

BILL No. 8 of 2009

Monday 23rd March, 2009

PARLIAMENT OFFICE
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Georgetown,
Guyana.

23rd March, 2009.

The following Bill which will be introduced in the National Assembly is published for general information.

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



BILL No. 8 of 2009

TIME LIMIT FOR JUDICIAL DECISIONS BILL 2009

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**A BILL
Intituled**

AN ACT to specify a time limit in accordance with article 197 (3) of the Constitution within which a Judge shall give a decision in a civil case and any appeal case and for connected matters.

A.D. 2009

Enacted by the Parliament of Guyana:-

Short title.

1. This Act may be cited as the Time Limit for Judicial Decisions Act 2009.

Application of Act.

2. This Act applies to Judges of the Court of Appeal, the High Court and the Full Court.

Case to be tried expeditiously.

3. A case shall be tried as expeditiously as possible in an endeavour to conclude the case within such time as the complexity and the relevant evidence necessitate.

Time limit for decisions in civil cases.

4. (1) A Judge who presides at the trial of a civil case shall give a written or an oral decision and reasons for the decision at the conclusion of the hearing of the case or as soon as possible after the conclusion of the hearing but not later than one hundred and twenty days from the date of conclusion of the hearing.

(2) In this section a civil case includes an interlocutory proceeding and a decision includes an interlocutory decision.

Time limit for decisions in appeal cases.

5. Where the Court of Appeal or the Full Court hears an appeal, a Judge on behalf of the Court or each Judge of the Court shall give a written or an oral decision and reasons for the decision at the conclusion of the hearing of the appeal or as soon as possible after the conclusion of the hearing but not later than thirty days from the date of conclusion of the hearing.

Persistently failing to write or give decisions.

6. In accordance with article 197 (3) of the Constitution a Judge may be removed from office for, among other reasons, persistently failing to give written or oral decisions and reasons for the decisions within the time specified in this Act.

Failure to
write or give
decisions.

7. Where a Judge fails to write or give an oral decision and reasons for the decision within the time specified in section 4 or 5 or the extended time granted under section 8 the Chancellor shall cause the Registrar to notify the Judge that the Judge has failed to comply with the given time limit and that if the Judge persists in not writing or giving oral decisions as prescribed by this Act, action may be taken under article 197 of the Constitution with a view to removing the Judge from office.

Extension of
time in special
cases.

8. (1) If a Judge cannot comply with the time limit in section 4 or 5 then the Judge may apply to the Chancellor for an extension of time.

(2) A Judge shall apply for an extension of time –

- (a) in writing;
- (b) not less than twenty-one days before expiration of the specified time limit;
- (c) providing reasons and evidence of any supporting circumstances why he cannot meet the time limit; and
- (d) proposing the duration of extension sought.

(3) The Chancellor may grant an extension of time where –

- (a) the case is shown to be a complex one;
- (b) the Judge claims to be ill and the illness is supported by a medical certificate;
- (c) the Judge cites as a reason, a claim of additional official assignments;
- (d) no injustice occurs from the grant; or
- (e) any other claim by the Judge is accepted as reasonable.

(4) Where the Chancellor is satisfied that a Judge is entitled to an extension of time to write or give a decision, the Chancellor shall, by notice in writing, grant an extension of time that is reasonable in the circumstances of the case.

(5) Where the Chancellor is not satisfied that the Judge ought to be granted an extension, the Chancellor shall direct the Judge to give the decision within thirty days beginning from the date of receipt of the intimation from the Chancellor or from the date of expiration of the specified time limit, whichever date is the later.

Judge to
inform
Chancellor of
non-
compliance.

9. As soon as practicable, but not later than 31st March of the succeeding year, where a Judge has not, in the preceding year, complied with the time limit in section 4 or 5 or the extended time granted under section 8 the Judge shall, through the Registrar of the Supreme Court, inform the Chancellor of the case in which the provision was not complied with.

Judge's report.

10. (1) The Chancellor may, by regulation, require a Judge to submit an annual report to the Chancellor with respect to the status of each case assigned to the Judge for each year.

(2) The time for and contents of the Judge's report may be prescribed.

Report of the
Chancellor.

11. (1) As soon as practicable, but not later than 31st March of the succeeding year, the Chancellor shall instruct the Registrar to submit to the Speaker of the National Assembly an annual report for the preceding year consisting of –

- (a) each case of non-compliance with the prescribed time limit under section 4 or 5 or the extended time under section 8; and
- (b) each notice given under section 7.

(2) The report of the Chancellor shall be laid before the National Assembly within thirty days of its submission to the Speaker if the Assembly is sitting, and if the Assembly is not sitting, at the first meeting on the resumption of the Assembly.

(3) Nothing in this section shall be construed as providing an opportunity to debate in the National Assembly on the conduct of a Judge.

Regulations.

12. The Chancellor may make regulations for carrying the provisions of this Act into effect, and without limiting the generality of this provision, providing –

- (a) for a Judge to write a report to the Chancellor with respect to the status of each case assigned to the Judge for each year;
- (b) for the time within which the Judge shall write the report; and

(c) the contents of the Judge's report.

Transition.

13. Where a Judge or Court has concluded the hearing of a civil case or an appeal but has not given the decision before the coming into operation of this Act the Judge or the Court shall be deemed to have concluded the hearing of the case or appeal on the date of the coming into operation of this Act and shall accordingly give the decision in compliance with this Act.

EXPLANATORY MEMORANDUM

Under article 197 (3) of the Constitution a Judge may be removed from office "for persistently not writing decisions or for continuously failing to give decisions and reasons therefor within such time as may be specified by Parliament". This Bill seeks to give effect to the Constitutional requirement to specify a time limit for a Judge to give his decision and reasons for the decisions.

Clause 2 provides for the Act to apply to Judges of the High Court, Full Court and the Court of Appeal.

Clause 3 enjoins the expeditious trial of cases and decisions rendered within the time limit.

Clause 4 provides that a Judge shall give the decision of a civil case at the conclusion of the hearing of the case or as soon as possible after the conclusion of the hearing but not later than one hundred and twenty days from the date of the conclusion of the hearing. This clause also takes care of interlocutory proceedings.

Under clause 5 Judges of the Full Court and the Court of Appeal hearing appeals have a time limit of thirty days within which to give their decisions.

Clause 6 spells out what is stated in the Constitution regarding the removal of a Judge for persistently not writing or giving decisions within the time limit specified in sections 4 and 5 or the extended time under section 8.

Under clause 7 where a Judge has failed to render a decision within the time limit the Chancellor shall cause the Registrar to remind the Judge of the consequences of his failure.

Clause 8 seeks to provide certain instances where, on application by a Judge, the Chancellor may grant an extension of time for the Judge to comply with the specified time limit. It provides for a judge to apply to the Chancellor within a period of twenty-one days before the expiration of the specified time limit, giving reasons and evidence of supporting circumstances of the need for the extension together with a proposed duration of extension. The Chancellor has a discretion to grant any specified duration of extension of time, but if the Chancellor denies an extension, a judge has only thirty days to give his decision.

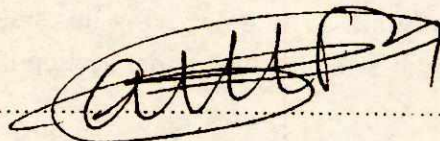
Under clause 9 where a Judge has failed to comply with the time limit for giving a decision he has, through the Registrar, to inform the Chancellor.

Clause 10 gives power to the Chancellor to require, by Regulations, a Judge to submit an annual report regarding the status of each case assigned to the Judge.

Clause 11 seeks to make the National Assembly aware of the non-compliance by a judge with the constitutional duty to write or give decisions by providing for the Chancellor to instruct the Registrar to submit to the National Assembly, an annual report for the preceding year consisting of each case of non-compliance with the prescribed time limit, each case where extension of time was granted or refused by the Chancellor and each notice given under section 7. The report shall be laid but not debated before the National Assembly.

Clause 12 empowers the Chancellor to make general and particular regulations for the due administration of this Act.

Clause 13 seeks to provide for cases concluded before the commencement of this Act where no decision has been given. Those cases are deemed to be concluded on the date of commencement of this Act and the decisions shall be given in accordance with this Act.



Attorney General and Minister of Legal Affairs