

**BILL No. 19 of 2010**

Wednesday 13<sup>th</sup> October, 2010

PARLIAMENT OFFICE  
Public Buildings,  
Georgetown,  
Guyana.

13<sup>th</sup> October, 2010.

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. 19 of 2010**

**CONTEMPT OF COURT BILL 2010**

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**A BILL****Intituled**

**AN ACT** to define and regulate the law with respect to contempt  
of Court and related matters.

A.D. 2010

Enacted by the Parliament of Guyana:-

**PART 1  
PRELIMINARY**

Short title.

**1.** This Act may be cited as the **Contempt of Court Act  
2010.**

Interpretation.

**2.** In this Act –

“contempt of Court” means any conduct, whether  
committed in the face of the Court or not, that  
substantially obstructs or interferes or prejudices, or  
tends to substantially obstruct or interfere or  
prejudice, the administration of justice in any  
proceedings pending before the Court, and includes –

(a) the wilful disobedience to, or disregard for,  
any judgment, decree, direction or order of a  
Court;

- (b) the wilful breach of an undertaking given in a Court;
- (c) any insult or disrespect offered to the Court;
- (d) the interruption of proceedings pending before the Court;
- (e) the use of abusive or threatening language;
- (f) the use of violence or threatening the use of violence;
- (g) any act calculated to scandalise or lower the authority of the Court; or
- (h) any other act or conduct that disrupts the due course of any proceedings before the Court;

“Court” means the High Court including the Full Court of the High Court, the Court of Appeal and the Caribbean Court of Justice;

“publication” includes any speech, writing, picture, sign or other visible representation, broadcast or other communication in whatever form, which is addressed to the public at large or any section of the public.

## PART II

## OFFENCES AND PUNISHMENT

Jury's  
deliberations.

3. It shall be a contempt of Court to obtain or attempt to obtain or disclose any statements made, opinions expressed, arguments advanced or votes cast by members of a jury in the course of their deliberations in any criminal proceedings.

Use of tape  
recorders.

4. (1) Subject to subsection (4), it shall be a contempt of Court to use in Court any tape recorder or other instrument for recording sound, except with the leave of the Court.

(2) Any leave granted under subsection (1) may be granted subject to such conditions as the Court deems fit with respect to the use of any recording made pursuant to the leave, and the Court may at any time revoke such leave, either generally or in relation to any particular part of the proceedings.

(3) Without prejudice to any other power to deal with an act of contempt under this Act, the Court may order the instrument, or any recording made with it, or both, be forfeited, and any instrument or recording so forfeited shall be disposed of or dealt with in such manner as the Court may direct subject to the

owner's right to be heard as to reasons why such instrument or recording shall not be forfeited.

(4) This section does not apply to the use of sound recordings for purposes of official transcripts of proceedings.

Contempt of Court.

5. Any person who commits a contempt of Court shall be guilty of an offence.

Punishment for contempt of Court.

6. (1) Any person natural or person artificial found to be in contempt of Court is liable on indictment, in the case of –

(a) an individual, to a fine not exceeding two hundred and fifty thousand dollars or imprisonment for a term not exceeding three months;

(b) a company or other association, to a fine not exceeding seven hundred and fifty thousand dollars.

(2) Where the contemnor is a company, and the contempt is proved to have been committed with the consent or connivance, or is attributable to the conduct or act on

the part of, any director, manager or any other person in charge of or responsible for the conduct of the business of the company, that person shall also be deemed to be guilty of contempt of Court and is liable to the punishment prescribed under subsection (1)(a):

Provided that such a person shall not be deemed to be guilty of contempt of Court if he proves that the contempt was committed without his knowledge or that he exercised all due diligence to prevent its commission.

(3) Where the Court imposes a fine for the punishment of contempt of Court, the Court shall order that the fine be paid within a definite time, but not less than seven days, after the date of the order, save and except where the Court, in its own deliberate judgment allows for a reprimand.

Payment  
and  
enforcement  
of fines.

7. (1) All fines payable under any order for contempt of Court shall be paid into the Consolidated Fund.

(2) The payment of a fine imposed as punishment for a contempt of Court shall be enforced upon the order of the Court in like manner as if the order were a judgment or order for the

Revocation  
of order for  
contempt.

8. The Court may, of its own motion or on an application on behalf of the contemnor revoke or vary an order for contempt of Court.

### PART III

#### CERTAIN PUBLICATIONS NOT CONTEMPT

Innocent  
publication  
or  
distribution  
not  
contempt.

9. (1) A person shall not be guilty of contempt of Court for publication that would otherwise be a contempt of Court, if at the time of such publication he did not know, or did not have any reasonable grounds for suspecting that the relevant proceedings are pending before the Court.

(2) A person shall not be guilty of or punishable for contempt of Court for the distribution of a publication which would otherwise be a contempt of Court, if at the time of the distribution he did not know, or did not have any reasonable grounds for suspecting, that the publication contained or was likely to contain any matter which amounts to contempt of Court.

Fair and  
accurate  
report of  
proceedings  
not  
contempt.

10. (1) Subject to this section, a person shall not be guilty of contempt of Court for the publication of a fair and accurate report of any proceedings pending before the Court or any stage thereof.



(2) A Court may, where it appears to be necessary to avoid obstruction or prejudice to the administration of justice in any proceedings pending before the Court, order that the publication of the proceedings or any part thereof be prohibited.

(3) Any order made under subsection (2) may be made subject to such conditions as the Court deems fit.

(4) When an order is made under subsection (2) any person who, with knowledge of it disobeys that order, shall be guilty of contempt and punishable as is prescribed in section 6.

11. A person shall not be guilty of contempt of Court for the publication of any fair comment on the merits of any proceedings which have been heard and finally determined by the Court.

Fair criticism  
of judicial  
act not  
contempt.

#### PART IV

#### PROCEDURE FOR CONTEMPT OF COURT

12. (1) Where, in the opinion of the Court a person has committed a contempt in the face of the Court, that is, in the presence or hearing of the Court, the Court may cause that person to be brought before it, either forthwith or at any time before the rising of the Court on the same day, and shall –

Contempt  
in face of  
the Court.

(a) inform him of the contempt with which he is charged;

- (b) afford him an opportunity to put forward a defence to the charge; and
- (c) after hearing him in his defence and the evidence of any witness he may tender, proceed to pronounce upon a final determination of the charge, either forthwith or on such date and at such time as the Court may appoint in that behalf.

(2). Upon a final determination of a charge for contempt of Court under subsection (1) (c), the Court may make such order for the imposition of punishment under section 6 or the discharge of such person as it thinks fit.

(3). Where the Court does not determine a charge for contempt of Court forthwith, the Court may order that the person be detained in such custody as the court may specify but the detention shall not exceed seven days before a final determination of the matter:

Provided that the Court may order that the person may be released on bail or on such conditions as the Court thinks fit.

**13.** No appeal shall lie from any order of guilt for contempt of Court, or punishment imposed therefor, made by the Court under section 12.

**14. (1).** Where it is alleged that any person has committed a contempt, other than contempt in the face of the Court, proceedings

No appeal from order for contempt in face of the Court.

Contempt of Court in other cases.

against that person may be brought by way of an application to the Court.

Cap.3:02  
Cap.3:01  
No.16 of  
2004.

(2). An application under subsection (1) shall be made in like manner as if it were an application under the High Court Act, the Court of Appeal Act or the Caribbean Court of Justice Act 2004, as the case may be.

(3). Every application made under this section shall be supported by an affidavit, which shall specify the nature of the contempt of which the person is alleged to have committed and all material facts, including the date or dates of the commission of the alleged contempt and all documents relied on.

Appeal from  
order for  
contempt in  
other cases.

15. An appeal shall lie from any order for contempt of Court, or punishment imposed, made by the Court under section 14, in the case of -

- (a) a single judge of the High Court, to the Full Court of the High Court;
- (b) the Full Court of the High Court, to the Court of Appeal;  
and
- (c) the Court of Appeal, to the Caribbean Court of Justice,

Cap.  
3:02

in like manner as if the order were a judgment or order under the High Court Act or the Court of Appeal Act, as the case may be.

Cap.  
3:01

Limitation  
of action  
for  
contempt.

16. All proceedings for contempt of Court under this Act shall be brought within one year from the date on which the contempt is alleged to have been committed.

## PART V

### MISCELLANEOUS

Savings.

17. Nothing in this Act shall prejudice any defence available at common law to a charge of contempt of Court.

Non-  
derogation  
from any  
other law.

18. The provisions of this Act shall be in addition to, and not in derogation of any other law in force, in relation to contempt of Court.

Repeal.

19. The Contempt of Court Act is repealed.

Cap. 5:05

## EXPLANATORY MEMORANDUM

This Bill seeks to define the powers of certain Courts to punish for contempt and to regulate their procedure in relation thereto.

**Part 1** provides a definition of "contempt of Court". This definition is inclusive, and gives examples of conduct that would constitute contempt of Court.

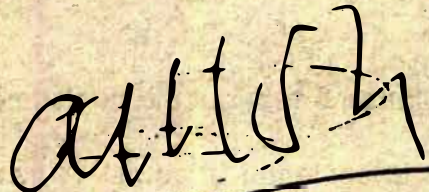
**Part II** creates offences relating to contempt of Court and prescribes the punishment therefor. Clauses 3 and 4 create offences for obtaining and disclosing a jury's deliberations and using tape recorders in Court, respectively. Clause 5 of the Bill makes any person who commits a contempt of Court, guilty of an offence.

**Clause 6** sets out the punishment that can be imposed on a finding that a person is in contempt of court. A distinction is made between where the person is an individual or a company.

The circumstances in which a publication will not be considered contempt of Court are provided for in Part III of the Bill. These circumstances include where there is (a) an innocent publication, (b) a fair and accurate report of pending proceedings before the Court and (c) fair criticism of a judicial act.

**Part IV** provides for the procedure to be adopted in cases of contempt of Court. **Clause 12** which deals with contempt committed in the face of the Court, states that the alleged contemnor must be informed of the contempt with which he is being charged and be afforded an opportunity to be heard in his defence. No appeal lies from an order made by the Court for where the contempt is committed in the face of the Court. However, by **Clause 15** in every other case where the contempt is not in the face of the Court, an appeal shall lie in like manner as if such an order were a judgment or order under the High Court Act, the Court of Appeal Act or the Caribbean Court of Justice Act, as the case may be.

**Part V** provides that nothing in the Bill prejudices any defence available at common law to a charge of contempt and also provides, in **Clause 18**, that the provisions of the Bill are not in derogation of any other law in force relating to contempt.



Attorney General and

Minister of Legal Affairs.