

BRITISH GUIANA

ORDER

MADE UNDER

THE GUYANA INDEPENDENCE ORDER, 1966.

UNDER SECTION 5(4) OF THE GUYANA INDEPENDENCE ORDER, 1966 AND BY VIRTUE AND IN EXERCISE OF ALL POWERS ENABLING HIM IN THAT BEHALF, IT IS HEREBY ORDERED BY THE GOVERNOR AS FOLLOWS:—

Citation and commencement.

1. This Order may be cited as the Guyana Independence (Adaptation and Modification of Laws) (Judicature) Order, 1966, and shall come into operation on the 26th May, 1966.

Interpretation.

2. In this Order, unless the context otherwise requires —

“the Caribbean Court” means the British Caribbean Court of Appeal;

“enactment” includes any rule, regulation or instrument issued pursuant to a statutory power, but does not include any Act of Parliament of the United Kingdom or any Order of Her Majesty in Council;

“the Order in Council” means the British Caribbean Court of Appeal Order in Council, 1962.

Adaptation of laws.

3. (1) Every enactment which, being in force in British Guiana immediately before the commencement of this Order, makes reference to the Caribbean Court or the Registrar, Deputy Registrar, registry or seal thereof, whether by virtue of article 12(1) or (2) of the Order in Council or otherwise, or which, having contained any such reference immediately before the commencement of this Order, is brought into force in Guyana otherwise than by virtue of paragraph 1 of this Order, shall, subject to variation or rescindment by any competent authority, be construed in relation to any time after the 25th May, 1966, as if for every such reference to the said Court, Registrar, Deputy Registrar, registry or seal there had been substituted a reference to the Court of Appeal or the Registrar, Deputy Registrar, registry or seal of the Supreme Court of Judicature, respectively.

(2) Every enactment which, being in force in British Guiana immediately before the commencement of this Order, makes reference to the Supreme Court of British Guiana or the Registrar, Deputy Registrar or registry thereof or which, having contained any such reference immediately before the commencement of this Order, is brought into force in Guyana otherwise than by virtue of paragraph 1 of this Order, shall, subject to variation or rescindment by any competent authority, be construed in relation to any time after the

25th May, 1966, as if for every such reference to the said Court, Registrar, Deputy Registrar or registry there had been substituted a reference to the High Court or the Registrar, Deputy Registrar or registry of the Supreme Court of Judicature, respectively.

(3) Enactments required to be construed as hereinbefore provided shall, for the purpose of their operation in conformity with such requirement and otherwise pursuant to this Order, have effect with any necessary adaptations and modifications and, without prejudice to the generality of the foregoing, where any such enactment expressly or impliedly requires the taking of any steps which include the transmission of anything to the Registrar of the Caribbean Court by the Registrar of the Court below, or to the Registrar of the Court below by the Registrar of the Caribbean Court, such requirement (construed in accordance with this paragraph) shall be complied with in every respect except as to actual transmission as aforesaid.

(4) In respect of rules of court relating to the Caribbean Court and which are in force immediately before the commencement of this Order, whether by virtue of article 12(2) of the Order in Council or otherwise, references in paragraph 3(1) and (2) of this Order to any competent authority include references to the authority empowered by virtue of paragraph 4 of this Order to make rules of court regulating the practice and procedure of the High Court and Court of Appeal.

4. The enactments referred to in the first column of the schedule hereto, as varied from time to time, are hereby amended in the respects specified in the second column of that schedule. Amendment
of Laws.

5. Anything lawfully done in pursuance of any enactment prior to the variation of such enactment by virtue of any of the provisions of paragraphs 3(1), (2) and (3) and 4 of this Order, and which would continue to have effect if such variation had not been made or required, shall, unless the contrary intention appears, continue to have effect as if so done in conformity with the said enactment as in operation pursuant to such variation. Saving.

SCHEDULE

Paragraph 4.

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The Supreme Court Ordinance, Cap. 7.	(a) Delete the definition of "Federal Supreme Court" from section 2. (b) Substitute — (i) the Words "of court" for the words "and orders" in the definition of "the rule-making authority";

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- (ii) the words and figures "immediately before the 26th May, 1966," for the words "at the commencement of this Ordinance" in the definition of "existing",

in section 2.

- (c) Substitute for section 3 the following —

"Jurisdiction
and
functions.

3. Subject to the provisions of the Guyana Independence Order, 1966, and of any other statute for the time being in force, the Court shall have and may exercise all such jurisdiction, authorities and powers, and shall discharge the like functions, as belonged or were incident to the Supreme Court of British Guiana immediately before the 26th May, 1966."

- (d) Delete sections 4, 5, 6(4), 14, 25(2), 75(2) and (3), 77, 78 and 79.

- (e) Substitute for subsection (1) of section 6 the following —

"(1) The Court shall consist of the Chief Justice, who shall be the President thereof, and any number of Puisne Judges not exceeding a maximum of eight or any other number to which the maximum may from time to time be increased by order of the Cabinet."

- (f) Insert after section 6 the following section —

"Qualifi-
cation for
appoint-
ment as
Puisne
Judge.

7. The period for which a person is required to have been qualified for admission as an advocate within the meaning of the Guyana Independence Order, 1966, for the purpose of qualification for appointment to hold or act in the office of a Puisne Judge, shall be seven years."

- (g) Substitute the words and figures "paragraph (2) of article 88 of the Constitution of Guyana" for the words and figures "article 87 of the Constitution of British Guiana" in section 10.

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(h) Insert after section 10 the following section —
 “Manner of addressing judges. 11. All judges shall be addressed in the manner customary immediately before the 26th May, 1966, in addressing judges of the Supreme Court of British Guiana”.

(i) Substitute the words “use the seal and duplicate seals of the Supreme Court of Judicature” for the words “have and use seals” in section 15(1).

(j) Substitute for subsection (2) of section 15 the following —

“(2) The seal of the Supreme Court of Judicature shall have a device or impression approved by the Chancellor with the inscription “the Supreme Court of Judicature of Guyana”. ”

(k) Substitute the words “the seal of the Supreme Court of Judicature or one of its duplicate seals, of which there shall be such number as the Chancellor considers necessary” for the words “one of the seals” in section 15(3).

(l) Substitute the words “Supreme Court of Judicature” for the word “Court” in section 15(4).

(m) Substitute the words “duplicate seals of the Supreme Court of Judicature” for the words “the seals of the Court” in section 15(5).

(n) Substitute for sections 16 and 17 the following—

“Registrar and Deputy Registrar.

16. There shall be a Registrar and Deputy Registrar of the Supreme Court of Judicature.

Duties of Deputy Registrar and sworn clerks.

17. The Deputy Registrar shall, subject to the general or special directions of the Registrar, assist the Registrar in carrying out his functions and the Deputy Registrar shall, in the exercise of his office, have all and singular the like authorities, powers, duties, immunities and liabilities as the Registrar, except where otherwise provided by rules of court; and every sworn clerk and assistant sworn clerk of the registry shall perform those duties in connection with the Court and with judicial business which the Registrar, subject to the approval of the Court, assigns to him.”

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- (o) Substitute the word "seal" for the words "the seal of the Court" wherever they appear in section 23(1) and (2).
- (p) Substitute the words and figures "26th May, 1966, in connection with the" for the words "commencement of this Ordinance in connection with any" in section 25(1) and renumber the subsection as section 25.
- (q) Substitute for the proviso to section 42(1) the following —
- "Provided that nothing in the foregoing provisions of this subsection shall be deemed to affect a judge's conditions of service in relation to vacation leave or leave of absence."
- (r) Substitute the words "shall correspond to the existing practice and procedure of the Supreme Court of British Guiana" for the words "the existing practice and procedure shall remain in force" in section 44(1)(a).
- (s) Substitute the words "correspond to the existing practice and procedure of the Supreme Court of British Guiana" for the words "be the existing practice and procedure" in 44(1)(b).
- (t) Substitute —
- (i) the words "Supreme Court of Judicature" for the word "Court"; and
 - (ii) the word "and" for the word "who" in section 49.
- (u) Insert —
- (i) the words "the Minister responsible for finance" after the word "money"; and
 - (ii) the words "the Government" after the words "other judgment or order", in section 49.
- (v) Substitute —
- (i) the words "Minister responsible for finance" for the word "Governor" wherever it appears; and

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(ii) the words "payment out of" for the words "Financial Secretary to pay out",

in section 72.

(w) Renumber subsection (1) of section 75 as subsection (3) thereof and substitute the words "Rules of court may be made as aforesaid for all or any of the following purposes—" for all the words appearing in that subsection before paragraph (a) thereof.

(x) Insert in section 75 as subsections (1) and (2) thereof the following —

"Rules of
Court.

(1) Rules of court may be made by the Chancellor together with any four of the following persons who shall form the Rules Committee, namely —

- (a) the Chief Justice;
- (b) a Justice of Appeal;
- (c) a Puisne Judge;
- (d) the Attorney General or, if the Attorney General so directs, the Solicitor General;
- (e) the Registrar;
- (f) a practising barrister appointed after consultation with such body as appears to the Chancellor to represent barristers in Guyana;
- (g) a practising solicitor appointed after consultation with such body as appears to the Chancellor to represent solicitors in Guyana.

(2) Every appointment to the Rules Committee pursuant to paragraph (b), (c), (f) or (g) of subsection (1) of this section shall be made by the Chancellor:

Provided that proceedings of the Committee shall not be invalidated by any vacancy in its membership or the absence of any member or the presence or participation of any person not entitled to be present at or participate in those proceedings."

- (y) Add to section 75 the following subsections —

“(4) Every rule made by the rule-making authority under this or any other Ordinance shall be laid before the National Assembly within fourteen days after it is made, and, if the National Assembly, within the period of thirty days beginning with the day on which it is laid as aforesaid, resolves that it shall be annulled, wholly or in part, it shall thereby be annulled to the extent set forth in the resolution, and the rule or part thereof so annulled shall thenceforth become void and of no effect but without prejudice to the validity of anything previously done thereunder or the making of a new rule.

(5) In reckoning for the purposes of subsection (4) of this section any period of days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the National Assembly is adjourned for more than seven days.”

- (z) Substitute the words and figures “the Full Court should be composed of three judges on the hearing of the appeal, he may assign a third judge to sit on the hearing by the Full Court of such appeal” for all the words appearing in section 87 after the word “grounds” therein.

- (aa) Add the following Part —

“PART III — TRANSITIONAL

Saving 94. Any act done or proceedings taken at any time prior to the 26th May, 1966, in respect of any civil, criminal or other cause or matter in or before the Supreme Court of British Guiana or a judge thereof shall, for purposes of effect after the 25th May, 1966, be regarded as if —

- (a) such cause or matter had, at that time, been in or before the High Court or a judge thereof, and such act or proceedings had been done or taken accordingly, as the case may be;
and

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(b) at that time, the jurisdiction, powers, duties and authorities belonging or incident to the Supreme Court of British Guiana and the judges thereof had belonged or been incident to the High Court and the judges thereof, respectively.

The Criminal Law
(Procedure) Ordinance,
Cap. 11.

Insert —

- (i) the words “of Judicature” after the word “Court” in the first item;
- (ii) the words “diplomatic or” before the word “consular” in the eighth item, in the first schedule.

The Summary Jurisdiction
(Magistrates) Ordinance,
Cap. 12.

Delete from section 42(2)(a) the words “of Appeal” wherever they appear.

The Summary Jurisdiction
(Appeals) Ordinance, Cap.
17.

Substitute the words “the Supreme Court of Judicature” for the word “Deeds” in the definition of “the Registrar” in section 2(1).

The Evidence Ordinance,
Cap. 25.

(a) Insert the words “of Judicature” after the word Court at the end of section 24(x).

(b) Substitute the words “any judge of the Supreme Court of Judicature” for the words “the Chief Justice of the Colony or any puisne judge thereof” in section 24(xi).

The Insolvency Ordinance,
Cap. 43.

(a) Substitute the words “authority empowered to make rules of court regulating the practice and procedure of the Court” for the words “Judges, or a majority of them (of whom the Chief Justice shall be one),” in section 109(2).

(b) Delete subsection (3), and renumber subsection (4) as subsection (3), of section 109.

The Federal Supreme
Court (Appeals) Ordi-
nance, No. 19 of 1958.

(a) Delete section 8.

(b) Substitute the words “as the Chancellor may, subject to rules of court, appoint” for all the words appearing in section 29(2) after the word “places” therein.

(c) Substitute for section 32A the following —

“Prerogative
of mercy.

32A. Nothing in this Ordinance shall affect the prerogative of mercy, but in the case of any petition praying for the exercise thereof and having reference to the conviction of a person on indictment or by court-martial or to the sentence passed on a person so convicted, other than sentence of death required by law to be so passed, the Governor-General acting in accordance with the advice of the Minister designated to advise on such exercise may at any time either —

- (a) refer the whole case to the Court of Appeal and the case shall then be heard and determined by the Court as in the case of an appeal by a person convicted; or
- (b) if the assistance of the Court of Appeal on any point arising in the case is desired with a view to the determination of the petition, refer that point to the Court for their opinion thereon, and the Court shall consider the point so referred and furnish to the Governor-General their opinion thereon accordingly.”

(d) Substitute for Part IV the following Parts —

“PART IV

MISCELLANEOUS

Justices of
Appeal.

36. (1) The judges of the Court of Appeal shall include not less than two and not more than three Justices of Appeal.

(2) Nothing in subsection (1) of this section shall be deemed to invalidate the constitution of the Court in case of any vacancy in respect of the office of a Justice of Appeal.

Precedence of
judges.

36A. (1) The Chancellor shall have precedence over all other judges of the Supreme Court of Judicature.

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(2) The Chief Justice shall have precedence over all Justices of Appeal.

(3) The Justices of Appeal shall rank among themselves according to the priority of the dates on which they became Justices of Appeal, respectively, and shall have precedence over Puisne Judges.

Manner of addressing Judges.

36B. All judges of the Court of Appeal shall be addressed in the manner customary before the 26th May, 1966, in addressing the judges of the British Caribbean Court of Appeal.

Qualification.

36C. The period for which a person is required to have been qualified for admission as an advocate within the meaning of the Guyana Independence Order, 1966, for the purpose of qualification for appointment to hold or act in the office of a judge of the Court of Appeal, shall be ten years.

Number of judges at sitting.

36D. The number of judges of the Court of Appeal who may sit for any purpose may be prescribed by rules of court or, subject to the provisions of any such rules, be fixed from time to time by the Chancellor:

Provided that —

(a) an uneven number of judges shall sit, which, for the purpose of any final determination by the Court of an appeal or a case stated or reserved question of law, shall not be less than three; and

(b) any determination by the Court of Appeal on any matter (whether final or otherwise) shall, where more than one judge sits, be according to the opinion of a majority of the judges who sit for the purpose of determining that matter.

Distribution of business of Court of Appeal.

36E. The Chancellor may determine the distribution of business before the Court of Appeal among the judges

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thereof and, subject to the provisions of section 36D of this Ordinance, may assign any judicial duty to any such judge or judges:

Provided that the Chief Justice shall not sit as a judge of the Court of Appeal in any proceedings with reference to an appeal from any judgment given, or to a case stated or question of law reserved, by himself.

Functions of Registrar.

36F. The Registrar of the Supreme Court of Judicature shall have such authority, powers and duties as shall be necessary for the due conduct and discharge of the business of the Court of Appeal and as may be assigned to him by rules of court or any other laws or, subject thereto, by the Chancellor and, without prejudice to the generality of the foregoing and subject as aforesaid, the Registrar may, with the general or special approval of the Chancellor, depute executive officers or other persons employed in the carrying on of the business of the Supreme Court, and shall depute them on the Chancellor's general or special instructions, to exercise such authority or carry out such functions in respect of the business of the Court of Appeal as it is considered convenient for them to exercise or carry out, due regard being had to their employment as aforesaid, and the Registrar may, with the like approval, and shall, on the like instructions, rescind any arrangements made in that respect by him under this section:

Provided that, in giving any such instructions or approval with respect to any officers or other persons employed in the carrying on of the business of the High Court, the Chancellor shall act after consultation with the Chief Justice.

Rules of court.

36G. The authority empowered by law to make rules of court regulating the practice and procedure of the High Court

may make rules of court for all or any of the following purposes—

(a) for regulating and prescribing the procedure and practice to be followed on appeals and applications to the Court of Appeal and in all other matters whatsoever in or with respect to which the Court has for the time being jurisdiction, and any matters incidental to or relating to any such procedure or practice, including but without prejudice to the generality of the foregoing provision, the manner in which and the time within which, any proceedings which under this or any other law are to be taken in any of the aforementioned matters shall be taken;

(b) for regulating and prescribing the procedure on any hearing by the Court of Appeal or a judge thereof and, without prejudice to the generality of the foregoing prescribing the cases in which and the conditions upon which, an appellant in a criminal appeal shall be entitled to be present at the hearing thereof and providing for summary determination of any appeal which appears to the court to be frivolous, vexatious or brought for purposes of delay;

(c) for regulating the places and times of the sittings of the Court of Appeal and of the judges of that Court in chambers;

(d) for regulating and prescribing any matters relating to the costs and fees (whether of counsel, solicitors or the Registrar or in connection with any other charges or expenses) in respect of any matters or proceedings in the Court of Appeal;

(e) for regulating the right of practising before the Court of Appeal and the representation of persons concerned in any proceedings in such Court;

(f) for prescribing offices to be held by, and for regulating and prescribing the

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functions of, persons employed in the carrying on of the business of the Court of Appeal;

(g) for regulating vacations to be observed by the Court of Appeal and in the offices of the Court respectively;

(h) for the hearing during vacation by the judges of the Court of Appeal of all such applications as may require to be immediately or promptly heard.

Additional powers of Court of Appeal.

36H. Subject to the provisions of this Ordinance and rules of court, the Court of Appeal shall, in addition to the jurisdiction, powers and authorities vested in it by virtue of the provisions of this Ordinance apart from this section, have and may exercise any other jurisdiction, power or authority which is analogous to any jurisdiction, power or authority belonging or incident immediately before the 26th May, 1966, to the British Caribbean Court of Appeal as a court of appeal for British Guiana.

Practice and procedure.

36I. (1) In so far as may be, the practice and procedure of the Court of Appeal shall, in all respects in which the same are not regulated by virtue of this Order, correspond to the existing practice and procedure of the British Caribbean Court of Appeal acting as a court of appeal for British Guiana.

(2) In this section "existing" means existing at the date immediately preceding the coming into operation of the provisions of this Part.

PART IVA.**TRANSITIONAL**

Interpretation of Part IVA.

36J. In this Part, "appeal" includes a reserved question of law or a case stated.

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Commencement of appeals from judgments given in British Guiana.

36K. Proceedings relating to any appeal from a court of British Guiana, or a judge thereof, and which might have been commenced, continued and concluded in the British Caribbean Court of Appeal after the 25th May, 1966, whether subject to any limitation as to time or not, if such Court had not ceased on the coming into operation of this Part to have jurisdiction in that behalf, may be commenced, continued and concluded, subject to such limitation as aforesaid, if any, in the Court of Appeal as nearly as may be as in the case of a like appeal from a court of Guyana, or a judge thereof, to the Court of Appeal; and any judgment of the Court of Appeal in such proceedings may be enforced or executed accordingly.

Transfer of records.

36L. The Registrar of the Supreme Court of Judicature shall take such steps as may be necessary to obtain the records, documents and exhibits in any proceedings pending before the British Caribbean Court of Appeal immediately before the 26th May, 1966, and which may be continued before the Court of Appeal, from the officer having custody thereof."

The Rules of the Supreme Court, 1955. Substitute —

- (i) the word "Chancellor" for the words "Chief Justice", wherever they appear;
- (ii) the words "the Chief Justice or Acting Chief Justice", for the words "a Puisne Judge" in Order 3, rule 5.

The Federal Supreme Court (Appeals from British Guiana) Rules, 1959.

- (a) Delete the definition of "Chief Justice" from Order I, rule 2(1).
- (b) Insert the words "and places" after the word "times" in Order I, rule 4(1).
- (c) Substitute the word "Chancellor" for the words "Chief Justice" wherever they appear in Order I, rule 4.

Ordered this 25th day of May, 1966.

RICHARD E. LUYT,
Governor.