

The Guyana¹ Court of Appeal

The Challenges of the Rule of Law in a Developing Country

Bertrand Ramcharan

Cavendish Publishing Ltd (2002)



Book review by Sally Ramage ®¹

Introduction

It is with huge pleasure that I have had the opportunity to review this law book, which, regardless of date of publishing, illustrates, at the coal face, the workings of the Rule of Law in one developing country, Guyana, formerly British Guiana in South America. This is a most important book, full of food for thought, which can be used as a tool of comparison with other developing countries striving for Rule of Law.

The author

The author is a Guyanese, Dr Bertrand Ramcharan, Barrister-at-Law, Commissioner of the International Commission of Jurists, Member of the Permanent Court of Arbitration, and Fellow of the London School of Economics and Political Science.



Bertrand Ramcharan

Ramcharan is the author of a 2009 Sourcewatch report '*SPN: The \$83 million Right-Wing Empire helping to hijack State politics and Government*'.²



The Guyana Court of Appeal

The book's ten chapters introduce Guyana's Court of Appeal to a wider public and includes chapters on the role of the Guyana Court of Appeal; the legal profession; the Rule of Law; fundamental rights; sources of law; the criminal law; law of torts; law of contracts; and property law.

The Supreme Court of Judicature consists of a Court of Appeal, a High Court and several courts of summary jurisdiction. In February 2001, the Guyana government signed an agreement, along with nine others, establishing the Caribbean Court of Justice to replace the UK's Privy Council. This is a vastly important step that Guyana has taken since the UK Privy Council is, in theory, the principal council of the British Crown and consists of persons nominated by the Crown to the office. This Court of Justice began to sit in 2003.

By disregarding the United Kingdom's Privy Council, Guyana has placed itself out of reach of English jurisdiction some thirty years after its independence from colonialism. The Privy Council is noted as being '*a great council of State held by the sovereign with her councillors, to concert matters for the public service, and for the honour and safety of the realm.*'³



The number of persons incarcerated in prisons in Guyana amount to less than 2,000.⁴

From English common law to modernity

The author in his preface explains that for the decades since this country's independence from the United Kingdom in 1966, the courts of Guyana have charted a course for the rule of law, maintaining the core protections of the common law as imprinted by the law of the United Kingdom, modernising this where necessary to meet the conditions of a progressive, developing society, as Guyana's is. Dr Ramcharan uses the Guyana Court of Appeal as a vehicle to examine the rule of law in a developing country and chose the criminal law; law of contracts; law of torts and property law to demonstrate the rule of law in these non-political areas of law, admitting the sometimes absence of the protection of human rights for example, article 21 (1) of the Universal Declaration of Human Rights ('UDHR'), which states that '*everyone has the right to take part in the government of his country, directly, or through freely chosen representatives.*'



Co-operative Republic of Guyana

An introduction to the country of Guyana was a good start. Guyana has a population of less than one million people in total and is the size of four times the size of the United Kingdom ('UK'). Some have said that Guyana is the size of Idaho in the United States. Guyana is situated on the northern coast of South America east of Venezuela, west of Suriname, and north of Brazil. A tropical forest covers more than 80% of the country.



Source: Google

Guyana's history

Guyana was first invaded by the Dutch West Indian Company having its own indigenous population, the Warrou people.



Source: Google

The Dutch, English, and French established colonies in what is now known as Guyana, but by the early 17th century the majority of the settlements were Dutch. During the Napoleonic wars Britain took over the Dutch colonies of *Berbice, Demerara, and Essequibo*, which became British Guiana in 1831 just before slavery was outlawed in 1834. The territory was 'captured' by Britain to whom it was ceded in 1814 and named British Guiana.

African slaves and indentured Chinese and Indians

African slaves were transported there to work the sugar plantations and in the 18th Century. The great need for plantation workers led to a large wave of immigration, primarily of East Indians. East Indian and Chinese² were transported to British Guiana as 'indentured labourers'.

From 1950 politics took over and the People's Progressive Party ('PPP'), led by Dr Cheddi Jagan and by Mr Forbes Burnham. In 1961, Mr Forbes Burnham formed the People's National Congress ('PNC') when internal autonomy was granted. In 1966 British Guiana became known as Co-operative Republic of Guyana and the country became an independent member of the Commonwealth.

A new Constitution in 1980⁶

Mr Forbes Burnham was voted in as the first Prime Minister and later, the President of Guyana. In October 1980 a new Constitution was agreed and with it, an Executive Presidency and a National Assembly of 53 elected members and 12 members appointed by the Regional Authorities. Elections for five-year terms are held under the single-list system of proportional representation, with the whole of Guyana forming one electoral area and each voter casting a vote for a Party List of candidates.⁷

Fraudulent elections in Guyana?

In Chapter 3 at page 35 of *The Guyana Court of Appeal*, Dr Ramcharan asserts that this 1980 constitution 'is a nullity and that the independence constitution previously in force, remains valid and should be reinstated on the basis of the legal doctrine of prospective limitation, in respect of future actions of the legislature of the executive.'

Based on a report by the Guyana Committee of Concerned Citizens which called the action 'massively fraudulent', because the national turn-out of voters was 14.01%? Dr Ramcharan asserts that this violates the 1948 United Nations Declaration of Human Rights and article 1 of the International Convention on Economic, Social and Cultural Rights, taking as precedent the 1997 Constitution of Fiji⁸.

It is usually accepted that English law is not proactive unless it is so specifically stated. The rule of law as it impacts internationally began, so it is said, with the Treaty of Westphalia of 1648, when modern nations began constructing rules to govern their reciprocal rights and obligations.⁹

Writings about forfeiture: the Fiji case

The Guyana Court of Appeal considered whether it should decide on the matter and having so decided, it reached a decision that the constitution was legal after all, taking into account court decisions and academic writings on the issue of acquiescence. It is to be noted that in the Fiji case the applicant sought the following orders (page 38, Chapter 3): that the attempted coup in Fiji on 19 May 2000 was unsuccessful; that the declaration of a State of Emergency under the doctrine of necessity was unconstitutional; that the revocation of Fiji's 1977 Constitution by decree by the Interim Military Government was unconstitutional; that the elected government of Fiji was still legally constituted and still the legitimate government of Fiji. The Fiji Court of appeal decided however, that the 1997 Fiji Constitution remained the Supreme law of the Fiji islands; and that the Fiji Parliament had not been dissolved and that because the Fiji president had resigned, it was for the Vice-President to perform the functions of the President, in accordance with section 88 of the Fiji constitution'. In the Fiji case, the Court of Appeal said in its decision in *Madzimbabuto v Lardner-Burke* (1969) 1 AC 645 (Privy Council), that the regime of Ian Smith in Southern Rhodesia was illegal, although the regime

Mass torts would have been initiated in developed countries

In the Philippines on 16th November, it was reported that the number of people injured due to the typhoon stood at 12,487, while 1,187 people are officially listed as missing. In all, more than nine million people had been affected, including 1,871,321 who have been displaced. The United Nations put the number of dead at 4,460. Officials said it was likely more bodies would be found as aid teams reached outlying areas. Helicopters from a US aircraft carrier have been transporting supplies to the devastated town on the Pacific coast - the first to take the full force of the 'Typhoon Haiwan'.¹⁰

There is hardly ever any news of Guyana's disasters in the world-wide news and the media are quick to exploit its jungles to make entertainment programmes of forages into the jungle- as Sunday evening fodder in England.

The Pakistan case

In *State v Dosso* (1958) 2 PSCR 180, the President had issued a proclamation annulling the then existing Constitution of Pakistan.

The Grenada case

In 1979, a coup overthrew the government of Grenada.¹¹ In *Mokotso v His Majesty King Moshoeshoe*¹², the court said that the burden of proof of legitimacy must always rest upon the new regime.

Syria's coup today

This illustrates parallels with today's issues in Syria and other recent coups and also rings true of the late Professor Glanville Williams' observation that 'judges are strongly influenced by their own ideas of what conduct should or should not be allowed, thus engaging in extending and creating new law.'¹³

Social statistics and ethnicity in Guyana

Forty years after Independence, some of Guyana's relevant social statistics¹⁴ were as below:

Per 1000 Guyanese

Birth rate	34.7
Infant mortality	56.0
Fertility rate	2.3
Death rate	8.6

The ethnicity of Guyanese is mostly East Indians, followed by Africans, those of mixed race, the original Amerindians and one percent of others. The towns in Guyana are Georgetown (the Capital); Linden, New Amsterdam, Rose Hall and Corriverton. Of the total population only fifty percent are accounted for in the labour force, of which three-quarters are men.

Climate and rainfall in Guyana

Today, most people in Guyana live in the rural areas and in fact Guyana has the highest proportion of rural population in the whole of South America. It is not difficult to see why the British so favoured Guyana as it has a tropical climate, conducive to producing sugar, which created much wealth for the British. This tropical climate has rainy seasons from April to July and from November to January, with the sea breezes cooling the humid temperatures. Guyana has an annual average rainfall of 87 inches (ie, 2,175 mm).

Guyana's Gross Domestic Production ('GDP')

It is not surprising that agriculture¹⁵ accounts for 35% of Gross Domestic Production ('GDP'), the remainder by services and industry¹⁶ in almost equal measure with a present annual GDP of just fewer than one billion dollars.

Guyana's Finance

The Bank of Guyana is Guyana's bank of issue and there are six commercial banks operating in Guyana, only two of which are foreign-owned. Guyana exports sugar, gold, rice¹⁷, bauxite¹⁸, shrimps, timber and rum. Expected financial sources from the Carbon Trading Scheme have not materialized especially for Guyana since Guyana has the second most important expanse of forestation and emits just one-eighth of the emissions of carbon dioxide by Venezuela. This financial resource has not transpired, one factor being disregard for this country's prime location environmentally on this planet, perhaps due to it being a developing country.

Another reason is that the developed world has set up environmental-saving schemes, taxation of pollution, etc. Other governments are advocating the improving of energy efficiency, allegedly, easily and cost-effectively. Reduction in daily energy costs and monthly utility bills can make it well worthwhile to pursue effective-efficiency upgrades, using the method of getting inexpensive energy audits and/or rebates for energy-efficiency upgrades. The bugbear of the need for capital for an energy-efficiency upgrades is that it requires investment, and some countries offer the population a payment on any energy that their system does not use or need - a positive cash flow from energy savings while paying off the investment for new equipment, in effect alleging that strategic energy-efficiency investments are a hedge against the certainty of higher utility bills.

Guyana's Energy

Most of Guyana's energy must be imported; domestic electricity is produced largely by thermal generation and is available only on the coastal plain and along the lower reaches of the rivers. Hydroelectric potential in Guyana is considerable, especially at Tiger Hill on the Demerara River and Tiboku Falls on the Mazaruni River. Development is hampered, allegedly, by the remoteness of the Tiboku Falls and the large amounts of capital needed for generation and transmission facilities.

Guyana's roads

These industries are essential for the progress of a developing country. There are over 7000 kilometres of roadways in Guyana but passenger cars are few in number, merely 25,000 for a population of over 700,000. There is a government-owned railway in parts of Guyana, with a commercially-owned railway¹⁹ for some other parts. Air travel and transport is at the only airport in Guyana, the Guyana International Airport at Timehri.

Guyana's airways and electronic communications

The Guyana Airways Corporation is the national carrier. Communications is by way of the inland public telegraph and radio services operated by the Guyana Telephone and Telegraph Company Limited. It is to be noted that there is an appalling dearth of Internet and telephone use by the population. There are not more than 100 post offices in this large and sparsely populated country.

Excellent literacy yet few newspapers afforded

There are just a few newspapers published in Guyana and they are read by just 42,000 of the population. The Guyana Television Broadcasting Company is state-owned and 12 private channels relay United States satellite services. Despite their general and comparative poverty, Guyana's people are fairly well educated, with over 98% of the adult population efficient in literacy. This rate of adult literacy is the highest rate of adult literacy in the whole of South America. All in all this makes the Guyanese population unable to keep up with current affairs, being locked in poverty and unable to use their excellent natural resources for their own progress.

The laws of Guyana

Similar to many other ex-colonial countries, Guyana's laws are still partly based on English common law and statute law, and Guyana's property laws have changed little. Likewise, the majority of the population retained the Protestant religion.²⁰ Guyana's annual homicide rate averages at less than 100 for a total population of nearly one million.²¹

Current legal issues



Venezuelan litigation over borders

In 1963, Venezuela demanded the return of the Essequibo region and in March 1983 the legal issue, being still unresolved, it was decided that the United Nations Secretary General should mediate.²² Meanwhile, the United Kingdom conducted a steady and robust trade with Venezuela regarding both imports and exports. Whether this has made the United Kingdom's interests with Guyana in conflict is to be discussed.²³

Suriname's coastal claim against Guyana

Additionally, Suriname (or Dutch Guiana) made a claim in 1984 that it owned and wanted return of an area between the New River and the Corentyne River. This remained unresolved until June 2000 when offshore oil exploration changed the dispute into an international maritime dispute.²⁴ This maritime boundary dispute was finally resolved and since then offshore oil exploration began in the Guyana-Suriname Basin in late 2007.

Conclusion

In light of present political conditions this book is highly recommended. Dr Ramcharand has decades of expertise in the field of international law and human rights law.



However, as countries and coups go, Guyana is mostly a very poor and peaceful people, scarred by the lack of opportunities, finances and knowledge to make full of its beautiful lands; its vast riches in the potential oilfields in it; and its beautiful forests and other wonderful natural resources. No doubt it will succumb to Western exploitation again and its peoples will remain poor- a lesson for us all.

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² See <http://www.sourcewatch.org/index.php>, modified on 9 February 2012. Dr Ramcharan has spent three decades with the United Nations

³ John Burke (editor) (1977) *Jowitt's Dictionary of English Law*, London: Sweet & Maxwell, at page 1433 of Volume 2.

⁴ This represents 200 per 100,000 of the population.

⁵ See Quan, T.S. (2001) *A history of Chinese indentured labourers*, ebook at <http://www.guyanaundersiege.com/Historical/History%20of%20chinese%20indentured%20labourers.htm>.

'In 1834, the slaves who had been taken from Africa to the colonies of Britain were set free. In British Guiana a significant proportion of the freedmen chose to live off the fertile land and sought paid employment on an irregular basis. The resulting reduction in the labour force caused the sugar plantation owners to search for replacement workers. They obtained large numbers of labourers from Madeira (Portugal), India and China each bound by a contract of indenture. The Chinese were the smallest group of these indentured workers. The first batch of Chinese landed in Georgetown, British Guiana in 1853, and for the next few years all were men, most being taken forcibly.'

⁶ See Appendix 1 below.

⁷ In 1992 Dr Cheddi Jagan became President of Guyana. Dr Jagan died in 1997 and his wife, Mrs Janet Jagan, became President in 1997.

⁸ *Chandrika Persaud v Republic of Fiji*, 16 November 2000; *Republic of Fiji v Chandrika Persaud* (1 March 2001).

⁹ Schabas, W.A. (editor) (2012) *International Criminal Law, Volume 1*, Cheltenham: Edward Elgar Publishing Limited.

¹⁰ Editor, 'Philippines death toll up as aid arrives', *Sunday Observer*, 17 November 2013 at webpage

<http://www.sundayobserver.lk/2013/11/17/wld01.asp>, accessed on 17 November 2013.

¹¹ See *Mitchell v Director of Public Prosecutions and another* (1986) LRC (Const 35).

¹² (1989) LRC (Const) 24, at 132.

¹³ Stevens, (1983) *Textbook of Criminal Law*, 2nd edn, London: Cavendish, at page 14.

¹⁴ Turner, B. (editor) (2010) *The Statesman's Yearbook, Hampshire, UK: Palgrave Macmillan, at pages 775-779.*

¹⁵ Agricultural production consists of sugarcane, rice, coconuts, cassava, plantains, bananas, pineapples, coffee, cocoa, copra, fruit, vegetables, tobacco, with livestock products of beef, veal, pork, bacon, ham, lamb, mutton, poultry, eggs, and milk and fish.

¹⁶ The service industry in Guyana consists mainly of the production of sugar, rice, timber, coconut, gold and diamond mining textiles, pharmaceuticals, rum, beer, non-alcoholic drinks, footwear, margarine and edible oils, refrigerators and paint, electricity, bauxite, copper, tungsten, iron, nickel, quartz and molybdenum.

¹⁷ The country's many rice mills, like its rice fields, are generally small-scale and individually owned, although there are several large government mills along the coast.

¹⁸ Most bauxite and alumina (aluminum oxide occurring in hydrated form in bauxite) is processed in the city of Linden. The rest of the country's bauxite mining takes place on the Berbice River; a processing plant also operates downriver at Everton.

¹⁹ The Guyana Mining Enterprise operates a standard gauge railway of 133 kilometres from Linden on the Demerara River to Ituni and Coomacka.

²⁰ The Christian following amounts to almost 60%, whilst 30% of the population kept the Hindu religion and 10% are Muslims.

²¹ National Statistical Office, Bureau of Statistics, Avenue of the Republic and Brickdam, Georgetown, Guyana.

²² Braveboy-Wagnet, J. (1984) *The Venezuela-Guyana Border Dispute: Britain's Colonial Legacy in Latin America*, Boulder, Colorado: Westview Press.

²³ The UK exports 27% of its exports to Venezuela and imports a similar percentage each year.

²⁴ Guyana is a member of the United Nations, World Trade Organisation, the Commonwealth, Organisation of American States, the Inter-American Development Bank, the Caribbean Community CARICOM, the Organisation of Islamic Cooperation and is also a member of the African /Caribbean/ Pacific –European Union group of states (ACP-EU). The ACP-EU Joint Parliamentary Assembly was created out of a common desire to bring together the elected representatives of the European Community - the Members of the European Parliament - and the elected representatives of the African, Caribbean and Pacific states ("ACP countries") that have signed the Cotonou Agreement: it is the only institution of its kind in the world.

APPENDIX 1- THE CONSTITUTION OF GUYANA

The GUYANA CONSTITUTION OF 1980 INCLUDING 1996 REFORMS GUYANA

ACT NO. 2 OF 1980 CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA ACT 1980

**I assent,
A.Chung,
President.**

20th February, 1980.

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Constitutional Instruments (including the existing Constitution) repealed.
4. Appointed day.
5. Exercise of powers of Parliament before appointed day.
6. Exercise of power of President before appointed day.
7. Existing laws.
8. Parliament.
9. Standing Orders.
10. President.
11. Prime Minister.
12. Ministers, Attorney General, Parliamentary Secretaries, etc.
13. Cabinet.
14. Supreme Court of Judicature.
15. Existing officers.
16. Oaths.
17. Commissions.
18. Continuation of proceedings.
19. Local democratic organs.
20. Amendment of certain provisions of Amerindian Lands Commission Act.
21. Electoral districts and list of electors.
22. Amendment of this Act.

SCHEDULE

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.

Enacted by the Parliament of Guyana:--

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

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.

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.

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.

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.

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 so modified.

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

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

(6) Without prejudice to the generality of the foregoing provisions of this section, if a proclamation of emergency is in force under article 16 of the existing Constitution immediately before the appointed

day by virtue of a resolution of the existing Assembly, the proclamation shall on and after that day have effect as if it had been made under article 150 of the Constitution and (without prejudice to its continuance in force for further periods by virtue of the provisions of paragraph (3)(c) of the said article 150) as if its continuance in force to the date referred to in that resolution had been approved by a resolution passed by the National Assembly under the provisions of paragraph (3) (c) of the said article 150; and if any person is on the appointed day detained or restricted in the manner referred to in article 151 of the Constitution the provisions of that article requiring his 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.(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.

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

(9) For the purposes of article 142 of the Constitution, the provisions contained in the Acquisition of Lands for Public Purposes Act shall be deemed to specify the principles on which and the manner in which the payment of compensation is to be determined and given for property compulsorily acquired thereunder.

(10) 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.

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.

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.

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.

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 Leader of the Opposition 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 sub. section (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.

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

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

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

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.

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 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:

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.

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. 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.

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

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

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

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CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA PREAMBLE

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SCHEDULE -- Form of Oath

PREAMBLE

WE THE PEOPLE OF THE CO-OPERATIVE REPUBLIC OF GUYANA,

the proud heirs of the indomitable spirit and unconquerable will of our forefathers who by their sacrifices, their blood and their labour made rich and fertile and bequeathed to us as our inalienable patrimony for all time this green land of Guyana,

SALUTING the epic struggles waged by our forefathers for freedom, justice and human dignity and their relentless hostility to imperialist and colonial domination and all other forms and manifestations of oppression;

ACCLAIMING those immortal leaders who in the vanguard of battle kept aloft in the banner of freedom by the example of their courage, their fortitude and their martyrdom, whose names and deeds being forever enshrined in our hearts we forever respect, honour and revere;

INSPIRED by the glorious victory of 26th May, 1966, when after centuries of heroic resistance and revolutionary endeavour we liberated ourselves from colonial bondage, won political independence and became free to mold our own destiny;

CONSCIOUS of the fact that to bring about conditions necessary for the full flowering of the creative genius of the people of Guyana formal political sovereignty must be complemented by economic independence and cultural emancipation;

HAVING ESTABLISHED the Republic on 23rd February, 1970, to reinforce our determination to chart an independent course of development in conformity with our historical experience, our cultural heritage and our common aspirations;

PLEDGED to defend our national sovereignty, to respect human dignity and to cherish and uphold the principles of freedom, equality and democracy and all other fundamental human rights;

DEDICATED to the principle that the people of Guyana are entitled as of right to enjoy the highest possible standard of living and quality of life consistent with their work and the possibilities of the country's resources;

CONVINCED that the organisation of the State and society on socialist principles is the only means of ensuring social and economic justice for all of the people of Guyana; and, therefore,

BEING MOTIVATED and guided by the principles of socialism;

BEING OPPOSED to all social, economic and political systems which permit the exploitation of man by man; and

ACKNOWLEDGING our common purpose of national cohesion and our common destiny as one people and one nation,

DO SOLEMNLY RESOLVE to establish the State on foundations of social and economic justice, and accordingly by popular consensus, after full, free and open discussion, debate and participation,

DO ADOPT the following —

CONSTITUTION OF THE CO-OPERATIVE REPUBLIC OF GUYANA

CHAPTER I THE STATE AND THE CONSTITUTION

1. Guyana is an indivisible, secular, democratic sovereign state in the course of transition from capitalism to socialism and shall be known as the Co-operative Republic of Guyana.
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.
3. The capital of the State is the city of Georgetown.
4. The national flag of the State is the flag known as "The Golden Arrow Head."
5. The coat of arms of the State is that in use at the commencement of this Constitution.
6. The national anthem of the State is the anthem known as "Green Land of Guyana."
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 and the Constitution of Guyana, and to treat them with due and proper solemnity on all occasions.
8. The Constitution is the supreme law of Guyana and, if any other law is inconsistent with it, that other law shall, to the extent of the inconsistency, be void.

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

9. Sovereignty belongs to the people, who exercise it through their representatives and the democratic organs established by or under this Constitution.
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.

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- * 11. Co-operatives, trade unions and all socio-economic organisations of a national character are entitled to participate in the various management and decision making processes of the States and particularly in the political, economic, social and cultural sectors of national life.
- Validation — Act No. 1 of 1988
- ^{*6}. Any written law passed or made on or after 6th October, 1980 and before the date on which the Bill for this Act received the assent of the President, and anything done, or any action taken, under any such written law shall be deemed to be void, or ever to have been void, only on the ground that any consultation, or any participation in any management or decision making process, pursuant to article 11 or any other provision of Chapter II of Part 1 of the Constitution, has not taken place, and every such written law shall, subject to the provisions of Title 1 of Part 2 of the Constitution and to the power of the Parliament to repeal or amend it, continue in force:
Provided that this section shall not be deemed to validate section 28C inserted in the Labour Act of the Labour (Amendment) Act 1984 or section 7 of the latter Act.
12. Local government by freely elected representatives of the people is an integral part of the democratic organisation of the State.
13. The principle objective of the political system of the State is to extend socialist democracy by providing increasing opportunities for the participation of citizens in the management and decision making processes of the State.
14. The supreme goal of the economic system which is being established in the State is the fullest possible satisfaction of the people's growing material, cultural and intellectual requirements, as well as the development of their personality and their socialist relations in society.
15. (1) In order to achieve economic independence as the imperative concomitant of its political independence, the State will revolutionize the national economy.
- (2) The national economy of the State will be based upon the social ownership of the means of production and the eventual abolition of internal arrangements and relationships which permit the exploitation of man by man.
- (3) The economy will develop in accordance with the economic laws of socialism on the foundation of socialist relations of production and development of the production forces.
- (4) National economic planning shall be the basic principle of the development and management of the economy. It shall provide for the widest possible participation of the people and their socio-economic organs at enterprise, community, regional and national levels, and shall also provide continuous opportunity for the working people to exercise initiative and to develop a spirit of creativity and innovation.
16. Co-operativism in practice shall be the dynamic principle of socialist transformation and shall pervade and inform all interrelationships in the society. Co-operativism is rooted in the historical experience of the people, is based on self-reliance, is capable of releasing the productive energies of the people, and is a unifying principle in the total development of the nation.
17. The existence of privately owned economic enterprises is recognized. Such enterprises must satisfy social needs and operate within the regulatory framework of national policy and the law.
18. Land is for social use and must go to the tiller.

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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.
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.
22. (1) Every citizen has the right to work and its free selection in accordance with social requirements and personal qualifications. He has the right to be rewarded according to the nature, quality and quantity of his work. Women and men have the right to equal pay for equal work.
- (2) Socially useful activity is an honourable duty of every citizen able to work. The right to work implies a corresponding duty to work.
- (3) The right to work is guaranteed —
- (i) by social ownership of the means of production, distribution and exchange;
- (ii) by socialist planning, development and management of the economy;
- (iii) by planned and progressive growth of the socialist productive forces and labour productivity;
- (iv) by consistent implementation of scientific principles and new and productive forces and labour productivity;
- (v) by continuous education and training of citizens;
- (vi) by socialist labour laws; and
- (vii) by sustained efforts on the part of the State, co-operatives, trade unions and other socio-economic organisations and the people working together to develop the economy in accordance with the foregoing principles in order to increase continuously the country's material wealth, expand employment opportunities, improve working conditions and progressively increase amenities and benefits.
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.
24. Every citizen has the right to free medical attention and also to 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.
26. Every citizen has the right to proper housing accommodation.
27. Every citizen has the right to a free education from nursery to university as well as at non-formal places where opportunities are provided for education and training.
28. Every young person has the right to ideological, social, cultural and vocational development and to the right of the socialist order of society.
29. (1) Women and men have equal rights and the same legal status in all spheres of political, economic and social life. All forms of discrimination against women on the basis of their sex is illegal.

- (2) The exercise of women's rights is ensured by according women access with men to academic, vocational and professional training, equal opportunities in employment, remuneration and promotion, and in social, political and cultural activity, by special labour and health protections measures for women, by providing conditions enabling mothers to work, and by legal protection and material and moral support for mothers and children, including paid leave and other benefits for mothers and expectant mothers.
30. Children born out of wedlock are entitled to the same legal rights and legal status as are enjoyed by children born in wedlock. All forms of discrimination against children on the basis of their being born out of wedlock are illegal.
31. It is the duty of the State to protect the just rights and interests of citizens abroad.
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 .
33. It is the duty of every citizen to defend the State.
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.
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.
36. In the interests of the present and future generations, the State will protect and make rational use of its land, mineral and water resources, as well as its fauna and flora, and will take all appropriate measures to conserve and improve the environment.
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.
38. It is the duty of the State, co-operatives, trade unions and other socio-economic organisations and the people through sustained and disciplined endeavors to achieve the highest possible levels of production and productivity and to develop the economy in order to ensure the realization of the rights set out in this Chapter.
- Amended by Act No. 1 of 1988 by insertion of the Article as follows:
39. Parliament may by law provide that any provision of this Chapter shall be enforceable in any court or tribunal and only where, and to the extent to which, such law provides for the enforcement of any such provision, and not otherwise, shall that provision be enforceable in any court or tribunal.

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, disease, ignorance and want. That right includes the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely —
- (a) life, liberty, security of the person and the protection of the law.
- (b) freedom of conscience, of expression and of assembly and association; and

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- (c) protection for the privacy of his home and other property and from deprivation of property without compensation.
- (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 in the public interest.

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

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- (2) If the President is satisfied that any citizen of Guyana has at any time after the 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.
- (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 Australia, the Bahamas, Bangladesh, Barbados, Botswana, Canada, Cyprus, Dominica, Fiji, The Gambia, Ghana, Grenada, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, 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, St. Lucia, St. Vincent, Swaziland, Tanzania, Tonga, Trinidad and Tobago, Tuvalu, Uganda, United Kingdom and Colonies, Western Samoa and Zambia.
- (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.
48. 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), 43 or 44; or
- (c) for the renunciation by any person of his citizenship of Guyana.
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 —

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- (i) the Parliament;
 - (ii) the National Congress of Local Democratic Organs;
 - (iii) the Supreme Congress of the People;
 - (iv) the President; and
 - (v) the Cabinet.

CHAPTER VI PARLIAMENT

Composition of Parliament

51. There shall be a Parliament of Guyana, which shall consist of the President and the National Assembly.
52. (1) Subject to paragraph (2) and to articles 105, 185 and 186, the National Assembly shall consist of sixty-five members who shall be elected in accordance with the provisions of this Constitution and, subject thereto, in accordance with any law made by Parliament in that behalf.
- (2) If any person who is not a member of the National Assembly is elected to be Speaker of the Assembly, he shall, by virtue of holding the office of Speaker, be a member of the Assembly in addition to the members aforesaid.
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, read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Assembly.
54. Members of the National Assembly shall vacate their seats in the Assembly in the circumstances set out in article 156.
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 a meeting.
56. (1) When the National Assembly first meets after any election and before it proceeds to the despatch of any other business, 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 of 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 of 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.

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

Elections

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.
60. (1) Elections of members of the National Assembly shall be by secret ballot.
- (2) Subject to the provisions of article 160 (2), fifty-three members of the National Assembly shall be elected in accordance with the system of proportional representation prescribed by article 160 (1).
- (3) On such day as the President may by proclamation appoint, being a day which he considers to be as early as practicable after an election of members of a regional democratic council has been held in consequence of a dissolution effected under the provisions of article 73 (2), the council shall elect one of its members to serve as a member of the National Assembly.
- (4) On such day as the President may by proclamation appoint, being a day which he considers to be as early as practicable after an election of members of the National Congress of Local Democratic Organs has been held in consequence of a dissolution effected under the provisions of article 80 (2), the Congress shall elect two of its members to serve as members of the National Assembly.
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.
62. Elections shall be independently supervised by the Elections Commission in accordance with the provisions of article 162.
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 paragraph (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.

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.

Amended by Act No. 1 of 1988 by insertion as follows:

(2) The validity of any law 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.

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

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

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

Summoning, Prorogation and Dissolution

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.

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 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 socialist democracy and shall be organised so as to involve as many people as possible in the task of managing and developing the communities in which they live.
- (2) For this purpose Parliament shall provide for the institutions 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 (same for any areas excluded by it) into ten regions and into such sub-regions and other subdivisions as it may deem for the purpose of organising local democratic organs.
- (2) In defining the boundaries of any areas into which Guyana may be divided under paragraph (1) account shall be taken of the population, the physical size, the geographical characteristics, the economic resources and the existing and planned infrastructure of each area, as well as the possibilities of facilitating the most rational management and use of such resources and infrastructure, with a view to ensuring that the area is or has the potential for becoming economically viable.
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.
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 socialist legality and safeguard the rights of citizens.
75. Parliament may provide for local democratic organs to 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.

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.

The National Congress of Local Democratic Organs

79. There shall be a National Congress of Local Democratic Organs which shall have responsibility for representing the interests of local government in Guyana and such other duties and functions as may be assigned to it by this Constitution or by any other law.
80. (1) The members of the National Congress of Local Democratic Organs shall be elected by and from among the members of such local democratic organs as may be prescribed by Parliament.
- (2) Elections of members of the National Congress of Local Democratic Organs shall be held and the Congress 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 the National Congress of Local Democratic Organs 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.
81. Parliament may make provision for all other matters relating to the establishment, membership and functions of the National Congress of Local Democratic Organs, for the election of the members thereof and for effective participation by them through the Congress in the decision making processes of the State.

CHAPTER VIII THE SUPREME CONGRESS OF THE PEOPLE

82. There shall be a Supreme Congress of the People of Guyana, which shall consist of all members of the National Assembly and all members of the National Congress of Local Democratic Organs.
83. The Supreme Congress of the People may discuss any matter of public interest and may make recommendations thereon to the National Assembly of the Government. In particular, the Congress shall advise the President on all matters which he may refer to it, and for this purpose article 67 shall apply in relation to the Congress as it applies in relations to the National Assembly.
84. (1) Each session of the Supreme Congress of the People shall be held at such place within Guyana and shall begin at such time as the President shall appoint by proclamation.
- (2) Subject to the provisions of the preceding paragraph, the sittings of the Congresses shall be held at such time and place as the Congress may, by its rules of procedure or otherwise, determine.
85. (1) The President may at any time by proclamation summon, prorogue or dissolve on the occurrence of a dissolution of Parliament.
- (2) The Supreme Congress of the People, unless sooner dissolved, shall stand dissolved on the occurrence of a dissolution of Parliament.

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86. The Chairman of the Supreme Congress of the People shall be the person who is entitled for the time being to discharge the functions of the office of Speaker of the National Assembly. If there is no such person, the Congress shall elect its own Chairman.
87. The Clerk, the Deputy Clerk and officers of the National Assembly shall also be the Clerk, the Deputy Clerk and officers respectively of the Supreme Congress of the People.
88. All other matters concerning the Supreme Congress of the People (including the procedure thereof) shall be regulated by the provisions of articles 173 to 176 (inclusive).

CHAPTER IX THE 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.
90. A person shall be qualified for election as President and shall not be so qualified unless he —
- (a) is a citizen of Guyana; and
 - (b) is otherwise qualified to be elected as a member of the National Assembly: Provided that a person holding the office of President or otherwise discharged the functions of that office shall not on that account be disqualified for election as President.
91. The President shall be elected by the people in the manner prescribed by article 177.
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.
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.
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.
95. (1) During any period when the office of the 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.
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 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.
- (2) The provisions of the foregoing paragraph shall apply to any person assuming the office of President or performing the functions of thereof under article 95, 96 or 179, as the case may be, as they apply to a person elected as President.
98. The remuneration and immunities of the President shall be regulated by articles 181, 182 and 222.

CHAPTER X THE EXECUTIVE

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.

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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.
101. (1) The President shall appoint an elected member of the National Assembly to be Prime Minister of Guyana.
- (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.
102. (1) The President may appoint Vice Presidents for the purpose of assisting him in the discharge of his functions.
- (2) If his 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.
- (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 are qualified to be elected as such members.
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, or between a dissolution of a regional democratic council or of the National Congress of Local Democratic Organs and the day on which the next election by that council or by the Congress is held pursuant to the provisions of paragraph (3) or (4) of article 60, as the case may be, as if Parliament of that council or the Congress, as the case may be, had not been dissolved.
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.
106. (1) There shall be a Cabinet for Guyana, which shall consist of the President, the Prime Minister, the Vice Presidents, and such other Ministers as may be appointed to it by the President.
- (2) The Cabinet shall aid and advise the President in the general direction and control of the Government of Guyana and shall be collectively responsible therefor to Parliament.
- (3) Cabinet Meetings shall be presided over by —
- (a) the President;
- (b) in the absence of the President, the Prime Minister; or
- (c) in the absence of the President and the Prime Minister, such Minister as the President may designate.
- (4) The Cabinet may act notwithstanding any vacancy in its membership or the absence of any member thereof.
- (5) At the invitation of the President or of any person presiding at a meeting of the Cabinet, a Minister who is not a member of the Cabinet may attend that meeting and participate fully in the proceedings as if he were a member.

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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: 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.
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.
110. (1) There shall be an office of Minority Leader and appointments thereto shall be made by the President.
- (2) Qualifications for appointment to the office of Minority Leader 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 judgement 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.
- (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 judgement, 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.
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.
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.
114. Every Minister and Parliamentary Secretary shall, before entering upon the duties of his office, make and subscribe the oath of office.
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.
- (2) The functions of the Director of Public Prosecutions are set out in article 187.

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117. (1) There shall be a Secretary to the Cabinet whose office shall be a public office.
- (2) The Secretary to the Cabinet, who shall have charge of the Cabinet Office, shall be responsible in accordance with such instructions as may be given him 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.
- (2) Cabinet may in particular establish a finance subcommittee of itself to be assisted by experts and advisers, including the Auditor General, 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.
120. Subject to the provisions of this Constitution and of any other law, the President may constitute offices for Guyana, make appointments to any such office and terminate any such appointment.
121. The Prerogative of Mercy shall vest in the President and shall be exercised by him in accordance with the provisions of articles 191 to 196 (inclusive).
122. (1) There shall be an Ombudsman for Guyana.
- (2) All matters relating to the appointment and functions of the Ombudsman and other matters connected therewith are regulated by articles 191 to 196 (inclusive).

CHAPTER XI THE JUDICATURE

The Supreme Court of the 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.
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.

Judges of the Supreme Court of Judicature

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126. Except as otherwise expressly provided or required by the context, in this Constitution the word "Judge" includes the Chancellor, the Chief Justice of Appeal and a Puisne Judge.
127. (1) The Chancellor and the Chief Justice shall be appointed by the President acting after consultation with the Minority Leader.
- (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 may be appointed by the President.
128. (1) The Judges, other than the Chancellor and the Chief Justice, shall be appointed by the President, acting in accordance with the advice of the Judicial Service Commission.
- (2) If —
- (a) the office of any such 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, acting in accordance with the advice of the Judicial Service Commission, may appoint a person to act in the office of Justice of Appeal or Puisne Judge, as the case may require:
Provided that a person may be so appointed notwithstanding that he has attained the age at which that office is required by article 197 to be vacated by a holder thereof.
- (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.
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 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).

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.

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 153 (which related to the enforcement of fundamental rights and freedoms).

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

CHAPTER XII THE SERVICE OF COMMISSIONS

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.

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 article 200 to 205 (inclusive).

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.

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.

TITLE I PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

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

(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 —

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- (a) for the defense of any person from violence or for the defense 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 offense, 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 —
- (a) in execution of the sentence or order of a court, whether established for Guyana or some other country, in respect of a criminal offense of which he has been convicted;
 - (b) in execution of an order of the High Court of the Court of Appeal of 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 fulfillment of any 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 offense 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 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.

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- (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 period 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 appears prima facie, to be new and reasonable grounds for the detention and 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 practice 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 the court; or
- (b) upon reasonable suspicion of his having committed or being about to commit a criminal offense and who is not released, shall be brought before a court as soon as is reasonably practicable; and if any person arrested or detained upon reasonable suspicion of his having committed or being about to commit a criminal offense 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.
- (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.

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- (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
 - (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.
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.
- Amended by Act No. 9 of 1984.
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 —
- Amended by Act No. 1 of 1988.
- (a) providing for compensation for the property or any interest in or right over property so possessed or acquired and specifying the principles on which the compensation is to be determined and given; and
- Amended by Act No. 23 of 1990.
- (b) giving to any person claiming such compensation a right of access, either directly or by way of appeal, for the determination of his interest in or right over the property and the amount of compensation, to the High Court
- (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 offense under the law of Guyana;
 - (iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge, contract, grant, permission or license;

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- (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 limitations 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 social 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 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 situated 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 —

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- (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 of the protection of tenants, licenses or others having rights in or over such property;
 - (ii) so far as it provides for the making of contributions compulsory 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 dependents of any of them; or
 - (iii) for the compulsory taking of possession in the public interest of any property of the compulsory acquisition in the public interest of any interest in or right over property, where the 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.
143. (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 defense, public safety, public order, public morality, public health, town or country planning, the development or utilisation of any of her 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 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 offense, 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 offense —
- (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 offense charged;
 - (c) shall be given adequate time and facilities for the preparation of his defence;

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- (d) shall be permitted to defend himself before the court in person or by 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 offense, 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 offense on account of any act or omission that did not, at the time it took place, constitute such an offense, and no penalty shall be imposed for any criminal offense that is more severe in degree or nature than the most severe penalty that might have been imposed for that offense at the time when it was committed.
- (5) No person who shows that he has been tried by a competent court for a criminal offense and either convicted or acquitted shall again be tried for that offense or for any other criminal offense of which he could have been convicted at the trial for that offense, 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 offense if he shows that he has been granted a pardon for that offense.
- (7) No person who is tried for a criminal offense shall be compelled to give evidence at the trial.
- (8) Any court of 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 —

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- (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 offense 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) paragraph (5) to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offense 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 a criminal offense 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 that every person charged with a criminal offense is given a fair trial and accordingly to make provision for legal aid to be given in suitable cases.
- (14) In this article, "criminal offense" means a criminal offense under the law of Guyana.
145. (1) Except with his own consent, no person shall be hindered in the enjoyment of his of conscience, and for the purposes of this article the said 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 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 provisions —
- (a) which is reasonably required —

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- (i) in the interests of defense, 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.
- (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 defense, public safety, public order, public morality or public health;
- (b) that is reasonably required for the purpose of protecting the reputation, 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.
147. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to political parties or to form or belong to trade unions or other associations for the protection of his interests.
- (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; or
- (b) that is reasonably required for the purpose or protecting the rights or freedoms of other persons; or
- (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 work or provide for the benefit or welfare of such workers or of their fellow workers or of any relatives and dependents of any of them.

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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 restriction on the movement or residence within Guyana or on the right to leave Guyana of persons generally or any class of persons that are reasonably required in the interests of defence, public safety, public order, public morality or public health or for the purpose of preventing the subversion of democratic institutions in Guyana;
 - (c) for the imposition of restrictions on the acquisition or use of land or other property in Guyana;
 - (d) for the imposition of restrictions, by order of a court, on the movement or residence, within Guyana of any person or on any person's rights to leave Guyana either in consequence of his having been found guilty of a criminal offence under the laws 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 fulfillment of any obligations imposed on that person by law.

- (4) 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 respective descriptions by race, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not afforded to persons of another such description.
- (3) Paragraph (1) (a) shall not apply to any law so far as that law makes provision —
- (a) with respect to persons who are not citizens of Guyana;
- (b) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law; or
- (c) whereby persons of any such description as is mentioned in the preceding paragraph may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable.
- (4) Nothing contained in any law shall be held to be inconsistent with or in contravention of paragraph (1) (a) to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, place of origin, political opinion, colour or creed) to be required of any person who is appointed to any office in the public service, any office in a disciplined force, or any office in the service of a local democratic organ or of a body corporate established by any law for public purposes.
- (5) Paragraph (1) (b) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in either of the two preceding paragraphs.
- (6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision —
- (a) whereby persons of any such description as is mentioned in paragraph (2) may be subjected to any restriction on the rights and freedoms guaranteed by articles 143, 145, 146, 147 and 148, being such a restriction as is authorised by article 143 (2), article 145 (5), article 146 (2), article 147 (2), or article 148 (3), other than subparagraph (c) thereof, as the case may be;
- (b) for the appropriation of revenue or other funds of Guyana; or
- (c) for the protection, well-being or advancement of the Ameridians of Guyana.

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- (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.
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 laws 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 the 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.
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 laws, 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 appointed by the Chancellor from among persons entitled to practise in Guyana as attorney-at-law.
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 166 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 of 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, 141.
- (4) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in Guyana, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Title.
153. (1) Subject to the provisions of paragraph (6), if any person 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, in the case of a person who is detained, or 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 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):
 Provided that the High Court shall not exercise its powers under this paragraph if it is satisfied that adequate means of redress are or have been available to the person concerned under any other law.
- (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 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 the court.
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 2 PARLIAMENT

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

Amended by Act No. 17 of 1984 by insertion in paragraph (d) of the words "the Public Service Appellate Tribunal":

(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) No person shall be qualified to be nominated for election as a member of the National Assembly under the provisions of paragraph (3) or (4) of article 60 if at the date of his nomination for such election he is a member of the Assembly under the provisions of article 60 (2) or article 160 (2).

(3) No person shall be qualified to be nominated for election as a member of the National Assembly under the provisions of article 60 (2) or article 160 (2) if at the date of his nomination for such election he is a member of the Assembly under the provisions of paragraph (3) or (4) or article 60.

(4) No person shall be qualified to be nominated for election as a member of the National Assembly under the provisions of article 60 (4) if at the date of his nomination for such election he is a member of the Assembly under the provisions of article 60 (3).

(5) No person shall be qualified to be nominated for election as a member of the National Assembly under the provisions of article 60 (3) if at the date of his nomination for such election he is a member of the Assembly under the provisions of article 60 (4).

- (6) Without prejudice to the provisions of paragraphs (1), (2), (3), (4), and (5), 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 of 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 —

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- (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, member, if other-wise 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) in the case of a member who has been elected pursuant to the provisions of paragraph (3) or (4) of article 60, but subject to the provisions of subparagraph (h), whenever the body by which he was elected is dissolved; or
 - (h) in the case of a member such as is referred to in subparagraph (g) but who holds office as Speaker, Deputy Speaker, Minister, Minority Leader or Parliament Secretary, where the body by which he was elected as such member is dissolved at a time when Parliament is not dissolved, immediately before the holding of any election under the provisions of paragraph (3) or (4) of article 60 in consequence of the dissolution of that body or upon the occurrence of a dissolution of Parliament, whichever shall occur first.
- (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 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 without such leave), 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 to appeal, he shall forthwith vacate his seat.

- (c) If at any time before the member of the Assembly vacates his seat such that circumstances as aforesaid cease to exist, his seat shall not become vacant by reason of those circumstances, and he may resume the performance of his functions as a member of the Assembly.
157. A person shall vacate the office of Speaker or Deputy Speaker whenever the Assembly first meets after a dissolution of Parliament and also —
- (a) in the case of a Speaker elected from among the members of the Assembly or in the case of the Deputy Speaker —
- (i) if he ceases to be a member of the Assembly for any cause other than a dissolution of Parliament or of a regional democratic council or of the National Congress of Local Democratic Organs or the operation of article 156 (1) (h): Provided that where a person, who holds the office of Speaker, ceases to be a member of the National Assembly by virtue of the holding of an election referred to in article 156 (1) (f), he shall not by reason thereof vacate the office of Speaker if at such election he is re-elected as a member of the Assembly;
- (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.
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 case, 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 misbehavior.

- (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 is to be appointed to assume or resume, as the case may be.
- (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.
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.
- (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:
Providing 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 fifty-three members of the National Assembly shall be as follows —
- (a) votes shall be cast throughout Guyana in favour of lists of candidates;
- (b) each elector shall have one vote and may cast it in favour of any of the lists; and
- (c) the seats of the said fifty-three elected members in the Assembly 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 the list is as nearly as may be the same for each list.
- (2) Parliament may make provision for the division of Guyana into such number of electoral areas, not being more than half the number of the said fifty-three elected members of the Assembly, as Parliament may prescribe and for the election in each such area of one member of the Assembly, each elector having for this purpose one vote in addition to the vote which he may cast in favour of a list of candidates; but if Parliament makes provision as aforesaid, then —
- (a) a person may stand as a candidate for election in any such electoral area only if, in such manner as Parliament may prescribe, he has declared that he supports, or has otherwise identified himself with, one of the lists; and
- (b) those of the said fifty-three seats in the Assembly for which members are not elected in electoral areas as aforesaid shall be allocated between the lists in accordance with the results of the voting throughout Guyana in favour of lists in such a manner that the proportion that the number of seats allocated to each list, when added to the number of members identified with that list elected in electoral areas, bears to the number of votes cast in favour of that list is as nearly as may be the same for each list.
- (3) Subject to the provision of this Constitution, Parliament may make provision —
- (a) for the registration of electors;
- (b) 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 (g);

	(c)	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;
	(d)	for the combination of lists of candidates for the purpose of the allocation of seats (but not for the purpose of voting);
	(e)	for the extraction from the lists and declaration of names of the candidates who have been elected;
	(f)	for the manner in which elections of members of the National Assembly shall be held pursuant to the provisions of paragraphs (1) and (2) of this article or paragraphs (3) and (4) of article 60;
	(g)	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, or of a regional democratic council or of the National Congress of Local Democratic Organs; and
	(h)	generally for the conduct of elections of members of the national Assembly and for giving effect to the provisions of this Constitution relating thereto.
		The following article, 161, has been temporarily suspended by the effect of the Constitution (Amendment) Act, No. 15 of 1995. See Appendix.
161.	(1)	There shall be an Elections Commission for Guyana consisting of a Chairman and such other members as may be appointed in accordance with the provisions of this article.
	(2)	Subject to the provisions of paragraph (6), the Chairman of the Elections Commission shall be appointed by the President 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.
	(3)	In addition to the Chairman, there shall be one member of the Commission (hereinafter referred to as a "representative member") in respect of every list of candidates which at the election next preceding the appointment of such member obtained not less than five seats in the Assembly: Provided that no appointment shall be made under this paragraph during the period of three months immediately following the date of an election held pursuant to the provisions of article 61.
	(4)	For the purposes of the preceding paragraph a list shall be regarded as having obtained a seat in the Assembly if a seat has been allocated to that list or if a person identified with that list has been elected in an electoral area established under article 160 (2).

- (5) Subject to the provisions of paragraph (6), a representative member of the Commission shall be appointed by the President, acting, in the case of a member to be appointed in respect of the list in which the name of the President was included as a Presidential candidate, in his own deliberate judgment, and in the case of any other member, in accordance with the advice of the person who, under such provisions may be made under article 63, has power to identify persons to fill casual vacancies among the seats of members of the national Assembly from the list in respect of which the member is appointed or, if a majority of the members of the Assembly who belong to that list notify the President that he should act in accordance with the advice of some other member of the assembly who belongs to that list, in accordance with the advice of that member:
Provided that if occasion arises for making an appointment while Parliament stands dissolved this paragraph shall have effect as if Parliament had not been dissolved.
- (6) A person shall be disqualified for appointment as a member of the Commission if he is a public officer of an alien.
- (7) A member of the Elections Commission shall vacate his office —
- (a) at the expiration of three months from the date of the election held pursuant to the provisions of article 61 and next following his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.
- (8) The provisions of article 225 (which relate to removal from office) shall apply to the office of member 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, before tendering any advice to the President under paragraph (4) of the said article in relation to the representative member appointed in respect of a list other than that to which the Prime Minister belongs, the Prime Minister shall consult the person on whose advice, if the office of that member were vacant, the President would act under paragraph (5) in appointing a person to fill the vacancy.
- (9) If, by reason of his illness, absence from Guyana or suspension under the said article 225, any member of the Elections Commission is unable to perform his functions as such, a temporary member may be appointed in his place.
- (10) The provisions of this article shall apply in relation to the appointment of a temporary member of the Commission and to a temporary member appointed in accordance with this article as they apply in relation to the member of the 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 a member of the Commission.
- (11) For the purposes of paragraphs (5) and (8) a person shall be regarded as belonging to a list if his name appears on that list or if he was identified with that list and elected in an electoral area established under article 160 (2).
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) or (3) or (4) 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 Minority Leader, 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) 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);

	(b)	from the determination by the High Court or 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) or (3) or (4) 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 or 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
	(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 ten and not more than six months after its passage through the National Assembly, has, in such manner as Parliament may prescribe, been submitted to 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 —

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- (a) references to this Constitution or to any particular provision thereof include references to any other law in so far as that law alters the Constitution or, as the case may be, that provision; and
- (b) references to altering this Constitution or any particular provision thereof include references to repealing it, with or without re-enactment thereof or the making of different provision in lieu thereof, to modifying it and to suspending its operation for any period.
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 in the proceedings of the Assembly shall not invalidate those proceedings.
166. (1) The Speaker, or, in his absence, the Deputy Speaker or if they are not 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.
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.
168. (1) Save as otherwise provided by this Constitution, all questions proposed for decision in the National Assembly shall be determined by a majority of the votes of the members present and voting.
- (2) Except as provided by the next following paragraph, the Speaker or other member presiding in the Assembly shall not vote unless on any question the votes are equally divided, in which case he 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.
170. (1) Subject to the provisions of article 164, the power of Parliament to make laws shall be exercised by Bills passed by the National Assembly and assented to by the President.

- (2) When a Bill is presented to the President for assent, he 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 his 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 twenty-one days of its presentation, unless he sooner dissolves Parliament.
- (6) A Bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.
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 by 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 or 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 the National Assembly and the members thereof.
- (2) No civil or criminal proceedings may be instituted against any member of the Assembly for words spoken before, or written in a report to, the Assembly or to a committee thereof or by reason of any matter or thing brought by him 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.

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- (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 THE SUPREME CONGRESS OF THE PEOPLE

173. (1) Subject to the provisions of this Constitution, the Supreme Congress of the People may regulate its own procedure and may make rules for that purpose.
- (2) The Supreme Congress of the People may act notwithstanding any vacancy in its membership (including any vacancy not filled when the Congress first meets 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 Congress shall not invalidate those proceedings.
174. (1) All questions proposed for decision in the Supreme Congress of the People shall be determined by a majority of the votes of the members present and voting.
- (2) The Chairman of the Supreme Congress of the People shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.
175. If objection is taken by any member of the Supreme Congress of the People that there are present in the Congress (besides the person presiding) less than one-third of all the members of the Congress and, after such interval as may be prescribed in the rules of procedure of the Congress, the person presiding ascertains that there are still present less than one-third of all the members, he shall thereupon adjourn the Congress.
176. (1) Parliament may by law determine the privileges, immunities, and powers of the Supreme Congress of the People and the members thereof.
- (2) No civil or criminal proceedings may be instituted against any member of the Congress for words spoken before or written in a report to, the Congress or to a committee thereof or by reason of any matter or thing brought by him therein by petition, resolution, motion or otherwise.
- (3) For the duration of any session members of the Congress 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 Congress while the Congress is sitting or through the Chairman, the Clerk or any officer of the Congress.

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 as such an election in favour of a list shall be deemed to be also voting in favour of the Presidential candidate named in the list.
- (2) A Presidential candidate shall be deemed to have been elected as President and shall be so declared by the Chairman of the Elections Commission —
- (a) if he is the only Presidential candidate at the election; or

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- (b) where there are two or more Presidential candidates, if more votes are cast in favour of the list in which he is designated as Presidential candidate than in favour of any other list.
- (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 by 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 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 inquired into in 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.
- (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, member of the National Congress of Local Democratic Organs, any 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.

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- (4) During any period when a Minister is performing the function 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 a 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.
- (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 the allegations and proposing that a tribunal be established under this article to investigate those allegations, the Speaker shall —
- (a) if Parliament is then sitting or has been summoned to meet within five days, cause the motion to be considered by the Assembly within seven days of the notice; or
- (b) if Parliament is not then sitting (and notwithstanding that it may be prorogued) summon the Assembly to meet within twenty-one days of the notice and cause the motion to be considered at that meeting.

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- (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 appeal 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 substantiated;
- (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 three-quarters 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 if the Assembly so resolves, the President shall cease to hold office upon the third day following the passage of the resolution unless he sooner dissolves Parliament.
181. (1) The President shall receive such salary and allowances as may be prescribed under the provisions of article 222.
- (2) A person who has held the office of President shall receive such pension or, upon the expiration of his 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 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.
- (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 —
- (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 of Parliament or of a regional democratic council or of the National Congress of Local Democratic Organs or the operation of the provisions of article 156 (1) (h);
 - (b) is not a member of the Assembly when the Assembly first meets after a dissolution of Parliament or after the holding of an election pursuant to the provisions of paragraph (3) or (4) of article 60; or
 - (c) is, by virtue of article 156 (2), 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 if 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 President shall, if the person concerned is willing to be appointed, appoint as Minority Leader the elected member of the National Assembly who, in his judgment, is best able to command the support of a majority of those elected members who do not support the Government:
Provided that this paragraph 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 under the provisions of article 61, or between a dissolution of a regional democratic council or of the National Congress of Local Democratic Organs and the day on which the next election by that council or by the Congress is held pursuant to the provisions of paragraph (3) or (4) of article 60, as the case may be, as if Parliament of that council or the Congress, as the case may be, had not been dissolved.
- (2) The office of Minority Leader shall become vacant if —
- (a) the holder thereof ceases to be a member of the Assembly for any cause other than a dissolution of Parliament or of a regional democratic council or of the National Congress of Local Democratic Organs or the operation of the provisions of article 156 (1) (h);
 - (b) he is not a member of the Assembly when the Assembly first meets after a dissolution of Parliament or after the holding of an election pursuant to the provisions of paragraph (3) or (4) of article 60;
 - (c) by virtue of article 156 (2) he is required to cease to exercise his functions as a member of the Assembly; or

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- (d) his appointment is revoked under the provisions of the next following paragraph.
- (3) If, in the judgment of the President, the Minority Leaders no longer the member of the Assembly best able to command the support of a majority of those elected members of the Assembly who do not support the Government, the President shall revoke the appointment of the Minority Leader.
- (4) Whenever the office of Minority Leader is vacant by reason of the fact that the person qualified for appointment thereto is not willing to be appointed, any provision of this Constitution that requires any person or authority to perform any function after consultation with the Minority Leader shall, in so far as it contains that requirement, be of no effect.
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.
- (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 Attorney General and the provisions of paragraphs (2) and (3) of article 183 shall apply to the office of 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 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;
- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and

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- (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; or
- (c) substitute a less severe form of punishment for any punishment imposed on any person for such an offence; or
- (d) remit the whole or any part of any punishment imposed on any person for such an offence or of any penalty or forfeiture otherwise due to the State on account of such an offence.
- (2) Subject to the provisions of the next following paragraph, the powers of the President under the preceding paragraph shall be exercised by him 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.

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- (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.
- (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 not be 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 Minority Leader.
- (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 the 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.

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- (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 of 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 of a member of the National Assembly or of the National Congress of Local Democratic Organs 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 related to redress for contraventions of provisions for the protection of fundamental rights and freedoms).
- (4) In determining whether to initiate, continue or discontinued 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.

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- Amended by Act No. 17 of 1984 by insertion in paragraph (6) of the words "the Public Service Appellate Tribunal":
- (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 here under:
- (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 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) or 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.

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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 or of the National Congress of Local Democratic Organs, 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 —
- (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).

TITLE 6
THE JUDICATURE

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197. (1) Notwithstanding the provisions of article 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) Subject to the provisions of this article, a person holding the office of Judge shall vacate that office on attaining —
- (a) in the case of a Puisne Judge, the age of sixty-two years; and
- (b) in the case of any other Judge, the age of sixty-five years:
Provided that —
- (i) the President, acting after consultation with the Minority Leader, may permit the Chancellor or the Chief Justice on attaining the age of sixty-five years to continue in office until he has attained such later age as may (before the Chancellor or the Chief Justice has attained the age of sixty-five years) have been agreed with the Chancellor or the Chief Justice, as the case may be;
- (ii) the President, acting in accordance with the advice of the Judicial Service Commission, may permit a Justice of Appeal who has attained the age of sixty-five years, to continue in office until he has attained such later age as may (before the Justice of Appeal) have been agreed with the Justice of Appeal;
- (iii) the President, acting in accordance with the advice of the Judicial Service Commission, may permit a Puisne Judge who has attained the age of sixty-two years, to continue in office until he has attained such later age not exceeding sixty-five years, as may (before the Judge has attained the age of sixty-two years) have been agreed with the Judge;
- (iv) any continuance in office effected pursuant to paragraph (i), (ii) or (iii) may from time to time be extended in like manner as herein before provided; and

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- (v) the President, acting in accordance with the advice of the Judicial Service Commission, may permit any Judge to continue in office for such period after attaining the age at which he is required by the other provisions of this paragraph to vacate his office as may be necessary to enable him to deliver judgment or to do any other thing in relation to any proceedings heard by him before he attained that age.
- (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, 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 inquire 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.
- (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 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.

TITLE 7
THE SERVICE COMMISSIONS
The Judicial Service Commission

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, acting after consultation with the Minority Leader, 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; 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 President has also consulted such bodies as appear to him represent attorneys-at-law in Guyana:
Provided that 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 or, 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 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.
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 vested in the President acting in accordance with the advice of the Commission or to which this article applies.
- Amended by Act No. 17 of 1984 by insertion of paragraphs (2A) and (2B):
- (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 for 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 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

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200. (1) The Public Service Commission shall consist of not less than five and not more than six members who shall be appointed as follows, that is to say —
- (a) three members appointed by the President acting after consultation with the Minority Leader;
 - (b) two members appointed by the President acting after he has consulted such bodies as appear to him to represent public officers or classes of public officers; and
 - (c) if the President deems 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) A Chairman and a Deputy Chairman of the Public Service Commission shall be appointed from among the members appointed under subparagraphs (a) and (b) of the preceding paragraph. The appointments shall be made by the President acting after consultation with the Minority Leader and, in the case of the Deputy Chairman, acting also after consultation with such bodies as appear to him to represent public officers or classes of public officers.
- (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 Chairman or a member for the time being acting in the office of Chairman under the next following paragraph, the prescribed authority for the purposes of the said paragraph (6) shall be the Chairman.
- (5) If the office of Chairman 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 Chairman, or if that office is vacant or the holder thereof is for any reason unable to perform the functions of the office of Chairman, such one of the other members as the President, acting after consultation with the Minority Leader, may appoint shall act in the office of Chairman and has assumed the functions of that office or, as the case may be, until the Chairman, or if a member other than the Deputy Chairman has assumed or resumed those functions.
- (6) If the office of a member of the Public Service Commission other than the Chairman is vacant or if the holder thereof is acting as Chairman 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.

- (2) The Public Service Commission may, be 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) the office of Director of Public Prosecutions;
 - (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 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.
- Amended by Act No. 17 of 1984 by the insertion in paragraph (2) of the words "Subject to the other provisions of this Constitution":
- (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) The Director of Public Prosecutions (in his article referred to as "the Director") shall be appointed by the President acting in accordance with the advice of the Public Service Commission tendered after the Commission has consulted the Prime Minister.

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- (2) If the office of the Director is vacant or if the holder thereof is for any reason unable to perform the functions thereof, the President, acting in accordance with the advice of the Public Service Commission, tendered as aforesaid, 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 that office or, as the case may be, until the holder thereof has resumed those functions.
- (3) A person shall not be qualified to be appointed to hold or to 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 paragraph, the Director shall vacate his office when he attains the age of sixty years:
Provided that the President, acting after consultation with the Minority Leader, 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 225 (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 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.
- (6) Parliament may provide that appointments to, or to act in, the office of the Director shall be made by the President acting in accordance with the advice of the Judicial Service Commission instead of the Public Minister or the Chairman of the Public Service Commission in paragraphs (1), (2) and (5) of this article shall have effect as if they were references to the Judicial Service Commission.
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 removal from office) shall apply to the office of 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.
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, 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.

(2) The offices to which this 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 a Chairman and not more than six other members.

(2) Six of the members of the Commission (hereinafter referred to as "appointed members") shall be appointed as follows —

(a) one person appointed as Chairman of the Commission by the President acting after consultation with such bodies as appear to him to represent teachers;

(b) one person appointed by the President on the nomination of the Guyana Teachers' Association;

(c) one person nominated for appointment by the Minister assigned responsibility for local government after that Minister has consulted with such body as appears to him to represent the interests of local democratic organs; and

(d) three persons appointed by the President.

(3) The other member of the Commission shall be the Chief Education Officer.

(4) A Deputy Chairman of the Commission shall be appointed by the President from among the appointed members.

Amended by Act No. 17 of 1984 by substitution of paragraph (5) as follows:

(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 Chairman, the Deputy Chairman and one other member designated as such in the instrument appointing him 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.
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 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.
- Amended by Act No. 17 of 1984 by insertion of paragraphs (2), (3) and (4):
- (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 consultation with the Minority Leader from among members appointed under subparagraph (d);
- (b) the Chairman of the Public Service Commission;
- (c) one person appointed by the President after consultation with such body as appears to him to represent the majority of members of the Police Force; and
- (d) not more than three members exclusive of the Chairman of the Public Service Commission (in this article referred to as "appointed members") who shall be appointed by the President acting after consultation with the Minority Leader: Provided that a person shall be disqualified for appointment as a member of the Commission if he is a public officer.

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- (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 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 consultation with the Minority Leader, may appoint a person who is qualified to be appointed as a member of the Commission to act in that office; and 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 Commission of Police and every Deputy Commissioner of Police shall be appointed by the President acting after consultation with the Police Service Commission.
- (2) If the office of Commissioner of Police is vacant or if the holder thereof is for any reason unable to perform the functions of his 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 removal from office) shall apply to the office of 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.
212. (1) Subject to the provisions of article 211 (1), the power to make appointments to any offices in the Police Force of or 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.

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- (2) The Police Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate many of its powers under the preceding paragraph to any one or more 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 that is made in the exercise of a power delegate 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 a notice 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 in vested.
 - (8) If provision is made by or under any law —
 - (a) altering 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 altering the ranks into which any such other police force is divided, The Police Service Commission may be ordered to 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.

Pensions

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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 or, 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, those benefits shall be granted any 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 appropriated 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 —

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- (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 the 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.
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, dependents 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 or the National Assembly were service in the public service.
- Amended by Act No. 17 of 1984 by insertion of article 215A as follows:
- 215A. (1) Parliament may, by law, provide for the establishment of a Public Service Appellate Tribunal (hereafter in this article referred to as the “Tribunal”) consisting of a chairman and such number of other members, being not less than two, as may be provided by that law.
- (2) The chairman of the Tribunal shall be appointed by the President by instrument in writing and shall be a person who —
- (a) holds or has held the office of a Judge of the Court of Appeal; or
 - (b) is qualified to be appointed as a Judge of the Court of Appeal and holds or has held the office of a Judge of the High Court.
- (3) A person shall be disqualified for appointment as a member of the Tribunal if he 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 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 —

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- (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 210(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 —

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- (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 or 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 from one Consolidated Fund.
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 or Parliament.
- (4) Parliament may prescribe the manner in which withdrawals may be made from the Consolidated Fund or any other public fund.
218. (1) The Prime Minister 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 Prime Minister or any other Minister designated by the President.

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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 Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government of Guyana until the expiration of four months from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.
- (2) Where a supplementary estimate or statement of excess is laid before the National Assembly under paragraph (3) of the preceding article or paragraph (2) of the next following article and is approved by the Assembly by resolution, that resolution shall be authority for the issue of the sums in question from the Consolidated Fund, by 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 Prime Minister 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 appropriated heads, in the next Appropriation Bill.
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 Prime Minister or any other Minister designated by the President for the purpose of authorising the replacement of the amount so advanced.
221. The public debt of Guyana and the 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.
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.

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- (4) This article applies to the offices of President, Speaker, Deputy Speaker, Clerk and Deputy Clerk or 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.
223. (1) There shall be an Auditor General for Guyana, whose office shall be a public office.
- (2) The public accounts of Guyana and of all officers and authorities of the Government of Guyana (including the Commissions established by this Constitution) and the accounts of the Clerk of the National Assembly and of all courts in Guyana shall be audited and reported on by the Auditor General, and for that purpose the Auditor General or any person authorised by him 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 Minister responsible for finance, who shall cause them to be laid before the National Assembly.
- (4) Subject to article 118, in the exercise of his functions under this Constitution the Auditor General shall not be subject to the direction or control of any other person or authority.

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.
225. (1) Where it is provided in this Constitution that this article shall apply to any office, a person holding such office (in this article referred to as "the office") shall not be removed therefrom or suspended from the exercise of the functions thereof except in accordance with the provisions of this article; and the prescribed authority for the purpose of paragraph (4) or (6) shall, in relation to any office, be the authority prescribed for that purpose by the provision of this Constitution by which this article is applied to that office.
- (2) The officer may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind of 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 —

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- (a) the President shall appoint a tribunal which shall consist of a Chairman and not less than two other members, selected by the President after consultation with 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 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 practise 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) or 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 to him whether the officer ought to be removed under this article.
- (5) The provisions of the Commissions of Inquiry Act as in force immediately before the commencement of this Constitution shall, subject to the provisions of this article and 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) The President may, after consulting a Commission, make rules relating to the procedure of the Commission and to disciplinary offences within the jurisdiction of the Commission, including the punishments for such offences and the procedure relating thereto, and, subject to any rules so made, the Commission may 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 the power should not be exercised.
- The following paragraph, 5, has been temporarily suspended by the effect of the Constitution (Amendment) Act, No. 15 of 1995. See Appendix.

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- (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 two-thirds of the number of representative members (not being temporary members) for the time being appointed to the Commission and, in the case of any other Commission, of such members of the Commission as may be prescribed by the rules of procedure of the Commission: Provided that if, in the case of the Elections Commission, the number of such representative members is two, the Chairman and one such member shall constitute a quorum.
- (6) Any question whether —
- (a) a Commission has validly performed 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 or disqualification for any office prescribed by Parliament on any person convicted by a court of any offence relating to excitement of hostility or ill-will against any person or class or persons on the grounds of his or their race.

TITLE 10 INTERPRETATION

228. (1) Where any person has vacated any office established by this Constitution (including any office established under article 100, 124, and 125) he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.
- (2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any public office, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this paragraph, then for the purposes of any function conferred upon the holder of that office the person last appointed shall be deemed to be the sole holder of the office.
- (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 or the National Assembly as if that office were a public office.

229. (1) Any person who is appointed or elected to or otherwise selected for any office established by this Constitution (including any office established under article 100, 124 or 125) may resign from that office and, save as otherwise provided by articles 156 (1), 157 and 178 (1), shall do so by writing under his 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.

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.

Amended by Act No. 1 of 1988 by substitution of Article 231 as follows:

231. (1) Where by this Constitution the President or any other person or authority is required to perform any function in accordance with the advice or recommendation of, or after consultation with, another person or authority, or not to make an appointment without the concurrence of another person or authority, the question whether the President or that other person or authority has received or acted in accordance with such advice or recommendation, or whether such consultation has taken place, or whether the appointment has received such concurrence, shall not be enquired into in any court.

(2) Without prejudice to the provisions of paragraph (1), no court shall enquire into any question as to whether there was any consultation, or any participation in any management or decision making process pursuant to article 11 or any other provision of Chapter XI of Part 1.

Amended by Act No. 17 of 1984 by substitution of Article 232 as follows:

232. (1) 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) or (3) or (4) of article 60 or article 160 (2);

"election" means an election of members to serve in the National Assembly, the National Congress of Local Democratic Organs 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;
- "oath" includes affirmation;
- "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;
- "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;
- "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 and the Supreme Congress of the People, the sittings of the Assembly or of the Congress, as the case may be, commencing when it first meets after this Constitution comes into force or after the prorogation or dissolution of Parliament or the Congress, as the case may be, at any time and terminating when Parliament or the Congress, as the case may be, is prorogued or is dissolved without having been prorogued ;
- "sitting" means, in relation to the National Assembly and the Supreme Congress of the People, a period during which the Assembly or the Congress, as the case may be, is sitting continuously without adjournment and includes any period during which the Assembly or the Congress, as the case may be, 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 of an office by the term designated 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.

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- (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, Minority Leader, Ombudsman, or member of the National Assembly or of the Supreme Congress of the People or of the National Congress of Local Democratic Organs;
 - (b) the office of a member of any Commission established by this Constitution;
 - (c) the office of a member of any board, committee or other similar body (whether incorporated 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 references 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, and, in the case of the Public Service Commission, the Teaching Service Commission and the Police Service Commission, shall be without prejudice to power hereby conferred on the President to remove any such officer from his office in the public interest.
- (8) subject to article 226 (6) and article 215 (a) (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.
- (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.

SCHEDULE

Form of Oath

OATH OF OFFICE

I, do hereby solemnly declare that I will bear true faith and allegiance to the People of Guyana, that I will faithfully execute the office 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.

APPENDIX

CONSTITUTION (AMENDMENT) ACT 1995

Act No. 15 of 1995

AN ACT to alter the Constitution in accordance with articles 66 and 164.

Enacted by the Parliament of Guyana: —

1. This Act may be cited as the Constitution (Amendment) Act 1995. Alteration of the Constitution.
2. During the period commencing on the date on which this Act comes into operation and ending on the date of the enactment of a new Constitution for Guyana or on the expiry of three months from the date of the next General Election, whichever is earlier, the Constitution shall have effect as if —

a. for the article 161 the following article was substituted —

161.

1. There shall be an Elections Commission for Guyana consisting of a Chairman and such other members as may be appointed in accordance with the provisions of this article.
2. Subject to the provisions of paragraph (4), the Chairman of the Elections Commission shall be a person who holds or who has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who is qualified to be appointed as any such judge, or any other fit and proper person, to be appointed by the President from a list of six persons, not unacceptable to the President, submitted by the Minority Leader after consultation with the political parties represented in the National Assembly, other than the party to which the President belongs:

Provided that if the Minority Leader 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 Minority Leader tendered after consultation with political parties represented in the National Assembly, other than the party to which the President belongs.

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4. A person shall be disqualified for the 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 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 consult the Minority Leader 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.

b. immediately after article 161 there were inserted the following article —

161A.

1. Notwithstanding the provisions of this Constitution the power to make appointments to the offices mentioned in paragraph (2) and to remove and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Elections Commission —
2. The offices referred to in paragraph (1) are —
 - a. those offices to which persons are appointed under the Representation of the People Act, namely —
 - i. Chief Election Officer;
 - ii. returning officer;
 - iii. deputy returning officer;
 - iv. election clerk;
 - v. presiding officer;
 - vi. assistant presiding officer;
 - vii. poll clerk and other offices as may be necessary or desirable under the said Act;
 - b. those offices to which persons are appointed under the National Registration Act, namely —
 - i. Commissioner of Registration;
 - ii. Deputy Commissioner of Registration;
 - iii. district supervisor;
 - iv. registrar;
 - v. deputy registrar;
 - vi. divisional registrar and other offices as may be necessary or desirable under the said Act.

c. any office, however styled, similar in nature and status to an office referred to in the preceding sub-paragraph, appointment to which is made under any written law relating to local government."

3. 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 to a person who holds an office mentioned in paragraph (2)(a) (i) to (v) or (2)(b) (i) to (iv), the power to appoint a person to an office mentioned in paragraph (2) which is subordinate to the office of the person to whom the power of appointment is delegated.
4. 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 (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 Elections Commission or that member or other person 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 (2) he shall, subject to paragraph (1), remain a public officer.
6. 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 (2).

c. for article 226 (5) thereof the following were substituted —

(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 two-thirds of the number of other members (not being temporary members) for the time being appointed to the Commission:

Provided that if at any stage of a duly summoned meeting a quorum is not present, due to the absence of members therefrom without just cause, such absence of just cause being determined by the Chairman, 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."