

## **ACKNOWLEDGEMENTS**

The Guyana Association of Women Lawyers (GAWL), in collaboration with the National Commission on Women has prepared the text of this booklet on The Revised Constitution of Guyana 2001.

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## **FOREWORD**

On attaining independence in 1966, Guyana adopted a Constitution, which was amended in 1970 when Guyana became a Republic.

The new CONSTITUTION OF GUYANA came into being in 1980. It was more detailed in its provisions and stated principles and ideals that included a bias towards socialism.

In the main, the powers of the President were substantially executive in nature.

As the years progressed since 1980, weak, unclear and unhelpful provisions came to light. Thus, in 1995, the constitutional reform process began with hearings being held all over Guyana, and submissions from persons and organisations being received by a Parliamentary Select Committee, on changes desired in the Constitution. This process was, however, aborted due to impending elections in 1997.

After the December 1997 general and regional elections, disturbances erupted from dissatisfaction with the processes employed in the conduct of these elections. Consequently, CARICOM brokered the Hermanston Accord, which was signed on January 17, 1998, by the leaders of the PPP/C and the PNC. One of the main issues agreed to in this Accord, was that the Constitution be reviewed to create more inclusivity, greater balance and clarity. The Constitution Reform Commission (CRC) was then established. It comprised twenty (20) persons, women, the political parties in Parliament, the main religious organizations, indigenous peoples, farmers, lawyers and youth. These persons served on this Commission for approximately six (6) months in 1999.

The CRC received written submissions from, and held hearings with, a wide cross-section of individuals and political, religious and non-governmental groups.

The Parliamentary Select Committee reviewed the recommendations for changes to the Constitution made by the CRC. The Oversight Committee (of Parliament), then approved the drafts of the amendments thereby

adopting, to some extent, actual reforms recommended.

This booklet provides information and guidance on the main changes that have been made to the Constitution of Guyana, 31 March 2003. It also includes changes which have not yet implemented.

Read this booklet as often as you need to, keep it always at hand, and share it with others.

Guyana Association of Women Lawyers.  
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*What Is A  
Constitution?*

## **What Is A Constitution?**

A Constitution is the supreme law of any country. By this is meant that the Constitution provides the main governing law in broad terms and all other domestic or national laws must be consistent with it. It provides checks and balances on the exercise of authority by those who govern the country and serves as the main safeguard of our principal and important rights and entitlements as citizens from each other and from our government.

Any law that is made by Parliament which is not consistent with the Constitution, is not valid.

A Court of Law can declare such a law as ‘unconstitutional, null and void, and of no legal effect’. That law that is declared by the Court to be unconstitutional must then be redrafted to comply with the Constitution.

As an example, the Prevention of Discrimination Act, 1997, gives effect to Article 149(1) of the Constitution which states:

“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.

Any exceptions to the principle must be reasonable and fair in the particular circumstances.

The Revised Constitution of the Republic of Guyana comprises more than 230 articles. Copies of the Constitution may be purchased from the Parliament Office, Public Buildings, Brickdam, Georgetown.



*What does the  
Constitution mean  
to us as Guyanese?*

## **What does the Constitution mean to us as Guyanese?**

The Constitution of Guyana is the supreme law. This means that any other law which contravenes or is inconsistent with the Constitution is of no legal effect. The Constitution is the main document that deals with the broad issues that affect our lives as Guyanese. We would recall the work done by the Constitution Reform Commission (CRC), and the comments and concerns expressed by citizens, political parties and other groups, about some of the Constitution's provisions. Many of these comments and concerns were addressed in the amendments to the Constitution which were made during the period 2001-2003, when the revised provisions were being considered by special committees established by the National Assembly.

The Constitution contains a number of rights which are intended to regulate our lives by protecting us from certain acts by the State and other individuals. If any of these rights are violated, we may invoke the aid of the High Court to have our rights enforced and protected.

The amendments to the Constitution were intended to remedy major problems arising from time to time in the governing of the country. More rights were accorded, more groups of people were included in the decision making process, and, hopefully, some of the distrust has been removed.

For the Constitution, however, to truly function for us as Guyanese, there is need for us to be aware of its provisions and to ensure that all rights, privileges, and responsibilities in the Constitution are known and honoured by all.



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*What is  
‘Meaningful  
Consultation’?*

## **What is meant by ‘Meaningful Consultation’?**

There are instances in the Constitution where the President must consult with the Leader of the Opposition or other entities or persons.

Article 232 of the Constitution has been amended to provide a full explanation of the meaning of the terms ‘consultation’ or ‘meaningful consultation’.

It was found to be necessary to be careful to define this concept because it was crucial to the lawful appointment of persons to various constitutional bodies e.g. The Public, Teaching and Police Service Commissions. The concept also introduces the element of trust which was a key factor in the agitation for constitutional reform

A specific procedure has been provided in the Constitution and must be followed. It is included in the article of the Constitution providing for the definition of words and expressions in the Constitution.

In instances where the term ‘meaningful consultation’ is used, the person responsible (in most cases, the President), seeking consultation shall:

1. Identify the persons or entities to be consulted. The communication inviting consultation must state the subject of the consultation and an intended date for the decision on the issue which is the subject of the consultation.
2. The person responsible for the consultation must ensure that each person or entity to be consulted, is given a reasonable opportunity to express a well considered opinion on the subject on consultation is sought.
3. The person responsible for initiating the consultation must also prepare a written record of the consultation to be achieved, (i.e. -carefully stored for future reference).





*The  
Parliamentary  
Standing Committee on  
Constitutional Reform*

## **The Parliamentary Standing Committees on Constitutional Reform**

A general process for the functioning of the National Assembly has now been introduced with the establishment of Standing Committees of the National Assembly for specific sectors.

The committees will scrutinize all areas of governmental policy and administration. There are four (4) such committees:

- Natural Resources
- Economic Services
- Foreign Relations
- Social Services

**Natural Resources** relate to areas of importance and concern in relation to mining, petroleum, and forestry.

**Economic Services** relate to matters of national importance related to trade (both local and international), trade

liberalization, tourism and any other important venture which significantly affects the country's economy.

**Foreign Relations** relate to important matters which directly relate to and impact on Guyana's relationship with other countries e.g. the statement of claim made in February by Guyana for arbitration in relation to the maritime boundaries with Suriname.

**Social Services** relate to important matters with respect to national services being provided for all categories of citizens i.e. the elderly, children, women, and society as a whole. Matters such as drug abuse centres, legislation for children, are likely to be dealt with by this committee, if they are of crucial national importance.

For each Standing Committee, there is a Chairperson and a Deputy Chairperson, each chosen from opposite sides of the Assembly.

Therefore, there is likely to be more transparency and accountability. It is expected and intended that this process

would afford greater involvement and inclusiveness in matters which affect Guyana as a whole.

Article 119 has been amended to provide expressly for these committees.

Previously, the Constitution merely provided that the President may appoint Standing Committees. It is not compulsory that there is balanced representation on those committees.



*Leader of the  
Opposition*

## **Leader of the Opposition**

The Leader of the Opposition is elected by the non-governmental members of the National Assembly (Parliament). The Speaker of the House supervises the elections, but cannot vote.

Before the constitutional amendment in 2000, the Leader of the Opposition was called the Minority Leader.

The Leader of the Opposition is the person who leads the members of the Opposition. For example, it is the Leader of the Opposition who speaks last for the Opposition in the Parliamentary debates on the National Budget.

During the period commencing when Parliament is dissolved and ending on the date of the next general and regional elections, the Leader of the Opposition retains the office. The election of the Leader of the Opposition must be conducted after the general election.

If the person who holds the office of Leader of the Opposition ceases to be a member of the National Assembly due the death, resignation or removal from office, the office will become vacant. Another person must then be elected by the non-governmental members of the National Assembly.

Removal of the Leader of the Opposition from office can be done in a case where one-third of the non-governmental members of the National Assembly inform the Speaker of the House that they no longer have confidence in that person. The Speaker must then convene a meeting of the non-governmental members to decide whether or not to remove the Leader of the Opposition. A majority vote will decide this issue.

Election to and removal from the office of the Leader of the Opposition must be by show of hands.





*Defence and  
Security*

## **Defence and Security**

The DEFENCE AND SECURITY of Guyana and its people are now specifically provided for under the CONSTITUTION.

An amendment was made to include Title 6A which is headed “DEFENCE AND SECURITY”.

Article 197A included in the Constitution essentially provides for the following:-

- (a) establishment of a defence and security policy for Guyana to protect citizens against armed aggression;
- (b) affirmation that the Defence and Security forces such as The Guyana Defence Force (GDF) and the Guyana Police Force (GPF), must implement the national defence and security policy and owe allegiance to the Constitution and the Nation.

The abovementioned statement means that allegiance i.e. loyalty, and actions of the Guyana Defence Force and the Guyana Police Force, are in the interest of the country itself, as would be reflected in the national security and defence policies.

- (c) Confirmation that the GDF is an “impartial defence arm” of the State and must conduct itself so as to earn the respect and confidence of citizens;
- (d) The Guyana Police Force to continue its duty of law enforcement to keep law and order; suppress crime; ensure the safety of homes; streets and other public places;
- (e) Provide for the establishment by the National Assembly, of disciplined forces committees to review the structure, and composition of the forces for efficiency and in the public’s interest including its composition to represent our varying ethnic groups.





*The Functions  
and  
Powers of the  
Elections  
Commission*

# The Functions and Powers of The Guyana Elections Commission

The Guyana Elections Commission (GECOM) is responsible for the administration and conduct of general, regional and local government elections in Guyana. It sets policy for voter registration, maintenance of the voters' list, decides on schedules for the conduct of elections, the location of polling stations and counting centres, assignment of voters to polling stations, arrangements to be made in and around polling stations and counting centres and related matters. When preparing for elections, the staff of GECOM is supplemented by thousands of temporary staff who are employed by the Commission.

The Secretariat of the Commission headed by the Chief Elections Officer (CEO) implements the policies of GECOM. The Elections Secretariat also performs the tasks of the National Registration Centre under the National Registration Act, Chapter 19:08, and the CEO acts as the Commissioner for Registration. The National Registration Centre has responsibility for the registration of electors

and maintenance of the registers whereas the Secretariat has responsibility for administering elections. For example, the National Registration Centre is responsible for the production of national identification cards.

**The Elections Commission is comprised of seven persons as follows:-**

1. The Chairperson who may be a person who holds, has held or is qualified to hold office of Judge of the High Court or the Court of Appeal or may be a person who is appointed from a list of six persons, who are not unacceptable to the President, submitted by the Leader of the Opposition after he has meaningfully consulted with the non-governmental political parties represented in the National Assembly.

If the Leader of the Opposition does not submit such a list of persons, then the President shall appoint a person who holds, has held or is qualified to hold the office of Judge of the High Court or the Court of Appeal. The current Chairman of the Commission was chosen by the

President from a list of six persons submitted by the Leader of the Opposition.

2. Six members who are appointed as follows:-
  - (a) Three (3) members appointed by the President, acting in his own deliberate judgement.
  - (b) Three (3) members appointed by the President, acting on the advice of the Leader of the Opposition after meaningful consultation with the non-governmental parties represented in the National Assembly.

A person who is not a citizen of Guyana cannot be appointed as Chairperson or member of the Commission.

The quorum for a meeting of the Commission shall be the Chairperson and not less than four members of the Commission – two members each as identified at 2 (a) and (b) page 34. If, at any stage of a duly summoned meeting, a quorum is not present due to absence of members without good cause to be determined by the Chairman, then the

meeting is to be adjourned for two calendar days. If the meeting were to determine the declaration of results of the election of the president, and there is no quorum, then the meeting is to be adjourned to the next day. If, at the adjourned meeting, there is still no quorum, then the members present, being not less than four members including the Chairman, shall be deemed to be a quorum and any decision made at any adjourned meeting shall be valid and binding.





*The Service  
Commissions*

## **Service Commissions**

Service Commissions have been established by the Constitution of Guyana to deal with the appointment, promotion, transfer, discipline and dismissal of certain categories of government employees or public officers. The Commissions are not to be subject to political interference or direction so that public officers can be employed based on merit and their ability to carry out their duties professionally, without fear or favour.

There are four (4) Service Commissions as follows:-

**The Judicial Service Commission** which advises the President on the appointment of Judges of the High Court and Court of Appeal, and appoints the Commissioners of Title (Land Court Judges), Magistrates, Director of Public Prosecutions, Registrar and Deputy Registrar of the High Court, Registrar and Deputy Registrar of Deeds, and other officers connected with the court as Parliament may decide. The President must comply with the advice of the Commission when

appointing judges. Note however, that the Chancellor and Chief Justice are appointed by the President after obtaining the agreement of the Leader of the Opposition.

The Judicial Service Commission shall be comprised of six persons as follows:-

- 1) The Chancellor of the Judiciary who shall be Chairperson
- 2) The Chief Justice
- 3) The Chairperson of the Public Service Commission
- 4) A person who holds office or has held office as a High Court Judge or Court of Appeal Judge. The President appoints this person for a maximum of three years after meaningful consultation with the Leader of the Opposition.
- 5) One or two persons from among attorneys-at-law who are not in active practice after the National Assembly has consulted with such bodies that appear to the Assembly to represent attorneys-at-law in Guyana and recommended by the National Assembly for appointment by the President as member of the Commission.

**The Public Service Commission** which appoints persons to the public service e.g. to posts in the various Ministries.

**The Public Service Commission** shall comprise six persons as follows:-

- 1) Three members appointed by the President after the President has meaningful consultation with the Leader of the Opposition.
- 2) Two members appointed by the President after they have been nominated by the National Assembly. The National Assembly must consult with such bodies that it considers as representing public officers or classes of public officers before deciding on the persons to be nominated for appointment by the President.
- 3) One other person appointed by the President, if the President deems fit, acting according to his/her own deliberate judgment.

The Chairperson and Deputy Chairperson of the Commission are elected by the members of the Commission.

Note that public servants who disagree with a decision of the Public Service Commission can appeal to the Public Service Appellate Tribunal.

**The Teaching Service Commission** which appoints teachers throughout Guyana. The Teaching Service Commission shall comprise seven persons as follows:-

- 1) One person appointed by the President on the nomination of the Guyana Teachers' Association.
- 2) Two persons nominated by the Minister of Local Government after the Minister has consulted with local democratic organs and bodies.
- 3) Three persons appointed by the President after meaningful consultation with Leader of the Opposition.
- 4) The Chief Education Officer.

The Chairperson and Deputy Chairperson of the Commission are elected by the members of the Commission.

**The Police Service Commission** which appoints officers of the Guyana Police Force of and above the rank of Inspector.

The Police Service Commission shall comprise seven persons as follows:-

- 1) The Chairperson appointed by the President from the members specified in 3 below after the President has meaningfully consulted with the Leader of the Opposition.
- 2) The Chairperson of the Public Service Commission.
- 3) Four members appointed by the President on the nomination of the National Assembly after the Assembly has consulted with such bodies that appear to the President to represent the majority of the members of the Guyana Police Force and any other such body it deems fit. The member is appointed for a maximum of three years.

Note that the President appoints the Commissioner and Deputy Commissioners of Police after meaningful consultation with the Leader of the Opposition and the Chairperson of the Police Service Commission. The Chairperson of the Police Service Commission must have

already consulted with the other members of the Commission.

The Appointive Committee of the National Assembly decides on the persons to be appointed to the Service Commissions on behalf of the National Assembly which is authorized by the Constitution to choose the nominees for membership. They then take and subscribe the oath of office before the President.

The Chairpersons and Deputy Chairperson of the Public and Teaching Service Commissions are to be elected by the members of each of the Commissions.

A person who is employed in the public service and the teaching service cannot be a member of the Public and Teaching Service Commissions nor can a person be appointed to a post in the public service within three years after ceasing to be a member of the Commission.

Appointed members of the Service Commissions serve for a maximum of three years.