

BILL No. 6 of 2001

*Thursday 17<sup>th</sup> May, 2001*

PARLIAMENT OFFICE  
Public Buildings,  
Georgetown,  
Guyana.

17<sup>th</sup> May, 2001

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

*F. A. Narain,*  
Clerk of the National Assembly.



**GUYANA**

**BILL No. 6 of 2001  
CONSTITUTION (AMENDMENT) (No. 3) BILL 2001**

**ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title.
2. Alteration of article 200 of the Constitution.
3. Alteration of article 201 of the Constitution.
4. Alteration of article 207 of the Constitution.
5. Alteration of article 210 of the Constitution.
6. Alteration of article 211 of the Constitution.
7. Insertion of new heading, subheading and articles 212G to 212FF in the Constitution.
8. Alteration of article 226 of the Constitution.
9. Gender inclusion.
10. Parliament to make provision.

**A BILL****Intituled**

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

A.D. 2001 Enacted by the Parliament of Guyana:-

Short title. 1. This Act may be cited as the Constitution (Amendment) ( No. 3.) Act 2001.

Alteration of article 200 of the Constitution. 2. Article 200 of the Constitution is hereby altered as follows -

(a) in paragraph (1) -

(i) in the opening part, by the substitution for the words "shall consist of not less than five and not more than six members" of the words "shall consist of six members";

(ii) in subparagraph (a), by the substitution for the words "consultation with the Minority Leader" of the words "meaningful consultation with the Leader of the Opposition";

(iii) by the substitution for subparagraph (b) of the following subparagraph -

"(b) two members appointed by the President upon nomination by the National Assembly after it has consulted such bodies as appear to it to represent public officers or classes of public officers; and";

(b) by the substitution for paragraph (2) of the following paragraph –

“(2) The Chairperson and Deputy Chairperson of the Commission shall be elected by and from the members of the Commission using such consensual mechanism as the Commission deems fit.”;

(c) in paragraphs (4), (5) and (6) by the substitution for the words “Chairman” and “Deputy Chairman” wherever they appear of the words “Chairperson” and “Deputy Chairperson”, respectively; and

(d) by the substitution in paragraph (5) for the words “such one of the other members as the President, acting after consultation with the Minority Leader, may appoint shall act in the office of Chairperson” of the words “one of the other members may be elected to act in the office of Chairperson”, and for the word “appointed” of the word “elected”.

Alteration of article 201 of the Constitution.

3. Article 201 (7) of the Constitution is hereby altered by the deletion of subparagraph (a).

Alteration of article 207 of the Constitution.

4. Article 207 of the Constitution is hereby altered in the following respects –

(a) by the substitution in paragraph (1) for the words “shall consist of a Chairman and not more than six other members” of the words “shall consist of seven members”;

(b) in paragraph (2) -

(i) by the deletion of subparagraph (a);

(ii) by the substitution for subparagraph (c) of the following subparagraph -

“(c) two persons nominated for appointment by the Minister assigned responsibility for local government after that Minister has consulted with local democratic organs or bodies; and”;

(iii) by the substitution for subparagraph (d) of the following subparagraph -

“(d) three persons appointed by the President after meaningful consultation with the Leader of the Opposition.”;

(c) by the substitution for paragraph (4) of the following paragraph -

“(4) The Chairperson and Deputy Chairperson of the Commission shall be elected by and from the members of the Commission using such consensual mechanism as the Commission deems fit.”;

(d) in paragraph (7) for the words "Chairman", "Deputy Chairman" and " him" substitute the words "Chairperson", "Deputy Chairperson" and "him or her", respectively.

Alteration of article 210 of the Constitution.

5. Article 210 of the Constitution is hereby altered in the following respects -

(a) in paragraph (1) -

(i) by the substitution for the words "consultation with the Minority Leader among members appointed under subparagraph (d)" in subparagraph (a) of the words "meaningful consultation with the Leader of the Opposition from members appointed under subparagraph (c)";

(ii) by the substitution for subparagraphs (c) and (d) of the following subparagraph -

"(c) four members appointed by the President upon nomination by the National Assembly after it has consulted such bodies as appear to it to represent the majority of the members of the Police Force and any other such body it deems fit;"

(b) by the substitution in paragraph (4) for the words "consultation with the Minority Leader" of the words "meaningful consultation with the Leader of the Opposition".

Alteration of article 211 of the Constitution.

6. Article 211(1) of the Constitution is hereby altered by the substitution for the words “ after consultation with the Police Service Commission” of the words “after meaningful consultation with the Leader of the Opposition and Chairperson of the Police Service Commission after the Chairperson has consulted with the other members of the Commission”.

Insertion of new heading, sub-heading and articles 212G to 212FF in the Constitution.

7. The Constitution is hereby altered by the insertion of the following heading, subheading and articles immediately after article 212F -

#### **“THE RIGHTS COMMISSIONS**

##### **Commissions for the Promotion and Enhancement of the Fundamental Rights and the Rule of Law**

Rights Com-  
-missions.

212G. (1) There are hereby established the following Commissions, the goals of which are to strengthen social justice and the rule of law -

- (a) the Human Rights Commission;
- (b) the Women and Gender Equality Commission;
- (c) the Indigenous Peoples’ Commission;
- (d) the Rights of the Child Commission.

(2) A Commission shall be independent, impartial, and shall discharge its functions fairly.

(3) A Commission shall be funded by a direct charge upon the Consolidated Fund in accordance with article 222A.

Appointment. 212H. (1) Subject to paragraph (2) (a), members of a Commission shall be appointed for three years and shall be eligible for re-appointment.

(2) Of those members -

(a) first appointed, other than the members nominated by and from another Commission, a majority shall hold office for four years;

(b) nominated by and from another Commission, the duration for which each shall serve shall not exceed the remaining tenure on the Commission by and from which they have been nominated.

(3) The provisions of article 225 shall apply to the office of a member of a Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Speaker of the National Assembly except that, in relation to a member other than the Chairperson or a member for the time being acting in the office of the Chairperson under paragraph (5), the prescribed authority for the purposes of paragraph (6) shall be the Chairperson; this paragraph does not apply to the Chairperson of the Human Rights Commission;

(4) The Chairperson and Deputy Chairperson of a Commission, other than the Human Rights Commission, shall be elected by and from the members of the Commission, other than the members nominated by and from another Commission, using such consensual mechanism as the Commission deems fit.

(5) If the office of Chairperson of a Commission, other than the Human Rights Commission, becomes vacant or the holder thereof is for any reason unable to perform the functions of the office, then the holder of the office of Deputy Chairperson, or if that office is vacant, or the holder thereof is for any reason unable to perform the

functions of the office of the Chairperson, one of the other members, other than the members nominated by and from another Commission, may be elected to act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue so to act until a person has been elected to the office of Chairperson and has assumed the functions of that office or, as the case may be, until the Chairperson or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(6) If the office of a member of a Commission other than the Chairperson is vacant or if the holder thereof is acting as Chairperson under the preceding paragraph or is for any other reason unable to perform the functions of his or her office, a person may be appointed to act in that office and the provisions in relation to the appointment of members of a Commission shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this paragraph shall, subject to the provisions of paragraph (3), continue to act until a person has been appointed to the office in which he or she is acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

- Secretariat. 212I. The Human Rights Commission Secretariat shall be the Secretariat for all the Commissions established under article 212 G(1).
- General functions. 212J. (1) In addition to the functions prescribed by this Constitution, the functions of a Commission, may be provided for by law; any addition thereto in the Constitution shall be approved by the votes of a majority of all the elected members of the National Assembly but the removal or variation of any function shall be by the votes of not less than two-thirds of such members.



(2) A Commission, other than the Human Rights Commission, shall have the following general functions -

- (a) to monitor and review all existing and proposed legislation, policies and measures for compliance with the objects and matters under its purview and report the need for any amendment to any legislation to the National Assembly;
- (b) to educate the public regarding the nature and content of matters under its purview;
- (c) to carry out or cause to be carried out research and studies concerning the observance of matters under its purview and report the findings and recommendations thereon to the National Assembly;
- (d) to investigate complaints of, or initiate investigations into, violations of the rights under its purview;
- (e) to resolve disputes or rectify acts or omissions by mediation, conciliation or negotiation;
- (f) to take appropriate action on behalf of persons whose rights have been, are being or are likely to be violated;
- (g) to liaise with governmental and non-governmental organisations, and other relevant bodies to address the complaints and concerns of persons regarding matters under its purview;
- (h) to enlist the aid of such persons as may be necessary to give expert advice in order to facilitate its functions;

- (i) to prepare and submit reports to the National Assembly pertaining to any convention, covenant or charter relating to the objects of a Commission; and
- (j) to do all other acts and things as may be necessary to facilitate the efficient discharge of its functions.

(3) A Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its functions to any one or more members of the Commission, or to such officers of the Commission as the Commission may determine.

(4) A Commission may require any person or any entity, including a ministry or government department, to provide it with information –

- (a) for the purposes of any investigation it is carrying out or proposes to carry out; and

- (b) on the measures that have been or are being taken for the implementation of the decisions of, or the compliance with any provision relating to, the Commission.

(5) For the purposes of paragraph (4), Parliament may by law make provision for offences and penalties for non-compliance with any requirement, or decision of, or provision relating to a Commission.

(6) A Commission may at any stage refer any matter to the Human Rights Commission or any other relevant authority or entity to be dealt with.

Rights  
Commissions  
Tribunal.

212K. Parliament may by law provide for the establishment of a Rights Commissions Tribunal and such law may make provision for –

- (a) the constitution of the Tribunal;
- (b) all matters relating to the jurisdiction, powers and duties of the Tribunal;
- (c) all matters relating to appeals from decisions of the Tribunal to the Court of Appeal; and
- (d) the practice and procedure of the Tribunal.

Appeals. 212L. (1) A decision of a Commission is subject to an appeal to the Rights Commissions Tribunal.

(2) A decision of the Rights Commissions Tribunal is subject to an appeal to the Court of Appeal.

Reports. 212M.(1) As soon as practicable after the end of each year of its operation, a Commission shall submit to the National Assembly an annual report of the activities of the Commission during the preceding year and the report shall be tabled in the Assembly within thirty days of its submission if the Assembly is sitting, if not, at the first meeting of the Assembly thereafter.

(2) The Chairperson of a Commission may at any time submit a special report to the National Assembly with respect to any aspect of the functions of a Commission which the Commission considers should, in the national interest, be brought to the attention of the National Assembly.

(3) For the purposes of paragraph (2) a matter is of national interest if -

(a) it affects a wide cross-section of the populace; and

(b) disastrous consequences would result if a report on the matter were not brought to the attention of the National Assembly.

(4) A Commission shall prepare and publish an executive summary of its annual report; provided that each special report shall be published in media having wide accessibility in Guyana within forty-five days of its submission to the National Assembly.

### **The Human Rights Commission**

Human Rights Commission. 212N.(1) The Human Rights Commission shall promote the observance of and respect for, and protect and investigate violations of the rights recognised by this Constitution and any other law relating to equality of opportunity and treatment (hereinafter referred to as “the rights”).

(2) The Human Rights Commission shall consist of a full time Chairperson and such other members, to be appointed in accordance with this article.

(3) The Chairperson of the Human Rights Commission shall be a person who holds or has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such court or who is qualified to be appointed as any such judge, or any other fit and proper person with expertise or experience in human rights matters, to be appointed by the President from a list, not unacceptable to the President, of six persons submitted by the Leader of the Opposition after meaningful

consultation with such entities as appear to him or her to have expertise or experience in human rights matters:

Provided that if the Leader of the Opposition fails to supply such a list to the President, the President shall request him or her to do so within a stated period, failing which the President shall in his or her own deliberate judgment, appoint a person who holds or has held office as judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who is qualified to be appointed as any such judge.

(4) In addition to the Chairperson, there shall be four members of the Commission who shall be the Chairpersons of the Ethnic Relations Commission, Women and Gender Equality Commission, Indigenous Peoples' Commission and Rights of the Child Commission.

(5) The Deputy Chairperson of the Human Rights Commission shall be elected by and from the other members of the Commission using such consensual mechanism as the Commission deems fit.

(6) If the office of Chairperson of the Commission becomes vacant, or the holder thereof is for any reason unable to perform the functions of the office, then the holder of the office of Deputy Chairperson, or if that office is vacant, or the holder thereof is for any reason unable to perform the functions of the office of Chairperson, one of the other members may be elected to act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue so to act until a person has been appointed to the office of Chairperson and has assumed the functions of that office or, as the case may be, until the Chairperson or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(7) The President may, with the concurrence of the Leader of the Opposition, remove the Chairperson from office.

Functions of the Human Rights Commission. 212O. (1) The functions of the Human Rights Commission are to -

Fourth Schedule.

- (a) monitor the observance of the international instruments to which the Government accedes from time to time, including those already acceded to and specified in the Fourth Schedule;
- (b) monitor and assess compliance with the rights and report the need for any amendment of the law relating thereto to the National Assembly;
- (c) educate the public regarding the nature and content of the rights;
- (d) make recommendations to any person or any entity, including a ministry or government department, relating to matters affecting compliance with and adoption of measures for the promotion of the rights;
- (e) carry out or cause to be carried out research and studies concerning the observance of the rights and report the findings and recommendations thereon to the National Assembly;
- (f) monitor and review all existing and proposed legislation, policies and measures for compliance with the rights and report the need for any amendment to any legislation to the National Assembly;

- (g) investigate complaints of, or initiate investigations into, violations of the rights;
- (h) resolve disputes or rectify acts or omissions by mediation, conciliation or negotiation;
- (i) liaise with governmental and non-governmental organisations, and other relevant bodies to address the complaints and concerns of persons regarding matters under its purview;
- (j) take appropriate action on behalf of persons whose rights have been, are being or are likely to be violated;
- (k) enlist the aid of such persons as may be necessary to give expert advice in order to facilitate its functions;
- (l) establish as part of its Secretariat, such units as are necessary for, *inter alia*, the purpose of monitoring compliance with laws relating to the rights, and for educating employers in the public and private sectors and the general public on desirable employment practices;
- (m) to prepare and submit reports to the National Assembly pertaining to any convention, covenant or charter relating to the objects of the Commission; and
- (n) do all other acts and things as may be necessary to facilitate the efficient discharge of the functions of the Commission.

(2) If any person alleges that any of the rights has been, is being or is likely to be contravened in relation to him or her, then, without prejudice to any other action which is lawfully available to him or her, with respect to the same matter, the Commission shall have the power to institute legal action on behalf of the complainant for redress.

Secretariat.

212P. (1) Each Commission established under article 212G (1) shall appoint on such terms and conditions as may be approved by the National Assembly, a Chief Executive Officer (who shall serve as its Secretary), and the secretary and assistants to the Chief Executive Officer.

(2) The Human Rights Commission shall be responsible for the efficient functioning of the Secretariat of the Commissions, which shall comprise –

- (a) the Chief Executive Officers of the Commissions who shall be Directors in the Secretariat;
- (b) the secretaries and assistants to the Chief Executive Officers; and
- (c) other officers and employees, as may be necessary for the efficient discharge of the functions of the Secretariat, who shall be appointed on such terms and conditions as may be determined by the Commission.

(3) The Secretariat shall be subdivided into four units, there being a unit for each Commission dealing with issues under the purview of that Commission and headed by its Chief Executive Officer.



(4) Before a Commission appoints to act in any office referred to in paragraph (1) or (2) any person who holds or is acting in any office, power to make appointments to which is vested under this Constitution in the Judicial, the Teaching, the Police or the Public Service Commission, the Commission shall first seek and obtain the approval of the Commission in which that power is vested.

(6) Where a public officer is appointed to an office referred to in paragraph (1) or (2) that officer shall, subject to the said paragraph (1) or (2), remain a public officer unless the appointing Commission determines that that office shall be independent of the Commission from which he or she has been appointed.

(7) Nothing in this article shall be construed as precluding a Commission from appointing any person who is not a public officer to an office referred to in paragraph (1) or (2).

(8) The emoluments and allowances payable to the members of a Commission shall be proposed by the Parliamentary Sectoral Committee for Social Services in consultation with the Commission and approved by the National Assembly.

### **The Women and Gender Equality Commission**

Women and Gender Equality Commission. 212Q. (1) The Women and Gender Equality Commission shall promote national recognition and acceptance that women's rights are human rights, respect for gender equality and the protection, development and attainment of gender equality.

(2) The Women and Gender Equality Commission shall consist of persons from each of the categories referred to in subparagraphs (a), (b) and (c), appointed by the President as follows -

(a) not less than five nor more than fifteen members, with expertise in women's and gender equality issues, nominated by entities, by a consensual mechanism determined by the National Assembly, after the entities, which shall include the Women's Advisory Committee of the Trades Union Congress, are determined by the votes of not less than two-thirds of all the elected members of the National Assembly;

(b) the Administrator of the Women's Affairs Bureau, by whatever name that office is designated; and

(c) a member who shall be a nominee, without the right to vote, chosen by and from each of the following commissions: the Human Rights Commission, Ethnic Relations Commission, Indigenous Peoples' Commission, and Rights of the Child Commission.

Functions of 212R. In addition to the functions specified in article 212J(2),  
the Women the functions of the Women and Gender Equality  
and Gender Commission are to –  
Equality  
Commission.

- (a) promote issues related to the enhancement of the status of women, girls and gender issues;
- (b) promote the integration of women's needs and interests and mainstreaming of gender issues;
- (c) promote the empowerment of women;
- (d) promote women's rights as human rights;
- (e) raise the awareness of the contribution of women and problems faced by women including the recognition and value of unwaged work;

- (f) promote women's needs, interests, and concerns in the wider spectrum of economic and social development and address both the practical and strategic needs of women as being different from those of men;
- (g) educate and monitor employers and the public on desirable employment practices in relation to women;
- (h) monitor compliance and make recommendations for compliance with international instruments to which the Government accedes from time to time, including those already acceded to and which relate to the purpose of the Commission;
- (i) evaluate any system of personal and family law, customs or practices or any law likely to affect gender equality or the status of women and make recommendations to the National Assembly with regard thereto;
- (j) recommend and promote the implementation of legislation and the formulation of policies and measures so as to enhance and protect the status of women;
- (k) promote, initiate or cause to be carried out research and the creation of databases on women and gender related issues including those of health, especially reproductive health, violence against women and the family, and their socio-economic and political status, as the Commission may deem relevant or as may be referred to it by the National Assembly;

- (l) promote consultation and cooperation with women's organisations in relation to decision-making that affects the lives of women;
- (m) recommend training and technical assistance to support initiatives by and for women and girls; and
- (n) promote the participation of women in national decision-making.

### **The Indigenous Peoples' Commission**

Indigenous Peoples' Commission. 212S. (1) The Indigenous Peoples' Commission shall establish mechanisms to enhance the status of indigenous peoples and to respond to their legitimate demands and needs.

(2) The Indigenous Peoples' Commission shall consist of persons from each of the categories referred to in subparagraphs (a), (b) and (c) appointed by the President as follows -

(a) not more than ten members nominated by entities, by a consensual mechanism determined by the National Assembly, after the entities are determined by the votes of not less than two-thirds of all elected members of the National Assembly;

(b) three persons, at least one being a woman nominated by the Tousehaos Council and two persons including one woman nominated by Amerindian organisations determined by the votes of not less than two-thirds of all elected members of the National Assembly; and

(c) a member who shall be a nominee, without the right to vote, chosen by and from each of the following Commissions: the Human Rights Commission, Ethnic Relations Commission, Women and Gender Equality Commission and Rights of the Child Commission.

Functions of the Indigenous Peoples' Commission. 212T. In addition to the functions specified in article 212J (2) the functions of the Indigenous Peoples' Commission are to –

- (a) promote and protect the rights of indigenous peoples;
- (b) raise awareness of the contribution of, and problems faced by, indigenous peoples;
- (c) promote empowerment of indigenous peoples, especially with regard to the village council in the local government system and the scope and authority of the Council of Tousehaos;
- (d) make recommendations on economic and education policies to advance the interests of indigenous peoples;
- (e) make recommendations for the protection, preservation and promulgation of the cultural heritage and language of indigenous peoples;
- (f) promote consultation and cooperation with indigenous peoples especially with regard to their participation in national decision-making and other decisions that affect their lives;

- (g) recommend and promote training and technical assistance to support initiatives by and for indigenous peoples;
- (h) educate employers and the public and make recommendations to improve employment practices related to indigenous peoples; and
- (i) monitor the need for and recommend where appropriate the establishment of mechanisms to provide counselling for indigenous peoples.

### The Rights of the Child Commission

Rights of  
the Child  
Commission.

212U. (1) The Rights of the Child Commission shall promote initiatives that reflect and enhance the well-being and rights of the child.

(2) The Rights of the Child Commission shall consist of persons from each of the categories referred to in subparagraphs (a) and (b) appointed by the President as follows -

- (a) not less than five nor more than fifteen members, with expertise in issues affecting children, nominated by entities, by a consensual mechanism determined by the National Assembly, after the entities which shall include the Ministry with responsibility for children's affairs, the Ministry of Education, and organisations representing the interests of youth, are determined by the votes of not less than two-thirds of all elected members of the National Assembly; and

(b) a member who shall be a nominee, without the right to vote, chosen by and from each of the following commissions: the Human Rights Commission, Ethnic Relations Commission, Women and Gender Equality Commission and Indigenous Peoples' Commission.

Functions of 212V. In addition to the functions specified in article 212J

the Rights of (2) the functions of the Rights of the Child Commission  
the Child are to –  
Commission.

(a) promote the rights and interests of, and respect for the views of, children;

(b) ensure that the rights and interests of children are taken into account at all levels of government, other public bodies, and private organisations when decisions and policies affecting children are taken;

(c) monitor compliance and make recommendations for the compliance with international instruments to which the Government accedes from time to time, including those already acceded to and which relate to the purpose of the Commission;

(d) consult on and participate in the preparation of the Annual Report on the Rights of the Child to be submitted by the Government to the United Nations Committee on the Rights of the Child;

(e) ensure that children have effective means of redress if their rights are being violated;

(f) monitor, evaluate and make recommendations on policies, procedures and practices of organisations, bodies and institutions in order to promote the rights of the child.

### The Public Procurement Commission

Public Procurement Commission. 212W. (1) There shall be a Public Procurement Commission the purpose of which is to monitor public procurement and the procedures therefor in order to ensure that the procurement of goods, services and execution of works are conducted in a fair, equitable, transparent, competitive and cost effective manner according to law and such policy guidelines as may be determined by the National Assembly.

(2) The Commission shall be independent, impartial, and shall discharge its functions fairly.

Composition of the Public Procurement Commission. 212X. (1) The Public Procurement Commission shall consist of five members who shall have expertise and experience in procurement, legal, financial and administrative matters.

(2) The President shall appoint the members of the Commission after such members have been nominated by the Public Accounts Committee and approved by not less than two-thirds of the elected members of the National Assembly.

Appointment. 212Y. (1) Subject to paragraph (2), members of the Commission shall be appointed for three years and shall be eligible for re-appointment, for one other term of office, not earlier than three years after the end of their first term.

(2) Of those members first appointed, two shall hold office for four years.

(3) The Chairperson and Deputy Chairperson of the Commission shall be elected by and from the members of the Commission using such consensual mechanism as the Commission deems fit.



(4) The provisions of article 225 shall apply to the office of a member of the Commission, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Speaker of the National Assembly except that, in relation to a member other than the Chairperson or a member for the time being acting in the office of the Chairperson under the next following paragraph, the prescribed authority for the purposes of paragraph (6) shall be the Chairperson.

(5) If the office of Chairperson of the Commission is vacant or the holder thereof is for any reason unable to perform the functions of the office, then the holder of the office of Deputy Chairperson, or if that office is vacant, or the holder thereof is for any reason unable to perform the functions of the office of the Chairperson, one of the other members, may be elected to act in the office of Chairperson; and the Deputy Chairperson or such other member shall continue so to act until a person has been elected to the office of Chairperson and has assumed the functions of that office or, as the case may be, until the Chairperson or if a member other than the Deputy Chairperson is acting therein, the Deputy Chairperson has assumed or resumed those functions.

(6) If the office of a member of the Commission other than the Chairperson is vacant or if the holder thereof is acting as Chairperson under the preceding paragraph or is for any other reason unable to perform the functions of his or her office, a person may be appointed to act in that office and the provisions in relation to the appointment of members of the Commission shall apply to such an appointment as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this paragraph shall, subject to the provisions of paragraph (4), continue to act until a person has been appointed to the office in which he or she is

acting and has assumed the functions thereof or, as the case may be, until the holder thereof resumes those functions.

Secretariat. 212Z. (1) The Commission shall establish a secretariat comprising its officers and employees.

(2) The Commission shall appoint a Chief Executive Officer, who shall serve as Secretary, and such other officers and employees as may be necessary for the efficient discharge of its functions. The terms and conditions of the appointment of the Chief Executive Officer and the two other most senior officers shall be subject to the approval of the National Assembly.

(3) The Chief Executive Officer shall be under the direction and control of the Commission and he or she shall be responsible for the other officers and employees of the Commission who shall directly report to him or her.

(4) The Chief Executive Officer may, as directed by the Commission, attend meetings of public procurement bodies.

(5) Before the Commission appoints to act in any office referred to in paragraph (2) any person who holds or is acting in any office, power to make appointments to which is vested under this Constitution in the Judicial, the Teaching, the Police or the Public Service Commission, the Commission shall first seek and obtain the approval of the Commission in which that power is vested.

(6) Where a public officer is appointed to an office referred to in paragraph (2) that officer shall, subject to the said paragraph (2), remain a public officer unless the Commission determines that office shall be independent of any other Commission.

(7) Nothing in this article shall be construed as precluding the Commission from appointing any person who is not a public officer to an office referred to in paragraph (2).

(8) The emoluments and allowances payable to the members of the Commission shall be determined by the Public Accounts Committee in consultation with the Commission.

Functions of the Public Procurement Commission. 212AA. (1) The functions of the Public Procurement Commission are to –

- (a) monitor and review the functioning of all public procurement systems to ensure that they are in accordance with law and such policy guidelines as may be determined by the National Assembly;
- (b) promote awareness of the rules, procedures and special requirements of the procurement process among suppliers, contractors and public bodies;
- (c) safeguard the national interest in public procurement matters, having due regard to any international obligations;
- (d) monitor the performance of procurement bodies with respect to adherence to regulations and efficiency in procuring goods and services and execution of works;
- (e) approve of procedures for public procurement, disseminate rules and procedures for public procurement and recommend modifications thereto to the public procurement entities;

- (f) monitor and review all legislation, policies and measures for compliance with the objects and matters under its purview and report the need for any legislation to the National Assembly;
- (g) monitor and review the procurement procedures of the ministerial, regional, and national procurement entities as well as those of project execution units;
- (h) investigate complaints from suppliers, contractors and public entities and propose remedial action;
- (i) investigate cases of irregularity and mismanagement and propose remedial action;
- (j) initiate investigations to facilitate the effective functioning of public procurement systems;
- (k) enlist the aid of such persons, as may be necessary, to assist the Commission with expert advice;
- (l) liaise with and refer matters to the police and the Auditor General; and
- (m) do all other acts and things as may be necessary to facilitate the efficient discharge of the functions of the Commission.

(2) In addition to the functions prescribed in this Constitution, the functions of the Commission may be provided for by law; any addition thereto in the Constitution shall be approved by the votes of a majority of all the elected members of the National Assembly but the removal or variation of any function shall be by the votes of not less than two-thirds of such members.

(3) The Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its functions to any one or more members of the Commission, or to such officers of the Commission as the Commission may determine.

Appeals. 212BB. (1) A decision of the Commission is subject to an appeal to the Tribunal established under article 212 EE.

(2) A decision of the Tribunal is subject to an appeal to the Court of Appeal.

Reports. 212CC. (1) As soon as practicable after the end of each year of its operation, the Commission shall submit to the National Assembly an annual report of the activities of the Commission during the preceding year and the report shall be tabled in the Assembly within thirty days of its submission if the Assembly is sitting, if not, at the first meeting of the Assembly thereafter.

(2) The Chairperson of the Commission may at any time submit a special report to the National Assembly with respect to any aspect of the functions of the Commission which the Commission considers should, in the national interest, be brought to the attention of the National Assembly.

(3) For the purposes of paragraph (2) a matter is of national interest if –

(a) it affects a wide cross-section of the populace; and

(b) disastrous consequences would follow if a report on the matter were not brought to the attention of the Assembly.

(4) The Commission shall prepare and publish an executive summary of its annual report; and shall publish every special report in media having wide accessibility in Guyana within forty-five days of the submission of such special report to the National Assembly.

Requirement to provide information.

212DD.(1) The Commission may require any person, or any entity, including a ministry or government department, to provide it with information –

- (a) for the purposes of any investigation it is carrying out or proposes to carry out; and
- (b) on the measures that have been or are being taken for the implementation of the decisions of, or the compliance with any provision relating to, the Commission.

(2) For the purposes of paragraph (1), Parliament may by law make provision for offences and penalties for non-compliance with any requirement, or decision of, or provision relating to the Commission.

Public Procurement Commission Tribunal.

212EE. Parliament may by law provide for the establishment of a Public Procurement Commission Tribunal and such law may make provision for -

- (a) the constitution of the Tribunal;
- (b) all matters relating to the jurisdiction, powers and duties of the Tribunal;
- (c) all matters relating to appeals from decisions of the Tribunal to the Court of Appeal; and

(d) the practice and procedure of the Tribunal.

### Principles for the Establishment of Commissions

Principles for the establishment of Commissions. 212FF. The Standing Committee for Constitutional Reform shall, in addition to its functions under article 119A, continually review the operations of and the need for existing commissions and for the establishment of new commissions, applying the following considerations -

(a) the issues to be addressed by a commission must be of national interest or affect a wide cross-section of the populace;

(b) there could be disastrous consequences for the society and the country at large if the issues are not attended to and monitored;

(c) there is the assessment that it is important that political interference be eschewed in relation to the issues to be addressed;

(d) the operating procedures and mechanisms for choosing the members of a commission are such as would minimise the influence of the Executive and maximise public perception of impartiality in the operations of the commission;

(e) in accordance with the need for efficiency and cost-effectiveness, commissions should be kept small and be staffed by persons of appropriate skill and experience;

(f) where commissions, especially those of a protective nature as opposed to administrative commissions, are established to address similar issues, the limitations of human and financial resources should be considered and common secretariats should be established.

Alteration  
of article 226  
of the  
Constitution.

8. Article 226 (2) of the Constitution is hereby altered by the substitution for paragraph (2) of the following paragraph -

“(2) Subject to affirmative resolution of the National Assembly, a commission shall make rules, relating to the procedure of the commission; and until such rules are made, the commission shall regulate its own procedure.”.

Gender  
inclusion.

9. Wherever any of the words : “he”, “him” and “his” appear in the Constitution there shall be substituted the words “he or she”, “him or her” or “his or her”, respectively.

Parliament  
to make  
provision.

10. Parliament may make such provision as may be necessary to facilitate the proper functioning of any Commission.



**FOURTH SCHEDULE** art. 212O(1)

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 Eradication of Violence against  
Women.

**EXPLANATORY MEMORANDUM**

Clauses 2 to 6 of the Bill alter the provisions in the Constitution relating to the Public Service Commission, the Teaching Service Commission and the Police Service Commission.

Clause 7 inserts twenty-eight new articles in the Constitution dealing with the RIGHTS COMMISSIONS and the Public Procurement Commission.

Clause 8 alters article 226(2) to empower a Commission, established by the Constitution, to make rules for its own procedure. The rules shall be subject to affirmative resolution of the National Assembly.

Clause 2 alters article 200 to provide that the Public Service Commission shall consist of six numbers, two of whom shall be appointed by the President upon the nomination of the National Assembly after it has consulted such bodies as appear to it to represent public officers or classes of public officers. The Chairperson and Deputy Chairperson of the Commission shall be elected by and from the members of the Commission, as obtains in the Teaching Service Commission.

Clause 4 alters article 207 to provide that the Teaching Service Commission shall consist of seven members, including two persons nominated by the Minister assigned responsibility for local government and three persons appointed by the President after meaningful consultation with the Leader of the Opposition.

Clauses 5 alters article 210 relating to the appointment of the six members of the Police Service Commission. Clause 6 alters article 211 making it mandatory that the President meaningfully consult with the Leader of the Opposition and the Chairperson of the Police Service Commission before appointing the Commissioner of Police and every Deputy Commissioner of Police.

Clause 7 of the Bill inserts twenty-seven new articles in the Constitution, seventeen of which (articles 212G to 212V) establish THE RIGHTS COMMISSIONS for the promotion and enhancement of the fundamental rights and the rule of law.

These Commissions are envisaged to contribute significantly to the making of a healthy body politic, like so many other aspects of the reform of the Constitution being undertaken.

Seven articles (articles 212G to 212M) embody general provisions applicable to all the RIGHTS COMMISSIONS.

Article 212 G emphasises the independence and impartiality of the Commissions. Article 212 H stipulates the duration of, and the procedure for, the appointment of members of the Commissions. Article 212 I provides that the secretariat for the Human Rights Commission shall be the Secretariat for the three other commissions -

Women and Gender Equality Commission;

Indigenous Peoples' Commission;

Rights of the Child Commission,

and article 212J(2) mentions ten general functions applicable to all four commissions. It may be apposite to observe that when these general functions which are stated in article 212J and which may be added to by Parliament, are analysed in conjunction with the functions peculiar to each commission individually it would be readily appreciated how keen was the endeavour to leave no stone unturned to put machinery in place to solve our problems and to achieve true social justice.

Three articles (articles 212N to 212P) deal with the Human Rights Commission. This Commission shall promote the observance of and respect for, and protect and investigate violations of the rights recognised by the Constitution and

any other law relating to equality of opportunity and treatment. The Chairperson of the Commission is to be appointed by the President from a list, not unacceptable to the President, of six persons submitted by the Leader of the Opposition. The other members of the Commission are the Chairpersons of the other Rights Commissions. This Commission shall have the power to institute legal proceedings on behalf of a person whose rights have been contravened. Article 212Q provides that Parliament shall by law establish a Human Rights Commission Tribunal.

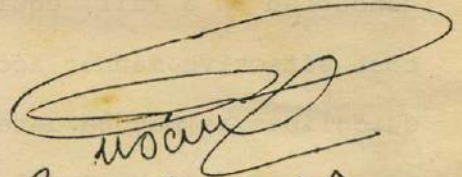
The Women and Gender Equality Commission is provided for in articles 212Q and 212R. This Commission shall promote national recognition and acceptance that women's rights are human rights, respect for gender equality and the protection, development and attainment of gender equality. Article 212Q(2) stipulates that the members of the Commission are to be appointed by the President after they have been determined by a process that requires the National Assembly to be involved in the manner in which they are selected. The Administrator of the Women's Affairs Bureau shall be a member of the Commission. The other members, who shall not have the right to vote, shall be representatives of the other Rights Commissions.

The Indigenous Peoples' Commission is provided for in articles 212S and 212T. This Commission shall establish mechanisms to enhance the status of indigenous peoples and to respond to their legitimate demands and needs. Article 212S(2) states that the members of this Commission shall be appointed by the President after nomination through a process involving the National Assembly and the Tushaas Council. The other members, who shall not have the right to vote, shall be representatives of the other Rights Commissions.

The Rights of the Child Commission is provided for in articles 212U and 212V and shall promote initiatives that reflect and enhance the well-being and rights of the child. Article 212U(2) states that members shall be appointed by the President after nomination by a process involving the National Assembly. Representatives from the Ministry with responsibility for children's affairs and the Ministry of Education are to be included in the membership of the Commission. The other members, who shall not have the right to vote, shall be representatives of the other Rights Commissions.

Nine articles (articles 212W to 212EE) deal with the establishment and functioning of the Public Procurement Commission. This Commission is to monitor public procurement and the procedures therefor in order to ensure that the procurement of goods, services and execution of works are conducted in a fair, equitable, transparent, competitive and cost effective manner according to law and such policy guidelines as may be determined by the National Assembly. The members of the Commission are to have expertise in procurement, legal, financial and administrative matters and are to be appointed by the President after a process involving the National Assembly, including the Public Accounts Committee. The Chairperson and Deputy Chairperson of the Commission shall be elected by and from the members of the Commission. Article 212EE states that Parliament shall by law establish a Public Procurement Commission Tribunal.

Article 212FF provides the principles for the establishment of constitutional commissions. This article outlines the matters that are to be considered by the Standing Committee for Constitutional Reform when determining whether to maintain or establish a Constitutional Commission.



REEPU DAMAN PERSAUD  
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Parliamentary Affairs.