



**GUYANA**

**ACT No. 10 of 2003**  
**CONSTITUTION (AMENDMENT) (NO. 2) ACT 2003**  
**ARRANGEMENT OF ARTICLES**

I assent,

**Bharrat Jagdeo,**  
**President,**  
12<sup>th</sup> August, 2003.

**ARTICLE**

1. Short title.
2. Repeal of article 11 of the Constitution.
3. Repeal and re-enactment of article 22 of the Constitution.
4. Alteration of article 27 of the Constitution.
5. Repeal and re-enactment of article 29 of the Constitution.
6. Repeal of article 30 of the Constitution.

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7. Repeal and re-enactment of article 36 of the Constitution.
8. Insertion of new articles 38A to 38G (inclusive) in the Constitution.
9. Repeal and re-enactment of article 39 of the Constitution.
10. Alteration of article 40 of the Constitution.
11. Alteration of article 138 of the Constitution.
12. Alteration of article 139 of the Constitution.
13. Alteration of article 142 of the Constitution.
14. Repeal and re-enactment of article 147 of the Constitution.
15. Alteration of article 149 of the Constitution.
16. Insertion of new articles 149A to 149J (inclusive) in the Constitution.
17. Insertion of new Title 1A in the Constitution.

A.D. 2003

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

Enacted by the Parliament of Guyana:-

Short title

1. This Act may be cited as the Constitution (Amendment) (No. 2) Act 2003.

Repeal of  
article 11  
of the  
Constitution.

2. Article 11 of the Constitution is hereby repealed.

Repeal and  
re-enactment  
of article 22  
of the  
Constitution

3. Article 22 of the Constitution is hereby repealed and the following article substituted therefore-

"The right  
and duty  
to work

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

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

Alteration  
of article 27  
of the  
Constitution

4. Article 27 of the Constitution is hereby altered in the following respects -

- (a) by the re-numbering of article 27 as paragraph (1) thereof; and
- (b) by the insertion after paragraph (1), as so renumbered, of the following paragraph -

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

5. Article 29 of the Constitution is hereby repealed and the following article substituted therefor –

Repeal and re-enactment of article 29 of the Constitution

"Women's participation in public decision-making.

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

6. Article 30 of the Constitution is hereby repealed.

Repeal of article 30 of the Constitution

7. Article 36 of the Constitution is hereby repealed and the following article substituted therefor –

Repeal and re-enactment of article 36 of the Constitution

"Land and the environment.

36. The well-being for the nation depends upon preserving clean air, fertile soils, pure water and the rich diversity of plants, animals and eco-systems."

8. The Constitution is hereby altered by the insertion immediately after article 38 of the following articles –

Insertion of new articles 38A to 38G (inclusive) in the Constitution.

"Democratic state with a healthy economy

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

(a) facilitate the engagement of citizens in activities designed to achieve their sustainable livelihoods;

(b) progressively remove the barriers that prohibit or limit the realisation of the potential for self-sustaining activities in such fields as agriculture, pro-

- cessing, manufacturing and artistic and information-based activities;
- (c) encourage and support the self-mobilization of citizens; and
- (d) provide appropriate support to any group which is, or is claiming to be, under threat of marginalisation.
- The best interest of the child. 38B. The best interest of the child shall be the primary consideration in all judicial proceedings and decisions and in all matters concerning children, whether undertaken by public or private social welfare institutions, administrative authorities or legislative bodies.
- Adoption in best interest of the child. 38C. The State shall ensure that the adoption of a child takes place only if that adoption would be in the best interest of the child.
- Child's right to maintenance and accommodation. 38D. Every child has the right to maintenance and accommodation from his or her parents and guardians.
- Formal education compulsory. 38E. Formal education is compulsory up to the age of fifteen years.
- Vilification of religion. 38F. No person's religion or religious belief shall be vilified.
- Public service to be free from political influence. 38G. (1) The integrity of the public service is guaranteed. No public officer shall be required to execute or condone irregular acts on the basis of higher orders.

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



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

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

9. Article 39 of the Constitution is hereby repealed and the following article substituted therefor –

*“Guiding principles and objectives:*

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

Repeal and re-enactment of article 39 of the Constitution.

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

10. Article 40 of the Constitution is hereby altered by the substitution for paragraph (1) of the following paragraph –

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

Alteration of article 40 of the Constitution.

11. Article 138 of the Constitution is hereby altered by the insertion immediately after paragraph (1), of the following paragraph –

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

Alteration of article 138 of the constitution.

Alteration  
of article 139  
of the  
Constitution.

12. Article 139(4) of the Constitution is hereby altered by the substitution for the words "as soon as is reasonably practicable", of the words "within seventy-two hours of arrest or detention, but the police may apply to the High Court for extensions of time".

Alteration  
of article 142  
of the  
Constitution.

13. Article 142 of the Constitution is hereby altered by the substitution for paragraph (1), of the following paragraph –

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

Repeal  
and  
re-enactment  
of article 147  
of the  
Constitution.

14. Article 147 of the Constitution is hereby repealed and the following article substituted therefore –

Protection  
of freedom  
of assembly,  
association  
and demon-  
stration

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

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

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

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

(a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;

(b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

(c) that imposes restrictions upon public officers; or

(d) that imposes an obligation on workers to become contributors to any industrial scheme or workers' organization intended to operate or provide for the benefit or welfare of such workers or of their fellow workers or of any relative and dependant of any of them."

15. Article 149 of the Constitution is hereby amended in the following respects –

(a) by the substitution for paragraph (2), of the following paragraph –

"(2) In this article the expression 'discriminatory' means affording different treatment to different persons attributable wholly or mainly to their or their parents' or guardians' respective descriptions by race, place of origin, political opinion, colour, creed, age, disability, marital status, sex, gender, language, birth,

Alteration  
of article 149  
of the  
Constitution.

social class, pregnancy, religion, conscience, belief or culture whereby persons of one such description are subjected to disabilities or restrictions to which other persons of the same or another such description are not made subject or are accorded privileges or advantages which are not afforded to other persons of the same or another such description.”; and

- (b) by the substitution for paragraph (4), of the following paragraph –

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

16. The Constitution is hereby altered by the insertion immediately after article 149 of the following articles –



"Right  
to work.

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

Right to  
pension  
and  
gratuity.

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

Right to  
participate  
in decision-  
making  
processes  
of the State.

149C. No person shall be hindered in the enjoyment of participating through co-operatives, trade unions, civic or socio-economic organizations of a national character, in the management and decision-making processes of the State.

Equality  
of persons  
before  
the law.

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

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

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

Equality  
of status.

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

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

Equality  
for women.

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

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

Indigenous  
peoples'  
rights.

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

Right to  
free  
education

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

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

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

Right to  
establish  
private  
schools

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

The  
environment

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

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

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

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

17. The Constitution is hereby altered by the insertion immediately after article 154 of the following TITLE –

Insertion  
of new Title  
1A in the  
Constitution.

#### TITLE 1A

#### PROTECTION OF HUMAN RIGHTS

Human  
rights  
of the  
individual

Fourth  
Schedule.

154A. (1) Subject to paragraphs (3) and (6), every person, as contemplated by the respective international treaties set out in the Fourth Schedule to which Guyana has acceded is entitled to the human rights enshrined in the said international treaties, and such rights shall be respected and upheld by the executive, legislature, judiciary and all organs and agencies of Government and, where applicable to them, by all natural and legal persons and shall be enforceable in the manner hereinafter prescribed.

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

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

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

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

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

Fourth  
Schedule



**FOURTH SECHEDULE**

art. 154A

**Convention on the Rights of the Child****Convention on the Elimination of All Forms of Discrimination against Women.****Convention on the Elimination of All Forms of Racial Discrimination.****Convention Against Torture and Other Inhuman or Degrading Treatment or punishment.****Covenant on Economic, Social and Cultural Rights****Covenant on Civil and Political Rights****Inter-American Convention on the Prevention, Punishment and Education of Violence against Women.**

*Passed by the National Assembly on 24<sup>th</sup> July, 2003.*

*S.E. Isaacs,*  
Clerk of the National Assembly.

(BILL No. 9/2003)



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