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CHAPTER 1:01

CONSTITUTION

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SCHEDULE - The Constitution.

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

A.D.1980. Enacted by the Parliament of Guyana: -

Short title. **1.** This Act may be cited as the Constitution of the Co-operative Republic of Guyana Act 1980.

Interpretation. **2. (1)** In this Act -

“appointed day” means the day fixed for the coming into operation of the Constitution by a proclamation issued under section 4;

“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 law 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.
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the Guyana Independence Order 1966 (in so far as they form part of the law of Guyana) and the existing Constitution are repealed and thereupon the Constitution shall have effect as the supreme law of Guyana in place of the existing Constitution. Constitutional Instruments (including the existing Constitution) repealed.
4. The President shall by proclamation fix a day, being a day not later than 6th October, 1980, for the coming into operation of the Constitution. 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 powers of Parliament before appointed day.

Exercise of
power of
President
before
appointed
day.

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 opinion, be necessary or 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 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 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 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, 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) For so long as the legal profession in Guyana continues to be divided into barristers and solicitors, any reference in the Constitution to a lawyer, however described, shall be deemed to be a reference to an advocate or a legal adviser or a barrister or a solicitor, as the case may be, in the corresponding provision of the existing Constitution.

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 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.
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 and article 173 of the Constitution, as the case may be, be the rules of procedure of the National Assembly and of the Supreme Congress of the People 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 Republic of Guyana that day as if he had been elected thereto in pursuance of the provisions of the Constitution and shall, unless he sooner dies or resigns or unless he 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 office pursuant to subsection (1) the first President of Guyana shall cease to be a member of the National Assembly and his 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 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.
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 had been appointed thereto under that paragraph. Cabinet.
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. Supreme
Court of
Judicature.
- (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.
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 Existing
Officers.

or the corresponding office established by the Constitution, as the case may be, as if he 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 office at the expiration of any period shall vacate his 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.

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:

Continuation
of proceedings.

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 has also taken part in the original hearing, and where the original hearing cannot be so continued the hearing shall be recommenced.

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.

Local
democratic
organs.

Amendment
of certain
provisions of
Amerindian
Lands
Commission
Act.
Cap 59:03

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) of the Constitution.

Electoral
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.

SCHEDULE
CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA

PREAMBLE ARRANGEMENT
OF ARTICLES

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

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.

[4 of 2001]

**CONSTITUTION OF THE CO-OPERATIVE REPUBLIC
OF GUYANA****PART 1****GENERAL PRINCIPLES
CHAPTER 1****THE STATE AND THE CONSTITUTION**

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|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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 Referendum to Republic of Guyana. |
| 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. | 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. | 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. The national anthem of the State is the anthem known as “Green Land of Guyana” as set out in the Second Schedule. |
| The pledge. | 6A. The National Pledge of the State is the pledge as set out in the Second Schedule. |

7. It is the duty of every citizen of Guyana wherever he 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. Duty to respect national symbols.
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. Supremacy of Constitution.

CHAPTER II

PRINCIPLES AND BASES OF THE POLITICAL, ECONOMIC AND SOCIAL SYSTEM

9. Sovereignty belongs to the people, who exercise it through their representatives and the democratic organs established by or under this Constitution. Sovereignty belongs to the people.
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. Political parties. Local Government.
11. **[Article 11 repealed by Act No. 10 of 2003]**
12. Local government by freely elected representatives of the people is an integral part of the democratic organisation of the State. Local Government.
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. Objective of political system. [4 of 2001]

- 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 of economic development.
[6 of 2001]
15. The goal of economic development includes the 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.

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. Role of labour.
- 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. The right and duty to work. [10 of 2003]
- (2) Every citizen who is able to work has a duty to work.
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 leisure.
24. Every citizen has the right to free medical attention and also to social care in case of old age and disability. Right to medical attention and social care in case of old age and disability.
25. Every citizen has a duty to participate in activities designed to improve the environment and protect the health of the nation. Duty to improve environment.
26. Every citizen has the right to proper housing accommodation. Right to housing.
- 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. Right to education. [10 of 2003]
- (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.

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|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Youth. | 28. Every young person has the right to ideological, 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 environment.
[10 of 2003] | 36. The well-being for the nation depends upon preserving clean air, fertile soils, pure water and the rich diversity of plants, animals and eco-systems. |

- 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. External relations.
- 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. National co-operation for development of economy.
- 38A.** To ensure that Guyana is a democratic State with a healthy economy, the State shall - Democratic state with a healthy economy. [10 of 2003]
- (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 group which is, or is claiming to be, under threat of marginalisation.
- 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. The best interest of the child. [10 of 2003]

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 accommodation.
[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

- 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.

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

CHAPTER IV CITIZENSHIP

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

Persons who continue to be citizens on commencement of Constitution.

Persons entitled to be registered as citizens.

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 outside 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 birth:

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

- (a) his father or his 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 father or his 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 birth if at that date his father or his 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.

46.(1) If the President is satisfied that any citizen of Guyana has at any time after 25th May, 1966, acquired by registration, naturalisation 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 citizenship.

Deprivation of citizenship on acquisition of, or exercise of right of, another 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 under the law of that country, being rights accorded exclusively to its citizens, the President may by order deprive that person of his citizenship.

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.

Commonwealth citizens.

(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.
(O. 38 of 87)

- (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 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 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

- 50.** The supreme organs of democratic power in Guyana shall be -
- (i) the Parliament;
 - (ii) the President; and
 - (iii) the Cabinet.
- Supreme organs of democratic power.
[14 of 2000]

CHAPTER VI PARLIAMENT COMPOSITION OF PARLIAMENT

- 51.** There shall be a Parliament of Guyana, which shall consist of the President and the National Assembly.
- Establishment of Parliament.
- 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.
- Composition of the National Assembly.
[4 of 2001]
- (2) If any person who is not a member of the National Assembly is elected to be Speaker of the National Assembly, he 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 -
- (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 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 Assembly.

- 55.** Whenever elections have been held pursuant to the provisions of article 61, the National Assembly shall 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).
- 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. Clerk and Deputy Clerk.
- (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.
- 58.** (1) Any person who sits or votes in the National Assembly, knowing or having reasonable ground for knowing that he is not entitled to do so, shall be liable to a penalty of fifty dollars for each day upon which he so sits or votes. Unqualified persons sitting or voting.
- (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 is of the age of 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:

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 Elections 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.

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.
- Determination of questions as to membership and elections.

POWERS AND PROCEDURE OF PARLIAMENT

- 65.(1) Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Guyana.
- Legislative power.
- (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.
66. Subject to the special procedure set out in article 164, Parliament may alter this Constitution.
- Alternation of this Constitution.
- 67.(1) The President may at any time attend and address the National Assembly.
- Attendance of the President in 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.
68. All other matters concerning Parliament (including the procedure thereof) shall be regulated by the provisions of articles 165 to 172 (inclusive).
- Regulation of procedure, etc.

SUMMONING, PROROGATION AND DISSOLUTIONSessions 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**

- 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. Local Government. [4 of 2001]
- (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.
- 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. Local Government areas. [4 of 2001]
- (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.

Elections 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 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.

- 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.
75. Parliament shall provide that local democratic organs shall be autonomous and take decisions which are binding upon their agencies and institutions, and upon the communities and citizens of their areas.
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.
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.
- 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.
- Duties of local democratic organs.
[4 of 2001]
- Power to take decisions.
[4 of 2001]
- Power to raise revenue.
- Regional development programme to be integrated into the national development plans.
- Parliament to provide criteria for allocation of resources by local democratic organs.
[4 of 2001]

Local
government
elections.
[4 of 2001]

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.

Representative-
ness and
accountability
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.

CHAPTER V111 THE PRESIDENT

79. - 88. [Articles 79 to 88 repealed by Act N. 14 of 2000.]

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 2001]

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.
- 91.** The President shall be elected by the people in the manner prescribed by article 177. Election of President.
- 92.** A person assuming the office of President in accordance with the provisions of this Constitution shall, unless his 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. Tenure of office of President.
- 93.** The President may be removed from office if he becomes physically or mentally incapable of discharging the functions of his office. The procedure for removing him and for ensuring the continued discharge of the functions of his office is prescribed by article 179. Removal of president on grounds of incapacity.
- 94.** The President may be removed from office if he commits any violation of this Constitution or any gross misconduct. The procedure for removing him is prescribed by article 180. Removal of President for violation of Constitution or gross misconduct.

Vacancy in
office of
President.

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 is by reason of physical or mental infirmity unable to perform the functions of his office, the functions of the office of President shall, until the Prime Minister returns or until he is again able to perform the functions of his 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) Any 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 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
function 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 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 may specify and the person so authorised shall perform those functions until his 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 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 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 is notified by the President that the President is about to resume those functions.

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.

Oath to be taken by President.

(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 1X 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 either directly or through officers subordinate to him.

- (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.

- 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 executive functions and leader of Government business in the National Assembly.

Vice-Presi-
dents.

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

- (2) If he 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 shall have precedence over any other Vice-President.
- 103.** (1) The Prime Minister and every other Vice-President shall be a Minister of the Government of Guyana. Ministers.
- (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.
- 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. Ministerial appointments during dissolution.
- 105.** A Minister who was not an elected member of the Assembly at the time of his appointment shall (unless he 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. Non-elected Ministers to sit in Assembly.
- 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. The Cabinet.

- (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 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.

- 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 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.

- 108.** The office of a Minister shall become vacant in the circumstances set out in article 183. Tenure of office of Ministers.
- 109.** Whenever any Minister is absent from Guyana or is unable by reason of illness to perform his 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. Minister's absence or illness.
- 110.**(1) There shall be an office of Leader of the Opposition, election to which office shall be in accordance with article 184. Leader of the Opposition.
- (2) Qualifications for election to the office of Leader of the Opposition and other matters connected therewith are regulated by article 184.
- 111.** (1) In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with his own deliberate judgment except in cases where, by this Constitution or by any other law, he is required to act in accordance with the advice or on the recommendation of any person or authority. Exercise of President's powers.
- (2) Where by this Constitution the President is directed to exercise any function on the advice or recommendation of any person or authority, he may, in accordance with his 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 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 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 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 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 be a public office:

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

- 116.** (1) There shall be a Director of Public Prosecutions whose office shall be a public office. Director of Public Prosecutions
- (2) The functions of the Director of Public Prosecutions are set out in article 187.
- 117.**(1) There shall be a Secretary to the Cabinet whose office shall be a public office. Secretary to the Cabinet.
- (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 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.
- 118.** (1) Cabinet may establish sub-committees of itself for the purpose of attending to any of its responsibilities. Subcommittees of Cabinet.
- (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.
- 119.** Subject to any provision made by Parliament, the President may appoint standing committees consisting of such persons as he 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. Standing Committees.

Parliamentary
Standing
Committee for
Constitutional
Reform.

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.

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
committees
to address
matters relating
to appointment
of members of
Commissions
established
under the
Constitution.

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

- 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. Constitution of offices.
- 121.** The Prerogative of Mercy shall vest in the President and shall be exercised by him in accordance with the provisions of articles 188, 189 and 190. Prerogative of Mercy.
- 122.** (1) There shall be an Ombudsman for Guyana. Ombudsman.
- (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 X THE JUDICATURE

THE SUPREME COURT OF JUDICATURE

- 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. Independent Judiciary.

(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.

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 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.

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

Constitution of High Court.

JUDGES OF THE SUPREME COURT OF JUDICATURE

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.

Interpretation.

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.

Appointment of Chancellor and Chief Justice.

- (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 office, or if the person holding the office of Chief Justice is for any reason unable to perform the functions of his 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.

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;

Appointment of Justices of Appeal and Puisne Judges.

(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 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.

Appointment
of part-time
Judges.

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 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 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.

- 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 of any function pursuant to paragraph (1).

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

- 131.** Judges shall have full security of office as provided for in article 197.
- 132.** A Judge shall not enter upon the duties of his office unless he has taken and subscribed the oath of office.

Tenure of office of Judges.

Oaths of Judges.

APPEALS

- 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 142 (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.

Appeals on constitutional questions and fundamental rights.

CHAPTER XI
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.
- 138.**(1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of an offence under the law of Guyana of which he 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. [10 of 2003]

(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 life in contravention of this article if he 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 dies as the result of a lawful act of war.

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

Protection of right to personal liberty.

- (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 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 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 by law;
- (d) for the purpose of bringing him before a court in execution of the order of a court;

- (e) upon reasonable suspicion of his 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 parent or guardian, for the purpose of his 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 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 is being conveyed through Guyana in the course of his 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 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 is permitted to make to any part of Guyana in which, in consequence of any such order, his presence would otherwise be unlawful;
- (k) subject to the provisions of the next following paragraph, for the purposes of his preventive detention;
- (l) for the purpose of his 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 detention shall not be again detained by virtue of such provisions within the period of six months from his release on the same grounds as he 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 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 understands, of the reasons for his arrest or detention and shall be permitted, at his own expense, to retain and instruct without delay a legal adviser of his own choice, being a person entitled to practise in Guyana as an attorney-at-law, and to hold communication with him.
- (4) Any person who is arrested or detained -
- (a) for the purpose of bringing him before a court in execution of the order of a court; or
 - (b) upon reasonable suspicion of his 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 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, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

[10 of 2003]

- (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 shall be permitted to retain and instruct a legal adviser and to hold communication with him.
- 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 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 is detained;
- (c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as 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

Protection from slavery and forced labour.

- (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.

- 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 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 family; or

- (ix) in consequence of any law requiring an employer to remunerate his employee during any period of compulsory national service which the employee has undertaken; 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;
 - (ii a) 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

Protection
against
arbitrary search
or entry.

143.

- (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;
 - (b) "wages" includes merit increment or other increment in wages.
- (1) Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his 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.

- 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 is proved or has pleaded guilty;
 - (b) shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged;

Provisions to secure protection of law.

- (c) shall be given adequate time and facilities for the preparation of his defence;
 - (d) shall be permitted to defend himself before the court in person or by a legal representative of his own choice;
 - (e) shall be afforded facilities to examine in person or by his 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 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 cannot understand the language used at the trial of the charge, and, except with his consent, the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence or he fails without reasonable excuse (the proof whereof shall lie on him) to attend court.
- (3) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he 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 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 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 shows that he 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 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 shall, in sentencing him to any punishment, take into account any punishment awarded him 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 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 provision for legal aid to be given in suitable cases.
- (14) In this article “criminal offence” means a criminal offence under the law of Guyana.
- 145.** (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this article the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his 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 own consent (or, if he is a person who has not attained the age of eighteen years, the consent of his guardian), no person attending any place of education shall be required to receive

Protection of
freedom of
conscience.

- 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 own.
- (4) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his 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.
- 146.** (1) Except with his own consent, no person shall be hindered in the enjoyment of his 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 correspondence.

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- (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.

Protection of
freedom of
assembly,
association and
demonstration.
[10 of 2003]

147. (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.
- (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
- (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 dependant of any of them.

- 148.** (1) No person shall be deprived of his 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 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;

Protection of
freedom of
movement.

- (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 having been found guilty of a criminal offence under the law of Guyana or for the purpose of ensuring that he 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 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 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).
- 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.

Protection from
discrimination
on the grounds
of race, etc.

[10 of 2003]

- (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.

[10 of 2003]

- (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 or 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.

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 work.
[10 of 2003]

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| 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 in decision-making processes of the State.
[10 of 2003] | 149C. | No person shall be hindered in the enjoyment of participating through co-operatives, trade unions, civic 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. | <p>(1) The State shall not deny to any person equality before the law or equal protection and benefit of the law.</p> <p>(2) The State shall, for the purpose of promoting equality, take legislative and other measures designed to protect disadvantaged persons and persons with disabilities.</p> <p>(3) Equality includes the full and equal enjoyment of all rights and freedoms guaranteed by or under this Constitution or any other law.</p> |
| Equality of status
[10 of 2003] | 149E. | <p>(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.</p> <p>(2) Nothing contained in paragraph (1) shall be taken to affect vested rights.</p> |
| Equality for Women.
[10 of 2003] | 149F. | <p>(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.</p> <p>(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.</p> |

- 149G.** Indigenous peoples shall have the right to the protection, preservation and promulgation of their languages, cultural heritage and way of life. Indigenous peoples' right. [10 of 2003]
- 149H.** (1) Every child is entitled to free primary and secondary education in schools owned or funded by the State. Right to free education. [10 of 2003]
- (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.
- 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. Right to establish private schools. [10 of 2003]
- 149J.** (1) Everyone has the right to an environment that is not harmful to his or her health or well-being. The environment. [10 of 2003]
- (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 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 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 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 disciplin-
ary 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.

Enforcement
of protective
provisions.

(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.

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 articles 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 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; or
 - (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 IA

PROTECTION OF HUMAN RIGHTS

- 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.

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

Fourth Schedule

- (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.

TITLE 2**PARLIAMENT**Disqualifica-
tions for
election as
members.

- 155.** (1) No person shall be qualified for election as a member of the National Assembly who -
- (a) is, by virtue of his 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 by a court, or is serving a sentence of imprisonment (by whatever name called) exceeding six months imposed on him by a court or substituted by competent authority for some other sentence imposed on him 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.

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

- (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 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 has any such interest in any such Government contract, as may be so prescribed;
- (c) subject as aforesaid, if -
- (i) he 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 belongs to any armed force of Guyana or to any class of persons that is comprised in any such force; or
 - (iii) he 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 -
- (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 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; 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.

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

- (a) if he resigns it by writing under his hand addressed to the Speaker or, if the office of 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 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 ceases to be a citizen of Guyana;
- (d) subject to the next following paragraph, if any circumstances arise that, if he were not a member of the Assembly, would cause him 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 14 of 2000]**

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

- (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 shall forthwith cease to perform his functions as a member of the Assembly but, subject to the next following subparagraph, he shall not vacate his 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 an appeal against the decision, so however, that extensions of time exceeding 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 appeal, he shall forthwith vacate his seat.
- (c) If at any time before the member of the Assembly vacates his seat such circumstances as aforesaid cease to exist, his seat shall not become vacant by reason of those and he may resume the performance of his 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 in paragraph 3(a) or (b);
 - (b) the Representative of the List issues a notice of recall as provided for in paragraph 3(c).
- 157.** (1) 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 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

[22 of 2007]

[22 of 2007]

Speaker and Deputy Speaker.

- (ii) if, by virtue of paragraph (2)(a) of the preceding article he is required to cease to perform his functions as a member of the Assembly; or
 - (iii) if he 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 ceases to be a citizen of Guyana or if any circumstances arise that would cause him 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 announces the resignation of his office to the Assembly or if by writing under his 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 resigns that office; or
- (d) in the case of the Deputy Speaker, if he 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 office when he 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).
- (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 ought to be so removed for inability to discharge the functions of his 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 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 subparagraph (d) as respects his service as Clerk or Deputy Clerk but not as respects his service as a public officer;
 - (c) an officer so appointed shall not, during his 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 shall thereupon vacate his 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.

- 159.** (1) No person shall vote at an election unless he 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, on the qualifying date, he 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 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.

- 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 -

Electoral
System.

- (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 -

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- (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 has declared that he supports, or has otherwise identified himself 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.

- 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.

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.

Elections
Commission.

- (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 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 is an alien.
- (5) The Chairman or any other member of the Elections Commission shall vacate his office if any circumstances arise that, if he 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 illness, absence from Guyana, or suspension under article 225, the Chairman or any other member of the Elections Commission is unable to perform his functions as such, a temporary Chairman or other member, as the case may be, may be appointed in his 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 is appointed:

Provided that his appointment shall have effect only for the period ending when the person in whose place he has been appointed resumes his functions as, or ceases to be, the Chairman or other member, as the case may be, of the Commission.

- 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 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).

Appointment
of staff of
Elections
Commission;
Secretariat of
the Commis-
sion.

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.
- 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 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 is not a party thereto may intervene and (if he 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);

Determination of questions as to membership and elections.

[14 of 2000]

- (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 -
 - (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.

- 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 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

Procedure for altering this Constitution.

- (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 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 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.

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- 168.** (1) Save as otherwise provided by this Constitution, all question proposed for decision in the National Assembly shall be determined by a majority of the votes of the members present and voting. 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 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.
- 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 shall thereupon adjourn the Assembly. Quorum.
- 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. Mode of
legislation.
[17 of 2000]
- (2) When a Bill is presented to the President for assent, he shall signify that he assents or that he withholds assent.
- (3) Where the President withholds his assent to a Bill, he shall return it to the Speaker within twenty-one days of the date when it was presented to him for assent with a message stating the reasons why he has withheld the 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 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.

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.

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

(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 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.

[Title 3 repealed by Act 14 of 2000]

**TITLE 4
THE PRESIDENT**

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.

Election of
President.
[2 of 2000]

- (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.

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

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

Tenure of
office of
President.
[14 of 2000]

(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.

(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 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.

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 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 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 office.

Removal of
President on
grounds of
incapacity.

(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 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 office (whichever is the earlier), cease to perform the functions of his 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 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.

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 -

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

- (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.

(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 continuance in office as President and, if the Assembly so resolves, the President shall cease to hold office upon the third day following the passage of the resolution.

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

Salary and allowances of President.

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

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 office or for any act done in the performance of those functions and no proceedings, whether criminal or civil, shall be instituted against him in his personal capacity in respect thereof either during his term of office or thereafter.

Immunities of President.

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

TITLE 5

THE EXECUTIVE

SUBTITLE 1

MINISTERS, etc.

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

Tenure of office of Ministers.
[14 of 2000]

- (a) ceases to be a citizen of Guyana; or
 - (b) if he 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 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 functions as a member of the Assembly.
- (3) The office of any Minister shall become vacant -
- (a) if he resigns it by writing under his 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.

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 the dissolution of Parliament;

- (b) he 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 is required to cease to exercise his functions as a member of the Assembly; or
- (d) his 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.

(5) For every reference in any provision in this Constitution to the term "Minority Leader" there shall be substituted the term "Leader of the Opposition" and any such provision shall be read and construed accordingly with such modification as may be necessary.

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

Attorney
General.

(2) If the Attorney General is an elected member of the National Assembly at the time of his appointment or subsequently becomes such a member, he 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 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 office as Attorney General he shall also vacate his office as a Minister.

(5) If the Attorney General is not a Minister he shall vacate his office if he ceases to be a citizen of Guyana or if his 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.

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 a 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 appointment shall (unless he 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.

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

- (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.

Parliamentary
Secretaries.

Functions of
Director of
Public
Prosecutions

- (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 any other person or authority.

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

(3) The powers conferred upon the Director by subparagraphs (b) and (c) of paragraph (1) shall be vested in him 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 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.

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

Prerogative
of Mercy.

- (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 after consultation with such Minister as may from time to time be designated by him.

(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.

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 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.

Advisory
Council on
Prerogative
of Mercy.

(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 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:

Provided that his seat on the Council shall become vacant -

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

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 own deliberate opinion to the President as to whether he should exercise any of his powers under that article in relation to that person.

Functions of
the Advisory
Council.

(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

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

Appointments,
etc. of
Ombudsman.

(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 office as Ombudsman, or engage in any occupation for reward outside the duties of his 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 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.

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 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 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 individual judgment and in particular, and without prejudice to the generality of the foregoing, he may refuse to initiate, or may discontinue, any investigation if it appears to him 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, if he is dead or for any reason unable to act for himself, by any person duly authorised to represent him.

(8) Any question whether a complaint or a request for an 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 shall inform the person or body of persons who made the complaint or request of his decision.

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

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

Excluded matters.

- (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.

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 is of the opinion that any person or body of persons has sustained injustice in consequence of a fault in administration, he 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 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 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 is of that opinion and the nature of the injustice that he considers has been sustained;
- (b) if he 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 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 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 functions under this Subtitle.

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 -

Power of Parliament to make supplementary provision.

- (a) for the procedure to be observed by the Ombudsman in performing his 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.

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).

Interpretation.

TITLE 6
THE JUDICATURE

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
- (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 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 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.

(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.

Cap. 19:03

(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 the functions of his 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 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 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 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

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.

Defence and
security.
[7 of 2001]
[5 of 2003]

(2) The Defence and Security Forces shall be subordinate to national and 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.

(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.

Cap. 15:01

(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 ensure that citizens are safe in their homes, the streets and other places.

Cap. 16:01

(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.

[5/2003]

(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.

Cap. 19:03
[5/2003]

- [5/2003] (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 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 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 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 appointment or at such earlier time as may be specified in the instrument by which he was appointed; or
- (b) if he 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 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 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 is acting and has assumed the functions thereof, as the case may be, until the holder thereof resumes those functions.

(6) A person shall not, while he 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 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 own deliberate judgment:

Provided that a person shall be disqualified for appointment as a member of the Commission if he 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 appointment or at such earlier time as may be specified in the instrument by which he 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 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 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 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 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 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.

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.

Appointment,
etc., of public
officers.
[5 of 2001]

(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 in the exercise of a judicial function conferred on him 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) deleted 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.

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 Constitution, the decision of the Public Service Commission on any appeal made under paragraph (1) shall be final.

203. (1) [Paragraph (1) deleted 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.

Appointments,
etc., of
Director of
Public
Prosecutions.
[6 of 2001]

(3) A person shall not be qualified to be appointed to hold or act in the office of the Director unless he 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 office when he 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 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) deleted 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 office when he 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
others.

205. (1) The power to make appointments to the offices to which this article applies and to remove from 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.

206. (1) The power to make appointments on transfer to the offices to which this article applies shall vest in the President.

Appointments on transfer to certain offices.

- (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

207. (1) The Teaching Service Commission shall consist of seven members.

Composition of Commission. [17 of 1984] [5 of 2001]

(2) Six of the members of the Commission (hereinafter referred to as “appointed members”) shall be appointed as follows -

- (a) **[Paragraph (a) deleted 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.

(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 is a public officer.

(6) A person shall not while he 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 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 office as such member by writing under his hand addressed to the President.

(10) An appointed member of the Commission shall be eligible for re-appointment.

Vacation of office of appointed member of the Commission.

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 appointment or at such earlier time as may be specified in the instrument by which he 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.

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.

Appointment
of teachers.
[17 of 1984]

(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

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;

Composition
of Commission.
[5 of 2001]

- (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 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 appointment or at such earlier time as may be specified in the instrument by which he was appointed.

(3) The provisions of article 225 (which relate to removal from office) shall apply to the office of an 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 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 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 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 last held or acted in that office, be eligible for appointment to or to act in any public office.

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 Service Commission after the Chairperson has consulted with the other members of the Commission.

Appointment,
etc., of
Commissioner
of Police and
Deputy
Commissioners.
[5 of 2001]

(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 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 office when he 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 thinks fit and subject to such conditions as he thinks fit, delegate any of his 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 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 than 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 -

- (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,

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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.

THE ETHNIC RELATIONS COMMISSION

212 A. There shall be an Ethnic Relations Commission.

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 Peoples' Commission, Woman 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 officer 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 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 Relation Commission.

(8) If the office of the Chairperson of the Ethnic Relations Commission is vacant or the holder thereof is of any reason unable to perform the functions of his 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 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 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 is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumed those functions.

212C. Parliament may by law provide for the establishment of an Ethnic Relations Commission Tribunal and such law may make provisions 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.

212 D. The functions of the Ethnic Relations Commission are to -

- (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;

Ethnic Relations Commission Tribunal.
[11 of 2000]

Functions of the Ethnic Relations Commission.
[11 of 2000]

- (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 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.

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 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

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.

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;

Rights
Commissions.
[5 of 2001]

Appointment.
[5 of 2001]

- (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.

212I. The Human Rights Commission Secretariat shall be the Secretariat for all the Commissions established under article 212G (1).

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;

Secretariat.
[5 of 2001]

General
functions.
[5 of 2001]

- (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.

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

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”).

Human Rights
Commission.
[5 of 2001]

(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 persons 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.

(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.

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 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;
- (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

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]

212S. (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 sub-paragraphs (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 Tousehaos 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;