAPTER III
FUNDAMENTAL RIGHTS AND FREEDOMS OF THE
INDIVIDUAL**

Fundamental rights and freedoms of the individual. [10 of 2003]

40. (1) Every person in Guyana is entitled to the basic right to a happy, creative and productive life, free from hunger, ignorance and want. That right includes the fundamental rights and freedoms of the individual.

(2) The provisions of Title 1 of Part 2 shall have effect for the purpose of affording protection to the aforesaid fundamental rights and freedoms of the individual subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

**CHAPTER IV
CITIZENSHIP**

Persons who continue to be citizens on commencement of Constitution.

41. Every person who immediately before the commencement of this Constitution is a citizen of Guyana shall continue to be a citizen of Guyana.

Persons entitled to be registered as citizens.

42. (1) Every person who immediately before the commencement of this Constitution is or has been married to a person –

- (a) who continues to be a citizen of Guyana by virtue of the preceding article; or
- (b) who, having died before the commencement of this Constitution would, but for his or her death, have continued to be a citizen of Guyana on that date by virtue of that article,

shall, if not otherwise a citizen, be entitled, upon making application and upon taking the oath of allegiance, to be registered as a citizen of Guyana:

Provided that the right to be registered as a citizen under this paragraph shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.

(2) Any application for registration under this article shall be made in such manner as may be prescribed.

Persons born in Guyana after commencement of Constitution.

43. Every person born in Guyana after the commencement of this Constitution shall become a citizen of Guyana at the date of his or her birth:

Provided that a person shall not become a citizen of Guyana by virtue of this article if at the time of his or her birth –

- (a) his or her father or his or her mother possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Guyana and neither of them is a citizen of Guyana; or
- (b) his or her father or his or her mother is an enemy alien and the birth occurs in a place then under occupation by the enemy.

Persons born outside Guyana after commencement of Constitution.

44. A person born outside Guyana after the commencement of this Constitution shall become a citizen of Guyana at the date of his or her birth if at that date his or her father or his or her mother is a citizen of Guyana otherwise than by virtue of this article.

Marriage to citizen of Guyana.

45. Any person who, after the commencement of this Constitution, marries a person who is or becomes a citizen of Guyana shall be entitled, upon making application in such manner and taking such oath of allegiance as may be prescribed, to be registered as a citizen of Guyana:

Provided that the right to be registered as a citizen of Guyana under this article shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.

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Deprivation of citizenship on acquisition of, or exercise of right of, another citizenship.

46. (1) If the President of Guyana is satisfied that any citizen of Guyana has any time after 25th May 1966, acquired by registration, naturalisation or any other or other voluntary and formal act (other than marriage) the citizenship of any country other than Guyana, the President may by order deprive that person of his or her citizenship.

(2) If the President is satisfied that any citizen of Guyana has at any time after 25th May, 1966, voluntarily claimed and exercised in a country other than Guyana any rights available to him or her under the law of that country, being rights accorded exclusively to its citizens, the President may by order deprive that person of his or her citizenship.

Commonwealth citizens.

47. (1) Every person who under this Constitution or any Act of Parliament is a citizen of Guyana or under any enactment for the time being in force in any country to which this article applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Every person who is a British subject without citizenship under the British Nationality Act 1948, continues to be a British subject under section 2 of that Act or is a British subject under the British Nationality Act 1965 shall, by virtue of that status, have the status of a Commonwealth citizen.

(3) The countries to which this article applies are Antigua and Barbuda, Australia, The Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei, Canada, Cyprus, Dominica, Fiji, The Gambia, Ghana, Grenada, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Nauru, New Zealand and Island Territories and Self-Governing

Countries in free Association with New Zealand, Nigeria, Papua New Guinea, Seychelles, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Swaziland, Tanzania, Tonga, Trinidad and Tobago, Tuvalu, Uganda, United Kingdom and Colonies, Vanuatu, Western Samoa, Zambia and Zimbabwe.

(4) The President may from time to time by order subject to affirmative resolution of the National Assembly amend paragraph (3) by adding any country thereto or by deleting any country therefrom.

Powers of
Parliament.

48. (1) Parliament may make provision –

- (a) for the acquisition of citizenship of Guyana by persons who do not become citizens of Guyana by virtue of the provisions of this Chapter;
- (b) for depriving of his or her citizenship of Guyana any person who is a citizen of Guyana otherwise than by virtue of article 41 (in so far as it relates to persons who became citizens of Guyana by virtue of articles 21, 23 and 24 of the Constitution of Guyana annexed to the Guyana Independence Order 1966), 43 or 44; or
- (c) for the renunciation by any person of his or her citizenship of Guyana.

Interpretation.

49. (1) In this Chapter “prescribed” means prescribed by or under any Act of Parliament.

(2) For the purposes of this Chapter, a person born aboard a registered ship or aircraft or aboard an unregistered ship or aircraft of the government of any country shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) Any reference in this Chapter to the national status of the father or mother of a person at the time of that person's birth shall, in relation to a person born after the death of either parent, be construed as a reference to the national status of the deceased parent at the time of that parent's death; and where that death occurred before the date of commencement of this Constitution, and the birth occurred on or after that date, the national status which that parent would have had if he or she had died on that date, shall be deemed to be his or her national status at the time of death.

CHAPTER V SUPREME ORGANS OF DEMOCRATIC POWER

Supreme
organs of
democratic
power.
[14 of 2000]

50. The supreme organs of democratic power in Guyana shall be –

- (i) the Parliament;
- (ii) the President; and
- (iii) the Cabinet.

CHAPTER VI PARLIAMENT

COMPOSITION OF PARLIAMENT

Establishment
of Parliament.

51. There shall be a Parliament of Guyana, which shall consist of the President and the National Assembly.

Composition
of the
National
Assembly.
[4 of 2001]

52. (1) Subject to paragraph (2) and to articles 105, 185 and 186, the National Assembly shall consist of such number of members as shall be determined by the Assembly who shall be elected in accordance with the provisions of this Constitution and, subject thereto, in accordance with any law made by Parliament in that behalf.

(2) If any person who is not a member of the National Assembly is elected to be Speaker of the National Assembly, he or she or she shall, by virtue of holding the office of Speaker, be a member of the Assembly in addition to the members aforesaid.

Qualifications
for election as
members.

53. Subject to article 155 (which relates to allegiance, insanity, and other matters) a person shall be qualified for election as a member of the National Assembly if, and shall not be so qualified unless, he or she –

- (a) is a citizen of Guyana of the age of eighteen years or upwards; and
- (b) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him or her to take an active part in the proceedings of the Assembly.

Tenure of
seats of
members of
the National
Assembly.

54. Members of the National Assembly shall vacate their seats in the Assembly in the circumstances set out in article 156.

First meeting
of the
National

55. Whenever elections have been held pursuant to the provisions of article 61, the National Assembly shall

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Assembly. hold its first meeting at the time appointed under article 69(1), and any reference in this Constitution to the National Assembly meeting for the first time after any election shall be read and construed as a reference to such first meeting.

Speaker and Deputy Speaker. **56.** (1) When the National Assembly first meets after any election and before it proceeds to the despatch of any other business, it shall elect a person to be the Speaker of the Assembly; and if the office of Speaker falls vacant at any time before the next dissolution of Parliament, the Assembly shall, as soon as practicable, elect another person to that office.

(2) The Speaker may be elected either from among the members of the Assembly who are not Ministers or Parliamentary Secretaries or from among persons who are not members of the Assembly but are qualified for election as members.

(3) When the National Assembly first meets after any election and before it proceeds to the despatch of any other business except the election of the Speaker, the Assembly shall elect a member of the Assembly who is not a Minister or a Parliamentary Secretary to be Deputy Speaker of the Assembly; and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the Assembly shall, as soon as convenient, elect another such member to that office.

(4) A person shall vacate the office of Speaker or Deputy Speaker if required to do so by article 157 (which relates to loss of qualification for election as a member of the National Assembly and other matters).

Clerk and Deputy Clerk. **57.** (1) There shall be a Clerk and a Deputy Clerk of the National Assembly, and appointments to those offices

shall be made by the President acting in accordance with the advice of the Speaker.

(2) The tenure of office and terms of service of the Clerk and Deputy Clerk and other matters relating thereto shall be regulated by article 158.

Unqualified persons sitting or voting.

58. (1) Any person who sits or votes in the National Assembly, knowing or having reasonable ground for knowing that he or she is not entitled to do so, shall be liable to a penalty of fifty dollars for each day upon which he or she so sits or votes.

(2) Any such penalty shall be recoverable by civil action in the High Court at the suit of the Attorney General.

ELECTIONS

Qualifications and disqualifications for electors.

59. Subject to the provisions of article 159, every person may vote at an election if he or she is of the age eighteen years or upwards and is either a citizen of Guyana or a Commonwealth citizen domiciled and resident in Guyana.

Electoral system.
[14 of 2000]

60. (1) Election of members of the National Assembly shall be by secret ballot.

(2) Subject to the provisions of article 160(2), such number of members of the National Assembly as determined by the Assembly, shall be elected in accordance with the system of proportional representation prescribed by article 160(1).

Time for elections under article 60(2).

61. An election of members of the National Assembly under article 60 (2) shall be held on such day within three months after every dissolution of Parliament as the President shall appoint by proclamation:

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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 person registered as electors 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.

Elections
Commission.

62. Elections shall be independently supervised by the Election Commission in accordance with the provisions of article 162.

Filling of
casual
vacancies.

63. Parliament may make provision for the filling of casual vacancies among the seats of members of the National Assembly and for other matters relating to election of members of the Assembly in accordance with the provisions of paragraphs (2) and (3) of article 160.

Determina-
tion of
questions as to
membership
and elections.

64. All questions as to membership of the National Assembly shall be determined by the High Court in accordance with the provisions of article 163.

POWERS AND PROCEDURE OF PARLIAMENT

Legislative
power.
[1 of 1988]

65. (1) Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Guyana.

(2) The validity of any law made under this Constitution with effect from a date earlier than the day on which this Constitution commenced shall not be called in question in any court or tribunal on the ground that it contravenes, or is inconsistent with, any provision of any constitution which was in force in Guyana at any time before the day on which this Constitution commenced.

Alteration of
this Constitu-

66. Subject to the special procedure set out in article 164, Parliament may alter this Constitution.

tion.

Attendance
of the
President in
the National
Assembly.

67. (1) The President may at any time attend and address the National Assembly.

(2) The President may send messages to the National Assembly and any such message shall be read, at the first convenient sitting of the Assembly after it is received, by the Prime Minister or by any other Minister designated by the President.

Regulation
of procedure,
etc.

68. All other matters concerning Parliament (including the procedure thereof) shall be regulated by the provisions of articles 165 to 172 (inclusive).

SUMMONING, PROROGATION AND DISSOLUTION

Sessions of
Parliament.

69. (1) Each session of Parliament shall be held at such place within Guyana and shall begin at such time (not being later than six months from the end of the preceding session if Parliament has been prorogued or four months from the end of that session if Parliament has been dissolved) as the President shall appoint by proclamation.

(2) Subject to the provisions of the preceding paragraph, the sittings of the National Assembly shall be held at such time and place as the Assembly may, by its rules of procedure or otherwise, determine.

Prorogation
and
dissolution of
Parliament.

70. (1) The President may at any time by proclamation prorogue Parliament.

(2) The President may at any time by proclamation dissolve Parliament.

(3) Parliament, unless sooner dissolved, shall continue for five years from the date when the Assembly

first meets after any dissolution and shall then stand dissolved.

(4) During any time when the President considers that Guyana is at war Parliament may from time to time extend the period of five years specified in the preceding paragraph by not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this paragraph by more than five years.

(5) If, after a dissolution and before the holding of an election of members of the Assembly, pursuant to the provisions of article 61, the President considers that owing to the existence of a state of war or of a state of emergency in Guyana or any part thereof, it is necessary to recall Parliament, the President shall summon the Parliament that has been dissolved to meet, but the election of members of the Assembly shall proceed and the Parliament that has been recalled shall, if not sooner dissolved, again stand dissolved on the day before the day on which the election is held.

CHAPTER VII LOCAL DEMOCRACY

LOCAL DEMOCRATIC ORGANS

Local
Government.
[4 of 2001]

71. (1) Local Government is a vital aspect of democracy and shall be organised so as to involve as many people as possible in the task of managing and developing the communities in which they live.

(2) For this purpose Parliament shall provide for the institution of a country-wide system of local government through the establishment of organs of local democratic power as an integral part of the political

organisation of the State.

Local
Government
areas.
[4 of 2001]

72. (1) Parliament may provide for the division of Guyana (save for any areas excluded by it) into ten regions and into such sub-regions and other subdivisions as it may deem fit for the purpose of organising local democratic organs.

(2) In defining the boundaries of any areas into which Guyana may be divided under paragraph (1) account shall be taken of the population, the physical size, the geographical characteristics, the economic resources and the existing and planned infrastructure of each area, as well as the possibilities of facilitating the most rational management and use of such resources and infrastructure, with a view to ensuring that the area is or has the potential for becoming economically viable.

(3) Municipalities, neighbourhood democratic councils and such other subdivisions shall be provided for under paragraph (1), including village and community councils, where there is the need for such councils and where the people request their establishment, shall be vital organs of local democratic power.

Election of
members of
regional
councils.

73. (1) Members of a regional democratic council shall be elected by persons residing in the region and registered as electors for the purpose of article 159:

Provided that Parliament may make provision for any areas which do not form part of any region to be represented on the regional democratic council of any region near to which it is situate for such purposes as Parliament may prescribe.

(2) Elections of members of regional democratic councils shall be held and the councils shall be dissolved at such times as, subject to paragraph (3), the President

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may appoint by proclamation.

(3) The interval between any two successive dissolutions of a regional democratic council shall not exceed five years and four months:

Provided that, if at the expiration of that period the duration of Parliament has been extended under article 70(4), that period shall not be deemed to come to an end until the expiration of the period for which the duration of Parliament has been extended.

Lower tier of local government to be represented at the tier above.
[4 of 2001]

73A. Each local democratic organ shall elect one of its councillors to serve as a member of the local democratic organ immediately above the first mentioned local democratic organ and Parliament shall prescribe the procedure for such election and such other matters as may be necessary in connection therewith.

Duties of local democratic organs.
[4 of 2001]

74. (1) It shall be the primary duty of local democratic organs to ensure in accordance with law the efficient management and development of their areas and to provide leadership by example.

(2) Local democratic organs shall organise popular co-operation in respect of the political, economic, cultural and social life of their areas and shall co-operate with the social organisations of the working people.

(3) It shall be the duty of local democratic organs to maintain and protect public property, improve working and living conditions, promote the social and cultural life of the people, raise the level of civic consciousness, preserve law and order, consolidate the rule of law and safeguard the rights of citizens.

Power to take decisions.

75. Parliament shall provide that local democratic organs shall be autonomous and take decisions which are

[4 of 2001] binding upon their agencies and institutions, and upon the communities and citizens of their areas.

Power to raise revenue. **76.** Parliament may provide for regional democratic councils to raise their own revenues and to dispose of them for the benefit and welfare of their areas.

Regional development programme to be integrated into the national development plans. **77.** The development programme of each region shall be integrated into the national development plans, and the Government shall allocate funds to each region to enable it to implement its development programme.

Parliament to provide criteria for allocation of resources by local democratic organs. [4 of 2001] **77A.** Parliament shall by law provide for the formulation and implementation of objective criteria for the purpose of the allocation of resources to, and the garnering of resources by local democratic organs.

Local government elections. **78.** Parliament may make provision for the election of members of local democratic organs (including the commencement of balloting before the day appointed for holding an election) and for all other matters relating to their membership, powers, duties, functions and responsibilities.

Local Government Commission. [4 of 2001] **78A.** Parliament shall establish a Local Government Commission, the composition and rules of which empower the commission to deal with as it deems fit, all matters related to the regulation and staffing of local government organs and with dispute resolution within and between local government organs.

Representa-
tiveness and
accountabi-
lity of local
democratic
organs to the
electorate.
[4 of 2001]

78B. The electoral system in respect of local democratic organs below the regional democratic councils shall provide for the involvement and representation of individuals and voluntary groups in addition to political parties and accountability to the electors.

79 - 81 [Articles 79 to 88 repealed by Act No. 14 of 2000.]

82- 88 [Chapter VIII- Articles 82- 88 repealed by Act 14 of 2000]

CHAPTER IX THE PRESIDENT

Establishment
of office of
President.

89. There shall be a President of the Co-operative Republic of Guyana, who shall be Head of State, the supreme executive authority, and Commander-in-Chief of the armed forces of the Republic.

Qualifications
for election.
[17 of 2000]

90. (1) A person shall be qualified for election as President and shall not be so qualified unless he or she –

- (a) is a citizen of Guyana and is Guyanese by birth or parentage as defined in articles 43 and 44;
- (b) is residing in Guyana on the date of nomination for election and was continuously residing therein for a period of seven years immediately before that date; and
- (c) is otherwise qualified to be elected as a member of the National Assembly.

(2) A person elected as President after the year 2000 is eligible for re-election only once.

(3) A person who acceded to the Presidency after the year 2000 and served therein on a single occasion for not less than such period as may be determined by the National Assembly is eligible for election as President only once.

(4) In determining continuity of residence, absence from Guyana to –

- (a) seek medical help;
- (b) study at a university or an institution of higher learning for not more than four years;
- (c) work for the Government,

shall be disregarded.

Election of President.

91. The President shall be elected by the people in the manner prescribed by article 177.

Tenure of office of President.

92. A person assuming the office of President in accordance with the provisions of this Constitution shall, unless his or her office sooner becomes vacant under article 178, continue in office until the person elected to the office of President at the next election held under article 91 assumes office.

Removal of president on grounds of incapacity.

93. The President may be removed from office if he or she becomes physically or mentally incapable of discharging the functions of his or her office. The procedure for removing him or her and for ensuring the continued discharge of the functions of his or her office is prescribed by article 179.

Removal of President for

94. The President may be removed from office if he or she commits any violation of this Constitution or

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violation of
Constitution
or gross
misconduct.

Vacancy in
office of
President.

any gross misconduct. The procedure for removing him or her is prescribed by article 180.

95.(1) During any period when the office of President is vacant, the office shall be assumed by –

(a) the Prime Minister:

Provided that if the vacancy occurs while the Prime Minister is absent from Guyana or while he or she is by reason of physical or mental infirmity unable to perform the functions of his or her office, the functions of the office of President shall, until the Prime Minister returns or until he or she is again able to perform the functions of his or her office as the case may be, be discharged by such other Minister, being an elected member of the National Assembly, as the Cabinet shall elect; or

(b) if there is no Prime Minister, by such Minister being an elected member of the National Assembly, as the Cabinet shall elect; or

(c) if there is no Prime Minister and no Cabinet, by the Chancellor.

(2) Minister performing the functions of the office of President by virtue of the proviso to paragraph (1)(a) shall cease to perform those functions if he or she is notified by the Prime Minister that the Prime Minister is about to assume the office of President.

(3) An assumption of the office of President under this article shall terminate, if it has not previously terminated, when a person who has been elected to the office in accordance with the provisions of article 177 assumes the office.

Discharge of
functions of
President
during
absence,
illness, etc.

96. (1) Whenever the President is absent from Guyana or considers it desirable so to do by reason of illness or any other cause he or she may, by direction in writing authorise any member of the Cabinet, being an elected member of the National Assembly, to perform such of the functions of the office of President as he or she may specify and the person so authorised shall perform those functions until his or her authority is revoked by the President or until the functions are resumed by the President.

(2) If the President is incapable by reason of physical or mental infirmity of discharging the functions of his or her office and the infirmity is of such a nature that the President is unable to authorise another person under this article to perform those functions -

- (a) the Prime Minister; or
- (b) during any period when there is no Prime Minister or the Prime Minister is absent from Guyana or is, by reason of physical or mental infirmity, unable to perform the functions of his or her office, such other Minister, being an elected member of the National Assembly, as the Cabinet shall elect; or
- (c) if there is no Prime Minister and no Cabinet, the Chancellor,

shall perform the functions of the office of President:

Provided that any person performing the functions of the office of President under this paragraph shall not dissolve Parliament nor, save on the advice of the Cabinet, revoke any appointment made by the President.

(3) Any person performing the functions of the office of President by virtue of paragraph (2) shall cease to perform those functions if he or she is notified by the President that the President is about to resume those functions.

Oath to be taken by President.

97. (1) A person elected as President shall assume the office of President upon being elected but shall, before entering upon the duties of the office, take and subscribe the oath of office, such oath being administered by the Chancellor or such other Judge of the Supreme Court of Judicature as may be designated by the Chancellor.

(2) The provisions of the foregoing paragraph shall apply to any person assuming the office of President or performing the functions thereof under article 95, 96 or 179, as the case may be, as they apply to a person elected as President.

Remuneration, etc., of President.

98. The remuneration and immunities of the President shall be regulated by articles 181, 182 and 222.

CHAPTER X THE EXECUTIVE

Executive authority of Guyana.

99. (1) The executive authority of Guyana shall be vested in the President and, subject to the provisions of this Constitution, may be exercised by him or her either directly or through officers subordinate to him or her.

(2) Nothing in this article shall prevent

Parliament from conferring functions on persons or authorities other than the President.

Establishment of Office of Prime Minister and other Ministerial offices.

100. Subject to the provisions of article 185, there shall be an office of Prime Minister and such offices of Vice-President and other offices of Minister of the Government of Guyana as may be established by Parliament or, subject to the provisions of any Act of Parliament, by the President.

The Prime Minister.
[17 of 2000]

101.(1) The President shall appoint an elected member of the National Assembly to be Prime Minister of Guyana:

Provided that a person who is not eligible to be elected as President shall not be eligible for appointment as Prime Minister.

(2) The Prime Minister shall be the principal assistant of the President in the discharge of his or her executive functions and leader of Government business in the National Assembly.

Vice-Presidents.

102. (1) The President may appoint Vice-Presidents for the purpose of assisting him or her in the discharge of his or her functions.

(2) If he or she is not otherwise the holder of an office of Vice-President, the person holding the office of Prime Minister shall, by virtue of holding that office, be a Vice-President, and he or she shall have precedence over any other Vice-President.

Ministers.
[17 of 2000]

103. (1) The Prime Minister and every other Vice-President shall be a Minister of the Government of Guyana.

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(2) Subject to the provisions of article 101(1), Vice-Presidents and other Ministers shall be appointed by the President from among persons who are elected members of the National Assembly or subject to subparagraph (vii) of paragraph (3)(a) of article 160 are qualified to be elected as such members.

(3) Not more than four Ministers and two Parliamentary Secretaries shall be appointed by the President from among persons who are qualified to be elected as members of the National Assembly.

Ministerial appointments during dissolution. [14 of 2000]

104. Articles 101(1) and 103(2) shall have effect in relation to any period between a dissolution of Parliament and the day on which the next election of members of the Assembly is held pursuant to the provisions of article 61, as if Parliament had not been dissolved.

Non-elected Ministers to sit in Assembly.

105. A Minister who was not an elected member of the Assembly at the time of his or her appointment shall (unless he or she becomes such a member) be a member of the Assembly by virtue of holding the office of Minister but shall not vote in the Assembly.

The Cabinet. [17 of 2000]

106. (1) There shall be a Cabinet for Guyana, which shall consist of the President, the Prime Minister, the Vice-Presidents, and such other Ministers as may be appointed to it by the President.

(2) The Cabinet shall aid and advise the President in the general direction and control of the Government of Guyana and shall be collectively responsible therefor to Parliament.

(3) Cabinet Meetings shall be presided over by

—

(a) the President;

(b) in the absence of the President, the Prime Minister; or

(c) in the absence of the President and the Prime Minister, such Minister as the President may designate.

(4) The Cabinet may act notwithstanding any vacancy in its membership or the absence of any member thereof.

(5) At the invitation of the President or of any person presiding at a meeting of the Cabinet, a Minister who is not a member of the Cabinet may attend that meeting and participate fully in the proceedings as if he or she were a member.

(6) The Cabinet including the President shall resign if the Government is defeated by the vote of a majority of all the elected members of the National Assembly on a vote of confidence.

(7) Notwithstanding its defeat, the Government shall remain in office and shall hold an election within three months, or such longer period as the National Assembly shall by resolution supported by not less than two-thirds of the votes of all the elected members of the National Assembly determine, and shall resign after the President takes the oath of office following the election.

Allocation of
portfolios.
[17 of 2000]

107. The President may assign to any Minister responsibility for any business of the Government of Guyana, including the administration of any department of Government, and shall be charged with all responsibility not assigned to any Minister; in respect of responsibility so charged, the President shall appoint a Minister or Parliamentary Secretary to be answerable to

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the National Assembly therefor on his or her behalf:

Provided that authority to exercise any power or discharge any duty that is conferred or imposed by any other provision of this Constitution or by any other law on any person or authority shall not be conferred under this article.

Tenure of office of Ministers.

108. The office of a Minister shall become vacant in the circumstances set out in article 183.

Minister's absence or illness.

109. Whenever any Minister is absent from Guyana or is unable by reason of illness to perform his or her functions as Minister, the President may authorise some other Minister to perform those functions and that Minister may perform those functions until they are resumed by the first mentioned Minister or are assigned to another Minister pursuant to the provisions of article 107.

Leader of the Opposition.
[2 of 2000]

110. (1) There shall be an office of Leader of the Opposition, election to which office shall be in accordance with article 184.

(2) Qualifications for election to the office of Leader of the Opposition and other matters connected therewith are regulated by article 184.

Exercise of President's powers.

111. (1) In the exercise of his or her functions under this Constitution or any other law, the President shall act in accordance with his or her own deliberate judgment except in cases where, by this Constitution or by any other law, he or she is required to act in accordance with the advice or on the recommendation of any person or authority.

(2) Where by this Constitution the President is directed to exercise any function on the advice or

recommendation of any person or authority, he or she may, in accordance with his or her own deliberate judgment, once refer any such advice or recommendation back for reconsideration by the person or authority concerned, and if that person or authority, having reconsidered the original advice or recommendation, substitutes therefor a different advice or recommendation, as the case may be, the President shall act in accordance therewith; but save as aforesaid he or she shall act in accordance with the original advice or recommendation.

Attorney
General.

112. (1) There shall be an Attorney General of Guyana who shall be the principal legal adviser to the Government of Guyana and who shall be appointed by the President.

(2) Qualifications for appointment to the office of Attorney General and other matters connected therewith are regulated by article 185.

Parliamentary
Secretary.

113. (1) The President may appoint Parliamentary Secretaries to assist himself or herself or Ministers in the discharge of their functions.

(2) Qualifications for appointment to the office of Parliamentary Secretary and other matters connected therewith are regulated by article 186.

Oaths of
Ministers,
etc.

114. Every Minister and Parliamentary Secretary shall, before entering upon the duties of his or her office, make and subscribe the oath of office.

Permanent
Secretaries.

115. Where the President or any Minister has been charged with responsibility for any department of Government, he or she shall exercise general direction and control over that department and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall

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be a public office:

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

Director of
Public
Prosecution.

116. (1) There shall be a Director of Public Prosecutions whose office shall be a public office.

(2) The functions of the Director of Public Prosecutions are set out in article 187.

Secretary to
the Cabinet.

117. (1) There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) The Secretary to the Cabinet, who shall have charge of the Cabinet office, shall be responsible in accordance with such instructions as may be given him or her or her by the President, for arranging the business for, and keeping the minutes of, the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority and shall have such other functions as the President may direct.

Sub-commit-
tees of
Cabinet.
[6 of 2001]

118. (1) Cabinet may establish sub-committees of itself for the purpose of attending to any of its responsibilities.

(2) Cabinet may in particular establish a finance sub-committee of itself to be assisted by experts and advisers, and charge it with responsibility for supervising the financial affairs of the State and for instituting, monitoring and enforcing systems of financial control and discipline throughout the service of both central and local government, including the service of corporations, boards and agencies established by the Government.

Standing
Committees.

119. Subject to any provision made by Parliament, the President may appoint standing committees consisting of such persons as he or she may deem fit for the purpose of reviewing or examining any aspect of national life and making recommendations or otherwise reporting thereon to the Government or to Parliament.

Parliamentary
Standing
Committee
for
Constitutional
Reform.
[8 of 2001]

119A.(1) The National Assembly shall establish a Parliamentary Standing Committee for Constitutional Reform for the purpose of continually reviewing the effectiveness of the working of the Constitution and making periodic reports thereon to the Assembly, with proposals for reform as necessary.

(2) To assist it in its work, the Committee shall have the power to co-opt experts or enlist the aid of other persons of appropriate expertise, whether or not such experts or other persons are members of the Assembly.

Parliamentary
Sectoral
Committees.
[8 of 2001]

119B.(1) There shall be parliamentary sectoral committees established by the National Assembly with responsibility for the scrutiny of all areas of Government policy and administration including –

- (i) natural resources;
- (ii) economic services;
- (iii) foreign relations;
- (iv) social services.

(2) The Chairperson and Deputy Chairperson of each parliamentary sectoral committee shall be elected from the opposite sides of the National Assembly.

Standing
committee to
address
matters
relating to
appointment

119C. There shall be a standing committee of the National Assembly which shall have responsibility for initiating or otherwise taking such action or addressing such matters as may be entrusted to the Committee by the National Assembly in respect of functions required to be

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of members
of
Commissions
established
under the
Constitution.
[8 of 2001]

discharged by the Assembly under the Constitution in relation to the appointment of a member of a Commission established under the Constitution.

Parliamentary
Oversight
Committee on
the Security
Sector.
[5 of 2009]

119D. (1) There shall be a standing Committee of the National Assembly to be named the Parliamentary Oversight Committee on the Security Sector and it shall have responsibility for examining the policies and administration of the entities in the security sector, namely, the Disciplined Forces of Guyana.

(2) To assist in its work, the Committee shall have the power to co-opt experts or enlist the aid of other persons of appropriate expertise, whether or not such experts or persons are members of the National Assembly.

Constitution
of offices.
[17 of 2000]

120. Subject to the provisions of this Constitution and of any other law, the President may constitute offices for Guyana, make and terminate appointments to such offices, save that where the constitution of, and making of appointments to, such offices involve expenditure chargeable to the Consolidated Fund, such expenditure shall be subject to the approval of the National Assembly.

Prerogative
of
Mercy.

121. The Prerogative of Mercy shall vest in the President and shall be exercised by him or her in accordance with the provisions of articles 188, 189 and 190.

Ombudsman.

122. (1) There shall be an Ombudsman for Guyana.

(2) All matters relating to the appointment and functions of the Ombudsman and other matters connected therewith are regulated by articles 191 to 196 (inclusive).

CHAPTER XI
THE JUDICATURE

THE SUPREME COURT OF JUDICATURE

Independent
Judiciary.
[6 of 2001]

122A. (1) All courts and all persons presiding over the courts shall exercise their functions independently of the control and direction of any other person or authority; and shall be free and independent from political, executive and any other form of direction and control.

(2) Subject to the provisions of articles 199 and 201, all courts shall be administratively autonomous and shall be funded by a direct charge upon the Consolidated Fund; and such courts shall operate in accordance with the principles of sound financial and administrative management.

Establishment
of Supreme
Court of
Judicature.
[6 of 2001]

123. (1) There shall be for Guyana a Supreme Court of Judicature consisting of a Court of Appeal and a High Court, with such jurisdiction and powers as are conferred on those Courts respectively by this Constitution or any other law.

(2) Each of those Courts shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

(3) Parliament may confer on any court any part of the jurisdiction of and any powers conferred on the High Court by this Constitution or any other law.

(4) Parliament may make such provision as it deems fit authorising any court established or to be established, as the final court of appeal for the Caribbean to be the final court of appeal for Guyana.

(5) Where a court referred to in paragraph (4) is

established and becomes the final Court of Appeal for Guyana, such court shall remain the final Court of Appeal for Guyana, unless Parliament, by a vote of no less than two-thirds of all the elected members of the Assembly, makes provision for Guyana to withdraw from such court.

Constitution
of Court of
Appeal.

124. The Judges of the Court of Appeal shall be the Chancellor, who shall be the President of the Court of Appeal, the Chief Justice and such number of Justices of Appeal as may be prescribed by Parliament.

Constitution
of
High Court.

125. The Judges of the High Court shall be the Chief Justice and such number of Puisne Judges as may be prescribed by Parliament.

JUDGES OF THE SUPREME COURT OF JUDICATURE

Interpretation.
[6 of 2001]

126. Except as otherwise expressly provided or required by the context, in this Constitution the word "Judge" includes the Chancellor, the Chief Justice, a Justice of Appeal, a Puisne Judge and a part-time Judge.

Appointment
of
Chancellor
and Chief
Justice.
[6 of 2001]

127. (1) The Chancellor and the Chief Justice shall each be appointed by the President, acting after obtaining the agreement of the Leader of the Opposition

(2) If the office of Chancellor or Chief Justice is vacant or if the person holding the office of Chancellor is performing the functions of the office of President or is for any other reason unable to perform the functions of his or her office, or if the person holding the office of Chief Justice is for any reason unable to perform the functions of his or her office, then, until a person has been appointed to and has assumed the functions of such office or until the person holding such office has resumed those functions, as the case may be, those functions shall be performed by such other of the Judges as shall be

appointed by the President after meaningful consultation with the Leader of the Opposition.

Appointment
of Justices of
Appeal and
Puisne Judges.
[6 of 2001]

128. (1) The Judges, other than the Chancellor and the Chief Justice, shall be appointed by the President who shall act in accordance with the advice of the Judicial Service Commission.

(2) If –

- (a) the office of any Judge is vacant;
- (b) any such Judge is for any reason unable to perform the functions of his or her office;
- (c) any such Judge is acting as Chancellor or Chief Justice or a Puisne Judge is acting as a Justice of Appeal; or
- (d) the Chancellor advises the President that the state of business of the Court of Appeal or the High Court so requires,

the President shall act in accordance with the advice of the Judicial Service Commission and appoint a person to act in the office of Justice of Appeal or Puisne Judge, as the case may require.

(3) The appointment of any person under the preceding paragraph to act in the office of a Justice of Appeal or Puisne Judge shall continue to have effect until it is revoked by the President, acting in accordance with the advice of the Judicial Service Commission.

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Appointment
of part-time
Judges.
[6 of 2001]

128A. (1) Part-time Judges may be appointed by the President, who shall act in accordance with the advice of the Judicial Service Commission.

(2) Parliament may by law determine the terms and conditions of appointment of part-time Judges.

Qualifications
of Judges.

129. (1) A person shall not be qualified to be appointed to hold or to act in the office of a Judge unless –

- (a) he or she is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or
- (b) he or she is qualified for admission as an attorney-at-law in Guyana and has been so qualified for such period as may be prescribed by Parliament.

(2) Parliament may prescribe different periods under subparagraph (b) of the preceding paragraph in relation to the offices of the different judges mentioned in article 126.

Attendance
of additional
Judge in
Court of
Appeal and
High Court.

130.(1) Parliament may make provision for the exercise of –

- (a) the jurisdiction and powers of a Justice of Appeal by such Puisne Judge as may be requested by the Chancellor to sit as an additional Justice of Appeal at sittings of the Court of Appeal; and
- (b) the jurisdiction and powers of a

Puisne Judge by such Justice of Appeal as may be requested by the Chancellor to sit as an additional Puisne Judge.

(2) Article 132 shall not apply to a Justice of Appeal or a Puisne Judge in the carrying out by him or her of any function pursuant to paragraph (1).

Tenure of office of Judges.

131. Judges shall have full security of office as provided for in article 197.

Oaths of Judges.

132. A Judge shall not enter upon the duties of his or her office unless he or she has taken and subscribed the oath of office.

APPEALS

Appeals on constitutional questions and fundamental rights.

133. (1) An appeal to the Court of Appeal shall lie as of right from decisions of the High Court in the following cases, that is to say –

- (a) final decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution; and
- (b) final decisions given in exercise of the jurisdiction conferred on the High Court by article 153 (which relates to the enforcement of fundamental rights and freedoms).

(2) Nothing in paragraph (1) shall apply to the matters for which provision is made by article 163.

CHAPTER XII
THE SERVICE COMMISSIONS

The Judicial
Service
Commission.

134. (1) There shall be a Judicial Service Commission for Guyana.

(2) The composition and functions of the Judicial Service Commission are set out in articles 198 and 199.

The Public
Service
Commission.

135. (1) There shall be a Public Service Commission for Guyana.

(2) The composition and functions of the Public Service Commission are set out in articles 200 to 205 (inclusive).

The Teaching
Service
Commission.

136. (1) There shall be a Teaching Service Commission for Guyana.

(2) The composition and functions of the Teaching Service Commission are set out in articles 207, 208 and 209.

The Police
Service
Commission.

137. (1) There shall be a Police Service Commission for Guyana.

(2) The composition and functions of the Police Service Commission are set out in articles 210, 211 and 212.

**PART 2
SPECIFIC RULES**

**TITLE 1
PROTECTION OF FUNDAMENTAL RIGHTS AND
FREEDOMS OF THE INDIVIDUAL**

Protection of
right to life.
[10 of 2003]

138. (1) No person shall be deprived of his or her life intentionally save in execution of the sentence of a court in respect of an offence under the laws of Guyana of which he or she has been convicted.

(1A) No person who was under the age of eighteen years at the time when he or she committed an offence, for which that person has pleaded or was found guilty, shall be subject to capital punishment for the commission of that offence.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his or her life in contravention of this article if he or she dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case –

- (a) for the defence of any person from violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing a riot, insurrection or mutiny; or
- (d) in order to prevent the commission

by that person of a criminal offence,
or if he or she dies as the result of a lawful act of war.

Protection of
right to
personal
liberty.
[10 of 2003]

139. (1) No person shall be deprived of his or her personal liberty save as may be authorised by law in any of the following cases, that is to say –

- (a) in execution of the sentence or order of a court, whether established for Guyana or some other country, in respect of a criminal offence of which he or she has been convicted;
- (b) in execution of an order of the High Court or the Court of Appeal or such other court as may be prescribed by Parliament punishing him or her for contempt of any such court or of another court or tribunal;
- (c) in execution of the order of a court made to secure the fulfilment of an obligation imposed on him or her by law;
- (d) for the purpose of bringing him or her before a court in execution of the order of a court;
- (e) upon reasonable suspicion of his or her having committed, or being about to commit, a criminal offence under the law of Guyana;
- (f) in the case of a person who has not attained the age of eighteen years, under the order of a court or with

the consent of his or her parent or guardian, for the purpose of his or her education or welfare;

- (g) for the purpose of preventing the spread of an infectious or contagious disease;
- (h) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his or her care or treatment or the protection of the community;
- (i) for the purpose of preventing the unlawful entry of that person into Guyana, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Guyana or for the purpose of restricting that person while he or she is being conveyed through Guyana in the course of his or her extradition or removal as a convicted prisoner from one country to another;
- (j) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Guyana or prohibiting him or her from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person

with a view to the making of any such order or relating to such an order after it has been made or to such extent as may be reasonably justifiable for restraining that person during any visit that he or she is permitted to make to any part of Guyana in which, in consequence of any such order, his or her presence would otherwise be unlawful;

- (k) subject to the provisions of the next following paragraph, for the purposes of his or her preventive detention;
 - (l) for the purpose of his or her being called up for national service.
- (2)
- (a) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless a tribunal established for the purposes of this paragraph has reported before the expiration of the said period of three months that there is, in its opinion, sufficient cause for such detention.
 - (b) The references in subparagraph (a) to a period of three months include references to any lesser periods that amount in the aggregate to three months:

Provided that no two such lesser periods shall be aggregated for this

purpose if the period between the expiration of the first and the commencement of the second is more than one month.

- (c) A person who has been detained by virtue of the provisions of any law providing for preventive detention and who has been released from detention in consequence of a report of a tribunal established for the purposes of this paragraph that there is, in its opinion, insufficient cause for his or her detention shall not be again detained by virtue of such provisions within the period of six months from his or her release on the same grounds as he or she was originally detained.
- (d) For the purposes of subparagraph (c) a person shall be deemed to have been detained on the same grounds as he or she was originally detained unless a tribunal established as aforesaid has reported that, in its opinion, there appear, *prima facie*, to be new and reasonable grounds for the detention (but the giving of any such report shall be without prejudice to the provisions of subparagraph (a)).
- (e) A tribunal established for the purposes of this paragraph shall be established by law and shall consist of persons who are Judges of the

Supreme Court of Judicature or who are qualified to be appointed as Puisne Judges of the High Court.

(3) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language that he or she understands, of the reasons for his or her arrest or detention and shall be permitted, at his or her own expense, to retain and instruct without delay a legal adviser of his or her own choice, being a person entitled to practise in Guyana as an attorney-at-law, and to hold communication with him or her.

(4) Any person who is arrested or detained –

- (a) for the purpose of bringing him or her before a court in execution of the order of a court; or
- (b) upon reasonable suspicion of his or her having committed or being about to commit a criminal offence,

and who is not released, shall be brought before a court within seventy-two hours of arrest or detention, but the police may apply to the High Court for extensions of time; and if any person arrested or detained upon reasonable suspicion of his or her having committed or being about to commit a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings which may be brought against him or her, he or she shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he or she appears at a later date for trial or for proceedings preliminary to trial.

(5) Any person who is unlawfully arrested or

detained by any other person shall be entitled to compensation therefor from that other person.

(6) Nothing in the provisions of paragraphs (3) and (4) shall apply to any person arrested or detained by virtue of the provisions of any law providing for preventive detention except in so far as the provisions of the said paragraph (3) require that he or she shall be permitted to retain and instruct a legal adviser and to hold communication with him or her.

Protection
from slavery
and forced
labour.

140. (1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this article, the expression "forced labour" does not include –

- (a) any labour required in consequence of the sentence or order of a court;
- (b) any labour required of any person while he or she is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he or she is detained;
- (c) any labour required of a member of a disciplined force in pursuance of his or her duties as such or, in the case of a person who has conscientious objections to service as

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a member of a naval, military or air force, any labour that person is required by law to perform in place of such service; or

- (d) any labour required during any period when Guyana is at war or in the event of any hurricane, earthquake, flood, fire or other like calamity that threatens the life or well-being of the community to the extent that the requiring of such labour is reasonably justifiable, in the circumstances of any situation arising or existing during that period or as a result of that calamity, for the purpose of dealing with that situation.

Protection from inhuman treatment.

141. (1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question authorises the infliction of any punishment or the administration of any treatment that was lawful in Guyana immediately before the commencement of this Constitution.

Protection from deprivation of property.
[9 of 1984
1 of 1988
23 of 1990
10 of 2003]

142. (1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except by or under the authority of a written law and where provision applying to that taking of possession or acquisition is made by a written law requiring the prompt payment of adequate compensation.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of the preceding paragraph –

- (a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property –
 - (i) in satisfaction of any tax, duty, rate, cess or other impost;
 - (ii) by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence under the law of Guyana;
 - (iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge, contract, grant, permission or licence;
 - (iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;
 - (v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or injurious to the health of human beings, animals or plants;
 - (vi) in consequence of any law with respect to the limitation of actions;
 - (vii) for so long only as may be necessary for the purposes of

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- any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement;
- (viii) which is not beneficially occupied or which, if it is beneficially occupied, is not so occupied by the holder of the title to the land or by any member of his or her family; or
- (ix) in consequence of any law requiring an employer to remunerate his or her employee during any period of compulsory national service which the employee has under taken; or
- (b) to the extent that the law in question makes provision for the taking of possession or acquisition of –
- (i) property of the Amerindians of Guyana for the purpose of its care, protection and management or any right, title or interest held by any person in or over any lands situate in an Amerindian District, Area or Village

- established under the Amerindian Act for the purpose of effecting the termination or transfer thereof for the benefit of an Amerindian community;
- (ii) enemy property;
 - (iii) property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;
 - (iv) property of a person adjudged insolvent or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the insolvent person or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property;
 - (v) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust; or
 - (vi) property to be used by the State for the purpose of providing, maintaining and

managing any place of education, where the property was being used as a place of education at any time during 1976 and prior to the coming into operation of the law in question.

(3) Nothing in this article shall be construed as affecting the making or operation of any law –

- (i) so far as it provides for the orderly marketing or production or growth or extraction of any agricultural product or mineral or any article or thing prepared for market or manufactured therefor or for the reasonable restriction of the use of any property in the interest of safeguarding the interests of others or the protection of tenants, licensees or others having rights in or over such property;
- (ii) so far as it provides for the making of contributions compulsorily by workers to any industrial scheme or workers' organisation intended to work or provide for the benefit or welfare of such workers or of their fellow workers or of any relatives and dependants of any of them;
- (iia) so far as it provides for the

regulation of wages, that is, any money or other thing had or contracted to be paid, delivered or given as recompense, reward or remuneration for any work, labour or service done or to be done, whether such provision is made prospectively or retrospectively, including retrospectively with effect from a day earlier than the day fixed for the coming into operation of this Constitution; or

- (iii) for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate established directly by law for public purposes in which moneys provided by Parliament or by any Legislature previously established for the territory of Guyana have been invested.

(4) In paragraph (3) (iia) –

- (a) “regulation” includes fixation, stabilisation, freezing or reduction;

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- (b) "wages" includes merit increment or other increment in wages.

Protection
against
arbitrary
search or
entry.

143. (1) Except with his or her own consent, no person shall be subjected to the search of his or her person or his or her property or the entry by others on his or her premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision –

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town or country planning, the development or utilisation of mineral resources, or the development or utilisation of any other property in such manner as to promote the public benefit;
- (b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;
- (c) that authorises an officer or agent of the Government of Guyana, or of a local democratic organ or of a body corporate established directly by law for public purposes to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, duty, rate, cess or other impost or in order to carry out work connected with any property that is

lawfully on those premises and that belongs to that Government, local democratic organ or body corporate, as the case may be, or for the purpose of obtaining or verifying information required for compiling national statistics or required for the purposes of planning, management and development of the national economy; or

- (d) that authorises, for the purpose of enforcing the judgment or order of a court in any proceedings, the entry upon any premises by order of a court.

Provisions to secure protection of law.

144. (1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) It shall be the duty of a court to ascertain the truth in every case provided that every person who is charged with a criminal offence –

- (a) shall be presumed to be innocent until he or she is proved or has pleaded guilty;
- (b) shall be informed as soon as reasonably practicable, in a language that he or she understands and in detail, of the nature of the offence charged;
- (c) shall be given adequate time and facilities for the preparation of his or

her defence;

- (d) shall be permitted to defend himself or herself before the court in person or by a legal representative of his or her own choice;
- (e) shall be afforded facilities to examine in person or by his or her legal representative, the witnesses called by the prosecution before the court and to obtain the attendance and carry out the examination of witnesses to testify on his or her behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and
- (f) shall be permitted to have without payment the assistance of an interpreter if he or she cannot understand the language used at the trial of the charge,

and, except with his or her consent, the trial shall not take place in his or her absence unless he or she so conducts himself or herself as to render the continuance of the proceedings in his or her presence impracticable and the court has ordered him or her to be removed and the trial to proceed in his or her absence or he or she fails without reasonable excuse (the proof whereof shall lie on him or her) to attend court.

(3) When a person is tried for any criminal offence, the accused person or any person authorised by him or her in that behalf shall, if he or she so requires and subject to payment of such reasonable fee as may be

prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is more severe in degree or nature than the most severe penalty that might have been imposed for that offence at the time when it was committed.

(5) No person who shows that he or she has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he or she could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he or she shows that he or she has been granted a pardon for that offence.

(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(8) Any court or other tribunal prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial: and where proceedings for such a determination are instituted by any person before such a court or other tribunal, the case shall be given a fair hearing within a reasonable time.

(9) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for

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the determination of the existence or extent of any civil right or obligation before any other tribunal, including the announcement of the decision of the court or other tribunal, shall be held in public.

(10) Nothing in the preceding paragraph shall prevent the court or other tribunal from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court or other tribunal –

- (a) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of decency, public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or
- (b) may by law be empowered or required so to do in the interests of defence, public safety or public order.

(11) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of –

- (a) paragraph (2)(a) to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

- (b) paragraph(2)(e) to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or
- (c) the paragraph (5) to the extent the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him or her shall, in sentencing him or her to any punishment, take into account any punishment awarded him or her under that disciplinary law.

(12) In the case of any person who is held in lawful detention, the provisions of paragraph (1), paragraph (2) (d) and (e) and paragraph (3) shall not apply in relation to his or her trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(13) Nothing contained in paragraph (2)(d) shall be construed as entitling a person to legal representation at public expense but, subject thereto, it shall be the duty of the State to ensure every person charged with a criminal offence is given a fair trial and accordingly to make provisions for legal aid to be given in suitable cases.

(14) In this article "criminal offense" means a criminal offense under the laws of Guyana.

Protection of
freedom of
conscience.

145. (1) Except with his or her own consent, no person shall be hindered in the enjoyment of his or her freedom of conscience, and for the purposes of this article the said freedom includes freedom of thought and of religion, freedom to change his or her religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his or her religion or belief in worship, teaching, practice and observance.

(2) No religious community shall be prevented from providing religious instruction for persons of that community.

(3) Except with his or her own consent (or, if he or she is a person who has not attained the age of eighteen years, the consent of his or her legal guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion which is not his or her own.

(4) No person shall be compelled to take any oath which is contrary to his or her religion or belief or to take any oath in a manner which is contrary to his or her religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision –

(a) which is reasonably required –

(i) in the interests of defence,
public safety, public order,
public morality or public

- health; or
- (ii) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the unsolicited intervention of members of any other religion; or

- (b) with respect to standards or qualifications to be required in relation to places of education including any instruction (not being religious instruction) given at such places.

(6) References in this article to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

Protection of
freedom of
expression.
[6 of 2001]

146. (1) Except with his or her own consent, no person shall be hindered in the enjoyment of his or her freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his or her correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision –

- (a) that is reasonably required in the interests of defence, public safety,

public order, public morality or public health;

- (b) that is reasonably required for the purpose of protecting the reputations, rights, and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting or television, or ensuring fairness and balance in the dissemination of information to the public; or
- (c) that imposes restrictions upon public officers or officers of any corporate body established on behalf of the public or owned by or on behalf of the Government of Guyana;
- (d) that imposes restrictions upon any person, institution, body, authority or political party from taking any action or advancing, disseminating or supporting any idea, which may result in racial or ethnic divisions among the people of Guyana.

(3) Freedom of expression in this article does not relate to hate speeches or other expressions, in whatever form, capable of exciting hostility or ill-will

against any person or class of persons.

Protection of
freedom of
assembly,
association
and
demonstra-
tion.
[10 of 2003]

147. (1) Except with his or her own consent, no person shall be hindered in the enjoyment of his or her freedom of assembly, association and freedom to demonstrate peacefully, that is to say, his or her right to assemble freely, to demonstrate peacefully and to associate with other persons and in particular to form or belong to political parties, trade unions or other associations for the protection of his or her interests.

(2) Except with his or her own consent no person shall be hindered in the enjoyment of his or her freedom to strike.

(3) Neither an employer nor a trade union shall be deprived of the right to enter into collective arguments.

(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision –

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;
- (b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;
- (c) that imposes restrictions upon public officers; or
- (d) that imposes an obligation on workers to become contributors to any industrial scheme or workers'

organisation intended to operate or provide for the benefit or welfare of such workers or of their fellow workers or of any relative and of any of them.

Protection of freedom of movement.

148. (1) No person shall be deprived of his or her freedom of movement, that is to say, the right to move freely throughout Guyana, the right to reside in any part of Guyana, the right to enter Guyana, the right to leave Guyana and immunity from expulsion from Guyana.

(2) Any restriction on a person's freedom of movement that is involved in his or her lawful detention shall not be held to be inconsistent with or in contravention of this article.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision –

- (a) for the imposition of restrictions on the movement or residence within Guyana of any person or on any person's right to leave Guyana that are reasonably required in the interests of defence, public safety or public order or for the purpose of preventing the subversion of democratic institutions in Guyana;
- (b) for the imposition of restrictions on the movement or residence within Guyana or on the right to leave Guyana of persons generally or any class of persons that are reasonably required in the interests of defence,

public safety, public order, public morality or public health or for the purpose of preventing the subversion of democratic institutions in Guyana;

- (c) for the imposition of restrictions on the acquisition or use of land or other property in Guyana;
- (d) for the imposition of restrictions, by order of a court, on the movement or residence within Guyana of any person or on any person's right to leave Guyana either in consequence of his or her having been found guilty of a criminal offence under the law of Guyana or for the purpose of ensuring that he or she appears before a court at a later date for trial for such a criminal offence or for proceedings preliminary to trial or for proceedings relating to his or her extradition or lawful removal from Guyana;
- (e) for the imposition of restrictions on the freedom of movement of persons who are not citizens of Guyana;
- (f) for the imposition of restrictions upon the movement or residence within Guyana or on the right to leave Guyana of public officers;
- (g) for the removal of persons from Guyana –

- (i) to be tried or punished in some other country for a criminal offence under the law of that country; or
 - (ii) to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law of Guyana of which he or she has been convicted; or
 - (iii) to be detained in an institution in some other country for the purpose of giving effect to the order of a court made in pursuance of a law of Guyana relating to the treatment of offenders under a specified age; or
 - (iv) to be detained for care or treatment in a hospital or other institution in pursuance of a law of Guyana relating to persons suffering from defect or disease of the mind; or
- (h) for the imposition of restrictions on the right of any person to leave Guyana that are reasonably required in order to secure the fulfilment of any obligations imposed on that person by law.

(4) The provisions of article 151 shall apply in relation to a person whose freedom of movement is restricted by virtue of such a provision as is referred to in paragraph (3) (a) as they apply in relation to a person

whose freedom of movement is restricted by virtue of such a provision as is referred to in article 150(2).

Protection
from
discrimina-
tion on the
grounds of
race, etc.
[10 of 2003]

149. (1) Subject to the provisions of this article –

- (a) no law shall make any provision that is discriminatory either of itself or in its effect; and
- (b) no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(2) In this article the expression 'discriminatory' means affording different treatment to different persons attributable wholly or mainly to their or their parents' or guardians' respective descriptions by race, place of origin, political opinion, colour, creed, age, disability, marital status, sex, gender, language, birth, social class, pregnancy, religion, conscience, belief or culture whereby persons of one such description are subjected to disabilities or restrictions to which other persons of the same or another such description are not made subject or are accorded privileges or advantages which are not afforded to other persons of the same or another such description.

(3) Paragraph (1)(a) shall not apply to any law so far as that law makes provision –

- (a) with respect to persons who are not citizens of Guyana;
- (b) with respect to adoption, marriage, divorce, burial, devolution of

property on death or other matters of personal law; or

- (c) whereby persons of any such description as is mentioned in the preceding paragraph may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable.

(4) Nothing contained in any law shall be held to be inconsistent with or in contravention of paragraph (1)(a) to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to a person's or his or her parents' or guardians' respective description by race, place of origin, political opinions, colour, creed, age, disability, marital status, sex, gender, language, birth, social class, pregnancy, religion, conscience, belief or culture) to be required of any person who is appointed to any office in the public service, any office in a disciplined force, or any office in the service of a local democratic organ or of a body corporate established by any law for public purposes.

(5) Paragraph (1)(b) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in either of the two preceding paragraphs.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law

in question makes provision –

- (a) whereby persons of any such description as is mentioned in paragraph (2) may be subjected to any restriction on the rights and freedoms guaranteed by articles 143, 145, 146, 147 and 148, being such a restriction as is authorised by article 143 (2), article 145(5), article 146(2), article 147(2) or article 148 (3), other than subparagraph (c) thereof, as the case may be;
- (b) for the appropriation of revenue or other funds of Guyana; or
- (c) for the protection, well-being or advancement of the Amerindians of Guyana.

(7) Paragraph (1)(b) shall not affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

Right to work
[10 of 2003]

149A. No person shall be hindered in the enjoyment of his or her right to work, that is to say, the right to free choice of employment.

Right to pension and gratuity.
[10 of 2003]

149B. Every public sector worker shall enjoy an absolute and enforceable right to any pension or gratuity granted to him or her under the provision of any law or collective agreement of any kind whatsoever.

Right to participate

149C. No person shall be hindered in the enjoyment of participating through co-operatives, trade unions, civic

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in decision-
making
processes of the
State.
[10 of 2003]

or socio-economic organisations of a national character, in the management and decision-making processes of the State.

Equality of
persons
before the law.
[10 of 2003]

149D.(1) The State shall not deny to any person equality before the law or equal protection and benefit of the law.

(2) The State shall, for the purpose of promoting equality, take legislative and other measures designed to protect disadvantaged persons and persons with disabilities.

(3) Equality includes the full and equal enjoyment of all rights and freedoms guaranteed by or under this Constitution or any other law.

Equality of
status
[10 of 2003]

149E.(1) All persons, whether born in or out of wedlock, and whether born prior to the enactment of this article or not, are born equal, have equal status and are entitled to equal rights.

(2) Nothing contained in paragraph (1) shall be taken to affect vested rights.

Equality for
women.
[10 of 2003]

149F. (1) Every woman is entitled to equal rights and status with men in all spheres of political, economic and social life. All forms of discrimination against women on the basis of gender or sex are illegal.

(2) Every woman is entitled to equal access with men to academic, vocational and professional training, equal opportunities in employment, remuneration and promotion and in social, political and cultural activity.

Indigenous peoples' right.
[10 of 2003]

149G. Indigenous peoples shall have the right to the protection, preservation and promulgation of their languages, cultural heritage and way of life.

Right to free education.
[10 of 2003]

149H. (1) Every child is entitled to free primary and secondary education in schools owned or funded by the State.

(2) The right conferred in paragraph (1) does not imply a right to free education at a specific school.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of paragraph (1) to the extent that the law in question makes provision for standards or qualifications, not being standards or qualifications which are discriminatory within the meaning of article 149(2), to be required for admission to a specific school.

Right to establish private schools.
[10 of 2003]

149I. No person shall be hindered in the enjoyment of the right to establish a private school which shall be under regulation by the State.

The environment.
[10 of 2003]

149J. (1) Everyone has the right to an environment that is not harmful to his or her health or well-being.

(2) The State shall protect the environment, for the benefit of present and future generations, through reasonable legislative and other measures designed to –

- (a) prevent pollution and ecological degradation;
- (b) promote conservation; and
- (c) secure sustainable development and use of natural resources while

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promoting justifiable economic and social development.

(3) It shall not be an infringement of a person's rights under paragraph (1) if, by reason only of an allergic condition or other peculiarity, the environment is harmful to that person's health or well-being.

Provisions
for time or
war or
emergency.

150. (1) This article applies to any period when –

- (a) Guyana is at war; or
- (b) there is in force a proclamation (in this article referred to as a "proclamation of emergency" made by the President declaring that a state of public emergency exists for the purposes of this article; or
- (c) there is in force a resolution of the National Assembly, in favour of which there were cast the votes of not fewer than two-thirds of all the elected members, declaring that democratic institutions in Guyana are threatened by subversion.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of article 139, 140(2) or 143, any provision of article 144 other than paragraph (4) thereof, or any provision of articles 145 to 149 (inclusive) to the extent that the law in question makes in relation to any period to which this article applies provision, or authorises the doing during any such period of anything, which is reasonably justifiable in the circumstances of any situation arising or existing during that period for the purpose of dealing with that situation.

-
- (3) (a) Where any proclamation of emergency has been made, copies thereof shall as soon as practicable be laid before the National Assembly, and if, by reason of its adjournment or the prorogation of Parliament, the Assembly is not due to meet within five days the President shall, by proclamation, summon the Assembly to meet within five days, and the Assembly shall accordingly meet and sit upon the day appointed by the proclamation and shall continue to sit and act as if it had stood adjourned or Parliament had stood prorogued to that day.
- (b) A proclamation of emergency shall, unless it is sooner revoked by the President, cease to be in force at the expiration of a period of fourteen days beginning on the date on which it was made or such longer period as may be provided under the next following subparagraph, but without prejudice to the making of another proclamation of emergency at or before the end of that period.
- (c) If at any time while a proclamation of emergency is in force (including any time while it is in force by virtue of the provisions of this subparagraph) a resolution is passed by the Assembly approving

its continuance in force for a further period, not exceeding six months, beginning on the date on which it would otherwise expire, the proclamation shall, if not sooner revoked, continue in force for that further period.

(4) A resolution such as is referred to in paragraph (1)(c) shall, unless it is sooner revoked by a resolution of the Assembly, cease to be in force at the expiration of two years beginning on the date on which it was passed or such shorter period as may be specified therein, but without prejudice to the passing of another resolution by the Assembly in the manner prescribed by that paragraph at or before the end of that period.

Reference to
tribunal in
certain cases.

151.(1) Where any person is lawfully detained by virtue of such a provision as is referred to in article 150(2), or the movement or residence within Guyana of any person or any person's right to leave Guyana is (otherwise than by order of a court) lawfully restricted by virtue of such a provision as aforesaid, his or her case shall be reviewed by a tribunal established for the purposes of this article not later than three months from the commencement of the detention or restriction and thereafter not later than six months from the date on which his or her case was last reviewed as aforesaid.

(2) On any review by a tribunal in pursuance of the preceding paragraph of the case of any person the tribunal may make recommendations concerning the necessity or expedience of continuing the detention or restriction to the authority by whom it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendation.

(3) A tribunal established for the purpose of this article shall be so established by law and constituted in such manner as to secure its independence and impartiality and presided over by a person appointed by the Chancellor from among persons entitled to practise in Guyana as attorneys-at-law.

Saving of existing laws and disciplinary laws.

152. (1) Except in proceedings commenced before the expiration of a period of six months from the commencement of this Constitution, with respect to a law made under the Guyana Independence Order 1966 and the Constitution annexed thereto, nothing contained in or done under the authority of any written law shall be held to be inconsistent with or in contravention of any provision of articles 138 to 149 (inclusive) to the extent that the law in question –

- (a) is a law (in this article referred to as “an existing law”) that had effect as part of the law of Guyana immediately before the commencement of this Constitution, and has continued to have effect as part of the law of Guyana at all times since that day;
- (b) repeals and re-enacts an existing law without alteration; or
- (c) alters an existing law and does not thereby render that law inconsistent with any provision of the said articles 138 to 149 in a manner in which, or to an extent to which, it was not previously so inconsistent.

(2) In subparagraph (c) of the preceding

paragraph the reference to altering an existing law includes references to repealing it and re-enacting it with modifications or making different provisions in lieu thereof, and to modifying it; and in the preceding paragraph "written law" includes any instrument having the force of law and in this and the preceding paragraph references to the repeal and re-enactment of an existing law shall be construed accordingly.

(3) In relation to any person who is a member of a disciplined force raised under a law in force in Guyana, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Title, other than articles 138, 140 and 141.

(4) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in Guyana, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Title.

Enforcement
of
protective
provisions
[6 of 2001]

153. (1) Subject to the provisions of paragraph (6), if any person, including a person acting on behalf of another who is not acting in his or her own name, or a person acting on behalf of a group or an association acting on behalf of its members, alleges that any of the provisions of articles 138 to 151 (inclusive) has been, is being, or is likely to be contravened in relation to him or her (or in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person) then, without prejudice to any other action with respect to the same matter which is lawfully available, that person or association (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction—

- (a) to hear and determine any application made by any person in pursuance of the preceding paragraph;
- (b) to determine any question arising in the case of any person which is referred to it in pursuance of the next following paragraph,

and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of article 138 to 151 (inclusive).

(3) If in any proceedings in any court subordinate to the High Court any question arises as to the contravention of any of the provisions of articles 138 to 151 (inclusive), the person presiding in that court shall refer the question to the High Court unless, in his or her opinion, the raising of the question is merely frivolous or vexatious.

(4) Where any question is referred to the High Court in pursuance of paragraph (3), the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or if that decision is the subject of an appeal under this Constitution to the Court of Appeal, in accordance with the decision of the Court of Appeal.

(5) Parliament may confer upon the High Court such powers in addition to those conferred by this article as may appear to Parliament to be necessary or desirable

for the purpose of enabling the High Court more effectively to exercise the jurisdiction conferred upon it by this article.

(6) Parliament may make provision with respect to the practice and procedure –

- (a) of the High Court in relation to the jurisdiction and powers conferred upon it by or under this article;
- (b) of the High Court and the Court of Appeal in relation to appeals to the Court of Appeal from decisions of the High Court in the exercise of such jurisdiction;
- (c) of subordinate courts in relation to references to the High Court under paragraph (3),

including provision with respect to the time within which any application, reference or appeal shall or may be made or brought; and, subject to any provision so made, provision may be made with respect to the matters aforesaid by rules of court.

Interpretation.

154. In this Title, unless the context otherwise requires –

“contravention,” in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

“court” means any court of law having jurisdiction in Guyana other than a court established by a disciplinary law and, in articles 138 and 140, a court established by a disciplinary law;

“disciplinary law” means a law regulating the discipline of any disciplined force;

“disciplinary force” means –

- (a) any group of persons functioning whether wholly or partially as a naval, military, para-military or air force;
- (b) a police force;
- (c) a prison service;
- (d) a fire service;

“legal representative”, in relation to any court or other tribunal means a person entitled to practise as an attorney-at-law before such court or tribunal;

“member”, in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline; and

“national service” means service in any disciplined force a principal purpose of which is the training of people with a view to advancing the economic development of Guyana.

**TITLE 1 A
PROTECTION OF HUMAN RIGHTS**

Human rights
of the
individual.
[10 of 2003]
Fourth
Schedule

154A.(1) Subject to paragraphs (3) and (6), every person, as contemplated by the respective international treaties set out in the Fourth Schedule to which Guyana has acceded is entitled to the human rights enshrined in the said international treaties, and such rights shall be respected and

upheld by the executive, legislature, judiciary and all organs and agencies of Government and, where applicable to them, by all natural and legal persons and shall be enforceable in the manner hereinafter prescribed.

(2) The rights referred to in paragraph (1) do not include any fundamental right under this Constitution.

(3) The State shall, having regard to the socio-cultural level of development of the society, take reasonable legislative and other measures within its available resources to achieve the progressive realisation of the rights provided for in paragraph (1).

(4) If any person alleges that any of the rights referred to in paragraph (1), has been, is being or is about to be contravened in relation to him or her, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Human Rights Commission in such manner as the Commission may prescribe, for redress.

(5) Nothing contained in this article shall be construed so as to abrogate any human right, not enumerated herein, which a person had at the time of the commencement of this Article.

(6) The State may divest itself or otherwise limit the extent of its obligation under any of the treaties listed in the Fourth Schedule, provided that two-thirds of the elected members of the National Assembly have voted in favour of such divestment or limitation.

Fourth
Schedule.

TITLE 2 PARLIAMENT

Disqualifica-
tions for

155. (1) No person shall be qualified for election as a member of the National Assembly who -

election as
members.
[14 of 2000]

- (a) is, by virtue of his or her own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;
- (b) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Guyana.
- (c) is under sentence of death imposed on him or her by a court, or is serving a sentence of imprisonment (by whatever name called) exceeding six months imposed on him or her by a court or substituted by competent authority for some other sentence imposed on him or her by a court, or is under such a sentence of imprisonment the execution of which has been suspended; or
- (d) holds or is acting in the office of any Judge of the Supreme Court of Judicature, a member of the Public Service Appellate Tribunal, the Elections Commission, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission or the Police Service Commission, the Director of Public Prosecutions, the Ombudsman or the Auditor General.

[Paragraphs (2), (3), (4), and (5) repealed by Act No. 14 of 2000]

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(6) Without prejudice to the provisions of paragraph (1), Parliament may provide that a person shall not be qualified for election as a member of the National Assembly in any of the following cases, that is to say –

- (a) if he or she holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connection with the conduct of an election or the compilation or revision of any register of electors for the purposes of an election;
- (b) subject to any exceptions and limitations prescribed by Parliament, if he or she has any such interest in any such Government contract, as may be so prescribed;
- (c) subject as aforesaid, if –
 - (i) he or she holds or is acting in or performing the functions of any office or appointment prescribed by Parliament either individually or by reference to a class of office or appointment;
 - (ii) he or she belongs to any armed force of Guyana or to any class of persons that is comprised in any such force; or
 - (iii) he or she belongs to any police force of Guyana or to any class of persons that is comprised in any such force;

- (d) if, during such period (not exceeding five years) preceding the election day as may be prescribed by Parliament, he or she –
 - (i) has been convicted by a court of an offence relating to excitement of hostility or ill-will against any person or class of persons on the grounds of his or her or their race; or
 - (ii) has been convicted by a court of any offence connected with an election that is so prescribed or has been reported guilty of such an offence by the High Court in proceedings under article 163:

Provided that Parliament may empower the court to exempt a person from disqualification for election on account of such a conviction or report if the court deems it just so to do.

(7) For the purposes of paragraph (1)(c) –

- (a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months, but if any one of those sentences exceeds that term they shall be regarded as one sentence;

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and

- (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

(8) In paragraph (6) (b) "Government contract" means any contract made with the Government of Guyana or with a department of that Government or with an officer of that Government contracting as such.

Tenure of
seats of
members of
the National
Assembly.
[14 of 2000
22 of 2007]

156. (1) A member of the National Assembly shall vacate his or her seat therein –

- (a) if he or she resigns it by writing under his or her hand addressed to the Speaker or, if the office of the Speaker is vacant or the Speaker is absent from Guyana, to the Deputy Speaker:

Provided that, if the President certifies that the member had resigned for the purpose of giving further service to the public, the member, if otherwise qualified, shall be eligible to be re-elected to the Assembly in accordance with any provision made under article 63;

- (b) if he or she is absent from the sittings of the Assembly for such period, and in such circumstances, as may be prescribed in the rules of procedure of the Assembly;

-
- (c) if he or she ceases to be a citizen of Guyana;
 - (d) subject to the next following paragraph, if any circumstances arise that, if he or she were not a member of the Assembly, would cause him or her to be disqualified for election as a member thereof by virtue of the preceding article or of any law enacted in pursuance thereof;
 - (e) in the circumstances and to the extent set out in article 178(4);
 - (f) in the case of a member who has been elected pursuant to the provisions of article 61 or article 160(2) whenever Parliament is dissolved.
 - (g) [Subparagraphs (g) and (h) repealed by Act No. 14 of 2000]
- (2) (a) If circumstances such as are referred to in subparagraph (d) of the preceding paragraph arise in relation to a member of the Assembly by virtue of the fact that he is adjudged to be of unsound mind, sentenced to death or imprisonment, or convicted or reported guilty of an offence and if it is open to the member to appeal against the decision (either with the leave of a court or other authority or without such leave), he or she shall

forthwith cease to perform his or her functions as a member of the Assembly but, subject to the next following subparagraph, he or she shall not vacate his or her seat until the expiration of a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member, from time to time extend that period for further periods of thirty days to enable the member to pursue appeal against the decision, so however, that extensions of time in the aggregate one hundred and fifty days shall not be given without the approval of the Assembly signified by resolution.

- (b) If, on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the member of the Assembly, or if, by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave or for any other reason, it ceases to be open to the member to appeal, he or she shall forthwith vacate his or her seat.
- (c) If at any time before the member of the Assembly vacates his or her seat such circumstances as aforesaid cease to exist, his or her seat shall not become vacant by reason of those circumstances and he or she

may resume the performance of his or her functions as a member of the Assembly.

(3) A member of the National Assembly elected on a List shall cease to be a member of the Assembly, if –

- (a) he or she declares in writing to the Speaker or to the Representative of the List from which his or her name was extracted that he or she will not support the List from which his or her name was extracted;
- (b) he or she declares in writing to the Speaker or to the Representative of the List from which his or her name was extracted, his or her support for another List;
- (c) the Representative of the List from which his or her name was extracted indicates in writing to the Speaker that after meaningful consultation with the Party or Parties that make up the List that the Party or Parties have lost confidence in that member and the Representative of the List issues a written notice of recall to that member and forwards a copy of that notice to the Speaker.

(4) The Speaker shall declare the seat of a member of the National Assembly vacant where –

- (a) the Speaker receives a written declaration of the member of the National Assembly as provided for

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in paragraph 3(a) or (b);

- (b) the Representative of the List issues a notice of recall as provided for in paragraph 3(c).

Speaker and
Deputy
Speaker.
[14 of 2000]

157. A person shall vacate the office of Speaker or Deputy Speaker whenever the Assembly first meets after a dissolution of Parliament and also –

- (a) in the case of a Speaker elected from among the members of the Assembly or in the case of the Deputy Speaker –
 - (i) if he or she ceases to be a member of the Assembly for any cause other than a dissolution of Parliament:

Provided that where a person, who holds the office of Speaker, ceases to be a member of the National Assembly by virtue of the holding of an election referred to in article 156(1)(f), he shall not by reason thereof vacate the office of Speaker if at such election he or she is re-elected as a member of the Assembly;

- (ii) if, by virtue of paragraph (2)(a) of the preceding article he or she is required to cease to perform his or her functions as a member of the

- Assembly; or
- (iii) if he or she is appointed to be a Minister or a Parliamentary Secretary;
- (b) in the case of a Speaker elected from among persons who are not members of the Assembly if he or she ceases to be a citizen of Guyana or if any circumstances arise that would cause him or her to be disqualified for election as a member of the Assembly by virtue of article 155 or of any law enacted in pursuance thereof;
- (c) if he or she announces the resignation of his or her office to the Assembly or if by writing under his or her hand addressed, in the case of the Speaker, to the Clerk of the Assembly or in the case of the Deputy Speaker, to the Speaker (or, if the office of Speaker is vacant or the Speaker is absent from Guyana, to the Clerk) he or she resigns that office; or
- (d) in the case of the Deputy Speaker, if he or she is elected to be Speaker.

Clerk and
Deputy
Clerk.

158. (1) Subject to the provisions of the next following paragraph the Clerk of the National Assembly shall vacate his or her office when he or she attains the age of sixty-five years or such later age as may, in any particular be prescribed by the Commission appointed under paragraph (4).

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(2) The Clerk shall be removed from office by the President if, but shall not be so removed unless, the National Assembly, by a resolution which has received the affirmative votes of a majority of all the elected members thereof, has resolved that he or she ought to be so removed for inability to discharge the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(3) The provisions of paragraphs (1) and (2) shall apply to the Deputy Clerk as they apply to the Clerk.

(4) Subject to the provisions of article 222 the terms of service (including salary and allowances) of the Clerk and Deputy Clerk shall be determined from time to time by a Commission consisting of the Speaker, as Chairman, the Minister responsible for finance or a person nominated by that Minister to represent him or her at any meeting of the Commission and one other Minister designated from time to time by the Prime Minister.

(5) A person who is a public officer may, without ceasing to hold office in the public service, be appointed in accordance with the provisions of this article to the office of Clerk or Deputy Clerk but –

- (a) no such appointment shall be made without the concurrence of the appropriate service authority;
- (b) the provisions of paragraphs (1), (2) and (3) shall in relation to an officer so appointed, apply, subject to the provisions of sub-paragraph (d) as respects his or her service as Clerk or Deputy Clerk but not as respects his or her service as a public officer;

- (c) an officer so appointed shall not, during his or her continuance in the office of Clerk or Deputy Clerk, perform the functions of any public office; and
- (d) an officer so appointed may at any time be appointed by the appropriate service authority to assume or resume the functions of a public office and he or she shall thereupon vacate his or her office as Clerk or Deputy Clerk, but no appointment under this subparagraph shall be made without the concurrence of the Speaker.

(6) In the preceding paragraph “the appropriate service authority” means the authority in which, under the provisions of this Constitution, is vested the power to make appointments to the public office held by the person to be appointed as Clerk or Deputy Clerk or the functions of which the Clerk or Deputy is to be appointed to assume or resume, as the case maybe.

(7) The functions conferred by this article on the Speaker shall, if there is no person holding the office of Speaker or if the Speaker is absent from Guyana or is otherwise unable to perform those functions, be performed by the Deputy Speaker.

Qualifications
and
disqualifica-
tions for
electors.
[3 of 2001]

159. (1) No person shall vote at an election unless he or she is registered as an elector.

(2) Subject to the provisions of paragraphs (3) and (4), a person shall be qualified to be registered as an elector for elections if, and shall not be so qualified unless,

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on the qualifying date, he or she is of the age of eighteen years or upwards and either –

- (a) is a citizen of Guyana; or
- (b) is a Commonwealth citizen who is not a citizen of Guyana and who is domiciled and resident in Guyana and has been so resident for a period of one year immediately preceding the qualifying date; and
- (c) satisfies such other qualifications as may be prescribed by or under any law.

(3) No person shall be qualified to be so registered who on the qualifying date is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Guyana.

(4) No person shall be qualified to be so registered if during such period (not exceeding five years) preceding the qualifying date as may be prescribed by Parliament, he or she has been convicted by a court of any offence connected with elections that is so prescribed or has been reported guilty of such an offence by the High Court in proceedings under article 163:

Provided that Parliament may empower the court to exempt a person from disqualification for registration on account of such a conviction or report if the court deems it just so to do.

(5) In this article “the qualifying date” means such date as may be appointed by or under an Act of Parliament as the date with reference to which a register

of electors shall be compiled or revised

Electoral
System.
[14 of 2000]

160. (1) Subject to the provisions of the next following paragraph the system of proportional representation referred to in article 60(2) for the election of such number of members of the National Assembly as shall be determined by the Assembly, shall be as follows –

- (a) votes shall be cast throughout Guyana in favour of lists of candidates;
- (b) each elector shall have one vote and may cast it in favour of any of the lists; and
- (c) the seats of the said elected members in the Assembly, as determined under this paragraph, shall be allocated between the lists in such a manner that the proportion that the number of such seats allocated to each list bears to the number of votes cast in favour of that list is as nearly as may be the same for each list, thus minimizing the level of disproportionality between the percentages of votes earned by lists and the percentages of seats allocated to lists in the cases of individual geographical constituencies, if they exist, and of the Assembly taken as a whole.

(2) Parliament may make provision for the division of Guyana into such number of geographical constituencies, not being more than half the number of the elected members of the Assembly as Parliament may

prescribe and for the election in each such constituency of such number of members of the Assembly as Parliament shall, subject to paragraph (4), prescribe; but, if Parliament makes provisions as aforesaid, then –

- (a) a person may stand as a candidate for election in any such geographical constituency only if, in such manner as Parliament may prescribe, he or she has declared that he or she supports, or has otherwise identified himself or herself with one and only one of the lists related to that geographical constituency, not with a list in any other geographical constituency; and not with any lists of another party; and

- (b) those of the said seats in the Assembly as determined under paragraph (1), for which members are not elected in geographical constituencies as aforesaid shall be allocated between the contesting parties in accordance with the results of the voting throughout Guyana in favour of the lists of the contesting parties in such a manner that the proportion that the number of seats allocated to each party, when added to the number of members identified with that party's lists elected in the geographical constituencies, bears to the number of votes cast in favour of that party is as nearly as may be the same for each party, thus minimising the level of disproportionality between

the percentages of votes earned by parties and the percentages of seats allocated to parties in the Assembly.

(3) Subject to the provisions of this Constitution, Parliament may make provision –

- (a) (i) for the registration of electors;
- (ii) for the manner in which lists of candidates shall be prepared, including the provision in a list of the names of a sufficient number of candidates to enable any vacancies to be filled under subparagraph (vii), and which manner shall allow voters to be sure which individuals they are electing to the National Assembly;
- (iii) for the manner in which the number of seats to be allocated to each list shall be calculated in order to give effect to the provisions of paragraph (1) or paragraph (2), as the case may be;
- (iv) for the combination of lists of candidates for the purpose of the allocation of seats (but not for the purpose of voting);
- (v) for the extraction from the lists and declaration of names of the candidates who have been elected, and for such provision for extraction to take into account the proportion that women form

- of the electorate;
 - (vi) for the manner in which elections of members of the National Assembly shall be held pursuant to the provisions of paragraphs (1) and (2);
 - (vii) for the filling of vacancies among the seats of members of the National Assembly where such vacancies are caused otherwise than by a dissolution of Parliament;
 - (viii) generally for the conduct of elections of members of the National Assembly and for giving effect to the provisions of this Constitution relating thereto;
- (b)
- (i) for the criteria for the participation of political parties in the general election;
 - (ii) for the formulae to be used to translate votes for a contesting party into seats for that party in the National Assembly;
 - (iii) for the minimum number or proportion of female candidates on a party's list and in all party's lists taken together;
 - (iv) for the minimum number or proportion of female candidates on a party's lists for geographical constituencies taken

- individually or together;
- (v) for the maximum percentage or the number of geographical constituencies a party can contest in which its lists contain no female candidate.

(4) The total number of seats in the National Assembly that are derived from geographical constituencies shall be such that the number of seats not derived from geographical constituencies is sufficiently large to correct any overall disproportionalities that might arise from the allocations of seats to geographical constituencies.

Political parties prohibited from causing ethnic division.
[14 of 2000]

160A. (1) All persons, institutions and political parties are prohibited from taking any action or advancing, disseminating or communicating any idea which may result in racial or ethnic division among the people.

(2) For the purposes of paragraph (1), Parliament shall by law make provision for offences and penalties, including penalties preventing or disbaring any person or political party from contesting any election for membership or being a member, as the case may be, of the local democratic organs or of the National Assembly.

Elections Commission.
[2 of 2000]

161. (1) There shall be an Elections Commission for Guyana consisting of a Chairman, who shall be a full-time Chairman and shall not engage in any other form of employment, and such other members as may be appointed in accordance with the provisions of this article.

(2) Subject to the provisions of paragraph (4), the Chairman of the Elections Commission shall be a person who holds or who has held office as a judge of a court having unlimited jurisdiction in civil and criminal

matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who is qualified to be appointed as any such judge, or any other fit and proper person, to be appointed by the President from a list of six persons, not unacceptable to the President, submitted by the Leader of the Opposition after meaningful consultation with the non-governmental political parties represented in the National Assembly:

Provided that if the Leader of the Opposition fails to submit a list as provided for, the President shall appoint a person who holds or has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who is qualified to be appointed as any such judge.

(3) In addition to the Chairman, there shall be six members of the Commission who shall be appointed in the following manner –

- (a) three members to be appointed by the President, acting in his or her own deliberate judgment; and
- (b) three members to be appointed by the President acting in accordance with the advice of the Leader of the Opposition tendered after meaningful consultation with non-governmental political parties represented in the National Assembly.

(4) A person shall be disqualified for appointment as the Chairman or other member of the Commission if he or she is an alien.

(5) The Chairman or any other member of the Elections Commission shall vacate his or her office if any circumstances arise that, if he or she were not a member of the Commission, would cause him to be disqualified for appointment as such.

(6) The provisions of article 225 (which relate to removal from office) shall apply to the office of the Chairman or other members of the Elections Commission and for the purposes of paragraphs (4) and (6) of that article, the prescribed authority shall be the Prime Minister:

Provided that in the case of the members referred to in paragraph (3)(b), the Prime Minister shall meaningfully consult the Leader of the Opposition before tendering any advice to the President under article 225 (4).

(7) If, by reason of his or her illness, absence from Guyana, or suspension under article 225, the Chairman or any other member of the Elections Commission is unable to perform his or her functions as such, a temporary Chairman or other member, as the case may be, may be appointed in his or her place.

(8) The provisions of this article shall apply in relation to the appointment of a temporary Chairman or other member of the Elections Commission, and to a temporary Chairman or other member appointed in accordance with this article, as they apply in relation to the Chairman or other member, as the case may be, of the Elections Commission in whose place he or she is appointed:

Provided that his or her appointment shall have effect only for the period ending when the person in whose place he or she has been appointed resumes his or her functions as, or ceases to be, the Chairman or other

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member, as the case may be, of the Commission.

Appointment
of staff of
Elections
Commission;
Secretariat of
the
Commission.
[2 of 2000]

161A. (1) The Elections Commission shall be responsible for the efficient functioning of the Secretariat of the Commission, which shall comprise the officers and employees of the Commission, and for the appointment of all the staff to the offices thereof inclusive of all temporary staff, recruited for the purposes of boundary demarcation, registration of persons and elections and shall have the power to remove and to exercise disciplinary control over such staff.

(2) The Elections Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under paragraph (1) to any one or more members of the Commission, or by such directions and subject to such conditions as it thinks fit, delegate such powers to such officers of the Commission as the Commission may determine.

(3) Before 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 (1) 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 Elections Commission or that member or other person shall first seek and obtain the approval of the Commission in which that power is vested.

(4) Where a public officer is appointed to an office referred to in paragraph (1) he or she shall, subject to the said paragraph (1), remain a public officer unless the Commission determines that that office shall be independent of any other Commission.

(5) Nothing in this article shall be construed as

precluding the Elections Commission from appointing any person who is not a public officer to an office referred to in paragraph (1).

Role of political parties in the conduct of elections through the Elections Commission
[14 of 2000]

161B. It is hereby declared that the role of political parties and their nominees in the conduct of elections by the Elections Commission shall be limited to their participation in determining policy, monitoring the electoral process and the conduct of the election, but does not include active management of the electoral process.

Functions of the Elections Commission.
[14 of 2000]

162. (1) The Elections Commission shall have such functions connected with or relating to the registration of electors or the conduct of elections as are conferred upon it by or under this Constitution or, subject thereto, any Act of Parliament; and, subject to the provisions of this Constitution, the Commission –

- (a) shall exercise general direction and supervision over the registration of electors and the administrative conduct of all elections of members of the National Assembly; and
- (b) shall issue such instructions and take such action as appear to it necessary or expedient to ensure impartiality, fairness and compliance with the provisions of this Constitution or of any Act of Parliament on the part of persons exercising powers or performing duties connected with or relating to the matters aforesaid.

(2) Notwithstanding anything to the contrary in

this Constitution, if the Elections Commission is satisfied that the holding of an election pursuant to the provisions of paragraph (2) of article 60 or article 160(2) on the day appointed therefor would be attended, either generally or in a particular area, by danger or serious hardship it may, after consultation with the Prime Minister and the Leader of the Opposition, by notice published in the *Gazette* –

- (a) postpone the holding of the election to a day specified in the notice; or
- (b) postpone the voting in any area specified in the notice to a day so specified.

Determina-
tion of
questions as
to
membership
and elections.
[14 of 2000]

163. (1) Subject to the provisions of this article, the High Court shall have exclusive jurisdiction to determine any question –

- (a) regarding the qualification of any person to be elected as a member of the National Assembly;
- (b) whether –
 - (i) either generally or in any particular place, an election has been lawfully conducted or the result thereof has been, or may have been, affected by any unlawful act or omission;
 - (ii) the seats in the Assembly have been lawfully allocated;
 - (iii) a seat in the Assembly has become vacant; or
 - (iv) any member of the Assembly is required under the provisions of article 156(2)

and (3) to cease to exercise any of his or her functions as a member thereof;

- (c) regarding the filling of a vacant seat in the Assembly; or
- (d) whether any person has been validly elected as Speaker of the Assembly from among persons who are not members thereof or having been so elected, has vacated the office of Speaker.

(2) Proceedings for the determination of any question referred to in the preceding paragraph may be instituted by any person (including the Attorney General) and, where such proceedings are instituted by a person other than the Attorney General, the Attorney General if he or she is not a party thereto may intervene and (if he or she intervenes) may appear or be represented therein.

(3) An appeal shall lie to the Court of Appeal –

- (a) from the decision of a Judge of the High Court granting or refusing leave to institute proceedings for the determination of any question referred to in paragraph (1);
- (b) from the determination by the High Court of any such question, or against any order of the High Court made in consequence of such determination.

(4) Parliament may make provision with respect to –

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- (a) the circumstances and manner in which and the conditions upon which proceedings for the determination of any question under this article may be instituted in the High Court and an appeal may be brought to the Court of Appeal in respect thereof;
- (b) the consequences of the determination of any question under this article and the powers of the High Court in relation to the determination of any such question, including (without prejudice to the generality of the foregoing power) provision empowering the High Court to order the holding of a fresh election throughout Guyana or a fresh ballot in any part thereof or the re-allocation of seats in whole or in part; and
- (c) the practice and procedure of the High Court in relation to the jurisdiction and powers conferred upon it by or under this article and of that Court and the Court of Appeal in relation to appeals to the Court of Appeal under this article,

and subject to any provision so made, provision may be made with respect to the matters aforesaid by rules of court.

(5) In this article reference to any person being elected shall be read and construed as a reference to any

person being elected under paragraph (2) of article 60 or under article 160(2), as the case may be.

Procedure for altering this Constitution.

164. (1) Subject to the provisions of paragraphs (2) and (3), a Bill for an Act of Parliament to alter this Constitution shall not be passed by the National Assembly unless it is supported at the final voting in the Assembly by the votes of a majority of all the elected members of the Assembly.

(2) A Bill to alter any of the following provisions of this Constitution, that is to say –

- (a) this article, articles 1, 2, 8, 9, 18, 51, 66, 89, 99 and 111; and
- (b) articles 3, 4, 5, 6 and 7, 10 to 17 (inclusive), 19 to 49 (inclusive), 52 to 57 (inclusive), 59, 60, 62, 63, 64, 65, 67, 68, 69, 70, 72 (in so far as it relates to the number of regions), 90 to 96 (inclusive), 98, 108, 110, 116, 120 to 163 (inclusive, but excepting article 132), 168 to 215 (inclusive, but excepting articles 173, 185, 186, 192 (2) and (3) and 193), 222, 223, 225, 226, 231 and 232 (excepting the definition of “financial year”)

shall not be submitted to the President for his or her assent unless the Bill, not less than two and not more than six months after its passage through the National Assembly, has, in such manner as Parliament may prescribe, been submitted to the vote of the electors qualified to vote in an election and has been approved by a majority of the electors who vote on the Bill:

Provided that if the Bill does not alter any of the

provisions mentioned in subparagraph (a) and is supported at the final voting in the Assembly by the votes of not less than two-thirds of all the elected members of the Assembly it shall not be necessary to submit the Bill to the vote of the electors.

(3) In this article –

- (a) references to this Constitution or to any particular provision thereof include references to any other law in so far as that law alters the Constitution or, as the case may be, that provision; and
- (b) references to altering this Constitution or any particular provision thereof include references to repealing it, with or without re-enactment thereof or the making of different provision in lieu thereof, to modifying it and to suspending its operation for any period.

Regulation
of procedure.

165. (1) Subject to the provisions of this Constitution, the National Assembly may regulate its own procedure and may make rules for that purpose.

(2) The Assembly may act notwithstanding any vacancy in its membership (including any vacancy not filled when the Assembly first meets after the commencement of this Constitution or after any dissolution of Parliament) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the Assembly shall not invalidate those proceedings.

Presiding in
the
Assembly.

166.(1) The Speaker , or, in his or her absence, the Deputy Speaker or, if they are both absent, a member of the National Assembly (not being a Minister or a Parliamentary Secretary) elected by the Assembly for the sitting shall preside at any sitting of the Assembly.

(2) References in this article to circumstances in which the Speaker or Deputy Speaker is absent include references to circumstances in which the office of Speaker or Deputy Speaker is vacant.

Oaths of
members.

167. No member of the National Assembly shall take part in the proceedings of the Assembly (other than proceedings necessary for the purpose of this article) until he or she has made and subscribed before the Assembly the oath of office:

Provided that the election of a Speaker and Deputy Speaker of the Assembly may take place before the members thereof have made and subscribed such oath.

Voting.

168.(1) Save as otherwise provided by this Constitution, all questions proposed for decision in the National Assembly shall be determined by a majority of the votes of the members present and voting.

(2) Except as provided by the next following paragraph, the Speaker or other member presiding in the Assembly shall not vote unless on any question the votes are equally divided, in which case he or she shall have and exercise a casting vote.

(3) A Speaker elected from among persons who are not members of the Assembly shall have neither an original nor a casting vote and if, upon any question before the Assembly when such a Speaker is presiding, the votes of the members are equally divided, the motion

shall be lost.

Quorum.

169. If objection is taken by any member of the National Assembly present that there are present in the Assembly (besides the person presiding) less than one-third of all the elected members of the Assembly, and, after such interval as may be prescribed in the rules of procedure of the Assembly, the person presiding ascertains that there are still present less than one-third of all the elected members, he or she shall thereupon adjourn the Assembly.

Mode of
legislation.
[17 of 2000]

170. (1) Subject to the provisions of article 164, the power of Parliament to make laws shall be exercised by Bills passed by the National Assembly and assented to by the President.

(2) When a Bill is presented to the President for assent, he or she shall signify that he or she assents or that he or she withholds assent.

(3) Where the President withholds his or her assent to a Bill, he or she shall return it to the Speaker within twenty-one days of the date when it was presented to him or her for assent with a message stating the reasons why he or she has withheld his or her assent.

(4) Where a Bill is so returned to the Speaker it shall not again be presented to the President for assent unless within six months of the Bill being so returned upon a motion supported by the votes of not less than two-thirds of all the elected members of the National Assembly the Assembly resolves that the Bill be again presented for assent.

(5) Where the National Assembly so resolves that a Bill be again presented for assent, the Bill shall be so presented and the President shall assent to it within ninety

days of its presentation.

(6) A Bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

Introduction
of Bills, etc.

171. (1) Subject to the provisions of this Constitution and of the rules of procedure of the National Assembly, any member of the Assembly may introduce any Bill or propose any motion for debate in, or may present any petition to, the Assembly and the same shall be debated and disposed of according to the rules of procedure of the Assembly.

(2) Except on the recommendation or with the consent of the Cabinet signified by a Minister, the Assembly shall not –

- (a) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding, makes provision for any of the following purposes –
 - (i) for imposing or increasing any tax;
 - (ii) for imposing any charge upon the Consolidated Fund or any other public fund of Guyana or for altering any such charge otherwise than by reducing it;
 - (iii) for the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Guyana of any moneys not charged

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thereon or any increase in the amount of such a payment, issue or withdrawal; or
(iv) for compounding or remitting any debt due to Guyana; or

(b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of the purposes aforesaid.

Privileges, etc., of members of the National Assembly.

172. (1) Subject to the provisions of paragraphs (2), (3) and (4), Parliament may by law determine the privileges, immunities and powers of members of the National Assembly and the members thereof.

(2) No civil or criminal proceedings may be instituted against any member of the Assembly for words spoken before, or written in a report to, the Assembly or to a committee thereof or by reason of any matter or thing brought by him or her therein by petition, bill, resolution, motion or otherwise.

(3) For the duration of any session, members of the Assembly shall enjoy freedom from arrest for any civil debt.

(4) No process issued by any court in the exercise of its civil jurisdiction shall be served or executed within the precincts of the Assembly while the Assembly is sitting or through the Speaker, the Clerk, or any officer of the Assembly.

173- 176 [TITLE 3 -Articles 173-176 repealed by Act No. 14 of 2000]

TITLE 4
THE PRESIDENT

Election of
President.
[2 of 2000]

177. (1) Any list of candidates for an election held pursuant to the provisions of article 60(2) shall designate not more than one of those candidates as a Presidential candidate. An elector voting at such an election in favour of a list shall be deemed to be also voting in favour of the Presidential candidate named in the list.

(2) Where –

- (a) there is only one Presidential candidate at the election; or
- (b) there are two or more Presidential candidates, if more votes are cast in favour of the list in which a person is designated as Presidential candidate than in favour of any other list,

that Presidential candidate shall be deemed to be elected as President and shall be so declared by the Chairman of the Elections Commission acting only in accordance with the advice of the Chief Election Officer, after such advice has been tendered to the Elections Commission at a duly summoned meeting.

(3) Where no person is elected as President under paragraph (2) and where the votes cast in favour of each list are equal in number, or where the votes cast in favour of each of two or more lists are equal in number but greater than the number of votes cast in favour of any other list, the Chairman of the Elections Commission, acting in the presence of the Chancellor and of the public, shall by lot choose one of the lists in respect of which the votes are equal in either of the circumstances aforesaid

and shall declare the Presidential candidate designated in that list to be duly elected as President.

(4) The Court of Appeal shall have exclusive jurisdiction to hear and determine any question as to the validity of an election of a President in so far as that question depends upon the qualification of any person for election or the interpretation of this Constitution; and any decision of that Court under this paragraph shall be final.

(5) Subject to the provisions of this Constitution, Parliament may make provision for giving effect to the provisions of this Title and, without prejudice to the generality thereof, may make provision –

- (a) for the conduct of elections to the office of President; and
- (b) with respect to the persons by whom, the manner in which and the conditions upon which proceedings for the determination of any question such as is mentioned in the preceding paragraph may be instituted in the Court of Appeal,

and, subject to any provisions made under subparagraph (b), provision may be made with respect to the matters referred to therein by rules of court.

(6) Subject to the provisions of paragraph (4), an instrument which –

- (a) is executed under the hand of the Chairman of the Elections Commission; and
- (b) states that a person named in the instrument was declared elected as

President at an election held pursuant to the provisions of article 60(2),

shall be conclusive evidence that the person so named was so elected and no question as to the validity of the election as the President of the person so named shall be enquired into any court.

Tenure of
office of
President.
[14 of 2000]

178. (1) The office of President shall become vacant if the person holding it –

- (a) dies; or
- (b) resigns it by writing under his or her hand addressed to the Speaker; or
- (c) ceases to hold it by virtue of the provisions of article 92, 179, or 180.

(2) A person assuming the office of President in accordance with the provisions of this Constitution shall be disqualified for any other office, employment or appointment to which this paragraph applies and accordingly on entering upon the duties of the office of President shall vacate any such other office, employment or appointment held by him or her.

(3) The preceding paragraph applies to the offices of Speaker, member, Clerk or Deputy Clerk of the National Assembly, and Judge of the Supreme Court of Judicature, member of the Elections Commission, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission or the Police Service Commission, any public office, employment in any armed force of Guyana and any paid appointment as a member or employee of a body Corporate established by law for public purposes.

(4) During any period when a Minister is performing the functions of the office of President under article 96 or 179 or has assumed the office under the proviso to article 95(1), his or her seat in the National Assembly shall be regarded as vacant and may be temporarily filled in accordance with any provision made under article 160(3). At the expiration of the period the person temporarily filling the seat shall vacate it and the seat shall thereupon be resumed by the Minister:

Provided that the person so vacating the seat shall be eligible for re-election under any provision made as aforesaid.

Removal of
President on
grounds of
incapacity.

179. (1) If the members of the National Assembly whose names appeared as candidates on the same list as that of the President at the last election held pursuant to article 60(2) resolve, upon a motion supported by the votes of majority of all of them, that the question of the physical or mental capacity of the President to discharge the functions of his or her office ought to be investigated and the Prime Minister so informs the Chancellor, the Chancellor shall appoint a board consisting of not less than three persons selected by him or her from among persons who are qualified as medical practitioners under the law of Guyana, and the board shall enquire into the matter and shall make a report to the Chancellor stating the opinion of the board whether or not the President is, by reason of any infirmity of body or mind, incapable of discharging the functions of his or her office.

(2) If the board reports that the President is incapable of discharging the functions of the office of President, the Chancellor shall certify in writing accordingly and thereupon the President shall cease to hold office.

(3) Where the Prime Minister informs the Chancellor that a resolution has been passed pursuant to paragraph (1) that the question of the physical or mental capacity of the President to discharge the functions of his or her office should be investigated the President shall, until another person assumes the office of President or the board appointed in pursuance of paragraph (1) reports that the President is not incapable of discharging the functions of his or her office (whichever is the earlier), cease to perform the functions of his or her office and those functions shall be performed by –

- (a) the Prime Minister; or
- (b) during any period when there is no Prime Minister or the Prime Minister is absent from Guyana or is unable, by reason of physical or mental infirmity, to discharge the functions of his or her office, by such member of the Cabinet, being an elected member of the National Assembly, as shall be elected by the members referred to in paragraph (1):

Provided that any person performing the functions of the office of President under this paragraph shall not dissolve Parliament or, save on the advice of the Cabinet, revoke any appointment made by the President.

(4) A motion for the purposes of paragraph (1) may be proposed by any of the members referred to therein at any meeting of such members convened by the Prime Minister.

Removal of
President
for violation
of
Constitution
or gross
misconduct.
[17 of 2000]

180. (1) If notice in writing is given to the Speaker of the National Assembly, signed by not less than one-half of all the elected members of the Assembly, of a motion alleging that the President has committed any violation of the Constitution or any gross misconduct and specifying the particulars of all the allegations and proposing that a tribunal be established under this article to investigate those allegations, the Speaker shall –

- (a) if Parliament is then sitting or has been summoned to meet within five days, cause the motion to be considered by the Assembly within seven days of the notice; or
- (b) if Parliament is not then sitting (and notwithstanding that it may be prorogued) summon the Assembly to meet within twenty-one days of the notice and cause the motion to be considered at that meeting.

(2) Where a motion under this article is proposed for consideration by the National Assembly, the Assembly shall not debate the motion but the person presiding in the Assembly shall forthwith cause a vote to be taken on the motion and, if the motion is supported by the votes of not less than two-thirds of all the elected members of the Assembly, shall declare the motion to be passed.

(3) If the motion is declared to be passed under paragraph (2) –

- (a) the Chancellor shall appoint a tribunal which shall consist of a chairman and not less than two

other members selected by the Chancellor from among persons who hold or have held office as a Judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction on appeals from any such court;

- (b) the tribunal shall investigate the matter and shall report to the National Assembly whether it finds the particulars of the allegations specified in the motion to have been sustained;
- (c) the President shall have the right to appear and be represented before the tribunal during its investigation of the allegations against him or her.

(4) If the tribunal reports to the National Assembly that the tribunal finds that the particulars of any allegation against the President specified in the motion have not been substantiated no further proceedings shall be taken under this article in respect of that allegation.

(5) If the tribunal reports to the National Assembly that the tribunal finds that the particulars of any allegation specified in the motion have been substantiated, the Assembly may, on a motion supported by the votes of not less than two-thirds of all elected members of the Assembly, resolve that the President has been guilty of such violation of the Constitution or, as the case may be, such gross misconduct as is incompatible with his or her continuance in office as President and, if the Assembly so resolves, the President shall cease to hold

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office upon the third day following the passage of the resolution.

Salary and allowances of President.

181. (1) The President shall receive such salary and allowances as may be prescribed under the provisions of article 222.

(2) A person who has held the office of President shall receive such pension or, upon the expiration of his or her term of office, such gratuity as may be prescribed by Parliament. Any such pension or gratuity shall be a charge on the Consolidated Fund.

Immunities of President.

182. (1) Subject to the provisions of article 180, the holder of the office of President shall not be personally answerable to any court for the performance of the functions of his or her office or for any act done in the performance of those functions and no proceedings, whether criminal or civil, shall be instituted against him or her in his or her personal capacity in respect thereof either during his or her term of office or thereafter.

(2) Whilst any person holds or performs the functions of the office of President no criminal proceedings shall be instituted or continued against him or her in respect of anything done or omitted to be done by him or her in his or her private capacity and no civil proceedings shall be instituted or continued in respect of which relief is claimed against him or her or anything done or omitted to be done in his or her private capacity.

(3) Where provision is made by law limiting the time within which proceedings of any description may be brought against any person, the period during which any person holds or performs the functions of the office of President shall not be taken into account in calculating any period of time prescribed by that law for bringing any such proceedings as are mentioned in paragraph (2)

against him or her.

**TITLE 5
THE EXECUTIVE**

SUBTITLE 1

MINISTERS, etc.

Tenure of
office of
Ministers.
[14 of 2000]

183. (1) The office of a Minister who was not an elected member of the Assembly at the time of his or her appointment and has not subsequently become such a member shall become vacant if the holder of the office –

- (a) ceases to be a citizen of Guyana; or
- (b) if he or she becomes disqualified for election as a member of the Assembly by virtue of article 155 or of any law enacted in pursuance thereof.

(2) The office of any other Minister shall become vacant if the holder of the office –

- (a) ceases to be a member of the Assembly for any cause other than a dissolution of Parliament;
- (b) is not a member of the Assembly when the Assembly first meets after a dissolution of Parliament; or
- (c) is, by virtue of article 156 (2) or (3) required to cease to perform his or her functions as a member of the Assembly.

(3) The office of any Minister shall become

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vacant –

- (a) if he or she resigns it by writing under his or her hand addressed to the President;
- (b) if the President so directs; or
- (c) on the election of any person to the office of President pursuant to the provisions of article 177.

Leader of the
Opposition.
[2 of 2000
14 of 2000]

184. (1) The Leader of the Opposition shall be elected by and from among the non-governmental members of the National Assembly at a meeting held under the chairmanship of the Speaker of the National Assembly, who shall not have the right to vote.

(2) The office of the Leader of the Opposition shall become vacant if –

- (a) the holder thereof ceases to be a member of the Assembly for any cause other than a dissolution of Parliament;
- (b) he or she is not a member of the Assembly when the Assembly first meets after the dissolution of Parliament;
- (c) by virtue of article 156(2) or (3) he or she is required to cease to exercise his or her functions as a member of the Assembly; or
- (d) his or her removal from office is effected under the provisions of the next following paragraph.

(3) Where one-third of the non-governmental members of the Assembly represent to the Speaker that the Leader of the Opposition no longer enjoys their confidence, the speaker shall call a meeting of all the non-governmental members at which it shall be decided whether the Leader of the Opposition shall be removed from office; the removal shall be effected by the votes of a majority of all the non-governmental members.

(4) The election and removal from office of the leader of the Opposition shall be by a show of hands.

Attorney
General.

185.(1) A person shall not be qualified to be appointed as Attorney General unless he or she holds such qualifications as may be prescribed by Parliament and is a citizen of Guyana.

(2) If the Attorney General is an elected member of the National Assembly at the time of his or her appointment or subsequently becomes such a member, he or she shall be a Minister by virtue of holding the office of the Attorney General and the provisions of paragraphs (2) and (3) of article 183 shall apply to the office of the Attorney General.

(3) If the Attorney General is not an elected member of the Assembly but is qualified to be elected as such a member he or she may be appointed by the President to be a Minister.

(4) If an Attorney General appointed to be a Minister under the preceding paragraph resigns his or her office as Attorney General he or she shall also vacate his or her office as a Minister.

(5) If the Attorney General is not a Minister he or she shall vacate his or her office if he or she ceases to be

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a citizen of Guyana or if his or her appointment is revoked by the President.

(6) If the office of Attorney General is vacant or the holder of the office is for any reason unable to perform the functions thereof the President may appoint a person, being a person qualified under the paragraph (1), to act in the office, but the provisions of paragraphs (2) and (3) shall not apply to a person so appointed.

(7) An appointment under the preceding paragraph shall cease to have effect when it is revoked by the President.

Parliamentary Secretaries.

186. (1) Parliamentary Secretaries may be appointed from among persons who are elected members of the National Assembly or are qualified to be elected as such members.

(2) Paragraph (1) shall have effect in relation to any period between dissolution of Parliament and the day on which the next election of members of the Assembly is held as if Parliament had not been dissolved.

(3) A Parliamentary Secretary who was not an elected member of the Assembly at the time of his or her appointment shall (unless he or she becomes such a member) be a member of the Assembly by virtue of holding the office of Parliamentary Secretary but shall not vote in the Assembly.

(4) The provisions of article 183 shall apply to the office of a Parliamentary Secretary as they apply to the office of a Minister.

Functions of Director of Public Prosecutions.

187. (1) The Director of Public Prosecutions (referred to in this article as “the Director”) shall have power in any case in which he or she considers it desirable to do so –

- (a) to institute and undertake criminal proceedings against any person before any court, other than a court-martial, in respect of any offence against the law of Guyana.
- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by him or her or any other person or authority.

(2) The powers of the Director under the preceding paragraph may be exercised by him or her in person or through other persons acting under and in accordance with his or her general or special instructions.

(3) The powers conferred upon the Director by sub-paragraphs (b) and (c) of paragraph (1) shall be vested in him or her to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this paragraph shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(4) In the exercise of the powers conferred upon him or her by this article the Director shall not be subject to the direction or control of any other person or authority.

(5) For the purposes of this article, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purposes of any such proceedings, to any other court in Guyana shall be deemed to be part of those proceedings.

Prerogative of Mercy.

188. (1) The President may –

- (a) grant to any person concerned in or convicted of any offence under the law of Guyana, a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinite, or for a specified period, of the execution of any punishment imposed on that person for such an offence.
- (c) substitute a less severe form of punishment for any punishment imposed on any person for such an offence; or
- (d) remit the whole or any part of any punishment imposed on any person for such an offence or of any penalty or forfeiture otherwise due to the State on account of such an offence.

(2) Subject to the provisions of the next following paragraph, the powers of the President under the preceding paragraph shall be exercised by him or her after consultation with such Minister as may from time to time be designated by him or her.

(3) In addition to the Minister designated

generally under the preceding paragraph, a second Minister may, in the manner prescribed in that paragraph, be specially designated in relation to persons convicted by courts-martial under the law of Guyana; and at any time when there is a second Minister so designated, the powers of the President under paragraph (1) shall, in relation to such persons, be exercised after consultation with that other Minister.

Advisory
Council on
Prerogative of
Mercy.

189. (1) There shall be an Advisory Council on the Prerogative of Mercy, which shall consist of –

- (a) the Minister for the time being designated under paragraph (2) of the preceding article, who shall be Chairman;
- (b) the Attorney General (if he or she is not the Chairman); and
- (c) not less than three and not more than five other members, who shall be appointed by the President, and of whom at least one shall be a person who is a qualified medical practitioner.

(2) A person shall not be qualified to be appointed as a member of the Advisory Council under subparagraph (c) of the preceding paragraph if he or she is a member of the National Assembly; and not less than three of the members so appointed shall be persons who are not public officers.

(3) A member of the Advisory Council appointed under the said subparagraph (c) shall hold office for three years:

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Provided that his or her seat on the Council shall become vacant –

- (a) if he or she becomes a member of the Assembly or if, not having been a public officer at the time of his or her appointment, he or she becomes such an officer; or
- (b) if he or she is removed from office by the President for inability to discharge the functions of his or her office (whether arising from infirmity of mind or body or any other cause whatsoever) or for misbehaviour.

Functions of
the Advisory
Council.

190. (1) Where under the law of Guyana any person has been sentenced to death by any court other than a court-martial for any offence against that law, the Minister designated under article 188(2) shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the Minister may require, to be taken into consideration at a meeting of the Advisory Council; and after obtaining the advice of the Council the Minister shall express his or her own deliberate opinion to the President as to whether he or she should exercise any of his or her powers under that article in relation to that person.

(2) The Minister designated under article 188(2) may consult the Advisory Council before expressing any opinion to the President under that provision in any case not falling within the preceding paragraph, but shall be not obliged to act in accordance with the advice of the Advisory Council.

(3) The Advisory Council may regulate its own procedure.

**SUBTITLE 2
THE OMBUDSMAN**

Appoint-
ments, etc. of
Ombudsman

191. (1) The Ombudsman shall be appointed by the President acting after consultation with the Leader of the Opposition.

(2) The Ombudsman shall not perform the functions of any public office and shall not, without the approval of the President in each particular case, hold any other office of emolument, other than his or her office as Ombudsman, or engage in any occupation for reward outside the duties of his or her office.

(3) Subject to the provisions of next following paragraph, a person holding the office of Ombudsman shall vacate that office at the expiration of four years from the date of his or her appointment.

(4) The provisions of article 225 (which relate to removal from office) shall apply to the office of Ombudsman, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister.

Matters
subject to
investigation
by the
Ombudsman.
[17 of 1984
14 of 2000]

192. (1) Subject to the provisions of this article, the Ombudsman may investigate any action taken by any department of Government or by any other authority to which this article applies, or by the President, Ministers, officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.

(2) The Ombudsman may investigate any such action as aforesaid in any of the following circumstances,

that is to say –

- (a) if a complaint in respect of the action is duly made to the Ombudsman by any person or body or persons, whether incorporated or not alleging that the complainant has sustained injustice in consequence of a fault in administration;
- (b) if the President, a Minister or a member of the National Assembly requests the Ombudsman to investigate the action on the ground that a person or body of persons specified in the request has or may have sustained such injustice;
- (c) in any other circumstances in which the Ombudsman considers that he or she ought to investigate the action on the ground that some person or body of persons has or may have sustained such injustice.

(3) The Ombudsman shall not investigate under this Subtitle –

- (a) any action in respect of which the complainant has or had –
 - (i) a remedy by way of proceedings in a court; or
 - (ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a court; or

- (b) any such action, or action taken with respect to any such matter, as is excluded from investigation under article 193:

Provided that the Ombudsman –

- (i) may conduct an investigation notwithstanding that the complainant has or had a remedy by way of proceedings in a court if satisfied that in the particular circumstances it is not reasonable to expect him or her or to take or to have taken such proceedings;
- (ii) shall not in any case be precluded from conducting an investigation in respect of any matter by reason only that it is open to the complainant to apply to the High Court for redress under article 153(1) (which relates to redress for contraventions of provisions for the protection of fundamental rights and freedoms).

(4) In determining whether to initiate, continue or discontinue an investigation under this Subtitle the Ombudsman shall, subject to the foregoing provisions of this article, act in accordance with his or her individual judgment and in particular, and without prejudice to the generality of the foregoing, he or she

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may refuse to initiate, or may discontinue, any investigation if it appears to him or her that –

- (a) the complaint relates to action of which the complainant has had knowledge for more than twelve months before the complaint was received by the Ombudsman;
- (b) the subject matter of the complaint is trivial;
- (c) the complaint is frivolous or vexatious or is not made in good faith; or
- (d) the complainant has not a sufficient interest in the subject matter of the complaint.

(5) The authorities other than departments of Government to which this article applies are –

- (a) any authority empowered to determine the person with whom any contract or class of contracts shall be entered into by or on behalf of the Government of Guyana; and
- (b) such other authorities as may be prescribed by Parliament.

(6) For the purposes of this article the Public Service Appellate Tribunal, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission and the Police Service Commission shall not be regarded as departments of Government.

(7) For the purposes of paragraph (2) (a) a complaint may be made by a person aggrieved himself or herself or, if he or she is dead or for any reason unable to act for himself or herself, by any person duly authorised to represent him or her.

(8) Any question whether a complaint or a request for all investigation is duly made under this Subtitle or any law enacted in pursuance of article 195 shall be determined by the Ombudsman.

(9) Where a complaint or request for an investigation is duly made as aforesaid and the Ombudsman decides not to investigate the action to which the complaint or request relates or to discontinue an investigation of that action, he or she shall inform the person or body of persons who made the complaint or request of his or her decision.

(10) In this article and in article 193 "action" includes failure to act and "action taken" shall be construed accordingly.

Excluded
matters.

193. The Ombudsman shall not investigate any such action, or action taken with respect to any such matter, as is described hereunder –

- (i) matters certified by the President or a Minister to affect relations or dealings between the Government of Guyana and any other Government or any international organisation;
- (ii) action taken for the purposes of protecting the security of the State or of investigating

- crime, including action taken with respect to passports for either of those purposes;
- (iii) the commencement or conduct of civil or criminal proceedings in any court;
 - (iv) action taken in respect of appointments to offices or other employment in the service of the Government of Guyana or appointments made by or with the approval of the President or any Minister, and action taken in relation to any person as the holder or former holder of any such office, employment or appointment;
 - (v) action taken with respect to orders or directions to any disciplined force or member thereof as defined in article 154;
 - (vi) the exercise of the powers conferred by article 188;
 - (vii) the grant of honours, awards or privileges within the gift of the President;
 - (viii) action taken in matters relating to contractual or other commercial dealings with members of the public other than action by an authority mentioned in subparagraph (a) of article 192(5);
 - (ix) action taken in any country outside Guyana by or on

behalf of any officer representing the Government of Guyana or any officer of that Government;

- (x) any action which by virtue of any provision of this Constitution may not be inquired into by any court.

Ombudsman's function: on concluding an investigation, and reports to the Assembly. [14 of 2000]

194. (1) After conducting an investigation under this Subtitle the Ombudsman shall inform the department or authority concerned of the result of that investigation and, if he or she is of the opinion that any person or body of persons has sustained injustice in consequence of a fault in administration, he or she shall inform that department or authority of the reasons for that opinion and may make such recommendations for action by that department or authority as he or she thinks fit.

(2) After conducting an investigation under this Subtitle in pursuance of a complaint or a request for an investigation made by the President, a Minister or a member of the National Assembly the Ombudsman shall

—

- (a) if he or she is of the opinion that the complainant or, in the case of an investigation conducted in pursuance of such a request, the person or body of persons specified in the request has sustained injustice in consequence of a fault in administration, inform the person or body of persons who made the complaint or request that he or she is of that opinion and the nature of the injustice that he or she considers has been sustained;

- (b) if he or she is of the opinion that the complainant or, in the case of an investigation conducted in pursuance of such a request, the person or body of persons specified in the request has not sustained injustice, inform the person or body of persons who made the complaint or request that he or she is of that opinion and the reason therefor.

(3) Where the Ombudsman has made a recommendation under paragraph (1) and within a reasonable time thereafter no action has been taken which appears to the Ombudsman adequately to remedy the injustice, he or she may lay before the Assembly a special report on the case.

(4) The Ombudsman shall annually lay before the Assembly a general report on the performance of his or her functions under this Subtitle.

Power of Parliament to make Supplementary provision.

195. Parliament may make provision for such supplementary and ancillary matters as may appear necessary or expedient in consequence of any of the provisions of this Subtitle including (without prejudice to the generality of the foregoing power) provision –

- (a) for the procedure to be observed by the Ombudsman in performing his or her functions;
- (b) for the manner in which complaints and requests for investigation shall be made to the Ombudsman and for the payment of fees in respect of any complaint or investigation; and

- (c) for the powers, duties and privileges of the Ombudsman or of other persons or authorities with respect to the obtaining or disclosure of information for the purposes of any investigation or report by the Ombudsman.

Interpretation. **196.** In this Subtitle –

“complainant” means the person or body of persons by or on whose behalf a complaint under this Subtitle is made; and

“fault in administration” includes without prejudice to its generality, any contravention of article 149 (which relates to discrimination on grounds of race, place of origin, political opinions, colour or creed).

TITLE 6 THE JUDICATURE

Tenure of
office of
Judges.
[6 of 2001]

197. (1) Notwithstanding the provisions of articles 124 and 125, the office of a Justice of Appeal or a Puisne Judge shall not be abolished while there is a substantive holder thereof.

(2) With effect from the commencement of this paragraph, a person holding the office of Judge on the said commencement shall vacate that office on attaining –

- (a) in the case of a Puisne Judge, the age of sixty- two years;
- (b) in the case of any other Judge, other than the Chancellor, the age of sixty- five years; and

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- (c) in the case of the Chancellor , the age of sixty eight years.

(2A) A person appointed to the office of Judge after the commencement of this paragraph shall vacate that office attaining –

- (a) in the case of a Puisne Judge, the age of sixty-five years; and
- (b) in the case of any other Judge, the age of sixty-eight years.

(3) A Judge may be removed from office only for inability to perform the functions of his or her office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour or for persistently not writing decisions or for continuously failing to give decisions and reasons therefor within such time as may be specified by Parliament and shall not be so removed except in accordance with the provisions of this article.

(4) A Judge shall be removed from office by the President if the question of removal of that Judge has, in pursuance of the next following paragraph, been referred by the President to a tribunal, and the tribunal has advised the President that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Prime Minister, in the case of the Chancellor or the Chief Justice, or the Judicial Service Commission, in the case of any other Judge, represents to the President that the question of removing such Judge from office under this article ought to be investigated, then –

- (a) the President shall appoint a tribunal, which shall consist of a

Chairman and not less than two other members, selected by the President, acting in his or her discretion in the case of the Chancellor or the Chief Justice or in accordance with the advice of the Prime Minister after consultation with the Judicial Service Commission in the case of any other Judge, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who are qualified to be appointed as any such judge; and

- (b) the tribunal shall enquire into the matter and advise the President whether or not the Judge ought to be removed from office.

c. 19:03

(6) The provisions of the Commissions of Inquiry Act as in force immediately before the commencement of this Constitution shall, subject to the provisions of this article, apply as nearly as may be in relation to tribunals appointed under the preceding paragraph or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act, and in such application shall have effect as if they formed part of this Constitution.

(7) If the question of removing a Judge from office has been referred to a tribunal under paragraph (5), the President may suspend such Judge from performing

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the functions of his or her office, and any such suspension may at any time be revoked by the President, and shall in any case cease to have effect if the tribunal advises the President that the Judge ought not to be removed from office. In effecting any such suspension or any revocation of any such suspension, the President shall act in accordance with his or her own deliberate judgment in the case of the Chancellor or the Chief Justice and in accordance with the advice of the Chancellor in the case of any other Judge.

(8) The provisions of this article shall be without prejudice to the provisions of article 128(3).

- (9) (a) For the purposes of paragraph (6) of this article and of article 225(5), the following provisions of the Commissions of Inquiry Act shall not apply, that is to say –
- (i) section 2 - the whole section;
 - (ii) section 3 - so much of the section as follows the words “in his or her place”;
 - (iii) section 5 - the whole section;
 - (iv) section 7 - the words “after taking such oath or affirmation”;
 - (v) section 16 - the whole section.
- (b) For the words “Such sums so directed to be paid shall be paid out of moneys provided by Parliament” in section 15 of the Act there shall be substituted the words “Such sums so directed to be paid shall be charged on and paid out of the Consolidated Fund”.

- (c) All powers and duties conferred or imposed on the President under the Act shall be exercised or performed by him or her acting in each case in the manner prescribed by this Constitution.

(10) It is in the interest of the State to provide such terms and conditions of service, including superannuation benefits, for Judges that on retirement there would be no need for them to practise at the Bar.

**TITLE 6A
DEFENCE AND SECURITY**

Defence and
security.
[7 of 2001]
[5 of 2003]

197A. (1) The State's defence and security policy shall be to defend national independence, preserve the country's sovereignty and integrity, and guarantee the normal functioning of institutions and the security of citizens against any armed aggression.

(2) The Defence and Security Forces shall be subordinate to national defence and security policy and owe allegiance to the Constitution and to the Nation. The oath taken by members of the Defence and Security Forces shall establish their duty to respect the Constitution.

c. 15:01

(3) The Guyana Defence Force established under the Defence Act shall in the discharge of its constitutional responsibilities function in such a manner as to earn the respect and enjoy the confidence of citizens.

c 16:01

(4) The Police Force established under the Police Act shall function in accordance with the law as the law enforcement agency of the State responding to the daily need to maintain law and order by suppressing crime to

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ensure that citizens are safe in their homes, the streets and other places.

(5) Disciplined forces commissions may be constituted by the National Assembly from time to time, as may be necessary, with power to examine any matter relating to the public welfare, public safety, public order, defence or security, including the structure and composition of the disciplined forces and make recommendations generally with a view to promoting their greater efficiency, and giving effect to the need in the public interest that the composition of the disciplined forces take account of the ethnic constituents of the population.

c. 19:03 (6) The provisions of the Commissions of Inquiry Act as in force immediately before the commencement of this Constitution shall, subject to the provisions of this article, apply as nearly as may be in relation to commissions appointed under the preceding paragraph or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act, and such application shall have effect as if they formed part of this Constitution.

c. 19:03 (7) As regards the application of the Commissions of Inquiry Act pursuant to paragraph (6) –

(a) the following provisions shall not apply, that is to say –

- (i) section 2 - the whole section;
- (ii) section 3 - so much of the section as follows the words “in his or her place”;
- (iii) section 4 - the whole section;
- (iv) section 5 - the whole section;

- (v) section 7 - the words "after taking such oath or affirmation";
- (vi) section 16 - the whole section;
- (b) for the words "Such sums so directed to be paid shall be paid out of moneys provided by Parliament" in section 15 there shall be substituted the words "Such sums so directed to be paid shall be charged on and paid out of the Consolidated Fund";
- (c) for the words "the President" wherever they appear in the applicable provisions substitute the words "the National Assembly".

TITLE 7

THE SERVICE COMMISSIONS

THE JUDICIAL SERVICE COMMISSION

Composition
of
Commission.
[6 of 2001]

198. (1) The members of the Judicial Service Commission shall be –

- (a) the Chancellor who shall be Chairman;
- (b) the Chief Justice;
- (c) the Chairman of the Public Service Commission; and
- (d) such other members (hereinafter referred to as "appointed members") as may be appointed in

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accordance with the provisions of the next following paragraph.

(2) The appointed members shall be appointed by the President as follows, that is to say –

- (a) one from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court acting after meaningful consultation with the Leader of the Opposition; and
- (b) not less than one and not more than two from among persons who are not attorneys-at-law in active practice, after the National Assembly has meaningfully consulted such bodies as appear to it to represent attorneys-at-law in Guyana and signified its choice of members to the President:

Provided a person shall be disqualified for appointment as a member of the Commission if he or she is a public officer.

(3) Subject to the provisions of the next following paragraph, the office of an appointed member of the Judicial Service Commission shall become vacant -

- (a) at the expiration of three years from the date of his or her appointment or at such earlier time as may be specified in the instrument by which

he or she was appointed; or

- (b) if he or she is appointed to the office of Chancellor, Chief Justice or Chairman of the Public Service Commission or of the Teaching Service Commission or if he or she becomes a public officer.

(4) The provisions of article 225 (which relate to removal from office) shall apply to the office of an appointed member of the Judicial Service Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister and the Chancellor respectively.

(5) If the office of an appointed member is vacant or an appointed member is for any reason unable to perform the functions of his or her office, a person may be appointed to act in that office and the provisions of paragraph (2) shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed to act in the office of an appointed member shall, subject to the provisions of paragraphs (3)(b) and (4), continue to act until a person has been appointed to the office in which he or she is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

(6) A person shall not, while he or she holds or is acting in the office of a member appointed under paragraph (2) (b), or within a period of three years commencing with the date on which he or she last held or acted in that office, be eligible for appointment to or to act in any office power to make appointments to which is vested by this Constitution in the President acting in accordance with the advice of the Judicial Service

Commission or in that Commission.

(7) If, by virtue of provision made by Parliament under article 199(3) or article 203(6), power to make appointments to or to act in any office or to remove or exercise disciplinary control over persons holding or acting in any office is vested in the President acting in accordance with the advice of the Judicial Service Commission or is vested in the Judicial Service Commission, Parliament may provide for the inclusion in the Commission, for the purpose of the exercise of any function or power vested in the Commission by virtue of that provision and of any proceedings of the Commission relating thereto, of members additional to those mentioned in paragraph (1) and for the appointment (including disqualifications for appointment) and tenure of office of such additional members; and provision for the inclusion of different additional members may be made in relation to functions or powers vested in the Commission as aforesaid in relation to different offices.

Appointment,
etc., of
judicial and
legal officers.
[17 of 1984
6 of 2001]

199.(1) The power to make appointments to the offices to which this article applies and to remove and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial Service Commission.

(2) The Judicial Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under the preceding paragraph to any one or more of its members or to any person holding or acting in an office in respect of which power to make appointments is vested in the President acting in accordance with the advice of the Commission or to which this article applies.

(2A) Where any power of the Judicial Service Commission is exercised under paragraph (2), any person

in respect of whom the power was exercised (including a person who has failed to obtain an appointment) may appeal to that Commission from the decision of the person exercising the power.

(2B) The decision of the Judicial Service Commission on any appeal made under paragraph (2A) shall be final.

(3) This article applies to the office of Commissioner of Title, Magistrate, Director of Public Prosecutions, Deputy Director of Public Prosecutions, Registrar of the High Court, Deputy Registrar of the High Court, Registrar of Deeds, Deputy Registrar of Deeds and to such other offices (not being offices in respect of which provision for the making of appointments is made by any provision of this Constitution other than article 201) connected with the courts of Guyana or for appointment to which legal qualifications are required as may be prescribed by Parliament.

THE PUBLIC SERVICE COMMISSION

Composition
of
Commission.
[5 of 2001]

200. (1) The Public Service Commission shall consist of six members who shall be appointed as follows, that is to say –

- (a) three members appointed by the President acting after meaningful consultation with the Leader of the Opposition;
- (b) two members appointed by the President upon nomination by the National Assembly after it has consulted such bodies as appear to it to represent public officers or classes of public officers; and

- (c) if the President thinks fit, one other member appointed by the President acting in accordance with his or her own deliberate judgment:

Provided that a person shall be disqualified for appointment as a member of the Commission if he or she is a public officer.

(2) The Chairperson and Deputy Chairperson of the Commission shall be elected by and from the members of the Commission using such consensual mechanism as the Commission deems fit.

(3) Subject to the provisions of the next following paragraph, the office of a member of the Public Service Commission shall become vacant at the expiration of three years from the date of his or her appointment or at such earlier time as may be specified in the instrument by which he or she was appointed.

(4) The provisions of article 225 (which relate to removal from office) shall apply to the office of a member of the Public Service Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister except that, in relation to a member other than the Chairperson or a member for the time being acting in the office of Chairperson under the next following paragraph, the prescribed authority for the purposes of the said paragraph (6) shall be the Chairperson.

(5) If the office of Chairperson of the Public Service Commission is vacant or the holder thereof is for any reason unable to perform the functions of his or her office, then the holder of the office of Deputy Chairperson or if that office is vacant or the holder thereof is for any

reason unable to perform the functions of the office of Chairperson, one of the other members may be elected to act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue so to act until a person has been elected to the office of Chairperson and has resumed the functions of that office or, as the case may be, until the Chairperson, or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(6) If the office of a member of the Public Service Commission other than the Chairperson is vacant or if the holder thereof is acting as Chairperson under the preceding paragraph or is for any other reason unable to perform the functions of his or her office, a person may be appointed to act in that office and the provisions of paragraph (1) shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this paragraph shall, subject to the provisions of paragraph (4), continue to act until a person has been appointed to the office in which he or she is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

(7) A person shall not, while he or she holds or is acting in the office of a member of the Public Service Commission or within a period of three years commencing with the date on which he or she last held or acted in that office, be eligible for appointment to or to act in any office power to make appointments to which is vested by this Constitution in the President acting in accordance with the advice of the Public Service Commission or in that Commission.

Appointment,
etc., of public
officers.
[5 of 2001]

201. (1) Subject to the provisions of this Constitution, the power to make appointments to public offices and to remove and to exercise disciplinary control

over persons holding or acting in such offices shall vest in the Public Service Commission.

(2) The Public Service Commission may, by directions in writing subject to such conditions as it thinks fit, delegate any of its powers under the preceding paragraph to any one or more members of the Commission or, with the consent of the Prime Minister, to any public officer, or, in relation to any office on the staff of the Clerk of the National Assembly, to the Clerk.

(3) No person shall be appointed under this article to or to act in any office on the personal staff of the President except with the concurrence of the President.

(4) Before the Public Service Commission or any member or officer exercising powers under this article appoints to or to act in any public office any person who holds or is acting in any office power to make appointments to which is vested under this Constitution in the Judicial or the Teaching or the Police Service Commission, the Public Service Commission or that member or officer shall consult with the Commission in which that power is vested.

(5) Before the Public Service Commission or any member thereof exercises any of the powers mentioned in paragraph (1) in relation to any office on the staff of the Clerk of the National Assembly (other than the Deputy Clerk) or any person holding or acting in such an office, the Commission or that member shall consult the Clerk.

(6) A public officer shall not be removed from office or subjected to any other punishment under this article on the grounds of any act committed by him or her in the exercise of a judicial function conferred on him or her unless the Judicial Service Commission concurs

therein.

(7) The provisions of this article shall not apply in relation to any of the following offices, that is to say –

- (a) [Subparagraph (a) repealed by Act No. 5 of 2001]
- (b) the office of Auditor General;
- (c) any office to which article 205 applies;
- (d) so far as they relate to power to make appointments on transfer, any office to which article 206 applies;
- (e) any office to which article 199 (relating to offices within the jurisdiction of the Judicial Service Commission) applies;
- (f) any office to which article 209 (relating to offices within the jurisdiction of the Teaching Service Commission) applies ; or
- (g) the office of the Commissioner of Police or any other office in the Police Force.

Appeals to
Public Service
Commission.
[17 of 1984]

202. (1) Where any power of the Public Service Commission is exercised under article 201(2) any person in respect of whom the power was exercised (including a person who has failed to obtain an appointment) may appeal to the Commission from the decision of the person exercising the power.

(2) Subject to the other provisions of this

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Constitution, the decision of the Public Service Commission on any appeal made under paragraph (1) shall be final.

Appoint-
ments, etc., of
Director of
Public
Prosecutions.
[6 of 2001]

203. (1) [Paragraph (1) repealed by Act No. 6 of 2001].

(2) If the office of the Director of Public Prosecutions (in this article referred to as “the Director”) is vacant or if the holder thereof is for any reason unable to perform the functions thereof, the Judicial Service Commission, may appoint a person to act in the office of the Director, and any person so appointed shall, subject to the provisions of paragraphs (4) and (5), continue to act until a person has been appointed to the office of the Director and has assumed the functions of the office or, as the case may be, until the holder thereof has resumed those functions.

(3) A person shall not be qualified to be appointed to hold or act in the office of the Director unless he or she is qualified to be appointed as a Puisne Judge of the High Court.

(4) Subject to the provisions of the next following paragraph, the Director shall vacate his or her office when he or she attains the age of sixty years:

Provided the Judicial Service Commission, may permit a Director who has attained the age of sixty years to continue in office until he or she has attained such later age, not exceeding sixty-five years, as may (before the Director has attained the age of sixty years) have been agreed with the Director.

(5) The provisions of article 255 (which relate to removal from office) shall apply to the office of the Director, and the prescribed authority for the purposes of

paragraph (4) of that article shall be the Chairperson of the Judicial Service Commission and for the purposes of paragraph (6) of that article shall be the Judicial Service Commission.

(6) [Paragraph (6) repealed by Act No. 6 of 2001]

Appointment
etc., of
Auditor
General.

204. (1) The Auditor General shall be appointed by the President acting in accordance with the advice of the Public Service Commission.

(2) If the office of Auditor General is vacant or the holder of the office is for any reason unable to perform the functions thereof, the President acting in accordance with the advice of the Public Service Commission may appoint a person to act in the office, and any person so appointed shall, subject to the provisions of paragraphs (3) and (4), continue to act until a person has been appointed to the office of the Auditor General and has assumed the functions of that office or, as the case may be, until the holder thereof has resumed those functions.

(3) Subject to the provisions of the next following paragraph the Auditor General shall vacate his or her office when he or she attains such age as may be prescribed by Parliament.

(4) The provisions of article 225 (which relate to the removal from office) shall apply to the office of the Auditor General, and the prescribed authority for the purposes of paragraph (4) of that article shall be the Prime Minister or the Chairman of the Public Service Commission and for the purposes of paragraph (6) of that article shall be the Public Service Commission.

Appointments
of Solicitor
General and

205. (1) The power to make appointments to the offices to which this article applies and to remove from

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others. office persons holding or acting in such offices shall vest in the President.

(2) Before making an appointment under paragraph (1) in favour of any person who holds any public office other than an office to which this article applies, the President shall consult the appropriate Commission.

(3) The offices to which this article applies are the offices of Solicitor General, Permanent Secretary, Secretary to the Cabinet, Ambassador, High Commissioner or other principal representative of Guyana in any other country or accredited to any international organisation.

(4) In Paragraph (2) of this article “the appropriate Commission” means, in the case of a person who holds an office power to make appointments to which is vested in the President acting in accordance with the advice of the Judicial Service Commission or is vested in that Commission, the Judicial Service Commission, in the case of a person who is a teacher in the public service, the Teaching Service Commission, in the case of a person who holds an office power to make appointments to which is vested in the President acting in accordance with the advice of the Police Service Commission or is vested in that Commission, the Police Service Commission, and in any other case the Public Service Commission.

Appointments on transfer to certain offices.

206. (1) The power to make appointments on transfer to the offices to which this article applies shall vest in the President.

(2) The offices to which the article applies are –

(a) offices (other than those to which the preceding article applies) the

holders of which are required to reside outside Guyana for the proper discharge of their functions ; and

- (b) such offices in the department responsible for the external affairs of Guyana as may from time to time be designated by the President.

THE TEACHING SERVICE COMMISSION

Composition
of
Commission.
[17 of 1984
5 of 2001]

207. (1) The Teaching Service Commission shall consist of seven members.

(2) Six of the members of the Commission (hereinafter referred to as "appointed members") shall be appointed as follows –

- (a) [Subparagraph (a) repealed by Act No. 5 of 2001]
- (b) one person appointed by the President on the nomination of the Guyana Teachers' Association;
- (c) two persons nominated for appointment by the Minister assigned responsibility for local government after that Minister has consulted with local democratic organs or bodies ; and
- (d) three persons appointed by the President after meaningful consultation with the Leader of the Opposition.

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(3) The other member of the Commission shall be the Chief Education Officer.

(4) The Chairperson and the Deputy Chairperson of the Commission shall be elected by and from the members of the Commission using such consensual mechanism as the Commission deems fit.

(5) A person shall be disqualified for appointment as an appointed member of the Commission if he or she is a public officer.

(6) A person shall not while he or she is holding or is acting in the office of a member of the Commission or within three years commencing with the date on which he or she last held or acted in that office be eligible for appointment as a teacher in the public service.

(7) The Chairperson, the Deputy Chairperson and one other member designated as such in the instrument appointing him or her shall be full-time members of the Commission.

(8) The President may grant leave of absence to any appointed member of the Commission.

(9) An appointed member of the Commission may at any time resign his or her office as such member by writing under his or her hand addressed to the President.

(10) An appointed member of the Commission shall be eligible for re-appointment.

Vacation of
office of
appointed
member

208. (1) Subject to the provisions of this article, the office of an appointed member of the Commission shall become vacant at the expiration of three years from the date of his or her appointment or at such earlier time as

of the
Commission.

may be specified in the instrument by which he or she was appointed.

(2) The provisions of article 225 (which relate to removal from office) shall apply to the office of an appointed member of the Teaching Service Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister, except that, in relation to a member other than the Chairman of the Commission or a member for the time being acting in the office of Chairman, the prescribed authority for the purposes of the said paragraph (6) shall be the Chairman of the Commission.

(3) The provisions of paragraph (2) shall be without prejudice to the power of the President to revoke the appointment of a member of the Commission appointed under paragraph (2) (b) of article 207 on a request being made for such revocation to the President by the Guyana Teachers Association.

Appointment
of teachers.
[17 of 1984]

209. (1) Subject to the provisions of this Constitution, the power to appoint persons as teachers in the public service and to remove and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Teaching Service Commission.

(2) The Teaching Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under paragraph (1) to any one or more of its members or, with the consent of the Prime Minister, to any public officer.

(3) Where any power of the Teaching Service Commission is exercised under paragraph (2), any person in respect of whom the power was exercised (including a person who has failed to obtain an appointment) may appeal to that Commission from the decision of the person

exercising the power.

(4) Subject to the other provisions of this Constitution, the decision of the Teaching Service Commission on any appeal made under paragraph (3) shall be final.

THE POLICE SERVICE COMMISSION

Composition
of
Commission.
[5 of 2001]

210. (1) The Police Service Commission shall consist of –

- (a) a Chairman appointed by the President acting after meaningful consultation with the Leader of the Opposition from among members appointed under subparagraph (c);
- (b) the Chairman of the Public Service Commission;
- (c) four members appointed by the President upon nomination by the National Assembly after it has consulted such bodies as appear to it to represent the majority of the members of the Police Force and any other such body it deems fit:

Provided that a person should be disqualified for appointment as a member of the Commission if he or she is a public officer.

(2) Subject to the provisions of the next following paragraph, the office of an appointed member of the Police Service Commission shall become vacant at the expiration of three years from the date of his or her appointment or at such earlier time as may be specified in

the instrument by which he or she was appointed.

(3) The provisions of article 225 (which relate to removal from office) shall apply to the office of an appointed member of the Police Service Commission. In the case of an appointed member other than the Chairman, the prescribed authority for the purposes of paragraph (4) of that article shall be the Prime Minister or the Chairman and for the purposes of paragraph (6) of that article shall be the Chairman. In the case of the Chairman the prescribed authority for the purposes of paragraphs (4) and (6) of article 225 shall be the Prime Minister.

(4) If the office of an appointed member of the Police Service Commission is vacant or if the holder thereof is for any reason unable to perform the functions of his or her office, the President, acting after meaningful consultation with the Leader of the Opposition, may appoint a person who is qualified to be appointed as a member of the Commission to act in that office; any person so appointed shall, subject to the provisions of paragraph (3), continue to act until a person has been appointed to the office in which he or she is acting and has assumed the functions thereof or as the case may be, until the holder thereof resumes those functions.

(5) A person shall not, while he or she holds or is acting in the office of an appointed member of the Police Service Commission or within a period of three years commencing with the date on which he or she last held or acted in that office, be eligible for appointment to or to act in any public office.

Appointment,
etc., of
Commission-
er of Police
and Deputy

211. (1) The Commissioner of Police and every Deputy Commissioner of Police shall be appointed by the President acting after meaningful consultation with the Leader of the Opposition and Chairperson of the Police

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Commission-
ers.
[5 of 2001]

Service Commission after the Chairperson has consulted with the other members of the Commission.

(2) If the office of Commissioner of Police is vacant or if the holder thereof is for any reason unable to perform the functions of his or her office, a person may be appointed to act in that office and the provisions of the preceding paragraph shall apply to such an appointment as they apply to the appointment of a person to hold that office; and any person appointed to act in the office of Commissioner of Police shall, subject to the provisions of paragraphs (3) and (4), continue to act until a person has been appointed to that office and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions .

(3) Subject to the provisions of the next following paragraph, the Commissioner of Police shall vacate his or her office when he or she attains such age as may be prescribed by Parliament.

(4) The provisions of article 225 (which relate to the removal from office) shall apply to the office of the Commissioner of Police, and the prescribed authority for the purposes of paragraph (4) of that article shall be the Prime Minister or the Chairman of the Police Service Commission and for the purposes of paragraph (6) of that article shall be the Police Service Commission.

(5) The provisions of article 229 shall apply to resignation from the office of Commissioner of Police as they apply to resignation from an office established by this Constitution.

(6) In this article references to the office of Deputy Commissioner of Police are references to the office, however styled, that ranks next in seniority in the Police Force after the office of Commissioner of Police:

Provided that there may be more than one office of Deputy Commissioner of Police and that, if there are more than one such office, the holders thereof shall rank among themselves according to the dates of their respective appointments.

Appointment,
etc. of other
members of
Police Force

212.(1) Subject to the provisions of article 211 (1), the power to make appointments to any offices in the Police Force of or the above the rank of Inspector, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Police Service Commission.

(2) The Police Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under the preceding paragraph to any one or more of the members of the Commission or to the Commissioner of Police or, in the case of the power to exercise disciplinary control, to any other member of the Police Force.

(3) The power to make appointments to any offices in the Police Force below the rank of Inspector, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Commissioner of Police.

(4) The Commissioner of Police may, by directions given in such manner as he or she thinks fit and subject to such conditions as he or she thinks fit, delegate any of his or her powers under the preceding paragraph to any other member of the Police Force.

(5) Parliament may provide that, where the power to exercise disciplinary control over any member of

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the Police Force (including the power to remove him from office) has been exercised under this article by any person (hereinafter referred to as “the disciplinary authority”) other than the Police Service Commission, the member of the Police Force in respect of whom it was exercised may appeal from the decision of the disciplinary authority to the Police Service Commission :

Provided that Parliament, or in the case of a decision of the disciplinary authority that is made in the exercise of a power delegated to that authority under the preceding paragraph, the Commissioner of Police may require appeals to be made to the Commissioner of Police or a member of the Police Force of higher rank that the disciplinary authority before they are made to the Police Service Commission.

(6) Parliament may make provision with respect to offences against Police Force discipline and the punishment that may be imposed for any such offence, and any power to exercise disciplinary control (including any power to remove a person from office) or to determine an appeal from a decision to exercise such a power that is exercisable by any person or authority under the provisions of this article shall be exercised in accordance with any such provision.

(7) Before the Police Service Commission or any member of the Commission or of the Police Force exercising powers under this article appoints to or to act in an office in the Police Force 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 Public or the Teaching Service Commission, the Police Service Commission or that member shall consult the Commission in which that power is vested.

(8) If provision is made under any law –

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- (a) alerting the ranks into which the Police Force established by the Police Act is divided; or
- (b) establishing a police force other than that Police Force, or alerting the ranks into which any other police force is divided,

the Police Service Commission may by order specify some rank (other than the rank of Inspector) in the Police Force or, as the case may be, in that other police force as being equivalent to the rank of Inspector as it exists in the Police Force under the law in force immediately before the commencement of this Constitution and the references in paragraphs (1) and (3) to the rank of Inspector shall then be construed as if they were in relation to the Police Force, or, as the case may be, in relation to that other police force, references to the rank for the time being so specified.

Ethnic Relations Commission. [11 of 2000]

212A. There shall be an Ethnic Relations Commission.

Composition of Ethnic Relations Commission. [11 of 2000]

212B.(1) The Ethnic Relations Commission shall consist of –

- (a) not less than five nor more than fifteen members nominated by entities, by a consensual mechanism determined by the National Assembly, including entities, representative of religious bodies, the labour movement, the private business sector, youth and women, after the entities are determined by the votes not less than two - thirds of

all elected members of the National Assembly;

- (b) a member who shall be a nominee, without the right to vote, chosen by and from each of the following commissions to be established under this Constitution, Indigenous People's Commission, Women and Gender Equality Commission, Commission for the Rights of the Child and Human Rights Commission.

(2) The Chairperson and Deputy Chairperson of the Ethnic Relations Commission shall be elected by and from the members of the Commission, other than the members mentioned in paragraph (1)(b), using such consensual mechanism as the Commission deems fit.

(3) Subject to paragraph (4) (a), members of the Ethnic Relations Commission shall be appointed for three years and shall be eligible for re-appointment.

- (4) (a) Of those members first appointed under paragraph (1) (a), a majority shall hold office for four years.
- (b) Of those members nominated under paragraph (1) (b), the duration which each shall serve shall, subject to paragraph (3), be determined by the Commission by and from which that member is nominated.

(5) The Ethnic Relations Commission shall establish a secretariat comprising its officers and employees.

(6) The Ethnic Relations Commission shall appoint a Chief Executive Officer, who shall serve as a Secretary, and such other officers and employees as may be necessary for the efficient discharge of its functions, on such terms and conditions as may be determined by the Commission, save that the remuneration of the officers and employees shall be subject to the approval of the National Assembly.

(7) The provisions of article 225 shall apply to the office of a member of the Ethnic Relations Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Speaker of the National Assembly except that, in relation to a member other than the Chairperson of the Ethnic Relations Commission or a member for the time being acting in the office of the Chairperson under the next following paragraph, the prescribed authority for the purposes of the said paragraph (6) shall be the Chairperson of the Ethnic Relations Commission.

(8) If the office of the Chairperson of the Ethnic Relations Commission is vacant or the holder thereof is for any reason unable to perform the functions of his or her office, then the holder of the office of the Deputy Chairperson, or if that office is vacant or the holder thereof is for any reason unable to perform the functions of the office of Chairperson, such one of the other members, other than a member nominated under paragraph (1)(b), as the Commission may appoint, shall act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue so to act until a person has been appointed to the office of Chairperson and has assumed the functions of that office or, as the case may be, until the Chairperson, or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed

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those functions.

(9) If the office of a member of the Ethnic Relations Commission, other than the Chairperson, is vacant or if the holder thereof is acting as Chairperson under the preceding paragraph or is for any other reason unable to perform the functions of his or her office, a person may be appointed to act in that office and the provisions of paragraph (1) shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this paragraph shall, subject to the provisions of paragraph (7), continue to act until a person has been appointed to the office in which he or she is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

Ethnic
Relations
Commission
Tribunal.
[11 of 2000]

212C. Parliament may by law provide for the establishment of an Ethnic Relations Commission Tribunal and such law may make provision for –

- (a) the constitution of the Tribunal;
- (b) all matters relating to the jurisdiction, powers and duties of the Tribunal;
- (c) all matters relating to appeals from decisions of the Tribunal including a right of appeal to the Court of Appeal on the points of law; and
- (d) the practice and procedure of the Tribunal.

Functions of
the Ethnic
Relations

212D. The functions of the Ethnic Relations Commission are to –

Commission.
[11 of 2000]

- (a) provide equality of opportunity between persons of different ethnic groups and to promote harmony and good relations between such persons;
- (b) promote the elimination of all forms of discrimination on the basis of ethnicity;
- (c) discourage and prohibit persons, institutions, political parties and associations from indulging in, advocating or promoting discrimination or discriminatory practices on the ground of ethnicity;
- (d) foster a sense of security among all ethnic groups by encouraging and promoting the understanding, acceptance and tolerance of diversity in all aspects of national life and promoting full participation by all ethnic groups in the social, economic, cultural and political life of the people;
- (e) promote educational and training programmes and research projects which provide for and encourage ethnic peace and harmony;
- (f) encourage and create respect for religious, cultural and other forms of diversity in a plural society;
- (g) promote arbitration, conciliation,

meditation and like forms of dispute resolution in order to secure ethnic harmony and peace;

- (h) establish mechanisms and procedures for arbitration, conciliation, mediation and like forms of dispute resolution that would ensure ethnic harmony and peace;
- (i) recommend to the National Assembly criteria to be considered for the purposes of deciding whether any person has committed acts of discrimination on the ground of ethnicity;
- (j) investigate complaints of racial discrimination and make recommendations on the measure to be taken if such complaints are valid, and where there is justification therefor, refer matters to the Human Rights Commission or other relevant authorities for further action to be taken;
- (k) monitor and review all legislation and all administrative acts or omissions relating to or having implications for ethnic relations and equal opportunities and, from time to time, prepare and submit proposals for revision of such legislation and administrative acts and omissions;

- (l) immediately report to the National Assembly and to all relevant authorities any proposed legislation which the Commission thinks may be contrary to the constitutional provisions relating to ethnicity;
- (m) promote equal access by persons of all ethnic groups to all public or other services and facilities provided by the Government or other bodies;
- (n) promote and encourage the acceptance and respect by all segments of the society of the social identity and cultural inheritance of all ethnic groups;
- (o) promote cooperation between all bodies concerned with the fostering of harmonious ethnic relations;
- (p) investigate on its own accord or on request from the National Assembly or any other body any issues affecting ethnic relations;
- (q) identify and analyse factors inhibiting the attainment of harmonious relations between ethnic groups, particularly barriers to the participation of any ethnic group in social, economic, commercial, financial, cultural and political endeavours and recommend to the National

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Assembly and any other relevant public or private sector bodies how these factors should be overcome;

- (r) monitor and report to the National Assembly on the status and success of implementation of its recommendations;
- (s) study and make recommendations to the National Assembly on any issue relating to ethnic affairs, including conducting studies to determine whether race relations are improving;
- (t) monitor and make recommendations to the National Assembly and other relevant public and private sector bodies on factors inhibiting the development of harmonious relations between ethnic groups and on barriers to the participation of all ethnic groups in social, economic, commercial, financial, cultural and political life of the people;
- (u) consult with other bodies and persons to determine and specify the perceived needs of various ethnic groups for the fostering of the harmonious relations;
- (v) train and enlist the aid of such persons and acquire such facilities as the Commission deems necessary to accomplish its functions;

- (w) make recommendations on penalties, including the prevention of any political party or any person from participating in elections for a specified period, to be imposed for any breach of the provisions of this Constitution or any law dealing with ethnicity;
- (x) do all other acts and things as may be necessary to facilitate the efficient discharge of the functions of the Commission.

Reports.
[11 of 2000]

212E. (1) As soon as practicable after the end of each financial year of its operation, the Ethnic Relations Commission shall submit to the Speaker of the National Assembly an annual report of the activities of the Commission for the preceding year and the report shall be laid before the Assembly within thirty days of its submission if the Assembly is sitting, and if the Assembly is not sitting, at the first meeting on the resumption of the Assembly.

(2) The Chairperson of the Ethnic Relations Commission may at any time submit a special report to the Speaker to the National Assembly with respect to any aspect of the functions of the Commission which the Commission considers should in the national interest be brought to the attention of the Assembly because it affects a wide cross section of the populace and there could be disastrous consequences if a report thereon is not brought to the attention of the Assembly.

(3) The Commission shall prepare and publish an executive summary of its annual report; and shall publish every special report in the media, having

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wide accessibility, within forty-five days of the submission of such special report of the National Assembly.

Rules.
[11 of 2000]

212F.(1) Subject to the approval of the National Assembly, the Ethnic Relations Commission shall make rules relating to the procedure of the Commission and to such administrative and managerial matters relating to the procedure of the Commission as it thinks fit; and until such rules relating to the procedure are made, the Commission shall regulate its own procedure.

(2) Except paragraphs (2), (6) and (7) and the provisos to paragraphs (4) and (5), the provisions of article 226 shall *mutatis mutandis* apply to the Ethnic Relations Commission.

THE RIGHTS COMMISSIONS

COMMISSIONS FOR THE PROMOTION AND ENHANCEMENT OF THE FUNDAMENTAL RIGHTS AND THE RULE OF LAW

Rights
Commissions.
[5 of 2001]

212G.(1) There are hereby established the following Commissions, the goals of which are to strengthen social justice and the rule of law –

- (a) the Human Rights Commission;
- (b) the Women and Gender Equality Commission;
- (c) the Indigenous Peoples' Commission;
- (d) the Rights of the Child Commission

(2) A Commission shall be independent, impartial, and shall discharge its functions fairly.

(3) A Commission shall be funded by a direct charge upon the Consolidated Fund in accordance with article 222A.

Appointment.
[5 of 2001]

212H.(1) Subject to paragraph (2)(a), members of a Commission shall be appointed for three years and shall be eligible for re-appointment.

(2) Of those members –

- (a) first appointed, other than the members nominated by and from another Commission, a majority shall hold office for four years;
- (b) nominated by and from another Commission, the duration for which each shall serve shall not exceed the remaining tenure on the Commission by and from which they have been nominated;

(3) The provisions of article 225 shall apply to the office of a member of a Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Speaker of the National Assembly except that, in relation to a member other than the Chairperson or a member for the time being acting in the office of the Chairperson under paragraph (5), the prescribed authority for the purposes of paragraph (6) shall be the Chairperson; this paragraph does not apply to the Chairperson of the Human Rights Commission.

(4) The Chairperson and the Deputy Chairperson of a Commission, other than the Human Rights Commission, shall be elected by and from the members of the Commission, other than the members nominated by

and from another Commission, using such consensual mechanism as the Commission deems fit.

(5) If the office of Chairperson of a Commission, other than the Human Rights Commission, becomes vacant or the holder thereof is for any reason unable to perform the functions of the office, then the holder of the office of the Deputy Chairperson, or if that office is vacant, or the holder thereof is for any reason unable to perform the functions of the office of the Chairperson, one of the other members, other than the members nominated by and from another Commission, may be elected to act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue to act until a person has been elected to the office of the Chairperson and has assumed the functions of that office or, as the case may be, until the Chairperson or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(6) If the office of a member of a Commission other than the Chairperson is vacant or if the holder thereof is acting as Chairperson under the preceding paragraph or is for any other reason unable to perform the functions of his or her office, a person may be appointed to act in that office and the provisions in relation of the appointment of members of a Commission shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this paragraph shall, subject to the provisions of paragraph (3), continue to act until a person has been appointed to the office in which he or she is acting and has assumed the functions thereof or, as the case may be until the holder thereof resumed those functions.

Secretariat.
[5 of 2001]

212I. The Human Rights Commission Secretariat shall be the Secretariat for all the Commissions established

under article 212G (1).

General
functions.
[5 of 2001]

212J. (1) In addition to the functions prescribed by this Constitution, the functions of a Commission, may be provided for by law; any addition thereto in the Constitution shall be approved by the votes of a majority of all the elected members of the National Assembly but the removal or variation of any function shall be by the votes of not less than two-thirds of such members.

(2) A Commission, other than the Human Rights Commission, shall have the following general functions –

- (a) to monitor and review all existing and proposed legislation, policies and measure for compliance with the objects and matters under its purview and report the need for any amendment to any legislation to the National Assembly;
- (b) to educate the public regarding the nature and content of matters under its purview;
- (c) to carry out or cause to be carried out research and studies concerning the observance of matters under its purview and report the findings and recommendations thereon to the National Assembly;
- (d) to investigate complaints of, or initiate investigations into, violations of the rights under its purview;

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- (e) to resolve disputes or rectify acts or omissions by mediation, conciliation or negotiation;
- (f) to take appropriate action on behalf of persons whose rights have been, are being, or are likely to be violated;
- (g) to liaise with government and non-governmental organisations, and other relevant bodies to address the complaints and concerns of persons regarding matters under its purview;
- (h) to enlist the aid of such persons as may be necessary to give expert advice in order to facilitate its functions;
- (i) to prepare and submit reports to the National Assembly pertaining to any convention, covenant or charter relating to the objects of a Commission; and
- (j) to do all other acts and things as may be necessary to facilitate the efficient discharge of its functions.

(3) A Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its functions to any one or more members of the Commission, or such officers of the Commission as the Commission may determine.

(4) A Commission may require any person or

any entity, including a ministry or government department, to provide it with information –

- (a) for the purpose of any investigation it is carrying out or proposes to carry out; and
- (b) on the measures that have been or are being taken for the implementation of the decisions of, or the compliance, with any provision relating to the Commission.

(5) For the purposes of paragraph (4), Parliament may by law make provision for offences and penalties for non-compliance with any requirement, or decision of, or provision relating to a Commission.

(6) A Commission may at any stage refer any matter to the Human Rights Commission or any other relevant authority or entity to be dealt with.

Rights
Commissions
Tribunal.
[5 of 2001]

212K. Parliament may by law provide for the establishment of a Rights Commissions Tribunal and such law may make provision for –

- (a) the Constitution of the Tribunal;
- (b) all matters relating to the jurisdiction, powers and duties of the Tribunal;
- (c) all matters relating to appeals from decisions of the Tribunal to the Court of Appeal; and
- (d) the practice and procedure of the Tribunal

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Appeals.
[5 of 2001]

212L. (1) A decision of a Commission is subject to an appeal to the Rights Commissions Tribunal.

(2) A decision of the Rights Commissions Tribunal is subject to an appeal to the Court of Appeal.

Reports.
[5 of 2001]

212M. (1) As soon as practicable after the end of each year of its operation, a Commission shall submit to the National Assembly an annual report of the activities of the Commission during the preceding year and the report shall be tabled in the Assembly within thirty days of its submission if the National Assembly is sitting, if not, at the first meeting of the Assembly thereafter.

(2) The Chairperson of a Commission may at any time submit a special report to the National Assembly with respect to any aspect of the functions of a Commission which the Commission considers should, in the national interest, be brought to the attention of the National Assembly.

(3) For the purposes of paragraph (2) a matter is of national interest if –

- (a) it affects a wide cross-section of the populace; and
- (b) disastrous consequences would result if a report on the matter were not brought to the attention of the National Assembly.

(4) A Commission shall prepare and publish an executive summary of its annual report; provided that each special report shall be published in media having wide accessibility in Guyana within forty-five days of its submission to the National Assembly.

THE HUMAN RIGHTS COMMISSION

Human
Rights
Commission.
[5 of 2001]

212N.(1) The Human Rights Commission shall promote the observance of and respect for, and protect and investigate violations of the rights recognised by this Constitution and any other law relating to equality of opportunity and treatment (hereinafter referred to as “the rights”).

(2) The Human Rights Commission shall consist of a full time Chairperson and such other members, to be appointed in accordance with this article.

(3) The Chairperson of the Human Rights Commission shall be a person who holds or has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such court or who is qualified to be appointed as any such judge, or any other fit and proper person with expertise or experience in human rights matters, to be appointed by the President from a list, not unacceptable to the President, of six person submitted by the Leader of the Opposition after meaningful consultation with such entities as appear to him or her to have expertise or experience in human rights matters:

Provided that if the Leader of the Opposition fails to supply such a list to the President, the President shall request him or her to do so within a stated period, failing which the President shall in his or her own deliberate judgment, appoint a person who holds or has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who is qualified to be appointed as any such judge.

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(4) In addition to the Chairperson, there shall be four members of the Commission who shall be the Chairpersons of the Ethnic Relations Commission, Women and Gender Equality Commission, Indigenous Peoples' Commission and Rights of the Child Commission.

(5) The Deputy Chairperson of the Human Rights Commission shall be elected by and from the other members of the Commission using such consensual mechanism as the Commission deems fit.

(6) If the office of Chairperson of the Commission becomes vacant, or the holder thereof is for any reason unable to perform the functions of the office, then the holder of the office of the Deputy Chairperson, or if that office is vacant or the holder thereof is for any reason unable to perform the functions of the office of Chairperson, one of the other members may be elected to act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue so to act until a person has been appointed to the office of Chairperson and has assumed the functions of that office or, as the case maybe, until the Chairperson or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(7) The President may, with the concurrence of the Leader of the Opposition, remove the Chairperson from office.

Functions of
the
Human
Rights
Commission
[5 of 2001]

2120. (1) The functions of the Human Rights Commission are to –

- (a) monitor the observance of the international instruments to which the Government accedes from time

Fourth
Schedule

to time, including those already acceded to and specified in the Fourth Schedule;

- (b) monitor and assess compliance with the rights and report the need for any amendment of the law relating thereto to the National Assembly;
- (c) educate the public regarding the nature and content of the rights;
- (d) make recommendations to any person or any entity, including a ministry or government department, relating to matters affecting compliance with and adoption of measures for the promotion of the rights;
- (e) carry out or cause to be carried out research and studies concerning the observance of the rights and report the findings and recommendations thereon to the National Assembly;
- (f) monitor and review all existing and proposed legislation, policies and measures for compliance with the rights and report the need for any amendment to any legislation to the National Assembly;
- (g) investigate complaints of, or initiate investigations into, violations of the rights;

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- (h) resolve disputes or rectify acts or omissions by mediation, conciliation or negotiation;
- (i) liaise with governmental and non-governmental organisations, and other relevant bodies to address the complaints and concerns of persons regarding matters under its purview;
- (j) take appropriate action on behalf of persons whose rights have been, are being or are likely to be violated;
- (k) enlist the aid of such persons as may be necessary to give expert advice in order to facilitate its functions;
- (l) establish as part of its Secretariat, such units as are necessary for, *inter alia*, the purpose of monitoring compliance with the laws relating to the rights, and for educating employers in the public and private sector and the general public on desirable employment practices;
- (m) prepare and submit reports to the National Assembly pertaining to any convention, covenant or charter relating to the objects of the Commission ; and
- (n) do all other acts and things as may be necessary to facilitate the

efficient discharge of the functions of the Commission.

(2) If any person alleges that any of the rights has been, is being or is likely to be contravened in relation to him or her, then, without prejudice to any other action which is lawfully available to him or her, with respect to the same matter, the Commission shall have the power to institute legal action on behalf of the complainant for redress.

Secretariat.
[5 of 2001]

212P. (1) Each Commission established under article 212G(1) shall appoint on such terms and conditions as may be approved by the National Assembly, a Chief Executive Officer (who shall serve as its Secretary), and the secretary and assistants to the Chief Executive Officer.

(2) The Human Rights Commission shall be responsible for the efficient functioning of the Secretariat of the Commissions, which shall comprise –

- (a) the Chief Executive Officers of the Commissions who shall be Directors in the Secretariat;
- (b) the secretaries and assistants to the Chief Executive Officers; and
- (c) other officers and employees, as may be necessary for the efficient discharge of the functions of the Secretariat, who shall be appointed on such terms and conditions as may be determined by the Commission.

(3) The Secretariat shall be subdivided into four units, there being a unit for each Commission dealing with

issues under the purview of that Commission and headed by its Chief Executive Officer.

(4) Before a Commission appoints to act in any office referred to in paragraph (1) or (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 Commission 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 (1) or (2) that officer shall, subject to the said paragraph (1) or (2), remain a public officer unless the appointing Commission determines that that office shall be independent of the Commission from which he or she has been appointed.

(6) Nothing in this article shall be construed as precluding a Commission from appointing any person who is not a public officer to an office referred to in paragraph (1) or (2).

(7) The emoluments and allowances payable to the members of a Commission shall be proposed by the Parliamentary Sectoral Committee for Social Services in consultation with the Commission and approved by the National Assembly.

THE WOMEN AND GENDER EQUALITY COMMISSION

Women
and Gender
Equality
Commission.
[5 of 2001]

212Q. (1) The Women and Gender Equality Commission shall promote national recognition and acceptance that women's rights are human rights, respect for gender equality and the protection, development and attainment of gender equality.

(2) The Women and Gender Equality Commission shall consist of persons from each of the categories referred to in subparagraphs (a), (b) and (c), appointed by the President as follows –

- (a) not less than five nor more than fifteen members, with expertise in women's and gender equality issues, nominated by entities, by a consensual mechanism determined by the National Assembly, after the entities which shall include the Women's Advisory Committee of the Trade Union Congress, are determined by the votes of not less than two-thirds of all the elected members of the National Assembly;
- (b) the Administrator of the Women's Affairs Bureau, by whatever name that office is designated; and
- (c) a member who shall be a nominee, without the right to vote, chosen by and from each of the following commissions: the Human Rights Commission, Ethnic Relations Commission, Indigenous Peoples' Commission, and Rights of the Child Commission.

Functions of
the Women
and Gender
Equality
Commission.
[5 of 2001]

212R. In addition to the functions specified in article 212J(2), the functions of the Women and Gender Equality Commission are to –

- (a) promote the issues related to the enhancement of the status of

- women, girls and gender issues;
- (b) promote the integration of women's needs and interests and mainstreaming of gender issues;
 - (c) promote the empowerment of women;
 - (d) promote women's rights as human rights;
 - (e) raise the awareness of the contribution of women and problems faced by women including the recognition and value of unwaged work;
 - (f) promote women's needs, interests, and concerns in the wider spectrum of economic and social development and address both the practical and strategic needs of women as being different from those of men;
 - (g) educate and monitor employers and the public on desirable employment practices in relation to women;
 - (h) monitor compliance and make recommendations for the compliance with international instruments to which the Government accedes from time to time, including those already acceded to and which relate to the purpose of the Commission;

- (i) evaluate any system of personal and family law, customs and practices or any law likely to affect gender equality or the status of women and make recommendations to the National Assembly with regard thereto;
- (j) recommend and promote the implementation of legislation and the formulation of policies and measures so as to enhance and protect the status of women;
- (k) promote, initiate or cause to be carried out research and the creation of databases on women and gender related issues including those of health, especially reproductive health, violence against women and the family, and their socio-economic and political status, as the Commission may deem relevant or as may be referred to it by the National Assembly;
- (l) promote consultation and cooperation with women's organisations in relation to decision-making that affects the lives of women;
- (m) recommend training and technical assistance to support initiatives by and for women and girls; and
- (n) promote the participation of

women in national decision-making.

THE INDIGENOUS PEOPLES' COMMISSION

Indigenous Peoples' Commission.
[5 of 2001]

2125. (1) The Indigenous Peoples' Commission shall establish mechanisms to enhance the status of indigenous peoples and to respond to their legitimate demands and needs.

(2) The Indigenous Peoples' Commission shall consist of persons of the categories referred to in subparagraphs (a) , (b) and (c) appointed by the President as follows –

- (a) not more than ten members nominated by entities, by a consensual mechanism determined by the National Assembly, after the entities are determined by the votes of not less than two-thirds of all elected members of the National Assembly;
- (b) three persons, at least one being a woman nominated by the Toshaos Council and two persons including one woman nominated by Amerindian organisations determined by the votes of not less than two-thirds of all elected members of the National Assembly ; and
- (c) a member who shall be a nominee, without the right to vote, chosen by and from each of the following Commissions: the Human Rights

Commission, Ethnic Relations Commission, Women and Gender Equality Commission and the Rights of the Child Commission.

Functions of the Indigenous Peoples' Commission. [5 of 2001]

212T. In addition to the functions specified in article 212J (2) the functions of the Indigenous Peoples' Commission are to –

- (a) promote and protect the rights of the indigenous peoples;
- (b) raise awareness of the contribution of, and problems faced by, indigenous peoples;
- (c) promote empowerment of the indigenous peoples, especially with regard to the village council in the local government system and the scope and authority of the Council of Toshias;
- (d) make recommendations on economic and education policies to advance the interest of the indigenous peoples;
- (e) make recommendations for the protection, preservation and promulgation of the cultural heritage and language of the indigenous peoples;
- (f) promote consultation and cooperation with indigenous peoples especially with regard to their participation in national

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- decision-making and other decisions that affect their lives;
- (g) recommend and promote training and technical assistance to support initiative by and for indigenous peoples;
 - (h) educate employers and the public and make recommendations to improve employment practices related to indigenous peoples; and
 - (i) monitor the need for and recommend where appropriate the establishment of mechanisms to provide counselling for indigenous peoples.

THE RIGHTS OF THE CHILD COMMISSION

Rights of the
Child
Commission.
[5 of 2001]

212U. (1) The Rights of the Child Commission shall promote initiatives that reflect and enhance the well-being and rights of the child.

(2) The Rights of the Child Commission shall consist of persons from each of the categories referred to in subparagraphs (a) and (b) appointed by the President as follows –

- (a) not less than five nor more than fifteen members, with expertise in issues affecting children, nominated by entities, by a consensual mechanism determined by the National Assembly, after the entities which shall include the Ministry

with responsibility for children's affairs, the Ministry of Education, and organisations representing the interests of youth, are determined by the votes of not less than two-thirds of all elected members of the National Assembly; and

- (b) a member who shall be a nominee, without the right to vote, chosen by and from each of the following commissions: the Human Rights Commission, Ethnic Relations Commission, Women and Gender Equality Commission and Indigenous Peoples' Commission.

Functions
of the Rights
of the Child
Commission.
[5 of 2001]

212V. In addition to the functions specified in article 212J (2) the functions of the Rights of the Child Commission are to –

- (a) promote the rights and interests of, and respect for the views of, children;
- (b) ensure that the rights and interests of children are taken into account at all levels of Government, other public bodies, and private organisations when decisions and policies affecting children are taken;
- (c) monitor compliance and make recommendations for the compliance with international instruments to which the Government accedes from time to

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time, including those already acceded to and which relate to the purpose of the Commission;

- (d) consult on and participate in the preparation of the Annual Report on the Rights of the Child to be submitted by the Government to the United Nations Committee on the Rights of the Child;
- (e) ensure that children have effective means of redress if their rights are being violated;
- (f) monitor, evaluate and make recommendations on policies, procedures and practices of organisations, bodies and institutions in order to promote the rights of the child.

THE PUBLIC PROCUREMENT COMMISSION

Public
Procurement
Commission.
[5 of 2001]

212W.(1) There shall be a Public Procurement Commission the purpose of which is to monitor public procurement and the procedure therefor in order to ensure that the procurement of goods, services and execution of works are conducted in a fair, equitable, transparent competitive and cost effective manner according to law and such policy guidelines as may be determined by the National Assembly.

(2) The Commission shall be independent, impartial, and shall discharge its functions fairly.

Composition
of the
Public
Procurement
Commission.
[5 of 2001]

212X. (1) The Public Procurement Commission shall consist of five members who shall have expertise and experience in procurement, legal, financial and administrative matters.

(2) The President shall appoint the members of the Commission after such members have been nominated by the Public Accounts Committee and approved by not less than two-thirds of the elected members of the National Assembly.

Appointment.
[5 of 2001]

212Y. (1) Subject to paragraph (2), members of the Commission shall be appointed for three years and shall be eligible for re-appointment, for one other term of office, not earlier than three years after the end of their first term.

(2) Of those members first appointed, two shall hold office for four years.

(3) The Chairperson and Deputy Chairperson of the Commission shall be elected by and from the members of the Commission using such consensual mechanism as the Commission deems fit.

(4) The provisions of article 225 shall apply to the office of a member of the Commission, and for the purpose of paragraphs (4) and (6) of that article the prescribed authority shall be the Speaker of the National Assembly except that, in relation to a member other than the Chairperson or a member for the time acting in the office of the Chairperson under the next following paragraph, the prescribed authority for the purposes of paragraph (6) shall be the Chairperson.

(5) If the office of Chairperson of the Commission is vacant or the holder thereof is for any reason unable to perform the functions of the office, then the holder of the office of Deputy Chairperson, or if that

office is vacant, or the holder thereof is for any reason unable to perform the functions of the office of Chairperson, one of the other members, may be elected to act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue so to act until a person has been elected to the office of Chairperson and has assumed the functions of that office or, as the case may be, until the Chairperson or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(6) If the office of a member of the Commission other than the Chairperson is vacant or if the holder thereof is acting as Chairperson under the preceding paragraph or is for any other reason unable to perform the functions of his or her office, a person may be appointed to act in that office and the provisions in relation to the appointment of members of the Commission shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this paragraph shall, subject to the provisions of paragraph (4), continue to act until a person has been appointed to the office in which he or she is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

Secretariat.
[5 of 2001]

212Z. (1) The Commission shall establish a secretariat comprising its officer and employees.

(2) The Commission shall appoint a Chief Executive Officer, who shall serve as Secretary, and such other officers and employees as may be necessary for the efficient discharge of its functions. The terms and conditions of the appointment of the Chief Executive Officer and the two most senior officers shall be subject to the approval of the National Assembly.

(3) The Chief Executive Officer shall be under the direction and control of the Commission and he or she shall be responsible for the other officers and employees of the Commission who shall directly report to him or her.

(4) The Chief Executive Officer may, as directed by the Commission, attend meetings of public procurement bodies.

(5) Before the Commission appoints 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 Commission shall first seek and obtain the approval of the Commission in which that power is vested.

(6) Where a public officer is appointed to an office referred to in paragraph (2) that officer shall, subject to the said paragraph (2), remain a public officer unless the Commission determines that office shall be independent of any other Commission.

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

(8) The emoluments and allowances payable to the members of the Commission shall be determined by the Public Accounts Committee in consultation with the Commission.

Functions of
the Public
Procurement
Commission.
[5 of 2001]

212AA. (1) The functions of the Public Procurement Commission are to –

- (a) monitor and review the functioning of all public procurement systems to

ensure that they are in accordance with law and such policy guidelines as may be determined by the National Assembly;

- (b) promote awareness of the rules, procedures and special requirements of the procurement process among suppliers, constructors and public bodies;
- (c) safeguard the national interest in public procurement matters, having due regard to any international obligations;
- (d) monitor the performance of procurement bodies with respect to adherence to regulations and efficiency in procuring goods and services and execution of works;
- (e) approve of procedures for public procurement, disseminate rules and procedures for public procurement and recommend modifications thereto to the public procurement entities;
- (f) monitor and review all legislation, policies and measures for compliance with the objects and matters under its purview and report the need for any legislation to the National Assembly;
- (g) monitor and review the procurement procedures of the

ministerial, regional, and national procurement entities as well as those of project execution units;

- (h) investigate complaints from suppliers, contractors and public entities and propose remedial action;
- (i) investigate cases of irregularity and mismanagement, and propose remedial action;
- (j) initiate investigations to facilitate the effective functioning of public procurement systems;
- (k) enlist the aid of such persons, as may be necessary, to assist the Commission with expert advice;
- (l) liaise with and refer matters to the police and the Auditor General; and
- (m) do all other acts and things as may be necessary to facilitate the efficient discharge of the functions of the Commission.

(2) In addition to the functions prescribed in this Constitution, the functions of the Commission may be provided for by law; any addition thereto in the Constitution shall be approved by the votes of a majority of all the elected members of the National Assembly but the removal or variation of any function shall be by the votes of not less than two-thirds of such members.

(3) The Commission may, by directions in writing and subject to such conditions as it thinks fit,

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delegate any of its functions to any one or more members of the Commission, or to such officers of the Commission as the Commission may determine.

Appeals.
[5 of 2001]

212BB. (1) A decision of the Commission is subject to an appeal to the Tribunal established under article 212 EE.

(2) A decision of the Tribunal is subject to an appeal to the Court of Appeal.

Reports.
[5 of 2001]

212CC. (1) As soon as practicable after the end of each year of its operation, the Commission shall submit to the National Assembly an annual report of the activities of the Commission during the preceding year and the report shall be tabled in the Assembly within thirty days of its submission if the Assembly is sitting, if not, at the first meeting of the Assembly thereafter.

(2) The Chairperson of the Commission may at any time submit a special report to the National Assembly with respect to any aspect of the functions of the Commission which the Commission considers should, in the national interest, be brought to the attention of the National Assembly.

(3) For the purposes of paragraph (2) a matter is of national interest if –

- (a) it affects a wide cross-section of the populace; and
- (b) disastrous consequences would follow if a report on the matter were not brought to the attention of the Assembly.

(4) The Commission shall prepare and publish an executive summary of its annual report; and shall publish every special report in media having wide accessibility in

Guyana within forty-five days of the submission of such special report to the National Assembly.

Requirement
to provide
information.
[5 of 2001]

212DD. (1) The Commission may require any person, or any entity, including a ministry or government department, to provide it with information –

- (a) for the purposes of any investigation it is carrying out or proposes to carry out; and
- (b) on the measures that have been or are being taken for the implementation of the decisions of, or the compliance with any provision relating to, the Commission.

(2) For the purposes of paragraph (1), Parliament may by law make provision for offences and penalties for non-compliance with any requirement, or decision of, or provision relating to the Commission.

Public
Procurement
Commission
Tribunal.
[5 of 2001]

212EE. Parliament may by law provide for the establishment of a Public Procurement Commission Tribunal and such law may make provision for –

- (a) the Constitution of the Tribunal;
- (b) all matters relating to the jurisdiction, powers and duties of the Tribunal;
- (c) all matters relating to appeals from decisions of the Tribunal to the Court of Appeal; and
- (d) the practice and procedure of the Tribunal.

**PRINCIPLES FOR THE ESTABLISHMENT OF
COMMISSIONS**

Principles for
the establish-
ment of
Commissions.
[5 of 2001]

212FF. The Standing Committee for Constitutional Reform shall, in addition to its functions under article 119A, continually review the operations of and the need for existing commissions and for the establishment of new commissions, applying the following considerations –

- (a) the issues to be addressed by a commission must be of national interest or affect a wide cross-section of the populace;
- (b) there could be disastrous consequences for the society and the country at large if the issues are not attended to and monitored;
- (c) there is the assessment that it is important that political interference be eschewed in relation to the issues to be addressed;
- (d) the operating procedures and mechanisms for choosing the members of a commission are such as would minimise the influence of the Executive and maximise public perception of impartiality in the operations of the commission;
- (e) in accordance with the need for efficiency and cost-effectiveness, commissions should be kept small and be staffed by persons of appropriate skill and experience;

- (f) where commissions, especially those of a protective nature as opposed to administrative commissions, are established to address similar issues, the limitations of human and financial resources should be considered and common secretariats should be established.

PENSIONS

Protection of
pension
rights.

213. (1) Subject to the provisions of the next following article, the law applicable to any benefits to which this article applies shall, in relation to any person who has been granted, or who is eligible for the grant of such benefits, be that in force on the relevant date or any later law that is not less favourable to that person.

(2) In the preceding paragraph "the relevant date" means –

- (a) in relation to any benefits granted before the commencement of this Constitution, the date on which those benefits were granted;
- (b) in relation to any benefits granted or to be granted after the commencement of this Constitution to or in respect of any person who was a public officer before such commencement, the day immediately preceding such commencement; and
- (c) in relation to any benefits granted or to be granted to or in respect of

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any person who becomes a public officer after the commencement of this Constitution, the date on which he or she becomes a public officer.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his or her case, the law specified by him or her in exercising the option shall, for the purposes of this article, be deemed to be more favourable to him or her than the other law or laws.

(4) Any benefit to which this article applies (not being a benefit that is a charge upon some other public funds of Guyana) shall be a charge upon the Consolidated Fund.

(5) In this article references to the law applicable to any benefits to which this article applies include (without prejudice to their generality) references to any law relating to the time at which and the manner in which any person may retire in order to become eligible for those benefits.

Power of Commissions in relation to pensions, etc.

214. (1) Where under any law any person or authority has a discretion –

- (a) to decide whether or not any benefits to which this article applies shall be granted; or
- (b) to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the appropriate Commission concurs in the refusal to grant the benefits or,

as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any benefits to which this article applies that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him or her shall be the greatest amount for which he or she is eligible unless the appropriate Commission concurs in his or her being granted benefits of a smaller amount.

(3) The appropriate Commission shall not concur under paragraph (1) or paragraph (2) in action taken on the ground that any person who holds or has held the office of a Judge of the Supreme Court of Judicature, Director of Public Prosecutions, Auditor General or Commissioner of Police has been guilty of misbehaviour unless he or she has been removed from office by reason of such misbehaviour.

(4) In this article “the appropriate Commission” means –

- (a) in the case of benefits for which any person may be eligible or that have been granted in respect of the service in the public service of a person who, immediately before he or she ceased to be a public officer –
 - (i) was a Judge of the Supreme Court of Judicature, or was the Director of Public Prosecutions and provision was then in force under article 203(6), or was subject to the disciplinary control of the Judicial Service Commission, the Judicial Service

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- Commission;
- (ii) was a teacher in public service, the Teaching Service Commission;
- (iii) was the Commissioner of Police or other member of the Police Force, the Police Service Commission; and

(b) in any other case, the Public Service Commission.

Interpretation.

215. (1) The preceding two articles apply to any benefits that are or may become payable under any law providing for the grant of pensions, compensation, gratuities or other like allowances to persons in respect of their service as public officers or to the widows, children, dependants or personal representatives of such persons in respect of such service.

(2) The said two articles and paragraph (1) of this article shall have effect as if service as a Judge of the Supreme Court of Judicature or as the Clerk or Deputy Clerk of the National Assembly were service in the public service.

PUBLIC SERVICE APPELLATE TRIBUNAL

Establishment
and functions
of the Public
Service
Appellate
Tribunal.
[17 of 1984]

215A.(1) Parliament may, by law, provide for the establishment of a Public Service Appellate Tribunal (hereafter in this article referred to as the "Tribunal") consisting of a chairman and such number of other members, being not less than two, as may be provided by that law.

(2) The chairman of the Tribunal shall be appointed by the President by instrument in writing and shall be a person who –

- (a) holds or has held the office of a Judge of the Court of Appeal; or
- (b) is qualified to be appointed as a Judge of the Court of Appeal and holds or has held the office of a Judge of the High Court.

(3) A person shall be disqualified for appointment as a member of the Tribunal if he or she is a member of the Public Service Commission, the Teaching Service Commission or the Police Service Commission or is a public officer.

(4) A person shall not, while he or she holds the office of a member of the Tribunal or within a period of three years commencing with the date on which he or she last held that office, be eligible for appointment to, or act in, any office power to make appointments to which is vested by this Constitution in –

- (a) the President acting in accordance with the advice of, or after consultation with, the Public Service Commission or the Police Service Commission; or
- (b) the Public Service Commission, the Teaching Service Commission or the Police Service Commission.

(5) Where a Tribunal has been established under paragraph (1), an appeal shall lie to the Tribunal, subject to such conditions (if any) as may be specified by or under the law by which it is established, in respect of any matter so specified, being a matter in respect of which the Public Service Commission, the Teaching Service

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Commission, the Police Service Commission or the Commissioner of Police is empowered to make a decision under any provision of this Constitution:

Provided that no appeal shall lie to the Tribunal

—

- (a) from any decision of the Public Service Commission or the Police Service Commission in respect of appointment to any office to which article 225 applies or in respect of any matter concerning any person holding, or acting in, any such office;
- (b) from any decision of the Public Service Commission, the Teaching Service Commission or the Police Service Commission in respect of any appointment, in a case where such appointment is required by this Constitution to be made after consultation with such Commission; and
- (c) from any decision of the Public Service Commission in respect of any matter referred to in article 201(6) to which the Judicial Service Commission has concurred.

(6) Subject to the provisions of this Constitution, the law referred to in paragraph (1) may make, or authorise the making of, provisions with respect to all matters connected with the Tribunal.

(7) Without prejudice to the generality of the

provisions of the preceding paragraph, but subject to the provisions of this article, such law may, in particular, make, or authorise the making of, provisions for all or any of the following matters –

- (a) the Constitution of the Tribunal;
- (b) the terms and conditions of the appointment of the members of the Tribunal and the qualifications and disqualifications for such appointment;
- (c) the matters in respect of which, and the persons by whom, an appeal to the Tribunal may be brought and all other matters relating to the jurisdiction, powers and duties of the Tribunal;
- (d) the manner in which and the conditions, if any, subject to which an appeal to the Tribunal may be brought, including conditions with respect to the time within which the appeal may be brought and the fee payable in respect of the appeal or any application made to the Tribunal; and
- (e) the practice and procedure of the Tribunal.

(8) The provisions of article 225 (which relate to removal from office) shall apply to the office of the chairman of the Tribunal, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister.

(9) For the avoidance of doubt it is hereby declared that the prohibition in article 226(6) against enquiry in any court into the question referred to therein shall not apply to proceedings before the Tribunal.

(10) Save as otherwise provided by Parliament by law, the Public Service Commission, the Teaching Service Commission, the Police Service Commission, the Commissioner of Police, every person to whom any power of any of the aforesaid Commissions or of the Commissioner of Police has been delegated and every public officer, whether or not he or she is a person to whom any such power has been delegated, and authority shall give effect as expeditiously as possible to the decision of the Tribunal on any appeal brought to it or any application made to it.

(11) In deciding any question arising in an appeal brought to the Tribunal or an application made to it, no member of the Tribunal shall be subject to the direction or control of any other person or authority.

(12) Any question whether –

- (a) the Tribunal or any bench thereof has validly performed any function vested in it by or under this Constitution; or
- (b) any member of the Tribunal or any other person has validly performed any function in relation to the work of the Tribunal,

shall not be enquired into in any court.

**TITLE 8
FINANCE**

Establishment
of
Consolidated
Fund.

216. All revenues or other moneys raised or received by Guyana (not being revenues or other moneys that are payable, by or under an Act of Parliament, into some other fund established for any specific purpose or that may, by or under such an Act, be retained by the authority that received them for the purpose of defraying the expenses of that authority) shall be paid into and form one Consolidated Fund.

Withdrawals
from
Consolidated
Fund
or other public
funds.

217. (1) No moneys shall be withdrawn from the Consolidated Fund except –

- (a) to meet expenditure that is charged upon the Fund by this Constitution or by any Act of Parliament; or
- (b) where the issue of those moneys has been authorised by an Appropriation Act; or
- (c) where the issue of those moneys has been authorised under article 219.

(2) Where any moneys are charged by this Constitution or any Act of Parliament upon the Consolidated Fund or any other public fund, they shall be paid out of that fund by the Government of Guyana to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by or under an Act of Parliament.

(4) Parliament may prescribe the manner in

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which withdrawals may be made from the Consolidated Fund or any other public fund.

Authorisation
of
expenditure
from
Consolidated
Fund by
appropriation.
[6 of 2001]

218.(1) The Minister responsible for Finance or any other Minister designated by the President shall cause to be prepared and laid before the National Assembly before or within ninety days after the commencement of each financial year estimates of the revenues and expenditure of Guyana for that year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or any Act of Parliament) have been approved by the Assembly a Bill, to be known as an Appropriation Bill, shall be introduced in the Assembly, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found –

- (a) that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; or
- (b) that any moneys have been expended for any purpose in excess of the amount appropriated for that purpose by the Appropriation Act or for a purpose for which no amount has been appropriated by that Act,

a supplementary estimate or, as the case may be, a

statement of excess showing the sums required or spent shall be laid before the Assembly by the Minister responsible for finance or any other Minister designated by the President.

Authorisation
of
expenditure
in advance of
appropriation.
[6 of 2001]

219. (1) Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister responsible for finance may authorise the withdrawal of moneys from the Consolidate Fund for the purpose of meeting expenditure necessary to carry on the services of the Government of Guyana until the expiration of four months from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.

(2) Where a supplementary estimate or statement of excess is laid before the National Assembly under paragraph (3) of the preceding article or paragraph (2) of the next following article and is approved by the Assembly by resolution, that resolution shall be authority for the issue of the sums in question from the Consolidated Fund, but the aggregate sums the issue of which is so approved shall be included, under appropriate heads, in a supplementary Appropriation Bill.

(3) Where at any time Parliament has been dissolved before any provision or any sufficient provision is made under this Title for the carrying on of the Government of Guyana, the Minister responsible for finance may authorise the withdrawal of such sums from the Consolidated Fund as he or she may consider necessary for the purpose of meeting expenditure on the public services until the expiry of a period of three months commencing with the date on which the National Assembly first meets after that dissolution, but a statement of the expenditure so authorised shall, as soon as practicable be laid before the Assembly by the Minister

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responsible for finance or any other Minister designated by the President and, when the statement has been approved by the Assembly, that expenditure shall be included, under the appropriate heads, in the next Appropriation Bill.

Contingencies
Fund.
[6 of 2001]

220.(1) Parliament may make provision for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance to make advances from that Fund if he or she is satisfied that there is an urgent need for expenditure for which no other provision exists.

(2) Where any advance is made from the Contingencies Fund a supplementary estimate shall, as soon as practicable be laid before the National Assembly by the Minister responsible for finance or any other Minister designated by the President for the purpose of authorising the replacement of the amount so advanced.

Public debt.

221. The public debt of Guyana and service of that debt (including the interest on that debt, sinking funds payments and redemption moneys in respect of that debt and costs, charges and expenses of and incidental to the management of that debt) are hereby charged on the Consolidated Fund.

Remuneration
of holders of
certain offices.

222.(1) There shall be paid to the holders of the offices to which this article applies such salaries and such allowances as may be prescribed by or under any law or, in the case of the Clerk and Deputy Clerk of the National Assembly, as may be determined under article 158(4).

(2) The salaries and allowances payable to the holders of the offices to which this article applies are hereby charged on the Consolidated Fund.

(3) The salary and allowances payable to the

holder of any office to which this article applies and his or her other terms of service shall not be altered to his or her disadvantage after his or her appointment and, for the purposes of this paragraph, in so far as the terms of service of any person depend upon the option of that person, the terms for which he or she opts shall be taken to be more advantageous to him or her than any other terms for which he or she might have opted.

(4) This article applies to the offices of President, Speaker, Deputy Speaker, Clerk and Deputy Clerk of the National Assembly, any Judge of the Supreme Court of Judicature, members of the Elections Commission, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission or the Police Service Commission, the Ombudsman, the Director of Public Prosecutions, the Auditor General and the Commissioner of Police.

Overarching
clause on
financial
autonomy.
[6 of 2001]
Third
Schedule

222A. In order to assure the independence of the entities listed in the Third Schedule –

- (a) the expenditure of each of the entities shall be financed as a direct charge on the Consolidated Fund, determined as a lump sum by way of an annual subvention approved by the National Assembly after a review and approval of the entity's annual budget as a part of the process of the determination of the national budget;
- (b) each entity shall manage its subvention in such manner as it deems fit for the efficient discharge of its functions, subject only to conformity with the financial

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practices and procedures approved by the National Assembly to ensure accountability; and all revenues shall be paid into the Consolidated Fund;

- (c) the terms and conditions applicable to grants and donations destined for the entities shall be approved by, and disbursements shall be made through, such appropriate government agency or department as determined by the National Assembly.

Office and
functions of
Auditor
General.
[6 of 2001]

223. (1) There shall be an Auditor General for Guyana, whose office shall be a public office.

(2) The public accounts of Guyana and of all officers and authorities of the Government of Guyana (including the Commissions established by this Constitution) and the accounts of the Clerk of the National Assembly and of all courts in Guyana shall be audited and reported on by the Auditor General, and for that purpose the Auditor General or any person authorised by him or her in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Auditor General shall submit his or her reports to the Speaker of the National Assembly, who shall cause them to be laid before the National Assembly.

(4) In the exercise of his or her functions under this Constitution, the Auditor General shall not be subject to the direction or control of any person or authority.

(5) The Public Accounts Committee may exercise general supervision over the functioning of the

office of the Auditor General in accordance with the Rules, Policies and Procedures Manual for the functioning of the office of the Auditor General as prepared by the Auditor General and approved by the Public Accounts Committee.

(6) The Auditor General shall prepare and submit to the Public Accounts Committee reports, on a quarterly basis, on the performance and operation of the office of the Auditor General.

(7) The Auditor General shall submit annually a copy of an Annual Systems and Financial Audit Report with respect to the office of the Auditor General to the Public Accounts Committee.

(8) In this article –

- (a) “Public Accounts Committee” means the Public Accounts Committee established by order 70(2) of the Standing Orders of the National Assembly; and
- (b) “public accounts of Guyana” includes the accounts of –
 - (i) all central and local government bodies and entities;
 - (ii) all bodies and entities in which the State has a controlling interest; and
 - (iii) all projects funded by way of loans or grants by any foreign State or organisation.

TITLE 9
MISCELLANEOUS

Rules of court.

224. Where under this Constitution any provision may be made by rules of court, rules for the purpose may be made by the authority for the time being empowered generally, by law in force in Guyana, to make rules of court in relation to civil proceedings in the High Court or, in so far as the provision relates to the bringing of any appeal to, or the institution of other proceedings in, or the practice and procedure of, the Court of Appeal, by the authority so empowered in relation to civil proceedings in that Court.

Removal from
office of
certain
persons.
[17 of 2000]

225. (1) Where it is provided in this Constitution that this article shall apply to any office, a person holding such office (in this article referred to as “the office”) shall not be removed therefrom or suspended from the exercise of the functions thereof except in accordance with the provisions of this article; and the prescribed authority for the purpose of paragraph (4) or (6) shall, in relation to any office, be the authority prescribed for that purpose by the provision of this Constitution by which this article is applied to that office.

(2) The officer may be removed from office only for inability to discharge the functions of his or her office (whether arising from infirmity of body or mind or any other cause whatsoever) or for misbehaviour.

(3) The officer shall be removed from office by the President if the question of his or her removal from office has been referred to a tribunal appointed under this article and the tribunal has recommended to the President that the officer ought to be removed from office for

inability as aforesaid or for misbehaviour.

(4) If the prescribed authority advises the President that the question of removing the officer from office under this article ought to be investigated then –

- (a) the President shall act in accordance with the advice of the Judicial Service Commission, in appointing a tribunal which shall consist of a Chairman and not less than two other members, selected by the Judicial Service Commission from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who are qualified to be admitted to practice in Guyana as attorneys-at-law and have been so qualified for such period as is prescribed by Parliament for the purposes of subparagraph (b) of article 129 (1) in relation to the office of Puisne Judge; and
- (b) that tribunal shall enquire into the matter and report on the facts thereof to the President and recommend to him or her whether the officer ought to be removed under this article.

(5) The provisions of the Commissions of Inquiry Act as in force immediately before the commencement of this Constitution shall, subject to the

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provisions of this article and of article 197(9), apply as nearly as may be in relation to tribunals appointed under this article, or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act, and in such application shall have effect as if they formed part of this Constitution.

(6) If the question of removing the officer from office has been referred to a tribunal under this article, the President, acting in accordance with the advice of the prescribed authority, may suspend the officer from performing the functions of his or her office, and any such suspension may at any time be revoked by the President, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the President that the officer should not be removed from office.

Powers and
procedure
of
Commissions.
[2 of 2000
5 of 2001]

226. (1) Save as otherwise provided in this Constitution, in the exercise of its functions under this Constitution a Commission shall not be subject to the direction or control of any other person or authority.

(2) Subject to affirmative resolution of the National Assembly, a commission shall make rules, relating to the procedure of the commission; and until such rules are made, the commission shall regulate its own procedure.

(3) A Commission may, subject to the next following paragraph, act notwithstanding any vacancy in its membership or the absence of any member, and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

(4) Any question for decision by a Commission

shall be determined by a majority of the votes of the members of the Commission present and voting at a meeting of the Commission at which a quorum is present, and if on any question the votes are equally divided the Chairman or other member presiding shall have a casting vote in addition to his or her original vote:

Provided that, where the votes are equally divided on the question whether any power to remove a public officer from his or her office should be exercised, the Chairman or other member presiding shall not have a casting vote and the Commission shall be deemed to have decided that that power should not be exercised.

(5) For the purposes of the preceding paragraph a quorum shall consist, in the case of the Elections Commission, of the Chairman and not less than four members, two of whom have been appointed by the President in his or her own deliberate judgment and two from among members appointed on the advice of the Leader of the Opposition tendered in accordance with article 161 (3) (b) :

Provided that if at any stage of a duly summoned meeting a quorum is not present, due to the absence of members therefrom –

- (i) without just cause, such just cause being determined by the Chairman, the meeting shall stand adjourned to a day not later than two calendar days; or
- (ii) in the case of the declaration of the results of the election of the President, the meeting shall stand adjourned to the following day,

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at the same time and place and notice of such adjournment shall be given to the absent members, and if at the adjourned meeting a quorum is not present, the members then present, being not less than four including the Chairman, shall be deemed to constitute a quorum and any decision made at that or any such meeting shall be valid in law and binding.

(6) Any question whether –

- (a) a Commission has validly preformed any function vested in it by or under this Constitution;
- (b) any member of a Commission or any other person has validly performed any function delegated to such member or person by a Commission in pursuance of the provisions of this Constitution; or
- (c) any member of a Commission or any other person has validly performed any other function in relation to the work of the Commission or in relation to any such function as is referred to in the preceding subparagraph,

shall not be enquired into in any court.

(7) In this article, except as otherwise provided or required by the context, the expression “Commission” means the Elections Commission, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission, or the Police Service Commission:

Provided that (without prejudice to the power of Parliament to make provision in relation to the functions of the Elections Commission) in the preceding paragraph that expression does not include the Elections Commission.

Disqualifica-
tion for
office of
persons
exciting racial
hostility.

227. Notwithstanding any provision of this Constitution relating to the making of appointments to, removal of persons from, or the vacation of, any office, Parliament may provide for the imposition of disqualification for any office prescribed by Parliament on any person convicted by a court of an offence relating to excitement of hostility or ill-will against any person or class of persons on the grounds of his or her or their race.

**TITLE 10
INTERPRETATION**

Appoint-
ments.

228. (1) Where any person has vacated any office established by this Constitution (including any office established under article 100, 124 or 125) he or she may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any public office, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this paragraph, then for the purposes of any function conferred upon the holder of that office the person last appointed shall be deemed to be the sole holder of the office.

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(3) The preceding paragraph shall have effect in relation to the office of any Judge of the Supreme Court of Judicature or the Clerk or Deputy Clerk of the National Assembly as if that office were a public office.

Resignations.

229. (1) Any person who is appointed or elected to or otherwise selected for any office established by this Constitution (including any office established under article 100, 124 or 125) may resign from that office and, save as otherwise provided by articles 156(1), 157 and 178(1), shall do so by writing under his or her hand addressed to the person or authority by whom he or she was appointed, elected or selected.

(2) The resignation of any person from any such office as aforesaid signified by writing under his or her hand shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorised by that person or authority to receive it or employed to assist that person in the performance of the functions of his or her office.

Vacation of office on attaining a prescribed age.

230. Where by this Constitution a person is required to vacate an office when he or she attains an age prescribed by or under the provisions of this Constitution, nothing done by him or her in the performance of the functions of that office shall be invalid by reason only that he or she has attained the age so prescribed.

231. [Article 231 repealed by Act No. 17 of 2000]

Interpretation.
[14 of 2000
17 of 2000]

232. In this Constitution, except as otherwise provided or required by the context –

“alien” means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

“attorney-at-law” means a person having a general right of audience in the Supreme Court of Judicature;

“Commissioner of Police” means the officer, however styled, commanding the Police Force;

“the Commonwealth” means Guyana and any country to which article 47 applies and any dependency of any such country;

“court” means any court of law in Guyana;

“elected member of the National Assembly” means any person elected as a member of the National Assembly pursuant to the provisions of paragraph(2) of article 60 or article 160(2);

“election” means an election of members to serve in the National Assembly or other elected body established by or under this Constitution, as the case may be;

“financial year” means any period of twelve months beginning on the first day of January in any year or such other date as Parliament may prescribe;

“Guyana” includes, in relation to any period before the day on which this Constitution commences, or anything done before that day, Guyana as it was before that day as well as the former Colony of British Guiana;

“law” includes any instrument having the force of law and any unwritten rule of law and “lawful” and “lawfully” shall be construed accordingly;

“local democratic organ” means any local government authority;

“consultation” or “meaningful consultation” means

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the person or entity responsible for seeking consultation shall –

- (a) identify the persons or entities to be consulted and specify to them in writing the subject of the consultation and an intended date for the decision on the subject of consultation;
- (b) ensure that each person or entity to be consulted is afforded a reasonable opportunity to express a considered opinion on the subject of the consultation; and
- (c) cause to be prepared and archived a written record of the consultation and circulate the decision to each of the persons or entities consulted;

“oath” includes affirmation;

First Schedule “oath of office” means, in relation to any office, the oath for the due execution of that office set out in the First Schedule to this Constitution or such other oath in that behalf as may be prescribed by Parliament;

“Parliament” means the Parliament of Guyana;

c 16:01 “the Police Force” means the Police Force established by the Police Act and includes any other police force established by or under an Act of Parliament to succeed to or to supplement the functions of that Force but does not include any police force forming part of any naval, military or air force or any police force established by any local democratic organ;

“public office” means an office of emolument in the public service and for the avoidance of doubt it is hereby declared that the expression includes the office of a teacher in the public service and any office in the Police Force;

“public officer” means the holder of any public office and includes any person appointed to act in any such office;

“the public service” means, subject to the provisions of paragraph (5), the service of the Government of Guyana in a civil capacity;

“regional democratic council” means the local democratic organ for any region established under article 72;

“session” means, in relation to the National Assembly, the sittings of the Assembly, commencing when it first meets after this Constitution comes into force or after the prorogation or dissolution of Parliament at any time and terminating when Parliament is prorogued or is dissolved without having been prorogued;

“sitting” means, in relation to the National Assembly a period during which the Assembly is sitting continuously without adjournment and includes any period during which the Assembly is in committee; and

“the State” means the Co-operative Republic of Guyana.

(2) In this Constitution unless it is otherwise provided or required by the context –

- (a) a reference to power to make appointments to any office shall be construed as including a reference to

power to make appointments on promotion and transfer and to confirm appointments and to power to appoint a person to act in or perform the functions of that office at any time when the office is vacant or the holder thereof is unable (whether by reason of absence or infirmity of mind or body or any other cause) to perform the functions of that office; and

- (b) a reference to the holder the office by the term designating his or her office shall be construed as including a reference to any person for the time being lawfully acting in or performing the functions of that office.

(3) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint or elect a person, to perform the functions of an office if the holder thereof is unable to perform those functions, the validity of any performance of those functions by the person so directed or of any appointment or election made in exercise of that power shall not be called in question in any court on the ground that the holder of the office was not or is not unable to perform the functions of the office.

(4) For the purposes of this Constitution, a person shall not be considered to hold a public office by reason only that he or she is in receipt of a pension or other like allowance in respect of public service.

(5) In this Constitution references to the public service shall not be construed as including service in –

- (a) the Office of President, Minister, Attorney General, Parliamentary Secretary, Speaker, Deputy Speaker, Leader of the Opposition, Ombudsman, or member of the National Assembly;
- (b) the office of a member of any Commission established by this Constitution or of the Public Service Appellate Tribunal;
- (c) the office of a member of any board, committee or other similar body (whether incorporate or not) established by any law in force in Guyana;
- (d) the office of any Judge of the Supreme Court of Judicature or Clerk or Deputy Clerk of the National Assembly except for the purposes of the next following paragraph and save as otherwise provided in any other provision of this Constitution; or
- (e) any body of persons organised as a national service within the meaning of article 154.

(6) References in this Constitution to the power to remove a public officer from his or her office shall be construed as including a reference to any power conferred by any law to require or permit that officer to retire from the public service,

Provided that –

- (a) nothing in this paragraph shall be construed as conferring on any person or authority power to require a Judge of the Supreme Court of Judicature, the Director of Public Prosecutions, the Commissioner of Police, the Auditor General or the Clerk or Deputy Clerk of the National Assembly to retire from his or her office; and
- (b) any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Commission that, if he or she were to retire, would be the appropriate Commission in relation to him or her for the purposes of article 214.

(7) Any provision in this Constitution that vests in any person or authority the power to remove any public officer from his or her office shall be without prejudice to the power of any person or authority to abolish that office or to any law providing for the compulsory retirement of public officers generally or any class of public officers on attaining an age specified by or under that law.

(8) Subject to article 226 (6) and article 215A (12), no provision of this Constitution that any person or authority shall not be subject to the direction or control of any other

person or authority in the exercise of any functions shall be construed as precluding a court from exercising jurisdiction in relation to any question whether that person or authority has exercised those functions in accordance with this Constitution or any other law.

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(9) The Interpretation and General Clauses Act as in force immediately before the commencement of this Constitution, shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applied for the purpose of interpreting, and in relation to, any Act in force immediately before such commencement, and in such application shall have effect as if it formed part of this Constitution.

Article 232

FIRST SCHEDULE

**FORM OF OATH
OATH OF OFFICE**

I....., do hereby solemnly declare that I will bear true faith and allegiance to the People of Guyana that I will faithfully execute the office ofwithout fear or favour, affection or ill will and that in the execution of the functions of that office I will honour, uphold and preserve the Constitution of the Co-operative Republic of Guyana.

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Articles 4,5,6
and 6A

SECOND SCHEDULE

1. The National Flag
2. The Coat of Arms
3. The National Anthem
4. The National Pledge

THE NATIONAL FLAG



THE GOLDEN ARROWHEAD

The heraldic description of the Guyana Flag - known as the "Golden Arrowhead" - presented by the Garter King of Arms from the Royal College of Arms , England, reads as follows -

“Vert upon a pile throughout issuant from the dexter or, fimbriated argent; white upon a pile gules fimbriated sable, upon the same base”.

The design and the colour of Guyana Flag are interpreted as follows -

The green background symbolises the agricultural and forested nature of Guyana.

The white symbolises its waters and rivers potential.

The golden arrow symbolises Guyana’s mineral wealth and its forward thrust.

The black border the endurance that will sustain the golden arrow’s forward thrust into the future.

The red triangle represents the zeal and dynamic nature of the nation building that lies before this young and independent country.

The Flag is designed to be of a proportion 3* 5 on land and 1* 2 at sea.

The colour proportions are:

green 50" gold 24" white 67" and black 1".

GUYANA COAT-OF-ARMS



The design of Guyana's Coat of Arms is interpreted as follows:-

The Amerindian head-dress, the Cacique Crown, symbolises the Amerindians as the indigenous people of the country.

The two diamonds at the sides of the head-dress represent the country's mining industry.

The helmet, on which the Cacique Crown rests, is the monarchical insignia.

The two jaguars rampant, holding a pick-axe, a sugar cane, and a stalk of rice, symbolise labour and the two main agricultural industries of the country, sugar and rice.

The shield which is decorated with the national flower, the Victoria Regia Lily, is to protect the nation.

The three blue wavy barrulets represent the three great

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rivers and many waters of Guyana.

The Canje Pheasant at the bottom of the shield is a rare bird found principally in this part of the world, and represents the rich fauna of Guyana.

GUYANA NATIONAL ANTHEM

Dear land of Guy-a-na, of ri-vers and plains made rich by the
sun and lush by the rain. For good-ness and fair be-ness
ness - man and you. Your child - ren as - late you, dear land of the free.

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Dear land of Guyana, of rivers and plains made rich by
the sunshine and lush by the rains; Set gem-like and fair,
between mountains and sea, Your children salute you,
dear land of the free.

Green land of Guyana, our heroes of yore; Both bondsmen
and free, laid their bones on your shore; This soil they so
hallowed, and from them are we, All sons of one mother,
Guyana the free.

Great land of Guyana, diverse though our strains, We are
born of their sacrifice, heirs of their pains, And ours is the
glory their eyes did not see One land of six peoples,
united and free.

Dear land of Guyana, to you will we give our homage,
our service, each day that we live; God guard you, great
Mother, and make us to be More worthy our heritage -
land of the free.

THE NATIONAL PLEDGE

I pledge myself to honour always the flag of Guyana, and
to be loyal to my country, to be obedient to the laws of
Guyana, to love my fellow citizens, and to dedicate my
energies towards the happiness and prosperity of
Guyana.

Article 222A

THIRD SCHEDULE

ENTITIES

The Ethnic Relations Commission

The Human Rights Commission

The Women and Gender Equality Commission

The Indigenous Peoples' Commission The Rights of the
Child Commission The Judiciary

The Office of the Auditor General.

Article 154A,
212O(1)

FOURTH SCHEDULE

CONVENTIONS

Convention on the Rights of the Child.

Convention on the Elimination of All Forms of
Discrimination against Women.

Convention on the Elimination of All Forms of Racial
Discrimination.

Convention Against Torture and Other Inhuman or
Degrading Treatment or Punishment.

Covenant on Economic, Social and Cultural Rights.
Covenant on Civil and Political Rights.

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Inter-American Convention on the Prevention,
Punishment and Eradication of Violence against Women.

SUBSIDIARY LEGISLATION

Proc. 2/1976

**CONSTITUTION OF THE ORDERS OF
GUYANA**

PROCLAMATION

By Proclamation dated the 25th day of May, 1976, the President proclaimed the Constitution Orders of Guyana.

Citation. 1. These provisions may be cited as the Constitution of the Orders of Guyana.

Order of Guyana. 2. There shall be three Orders of Guyana, namely, the Order of Excellence of Guyana, the Order of Roraima of Guyana, and the Order of Service of Guyana.

Constitution of the Orders of Guyana. 3. Each Order of Guyana shall consist of the President and the Members and Honorary Members of the Order.

Membership of the Order of Excellence. 4. Every citizen of Guyana appointed to be a Member of the Order of Excellence of Guyana shall be a Member of the Order, and every person appointed to be an Honorary Member of the Order of Excellence of Guyana shall be an Honorary Member of the Order.

Membership of the Order of Roraima. 5. Every citizen of Guyana appointed to be a Member of the Order of Roraima of Guyana shall be a Member of the Order, and every person appointed to be an Honorary Member of the Order of Roraima of Guyana shall be an Honorary Member of the Order.

Membership of 6. (1) Every citizen of Guyana who is awarded the

the Order of Service of Guyana.

Cacique's Crown of Valour or the Cacique's Crown of Honour or the Golden Arrow of Courage or the Golden Arrow of Achievement or the Medal of Service or the President's Commendation for Brave Conduct or a Star or Medal in the Military or Disciplined Services Division shall be a Member of the Order of Service of Guyana.

(2) Every person who is awarded the Cacique's Crown of Valour or the Cacique's Crown of Honour or the Golden Arrow of Courage or the Golden Arrow of Achievement or the Medal of Service or the President's Commendation for Brave Conduct or a Star or Medal in the Military or Disciplined Services Division on an Honorary basis shall be an Honorary Member of the Order of Service of Guyana.

The Order of Excellence of Guyana

Style and designation.

7. The Order of Excellence of Guyana shall consist of one class of Members styled and designated Members.

Order of Excellence to be highest award.

8. (1) Appointment as a Member of the Order of Excellence shall be the highest award of the State.

(2) Only citizens of Guyana of distinction and eminence in a field of human endeavour of either national or international significance or importance shall be eligible for appointment as Members of the Order of Excellence.

(3) Awards within the Order of Excellence may be made posthumously but a deceased recipient shall not be regarded as a Member of the Order of Excellence for the purpose of any provision limiting the number of Members of the Order.

Use of title and decoration of Members of

9. A citizen of Guyana who has been appointed a Member of the Order of Excellence is entitled to—

[Subsidiary]

Constitution of the Orders of Guyana

the Order of
Excellence.

- (a) have the suffix O.E. placed after his or her name; and
- (b) wear as a decoration on appropriate occasions the insignia and the ribbon of the Order as prescribed in the rules of the Order.

Maximum
number of
members of the
Order of
Excellence.
[Procl. 5/1981]

10. (1) Membership, other than Honorary Membership, of the Order of Excellence shall be limited to twenty-five living citizens of Guyana.

(2) The President may appoint to be Members of the Order of Excellence one citizen every year or such greater number as special circumstances may in his or her opinion require, so long as a vacancy exists.

Honorary
Members.

11. Any distinguished citizen of another country who has rendered valuable service to Guyana or whom for any other reason the State wishes to honour may be appointed as an Honorary Member of the Order of Excellence.

THE ORDER OF RORAIMA OF GUYANA

Style and
designation.

12. The Order of Roraima of Guyana consists of one class of Members styled and designated as Members.

Rank of Order
of Roraima.

13. (1) The Order of Roraima shall rank next to the Order of Excellence.

(2) The Order of Roraima may be awarded to any citizen of Guyana who has rendered outstanding service to Guyana.

(3) Awards within the Order of Roraima may be made posthumously but a deceased recipient is not regarded as a Member of the Order of Roraima for the

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purposes of section 15.

Use of title and
decoration of
Members of
the Order of
Roraima.

14. A citizen of Guyana who has been appointed a Member of the Use of title Order of Roraima is entitled to—

- (a) have the suffix O.R. placed after his or her name; and
- (b) wear as a decoration on appropriate occasions the insignia and the ribbon of the Order as prescribed in the rules of the Order.

Maximum
number of
Members of
the Order of
Roraima.
[Procl. 5/1981
Procl. 4/1988]

15. (1) Membership, other than Honorary Membership, of the Order of Roraima shall be limited to thirty-five living citizens of Guyana.

(2) The President may appoint to be members of the Order of Roraima one citizen every year of such greater number as special circumstances may in his or her opinion require, so long as a vacancy exists.

Honorary
Members of
the Order of
Roraima.

16. Any distinguished citizen of another country who has rendered valuable service to Guyana or whom for any other reason the State wishes to honour may be appointed as an Honorary Member of the Order of Roraima.

THE ORDER OF SERVICE OF GUYANA

Order of
Service of
Guyana.

17. The Order of Service of Guyana shall consist of persons to whom awards specified in section 18 have been made, whether as Members or Honorary Members.

Awards in the
Order of
Service of
Guyana.

18. (1) The following general awards within the Order of Service may be made—

- (a) the Cacique's Crown of Honour;

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- (b) the Golden Arrow of Achievement;
- (c) the Medal of Service.

(2) The following special awards within the Order of Service may be made for courage and bravery —

- (a) the Cacique's Crown of Valour;
- (b) the Golden Arrow of Courage;
- (c) the President's Commendation for Brave Conduct.

(3) The following awards within the Order of Service may be made for military service and for service in the Police, Prisons and Fire Services —

- (a) Military Service —
 - (i) The Military Service Star;
 - (ii) The Military Service Medal;
 - (iii) The Efficiency Medal
- (b) Police, Prisons and Fire Services —
 - (i) The Disciplined Services Star for Distinguished Service;
 - (ii) The Disciplined Services Medal for Meritorious Service;
 - (iii) The Disciplined Services Medal for Long Service and Good Conduct.

(4) Awards within the Order of Service may be made posthumously but a deceased recipient shall not be

regarded as a Member of the Order of Service for the purpose of any provision limiting the number of Members of the Order.

The Cacique's
Crown of
Honour.
[Procl. 1/1978]

19. (1) The Cacique's Crown of Honour shall subject to section 39 be the first grade of the Order of Service.

(2) The Cacique's Crown of Honour may be awarded to –

- (a) any citizen of Guyana who has either –
 - (i) rendered service of an exceptionally high quality beyond the normal call of duty in the public service, local government services, social and voluntary services, industry or trade unions, or in any other area of public service;
 - (ii) achieved excellence of national or international standing and recognition in the arts, professions, sciences or sport or in any other area of activity;
- (b) any institution, organisation, body corporate or group of persons deserving of official recognition for its contribution to the national economy through a substantial and sustained increase in production or in export earnings or for its achievement of a significant advance, leading to increased efficiency, in the application of

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technology to a production or development process in industry or for any other significant achievement or contribution to national development.

Use of designation and decoration by person awarded the Cacique's Crown of Honour.
[Procl. 1/1978]

20. The award of Cacique's Crown of Honour —

- (a) to a person shall entitle him or her to have the suffix C.C.H. placed after his or her name and to wear as a decoration the insignia and ribbon prescribed for recipients of the Cacique Crown of Honour in the rules of the Order;
- (b) under section 19(2)(b) shall not be subject to the limitations imposed by sections 25 and 26 and shall entitle the recipient to display during the ensuing period of five years an emblem of the award, in particular, on the packaging of, or on, goods produced by it, on office stationery, in its advertisements and on articles used by employees of the recipient, in the course of their duties.

The Golden Arrow of Achievement.
[Procl. 1/1978]

21. (1) The Golden Arrow of Achievement shall subject to section 39 be the second grade of the Order of Service.

(2) The Golden Arrow of Achievement may be awarded to —

- (a) any citizen of Guyana who has either—

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the rules of the Order;

- (b) under section 21(b) shall not be subject to the limitations imposed by sections 25 and 26 and shall entitle the recipient to display during the ensuing period of five years an emblem of the award, in particular, on the packaging of, or on, goods produced by it, on office stationery, in its advertisements and on articles used by employees of the recipient, in the course of their duties

The Medal of Service.
[Procl. 1/1978]

23. (1) The Medal of Service shall be the third grade of the Order of Service of Guyana.

(2) The Medal of Service may be awarded to –

- (a) any citizen who has given service of a special quality deserving of official recognition or has given not less than ten years' service with exceptional dedication in the public service, in local government services, in the voluntary and social services, in industry or the trade unions or in any other area of service to the community;
- (b) any institution, organisation, body corporate or group of persons deserving of official recognition for its contribution to the national economy through a substantial and sustained increase in production or in export earnings or for its achievement of a significant

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Allocation of
awards.
[Procl. 5/1981]

26. The President may award—

- (a) the Cacique's Crown of Honour to a maximum of two citizens of Guyana every year or such greater number as special circumstances may in his or her opinion require, so long as vacancies exist;
- (b) the Golden Arrow of Achievement to a maximum of five citizens of Guyana every year or such greater number as special circumstances may in his or her opinion require, so long as vacancies exist;
- (c) the Medal of Service to a maximum of ten citizens of Guyana every year or such greater number as special circumstances may in his or her opinion require so long as vacancies exist.

Award of a
higher grade in
the Order of
Service.
[Procl. 5/1981]

27. Where a person who holds an award under section 18 (1), is given a higher award thereunder, he or she shall return his or her insignia and ribbon relating to the lower award to the Chancellor of the Order and shall wear the insignia and ribbon of the higher award and use the suffix of the higher award after his or her name.

The
Cacique's
Crown of
Valour.

28. (1) The Cacique's Crown of Valour shall be awarded for the highest acts of bravery in circumstances of great danger involving serious risk to life.

(2) Where the award is made to a person who already holds the Cacique's Crown of Honour for distinguished services other than bravery, he or she shall return the insignia and ribbon relating to the latter award to

the Chancellor of the Order and shall wear the special insignia for bravery, which consists of the normal insignia of the Cacique's Crown of Honour with the words "For Valour" emblazoned on the reverse side of the Medal, and the ribbon edged in scarlet to denote bravery. In addition, the person shall wear a silver bar on his or her ribbon to denote that he or she holds both awards.

(3) For any second or subsequent act of bravery meriting similar recognition a person awarded the Cacique's Crown of Valour shall be awarded a bronze bar to be worn on the ribbon for each such act.

(4) A person to whom the Cacique's Crown of Valour has been awarded shall be entitled to—

- (a) have the C.C.V. placed after his or her name;
- (b) wear as a decoration the insignia and ribbon prescribed for the recipients of the Cacique's Crown of Valour in the rules of the Order.

The Golden Arrow of Courage.

29. (1) The Golden Arrow of Courage shall be the second highest award for bravery.

(2) For any second or subsequent act of bravery meriting similar recognition a person awarded the Golden Arrow of Courage shall be awarded a bronze bar to be worn on the ribbon for each such act.

(3) A person to whom the Golden Arrow of Courage has been awarded is entitled to—

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- (a) have the suffix A.C. placed after his or her name; and
- (b) wear as a decoration the insignia and ribbon prescribed for recipients of the Golden Arrow of Courage in the rules of the Order.

President's
Commenda-
tion for Brave
Conduct.

30.(1) The President's Commendation for Brave Conduct shall be awarded for lesser acts of bravery deserving of official recognition by the State.

(2) The award shall bear no medal but a person so recognised shall wear a typical Guyana leaf in gold in miniature as prescribed in the rules on occasions when medals or ribbons are to be worn. He or she shall also receive a citation signed by the President over the Seal of Guyana.

The Military
Service Star.

31. (1) The Military Service Star shall be the highest award of the State for military service by officers of the Guyana Defence Force and shall be awarded for gallantry in action or service of an exceptionally high quality beyond the normal call of duty.

(2) A person to whom the Military Service Star has been awarded is entitled to—

- (a) have the suffix M.S.S. placed after his or her name; and
- (b) wear as a decoration on appropriate occasions the insignia and ribbon prescribed in the rules of the Order.

The Military
Service Medal.

32.(1) The Military Service Medal may be awarded in respect of military service by members of the Guyana

Defence Force for gallantry in action or other distinguished service beyond the normal call of duty.

(2) A person to whom the Military Service Medal has been awarded is entitled to—

- (a) have the suffix M.S.M. placed after his or her name; and
- (b) wear on appropriate occasions the insignia and ribbon prescribed in the rules of the Order.

The Efficiency Medal.

33. The Efficiency Medal may be awarded in respect of military service to officers and other ranks of the Guyana Defence Force who complete not less than ten years efficient service.

The Profile Prisons and Fire Services awards.

34. The Disciplined Services Star for Distinguished Service or the Disciplined Services Medal for meritorious service or the Disciplined Services Medal for long service and good conduct may be awarded to a citizen in respect of service as a member of the Police Force or the Prisons Service or the Fire Brigade. The insignia and ribbons of these awards shall show the respective services in respect of which they were awarded.

The Disciplined Services Star.

35. (1) The Disciplined Services Star shall be the highest award of the State for distinguished service beyond the normal call of duty in the Police Force or the Prisons Service or the Fire Brigade.

(2) A person to whom the Disciplined Services Star has been awarded is entitled to—

- (a) have the suffix D.S.S. placed after his or her name; and

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- (b) wear as a decoration on appropriate occasions the insignia and ribbon prescribed in the rules of the Order.

The
Disciplined
Services Medal
for meritorious
service.

36. (1) The Disciplined Services Medal for meritorious service shall be awarded for sustained and dedicated service of a high order.

(2) A person to whom the Disciplined Services Medal for meritorious service has been awarded is entitled to—

- (a) have the suffix D.S.M. placed after his or her name; and
- (b) wear as a decoration on appropriate occasions the insignia and ribbon prescribed in the rules of the Order.

The
Disciplined
Services Medal
for long service
and good
conduct.

37. The Disciplined Services Medal for long service and good conduct shall be awarded under the following conditions—

- (a) the award shall be granted after the completion of fifteen years' continuous whole-time service;
- (b) the person recommended shall have no entry in his or her defaulters' record for a period of twelve years; and
- (c) not more than two bars shall be awarded and each bar shall be awarded after an interval of five years.

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Power to make
rules
governing
precedence.

43. The Chancellor of the Orders shall make rules governing the Order of precedence of Honours in Guyana.

Advisory
Council.

44. There shall be an Advisory Council for the Orders, hereinafter called "the Council", comprised of—

- (a) the Chancellor of the Supreme Court of Judicature, who shall be the Chairman of the Council;
- (b) not less than five nor more than seven other members (hereinafter called "the appointed members"), who shall be citizens of Guyana and who shall be appointed as follows, that is to say—
 - (i) not more than four members appointed by the President acting after consultation with the Prime Minister;
 - (ii) one member appointed by the President after consultation with the Leader of the Opposition;
 - (iii) one member appointed by the President acting in accordance with his or her own deliberate judgement;
 - (iv) one other member appointed by the President acting after consultation with the Prime Minister, from

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among citizens of
Guyana who are
members of the Order
of Excellence of
Guyana:

Provided that the Advisory Council may act notwithstanding any vacancy in its membership or the absence of any member.

Vacation of
office by
appointed
members of the
Council.

45. (1) The office of an appointed member of the Council shall become vacant—

- (a) if he or she resigns from that office by writing under his or her hand addressed to the President ;
- (b) at the expiration of three years from the date of his or her appointment or at such earlier time as may be specified in the instrument by which he or she was appointed; or
- (c) if he or she is appointed to the office of Chancellor of the Supreme Court of Judicature.

(2) Any appointed member whose term of office has expired shall be eligible for re-appointment.

Functions of
the Council.

46. The Council shall—

- (a) consider nominations of citizens of Guyana made by ministries of the Government through the permanent secretaries, nominations made by any organisation approved by the Council and nominations initiated

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by members of the Council for—

- (i) appointments to the Order of Excellence of Guyana or the Order of Roraima of Guyana; or
 - (ii) awards within the Order of Service of Guyana;
- (b) submit to the President a list of persons whom the Council recommend for appointment to the Order of Excellence of Guyana, the Order of Roraima of Guyana or for awards within the Order of Service of Guyana;
- (c) advise the President in respect of any other matters concerning the Orders.

The Secretary
General.
[Procl.5/1981]

47. The Permanent Secretary to the Office of the President or any such person as he or she may designate for the purpose shall be the Secretary- General of the Orders and as such shall maintain the records of the Orders and of the Council, arrange investitures and perform such other functions as the President may direct.

Other
officials.

48. (1) The President may appoint such other officials of the Orders as he or she, in his or her discretion, considers advisable.

(2) A person shall not be deemed to be a member of any of the Orders by reason only of his or her being a member of the Advisory Council or an official of the Orders.

Making of
awards.

49. The President, after satisfying himself that the

[Procl.5/1981] recommendations are in order, may approve the recommendations made by the Council.

Appointments and awards to be under Seal. **50.** All appointments to and awards within the three Orders, shall be made by instrument signed by the President and sealed with the Seal of Guyana and shall have effect from the date of affixing of the under Seal. Seal, unless another effective date is specified in the Instrument.

Review of maximum number of members of the Order. **51.** The Cabinet may, on the recommendation of the Advisory Council tendered through the President, review the maximum number of members prescribed for any of the Orders.

TERMINATION OF MEMBERSHIP

Termination of Membership of Orders. **52.** (1) A person shall cease to be a Member or an Honorary Member of an Order upon—

- (a) his or her death;
- (b) his or her resignation from the Order, which shall take effect from the date on which a resignation in writing is accepted by the President; or the revocation of his or her appointment or award by the President.

(2) The President may revoke the appointment of any person who is a member of the Order of Excellence of Guyana or of the Order of Roraima of Guyana or the award of any person who is a member of the Order of Service of Guyana on the advice of the Prime Minister after consultation with the Advisory Council.

Insignia and ribbon to be returned **53.** Where a person ceases to be a Member or an Honorary Member of an Order under the provisions of

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where person
ceased to be a
member of an
Order.

section 52 by virtue of his or her resignation from the Order or the revocation of his or her appointment or award, his or her insignia and ribbon shall be returned to the Chancellor of the Member of Orders.

SEAL

Necessity for
Seal.

54. No appointment, award, rule, or any revocation thereof, shall necessarily have effect unless it has been sealed with the Seal of Guyana.

CUSTODY OF INSIGNIA AND RECORDS

Custody of
insignia and
records.

55. The President shall have the custody of the insignia, ribbons and of all records of the Orders. The insignia and ribbons of the Orders shall remain the property of the Orders.

RULES OF THE ORDERS

Power to make
rules.

56. The President may make Rules, relating to the establishment, Power to government, investitures and insignia and ribbons of the Orders.

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**CONSTITUTION OF ORDERS OF GUYANA
(REPLACEMENT OF MEDALS,
MINIATURES AND RIBBONS)
RULES**

made under section 56

Citation.

1. These Rules may be cited as the Constitution of the Orders of Guyana (Replacement of Medals, Miniatures and Ribbons) Rules.

Application for replacement.

2. A recipient of an award under the Constitution of the Orders of Guyana may, where it becomes necessary to obtain a replacement of a medal ribbon or miniature issued to him or her in respect of that award, make an application to the Secretary-General for replacement of such medal, ribbon or miniature:

Provided that where the recipient is a member of a disciplined force, such application shall be made through the head of the disciplined force of which he or she is a member.

Application to state circumstances.

3. (1) An application made under rule 2 shall state the circumstances giving rise to the application and shall be signed by the applicant.

(2) The Secretary-General shall acknowledge the receipt of every such application.

Mode of dealing with application.

4. (1) Where the Secretary-General is satisfied that the circumstances set out in the application warrant its approval he or she shall inform the applicant of –

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Miniatures and Ribbons) Rules*

- (a) the cost of replacement of the medal, ribbon or miniature including, where it is to be posted to him or her, postage;
- (b) the date on which the medal, ribbon or miniature may be issued to him or her or to a person authorised in writing by him or her to be posted to his or her address where a request for posting has been made by him or her.

(2) Where the Secretary-General is not satisfied that the circumstances set out in the application warrant its approval he or she shall refuse the application and inform the applicant accordingly.

(3) Where an application is refused under rule 4 (2), the applicant may, within ten days of being informed of the refusal, appeal against such refusal to the Chairman of the Council whose decision on such appeal shall be final.

**PUBLIC SERVICE COMMISSION
RULES**

ARRANGEMENT OF RULES

RULE

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R 15/1/1999

**PUBLIC SERVICE COMMISSION
RULES**

made under the Constitution of Guyana

CHAPTER I

Citation. 1. These Rules may be cited as the Public Service Commission Rules.

Interpretation. 2. In these Rules, unless the context otherwise requires –

“acting appointment” means the temporary appointment of an officer to a higher office whether that office is vacant or not;

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Public Service Commission Rules

“appointment” means the placing of a person in an office in the public service;

“the Chairman” means the Chairman of the Commission;

“the Commission” means the Public Service Commission constituted under Article 200 of the Constitution;

“the Constitution” means the Constitution of the Co-operative Republic of Guyana;

c. 22:02 “Fire Service” means service in the Guyana Fire Service established by the Fire Service Act, or any act amending the same;

“Head of Department” means the Head of Department responsible for the administration of a Department of Government whether or not that Department is integrated with a Ministry;

“Official Gazette” means the Official Gazette published by order of the Government and includes supplements thereto and any Extraordinary Official Gazette so published;

“Permanent Secretary” means the administrative head of a Ministry;

“prescribed form” means the appropriate form as may from time to time be prescribed by the Commission;

c. 11:01 “Prison Service” means service in the Guyana Prison Service established by the Prisons Act, or any Act amending the same;

“promotion” means the appointment of an officer either substantively or to act in any office higher than the office or post that the officer was holding

substantively immediately before such appointment and includes such appointment by way of secondment, transfer or otherwise of that officer;

“public office” subject to the provision of Article 232(5) of the Constitution means a permanent office of emolument in the public service;

“public officer or officer” means a person who holds or is acting in a public office of the public service and who is subject to the jurisdiction of the Commission;

“public service” means service of the Government of Guyana in a civil capacity and includes the Guyana Fire Service and the Guyana Prison Service;

“secondment” means the temporary assignment of an officer in a particular Ministry or Department to serve for a period in an office of another Ministry or Department or in the public service of a Government as defined in the Pensions Regulations, or in an office under a statutory board, or Local Democratic Organs Act as defined in Section 2 of the Local Democratic Organs Act;

c. 27:02
c. 28:09

“statutory board” includes corporation, tribunal, commission, Committee or other similar body as approved by the Commission;

“the Secretary” means the Secretary to the Commission;

“transfer” means the release of an officer from his position in the public service for service in a similar graded or higher position of the public service or the relinquishment of an officer’s position for service on a statutory board.

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Public Service Commission Rules

CHAPTER II
THE PUBLIC SERVICE COMMISSION

Composition
and functions.

3. (1) The Composition and functions of the Public Service Commission are set out in article 200 to 205 (inclusive) of the Constitution.

Oath of office
Form 1.

(2) The Chairman and other members of the Commission shall, as soon as possible after appointment, take the oath or make the affirmation set out in Form 1 of the Schedule.

(3) Such oath or affirmation shall be administered by or made before the President.

Form II & III.

(4) The Secretary and other members of the staff of the Commission shall on their appointment as such, take the oath or make the affirmation set out in Form II and Form III of the Schedule respectively. Such oath or affirmation shall, in the case of the Secretary, be administered by or made before the Chairman of the Commission, and in the case of the other members of the staff shall be administered by or before the Secretary.

Meetings.

4. (1) The Commission shall meet as often as may be necessary for the purpose of performing its functions and such meetings shall be held on such days and at such time and place as the Chairman or, if he is not available, the Deputy Chairman shall determine. If the Chairman and the Deputy Chairman are not available, the Commission shall meet on such days and at such time and place as the member, for the time being who is appointed to act in the office as Chairman under Article 200 (5) of the Constitution, shall determine.

(2) Where a member fails to attend at least four consecutive meetings without reasonable excuse, the Chairman shall make a report to the President.

Procedure,
quorum and
voting.

5. (1) The Chairman, or in his absence the Deputy Chairman or the member, who for the time being is appointed to act in the office of Chairman shall preside at meetings.

(2) At any meeting of the Commission, the Chairman or the Deputy Chairman or the acting Chairman and two members shall constitute a quorum.

(3) All questions for discussion at any meeting shall be decided by a majority of the votes of the members present.

(4) The Chairman, or in his absence the Deputy Chairman or the member for the time being acting in the office of Chairman shall have an original vote, and in the event of any equality of votes, shall have as well a second or casting vote.

(5) Where in respect of a decision in a disciplinary charge the votes are equally divided on the question as to whether a public officer should be removed from office, the Chairman, Deputy Chairman or other member who is for the time being acting in the office of Chairman shall not have a casting vote and the power to remove the public officer from office shall not be exercised.

Termination of
service under
any law.

6. (1) Where under any law the services of a public officer can be terminated with redundancy or severance benefits, after any prescribed period of notice is given the officer, the recommendation of the Permanent Secretary or Head of Department for any such termination shall be forwarded to the Commission for its approval.

Decisions other
than at
meetings.

(2) Notwithstanding rule 5 but subject to rule 6 (3) any question for decision by the Commission may, instead of being decided at a meeting of the Commission, be decided by circulation of the relevant papers to all members for them to

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express the views in writing and record their decision, and in such case the decision shall be in accordance with the view expressed by the majority of members.

(3) If any member requires that a matter or question being dealt with by circulation of the relevant papers shall be reserved for consideration at the next following meeting of the Commission no decision shall be made on that matter or question except at a meeting of the Commission.

Grant of leave of absence to members.

7. The Chairman, at his discretion, may on the application of any member of the Commission, grant to such member leave of absence from the Commission and forthwith notify the President of any leave so granted.

Secretary to the Commission.

8. There shall be a Secretary to the Commission who shall be a public officer.

Duties of Secretary.

9. It shall be the duty of the Secretary –

- (a) to submit, whether in writing or orally matters for the decision of the Commission;
- (b) to notify members of the Commission as to the day, time and place of meetings of the Commission;
- (c) to attend meeting of the Commission;
- (d) to ensure that all documents and papers relating to any matter being or to be considered by the Commission are made available to the Commission, and that all the decisions of the Commission are carried out;

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- (e) to be the chief executive officer responsible for the administrative functions of the secretariat of the Commission; and
- (f) generally, to be responsible for matters relating to the functions of the Commission.

Record of meetings and decisions.

10. (1) The Secretary shall ensure that minutes of all meetings of the Commission and of all decisions arrived at under Rule 6, shall be fully recorded and kept, and that the minutes shall be presented for confirmation by the Commission as soon as practicable and at a subsequent meeting or by individual members on circulation thereof.

Dissents.

(2) Any member of the Commission who dissents from a decision may require that his dissent and reasons for dissenting be recorded in the minutes.

Evidence given at enquiry.

11. (1) The Commission at its discretion may require any public officer or other person to attend and give evidence before it touching any matter concerning the conduct of a public officer which it has under enquiry and may require that public officer or other person to produce any official document or other document relating to that matter.

(2) All oral evidence given before the Commission shall be upon oath or affirmation administered by the Secretary in accordance with the form of oath or affirmation prescribed by the provision of the Evidence Act, Chapter 5:02.

Consultation with other persons.

(3) The Commission in considering any matter or question may in its discretion consult with the executive of an association of public officers or with any person or body of persons as the Commission may consider proper and desirable and may require that person or persons to attend a

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meeting of the Commission for the purpose of assisting the Commission in its deliberation on such matter or question whether by furnishing written or oral information or otherwise.

None
compliance.

12. Any public officer who without reasonable excuse fails to appear before the Commission when required to do so, or who fails to comply with any reasonable request made by the Commission or with any requirement of these rules shall be guilty of misconduct.

Certificates,
testimonial and
recommendations.

13. (1) Members of the Commission shall not issue any written certificates, testimonial, recommendation or other document supporting the application of any person for appointment to an office in the public service.

(2) Nothing in the preceding rule shall prohibit any person (other than members of the Commission) from giving a certificate, testimonial or recommendation to any applicant or candidate for any public office.

Delegation of
powers.

14. Subject to article 201(2) of the Constitution and the Public Service Rules the Commission with the approval of the Prime Minister may delegate to a Permanent Secretary, Head of Department or the Clerk of the National Assembly any of the powers and functions of the Commission detailed hereunder.

A. TEMPORARY APPOINTMENTS

The power to appoint persons on recruitment from outside the Guyana Public Service in a temporary capacity to an office in a Ministry or Department.

B. ACTING APPOINTMENTS

(1) The power to appoint a person to act in a public office in any Ministry or Department whether such acting

appointment is in a vacant post or a post which is temporarily vacant, provided that the acting appointment is for a period not exceeding four months and where it is made in respect of a vacant post, the officer is informed that such acting appointment shall not give him or her any prior claim to eventual permanent appointment thereto.

(2) In the exercise of the power delegated under rule 14A above, the Permanent Secretary or Head of Department shall apply the principles of selection prescribed in rule 29 hereunder.

C. SUBSTANTIVE APPOINTMENTS

The power to appoint persons substantively to a public office in any Ministry or Department.

D. TRANSFERS

(1) The power to transfer a public officer from an office in a grade in a Ministry or Department to which such an officer is assigned to a similar office in that grade in the same or some other Ministry or Department with no alteration with respect to his or her remuneration.

(2) The power delegated under rule D (1) above shall be exercised by the Permanent Secretary or Head of Department in accordance with the provisions of rule 38 hereunder which requires notice to be given to such officer and which preserves the right of the officer transferred to make representations to the Commission.

E. SUSPENSION:-

The power to direct a public officer assigned to a Ministry or Department to cease to report for duty in accordance with rule 65(3) (a) hereunder and the Permanent

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Secretary or Head of Department shall report the exercise of this power forthwith to the Commission.

F. DISCIPLINE:-

(1) The power to exercise disciplinary control in respect of any alleged act of misconduct or indiscipline as specified in the Public Service Rules to the extent that the Permanent Secretary or Head of Department may charge a public officer with any offence described in the aforesaid Public Service Rules and may impose, in respect of such misconduct or indiscipline the appropriate penalty therein specified or as specified in the Termination of Employment and Severance Pay Act.

c. 96:01

Publication and disclosure of information to unauthorised person prohibited.

15. (1) Save and except in the course of his duty, no person shall, without the written permission of the Commission, publish or disclose to any person the contents or any part thereof of any document, communication or information whatsoever which has come to his possession or knowledge in the course of his duties as a member of the Commission or a member of the staff of the Commission in respect of any matter to be or already dealt with by the Commission under the Constitution or these rules.

(2) No public officer, who has knowledge or possession of any information which has been disclosed in contravention of the provisions of this rule, shall publish or communicate it to any other person otherwise than for the purpose of any prosecution or proceedings under these rules.

Offence to give false information or influence the Commission.

16. (1) Any public officer who, in connection with an application by any person for appointment to a public office, gives to the Commission or to any member thereof or to any person or body of persons appointed to assist the Commission in the exercise of its functions or the discharge of its duties any information which to his knowledge is false in a

material particular, or by reason, of any wilful omission of a material particular, shall be guilty of an offence under these rules and liable to disciplinary action under section 18(2) of the Termination of Employment and Severance Pay Act.

c. 96:01

(2) Any public officer who otherwise than in the course of his duty, directly or indirectly by himself or any other person in any matter whatsoever influence or attempts to influence any decision of the Commission or Chairman or any member thereof, shall be guilty of an offence under these rules and liable to disciplinary action under Section 18(2) of the Termination of Employment and Severance Pay Act.

c. 96:01

Instruments of
delegation to
be published.

17. (1) Whenever, the Commission delegates any of its powers to any of its members or to any public officer in accordance with paragraph (2) of Article 201 of the Constitution, the Secretary shall cause notice of such delegation to be published in the *Official Gazette*.

(2) A notice published under rule 17 (1) shall contain the information specifying –

- (a) the powers delegated;
- (b) the person or persons to whom such delegation is made;
- (c) the extent of such delegation;
- (d) the terms and conditions of such delegation and may include –
 - (i) the manner in which matters dealt with under such delegation may reach the Commission;

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- (ii) the procedure to be followed in dealing with matters under such delegated authority.

(3) Every delegation under this rule shall be revocable by the Commission at anytime.

Reference of certain cases to Commission.

18. Where by virtue of the provisions of paragraph (2) of Article 201 of the Constitution, the power to remove or to discipline a public officer has been exercised by a person or authority so delegated by the Commission, the public officer in respect of whom the power was so exercised may apply to the Commission to review the decision taken by such persons or authority in accordance with the following provisions:-

- (a) The public officer shall within a month of receiving the notification of his removal or disciplinary punishment, forward a request through the Permanent Secretary of the Ministry or Head of Department in which he is serving to the person or authority who exercised the power to remove or discipline him to refer the matter to the Commission for review and he shall serve forthwith a copy of such request on the Secretary to the Commission.
- (b) Upon receipt of a request under the preceding paragraph, the person or authority who exercised the power to remove or discipline shall forthwith prepare a report of the matter and forward to the Secretary such report, together with all documents, papers and other matters relating thereto and any comments he may wish to make

for the consideration of the Commission.

Protection of Chairman and Members of the Commission.

19. The Chairman and any member of the Commission shall have such protection and privileges respecting any action or suit brought against him for any act done or omitted to be done in the execution of his duty as are by law given to any Judge of the Supreme Court of Judicature acting in the execution of his office.

Direction of Public Prosecutions fiat.

20. A prosecution under these rules shall not be instituted except by or with the consent of the Director of Public Prosecutions.

CHAPTER III APPOINTMENTS, PROMOTION AND TRANSFERS

Application for appointment.

21. Every application for a first appointment to the public service shall be addressed to the Secretary on the prescribed form.

Admission to the public service.

22. (1) Arrangements may be made by the Commission for the holding of written competitive examinations as may be considered necessary from time to time for admission to, or promotion within the public service.

(2) Any position in the public service which requires the applicant to take a written examination and/or interview shall be specified in any notification published in the Official Gazette or the newspapers and on the basis of such examination and/or interview conducted by the Commission, the applicant for appointment shall be selected.

(3) Any applicant who fails the examination or interview for admission to the public service in any year, shall, if he wishes to be considered again for appointment, re-

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apply and re-submit himself for the examination and/or interview in any following year, notwithstanding that he may have held a temporary appointment in the public service in the meantime.

(4) Any applicant who passes the examination for admission to the public service in any year but fails to obtain an appointment shall, if he wishes to be considered for appointment, re-apply and re-submit himself for an interview in the following year, but the Commission may in such case as it shall think fit, waive the requirements of this Rule.

(5) If more than two years elapse between the date when an applicant passes the examination for admission to the public service and the date when he re-applies to be considered for an appointment, then the Commission may, as it thinks fit, require the applicant to re-submit himself for the examination and interview.

(6) All examination to be held under this rule shall be set and the papers marked by such Examination Board as may be appointed by the Commission for that purpose, and the Secretary shall be responsible for the conduct of the examinations.

(7) An applicant shall not be permanently appointed until he or she has satisfactorily passed a medical examination conducted by a Government Medical Board.

Filling of
vacancies.

23. (1) As soon as it is known that a vacancy will occur and it is required by the Government that the vacancy should be filled either by a substantive, temporary, or acting appointment, or transfer from one Ministry/Department to another, the Permanent Secretary or Head of Department shall communicate the information to the Secretary, in writing, and shall request that the vacancy be filled and make his recommendations regarding the filling of the vacancy. This rule does not apply to internal transfer within a

Ministry/Department.

(2) The Secretary shall, from time to time by circular, memoranda or by publication in the Official Gazette, the newspapers or on the radio, give notice of vacancies which are to be filled in the public service including the duties and qualifications for the vacant posts and invite applications for appointments, thereto. Such applications shall be made on the prescribed form and forwarded direct to the Secretary and a copy forwarded at the same time to the Permanent Secretary of the Ministry or the Head of the Department in which the officer is serving, but failure of an eligible officer to apply shall not prejudice the consideration of that officer for appointment to the post that is vacant.

Appointments within the particular section within the public service.

24. Whenever in the opinion of the Commission it is possible and in the best interests of the particular section within the public service to do so, appointment to vacancies shall be made from within the particular section.

Appointments from within the public service.

25. Where in the opinion of the Commission after considering any recommendations of a Permanent Secretary or a Head of Department, it is impractical or not in the best interest of the public service to make an appointment from within the particular section, the Commission may, with or without competition, appoint a person from within the public service who in the opinion of the Commission, is the most suitable and best qualified.

Appointments in special cases.

26. The Commission may make an appointment to a public office without competition as may be recommended by a Permanent Secretary of Head of Department where –

- (a) an appointment to the public office is urgently required; or
- (b) the availability of suitable candidates

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who are qualified for the public office is limited; or

- (c) a person having special skill or knowledge is required for the public office; and the Commission is of the opinion that a competition is not practical or is not in the public interest.

Advertise-
ments of
vacancies.

27. Where the Commission considers either that there is no suitable candidate already in the public service available for the filling of any vacancy or that having regard to qualifications, experience and merit, it would be advantageous and in the best interest of the public service that the services of a person not already in the public service be secured, the Commission may authorise the advertisement of such vacancy in the Official Gazette or the newspapers.

Selection
boards.

28. (1) The Commission may from time to time appoint one or more Selection Boards to assist in the selection of candidates for appointment in the public service and the composition of any such Board and the form in which its reports are to be submitted shall be in the discretion of the Commission.

(2) On consideration of any report of a selection Board, the Commission may, in its discretion, summon for interview any of the candidates recommended by such Board.

Principles of
selection for
promotion.

29. (1) In considering the eligibility of public officers for promotion, the Commission shall take into account the education qualifications, merit and ability, together with relative efficiency, and experience of such officers, and should two or more officers, be equally eligible for promotion the Commission shall give consideration to the relative seniority of the officers available for promotion.

(2) The Commission in considering the eligibility of officers under rule 29(1) for promotion shall attach greater weight to –

- (a) seniority where promotion is to an office in the grade immediately above an office in the recruiting grade, or
- (b) merit, ability and efficiency where promotion is to an office that involves work requiring progressively higher responsibility and greater initiative.

(3) In carrying out its functions under the preceding rules 29 (1) and (2), the Commission shall take into account as regards an officer's eligibility for promotion :-

- (a) his general physical fitness;
- (b) his position on the seniority list;
- (c) any special course of training that he may have undergone;
- (d) the evaluation of his overall performance as reflected in staff appraisal reports;
- (e) any letter of commendation or special reports in respect of any special work done by the officer;
- (f) his job knowledge and experience;
- (g) the duties of and qualifications required for appointment to the office for which he is a candidate;

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- (h) any specific recommendation of the Permanent Secretary or Head of Department for filling the particular office;
- (i) any previous employment of his in the public service, or otherwise;
- (j) any special reports for which the Commission may call; and
- (k) his devotion to duty and general conduct.

(4) In addition to the requirements prescribed in rules 29 (1), (2) and (3), the Commission shall consider any specifications that may be required from time to time for appointment to a particular office or any other matter which in the opinion of the Commission is relevant in assessing the eligibility of a public officer for promotion.

Seniority list to be kept up to date.

30. The Secretary shall keep proper and up-to-date staff list of all officers setting out their respective seniority in the several grades of the public service.

Seniority determined by date of appointment.

31. (1) The seniority of an officer shall be determined by the day of his appointment to the particular grade in which he is serving. The seniority of officers promoted to the same grade on the same date shall be determined by their seniority in their former grade.

(2) Where officers have entered the public service by competitive examination and are appointed to the same grade with effect from the same date, the relevant seniority of such officers shall be determined according to their performance in such examination.

(3) The seniority of an officer who voluntarily resigns from the public service and is subsequently re-

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appointed to it shall be reckoned from the date of his appointment.

Commission to determine seniority.

32. The Commission shall determine the seniority of the officer in any case not covered by rule 30 or 31.

Principles of selection for acting appointment followed by substantive appointment.

33. (1) The Commission shall ensure that as regards an acting appointment which is to be followed by a substantive appointment any recommendation made by a Permanent Secretary or Head of Department to the Commission in relation thereto shall be based on principles set out in rule 29.

(2) Where, in the exigencies of the public service, it has not been practicable to apply the principles set out in rule 29, an officer selected for acting appointment in consequence of a recommendation made by a Permanent Secretary or Head of Department shall not thereby have any special claim to the substantive appointment.

(3) In considering the recommendation made in relation to a substantive appointment, the Commission shall take into account the claims of all eligible officers.

Permanent Secretary to notify eligible officers of vacancies.

34. (1) Where an acting appointment falls to be made whether as a prelude to a substantive appointment or not, the Permanent Secretary or Head of Department shall notify those officers within the Ministry or Department who in his opinion are eligible for consideration and forward their names to the Commission.

(2) The Commission shall, after notification as required by rule 34(1), and before appointing an officer to act, allow a period of seven days to elapse for the purpose of allowing the officers of the Ministry or Department to make representations on the filling of the vacancy.

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(3) Where a vacancy occurs in an office and an acting appointment falls to be made for a period not likely to exceed twenty-eight days as a result of sudden illness or other very special circumstances, the Permanent Secretary or Head of Department may with the assent of the Secretary appoint an officer to act for such period and the provisions of rule 33 (1), (2) and (3), 34 (1) and (2) shall not apply to such acting appointment.

Principles of selection for acting appointment not followed by substantive appointment.

35. (1) Where an acting appointment falls to be made otherwise than as a prelude to substantive appointment, the officer appointed shall –

- (a) as a general rule be the senior officer in the Ministry or Department eligible for such acting appointment;
- (b) assume and discharge the duties and responsibilities of the office to which he is appointed to act.

(2) In submitting any recommendation for an acting appointment, the Commission shall examine whether the exigencies of the particular section of the public service would best be served by transferring an officer next in line of seniority from another section/district to act when there is an officer in the same section/district who is capable of performing the duties of the higher grade, and in such examination the question of additional Government expenditure for travelling and subsistence allowance and other expenditure shall be borne in mind.

Recommendation for acting appointment to be submitted in advance.

36. The Permanent Secretary or Head of Department shall submit, well in advance, recommendations for acting appointments to permit their consideration by the Commission before the dates on which the acting appointments are intended to become effective but the

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Commission may waive the provisions of this rule where the necessity to submit recommendations has been occasioned by sudden illness, or very special circumstances or in any other circumstances which the Commission may consider appropriate.

Reasons for
supersession to
be stated.

37. In submitting recommendations for acting appointments to the Commission, Permanent Secretaries and Heads of Department shall state the reasons why senior serving officers, if any, within Ministries/Departments are being superseded.

Notice to
officers
transferred.

38. (1) Where the Commission proposes to transfer an officer, the Commission shall, except where the exigencies of the section of the public service do not permit, make an order of transfer, in writing, and shall give not less than one month's notice to an officer who is to be transferred.

Officer to
assume duties.

(2) An officer in respect of whom an order has been made under rule 38 (1) shall assume his duties on transfer whether or not a review of the order of transfer by the Commission is pending.

Representation
by officer.

39. An officer who is aggrieved by an order or recommendation of promotion, appointment, dismissal, transfer or discipline may make representation to the Commission for a review of the order or recommendation in accordance with the following provisions of this rule.

- (1) Where an officer desires to make representation to the Commission for a review of any such order or recommendation he shall submit to the Permanent Secretary or Head of Department within seven days of the receipt of notification of the order or recommendation, his representation in writing.

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- (2) The Permanent Secretary or Head of Department shall within seven days forward to the Commission any representation in their original form submitted to him in writing together with any comments which he may wish to make thereon.
- (3) The Commission shall consider the representations of the officer and the comments, if any, of the Permanent Secretary or Head of Department and shall communicate its decision in writing to the Permanent Secretary or Head of Department and send a copy to the officer.

Date of
appointment

40.(1) The date of appointment to an office in a particular Ministry or Department within the public service shall normally be the date on which the officer assumes substantively the duties of the office to which he has been appointed.

(2) The date of appointment on promotion shall be such date as the Commission shall specify.

(3) If an officer is selected for appointment from outside Guyana, the date of appointment shall be the date specified in the letter of appointment.

Medical
examination
on
appointment.

41.(1) A person selected for appointment in the public service shall undergo a medical examination by a Government Medical Board and shall not be confirmed in his appointment unless and until he has been passed medically fit.

(2) The Permanent Secretary or Head of Department to which an appointee has been assigned, shall make appropriate arrangements for him to be medically

examined as soon as practicable after his assumption of duty.

(3) The Medical Board after examining the new appointee shall submit a medical report on the prescribed form to the Secretary under confidential cover as soon as practicable after the examination.

(4) The Secretary shall notify the appointee whether the medical report is favourable or unfavourable and under confidential order send copies of the report to the Permanent Secretary or Head of Department.

(5) All communication relating to the medical report concerning an appointee shall be strictly confidential and any officer who communicated the details of any medical report to any other person except for the purpose of, and as provided for in this rule, shall be guilty of improper conduct.

CHAPTER IV PROBATIONARY APPOINTMENTS

Period of probation on first appointment.

42. Except as otherwise provided in this Chapter, an officer on first appointment to the public service shall be required to serve on probation for a period of not less than one year or such longer period as may be specified.

Period of probation on first appointment in other cases.

43. (1) Where an officer is to be appointed to an office, the duties which he has already satisfactorily performed whether in an acting or temporary capacity or on secondment for periods of equal or longer duration than the period of probation, the officer shall not be required to serve on probation.

(2) Where an officer is appointed on probation to an office in which he has not acted satisfactorily, the Commission shall determine the period of probation to be

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served.

Waiver of
portion of
period of
probation.

44. Where an officer is promoted before he has completed the full period of probation in the lower office, the unserved portion of that period of probation shall be deemed to be waived and the officer deemed to be confirmed in that appointment.

Confidential
reports on
officer on
probation.

45. (1) A Permanent Secretary or Head of Department shall forward to the Secretary in respect of each officer on probation a staff appraisal report at the end of his probationary period and shall recommend, based on such appraisal report, either that the officer be confirmed in his appointment, or the probationary period be extended or the officer revert to his former office, where applicable, or his services be terminated.

(2) A Permanent Secretary or Head of Department shall ensure that adverse comments are brought to the attention of the officer on probation and that he is given every assistance to correct any shortcomings.

Officer may
make
representation.

46. (1) Before any recommendation is made to the Commission for the extension of the period of probation of an officer or for the termination of his appointment, the Permanent Secretary or Head of Department shall inform the officer of his recommendation and of the specific reasons therefor and he shall invite the officer to submit any representations he may wish to make.

(2) Notwithstanding the provisions of these rules, the first appointment on probation of an officer may, at any time during the period of probation, be terminated by the Commission as it thinks fit.

Commission to
confirm
appointment.

47. (1) The Commission shall consider the appraisal report submitted by the Permanent Secretary or Head of Department with respect to the officer on probation and if

satisfied that the service of an officer on probation has been satisfactory, the Commission shall confirm his appointment with effect from the date of his appointment of probation.

(2) If the Commission is not satisfied that the service of an officer on probation has been satisfactory, the Commission may extend the period of probation for a further period.

Permanent Secretary to keep record.

48. A Permanent Secretary or Head of Department shall keep a proper record of every officer who has been appointed on probation to an office in his Ministry or Department and send copies of the record to the Commission at regular intervals or at the request of the Commission.

Commencing pay.

49. The Commission may with the approval of the Permanent Secretary, Public Service Ministry authorise payment to an officer of a commencing pay higher than the minimum remuneration attaching to the office to which he is promoted appointed or transferred.

CHAPTER V STAFF APPRAISAL REPORTS

Staff Reports.

50. (1) A Permanent Secretary or Head of Department shall forward to the Secretary in each year a staff appraisal report not later than the anniversary of the date of the officer's appointment.

(2) Following interview with the officer on his work performance and conduct a staff appraisal report shall relate to the period of service during the preceding twelve months.

(3) In the preparation of a staff appraisal report, the reporting officers shall be guided by his own deliberate judgment and shall in such report –

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- (a) make an unbiased assessment of the officer's performance and conduct over the past twelve months, and
- (b) give an indication of the future prospects of the officer.

(4) A staff appraisal report shall be in such form as may from time to time be prescribed and shall be made in respect of every officer whether he holds a permanent appointment, an acting appointment, a temporary appointment or is employed for a specified period and shall be shown to the officer reported on before submission to the Commission.

Officer to be informed of adverse report.

(5) When adverse (below average) markings or comments are included in the staff appraisal report, the officer shall be informed by the Permanent Secretary or Head of Department in writing thereof before the report is submitted to the Secretary.

Officer to be informed of shortcomings and given instructions on how to perform his duties.

51.(1) In order that an officer may be given every opportunity to correct any shortcomings which he might evince during the course of the twelve months' period of service to be reported on, a Permanent Secretary or Head of Department shall as and when such shortcomings are noticed, cause the officer to be informed in writing thereof; including instructions as to how he should perform his duties and a written warning to adhere to those instructions.

Reports to determine eligibility for promotion.

(2) A staff appraisal report made in respect of an officer under rule 50 shall be considered by the Commission in determining the eligibility of the officer for promotion.

Representation with respect to adverse report.

52.(1) Where written notice of an adverse report is given to an officer as required by rule 50 (5), the officer may, not later than seven days of the receipt of such notification

make representation in writing through the Permanent Secretary or Head of Department to the Commission.

(2) The Permanent Secretary or Head of Department may within seven days of the receipt of such representation submit his comments thereon before forwarding them to the Commission.

CHAPTER VI RETIREMENT AND TERMINATION OF APPOINTMENTS

Termination of
appointment
by officer.

53.(1) An officer who wishes to terminate his appointment shall give to the Commission through the Permanent Secretary or Head of Department notice in writing in duplicate of his intention at least two weeks where the officer has been employed for less than one year and one month where the officer has been employed for one year or more before the date on which he wishes to relinquish his appointment.

(2) Notwithstanding any rule respecting the non-forfeiture of leave, an officer who fails without reasonable cause to comply with rule 53 (1) shall be liable to have all leave, and the benefits and privileges accruing to him in respect of leave forfeited.

(3) An officer is not entitled to withdraw his notice of termination of appointment, after such-notice, becomes effective, but the Commission may accept a withdrawal of the notice if tendered in writing at any time, before the effective date of the termination of appointment.

Abandonment.

54. An officer who is absent from duty without leave for any period Abandonment, and without any adequate excuse shall be presumed to have abandoned his office and may be dismissed by the Commission.

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Instances for
termination of
appointment
mainly by
employer.

55. Where applicable, the services of an officer may be terminated for the reasons stated hereunder –

- (a) Where the officer holds a permanent appointment, or temporary appointment –
- (i) on dismissal or removal in consequence of disciplinary proceedings;
 - (ii) on compulsory retirement;
 - (iii) on voluntary retirement;
 - (iv) on retirement or resignation for medical reasons;
 - (v) on being retired or removed in the public interest;
 - (vi) on resignation either with or without benefits payable under any written law providing for the grant of pensions, gratuities or compensations;
 - (vii) on the abolition or expiry of the office;
 - (viii) where the office itself is of a temporary nature and is no longer

necessary;

(ix) during or on the expiry of a probationary period;

(x) by mutual consent;

(xi) on the ground of redundancy;

(xii) by service of notice, either by the Permanent Secretary or Head of Department on the officer, such notice being two weeks where the officer is employed for less than one year, and one month, where the officer is employed for one year or more.

(b) Where the officer is on contract his services shall be terminated in accordance with the terms of the contract.

Compulsory and voluntary retirement.

56. An officer who is appointed to a permanent pensionable post –

(a) shall retire on attaining the age of fifty-five years, unless his services are continued at the request of the Government.

(b) may at any time after he attains the age of fifty years and before attaining

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the age of fifty-five years apply to the Commission for permission to retire and shall in his application state the grounds on which it is based.

Premature retirement and retirement in public interest. c. 27:02

57. (1) If it appears to the Commission that pursuant to section 11 of the Pensions Act, an officer who has attained the age of fifty years ought to be called upon to retire from the Public Service, the Commission shall advise the officer accordingly; and

(2) Such officer shall be afforded an opportunity of submitting to the Commission any representations he may wish to make regarding his proposed retirement; and

(3) If the Commission, after considering the representations, if any, made by the officer, is of the opinion that, having regard to all the circumstances of the case, the officer should be retired in the public interest, the Commission shall require the officer to retire on such date as the Commission shall determine, and the officer shall be retired accordingly.

(4) Such representations shall be dealt with according to the procedure set out in Rule 39 (1), (2) and (3).

Retirement in special cases.

58. (1) Where it is represented to the Commission or the Commission considers it desirable in the public interest that any officer should be required to retire on grounds which cannot suitably be dealt with under any of these rules, it shall call for a full report on the officer from the Permanent Secretary or Head of Department in which he is serving and shall take into account the officer's previous record during the last preceding ten years.

(2) If, after considering such report and such record giving the officer an opportunity of submitting a reply to the grounds on which his retirement is contemplated, and

having regard to the conditions of the particular section of the public service in which the officer is employed, the usefulness of the officer thereto, and all the other circumstances of the case, the Commission is satisfied that it is desirable in the public interest so to do, it shall require the officer to retire on such date as the Commission shall determine, and he shall be retired accordingly.

Termination of appointment on abolition of office or for facilitating improvement in the organisation of a Ministry or Department.

59. (1) Where an office, being one of a number of like offices, appointment on has been abolished but one or more than one such office or mains, the Permanent Secretary or Head of Department shall make a report thereon to the Secretary for consideration by the Commission, and shall recommend with his reasons therefor, which officer shall be retired or removed from the public service in consequence of such abolition.

(2) Where it is necessary to retire or remove an officer from the public service for the purpose of facilitating improvement in the organisation of a Ministry or Department in order to effect greater efficiency or economy, the Permanent Secretary or Head of Department shall make a report thereon to the Secretary for consideration by the Commission, and shall recommend with his reasons therefor which officer shall be retired or removed from the public service in consequence of such re-organisation.

(3) Where the Permanent Secretary or Head of Department makes any recommendation under rule 60 (1) or (2), the Permanent Secretary or Head of Department shall, at the same time, notify the officer concerned in writing of his recommendations, and such officer may, within seven days of the receipt of the notification, make representations thereon.

(4) Such representations shall be dealt with accordingly to the procedure set out in rule 39(1), (2) and (3).

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(5) Notwithstanding rule 60 (1) or (2) and after consideration of the representations of the officer, the Commission may, instead of retiring or removing the officer from the public service, transfer the officer concerned to another office not lower in status than that which he held.

Termination of appointment by dismissal on the grounds of unsatisfactory service.

60.(1) The Commission may terminate the appointment of an officer by dismissal on grounds of unsatisfactory performance of duty.

(2) Where a Permanent Secretary or Head of Department makes a recommendation in writing that the appointment of an officer should be terminated by dismissal on the grounds of unsatisfactory performance of duty, the officer shall be informed in writing, of such recommendation and such officer may, within seven days of the receipt of the notification, make representations thereon.

(3) Subject to rule 60 (5) such representations shall be dealt with according to the procedure set out in rule 39(1), (2) and (3).

(4) The employment of an officer shall not be terminated by dismissal for unsatisfactory performance of duty unless the Permanent Secretary or Head of Department has given instructions to the officer as to how he should perform his duties and a written warning to adhere to such instructions and the officer continues to perform any duty unsatisfactorily after a period of one month from the date of such instructions.

(5) The Commission may, upon application of the officer or on its own motion, cause an investigation to be made before making a final decision.

Medical Boards.

61.(1) A Medical Board shall be held whenever it is necessary for an officer to be examined with a view to ascertaining whether or not the officer should be retired on

grounds of ill-health, or in any case or class of case in which the Commission so directs.

(2) An officer may be required by the Commission to undergo a medical examination at any time.

(3) An officer who is required to undergo a medical examination shall submit himself to be examined by a Medical Board at such time and place as the Commission may direct.

(4) Where an officer, through refusal or neglect to obtain specialist advice or to obtain treatment when so recommended by the Medical Board, falls sick or in consequence is unable to perform his duties, the Commission may direct that the period which he is, unable to perform his duties shall be counted as leave without pay.

(5) Whenever it is considered necessary for an officer to be examined with a view to ascertaining whether or not he should be retired on grounds of ill-health, the Permanent Secretary or Head of Department shall make a recommendation to this effect to the Commission and where there is a medical record of the officer, the record shall be made available to the Medical Board.

(6) Where the reason or one of the reasons for the deterioration in the work of the officer is ill-health, the Commission shall request that the officer undergo a medical examination and the Permanent Secretary or Head of Department, shall submit a detailed report on any change in the quality of the officer's work performance in order to assist the Medical Board in carrying out the medical examination of the officer concerned.

Unfit officers.

62. (1) An officer who is medically boarded and found unfit for further service shall unless there is a challenge to the

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finding of the Medical Board's report, not be allowed to remain on duty after receipt of the Medical Board's report, and shall be granted such annual leave and accumulated annual leave for which he is eligible.

(2) If the officer has no leave to his credit he shall be given one month's notice of termination of his appointment on medical grounds or one month's salary in lieu thereof.

Commission to determine date service terminated.

c. 27:02

c. 96:01

63. Where the appointment of an officer is terminated by any of the rules under Chapter VI, his service shall terminate on such date service terminated as the Commission determines and the question of his pension, gratuity or other allowance shall be dealt with in accordance with the provisions of the Pensions Act, or the provisions of the Termination of Employment and Severance Pay Act.

**CHAPTER VII
DISCIPLINE**

Officer liable to disciplinary proceedings.

64. An officer who is alleged to be guilty of misconduct or indiscipline by failing to comply with any law, rule, order or directive for time being in force, shall be liable to disciplinary proceedings in accordance with the procedure prescribed in these Rules.

Permanent Secretary or Head of Department to inform police of alleged criminal offence.

65. (1) Where any serious offence against any criminal law appears to have been committed by an officer, the Permanent Secretary or Head of Department shall report the matter forthwith directly to the police providing all available supporting statements and material particulars for investigation by the police.

Prosecution before the court.

(2) If after investigation by the police, it is decided that the officer should be prosecuted before the Court, the prosecution to be taken shall be reported forthwith to the Commission by the Permanent Secretary or Head of

Department with his recommendation whether the officer should, in respect of the alleged offence, continue or cease to report for duty, or his services should be terminated under rules 65(3) (b).

(3) After a report is made under rule 65(3) the Commission shall in the public interest or to protect the repute of the public service, direct the officer, in writing, whether:

Suspension by the Commission.

(a) to report or cease to report for duty, until further notice from the Commission, and an officer so directed, shall continue to perform or cease to perform the functions of his office accordingly and where an officer is directed to cease to perform the functions of his office, he shall be paid full salary, which shall be discontinued in accordance with rules 88(1) and (3) in the event of his conviction of the offence charged under rule 65 (2) on the same date of his conviction or

Termination of appointment.

(b) give the officer notice, in writing for the termination of his employment, such period of notice to be two weeks where the officer has been employed for less than one year, and one month where the officer has been employed for one year or more.

(4) An officer whose services have been terminated under rule 65 (3) (b) will be eligible for severance allowance as provided under the Termination of Employment and Severance Pay Act.

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Public Service Commission Rules

Penalty and conviction by the Court.

(5) Where pursuant to any prosecution under rule 65 (2) an officer is convicted of any charge, as soon as possible, by the court, after the decision of the Court is notified, the Commission shall decide, as appropriate, whether a penalty should be awarded under rule 79 (1) and notify him accordingly, or, in the case where the officer is acquitted of the charge/s, the Commission shall remove all restrictions if any, imposed on him as a consequence of the charge/s which were laid against him.

Departmental disciplinary proceedings.

66. (1) Where under rule 65 (1) the Police has advised against disciplinary any criminal charge before the Court, the Permanent Secretary or Head of Department, as he thinks fit, may in respect of the alleged misconduct or indiscipline by the officer take the following steps –

- (a) On the bases of all the evidence in support of the alleged misconduct or indiscipline seek, as may be necessary, the advice of the Solicitor General in regard to the precise wording of the departmental charge.
- (b) Serve in writing on the officer, the charge/s together with such particulars as will leave the officer under no misapprehension as to the precise nature of the allegation/s on which the charge/s are based; and at the same time request the officer's immediate acknowledgment of receipt of the charge/s and also, his reply, in writing, to the charge/s denying or admitting same within seven days of acknowledgment of receipt.

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Public Service Commission Rules

Penalty to be imposed by Commission.

(2) If, the officer admits his misconduct and/or indiscipline, as charged, the Permanent Secretary or Head of Department shall forthwith submit to the Secretary, all the relevant documents pertaining to the matter with his recommendation on the particular penalty which may be imposed by the Commission as set out in rule 79 (1). On receipt of such documents the Commission may, subject to rule 87, decide on and impose the penalty without further inquiry.

(3) On the other hand, if the officer fails to reply to the charge or in his reply to the charge fails to admit or deny the charge, the Permanent Secretary or Head of Department shall appoint a disciplinary tribunal in accordance with rule 66 (4) as early as possible, to investigate and hear the officer's explanations, in his defence.

Disciplinary tribunal.

(4) The disciplinary tribunal may be constituted of –

- (a) one officer who shall be the Chairman or
- (b) an uneven number of persons not being less than three, one of whom shall be appointed the Chairman.

(5) Where an officer is selected under rule 66 (4) he shall be of a grade not lower than that of Senior Personnel Officer or of a grade equivalent in status, but in no case, he be of a grade lower than the officer charged.

(6) Where the defaulter is a Permanent Secretary or a Head of Department, all references to the Permanent Secretary or Head of Department as provided in these rules to effect the institution of any criminal charge or disciplinary proceedings shall be construed to refer, in the case of a Permanent Secretary to the Minister in charge of the Ministry

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where the Permanent Secretary is employed, or in the case of the Head of Department to the Head of the Presidential Secretariat.

Duties of
disciplinary
tribunal.

67.(1) It shall be the duty of every person or officer appointed to the disciplinary tribunal to hear the evidence, find the facts, collect all documentary evidence and with the Chairman of the tribunal make a report to the Permanent Secretary or Head of Department within a month or such longer period as the Permanent Secretary or Head of Department may permit, and such officer of the tribunal may not be permitted any leave, other than sick leave or maternity leave until the report is delivered to the Permanent Secretary or Head of Department.

(2) Where a member of the disciplinary tribunal is appointed under rule 66 (4) (b) is granted sick leave for an indeterminate period, the disciplinary tribunal may, continue to hear the case and make a report in the absence of the member, but such tribunal shall not be constituted of less than three members.

Notification of
charge.

68.(1) The tribunal officer or Chairman of the disciplinary tribunal shall, within three days of his appointment, request from the officer an explanation concerning the report or allegation and specifying the time not exceeding seven days from the date of the receipt of such notice, within which he may, in writing, give such explanation to the tribunal officer or the Chairman of the tribunal.

(2) The tribunal officer or the Chairman of the disciplinary tribunal shall with all possible dispatch notify in writing those persons who have direct knowledge of the alleged indiscipline or misconduct to submit written statements within seven days of the date of such notice.

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Refusal to
make
statement.

69. Any officer who has direct knowledge of the alleged indiscipline or misconduct committed by another officer and refuses, to make a written statement when requested to do so, shall be guilty of improper conduct.

Witnesses.

70. (1) The officer charged shall be allowed to state the names and addresses of any witnesses to the relevant facts whom he may desire to give evidence at the hearing of the case.

(2) Any such witness who is a public officer shall be ordered to attend at the hearing of the case as well as any other witness shall be given due notice that his attendance is desired and of the time and place of the hearing.

Procedure of
disciplinary
tribunal.

71. (1) The following procedure shall apply to the hearing disciplinary by a disciplinary tribunal of a charge of alleged misconduct or indiscipline –

- (a) The officer shall be summoned to appear to the hearing and shall be given full opportunity to defend himself.
- (b) The case against the officer may be presented by an officer of the Ministry or Department to which the officer is assigned, but such officer shall be the holder of an office in a grade not lower than that of the officer charged.
- (c) At the hearing before a disciplinary tribunal, the officer may conduct his defence either in person or may be represented by an officer of his choice who is a member of the public service, or by his staff association, or if

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permitted by the disciplinary tribunal in its discretion, by attorney-at-law, and if the officer is represented by such member, or by his staff association, or by an attorney-at-law, the officer or his representative may cross-examine the witness called in support of the charge but where the hearing is before a disciplinary tribunal constituted of one officer, the officer charged shall not be represented by an attorney-at-law.

- (d) A true record of the proceedings and evidence at the hearing of the case (except the report of the disciplinary tribunal) shall be made and a copy of such record shall be given to the officer if he desires to make application for a review by the Commission as provided under rule 18 (a).

(2) Nothing in this rule shall be construed so as to deprive the officer from at any time making a submission that the facts disclosed in the evidence do not support the charge.

Adjournment
of hearing.

72. The hearing may be adjourned from time to time as may appear necessary for due hearing of the charge.

Failure to
attend hearing.

73. (1) If the officer charged fails to attend the hearing of the charge, without good reason, the hearing may be proceeded with and conducted in his absence, but if in the opinion of the disciplinary tribunal a good reason is given to the disciplinary tribunal by or on behalf of the officer which excuses his absence at the hearing, the hearing shall be postponed or adjourned as the case may be.

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Main purpose
of tribunal.

74. (1) During the hearing by the disciplinary tribunal, its main purpose is to elicit all such information including documentary proof as in the circumstances may be considered necessary without being bound by the rules of evidence in civil or criminal proceedings provided always that if any witness objects to answering any question or to producing any document on the ground that it will tend to incriminate him or any other lawful ground, he shall not be required to answer such question or to produce such document, nor shall he be liable to any penalties for refusing to do so.

(2) No documentary shall be used against the officer unless he has previously been supplied with a copy thereof or given access thereto.

Report of
tribunal to be
forwarded to
secretary.

75. (1) The report of the disciplinary tribunal including all relevant documents collected and proposed under rule 67 (1) shall within seven days of its receipt, be forwarded to the Secretary by Permanent Secretary or Head of Department with his recommendation/s.

(2) The disciplinary tribunal shall not disclose the contents of its report made under rule 67 (1) to the officer charged, or to any officer not authorised to receive such report.

(3) An officer who contravenes Rule 75 (2) shall be guilty of improper conduct.

Tribunal report
to be examined
by
Commission.

76. The Commission shall examine the report and if it agrees with the findings that the charge/s have been proven, proceed to award penalty under examined by rule 79 (1) or, in the case, where in the finding/s of the disciplinary tribunal the charge/s, have not been proven confirm the acquittal of the officer through his Permanent Secretary or Head of Department.

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Commission
may call for
fresh
proceedings.

77. The Commission after reviewing the proceedings and report of the disciplinary tribunal may call for fresh proceedings by a newly appointed tribunal to give effect to all or any of the relevant rules of disciplinary proceedings.

Proceedings to
be held in
private.

78. The proceedings before a disciplinary tribunal shall be held in private.

Penalties.

79.(1) The following are the penalties that may be imposed by the Commission by disciplinary proceedings, brought against an officer in respect of misconduct, indiscipline, or unsatisfactory service –

- (a) dismissal;
- (b) reduction in rank, which is the removal to another grade with an immediate reduction in salary;
- (c) reduction of remuneration, which is an immediate adjustment of remuneration to a lower point on the scale of remuneration attached to the particular office;
- (d) reprimand or warning.

No disciplinary
action while
criminal
proceedings
pending.

80.(1) Where criminal proceedings have been instituted in any court against an officer, the Permanent Secretary or the Head of Department or the Commission, shall not institute disciplinary proceedings against the officer upon any grounds arising out of the criminal charge until after the court has determined the matter and the time allowed for an appeal from the decision of the court has expired; but where an officer, on conviction, has appealed, the Commission may commence proceedings after the withdrawal or determination of the appeal.

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Disciplinary tribunal may adjourn and report to Commission.

81. Where during the course of the hearing of a charge and before the hearing is completed by the disciplinary tribunal, it appears to the disciplinary tribunal that matters disclosed during the hearing may require a report to be made to the Permanent Secretary or Head of Department for transmission to the Commission, the disciplinary tribunal may adjourn the hearing for a period not exceeding fourteen days and shall forthwith report such matters for transmission to the Commission.

Disciplinary tribunal to report where evidence insufficient.

82. (1) Where a disciplinary tribunal, on hearing the evidence, finds that the evidence is insufficient to support the charge or charges, the disciplinary tribunal shall make a report of the proceedings as required by rule 68(3) without calling on the officer to answer the charge or charges.

(2) If on receipt of the report and record of the proceedings under rule 82 (1) the Commission is of the opinion that the report should be amplified in any respect or that further inquiry is desirable it may refer the case back to the disciplinary tribunal for further enquiry or report accordingly.

Disciplinary tribunal to report other misconduct disclosed at hearing.

83. Where a disciplinary tribunal, on hearing the evidence, is of the opinion that such evidence discloses other misconduct or indiscipline, the disciplinary tribunal shall report the matter to the Permanent Secretary or Head of Department for transmission to the Commission and if the Commission thinks fit to proceed against the officer on such misconduct or indiscipline, it shall cause the officer to be informed in writing of any further charge/s and the procedure prescribed in these rules in respect of the original charge shall apply in respect of such charge/s.

Commission to consider report of tribunal and inform officer of findings.

84. (1) On consideration of the report of findings of fact by a disciplinary tribunal under rule 75 (1), the Commission, if so satisfied, may –

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- (a) exonerate the officer;
- (b) dismiss the officer; or
- (c) impose any of the penalties specified in rule 79 (1)

(2) The Commission shall, as soon as possible after hearing of the charge, inform the officer in writing of its findings and the penalty if any, imposed on him.

Commission may remove officer in public interest.

85. Where on a consideration of the report of the findings of the fact of a disciplinary tribunal as constituted under rule 66 (4), the Commission is of the opinion that the officer does not deserve to be dismissed by reason of the charge/s alleged, but that the proceedings disclose other grounds for removing him from the public service in the public interest, the Commission may make an order under rule 57 (3) for the removal of such officer.

Disciplinary action after acquittal of criminal charge.

86. An officer acquitted of a criminal charge in any Court shall not be dismissed or otherwise punished in respect of any charge of which he has been acquitted, but nothing in this rule shall prevent him being dismissed or otherwise punished in respect of any other charge arising out of his conduct in the matter, unless such other charge is substantially the same as that in respect of which he has been acquitted.

Conviction on criminal charge.

87. If an officer is convicted in any Court of a criminal charge, the Commission may consider the relevant proceedings on such charge and if it is of opinion that the officer ought to be dismissed or subjected to some lesser punishment in respect of the offence of which he has been convicted, the Commission may thereupon dismiss or otherwise punish the officer without the institution of any disciplinary proceedings under these rules.

Non- payment
of
remuneration.

88. (1) An officer convicted of a criminal charge and sentenced to imprisonment without the option of a fine or convicted of a criminal charge involving –

- (a) dishonesty;
- (b) fraud; or
- (c) moral turpitude;

shall not receive any pay or allowance after the date of conviction pending consideration of the punishment to be imposed by the Commission.

(2) The Commission may direct that an officer convicted of a charge described in rule 88 (1) shall be dismissed or shall cease to perform the duties of his office forthwith, where he has appealed only against the sentence imposed by the Court.

(3) Notwithstanding that an officer convicted of a charge described in rule 88 (1) has appealed against the conviction, such officer shall not, pending the determination of the appeal, receive any pay or allowance after the date of conviction

Definition of
misconduct.

89. Misconduct, improper conduct or indiscipline includes –

- (a) contravention of the Public Service Rules, Departmental Rules, Regulations or Circulars made for and applicable to the Public Service of Guyana, and any amendments thereto;
- (b) contravention of lawful instructions

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whether given orally or in writing by or on behalf of a Minister, Permanent Secretary or Head of Department; or

- (c) contravention of these Rules.

CHAPTER VIII CONDUCT

General
conduct.

90. Members and officers of the Commission shall conduct themselves at all times in such manner so that the Commission is not brought into disrepute.

Duties of
officer.

91. (1) An officer of the Commission shall discharge the usual duties of his office and any other related duties that the Chairman or Deputy Chairman may, at any time, call upon him to discharge.

(2) In the discharge of his duties, an officer shall be courteous and polite both to members and officers of the Commission and to members of the public.

(3) In all of his official writings an officer shall use courteous terms and be careful to avoid any expression of personal feelings.

Discourtesy.

92. No member or officer shall be discourteous or impolite to members and officers of the Commission or members of the public.

Absence
without leave.

93. (1) A member of the Commission shall not be absent from a meeting without leave or reasonable excuse.

(2) A member of the Commission shall not leave the country without giving notice in writing to the Chairman or, in case of emergency, without giving notice of his leaving to the Secretary who shall forthwith, in writing, inform the

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Commission.

Not to participate in public meetings. **94.(1)** No member or officer of the Commission shall actively participate in the proceedings of any public meeting called for the purpose of discussing or considering any action on the part of the Government or any decision on the part of the Commission.

Not to allow interviews. (2) No member or officer of the Commission, whether on duty or on leave shall allow himself to be interviewed on questions of public policy or on any matter relating to the work of the Commission unless required to do so by official duties or the permission of the Chairman is first obtained.

Not to publish comments. (3) No member or officer of the Commission shall broadcast on the radio or television or publish in any other manner whatsoever any statement which can be regarded as being a personal comment on any national, political or administrative matter unless permission of the Chairman is first obtained.

Bankruptcy. **95.** Any member of the Commission against whom bankruptcy proceedings have been or who becomes insolvent or who has been declared a bankrupt shall within seven days thereof resign from the Commission.

Gifts or rewards. **96.** No member or officer of the Commission shall accept any gift or reward from any member of the public for service rendered or to be rendered in the course of his official duties.

Legal proceedings. **97.** A member or officer who desires to initiate legal proceedings on his own behalf with respect to any matter arising out of or in the course of his duty shall first obtain the permission of the Chairman.

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Breach of rules. 98. Any breach of Rules of this Chapter shall be dealt with by the Commission as an act of misconduct.

SCHEDULE

r. 3(2)

FORM I

OATH OR AFFIRMATION OF OFFICE OF THE CHAIRMAN AND MEMBERS

I, do swear (solemnly declare and affirm) that I will without fear, favour, affection or ill-will, well and truly perform my duties in the office of Chairman/ (member) of the Public Service Commission on the exercise of the powers vested in the Public Service Commission under the Constitution, and that I will not directly or indirectly reveal any information to any unauthorised person or persons otherwise than in the course of duty. SO HELP ME GOD.

R. 2/2010

JUDICIAL SERVICE COMMISSION RULES

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JUDICIAL SERVICE COMMISSION RULES

made under the Constitution of Guyana

RULES made by the Judicial Service Commission in exercise of the powers conferred upon it by the Constitution of Guyana.

**PART I
PRELIMINARY**

Short title. 1. These Rules may be cited as the Judicial Service Commission Rules.

Interpretation. 2. (1) In these Rules, unless the context otherwise requires –

“Commission” means the Judicial Service Commission;

“Constitution” means the Constitution of Guyana;

“Secretary” means the Secretary of the Commission.

“Judicial Service” means the service constituted by the

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deemed to be the sole holder of that office.

PART III
CONDUCT OF MEMBERS OF THE JUDICIAL SERVICE

Conduct of officers generally.

6. Subject to the Constitution, all officers appointed by the Commission shall conduct themselves in such a way as not to –

- (a) place themselves in positions in which they have or could have a conflict of interest;
- (b) compromise the fair exercise of their official functions and duties;
- (c) use their office for private gain;
- (d) demean their office or position;
- (e) allow their integrity to be called into question; nor
- (f) endanger or diminish respect for, or confidence in, the integrity of the Judicial Service.

Standard of behaviour.

7. All officers shall therefore –

- (a) demonstrate the highest level of professional conduct and personal integrity in the performance of their duties and in serving the public;
- (b) treat everyone, including public

officers, clients and members of the general public with courtesy, respect, fairness and impartiality;

- (c) display a positive attitude and be pro-active in the exercise of their duties; seek to understand and to satisfy the real needs of members of the public;
- (d) in the exercise of their official duties, not confer any special benefit and/or give preferential treatment to anyone on the basis of any special relationship; and
- (e) render service in a timely, efficiently and effective manner.

Substance
abuse.

8. (1) The use of alcohol, controlled drugs, intoxicants, narcotics or any other illegal substance is prohibited at the workplace.

(2) Arriving at work under the influence of any of the substances set out in Rule 8(1), or using any such substance whilst on duty, is prohibited.

Hours of
duty.

9. (1) The hours of attendance at work for the various categories of officers shall be determined by the Commission, and the following applied in respect of hours of duty –

- (a) all officers shall be required to work a minimum of thirty-nine and one-half hours per week, but the Commission may require officers to work in excess of those hours

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whenever the public interest so requires;

- (b) additional hours worked shall be compensated for by overtime with the approval of the Ministry of Finance, or by appropriate time off in lieu of overtime.

Absence from work during duty hours.

10. (1) No officer may absent himself from duty during working hours without the permission of the Commission or such other officers as may be deputed for this purpose by the Commission.

Performance appraisal report.

11. Every officer shall be appraised on a semi-annual basis and an Appraisal Report shall be submitted to the Commission.

Forbidden conduct by officers.

12. (1) Subject to the Constitution, an officer is forbidden to:

- (a) engage in any private work for payment or gain which conflicts with his official functions;
- (b) use information and/or any material gained from his official position for private gain;
- (c) exploit the status and privilege of his position for private gain;
- (d) solicit and/or accept payment and/or gifts for the performance, or neglect, of his official duties;
- (e) conduct private business during working hours and/or on

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members of
Commission.

of service should do so personally to the Commission. Upon receipt of the representation, the Commission shall –

- (a) respond within seven days, after date of receipt, where the matter can be dealt with internally; or
- (b) forward such representation to the appropriate authority within seven days, if the matter cannot be dealt with by the Commission.

(2) The Commission may state in a separate memorandum its own views on the representation made and make any recommendation as to the merit of the representations.

(3) When the officer has not received a reply within fourteen (14) working days he shall forward a copy of his representation directly to the Chairman of the Commission for consideration by the Commission.

Engagement
in political
activities.

18. Officers are expressly forbidden to –

- (a) run for office as a candidate in any national or municipal election;
- (b) participate actively on behalf of any party or candidate in any national or municipal election; or
- (c) accept appointment or election, whether paid or unpaid, as an officer of a political party.

Work
stoppage /
withdrawal

19. Disputes in the Judicial Service, which may involve or give rise to work stoppage or withdrawal from work, shall be determined in accordance with any law or

from work. enactment, which makes provision for the determination of such disputes.

Strikes by officers. **20.** (1) Without prejudice to the laws relating to essential services, if a grievance leads to a strike, salaries and wages of officers who go on strike shall not be paid for any day or portion of a day during which they are on strike.

(2) Without prejudice to the generality of sub-rule (1) above –

(a) if an officer merely reports for work on any day of a strike but does not work for the day, he shall not receive pay in respect of that day;

(b) if an officer works for only a part of a day of a strike, he shall not be paid for that period of the day during which his services were withheld.

(3) Any officer who engages in a strike not arising out of or not resulting from an industrial dispute with the employer, renders himself liable to disciplinary action, including dismissal.

(4) At the commencement of a strike, the Commission shall inform all officers on leave of the existence of the strike and request them to report for duty as is deemed expedient. Officers who fail to report to work shall, in the absence of satisfactory explanation, be deemed to be in support of the strike and shall not be eligible for pay from the date of the commencement of the strike until such time as they report for duty and commence work, or until the strike is concluded, whichever occurs first. This rule applies to officers on any type of leave except –

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- (a) sick leave;
- (b) maternity leave;
- (c) leave on urgent private affairs;
- (d) special leave;
- (e) study leave;
- (f) leave outside Guyana; and
- (g) duty leave.

Officers to be properly attired.

21. Officers shall be appropriately attired for work in a manner which demonstrates professionalism, decency and a respect for colleagues and members of the general public. The Commission shall be responsible for the enforcement of the Dress Code.

Officers to conduct themselves with decorum.

22. (1) Officers shall conduct themselves with decorum while at work so as not to disturb others and to maintain an atmosphere of efficiency and purposefulness at the workplace. In particular, officers shall not engage in loud conversations, sing or play radios above a barely audible level at the workplace. They shall not eat or drink in areas to which the public has access.

(2) In no circumstances shall items/images which offend good taste or morals be displayed in an office in the Judicial Service.

Senior officers responsible for acts of junior officers.

23. A senior officer, authorized to issue instructions to a junior officer and to compel his obedience, shall *prima facie* be responsible for any act or omission on the part of the junior officer during the course of the junior officer's employment. The senior officer shall be liable for appropriate disciplinary action for any dereliction of duty

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(3) Applications should, as far as possible, be in conformity with the approved leave roster.

(4) Where an officer applies for vacation leave, but does not give at least one month's notice, such application shall be considered only where it is in conformity with the roster, or where the Head of Department is satisfied that the leave is required on the grounds of urgent private affairs.

Deferment of
leave.

28. (1) The granting of vacation leave to an officer may be deferred by the Commission if it is in the interest of the Judicial Service to do so.

(2) Any leave granted under these Rules may be withdrawn if it is desirable that an officer return to duty before the expiration of leave granted. Further accumulation of leave shall, however, be subject to the limits prescribed in these Rules.

(3) Mandatory leave for new entrants to the Judicial Service shall be granted after one calendar year of service.

Compulsory
leave.

29. When an officer is about to accumulate his maximum leave entitlement, the Commission shall direct the officer to take leave, and failure to do so shall result in forfeiture thereof.

Extension of
leave.

30. An officer on leave seeking an extension of such leave shall, in the absence of exceptional circumstances, apply in sufficient time to allow a reply to be received before the expiration of the original period of leave granted.

Leave not to
entail extra
staff.

31. The Commission is expected to make every effort to arrange for performance of an officer's duties while that officer is on leave for fourteen (14) consecutive days without extra cost to the Judicial Service.

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vacation
leave.

utilise vacation leave.

(2) If the officer has exhausted all vacation leave, the leave shall be treated as leave without pay.

Extended sick
leave.

38. (1) Should the protracted illness of the officer necessitate his continuous absence beyond his normal sick leave eligibility, application accompanied by the relevant medical evidence, shall be made to the Commission, which may grant extended sick leave up to a maximum of 180 days on full pay.

(2) If the illness of the officer exceeds 180 days, the question on his fitness for further service shall be taken up with the Chief Medical Officer, Ministry of Health. On substantial evidence from a Medical Board that full recovery with return to duty is probable, the officer may be granted extension of sick leave up to a further 180 days on half pay.

(3) Sick leave applied for under sub-rule (1) above shall be granted only on receipt of a prognosis by the Chief Medical Officer, of the officer's eventual recovery and return to duty.

(4) If the illness of the officer exceeds 360 days, the officer shall be retired from the Judicial Service on medical grounds.

Officers
frequently
absent on sick
leave may
appear before
a Medical
Board.

39. Where an officer has been frequently absent on sick leave, the Commission may, at any time, request the Chief Medical Officer to advise on the nature of the officer's illness or whether the officer should appear before a Medical Board to consider his fitness to continue in the Judicial Service.

Submission to
medical
examination.

40. An officer who is required to undergo a medical examination shall submit himself to be examined by a Medical Board at such time and place as directed.

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Sick leave during vacation leave.

41. If an officer falls ill while on vacation leave, and he produces satisfactory medical evidence to his Head of Department, he shall be credited with vacation leave equivalent to the number of days not utilised as vacation leave due to illness.

Maternity leave.

42. (1) All female officers are entitled to the grant of maternity leave.

- (2) All applications for maternity leave shall be –
 - (a) submitted at least ten weeks prior to the officer's expected date of delivery; and
 - (b) accompanied by the relevant N.I.S. forms.

(3) An officer who fails to observe the requirement of this Rule and who applies for maternity leave after the date of delivery shall be subject to disciplinary action.

(4) An officer may take vacation leave which is due to her at the expiration of her maternity leave.

(5) Maternity leave shall not be considered as sick leave and sick leave shall not be granted as a substitute for maternity leave.

(6) Sick leave shall be granted to run consecutive with maternity leave on the basis of a medical certificate, justifying sick leave;

Maternity leave entitlement.

43. Subject to any written law, an officer is entitled to a total of thirteen (13) weeks maternity leave which shall be on full pay. Maternity leave shall be granted as follows –

- (a) six weeks before expected date of

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confinement on full pay;

- (b) six weeks after the expected date of confinement on full pay;
- (c) the six weeks before and the six weeks after the date of delivery shall be mandatory.

Special leave.

44. (1) Special leave on full salary up to one month in any one year, may be granted by the Commission for purposes as it may deem to be in the public interest such as –

- (a) to enable officers who are selected by the proper authorities to represent Guyana in international sporting and cultural events; and
- (b) to enable officers selected by Associations approved by the Commission to attend training courses or conferences.

(2) The Commission may grant special leave in other instances to enable officers to do such things which are considered to be in the public and national interests.

(3) The Commission may grant time off to an officer who is appointed by an approved Association to represent its interest.

Compassionate leave.

45. The Commission shall grant compassionate leave to an officer up to three days on the death of an immediate family member (i.e. mother, father, spouse, children, brother or sister). Such leave shall not be charged against an officer's earned leave.

PART V
TRAINING AND CAREER DEVELOPMENT

Training policy for the Judicial Service.

46. The general direction of training policy for the Judicial Service, including the types and levels of training, is hereby vested in the Commission, subject to any Act governing officers appointed otherwise than the Judicial Service Commission.

Authority for the grant of study leave.

47. (1) The Commission may grant study leave to an officer where the training is considered to be of benefit to the Judicial Service.

(2) Only officers confirmed in their appointment shall be considered for study leave.

Minimum period of service for study leave.

48. Officers who have served the Judicial Service for a period of less than two (2) years shall not normally be eligible for the grant of study leave.

Non-approval of study leave.

49. Study leave shall not be approved to an officer to pursue training at a level equivalent to a qualification already possessed by the officer.

Study leave on full pay.

50. An officer may be granted study leave on full pay where the course of training is :-

- (a) approved by the Commission;
- (b) on a full time basis; and
- (c) for a duration of not more than one year.

Training agreement.

51. (1) It is mandatory that all officers who are granted study leave sign a bond with the Commission to serve on completion of their training.

(2) No bond shall be required in the case of:

- (a) training for less than six calendar months durations;
- (b) grant of study leave without pay.

(3) The duration of service required by the bond shall vary depending on the duration of the course of training in accordance with the following table:

Duration of course

- (a) less than six calendar months
nil
- (b) six calendar months to less than one
yearone calendar year
- (c) one academic year to less than two
academic year.....two calendar
years
- (d) two academic years to less
than three academic years
.....three calendar years
- (e) three academic years to less than
four academic years four
calendar years
- (f) four academic years and over
length of study computed in
calendar years.

(4) The amount of an officer's bond shall be the estimated cost of his training, including the salary and

allowances payable during the period of training. The total amount of such expenditure shall be the extent of an officer's indebtedness, and the bond shall be secured.

(5) If the training is terminated or suspended, or if the officer abandons the training for any reason whatsoever, the officer shall immediately resume duty and shall serve the Judicial Service for a period for which he enjoyed the benefit of the training.

(6) If the officer fails to complete the requisite amount of years in the service of the Judicial Service, he shall pay to the Commission the sum of money which is proportionate to the period of service for which he is in default.

Fulfilment of bond prior to further study leave.

52. An officer, after successful completion of an approved course of study, shall be required to fulfil the requirements of his bond before study leave to pursue a further course of study can be approved.

Extension of study leave.

53. Extension of study leave may be granted by the Commission if it is considered that such a grant is in the interest of the Judicial Service. Any application for extension of study leave must be accompanied by –

- (a) a letter of support from the officer's Head of department; and
- (b) evidence from the institution of learning of the need and reason for the extension.

Study leave without pay.

54. (1) The Commission may grant leave without pay for the purpose of training to an officer, who, on his own initiative, gains entry to or is registered as a student at an institution of learning and whose course of training is not

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based primarily on the needs of the Judicial Service. Such approval is subject to the exigencies of the Judicial Service.

(2) Such leave shall not be considered as "service" for pension purposes.

Part-time study leave up to two days per week.

55. Where an officer wishes to undertake an approved course of study at an approved tertiary institution that would require his absence from duty, the following shall apply –

- (a) the officer shall forward his application to the Commission a letter of acceptance from the institution of learning;
- (b) study leave may be granted only in cases where –
 - (i) the course of study would be of benefit to the Judicial Service; and
 - (ii) evening or weekend classes are not available for the particular course.

Study leave for more than two days.

56. Where an officer wishes to undertake a course of study at an approved tertiary institution that would require his absence from duty for three or more days per week, the officer shall be required to apply for full time study leave.

Annual report from institution of learning.

57. An annual report from the institution of learning shall be submitted by an officer on study leave to ensure that the officer is making good use of the leave granted to him is pursuing with success the course of training for which leave has been approved.

Obligation while on training.

58. (1) Officers to whom study leave has been approved shall be required to –

- (a) devote their whole time to the course of training;
- (b) sit for any examination and to write such papers or reports as may be required by the training authorities; and
- (c) resume duty or take up employment in the Judicial Service immediately after the completion of the course of training, or at the expiry of any vacation or other leave which may have been granted to them.

(2) Officers who complete their course of training prior to the expected completion date shall resume duty immediately, providing vacation or other leave has not been approved, failing which they will be subject to disciplinary action.

Officer to submit copies of final reports, etc.

59. (1) Every officer shall, within, a reasonable time after successful completion of his course of study, submit a copy of his final report, dissertation, thesis, etc. to the Secretary. The reasonable cost for said copies shall be borne by the Commission.

(2) Every officer who has been the recipient of formal training may be requested to disseminate the knowledge and skills acquired.

Suspension or termination of study leave.

60. The Commission may suspend or terminate study leave if –

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- (a) report of the officer's work or conduct on the course is unsatisfactory;
- (b) the officer, without reasonable excuse, fails to pass a prescribed examination within the time fixed by the institution which he is attending;
- (c) the officer engages in any activity which is detrimental to his progress in the course of study undertaken by him;
- (d) the officer becomes unfit to complete his studies owing to illness;
- (e) the officer fails to reply to correspondence or to keep the Commission informed of his whereabouts; and
- (f) the officer is convicted on criminal charges, in or outside Guyana.

Training awards.

61. Offers of training awards from international or other organisations shall be dealt with by the Commission and not on an *ad hoc* or individual basis.

Penalty for termination.

62. An officer who prematurely terminates his course of training without prior approval from the Commission shall be required to pay the Commission a sum of money equal to the commitments he received prior to the premature termination, and any other amounts actually spent by the Commission in connection with his training.

Non-refundable

63. An officer who on his own applies for and is granted study leave to pursue a self-funded course of study,

expenses for self-initiated training.

shall not be considered post facto for a refund or grant for any portion of the expenditure incurred for the training.

**PART VI
SALARIES ALLOWANCES AND FINANCIAL
BENEFITS**

Salaries for public officers.

64. The salaries attached of officers in the Judicial Service are and shall be as specified in orders, which may from time to time be issued by the Minister of Finance.

**PART VII
PENSIONS, GRATUITIES AND OTHER
RETIREMENT**

Retirement on medical grounds.

65. Subject to any written law pertaining to any officer, if the Commission is satisfied with the medical advice given it shall approve the retirement of the officer on medical grounds.

Doubt regarding computation of officer's retiring benefits.

66. If there is any doubt on any point which is likely to affect the computation and award of an officer's retirement benefits, the Commission shall be consulted as early as possible with a view to ensuring the correctness of the particulars raising the doubt, prior to submission.

Statutory declaration as to officer's service.

67. In cases where it is not possible to locate the necessary records in relation to an officer's service, statutory declarations attesting to such service shall be submitted by three reliable and responsible persons who know the career history of the officer in the Judicial Service. The status of the declarant shall be stated and he shall give the source of his knowledge of the facts contained in the declaration.

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PART VIII
DISCIPLINE OF PUBLIC OFFICERS

Authority to
discipline
officers.

68. (1) Subject to the Constitution, the power to discipline officers is vested in the Commission.

Conditions
for
disciplinary
officers.

69. Subject to the Constitution, an officer who, without reasonable excuse, does an act which –

- (a) amounts to failure to perform in a proper manner any duty assigned to him, including discourtesy to members of the public;
- (b) contravenes any of the provisions of these Regulations, the Constitution, the Act or any other Regulations for the time being governing the conduct of officers; or
- (c) is prejudicial to the efficient conduct of the Judicial Service or tends to bring the Judicial Service into disrepute,

is liable to disciplinary proceedings for that misconduct in accordance with the provisions of these Rules.

Dismissal for
misconduct,
insubordina-
tion or gross
inefficiency.
c.1:01

70. (1) Subject to the Constitution and the Pensions Act, an officer whose appointment has been confirmed may, after due process, be dismissed at any time on the grounds of misconduct, insubordination or gross inefficiency at work.

(2) An officer who is dismissed shall be entitled to payment of salary *in lieu* of all vacation leave accrued to him or her.

Inefficiency and minor misconduct procedures to be followed.

71. (1) Subject to the Constitution, if, after oral warning of inefficiency or misconduct, an officer's work or conduct does not improve, he shall be warned in writing and required to acknowledge receipt of such warning in writing. In aggravated cases, a copy of the correspondence shall be brought formally to the attention of the Commission.

(2) Where disciplinary action is recommended for minor misconduct, the following procedures apply –

- (a) the officer shall be notified in writing by the Judicial Service Commission of the grounds upon which it is recommended that he be disciplined, and he shall be given full opportunity of exculpating himself; and
- (b) the Secretary to the Commission shall forward to the Commission a copy of the allegation and the officer's explanation/response together with the Secretary's report on the matter and such other reports as he considers relevant to the matter.

(3) In any other case, if the Judicial Service Commission is satisfied that grounds for disciplinary action exist, it may institute disciplinary proceedings.

(4) On the conclusion of the disciplinary proceedings referred to in sub-rule (3), if the Judicial Service Commission is of the opinion that –

- (a) the officer should be exonerated, it

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shall exonerate the officer and dismiss the case;

- (b) the allegation is proved it shall impose such penalty upon the officer as it thinks fit, such as a caution, reprimand or demotion.

Proceedings
in serious
misconduct
cases.

72. (1) Subject to the Constitution, in cases of serious inefficiency or misconduct for which dismissal or retirement may be considered appropriate, the following procedures apply –

- (a) the officer shall be notified in writing by the Judicial Service Commission of the allegations and be given full opportunity of exculpating himself;
- (b) the Secretary of the Commission shall forward to the Commission a copy of the allegation and the officer's explanation/response together with the Secretary's own report on the matter and such other reports as may be considered relevant to the matter;
- (c) where the officer fails to respond or acts in such a manner as to obstruct the process, the Secretary of the Commission shall advise the Judicial Service Commission accordingly in his report;
- (d) upon receipt of the report, the Judicial Service Commission may cause further investigation to be made into the manner with the aid of

the Secretary or such other person as the Commission may appoint;

- (e) if the Judicial Service Commission is satisfied that sufficient investigation has already taken place, it may institute disciplinary proceedings;
- (f) the officer may, if he wishes, request that he appears before and be heard by the Judicial Service Commission with or without a Union representative, an attorney-at-law or some other person to assist him or her at the hearing, and such request shall be granted;
- (g) if any witnesses are called to give evidence, the officer, attorney-at-law or such other person shall be entitled to be present and to put questions to the witnesses;
- (h) no documentary evidence shall be used against the officer unless he has previously been supplied with a copy thereof or given access thereto.

(2) If, on the conclusion of the disciplinary proceedings, the Judicial Service Commission is of the opinion that –

- (a) the officer should be exonerated, it shall dismiss the case;
- (b) the officer should be dismissed or retired, the Committee shall dismiss

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or retire the officer; or

- (c) some lesser penalty other than the penalties referred to in paragraph (b) should be imposed on the officer, the Judicial Service Commission may impose such lesser penalty, such as a caution or reprimand;

Standard of proof.

73. The standard of proof in disciplinary proceedings under these Rules shall be on a balance of probability.

Commission not bound by rules of evidence.

74. In disciplinary proceedings or other deliberations, the Judicial Service Commission shall inform itself in such manner as it thinks fit, having regard to the rules of evidence as far as possible or to other legal technicalities and form.

Commission to proceed with hearing in absence of officers.

75. (1) If without good reason, the officer against whom disciplinary proceedings have been instituted does not attend the hearing, the Judicial Service Commission may proceed and conclude the matter in his absence.

(2) Where good reason is given the Judicial Service Commission on behalf of the officer as to why he is unable to attend the hearing, the Commission may postpone the matter as it deems appropriate.

(3) For the purposes of this Rule, the fact that an officer was in prison during the course of the disciplinary proceedings amounts to good reason.

Record of disciplinary proceeding to be prepared.

76. In any disciplinary proceedings, a record of proceedings shall be made which shall contain statements of evidence, the findings of the Judicial Service Commission, together with reasons for the findings and the penalty imposed.

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Officer to be informed of right of appeal.

77. The Judicial Service Commission shall, as soon as possible, inform the officer in writing of its findings, the penalty imposed on him or her, of his right to appeal the determination to the High Court and of the time required for making such application.

Effect of appeal on peration of penalty.

78. Where the officer lodges an appeal with the High Court within the specified period, the penalty shall not take effect pending the determination of the appeal by the High Court.

Retirement in the Public Interest.

79. If the disciplinary proceedings disclose grounds for so doing, the Commission may require the officer to retire in the public interest.

Suspension.

80. (1) Where the Commission is informed of an alleged act of misconduct by an officer and has the reason to believe that the public interest or the reputation of the Judicial Service requires it, the Commission may suspend the officer on full pay, from duty by notice in writing until further notice.

(2) The effective date of suspension is the date specified in the notice.

(3) An officer who is suspended shall, cease to report for duty immediately on receipt of the notice.

(4) The Commission shall review the alleged act of misconduct resulting in the suspension and may institute disciplinary proceedings accordingly.

(5) An officer who is suspended from duty shall make himself available to the Commission whenever required until the conclusion of the matter.

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(6) Subject to sub-rule (3), where disciplinary proceedings are not instituted within sixty (60) days of the date of suspension, the officer shall resume duty and the suspension shall be set aside and the officer shall be treated for all intents and purposes as if the suspension had never occurred.

Disciplinary proceedings against an officer who has been criminally charged.

81. (1) The Judicial Service Commission may institute disciplinary proceedings against an officer who has been criminally charged.

(2) Disciplinary proceedings may be instituted under sub-rule (1) notwithstanding that the officer has appealed a conviction arising out of the criminal proceedings.

Disciplinary proceedings during criminal investigations or pending criminal proceedings.

82. Disciplinary proceedings may be instituted by the Judicial Service Commission where an officer's conduct is the subject of –

- (a) an investigation by the Police; or
- (b) criminal proceedings in any court.

Disciplinary proceedings arising out of acquittal of criminal proceedings.

83. An officer who is acquitted of a criminal charge in any court is not precluded from having proceedings instituted against him or her under these Rules in respect of an alleged act of misconduct implicit in of that criminal charge.

Dismissal upon return of guilty verdict in criminal charge.

84. (1) Where an officer pleads guilty to a criminal charge or a criminal charge is proved against an officer, the Commission shall consider the court's finding and request the officer in writing to show cause why he should not be dismissed.

(2) The Commission, after hearing the officer,

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may either dismiss the officer or impose such penalty as it sees fit.

**PART IX
MISCELLANEOUS**

Official seals
or stamps.

85. Official seals and stamps shall be kept secured and not be supplied to private persons.

Franking
stamp.

86. Officers shall not make use of any stamp for franking letters, or frank letters without the authority of the Secretary, and are required to keep such devices under lock and key, except when in actual use.

Circulars.

87. The content of Circulars should be communicated to all members of staff and initialed by the officers of the Department in which they are received.
