

**GUYANA****Act No. 2 of 2000****CONSTITUTION (AMENDMENT) act 2000**

I assent,

SAMUEL HINDS,  
Prime Minister  
Performing the functions of the  
President.

11<sup>th</sup> April, 2000

**ARRANGEMENT OF SECTIONS****SECTION**

1. Short title
2. Repeal and re-enactment of article 110 of the Constitution.
3. Repeal and re-enactment of article 161 of the Constitution.
4. Insertion of new article 161A in the Constitution.
5. Alteration of article 177 of the Constitution.
6. Repeal and re-enactment of article 184 of the Constitution.
7. Alteration of article 226 of the Constitution.

A.D. 2000

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

Enacted by the Parliament of Guyana:-

Short  
title.

1. This Act may be cited as the Constitution (Amendment) Act 2000.

Repeal and  
re-enactment  
of article 110 of  
the constitution.

2. Article 110 of the Constitution is hereby repealed and the following article substituted therefore –

“Leader  
of the  
Opposition.

110. (1) There shall be an office of Leader of the Opposition, election to which office shall be in accordance with article 184.

(2) Qualifications for election to the office of Leader of the Opposition and other matters connected therewith are regulated by article 184”.

Repeal and  
re-enactment  
of article 161 of  
the Constitution.

3. Article 161 the Constitution is hereby repealed and the following article substituted therefore –

“Elections  
Commission.

161. (1) There shall be an Elections Commission for Guyana consisting of a Chairman, who shall be full-time Chairman and shall not engage in any other form of employment and such other members as may be appointed in accordance with the provisions of this article.

(2) Subject to the provisions of paragraph (4), the Chairman of the Elections Commission shall be a person who holds or who 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 any such court or who is qualified to be appointed as any such judge, or any other fit and proper person, to be appointed by the President from a list of six persons, not unacceptable to the President, submitted by the Leader of the Opposition after meaningful consultation with the non governmental political parties represented in the National Assembly.

Provided that if the Leader of the Opposition fails to submit a list as provided for, the President shall appoint 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 any such court or who is qualified to be appointed as any such judge.

(3) In addition to the Chairman, there shall be six members of the Commission who shall be appointed in the following manner-

- (a) three members to be appointed by the President, acting in his own deliberate judgement; and
- (b) three members to be appointed by the President acting in accordance with the advice of the Leader of the Opposition tendered after meaningful consultation with non governmental political parties represented in the National Assembly.

(4) A person shall be disqualified for appointment as the Chairman or other member of the Commission if he is an alien.

(5) The Chairman or any other member of the Elections Commission shall vacate his office if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(6) The provisions of article 255 (which relate to removal from office) shall apply to the office of the Chairman or other members of the Elections Commission and for the purposes of paragraphs (4) and (6) of that article, the prescribed authority shall be the Prime Minister:

Provided that in the case of the members referred to in paragraph (3) (b), the Prime Minister shall meaningfully consult the Leader of the Opposition before tendering any advice to the President under article 255 (4).

(7) If, by reason of his illness, absence from Guyana, or suspension under article 255, the Chairman or any other member of the Elections Commission is unable to perform his functions as such, a temporary Chairman or other member, as the case may be, may be appointed in his place.

(8) The provisions of this article shall apply in relation to the appointment of a temporary Chairman or other member of the Elections Commission, and to a temporary Chairman or other member appointed in accordance with this article, as they apply in relation to the Chairman or other member, as the case may be, of the Elections Commission in whose place he is appointed:

Provided that his appointment shall have effect only for the period ending when the person in whose place he has been appointed resumes his functions as, or ceases to be, the Chairman or other member, as the case may be, of the Commission”.

Insertion of new article  
161A in the  
Constitution.

Appointment  
of staff by  
Elections  
Commission;  
Secretariat  
of the  
Commission.

4. The Constitution is hereby altered by the insertion immediately after article 161 of the following article –

**161A.** (1) The Elections Commission shall be responsible for the efficient functioning of the Secretariat of the Commission, which shall comprise the officers and employees of the Commission, and for the appointment of all the staff to the offices thereof inclusive of all temporary staff, recruited for the purposes of boundary demarcation, registration of persons and elections and shall have the power to remove and to exercise disciplinary control over such staff.

(2) The Elections Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under paragraph (1) to any one or more members of the Commission, or by such directions and subject to such conditions as it thinks fit, delegate such powers to such officers of the Commission as the Commission may determine.

(3) Before the Elections Commission or any member thereof or other person exercising powers under this article appoints to or to act in any office referred to in paragraph (1) 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 Elections Commission or that member or other person shall first seek and obtain the approval of the Commission in which that power is vested.

(4) Where a public officer is appointed to an office referred to in paragraph (1) he shall, subject to the said paragraph (1), remain a public officer unless the Commission determines that that office shall be independent of any other Commission.

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

- Alteration of article 177 of the Constitution.
5. Article 177 of the Constitution is hereby altered by the substitution for paragraph (2) of the following paragraph –
- “(2) where –
- (a) there is only one Presidential candidate at the election; or
- (b) there are two or more Presidential candidates, if more votes are cast in favour of the list in which a person is designated as Presidential candidate than in favour of any other list, that Presidential candidate shall be deemed to be elected as President and shall be so declared by the Chairman of the Elections Commission acting only in accordance with the advice of the Chief Election Officer, after such advice has been tendered to the Elections Commission at a duly summoned meeting.”
- Repeal and re-enactment of article 184 of the Constitution.
6. Article 184 of the Constitution is hereby repealed and the following article substituted therefor –
- “Leader of the Opposition.
184. (1) The Leader of the Opposition shall be elected by and from among the non governmental members of the National Assembly at a meeting held under the chairmanship of the speaker of the national Assembly, who shall not have the right to vote:
- Provided that this paragraph shall have effect in relation to any period between a dissolution of Parliament and the day on which the next election of members of the Assembly is held under the provisions of article 61, or between a dissolution of a regional democratic council and the day on which the next election by that council is held pursuant to the provisions of paragraph (3) of article 60, as if Parliament or that council, as the case may be, had not been dissolved.
- (2) The office of the Leader of the Opposition shall become vacant if –
- (a) the holder thereof ceases to be a member of the Assembly for any cause other than a dissolution of Parliament or of a regional democratic council or the operation of the provisions of article 156 (1) (h);
- (b) he is not a member of the Assembly when the Assembly first meets after the dissolution of Parliament or after the

holding of an election pursuant to the provisions of paragraph (3) of article 60;

- (c) by virtue of article 156 (2) he is required to he is required to cease to exercise his functions as a member of the Assembly; or
- (d) his removal from office is effected under the provisions of the next following paragraph.

(3) Where one-third of the non-governmental members of the Assembly represent to the Speaker that the Leader of the Opposition no longer enjoy their confidence, the Speaker shall call a meeting of all the non governmental members at which it shall be decided whether the Leader of the Opposition shall be removed from office; the removal shall be effected by the votes of a majority of all the non governmental members.

(4) The election and, removal from office of the Leader of the Opposition shall be by a show of hands.

(5) For every reference in any provision in this Constitution to the term "Minority Leader" there shall be substituted the term "Leader of the Opposition" and any such provision shall be read and construed accordingly with such modification as may be necessary".

Alteration of article  
226 of the  
Constitution.

7. Article 226 of the Constitution is hereby altered by the substitution for paragraph (5) of the following paragraph –

“(5) For the purposes of the preceding paragraphs a quorum shall consist, in the case of the Elections Commission, of the Chairman and not less than four members, two of whom have been appointed by the President in his own deliberate judgment and two from among members appointed on the advice of the Leader of the Opposition tendered in accordance with article 161 (3) (b):

Provided that if at any stage of a duly summoned meeting a quorum is not present, due to the absence of members therefore –

- (i) without just cause, such just cause being determined by the Chairman, the meeting shall stand adjourned to a day not later than two calendar days; or
- (ii) in the case of the declaration of the results of the election of the President, he meeting shall stand adjourned to the following day, at the same time and place and notice of such adjournment shall be given to the

Absent members; and if at the adjourned meeting a Quorum is not present, the members then present, being not less than four including the Chairman, shall be deemed to constitute a quorum and nay decision made at that or any such meeting shall be valid in law and binding”.

*Passed by the National Assembly on 10<sup>th</sup> April, 2000.*

F. A. Narain  
Clerk of the National Assembly