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- (c) promote empowerment of the indigenous peoples, especially with regard to the village council in the local government system and the scope and authority of the Council of Tousea;
- (d) make recommendations on economic and education policies to advance the interest of the indigenous peoples;
- (e) make recommendations for the protection, preservation and promulgation of the cultural heritage and language of the indigenous peoples;
- (f) promote consultation and cooperation with indigenous peoples especially with regard to their participation in national decision-making and other decisions that affect their lives;
- (g) recommend and promote training and technical assistance to support initiative by and for indigenous peoples;
- (h) educate employers and the public and make recommendations to improve employment practices related to indigenous peoples; and
- (i) monitor the need for and recommend where appropriate the establishment of mechanisms to provide counselling for indigenous peoples.

#### THE RIGHTS OF THE CHILD COMMISSION

**212U.** (1) The Rights of the Child Commission shall promote initiatives that reflect and enhance the well-being and rights of the child.

(2) The Rights of the Child Commission shall consist of persons from each of the categories referred to in subparagraphs (a) and (b) appointed by the President as follows -

Rights of the  
Child  
Commission.  
[5 of 2001]

- (a) not less than five nor more than fifteen members, with expertise in issues affecting children, nominated by entities, by a consensual mechanism determined by the National Assembly, after the entities which shall include the Ministry with responsibility for children's affairs, the Ministry of Education, and organisations representing the interests of youth, are determined by the votes not less than two-thirds of all elected members of the National Assembly; and
- (b) a member who shall be a nominee, without the right to vote, chosen by and from each of the following commissions: the Human Rights Commission, Ethnic Relations Commission, Women and Gender Equality Commission and Indigenous Peoples' Commission.

**212V.** In addition to the functions specified in article 212J (2) the functions of the Rights of the Child Commission are to -

- (a) promote the rights and interests of, and respect for the views of, children;
- (b) ensure that the rights and interests of children are taken into account at all levels of Government, other public bodies, and private organisations when decisions and policies affecting children are taken;
- (c) monitor compliance and make recommendations for the compliance with international instruments to which the Government accedes from time to time, including those already acceded to and which relate to the purpose of the Commission;

- (d) consult on and participate in the preparation of the Annual Report on the Rights of the Child to be submitted by the Government to the United Nations Committee on the Rights of the Child;
- (e) ensure that children have effective means of redress if their rights are being violated;
- (f) monitor, evaluate and make recommendations on policies, procedures and practices of organisations, bodies and institutions in order to promote the rights of the child.

#### THE PUBLIC PROCUREMENT COMMISSION

**212W.** (1) There shall be a Public Procurement Commission the purpose of which is to monitor public procurement and the procedure therefor in order to ensure that the procurement of goods, services and execution of works are conducted in a fair, equitable, transparent competitive and cost effective manner according to law and such policy guidelines as may be determined by the National Assembly.

Public  
Procurement  
Commission.  
[5 of 2001]

(2) The Commission shall be independent, impartial, and shall discharge its functions fairly.

**212X.** (1) The Public Procurement Commission shall consist of five members who shall have expertise and experience in procurement, legal, financial and administrative matters.

Composition  
of the Public  
Procurement  
Commission.  
[5 of 2001]

(2) The President shall appoint the members of the Commission after such members have been nominated by the Public Accounts Committee and approved by not less than two-thirds of the elected members of the National Assembly.

**212Y.** (1) Subject to paragraph (2), members of the Commission shall be appointed for three years and shall be eligible for re-appointment, for one other term of office, not earlier than three years after the end of their first term.

Appointment.  
[5 of 2001]

(2) Of those members first appointed, two shall hold office for four years.

(3) The Chairperson and Deputy Chairperson of the Commission shall be elected by and from the members of the Commission using such consensual mechanism as the Commission deems fit.

(4) The provisions of article 225 shall apply to the office of a member of the Commission, and for the purpose of paragraphs (4) and (6) of that article the prescribed authority shall be the Speaker of the National Assembly except that, in relation to a member other than the Chairperson or a member for the time acting in the office of the Chairperson under the next following paragraph, the prescribed authority for the purposes of paragraph (6) shall be the Chairperson.

(5) If the office of Chairperson of the Commission is vacant or the holder thereof is for any reason unable to perform the functions of the office, then the holder of the office of Deputy Chairperson, or if that office is vacant, or the holder thereof is for any reason unable to perform the functions of the office of Chairperson, one of the other members, may be elected to act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue so to act until a person has been elected to the office of Chairperson and has assumed the functions of that office or, as the case may be, until the Chairperson or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(6) If the office of a member of the Commission other than the Chairperson is vacant or if the holder thereof is acting as Chairperson under the preceding paragraph or is for any other reason unable to perform the functions of his or her office, a person may be appointed to act in that office and the provisions in relation to the appointment of members of the Commission shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this paragraph shall, subject to the provisions of paragraph (4), continue to act until a person has been appointed to the office in which he or she is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

**212Z.** (1) The Commission shall establish a secretariat comprising its officer and employees.

Secretariat.  
[5 of 2001]

(2) The Commission shall appoint a Chief Executive Officer, who shall serve as Secretary, and such other officers and employees as may be necessary for the efficient discharge of its functions. The terms and conditions of the appointment of the Chief Executive Officer and the two most senior officers shall be subject to the approval of the National Assembly.

(3) The Chief Executive Officer shall be under the direction and control of the Commission and he or she shall be responsible for the other officers and employees of the Commission who shall directly report to him or her.

(4) The Chief Executive Officer may, as directed by the Commission, attend meetings of public procurement bodies.

(5) Before the Commission appoints to act in any office referred to in paragraph (2) any person who holds or is acting in any office, power to make appointments to which is vested under this Constitution in the Judicial, the Teaching, the Police or the Public Service Commission, the Commission shall first seek and obtain the approval of the Commission in which that power is vested.

(6) Where a public officer is appointed to an office referred to in paragraph (2) that officer shall, subject to the said paragraph (2), remain a public officer unless the Commission determines that office shall be independent of any other Commission.

(7) Nothing in this article shall be construed as precluding the Commission from appointing any person who is not a public officer to an office referred to in paragraph(2).

(8) The emoluments and allowances payable to the members of the Commission shall be determined by the Public Accounts Committee in consultation with the Commission.

**212AA.** (1) The functions of the Public Procurement Commission are to -

- (a) monitor and review the functioning of all public procurement systems to ensure that they are in accordance with law and such policy guidelines as may be determined by the National Assembly;

Functions of  
the Public  
Procurement  
Commission.  
[5 of 2001]

- (b) promote awareness of the rules, procedures and special requirements of the procurement process among suppliers, constructors and public bodies;
- (c) safeguard the national interest in public procurement matters, having due regard to any international obligations;
- (d) monitor the performance of procurement bodies with respect to adherence to regulations and efficiency in procuring goods and services and execution of works;
- (e) approve of procedures for public procurement, disseminate rules and procedures for public procurement and recommend modifications thereto to the public procurement entities;
- (f) monitor and review all legislation, policies and measures for compliance with the objects and matters under its purview and report the need for any legislation to the National Assembly;
- (g) monitor and review the procurement procedures of the ministerial, regional, and national procurement entities as well as those of project execution units;
- (h) investigate complaints from suppliers, contractors and public entities and propose remedial action;
- (i) investigate cases of irregularity and mismanagement, and propose remedial action;
- (j) initiate investigations to facilitate the effective functioning of public procurement systems;

- (k) enlist the aid of such persons, as may be necessary, to assist the Commission with expert advice;
- (l) liaise with and refer matters to the police and the Auditor General; and
- (m) do all other acts and things as may be necessary to facilitate the efficient discharge of the functions of the Commission.

(2) In addition to the functions prescribed in this Constitution, the functions of the Commission may be provided for by law; any addition thereto in the Constitution shall be approved by the votes of a majority of all the elected members of the National Assembly but the removal or variation of any function shall be by the votes of not less than two-thirds of such members.

(3) The Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its functions to any one or more members of the Commission, or to such officers of the Commission as the Commission may determine.

**212BB.** (1) A decision of the Commission is subject to an appeal to the Tribunal established under article 212 EE.

Appeals.  
[5 of 2001]

(2) A decision of the Tribunal is subject to an appeal to the Court of Appeal.

**212CC.** (1) As soon as practicable after the end of each year of its operation, the Commission shall submit to the National Assembly an annual report of the activities of the Commission during the preceding year and the report shall be tabled in the Assembly within thirty days of its submission if the Assembly is sitting, if not, at the first meeting of the Assembly thereafter.

Reports.  
[5 of 2001]

(2) The Chairperson of the Commission may at any time submit a special report to the National Assembly with respect to any aspect of the functions of the Commission which the Commission considers should, in the national interest, be brought to the attention of the National Assembly.



(3) For the purposes of paragraph (2) a matter is of national interest if -

- (a) it affects a wide cross-section of the populace; and
- (b) disastrous consequences would follow if a report on the matter were not brought to the attention of the Assembly.

(4) The Commission shall prepare and publish an executive summary of its annual report; and shall publish every special report in media having wide accessibility in Guyana within forty-five days of the submission of such special report to the National Assembly.

Requirement to provide information. [5 of 2001]

**212DD.** (1) The Commission may require any person, or any entity, including a ministry or government department, to provide it with information -

- (a) for the purposes of any investigation it is carrying out or proposes to carry out; and
- (b) on the measures that have been or are being taken for the implementation of the decisions of, or the compliance with any provision relating to, the Commission.

(2) For the purposes of paragraph(1), Parliament may by law make provision for offences and penalties for non-compliance with any requirement, or decision of, or provision relating to the Commission.

Public Procurement Commission Tribunal. [5 of 2001]

**212EE.** Parliament may by law provide for the establishment of a Public Procurement Commission Tribunal and such law may make provision for -

- (a) the Constitution of the Tribunal;
- (b) all matters relating to the jurisdiction, powers and duties of the Tribunal;

- (c) all matters relating to appeals from decisions of the Tribunal to the Court of Appeal; and
- (d) the practice and procedure of the Tribunal.

**PRINCIPLES FOR THE ESTABLISHMENT OF COMMISSIONS**

**212FF.** The Standing Committee for Constitutional Reform shall, in addition to its functions under article 119A, continually review the operations of and the need for existing commissions and for the establishment of new commissions, applying the following considerations -

Principles for the establishment of Commissions. [5 of 2001]

- (a) the issues to be addressed by a commission must be of national interest or affect a wide cross-section of the populace;
- (b) there could be disastrous consequences for the society and the country at large if the issues are not attended to and monitored;
- (c) there is the assessment that it is important that political interference be eschewed in relation to the issues to be addressed;
- (d) the operating procedures and mechanisms for choosing the members of a commission are such as would minimise the influence of the Executive and maximise public perception of impartiality in the operations of the commission;
- (e) in accordance with the need for efficiency and cost-effectiveness, commissions should be kept small and be staffed by persons of appropriate skill and experience;
- (f) where commissions, especially those of a protective nature as opposed to administrative commissions, are established to address similar issues, the limitations of human and financial resources should be considered and common secretariats should be established.

## PENSIONS

Protection  
of pension  
rights.

**213.** (1) Subject to the provisions of the next following article, the law applicable to any benefits to which this article applies shall, in relation to any person who has been granted, or who is eligible for the grant of such benefits, be that in force on the relevant date or any later law that is not less favourable to that person.

(2) In the preceding paragraph “the relevant date” means -

- (a) in relation to any benefits granted before the commencement of this Constitution, the date on which those benefits were granted;
- (b) in relation to any benefits granted or to be granted after the commencement of this Constitution to or in respect of any person who was a public officer before such commencement, the day immediately preceding such commencement; and
- (c) in relation to any benefits granted or to be granted to or in respect of any person who becomes a public officer after the commencement of this Constitution, the date on which he becomes a public officer.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this article, be deemed to be more favourable to him than the other law or laws.

(4) Any benefit to which this article applies (not being a benefit that is a charge upon some other public funds of Guyana) shall be a charge upon the Consolidated Fund.

(5) In this article references to the law applicable to any benefits to which this article applies include (without prejudice to their generality) references to any law relating to the time at which and the manner in which any person may retire in order to become eligible for those benefits.

**214.** (1) Where under any law any person or authority has a discretion -

- (a) to decide whether or not any benefits to which this article applies shall be granted;  
or
- (b) to withhold, reduce in amount or suspend any such benefits that have been granted,

Power of Commissions in relation to pensions, etc.

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the appropriate Commission concurs in the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any benefits to which this article applies that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the appropriate Commission concurs in his being granted benefits of a smaller amount.

(3) The appropriate Commission shall not concur under paragraph (1) or paragraph (2) in action taken on the ground that any person who holds or has held the office of a Judge of the Supreme Court of Judicature, Director of Public Prosecutions, Auditor General or Commissioner of Police has been guilty of misbehaviour unless he has been removed from office by reason of such misbehaviour.

(4) In this article “the appropriate Commission” means -

- (a) in the case of benefits for which any person may be eligible or that have been granted in respect of the service in the public service of a person who, immediately before he ceased to be a public officer -
  - (i) was a Judge of the Supreme Court of Judicature, or was the Director of Public Prosecutions and provision was then in force under article 203(6), or was subject to the disciplinary control of the Judicial Service Commission, the Judicial Service Commission;

- (ii) was a teacher in public service, the Teaching Service Commission;
  - (iii) was the Commissioner of Police or other member of the Police Force, the Police Service Commission;
- and

- (b) in any other case, the Public Service Commission.

Interpretation.

**215.** (1) The preceding two articles apply to any benefits that are or may become payable under any law providing for the grant of pensions, compensation, gratuities or other like allowances to persons in respect of their service as public officers or to the widows, children, dependants or personal representatives of such persons in respect of such service.

(2) The said two articles and paragraph(1) of this article shall have effect as if service as a Judge of the Supreme Court of Judicature or as the Clerk or Deputy Clerk of the National Assembly were service in the public service.

#### PUBLIC SERVICE APPELLATE TRIBUNAL

**215A.** (1) Parliament may, by law, provide for the establishment of a Public Service Appellate Tribunal (hereafter in this article referred to as the "Tribunal") consisting of a chairman and such number of other members, being not less than two, as may be provided by that law.

(2) The chairman of the Tribunal shall be appointed by the President by instrument in writing and shall be a person who -

- (a) holds or has held the office of a Judge of the Court of Appeal; or
- (b) is qualified to be appointed as a Judge of the Court of Appeal and holds or has held the office of a Judge of the High Court.

Establishment  
and functions  
of the Public  
Service  
Appellate  
Tribunal  
[17 of 1984]

(3) A person shall be disqualified for appointment as a member of the Tribunal if he is a member of the Public Service Commission, the Teaching Service Commission or the Police Service Commission or is a public officer.

(4) A person shall not, while he holds the office of a member of the Tribunal or within a period of three years commencing with the date on which he last held that office, be eligible for appointment to, or act in, any office power to make appointments to which is vested by this Constitution in -

- (a) the President acting in accordance with the advice of, or after consultation with, the Public Service Commission or the Police Service Commission; or
- (b) the Public Service Commission, the Teaching Service Commission or the Police Service Commission.

(5) Where a Tribunal has been established under paragraph (1), an appeal shall lie to the Tribunal, subject to such conditions (if any) as may be specified by or under the law by which it is established, in respect of any matter so specified, being a matter in respect of which the Public Service Commission, the Teaching Service Commission, the Police Service Commission or the Commissioner of Police is empowered to make a decision under any provision of this Constitution:

Provided that no appeal shall lie to the Tribunal -

- (a) from any decision of the Public Service Commission or the Police Service Commission in respect of appointment to any office to which article 225 applies or in respect of any matter concerning any person holding, or acting in, any such office;
- (b) from any decision of the Public Service Commission, the Teaching Service Commission or the Police Service Commission in respect of any appointment, in a case where such appointment is required by this Constitution to be made after consultation with such Commission; and

- (c) from any decision of the Public Service Commission in respect of any matter referred to in article 201(6) to which the Judicial Service Commission has concurred.

(6) Subject to the provisions of this Constitution, the law referred to in paragraph (1) may make, or authorise the making of, provisions with respect to all matters connected with the Tribunal.

(7) Without prejudice to the generality of the provisions of the preceding paragraph, but subject to the provisions of this article, such law may, in particular, make, or authorise the making of, provisions for all or any of the following matters -

- (a) the Constitution of the Tribunal;
- (b) the terms and conditions of the appointment of the members of the Tribunal and the qualifications and disqualifications for such appointment;
- (c) the matters in respect of which, and the persons by whom, an appeal to the Tribunal may be brought and all other matters relating to the jurisdiction, powers and duties of the Tribunal;
- (d) the manner in which and the conditions, if any, subject to which an appeal to the Tribunal may be brought, including conditions with respect to the time within which the appeal may be brought and the fee payable in respect of the appeal or any application made to the Tribunal; and
- (e) the practice and procedure of the Tribunal.

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

(9) For the avoidance of doubt it is hereby declared that the prohibition in article 226(6) against enquiry in any court into the question referred to therein shall not apply to proceedings before the Tribunal.

(10) Save as otherwise provided by Parliament by law, the Public Service Commission, the Teaching Service Commission, the Police Service Commission, the Commissioner of Police, every person to whom any power of any of the aforesaid Commissions or of the Commissioner of Police has been delegated and every public officer, whether or not he is a person to whom any such power has been delegated, and authority shall give effect as expeditiously as possible to the decision of the Tribunal on any appeal brought to it or any application made to it.

(11) In deciding any question arising in an appeal brought to the Tribunal or an application made to it, no member of the Tribunal shall be subject to the direction or control of any other person or authority.

(12) Any question whether -

- (a) the Tribunal or any bench thereof has validly performed any function vested in it by or under this Constitution; or
- (b) any member of the Tribunal or any other person has validly performed any function in relation to the work of the Tribunal,

shall not be enquired into in any court.

## TITLE 8 FINANCE

**216.** All revenues or other moneys raised or received by Guyana (not being revenues or other moneys that are payable, by or under an Act of Parliament, into some other fund established for any specific purpose or that may, by or under such an Act, be retained by the authority that received them for the purpose of defraying the expenses of that authority) shall be paid into and form one Consolidated Fund.

Establishment  
of Consolidated  
Fund.



Withdrawals from Consolidated Fund or other public funds.

**217.** (1) No moneys shall be withdrawn from the Consolidated Fund except -

- (a) to meet expenditure that is charged upon the Fund by this Constitution or by any Act of Parliament; or
- (b) where the issue of those moneys has been authorised by an Appropriation Act; or
- (c) where the issue of those moneys has been authorised under article 219.

(2) Where any moneys are charged by this Constitution or any Act of Parliament upon the Consolidated Fund or any other public fund, they shall be paid out of that fund by the Government of Guyana to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by or under an Act of Parliament.

(4) Parliament may prescribe the manner in which withdrawals may be made from the Consolidated Fund or any other public fund.

Authorisation of expenditure from Consolidated Fund by appropriation. [6 of 2001]

**218.** (1) The Minister responsible for Finance or any other Minister designated by the President shall cause to be prepared and laid before the National Assembly before or within ninety days after the commencement of each financial year estimates of the revenues and expenditure of Guyana for that year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or any Act of Parliament) have been approved by the Assembly a Bill, to be known as an Appropriation Bill, shall be introduced in the Assembly, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found -

- (a) that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; or

- (b) that any moneys have been expended for any purpose in excess of the amount appropriated for that purpose by the Appropriation Act or for a purpose for which no amount has been appropriated by that Act,

a supplementary estimate or, as the case may be, a statement of excess showing the sums required or spent shall be laid before the Assembly by the Minister responsible for finance or any other Minister designated by the President.

**219.** (1) Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister responsible for finance may authorise the withdrawal of moneys from the Consolidate Fund for the purpose of meeting expenditure necessary to carry on the services of the Government of Guyana until the expiration of four months from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.

Authorisation  
of expenditure  
in advance of  
appropriation.  
[6 of 2001]

(2) Where a supplementary estimate or statement of excess is laid before the National Assembly under paragraph (3) of the preceding article or paragraph (2) of the next following article and is approved by the Assembly by resolution, that resolution shall be authority for the issue of the sums in question from the Consolidated Fund, but the aggregate sums the issue of which is so approved shall be included, under appropriate heads, in a supplementary Appropriation Bill.

(3) Where at any time Parliament has been dissolved before any provision or any sufficient provision is made under this Title for the carrying on of the Government of Guyana, the Minister responsible for finance may authorise the withdrawal of such sums from the Consolidated Fund as he may consider necessary for the purpose of meeting expenditure on the public services until the expiry of a period of three months commencing with the date on which the National Assembly first meets after that dissolution, but a statement of the expenditure so authorised shall, as soon as practicable be laid before the Assembly by the Minister responsible for finance or any other Minister designated by the President and, when the statement has been approved by the Assembly, that expenditure shall be included, under the appropriate heads, in the next Appropriation Bill.

Contingencies  
Fund.  
[6 of 2001]

**220.** (1) Parliament may make provision for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance to make advances from that Fund if he is satisfied that there is an urgent need for expenditure for which no other provision exists.

(2) Where any advance is made from the Contingencies Fund a supplementary estimate shall, as soon as practicable be laid before the National Assembly by the Minister responsible for finance or any other Minister designated by the President for the purpose of authorising the replacement of the amount so advanced.

Public debt.

**221.** The public debt of Guyana and service of that debt (including the interest on that debt, sinking funds payments and redemption moneys in respect of that debt and costs, charges and expenses of and incidental to the management of that debt) are hereby charged on the Consolidated Fund.

Remuneration  
of holders of  
certain offices

**222.** (1) There shall be paid to the holders of the offices to which this article applies such salaries and such allowances as may be prescribed by or under any law or, in the case of the Clerk and Deputy Clerk of the National Assembly, as may be determined under article 158(4).

(2) The salaries and allowances payable to the holders of the offices to which this article applies are hereby charged on the Consolidated Fund.

(3) The salary and allowances payable to the holder of any office to which this article applies and his other terms of service shall not be altered to his disadvantage after his appointment and, for the purposes of this paragraph, in so far as the terms of service of any person depend upon the option of that person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

(4) This article applies to the offices of President, Speaker, Deputy Speaker, Clerk and Deputy Clerk of the National Assembly, any Judge of the Supreme Court of Judicature, members of the Elections Commission, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission or the Police Service Commission, the Ombudsman, the Director of Public Prosecutions, the Auditor General and the Commissioner of Police.

**222A.** In order to assure the independence of the entities listed in the Third Schedule -

- (a) the expenditure of each of the entities shall be financed as a direct charge on the Consolidated Fund, determined as a lump sum by way of an annual subvention approved by the National Assembly after a review and approval of the entity's annual budget as a part of the process of the determination of the national budget;
- (b) each entity shall manage its subvention in such manner as it deems fit for the efficient discharge of its functions, subject only to conformity with the financial practices and procedures approved by the National Assembly to ensure accountability; and all revenues shall be paid into the Consolidated Fund;
- (c) the terms and conditions applicable to grants and donations destined for the entities shall be approved by, and disbursements shall be made through, such appropriate government agency or department as determined by the National Assembly.

**223.** (1) There shall be an Auditor General for Guyana, whose office shall be a public office.

Overarching  
clause on  
financial  
autonomy.  
[6 of 2001]

Third  
Schedule

(2) The public accounts of Guyana and of all officers and authorities of the Government of Guyana (including the Commissions established by this Constitution) and the accounts of the Clerk of the National Assembly and of all courts in Guyana shall be audited and reported on by the Auditor General, and for that purpose the Auditor General or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Auditor General shall submit his reports to the Speaker of the National Assembly, who shall cause them to be laid before the National Assembly.

(4) In the exercise of his functions under this Constitution, the Auditor General shall not be subject to the direction or control of any person or authority.

(5) The Public Accounts Committee may exercise general supervision over the functioning of the office of the Auditor General in accordance with the Rules, Policies and Procedures Manual for the functioning of the office of the Auditor General as prepared by the Auditor General and approved by the Public Accounts Committee.

(6) The Auditor General shall prepare and submit to the Public Accounts Committee reports, on a quarterly basis, on the performance and operation of the office of the Auditor General.

(7) The Auditor General shall submit annually a copy of an Annual Systems and Financial Audit Report with respect to the office of the Auditor General to the Public Accounts Committee.

(8) In this article -

- (a) "Public Accounts Committee" means the Public Accounts Committee established by order 70(2) of the Standing Orders of the National Assembly; and
- (b) "public accounts of Guyana" includes the accounts of -

- (i) all central and local government bodies and entities;
- (ii) all bodies and entities in which the State has a controlling interest; and
- (iii) all projects funded by way of loans or grants by any foreign State or organisation.

## TITLE 9 MISCELLANEOUS

**224.** Where under this Constitution any provision may be made by rules of court, rules for the purpose may be made by the authority for the time being empowered generally, by law in force in Guyana, to make rules of court in relation to civil proceedings in the High Court or, in so far as the provision relates to the bringing of any appeal to, or the institution of other proceedings in, or the practice and procedure of, the Court of Appeal, by the authority so empowered in relation to civil proceedings in that Court.

Rules of court.

**225.** (1) Where it is provided in this Constitution that this article shall apply to any office, a person holding such office (in this article referred to as “the office”) shall not be removed therefrom or suspended from the exercise of the functions thereof except in accordance with the provisions of this article; and the prescribed authority for the purpose of paragraph (4) or (6) shall, in relation to any office, be the authority prescribed for that purpose by the provision of this Constitution by which this article is applied to that office.

Removal from office of certain persons.  
[17 of 2000]

(2) The officer may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause whatsoever) or for misbehaviour.

(3) The officer shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under this article and the tribunal has recommended to the President that the officer ought to be removed from office for inability as aforesaid or for misbehaviour.

(4) If the prescribed authority advises the President that the question of removing the officer from office under this article ought to be investigated then -

- (a) the President shall act in accordance with the advice of the Judicial Service Commission, in appointing a tribunal which shall consist of a Chairman and not less than two other members, selected by the Judicial Service Commission from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who are qualified to be admitted to practice in Guyana as attorneys-at-law and have been so qualified for such period as is prescribed by Parliament for the purposes of subparagraph (b) of article 129 (1) in relation to the office of Puisne Judge; and
- (b) that tribunal shall enquire into the matter and report on the facts thereof to the President and recommend to him whether the officer ought to be removed under this article.

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(5) 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 and of article 197(9), apply as nearly as may be in relation to tribunals appointed under this article, or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act, and in such application shall have effect as if they formed part of this Constitution.

(6) If the question of removing the officer from office has been referred to a tribunal under this article, the President, acting in accordance with the advice of the prescribed authority, may suspend the officer from performing the functions of his office, and any such suspension may at any time be revoked by the President, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the President that the officer should not be removed from office.

226. (1) Save as otherwise provided in this Constitution, in the exercise of its functions under this Constitution a Commission shall not be subject to the direction or control of any other person or authority.

(2) Subject to affirmative resolution of the National Assembly, a commission shall make rules, relating to the procedure of the commission; and until such rules are made, the commission shall regulate its own procedure.

(3) A Commission may, subject to the next following paragraph, act notwithstanding any vacancy in its membership or the absence of any member, and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

(4) Any question for decision by a Commission shall be determined by a majority of the votes of the members of the Commission present and voting at a meeting of the Commission at which a quorum is present, and if on any question the votes are equally divided the Chairman or other member presiding shall have a casting vote in addition to his original vote:

Provided that, where the votes are equally divided on the question whether any power to remove a public officer from his office should be exercised, the Chairman or other member presiding shall not have a casting vote and the Commission shall be deemed to have decided that that power should not be exercised.

(5) For the purposes of the preceding paragraph a quorum shall consist, in the case of the Elections Commission, of the Chairman and not less than four members, two of whom have been appointed by the President in his own deliberate judgment and two from among members appointed on the advice of the Leader of the Opposition tendered in accordance with article 161 (3) (b):

Provided that if at any stage of a duly summoned meeting a quorum is not present, due to the absence of members therefrom -

Powers and  
procedure of  
Commissions.  
[2 of 2000]  
[5 of 2001  
]



- (i) without just cause, such just cause being determined by the Chairman, the meeting shall stand adjourned to a day not later than two calendar days; or
- (ii) in the case of the declaration of the results of the election of the President, the meeting shall stand adjourned to the following day,

at the same time and place and notice of such adjournment shall be given to the absent members, and if at the adjourned meeting a quorum is not present, the members then present, being not less than four including the Chairman, shall be deemed to constitute a quorum and any decision made at that or any such meeting shall be valid in law and binding.

- (6) Any question whether -
  - (a) a Commission has validly preformed any function vested in it by or under this Constitution;
  - (b) any member of a Commission or any other person has validly performed any function delegated to such member or person by a Commission in pursuance of the provisions of this Constitution; or
  - (c) any member of a Commission or any other person has validly performed any other function in relation to the work of the Commission or in relation to any such function as is referred to in the preceding subparagraph,

shall not be enquired into in any court.

(7) In this article, except as otherwise provided or required by the context, the expression “Commission” means the Elections Commission, the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission, or the Police Service Commission:

Provided that (without prejudice to the power of Parliament to make provision in relation to the functions of the Elections Commission) in the preceding paragraph that expression does not include the Elections Commission.

**227.** Notwithstanding any provision of this Constitution relating to the making of appointments to, removal of persons from, or the vacation of, any office, Parliament may provide for the imposition of disqualification for any office prescribed by Parliament on any person convicted by a court of an offence relating to excitement of hostility or ill-will against any person or class of persons on the grounds of his or their race.

Disqualifica-  
tion for office  
of persons  
exciting racial  
hostility.

## TITLE 10 INTERPRETATION

**228.** (1) Where any person has vacated any office established by this Constitution (including any office established under article 100, 124 or 125) he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

Appointments.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any public office, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this paragraph, then for the purposes of any function conferred upon the holder of that office the person last appointed shall be deemed to be the sole holder of the office.

(3) The preceding paragraph shall have effect in relation to the office of any Judge of the Supreme Court of Judicature or the Clerk or Deputy Clerk of the National Assembly as if that office were a public office.

Resignations.

**229.** (1) Any person who is appointed or elected to or otherwise selected for any office established by this Constitution (including any office established under article 100,124 or125 may resign from that office and, save as otherwise provided by articles 156(1), 157 and 178(1), shall do so by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected.

(2) The resignation of any person from any such office as aforesaid signified by writing under his hand shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorised by that person or authority to receive it or employed to assist that person in the performance of the functions of his office.

Vacation of office on attaining a prescribed age.

**230.** Where by this Constitution a person is required to vacate an office when he attains an age prescribed by or under the provisions of this Constitution, nothing done by him in the performance of the functions of that office shall be invalid by reason only that he has attained the age so prescribed.

**231.** [Article 231 repealed by Act No. 17 of 2000 ]

Interpretation.  
[14 of 2000]  
[17 of 2000]

**232.** In this Constitution, except as otherwise provided or required by the context -

“alien” means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

“attorney -at -law” means a person having a general right of audience in the Supreme Court of Judicature;

“Commissioner of Police” means the officer, however styled, commanding the Police Force;

“the Commonwealth” means Guyana and any country to which article 47 applies and any dependency of any such country;

“court” means any court of law in Guyana;

“elected member of the National Assembly” means any person elected as a member of the National Assembly pursuant to the provisions of paragraph(2) of article 60 or article 160(2);

“election” means an election of members to serve in the National Assembly or other elected body established by or under this Constitution, as the case may be;

“financial year” means any period of twelve months beginning on the first day of January in any year or such other date as Parliament may prescribe;

“Guyana” includes, in relation to any period before the day on which this Constitution commences, or anything done before that day, Guyana as it was before that day as well as the former Colony of British Guiana;

“law” includes any instrument having the force of law and any unwritten rule of law and “lawful” and “lawfully” shall be construed accordingly;

“local democratic organ” means any local government authority;

“consultation” or “meaningful consultation” means the person or entity responsible for seeking consultation shall -

- (a) identify the persons or entities to be consulted and specify to them in writing the subject of the consultation and an intended date for the decision on the subject of consultation;
- (b) ensure that each person or entity to be consulted is afforded a reasonable opportunity to express a considered opinion on the subject of the consultation;  
and

- (c) cause to be prepared and archived a written record of the consultation and circulate the decision to each of the persons or entities consulted;

“oath” includes affirmation;

First Schedule

“oath of office” means, in relation to any office, the oath for the due execution of that office set out in the Schedule to this Constitution or such other oath in that behalf as may be prescribed by Parliament;

“Parliament” means the Parliament of Guyana;

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“the Police Force” means the Police Force established by the Police Act and includes any other police force established by or under an Act of Parliament to succeed to or to supplement the functions of that Force but does not include any police force forming part of any naval, military or air force or any police force established by any local democratic organ;

“public office” means an office of emolument in the public service and for the avoidance of doubt it is hereby declared that the expression includes the office of a teacher in the public service and any office in the Police Force;

“public officer” means the holder of any public office and includes any person appointed to act in any such office;

“the public service” means, subject to the provisions of paragraph (5), the service of the Government of Guyana in a civil capacity;

“regional democratic council” means the local democratic organ for any region established under article 72;

“session” means, in relation to the National Assembly the sittings of the Assembly commencing when it first meets after this Constitution comes into force or after the prorogation or dissolution of Parliament at any time and terminating when Parliament is prorogued or is dissolved without having been prorogued;

“sitting” means, in relation to the National Assembly a period during which the Assembly is sitting continuously without adjournment and includes any period during which the Assembly is in committee; and

“the State” means the Co-operative Republic of Guyana.

(2) In this Constitution unless it is otherwise provided or required by the context -

- (a) a reference to power to make appointments to any office shall be construed as including a reference to power to make appointments on promotion and transfer and to confirm appointments and to power to appoint a person to act in or perform the functions of that office at any time when the office is vacant or the holder thereof is unable (whether by reason of absence or infirmity of mind or body or any other cause) to perform the functions of that office; and
- (b) a reference to the holder the office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or performing the functions of that office.

(3) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint or elect a person, to perform the functions of an office if the holder thereof is unable to perform those functions, the validity of any performance of those functions by the person so directed or of any appointment or election made in exercise of that power shall not be called in question in any court on the ground that the holder of the office was not or is not unable to perform the functions of the office.

(4) For the purposes of this Constitution, a person shall not be considered to hold a public office by reason only that he is in receipt of a pension or other like allowance in respect of public service.

(5) In this Constitution references to the public service shall not be construed as including service in -

- (a) the Office of President, Minister, Attorney General, Parliamentary Secretary, Speaker, Deputy Speaker, Leader of the Opposition, Ombudsman, or member of the National Assembly;
- (b) the office of a member of any Commission established by this Constitution or of the Public Service Appellate Tribunal;
- (c) the office of a member of any board, committee or other similar body (whether incorporate or not) established by any law in force in Guyana;
- (d) the office of any Judge of the Supreme Court of Judicature or Clerk or Deputy Clerk of the National Assembly except for the purposes of the next following paragraph and save as otherwise provided in any other provision of this Constitution; or
- (e) any body of persons organised as a national service within the meaning of article 154.

(6) References in this Constitution to the power to remove a public officer from his office shall be construed as including a reference to any power conferred by any law to require or permit that officer to retire from the public service -

Provided that -

- (a) nothing in this paragraph shall be construed as conferring on any person or authority power to require a Judge of the Supreme Court of Judicature, the Director of Public Prosecutions, the Commissioner of Police, the Auditor General or the Clerk or Deputy Clerk of the National Assembly to retire from his office; and
- (b) any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Commission that, if he were to retire, would be the appropriate Commission in relation to him for the purposes of article 214.

(7) Any provision in this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish that office or to any law providing for the compulsory retirement of public officers generally or any class of public officers on attaining an age specified by or under that law.

(8) Subject to article 226 (6 ) and article 215A (12), no provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions shall be construed as precluding a court from exercising jurisdiction in relation to any question whether that person or authority has exercised those functions in accordance with this Constitution or any other law.

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(9) The Interpretation and General Clauses Act as in force immediately before the commencement of this Constitution, shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applied for the purpose of interpreting, and in relation to, any Act in force immediately before such commencement, and in such application shall have effect as if it formed part of this Constitution.



**FIRST SCHEDULE**

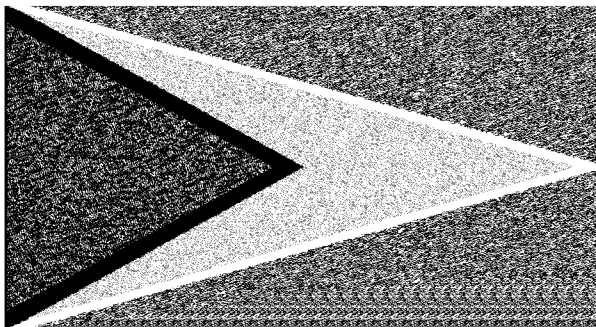
Article 232

**FORM OF OATH****OATH OF OFFICE**

I....., do hereby solemnly declare that I will bear true faith and allegiance to the People of Guyana, that I will faithfully execute the office of .....without fear or favour, affection or ill will and that in the execution of the functions of that office I will honour, uphold and preserve the Constitution of the Co-operative Republic of Guyana.

**SECOND SCHEDULE** Articles 4,5,6 and 6A

1. The National Flag
2. The Coat of Arms
3. The National Anthem
4. The National Pledge

**THE NATIONAL FLAG****THE GOLDEN ARROWHEAD**

The heraldic description of the Guyana Flag - known as the “Golden Arrowhead” - presented by the Garter King of Arms from the Royal College of Arms , England, reads as follows -

### Second Schedule (cont'd)

“Vert upon a pile throughout issuant from the dexter or, fimbriated argent; white upon a pile gules fimbriated sable, upon the same base”.

The design and the colour of Guyana Flag are interpreted as follows -

The green background symbolises the agricultural and forested nature of Guyana.

The white symbolises its waters and rivers potential.

The golden arrow symbolises Guyana’s mineral wealth and its forward thrust.

The black border the endurance that will sustain the golden arrow’s forward thrust into the future.

The red triangle represents the zeal and dynamic nature of the nation building that lies before this young and independent country.

The Flag is designed to be of a proportion 3\* 5 on land and 1\* 2 at sea.

The colour proportions are:  
green 50" gold 24" white 67" and black 1".

### GUYANA COAT-OF-ARMS



The design of Guyana’s Coat of Arms is interpreted as follows:-

The Amerindian head-dress, the Cacique Crown, symbolises the Amerindians as the indigenous people of the country.

The two diamonds at the sides of the head-dress represent the country’s mining industry.

The helmet, on which the Cacique Crown rests, is the monarchical insignia.

The two jaguars rampant, holding a pick-axe, a sugar cane, and a stalk of rice,

symbolise labour and the two main agricultural industries of the country, sugar and rice.

### Second Schedule (cont'd)

The shield which is decorated with the national flower, the Victoria Regia Lily, is to protect the nation.

The three blue wavy barrulets represent the three great rivers and many waters of Guyana.

The Canje Pheasant at the bottom of the shield is a rare bird found principally in this part of the world, and represents the rich fauna of Guyana.

### GUYANA NATIONAL ANTHEM

The image shows a musical score for the Guyana National Anthem, consisting of three systems of staves. Each system includes a vocal line with lyrics in Guyanese Creole and a piano accompaniment line. The lyrics are as follows:

1. Dear land of Guy - a - na, of ri - vers and pi - c - t - u - res, rich by the  
 2. sea - shore and built by the hand of God, we are - free and fair to - get - her  
 3. to - get - her and all, Your child - ren all love you, dear land of the free.

### **Second Schedule (cont'd)**

Dear land of Guyana, of rivers and plains  
made rich by the sunshine and lush by the rains;  
Set gem-like and fair, between mountains and sea,  
Your children salute you, dear land of the free.

Green land of Guyana, our heroes of yore,  
Both bondsmen and free, laid their bones on your shore;  
This soil they so hallowed, and from them are we,  
All sons of one mother, Guyana the free.

Great land of Guyana, diverse though our strains,  
We are born of their sacrifice, heirs of their pains,  
And ours is the glory their eyes did not see -  
One land of six peoples, united and free.

Dear land of Guyana, to you will we give  
our homage, our service, each day that we live;  
God guard you, great Mother, and make us to be  
More worthy our heritage - land of the free.

### **THE NATIONAL PLEDGE**

I pledge myself to honour always the flag of Guyana, and to be loyal to my country, to be obedient to the laws of Guyana, to love my fellow citizens, and to dedicate my energies towards the happiness and prosperity of Guyana.

### **THIRD SCHEDULE**

Article 222A

#### **ENTITIES**

The Ethnic Relations Commission  
The Human Rights Commission  
The Women and Gender Equality Commission  
The Indigenous Peoples' Commission  
The Rights of the Child Commission  
The Judiciary  
The Office of the Auditor General.

**FOURTH SCHEDULE**

Article 154A,212O(1)

**CONVENTIONS**

Convention on the Rights of the Child.

Convention on the Elimination of All Forms of Discrimination against Women.

Convention on the Elimination of All Forms of Racial Discrimination.

Convention Against Torture and Other Inhuman or Degrading Treatment or Punishment.

Covenant on Economic, Social and Cultural Rights.

Covenant on Civil and Political Rights.

Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.