The Offices of the Chancellor (Ag.) and Chief Justice (Ag.) of Guyana

Origins, constitutional protection and remedies for the appointment impasse

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At the Bar Association's annual gala on 14 November 2026, its President proposed restoring consultation, rather than agreement, as the basis for appointing Guyana's Chancellor and Chief Justice. That proposal deserves serious consideration. Before the 2001 amendment, the President of Guyana was required to consult the Opposition Leader but did not need that leader's concurrence. Assessing a return to that position requires attention to the history of the two offices and to the constitutional safeguards developed around them.[1]

The Chief Justiceship is a colonial inheritance; the Chancellorship dates from independence. Their history involves both the organisation of the courts and the struggle to protect judicial leadership from political control. The designation "(Ag.)" now captures the central constitutional problem. The article first traces the offices' origins, the appointment controversies and the 2001 settlement, before following the transition to prolonged acting leadership. It then considers the protection of acting tenure and the judicial enforcement of existing duties, followed by the limits of convention and necessity and the available legislative routes. None of those questions can safely be answered by assuming that an acting appointment is held at presidential pleasure.

The colonial Chief Justice

The origins of judicial leadership in what became Guyana predate independence by well over a century. The University of the West Indies' account of Caribbean court systems records chief judicial appointments in the territory as early as 1821. The organisation and titles of those early courts changed over time; they should not be treated as identical to the present High Court. What is clear is that the Chief Justice emerged as the head of the colonial judiciary long before there was a Guyanese Chancellor.[2]

An illuminating episode appears in the House of Commons record of 9 June 1863. A member questioned why an English barrister, Beaumont, had been appointed Chief Justice of British Guiana over more senior Crown law officers in the West Indies. The minister's reply explained that there was no binding rule of local promotion and that the prevailing policy favoured persons unconnected with the colony for its highest judicial posts.[3]

The exchange reveals the assumptions of the imperial system. Appointment was an exercise of metropolitan patronage, defended in part by the supposed advantage of distance from colonial interests. The professional expectations of lawyers already serving in the region were subordinate to that policy. A national constitutional system would eventually have to locate the authority to select its judges elsewhere.

A later appointment illustrates the transition. The London Gazette of 13 December 1960 announced the Queen's direction appointing Joseph Alexander Luckhoo, then a Puisne Judge, as Chief Justice of the Supreme Court of British Guiana.[4] Sir Joseph was the Chief Justice at the end of the colonial period.[5] He

must be distinguished from Sir Edward Victor Luckhoo, who would later hold the separate office of Chancellor.

Immediately before independence, Guyana's appellate arrangements also extended beyond its own courts. The regional framework had included the Federal Supreme Court and then the British Caribbean Court of Appeal, with further appeals to the Privy Council in prescribed cases. The Independence Order expressly removed British Guiana from the latter court's territorial arrangements. Independence therefore involved the establishment of Guyana's own Court of Appeal as well as the transfer of political sovereignty, although appeals to the Privy Council remained available.[6]

Independence and the creation of the Chancellor

The Constitution which came into force on 26 May 1966 established the Supreme Court of Judicature as two courts: the Court of Appeal and the High Court. Article 84 made the Chancellor President of the Court of Appeal and included the Chief Justice among its judges. Article 85 placed the Chief Justice alongside the Puisne Judges in the High Court. The new Chancellorship consequently stood at the head of the national judicial hierarchy, while the Chief Justice retained a distinct office with responsibilities centred on the High Court.[6]

Sir Kenneth Stoby became the first Chancellor, and Harold Bollers became Chief Justice of independent Guyana. The 1966 Guyana Law Reports record the separate offices and date Bollers's appointment to 19 June 1966.[5] The Chancellorship was a new, senior office, with its own constitutional responsibilities. The distinction remains important whenever proposals are made either to change appointments or to merge the two posts.

The Chief Justice's membership of the Court of Appeal also gave that office a constitutional role beyond the High Court. Conversely, the Chancellor's position as head of the judiciary did not convert each judge's decision into an administrative act requiring the Chancellor's approval. Judicial hierarchy operates through jurisdiction and lawful appellate review. Administrative seniority cannot confer a power to dictate the result of a case.

Under article 87(1), the Governor-General appointed the Chancellor and Chief Justice on the Prime Minister's recommendation after consultation with the Leader of the Opposition. The Opposition Leader had a constitutional right to be consulted, but the provision did not make agreement a condition of appointment. Acting arrangements were separately provided for, on the Prime Minister's advice. Other judges were appointed through the Judicial Service Commission.[6]

Why the leadership was divided

The immediate institutional explanation for separating the leadership was the establishment of a national Court of Appeal, replacing the external regional appellate arrangements. That court needed its own President, while the High Court retained the Chief Justice. The separation allocated appellate leadership and the day-to-day leadership of the trial court to distinct offices. It also made it possible to distribute the burdens of judicial administration. These are explanations drawn from the constitutional structure, rather than a claim that the 1966 instrument records every political motive behind its design.[6]

There is a more critical historical explanation. Arif Bulkan attributes the creation of a superior Chancellorship to Forbes Burnham's desire to bypass the incumbent Chief Justice, Sir Joseph Luckhoo, and install Sir Kenneth Stoby at the head of the judiciary. That is a published interpretation of political motive, which should be identified as such. The constitutional text and the 1966 judicial roster establish the new office and Stoby's appointment, but do not themselves prove that motive.[6][5][7]

The distinction matters. A new appellate court required an institutional head; the decision to give that head precedence over the existing Chief Justice also had consequences for judicial power and succession. Whatever the politics of the original arrangement, the Constitution thereafter required two offices with distinct functions. Nor did it segregate the judges into watertight compartments: the Chief Justice was, and remains, a member of the Court of Appeal. The relevant distinction is between offices and responsibilities, not a prohibition upon every movement between the courts.[6][8]

The separation also has consequences beyond court sittings. Article 198 makes the Chancellor and Chief Justice separate ex officio members of the Judicial Service Commission, with the Chancellor as Chairman. Collapsing the functions into one person therefore affects a body intended to protect judicial and legal appointments as well as the administration of two courts. The constitutional design cannot be reduced to two interchangeable titles.[8]

The Republic and the final appellate court

Guyana's assumption of republican status on 23 February 1970 preserved both judicial offices. The President replaced the Governor-General within the adapted constitutional structure. This was still the presidency preceding the executive presidency introduced in 1980, and the two constitutional periods should not be conflated.[6][9]

The withdrawal from the Privy Council was also a process rather than a single event. The Republic Act 1970 removed ordinary civil appeals of the relevant kind; the Judicial Committee of the Privy Council (Termination of Appeals) Act 1970 abolished the special-leave jurisdiction under the then article 92(4), subject to transitional savings. The Constitution (Amendment) Act No. 19 of 1973 completed the withdrawal, including constitutional appeals and references. Thus the familiar statement that Guyana left the Privy Council in 1970 is an abbreviated description of changes completed in 1973.[10][11]

The Court of Appeal then occupied the position of Guyana's final appellate court until the Caribbean Court of Justice became its final court in 2005. The legislation giving effect to that accession came into operation on 1 April 2005. For the intervening decades, the Chancellor presided over the court which generally had the last judicial word within the national system.[11] That responsibility gave the office exceptional importance in the development of Guyanese law.

Accession to the CCJ added a further appellate level without abolishing the Chancellor or Chief Justice. The Chancellor remained head of the domestic judiciary and President of the Court of Appeal. The CCJ's appellate jurisdiction and the internal leadership of Guyana's courts concern different institutional responsibilities.

The 1980 Constitution and the earlier appointment rule

The 1980 Constitution retained the two offices and placed the appointing power directly in the President. In its pre-2001 form, article 127(1) required consultation with the Minority Leader, the title then used for the constitutional opposition office. It did not require that leader's agreement. Article 127(2), dealing with the performance of the functions during a vacancy or inability to act, did not then expressly require opposition consultation.[18]

This is the immediate legal position relevant to the Bar Association President's proposal to restore consultation. It should be described accurately. Consultation was a constitutional requirement for substantive appointments, although it did not give the Opposition Leader a veto. Nor were the two senior offices filled in the same manner as other judges, for whom the President acted on the Judicial Service Commission's advice.[18]

The judges who shaped the offices

The succession of Chancellors from independence records a substantial part of Guyana's legal history. Stoby was followed by Sir Edward Victor Luckhoo, Joseph Oscar Fitzclarence Haynes, Victor Emanuel Crane, Keith Massiah, Kenneth Montague George, Aubrey Bishop and Cecil Kennard. Désirée Bernard succeeded Kennard in 2001. The first eight names appear in Bertrand Ramcharan's historical chronology of the Court of Appeal.[12]

The Chief Justiceship developed alongside that succession. Bollers took office in independence year; Kenneth George became Chief Justice in 1981 before becoming Chancellor in 1988. Rudolph Harper also held the Chief Justiceship. Aubrey Bishop became Chief Justice in 1992, and Cecil Kennard served in that office before becoming Chancellor. These careers show that the two offices were distinct even where one judge held them successively.[5][13][14][15]

Bernard's career marked a further change in the character of judicial leadership. Having become Guyana's first woman High Court judge in 1980 and its first woman Justice of Appeal in 1992, she became the first woman Chief Justice in 1996 and the first woman Chancellor in 2001, with her substantive appointment reported as taking effect on 4 May. Carl Singh succeeded her as substantive Chief Justice that year; both were welcomed in their new offices at a special Full Court sitting in May 2001. Bernard remained Chancellor until joining the inaugural Bench of the CCJ in 2005. She was the last substantively appointed Chancellor, while Singh was the last substantive Chief Justice. These appointments are central to the irony of the subsequent reliance on acting judicial leadership.[16][26]

Her contribution also extended to the institutional standards expected of judicial office. The original code of conduct for Guyana's judges and magistrates was developed in 2003 under her leadership.[17] This is a reminder that the history of the offices includes court administration, professional discipline and access to justice, alongside the judgments and the appointment instruments.

The controversies preceding constitutional reform

The pivotal event in this sequence was the Full Court's order of 29 February 2000 in the Yasseen and Thomas proceedings. Burch-Smith and Carl Singh JJ restrained the Court of Appeal as then constituted—Chancellor Cecil Kennard and Justices of Appeal Prem Persaud and Lennox Perry—from hearing the State's appeal pending determination of the constitutional motion filed on 21 February 2000. Central to the challenge was the temporary, renewable tenure of Persaud and Perry: the applicants alleged that repeated short extensions of their service exposed them to executive influence and undermined the independence and impartiality required of the court. The order was a conservatory restraint, not a final determination that their appointments were unconstitutional. Its significance nevertheless goes beyond a dispute over retirement age: temporary judicial service had become the basis of a challenge on which the Full Court ordered that panel not to hear the appeal. Here lies the historical irony. Acting and extended service in the Court of Appeal helped precipitate the controversy over judicial appointments preceding reform; yet the ensuing constitutional settlement would be followed by prolonged acting appointments at the summit of the judiciary. The later dispute over appointments contrary to the JSC's recommendations was a further episode, not the starting point of this sequence.[19]

The February challenge concerned more than the fact that Persaud and Perry had passed the ordinary retirement age. The motion attacked their renewable extensions of service and the former article 197(2)(b)(iv), alleging incompatibility with the guarantee of an independent and impartial court. That issue must be distinguished from the separate pre-2001 proviso to article 128(2), which permitted an acting appointment as Justice of Appeal or Puisne Judge notwithstanding the appointee's age. An

extension of tenure and a fresh acting appointment were not interchangeable constitutional mechanisms. The existence of a power to continue judicial service did not dispose of the applicants' complaint about dependence on short renewals; equally, the Full Court's conservatory order did not finally establish that complaint.[18][19]

A further controversy developed from the JSC's recommendations in September 2000 and the ensuing appointments on 2 October 2000. Ramcharan records a proposal for three acting appointments, followed by a fourth appointment after Claudette Singh completed an election-petition judgment, with subsequent confirmation designed to preserve her seniority. The President instead appointed Nandram Kissoon, Carl Singh, Ian Chang and Claudette Singh substantively as Justices of Appeal. The Bar challenged the departure from the Commission's recommendations. Yasseen and Thomas also brought a distinct constitutional motion on 21 November 2000, challenging the composition of the court which was to hear the same pending State appeal. The February tenure challenge and this later challenge to the appointment process were thus successive episodes in the same litigants' effort to secure a lawfully constituted, independent appellate tribunal.[21]

The Full Court's order of 29 February 2000 is pivotal to this litigation sequence, but the wider reform process was already under way. The parliamentary report of 1 November 1999 had endorsed a consensual mechanism for appointing the Chancellor and Chief Justice, while separately addressing compliance with JSC advice and extensions of judicial tenure. The February order and the September–October appointments controversy therefore sharpened an existing concern about executive influence; neither can be treated as the sole origin of the agreement requirement. The historical irony rests on the progression from contested temporary appellate service to prolonged acting judicial leadership, not on a claim that one order caused every element of the 2001 settlement.[22]

The 2001 settlement and the danger of deadlock

The reform deliberations of 1999–2000 sought a more consensual means of appointment. The Oversight Committee's Fourth Report, dated 8 April 2000, records consideration of several possibilities, including parliamentary approval and consultation involving leaders of parliamentary parties. The present two-person agreement requirement was therefore a particular legislative choice among wider possibilities.[23]

The record is striking for its warnings. Dr Leslie Ramsammy urged that the mechanism should not "suffocate the process"; Randolph Kirton recalled the Constitution Reform Commission's concern to avoid "gridlock". The committee also expressly distinguished meaningful consultation from agreement. At one stage it accepted a formulation involving consultation with parliamentary party leaders followed by a parliamentary vote. These were deliberations and proposals, not the final law.[23]

The enacted change was made by section 13 of the Constitution (Amendment) (No. 4) Act 2001, Act No. 6 of 2001, assented to on 7 August 2001. Substantive appointment to each office now depended upon the President obtaining the Opposition Leader's agreement. For acting appointments, the amendment introduced an express requirement of meaningful consultation. The source of the later deadlock lies in the final mechanism: it made agreement indispensable without prescribing a conclusive alternative if agreement failed.[20]

The 2001 legislation addressed retirement and temporary judicial service as well as the two senior appointments. Section 14(c) of Act No. 6 of 2001 deleted the age proviso to article 128(2); section 18 revised the retirement provisions; and section 15 introduced article 128A on part-time judges. These are documented changes to the tenure framework. They should be distinguished from section 13's requirement of agreement for the Chancellor and Chief Justice. The changes form part of the wider reform

of judicial tenure; the Act does not establish that any one controversy caused every element of the settlement.[20]

The same Act inserted article 122A, expressly protecting the independence of courts and those who preside over them. Read together, the provisions disclose an attempt to strengthen confidence in the judiciary by limiting political control over its leadership. The failure of the appointment mechanism in practice does not erase that objective. The distinction between substantive appointment and temporary performance of the functions is central to assessing both the mechanism and its consequences.

Appointment requirements at the principal constitutional stages [6][18][20]

Constitutional period	Substantive appointment	Acting appointment
1966 settlement	Governor-General on the Prime Minister's recommendation after consultation with the Opposition Leader.	Governor-General on the Prime Minister's advice.
1980 Constitution before the 2001 amendment	President after consultation with the Minority Leader.	President; article 127(2) did not expressly require opposition consultation.
After the 2001 amendment	President after obtaining the Opposition Leader's agreement.	President after meaningful consultation with the Opposition Leader.

The word "confirmation", commonly used in public discussion, can obscure the legal distinction. Article 127(1) governs a substantive appointment. It is not a provision under which an acting judge acquires the office automatically after a probationary period. Length of service, seniority and professional distinction may provide compelling reasons for appointment; they do not replace the constitutional requirement.[20][8]

Meaningful consultation is itself a defined constitutional process. Article 232 requires written identification of the subject and intended decision date, a reasonable opportunity for a considered response, and a written record and circulation of the decision. Agreement under article 127(1) adds a different requirement. A President cannot satisfy it merely by inviting views and then treating disagreement as consent.[8]

From substantive appointments to the acting era

Bernard's substantive appointment as Chancellor, reported as 4 May 2001, and Carl Singh's succession as substantive Chief Justice in the same year provide the human link in that history. Singh had himself sat with Burch-Smith J when the Full Court made the order of 29 February 2000. Bernard's appointment preceded the assent to the agreement requirement on 7 August 2001; she remains the last substantive Chancellor. After her departure in 2005, Singh—the last substantive Chief Justice—performed the Chancellor's functions without securing substantive appointment to that office. The irony is therefore concrete: a judge who had participated in the restraint arising from a challenge to temporary appellate tenure would himself spend years as acting Chancellor.[16][19][20][26]

The arrangement after Bernard's departure for the CCJ in 2005 exposed a further constitutional problem. While performing the Chancellor's functions, Singh also continued for a prolonged period to perform those of Chief Justice. The resulting arrangement made the constitutional separation of the two offices ineffective in practice. It was this concentration of functions that the Committee for the Defence of the Constitution challenged.[25][26][27]

Judicial administration and the Committee litigation in 2007

The relationship between the offices was further addressed by the High Court (Amendment) Act 2007. It amended section 66 of the High Court Act so that the Chief Justice's responsibility for the distribution of the High Court's business was expressly subject to general or special directions of the Chancellor.[24] This concerned the allocation and administration of judicial work, a matter of practical importance in a system with separate appellate and High Court leadership.

That supervisory provision must be read with judicial independence and the courts' administrative autonomy under article 122A(2). At pages 20–21 of the Committee judgment, Ramlal J distinguished the Chancellor's statutory responsibilities concerning the High Court from the Chief Justice's administrative discretion, including the allocation of judges and cases. At pages 22–23 he nevertheless treated the 2007 amendment as further recognition that the two offices required separate persons: otherwise the Chancellor would be giving directions to himself. The judgment did not invalidate the amendment or comprehensively reconcile its supervisory language with administrative autonomy. It should not be cited as doing either. A power to organise judicial business is not a power to dictate the outcome of a case.[27]

In Committee for the Defence of the Constitution Inc. v Attorney General of Guyana, Ramlal J ruled on 16 November 2007 that the two offices and their functions were constitutionally distinct. The substantive Chief Justice could be appointed under article 127(2) to perform the Chancellor's functions, but could not simultaneously perform those of Chief Justice. His performance of the Chancellor's functions was itself sufficient reason for his inability to perform the Chief Justice's functions, requiring another judge to perform them. This did not vacate his substantive Chief Justiceship: he would resume its functions if another person assumed the substantive Chancellorship. The Court also held that failure to provide a separate Chief Justice reduced the Judicial Service Commission's composition below the constitutional prescription. That was a defect in its constitution, not merely the absence of a duly appointed member from a meeting or a question of quorum (judgment, pp 23–28; declarations 1–6).[27]

The qualification is crucial. In declaration 7 the Court refused the declaration sought that Singh's appointment had become unconstitutional through its continuation. The reasons distinguished an appointment's validity from the unlawfulness of functions exercised beyond its mandate. Article 127(2) set no fixed time limit for the temporary service, agreement or consultation. Declaration 8 recognised continued performance until a person was appointed to and assumed the Chancellorship, Singh was duly promoted to it, he relinquished the appointment, or it ended by death, resignation, retirement or an order of a competent court. That did not excuse political inaction. Declaration 9 condemned the prolonged delay in substantive appointment or in providing a separate Chief Justice; declaration 10 held that the prolonged failure to provide the latter, while agreement on a Chancellor remained absent, violated article 122A(1). The judgment preserved lawful continuity while condemning the failure to fulfil the distinct constitutional duties (pp 27–32).[27]

The Committee's intervention brought a constitutional defect into court and was followed by the separation of the functions. Ian Chang JA was sworn as acting Chief Justice on 10 December 2007; Carl Singh performed the Chancellor's functions while retaining his substantive Chief Justiceship. The reported outcome establishes that two different judges thereafter performed the two roles. Retention of a substantive office, temporary performance of another office's functions, and a new substantive appointment are legally different matters.[28]

At the conclusion of judgment, Ramlal J refused the Attorney General's application for a stay, both because no reason establishing its merits had been advanced and because he considered that the declaratory orders left nothing to stay (p 32). The Court expressed the hope that urgent steps would be

taken to appoint a separate Chief Justice while engagement on the Chancellorship continued; it did not impose a timetable or make a coercive appointment order (pp 30–32). The Government was subsequently reported to have appealed. The uploaded High Court judgment does not establish the outcome of that appeal or whether any appellate stay was later granted. Sir Dennis Byron's later discussion confirms the continuing importance of the Committee's challenge, not appellate affirmance of the decision.[27][29][30]

The simultaneous performance of both roles undermined the constitutional separation. An arrangement intended to provide temporary continuity had defeated the requirement for separate performance of the two offices' functions. The Committee's litigation corrected that feature of the system; it did not solve the political failure to make substantive appointments.

The succession after the Committee case

Following Chang's departure on pre-retirement leave in December 2015, Yonette Cummings-Edwards was appointed to perform the Chief Justice's functions. Carl Singh continued as acting Chancellor until 2017. In that year Cummings-Edwards became acting Chancellor and Roxane George-Wiltshire became acting Chief Justice.[25][31][32]

The principal arrangements since 2001 [25][31][32][35][28][34][16][26]

Period	Chancellor functions	Chief Justice functions
2001 to 2005	Désirée Bernard, substantive Chancellor	Carl Singh, substantive Chief Justice
2005 to the 2007 litigation	Carl Singh, acting	Carl Singh, substantive Chief Justice; simultaneous performance challenged
10 December 2007 to December 2015	Carl Singh, acting	Ian Chang, acting
December 2015 to 2017	Carl Singh, acting	Yonette Cummings-Edwards, acting
2017 to August 2025	Yonette Cummings-Edwards, acting	Roxane George-Wiltshire, acting
From 4 August 2025	Roxane George-Wiltshire, acting	Navindra Singh, acting

On 4 August 2025, while Cummings-Edwards was on annual leave, George-Wiltshire was sworn to perform the Chancellor's duties and Navindra Singh the Chief Justice's duties. On 24 October the President announced that Cummings-Edwards had requested pre-retirement leave from 27 October, followed by early retirement, and that George-Wiltshire and Singh would continue acting. The judiciary's subsequent account records that sequence. Those events did not themselves amount to substantive appointments under article 127(1).[35][34][36]

The judiciary's 2026 material identifies George-Wiltshire as acting Chancellor, and reporting during 2026 continued to describe both senior appointments as acting.[37][33] The judges' authority to decide cases does not depend upon public use of the word "confirmed". A lawful acting appointment confers the relevant functions. The unresolved issue is the failure to complete the constitutional process for substantive judicial leadership.

Sir Dennis Byron addressed that failure at the Bar dinner on 11 November 2017. He regarded prolonged acting service as inconsistent with the intended temporary character of the arrangement and considered the failure to agree capable of judicial scrutiny. His suggestion that a regulatory framework might assist judicial enforcement remains pertinent to the remedies considered below. Justice Adrian Saunders again

urged substantive appointments in April 2022.[29][38] These were extra-judicial interventions. They reinforce the importance of the issue without determining the legal protection already attached to acting service.

The constitutional protection of acting office holders

Much public discussion proceeds from the assumption that an acting Chancellor or Chief Justice can be replaced by another acting appointee whenever the Executive chooses. The reported argument in Timothy Jonas SC's August 2026 interview illustrates the point. The constitutional text gives substantial reasons to question that premise. Dependence upon a political decision for substantive appointment may create institutional vulnerability; it does not follow that the existing acting appointment is held at presidential pleasure.[39]

Article 127(2) itself supplies the starting point. It authorises another judge to perform the functions during a vacancy or the office-holder's inability. It then prescribes the duration: until a person is appointed to and assumes the office, or until the existing holder resumes the functions, as the case requires. Read with paragraph (1), substantive appointment is the normal way of ending an acting arrangement made to fill a vacancy. The power does not expressly authorise the President to replace one continuing, available acting office-holder with another simply because he prefers a different person.[8]

Article 232(2)(b) is often overlooked in this discussion. Unless another provision or the context requires otherwise, a constitutional reference to an office-holder by the title of the office includes a person lawfully acting in, or performing the functions of, that office. Thus the words "Chancellor" and "Chief Justice" cannot ordinarily be confined to substantively appointed holders. Article 126 includes both offices in the definition of "Judge", and article 131 gives judges full security of office as provided by article 197.[8]

Article 197(3) restricts removal to its specified grounds and constitutional procedure. Those grounds concern inability, misbehaviour and specified persistent failures to deliver decisions. Paragraphs (4) and (5) require the tribunal process; in the case of the Chancellor or Chief Justice, its initiation involves a representation by the Prime Minister and an investigating tribunal appointed by the President. Paragraph (7) regulates suspension after referral to the tribunal. A political disagreement with a judgment, a change of government, or a preference for a different judicial leader supplies no substitute for these requirements. Article 232(6)(a) adds a related safeguard: its general interpretation of removal powers does not confer power to require a Supreme Court judge to retire.[8]

The Yasseen and Thomas history makes it especially important not to assume that every form of temporary judicial service carries the same tenure protections. The February 2000 challenge concerned renewable appellate tenure, not an acting Chancellor's tenure under article 127(2). In the present constitutional text, the most telling distinction appears in article 197(8). It expressly preserves article 128(3), which permits revocation of an acting appointment as Justice of Appeal or Puisne Judge by the President acting on the JSC's advice. It does not similarly preserve a general power to revoke an appointment under article 127(2). The Constitution therefore distinguishes ordinary acting judicial appointments from the temporary performance of its two highest judicial offices. Reading the same general revocation power into article 127(2) would deprive that deliberate distinction of much of its significance.[8][19]

Different constitutional appointments carry different tenure rules [8]

Appointment	Ordinary endpoint	Removal or revocation

Appointment	Ordinary endpoint	Removal or revocation
Substantive Chancellor or Chief Justice under article 127(1)	Retirement or another lawful vacation of office	Article 197 grounds and procedure
Performance of Chancellor or Chief Justice functions under article 127(2)	Substantive assumption of office or resumption by the holder being replaced, as applicable	No express general revocation power; the protection analysed here follows from articles 127, 131, 197 and 232
Acting Justice of Appeal or Puisne Judge under article 128(2)	Revocation under article 128(3), subject to applicable law	President acting on JSC advice; expressly preserved by article 197(8)

This distinction also explains why the reported 2019 decision concerning Jainarayan Singh Jr's pension and benefits cannot simply be applied to an acting Chancellor. The decision is under appeal to the Court of Appeal. That case concerned an acting Puisne Judge appointed under article 128(2), whose appointment was subject to article 128(3). The report records express reliance upon the saving in article 197(8). An article 127(2) appointment raises a different question. "Acting judge" is not a sufficient legal classification for either tenure or benefits.[40]

There is a serious counterargument which must be faced. Article 232(9) incorporates the Interpretation and General Clauses Act in its constitutionally specified form. Section 29(1) generally makes appointment powers include removal, suspension, revocation and the fixing of a period of appointment. But its opening qualification is "unless the context otherwise requires", and its proviso preserves the conditions attached to the original power. The better reading is that articles 127, 131 and 197, together with article 232(2)(b), supply precisely the contrary context. A general interpretative rule cannot properly be used to defeat the specific tenure scheme. Nor can a condition inserted in a commission create a power which that scheme withholds.[41]

A related objection is that article 197 protects only the judge's underlying substantive office, leaving the higher acting functions freely revocable. That reading recognises a real distinction between substantive office and acting functions, but does not answer article 232(2)(b), the duration prescribed by article 127(2), or the limited exception in article 197(8). The stronger construction is that the protection extends to the lawful performance of the higher office for its constitutionally prescribed duration. Ramlal J's reasoning at pages 24–29 and declaration 8 provide direct High Court support for continuity and identified lawful endpoints. But no attempted presidential revocation was before him, and he did not decide the combined articles 131 and 197 argument or the incidental removal power considered above. His context-specific treatment of article 232(2)(a) and (b), as general provisions yielding to article 127(2) on the issue of simultaneous functions, must also be acknowledged; it neither settles nor forecloses their application to tenure. The broader protection advanced here remains a reasoned construction, not a holding that this judgment conclusively established.[27]

The Bar has, in fact, previously defended the practical consequence of this reading. On 19 February 2018 the Bar Council said that, once the acting appointments had been made, article 127(2) could not be invoked afresh unless its qualifying circumstances arose, and that the existing appointments otherwise continued until substantive appointments. The proposition therefore has an important institutional antecedent. This antecedent makes the scope and consistent observance of that protection central issues in the present debate.[32]

Security during acting service does not create a right to promotion or an appointment for life. A lawful substantive appointment, resumption by the holder for whom the judge is substituting, retirement,

resignation, death, or removal through the applicable constitutional machinery may end the relevant arrangement. Declaration 8 of the 2007 judgment expressly recognised assumption of the Chancellorship by an appointee, Singh's promotion, relinquishment, death, resignation, retirement and an order of a competent court; it did not adjudicate the wider removal machinery discussed here.[27] Nor does protection of the higher acting functions automatically settle every question of pension or entitlement to the remuneration of a substantively held office. Those questions require their own legal analysis.[8]

The protection must also be effective in substance. A judge cannot properly be sidelined indefinitely by presenting a suspension as an ordinary administrative arrangement. Rees v Crane supplies a useful Commonwealth analogy: the Privy Council rejected an unauthorised suspension effected by removing a judge from the roster and insisted upon procedural fairness in the removal process. It was not an article 127 case, but it illustrates why the constitutional procedure cannot be bypassed through administrative form.[42]

The resulting proposition is substantial. An acting Chancellor or Chief Justice is entitled to exercise the office's functions independently for the duration which the Constitution permits. Substantive appointments remain desirable and constitutionally required. That imperative should be pursued alongside, and not at the expense of, the protection of those already lawfully performing the functions.

Temporary leave and resumption of functions

The leave situation exposes the practical significance of these provisions, but was not decided in the Committee case. Ramlal J's discussion of resumption at page 25 concerned Singh's substantive Chief Justiceship if another person assumed the Chancellorship; it did not determine an acting Chancellor's entitlement to return after leave.[27] If a lawfully acting Chancellor becomes temporarily unable to perform the functions, article 232(2)(b) supports treating that person as the existing holder for the purpose of article 127(2). Another judge may then perform the functions during that inability. On the protected holder's resumption, the temporary substitution should end according to its constitutional basis. Otherwise, the taking of ordinary leave could become a means of permanent displacement.[8]

Where an acting Chief Justice temporarily performs the Chancellor's functions, the position of the substitute acting Chief Justice must be analysed in the same way. There are two linked arrangements, each with its own legal foundation and terminating event. The end of leave, readiness to return, actual resumption, relinquishment of an appointment and the commencement of pre-retirement leave are not necessarily the same event. Their dates and legal effect require examination of the instruments and the facts.

There is, however, a material obstacle to litigation which a complete analysis must acknowledge. Article 232(3) prevents the validity of a substitute's appointment or performance of functions from being challenged in court on the ground that the original holder was not, or is not, unable to perform them. Its language extends to continuing inability. An argument based on actual resumption, an expired commission or an independently unlawful removal would have to explain why it falls outside that prohibition. It cannot safely be assumed that describing a case as "continuation after leave" automatically avoids the bar.[8]

The 2025 events therefore require disciplined treatment. The official account confirms the August appointments during annual leave and the subsequent request for pre-retirement leave. It does not by itself determine what occurred in the interval, whether an earlier acting appointment had been relinquished, or whether the requisite functions had resumed. Those matters require the appointment instruments, leave records and relevant communications. The constitutional argument against arbitrary displacement is

strong; a concluded finding that a particular judge was unlawfully removed, or that a successor lacked authority, requires that additional evidential and legal analysis.[34][36]

Enforcing the constitutional duties through the courts

The next question is how those tenure protections and the duty to pursue substantive appointments can be enforced. A properly constituted public-interest body, such as a Committee for the Defence of the Constitution, has a substantial legal basis for bringing proceedings. The available claim is for constitutional declarations and judicial review of an unlawful act or continuing omission. It need not be framed as a private claim to one of the offices. The practical objectives should be distinguished: enforcing the process for substantive appointments; establishing the security of acting tenure; and, where the evidence warrants it, restraining or setting aside an unlawful interference with a particular appointment. Each objective requires its own pleaded breach and appropriate relief.

The existing duty and the Jordan proceedings

There is already litigation directly on point. In Vinceroy Jordan v Attorney General, Younge J delivered judgment on 26 April 2023 concerning the prolonged absence of substantive appointments. Paragraph 45, as reproduced by counsel in the case, declares a continuing constitutional duty upon both the President and Opposition Leader to engage in a process producing compliance with article 127(1), to act with all convenient speed, and to avoid delay inimical to judicial independence. Contemporary reporting also records that the Court did not find the particular presidential dereliction alleged on the evidence then before it. The two propositions must be kept distinct.[51]

Jordan should not be presented as a final appellate settlement. Counsel reported in December 2024 that both parties had appealed and that neither had then perfected the appeal. No subsequent appellate disposition has been located in the sources examined. This article relies on the available online reporting and counsel's published extracts, rather than an independently examined court record. That material permits discussion of the reported duty to engage, but not a definitive account of the precise operative orders or the present status of the appeals. The published material supports the existence of important declarations; it does not establish that a coercive appointment order was made or that a subsequent failure to appoint automatically constitutes contempt.[51]

A new claim should therefore identify a current failure: for example, an unexplained refusal to initiate or resume engagement, prolonged inactivity after a concrete proposal, reliance on legally irrelevant considerations, or a refusal to consider candidates on constitutionally permissible grounds. It should show what each office-holder did, what was requested and when, and why the explanation is inadequate. The cumulative history supplies context; it does not dispense with proof of the breach alleged against the current constitutional actors. Overlap with the Jordan appeals may favour an application to participate in those proceedings, or judicial case-management directions, rather than duplicative litigation.

Standing, jurisdiction and review of the process

Section 4(1)(b) of the Judicial Review Act, Cap. 3:06, expressly admits a person or group whose application is justifiable in the public interest. Section 7(4) directs attention to the importance of the issue, the applicant's genuine interest and expertise, and the vindication of the rule of law. CPR 56.01(4)(b)(iii) likewise recognises a body with relevant expertise pursuing a matter of public interest. These provisions give a Committee concerned with constitutional government a concrete basis for standing.[46][47]

The CCJ's decisions strengthen that basis. In McEwan v Attorney General of Guyana, the Court restored SASOD's standing and emphasised a liberal approach to individuals and organisations genuinely

concerned with constitutional compliance. In Zulfikar Mustapha v Attorney General of Guyana, it rejected the objection that only the Opposition Leader could question the GECOM Chairman's appointment. Constitutional appointment powers were justiciable, and the applicant's legitimate interest was sufficient. Neither case makes standing automatic for any organisation, but both undermine the suggestion that only a disappointed judge or political office-holder can bring this issue before the court.[48][49]

The Committee would need evidence of its objects, activities, membership, expertise and authority to litigate. Its name alone would establish none of these. If it is unincorporated, the claim should identify the properly authorised individuals or representative applicants through whom it proceeds, rather than assume that an association's descriptive name confers legal personality. Participation by an affected office-holder or litigant may strengthen a particular claim; it is not an invariable prerequisite to public-interest standing.

Article 153 is a further route where a protected right within its scope is engaged, including the right to an independent and impartial court under article 144. Its representative provisions must be matched to the alleged infringement. An abstract breach of article 127 should not simply be relabelled as a personal fundamental-rights claim. The High Court's constitutional jurisdiction, the Judicial Review Act and Part 56 provide the more direct foundation. Attorney General v Dumas, a persuasive Privy Council decision from Trinidad and Tobago, confirms that public-interest constitutional review extends beyond the special procedure for personal rights claims.[8][46][47][50]

Mustapha supplies the strongest binding analogy for scrutiny of the process. In applying article 161(2), the CCJ required good-faith communication and a reasonable, responsible approach to consensus; a President could not reject eligible nominees capriciously. Article 127 has different language, and does not contain article 161's express unilateral fallback. The analogy supports review of obstruction or improper reasons, not a judicial power to supply the agreement which article 127 requires. Whether a particular refusal under article 127 is unlawful remains a question for decision on its own evidence.[49]

What relief could move the matter forward?

The claim could seek a declaration of the specific continuing breach, together with mandamus or other directions requiring performance of the outstanding public duty. Sections 5(1)(a), (m) and (n), 8 and 10 of the Judicial Review Act provide the relevant statutory foundation. Section 14 addresses unreasonable delay in making a required decision, although its express applicant category is a person adversely affected. A Committee relying on public-interest standing should plead the wider sections 4 and 5 foundation and explain any additional reliance on section 14.[46]

A carefully framed application could ask for commencement or resumption of engagement within a period fixed by the Court; a timetable for exchanging proposals and considered responses; disclosure to the Court of relevant correspondence; and a return date at which compliance is addressed. The periods should reflect evidence and practical circumstances. Confidential information about candidates may require protection. These are proposed remedies to make an existing duty effective, not remedies already held to follow automatically from article 127. The Committee judgment supplies an important declaratory precedent, including its finding under article 122A(1), but its hope for urgent action was not an enforceable timetable. Any mandatory or supervisory relief would require separate justification rather than being presented as enforcement of a coercive order already made in 2007.[27]

Retained supervision is not alien to Caribbean constitutional adjudication. In Maya Leaders Alliance v Attorney General of Belize, the CCJ recorded an order retaining jurisdiction and requiring reports on compliance. That order was consensual and concerned indigenous land rights. It illustrates a remedial technique; it is not authority that a Guyanese court must supervise political negotiations in the same way.

Here the argument would have to be justified under the Court's own powers, the established breach, and the need for an effective and proportionate remedy.[52]

The distinction between compelling engagement and compelling agreement is decisive. A court can test whether a constitutional discretion has been lawfully exercised, invalidate an unlawful refusal and require reconsideration. It cannot ordinarily select its preferred candidate, deem political silence to be agreement, or convert long acting service into confirmation. If actual agreement on a qualified candidate is proved and only the formal appointment remains outstanding, the argument for compelling completion is materially stronger: it then seeks performance of an agreed constitutional duty rather than judicial substitution for an absent agreement. The terms of any relief would still have to respect presidential immunity.

Article 182 protects the President from personal answerability for official acts. It does not make the legality of presidential action immune from adjudication: Mustapha proceeded against the Attorney General, and Dumas expressly distinguished immunity of the President from review of the validity of presidential acts. Proceedings should ordinarily name the Attorney General for the State and join the Opposition Leader where the relief concerns that office-holder's conduct. Any judge whose appointment or tenure may be adversely affected must have an opportunity to be heard. The availability and wording of coercive relief require separate attention to article 182 and the State-proceedings regime; an order for personal attendance or threatened committal of the President is not a sound starting point.[8][49][50][47]

A separate claim to protect acting tenure

An identifiable threat to terminate an acting appointment presents a potentially more focused case. The Committee, an affected judge, or both could seek declarations on the combined effect of articles 127(2), 131, 197(8) and 232(2)(b), and conservatory relief pending determination. That would bring the competing interpretations analysed above before the Court without requiring it to choose a substantive appointee. The case should distinguish a purported revocation from a lawful constitutional endpoint and confront article 232(3) where a substitute appointment during inability is involved. A general declaration cannot be used to evade that express restriction.[8][46]

If an appointment itself is challenged, section 18 of the Judicial Review Act provides the modern remedy for an alleged unlawful occupation of office; section 18(3) abolishes informations in the nature of quo warranto. That route would require careful consideration of the incumbent's rights and the consequences for judicial administration. It should not be used merely to create the vacancy on which a necessity argument might then depend. The primary claim can instead seek authoritative clarification of lawful tenure and preservation of the position pending judgment.[46]

Preparation matters. The evidence should include appointment instruments, any alleged revocation or replacement, the relevant leave and resumption records, proposals and responses concerning substantive appointments, and the orders in earlier proceedings. Part 56 requires the appropriate originating process under Part 8 and a Form 56 notice; constitutional relief must be served on the Attorney General, and a public-interest judicial-review claim engages the publication requirements. Delay and prejudice remain material. Public-interest status also does not provide universal immunity from costs: section 7(5) concerns the particular representative category in section 4(2), while CPR 56.04 preserves the Court's costs discretion.[46][47]

The practical answer is therefore affirmative, with a defined limit. A Committee can pursue a properly evidenced claim to require lawful engagement, test obstruction, and establish the protection of acting office-holders. It cannot promise that litigation will produce political agreement. Its strongest case asks

the Court to identify and enforce legal obligations which already exist, with relief capable of showing whether those obligations have actually been performed.

The possible role of constitutional convention

Judicial enforcement addresses legal duties; an agreed political practice could help the actors exercise their powers responsibly. It could not supply an appointment which article 127(1) makes dependent on their actual agreement. The accepted Commonwealth test asks whether there are precedents, whether the relevant actors regarded themselves as bound, and whether the rule has a constitutional reason. A pattern of promoting senior judges, without evidence of an accepted obligation, does not by itself establish a binding constitutional convention.[43]

There are sensible candidates for an agreed practice: serious consideration of a competent incumbent who has performed the office for a substantial period; proper weight for seniority and experience; objective reasons for passing over such a candidate; and a timetable for considering alternatives. These practices would restrain patronage while leaving room for demonstrated merit. They would need to distinguish seniority as a substantive judge, seniority in a particular court, and time spent acting in the office.

The record examined does not establish a settled Guyanese convention requiring automatic promotion of the Chief Justice to Chancellor, automatic selection of the most senior judge, or confirmation after a specified period. The history contains contested departures from seniority as well as repeated failure to agree. Ramlal J's preference at pages 26–27 for appointing at least a Justice of Appeal to perform the Chief Justice's functions was expressly accompanied by recognition that article 127(2) imposed no such restriction. It was not a binding seniority rule or a right to promotion.[27] It would therefore be preferable to formulate and publicly adopt a practice than to assert that an uncontested one already resolves the present impasse.

The legal limit remains. Courts may recognise a convention, but do not ordinarily enforce a political convention as though it were law. Under Guyana's supreme written Constitution, convention cannot turn consultation into the agreement required by article 127(1), deem silence to be consent, or remove the need for amendment under article 164. Nor is convention needed to supply protection which articles 127, 131, 197 and 232 already confer.[44][8]

Necessity and the limits of exceptional power

Necessity deserves consideration because there is relevant local authority, but it is not itself a free-standing cause of action or an alternative amendment procedure. Three distinct ideas should be separated: exceptional action to preserve the functioning of the State; the judicial rule of necessity where otherwise no competent adjudicator can sit; and the ordinary need for effective relief to enforce the Constitution. The last is central to the proposed litigation and does not depend on suspending any constitutional requirement.

The most relevant Guyanese example is Christopher Jones v Attorney General and Clifton Hicken, decided by George CJ (Ag.) on 11 August 2022. The reported judgment upheld an acting appointment as Commissioner of Police when there was no Opposition Leader with whom to consult and the Police Service Commission was not constituted. Counsel's account reproduces reasoning based on an unexpected inability to comply with article 211, continuity of police command, and necessity. An appeal was reported. This article relies on the available online accounts and the reasoning reproduced by counsel, rather than an independently examined court record. The linked full judgment could not be retrieved; the sealed order and appeal papers have not been independently examined, and no subsequent appellate

disposition or stay has been verified. The discussion is therefore confined to the reported reasoning and procedural history, not a definitive account of the precise operative orders or a final appellate settlement.[53]

On the reported reasoning, Jones makes a necessity submission arguable in a true appointment vacuum; it would be wrong to dismiss the doctrine as confined invariably to coups. It does not establish that disagreement between two available office-holders can be treated as the absence of one of them. Nor does it establish that a temporary appointment requiring consultation can justify a substantive judicial appointment for which the Constitution deliberately requires agreement. Those differences go to the source and extent of the power, not merely to the duration of the difficulty.

The Commonwealth limits are illustrated by Republic of Fiji Islands v Prasad. The Fiji Court of Appeal treated necessity as permitting narrowly confined temporary action to meet an exceptional crisis, not the replacement of the Constitution. It reproduced Haynes P's formulation in the Grenadian case of Mitchell v Director of Public Prosecutions: exceptional circumstances, protection of a vital State function, no reasonably available lawful alternative, proportionality, and restoration of ordinary constitutional government when the necessity ends. The doctrine requires proof of necessity, not simply an assertion that the constitutional arrangement is inconvenient.[54]

Article 127(2) is a substantial obstacle to using necessity to bypass article 127(1). It supplies a constitutional means of continuing judicial leadership during vacancies, and those lawfully acting retain the judicial powers of their offices. The institutional harm of prolonged acting service is serious, but it is different from the absence of any lawful means of administering the courts. A necessity argument would have to explain why that existing mechanism, judicial enforcement of the duty to engage, and the amendment procedure do not answer the alleged emergency. Political unwillingness to agree is a particularly weak basis for conferring on either participant the unilateral power which the text withholds. Ramlal J's invocation of the de facto doctrine and the presumption of regularity at page 24 addressed a possible misdescription of Singh's lawful article 127(2) appointment as one "to act" rather than "to perform the functions". It was not reliance on necessity to dispense with the constitutional conditions for appointment.[27]

The legislative history reinforces caution. Clause 13(a) of the published Constitution (Amendment) (No. 4) Bill 2001 proposed a presidential fallback after two months without agreement. That proviso is absent from section 13 of the enacted Act No. 6 of 2001 and from article 127(1). The contrast does not, without the full parliamentary record, establish every reason for its omission. It does show that a time-limited fallback was a drafting option, rather than a power which may safely be assumed to exist. A court should be slow to recreate through necessity the mechanism which the enacted text does not contain.[55][20]

There remains a narrower possibility. If exceptional facts produced a genuine and immediate inability to operate the judicial leadership at all, a party could invoke necessity for the minimum temporary measure required to preserve access to justice. Jones and the Commonwealth authorities would then need close examination, together with the evidence of alternatives and the extent to which any actor had contributed to the crisis. That possibility does not support permanent confirmation without agreement, or extension beyond a constitutionally prescribed retirement limit. On the continuing impasse described here, the orthodox constitutional claim is materially stronger than a claim that necessity authorises unilateral confirmation.

The judicial rule of necessity addresses a different problem. Panton v Minister of Finance recognises the rare case in which an otherwise disqualified judge must adjudicate because justice could not otherwise be administered, referring to litigation about judges' own salaries. A case about the general protection of

acting judges might raise an institutional interest, but a dispute about a named judge's appointment should ordinarily be heard by an available judge without that personal interest. Disclosure, recusal and lawful alternative arrangements come first. The rule may preserve a competent forum when none otherwise exists; it supplies neither a substantive appointment nor the Opposition Leader's agreement.[56]

The constitutional route to reversion

The preceding routes operate within the existing constitutional text. Reversion to consultation, by contrast, requires a constitutional amendment. Repealing the 2001 amending Act as though it were ordinary legislation would not avoid the applicable procedure. Article 164(3) expressly includes repeal, substitution, modification and suspension within constitutional alteration, and reaches another law so far as it alters the Constitution. The agreement requirement is now part of article 127 itself.[8]

Article 127 lies within article 164(2)(b), which includes articles 120 to 163 except article 132. A Bill confined to article 127 may dispense with a referendum if supported at its final vote by not less than two-thirds of all elected members of the National Assembly. The denominator is all elected members, not merely members present and voting. With 65 elected members, the threshold is 44 affirmative votes: 43 is less than two-thirds.[8]

Two-thirds is not the only route provided by the text. Under article 164(1), the Bill may be passed with a majority of all elected members and then submitted to the electorate. Article 164(2) requires that referendum to occur not less than two and not more than six months after parliamentary passage, in the prescribed manner, and requires approval by a majority of the electors who vote on the Bill before it is submitted for presidential assent. That is a majority of participating voters, not a majority of the entire electoral register.[8]

The two routes under article 164 [8]

Route for a Bill confined to article 127	Parliamentary vote	Further requirement
Two-thirds route	At least 44 of 65 elected members at the final vote	No referendum required before assent
Referendum route	At least 33 of 65 elected members at the final vote	Referendum within 2–6 months; majority of electors voting on the Bill, before assent

A wider reform would need a provision-by-provision analysis. In particular, altering article 164 itself, article 111 or another provision in article 164(2)(a) cannot use the two-thirds exception to avoid a referendum. An attempt to weaken the amendment rule first would therefore encounter the stronger protection of that rule. A narrowly drafted change to article 127 presents a different question from a general reconstruction of the judicial and executive appointment machinery.[8]

Is obtaining 44 votes realistic? GECOM's 2025 allocation gave the PPP/C 36 seats, WIN 16, APNU 12 and FGM one. The governing party would need eight additional affirmative votes. Support need not legally come from the party led by the Opposition Leader: article 164 counts members' votes, whereas article 127(1) requires agreement from a specified office-holder. For example, sufficient APNU support could supply the necessary additional votes without WIN support. The numbers establish possibility, not political willingness.[45]

The political difficulty is evident. A proposal simply to restore the President's final choice asks opposition parties to surrender a constitutional restraint upon executive selection. Their support is more

plausibly sought for a package which also provides independent professional assessment, transparent criteria, reasons and a binding method for completing the process. There is no sound basis for predicting that eight votes will be available merely because the present arrangement has failed.

The referendum alternative is legally material, but entails national campaigning, electoral administration and compliance with the constitutional timetable and applicable legislation. It should not be described as either unavailable or effortless. The question is whether a principled proposal can command sufficient parliamentary or popular support. The appointment problem cannot be cured by asserting that amendment is easy, nor by treating the absence of a government two-thirds majority as the end of the legal inquiry.

Protection through ordinary legislation and the lowest amendment threshold

Changing the appointment rule is distinct from protecting those already lawfully acting. That protection should be separated into its components. Security against removal, financial security, procedural fairness and effective access to a court are related but distinct. Ordinary legislation can make substantial improvements in the latter three areas. A change in who may appoint, who may revoke, or when an acting appointment ends is a different constitutional undertaking. The fact that a measure is protective does not, by itself, exempt it from entrenchment.

What an ordinary Act could achieve

A judicial-office protection statute could require proper recording and notification of acting appointments, the constitutional basis for any proposed adverse administrative step, and reasons for a claimed termination. It could facilitate timely access to the relevant instruments and preserve a fair opportunity to challenge a disputed displacement. Such provisions would have to implement the constitutional scheme: they could not postpone the lawful assumption of office by a substantive appointee or prevent a holder's actual resumption where article 127(2) makes that event decisive. Judicial Review Act remedies already provide much of the required enforcement machinery.

Financial protection has an express constitutional foundation. Article 222 provides for salaries and allowances to be prescribed by law, charges them on the Consolidated Fund, and prohibits disadvantageous alteration of the office-holder's salary, allowances and other terms of service after appointment. It applies to Supreme Court judges and must be read with article 232(2)(b). Legislation could state the remuneration attributable to lawful performance of each higher office, recognise acting service for specified pension and gratuity purposes, and remove avoidable dependence on discretionary administrative approvals. Such proposals concern financial entitlements; they do not convert acting service into a substantive appointment or determine the pending Jainarayan Singh appeal.[8][40]

Parliament could also strengthen procedural access to declarations, disclosure and conservatory relief, building on the Judicial Review Act. A short timetable for producing appointment records or for listing an urgent tenure dispute is more defensible than a statutory presumption that a disputed incumbent automatically becomes confirmed. Any provision imposing procedural duties on the political actors should preserve their constitutional functions and allow the Court to assess compliance; a missed deadline cannot be legislatively treated as consent without confronting article 127.

An ordinary Act could record the interpretation that article 127(2) does not confer a general power of revocation. Its force would, however, depend on its consistency with the Constitution. Parliament cannot conclusively direct the courts how to interpret entrenched provisions or transform a disputed constitutional power by calling the change a clarification. If the stronger reading of existing tenure protection is correct, legislation can help implement it. If a court holds that the Constitution permits a wider power of termination, an ordinary statutory prohibition cannot be relied upon to override that

holding. For an unambiguous alteration of the constitutional entitlement, the amendment route is the secure course.

Why an unentrenched article is not a route around entrenched tenure

Article 164(1) supplies the lowest constitutional amendment threshold: a majority of all elected members at the final vote, subject to the higher requirements in paragraph (2). That is not simply a majority of those present. Ordinary legislation ordinarily follows article 168, while expenditure measures may additionally require the Cabinet recommendation or consent specified in article 171(2). These are different legislative requirements and should not be described interchangeably.[8]

Article 132 is expressly excluded from the article 164(2)(b) list covering articles 120–163. It deals with the judicial oath. That exclusion does not permit a new tenure guarantee to be inserted there free of the protection attaching to articles 127, 131 and 197. Article 164(3) looks to the effect of a measure, including another law which alters the Constitution. The same objection applies to placing a substantive tenure rule in a newly numbered article, an interpretation provision, or an ordinary Courts Act. Constitutional alteration is a question of substance.[8]

Bribery Commissioner v Ranasinghe supplies a close Commonwealth illustration. An ordinary amendment to the bribery legislation could not validly displace the constitutionally prescribed machinery for appointing judicial officers without satisfying the constitutional amendment requirements. The Privy Council insisted on compliance with the conditions governing legislative power. Guyana's express article 164(3) makes the warning particularly direct: the label or location of a provision cannot determine its constitutional threshold.[57]

The narrower financial-autonomy possibility

Article 222A offers a more credible, though narrower, possibility. Unlike article 222, it is not separately named in article 164(2). It protects the financial autonomy of the entities in the Third Schedule, which already includes the Judiciary. There is parliamentary practice supporting treatment at the article 164(1) level: Act No. 2 of 2015 added further entities to that Schedule, and the Attorney General expressly defended that threshold in the debate of 9 July 2015. The contrary view, that article 222A shared article 222's entrenchment, was advanced publicly by the former Attorney General. The enactment is a relevant precedent, not a substitute for judicial determination of a contested entrenchment question.[8][58]

On the separate-article construction, a carefully confined amendment to article 222A could strengthen transparent release of approved judicial funds, administrative control of those funds, and accountability for withholding them, while preserving the existing financial and constitutional framework. Ordinary implementing legislation may accomplish much of this already. Because the Judiciary is listed, simply adding the Chancellor and Chief Justice as further names would not answer the tenure problem. Protection from financial pressure assists both acting and substantive office-holders; it does not alter the events which end their appointments.

A provision inserted under article 222A which guaranteed an acting Chancellor or Chief Justice a minimum term, prohibited an otherwise constitutionally permitted termination, or deemed the person substantively appointed would in substance alter the entrenched appointment or tenure scheme. It would therefore engage the higher procedure notwithstanding its financial-autonomy heading. The lowest-threshold possibility is real for properly confined financial protection; it is not a dependable means of changing the security of the acting appointment itself.

The least extensive secure tenure amendment

If express constitutional clarification is preferred to litigation over the existing text, the most economical reform is a confined addition to article 127(2). It could state that lawful performance of either office is protected by article 197; that it is not terminable merely by appointment of another acting office-holder; and that temporary substitution during leave does not extinguish the protected holder's entitlement to resume. It should preserve lawful substantive appointment, actual resumption by the person for whom the judge originally substituted, applicable retirement, resignation, death, and constitutionally authorised suspension or removal. Drafting must distinguish those events carefully and avoid protecting an individual beyond the constitutional limits of the office.

Consequential clarification may be needed in articles 197(8) or 232, particularly if reform changes the present restriction concerning challenges based on inability. Those provisions are also within article 164(2)(b). A package confined to these provisions can use the two-thirds route without a referendum, or the alternative majority-plus-referendum route already explained. It need not alter article 111 or article 164 itself. This is a modest amendment in scope, but it is not an amendment at the lowest entrenchment level.

Legislative options and their limits [8][46][57][58]

Measure	Available protection	Constitutional limit
Ordinary legislation	Records, reasons, financial entitlements and effective access to remedies	Must implement, rather than alter, entrenched powers and tenure
Article 222A amendment	Potential strengthening of judicial financial autonomy	Article 164(1) route has parliamentary support but has been disputed; cannot change tenure indirectly
Confined article 127(2) amendment	Express protection of acting functions and lawful resumption after leave	Article 164(2)(b): two-thirds, or majority of all elected members followed by referendum
Automatic confirmation or a new deadlock mechanism	Changes how substantive appointment is completed	Requires constitutional alteration of article 127; no ordinary-law or necessity shortcut

Reform and the duties which already bind

The Bar Association President's proposal to restore consultation responds to a demonstrable failure: the requirement of agreement has operated for years without producing substantive appointments. Its merits must be assessed alongside the restraint on executive selection which consensus was intended to provide. The legal response need not await a final political choice between those models. A public-interest claim can test a present failure to engage and seek authoritative determination of the protection already attached to acting tenure.

The immediate priorities are to establish the operative appointment instruments and the status of the relevant appeals, identify a current and provable breach, and seek relief directed to that breach. A declaration supported by appropriate directions and a means of examining compliance may be more useful than an ambitious claim asking the Court to make the appointment itself. Where agreement on a candidate already exists, the case for requiring completion is stronger. Where it does not, judicial enforcement must preserve the distinction between lawful engagement and compelled assent.

An agreed political practice may assist engagement, but cannot supply the agreement required by law. Necessity should remain an exceptional argument for demonstrably indispensable temporary action, not a means of avoiding constitutional reform. Ordinary legislation can improve financial security, record-keeping and remedies; a confined article 222A proposal may offer a lower-threshold route to financial protection, subject to its own entrenchment question. A change to the substantive appointment rule or to protected acting tenure must follow the applicable article 164 procedure.

The history establishes that litigation can matter. The Full Court's order of 29 February 2000 brought the independence implications of temporary appellate tenure into immediate focus; the Committee's later proceedings addressed the concentration of the Chancellor's and Chief Justice's functions. Between those episodes came Bernard's substantive appointment as Chancellor and Carl Singh's as Chief Justice in 2001—the last substantive appointments to the two offices. The irony is that concern over temporary tenure preceded a settlement followed by prolonged acting leadership. A further intervention should confront that history by clarifying lawful tenure and making the duty to pursue substantive appointments more accountable. Guyana should secure both effective judicial leadership and the independence of those who provide it. The absence of agreement on permanent appointments is no warrant for treating lawful acting service as service at political pleasure.

Sources and historical notes

1. Constitution of the Co-operative Republic of Guyana, art 127 in its pre-2001 form; Constitution (Amendment) (No. 4) Act 2001, Act No. 6 of 2001, s 13. The attribution of the proposal to the Bar Association's President at its annual gala on 14 November 2026 is based on information supplied for this article. The legal authorities cited here support the distinction between consultation under the earlier substantive appointment rule and agreement under the amended article 127(1), rather than the account of the gala. See also notes 18 and 20. The 2001 appointment amendment

2. University of the West Indies Library, Commonwealth Caribbean Court Systems, brief history of the courts, noting recorded chief judicial appointments in British Guiana from 1821. This is evidence of institutional antecedents, not a claim that the present constitutional office existed in its modern form in 1821. Early judicial institutions

3. House of Commons Debates, 9 June 1863, vol 171, cols 569–570, Chief Justiceship of British Guiana. Colonial appointments

4. London Gazette, 13 December 1960, issue 42217, p 8489, Colonial Office notice of appointment as Chief Justice. Joseph Alexander Luckhoo

5. Guyana Law Reports 1966, preliminary judicial rosters, listing Sir Joseph Alexander Luckhoo as the colonial Chief Justice, Sir Kenneth Stoby as Chancellor and Harold Bollers as Chief Justice of Guyana, appointed 19 June 1966; compare Bertrand Ramcharan, The Guyana Court of Appeal (Cavendish, 2002), p xxi. The first judicial leadership

6. Guyana Independence Order 1966, SI 1966/575, s 2(2) and Schedule 2, arts 83–88 and 92; republican alterations in the Second Schedule to the Constitution. The Order took effect principally on 26 May 1966. Independence Constitution

7. Arif Bulkan, Judicial Independence as an Indispensable Feature of the Rule of Law and Democracy, in David S Berry and Tracy Robinson (eds), Transitions in Caribbean Law (Caribbean Law Publishing, 2013), 199–224, especially 201–202 and 206–209. The political explanation at 202 is the author's historical assessment. Its apparent placement of the creation of the Chancellorship in 1973 is contradicted by the 1966 constitutional text and judicial roster; the date used in this article is 1966. The chapter also identifies the Committee proceedings as Civil Action No. 993-S/A of 2006. Bulkan on the creation of the Chancellorship

8. Constitution, Cap. 1:01, LRO 1/2022, especially arts 8, 122A–133, 144, 153, 164, 168, 171, 182, 197–198, 222, 222A, 232 and the Third Schedule. Article 164(3) addresses alterations in substance, including by another law; article 132 concerns the judicial oath. Article 222A and the Third Schedule concern financial autonomy, not judicial tenure. The interpretation of acting tenure is developed in the article with competing readings identified. The present constitutional framework

9. Republic Act, Act No. 9 of 1970, now Cap. 1:02, especially ss 3–4 on the substitution of republican offices and continuity of powers. Republican transition

10. Judicial Committee of the Privy Council (Termination of Appeals) Act 1970, Act No. 14 of 1970, s 2: abolition of the jurisdiction under former art 92(4), with transitional savings. Termination of Privy Council appeals

11. Richard Layne, Guyana at the CCJ, Bar Association Review 2017–2018, pp 44–46: Republic Act 1970, s 8; Act No. 14 of 1970; Constitution (Amendment) Act No. 19 of 1973; and commencement of the Caribbean Court of Justice Act, Act No. 16 of 2004, on 1 April 2005. Compare Constitution (Amendment) Bill No. 13 of 1973, clauses 4–7. The staged withdrawal and the CCJ; 1973 Bill

12. Bertrand Ramcharan, The Guyana Court of Appeal (Cavendish, 2002), p xxi, chronology of Chancellors from Stoby to Kennard. The article uses the sequence without treating the year ranges as a complete register of substantive and temporary appointments. Succession of Chancellors

13. Stabroek News, Justice Kenneth George dies, 7 April 2009, recording appointment as Chief Justice in 1981 and Chancellor in 1988. Kenneth George

14. Public Service Appellate Tribunal Annual Report 2017–2018, historical account identifying Rudolph Harper as a former Chief Justice. The Regional Judicial and Legal Services Commission Annual Report 2006 separately records Aubrey Bishop's appointment as Chief Justice in 1992. Harper and Bishop; RJLSC 2006 report

15. Supreme Court of Judicature, press release on the passing of Chancellor Cecil Kennard, 13 March 2022, recording his service as Chief Justice and Chancellor. Cecil Kennard

16. Caribbean Court of Justice, Media Release 05/2014, records Bernard's appointments as Chief Justice in 1996 and Chancellor in 2001, and her service on the inaugural CCJ Bench from 2005. Village Voice, Prominent African Guyanese, 7 March 2021, dates her becoming Chancellor to 4 May 2001; the precise date is used here as reported, rather than as independently verified from her commission. Kurt Campbell, INews Guyana, Former Chancellor Bernard decries shortage of Judges; urges Gov't to reduce pressure, 20 February 2014, reports Bernard's own recollection of the May 2001 Full Court sitting welcoming her as Chancellor and Carl Singh as Chief Justice. This establishes the shared appointment period, not a shared swearing-in date. See note 26 for Singh's appointment and the identification of the last substantive holders. Désirée Bernard; Reported appointment date; Bernard's recollection of the joint welcome

17. Adrian Saunders, Remarks at the Launch of the Revised Code of Ethics for Judicial Officers, 5 October 2021, identifying the original 2003 code developed under Chancellor Bernard. Judicial ethics

18. Constitution of the Co-operative Republic of Guyana Act 1980, Act No. 2 of 1980, arts 127, 128 and 197 as reproduced in the pre-2001 text held by WIPO. The February 2000 motion in 41-M/2000 challenged the former art 197(2)(b)(iv) and renewable extensions of appellate service; that claim must be distinguished from the former art 128(2) age proviso. See the originating motion and supporting affidavit of 21 February 2000 and the account of interim relief in note 19. The earlier appointment and tenure provisions

19. Fraser & Housty case papers, Yasseen & Thomas, Yasseen2: originating motion and supporting affidavit dated 21 February 2000 (41-M/2000); affidavit in answer dated 21 March 2000, reproducing the Full Court's conservatory order of 29 February 2000 (Burch-Smith and Carl Singh JJ); and Contempt subfolder, reply submissions dated 18 May 2000, treating the order as interlocutory. The February papers allege that repeated short extensions of Persaud's and Perry's tenure compromised judicial independence; the order restrained the named panel from hearing the State's appeal pending determination of the motion, rather than finally deciding the validity of the appointments. For the distinct later appointments challenge, see The President subfolder, written submissions dated 18 April 2002 in 216-M/2000, concerning the motion of 21 November 2000. No final merits determination has been identified in the materials reviewed. Archival affidavit recording the order of 29 February 2000

20. Constitution (Amendment) (No. 4) Act 2001, Act No. 6 of 2001, assented to 7 August 2001, especially ss 10, 13–15 and 18: insertion of art 122A; alteration of arts 127–128, including deletion of the art 128(2) age proviso; insertion of art 128A; and revision of art 197. Bernard's reported appointment on 4 May 2001 preceded assent to this Act. The 2001 amendment

21. Bertrand Ramcharan, The Guyana Court of Appeal (Cavendish, 2002), ch 1, account of the Judicial Service Commission meeting of 1 September 2000 and the ensuing dispute over the President's appointment of four Justices of Appeal. The online publisher preview reproduces this part of chapter 1. Fraser & Housty case papers, Yasseen & Thomas, Yasseen2, The President subfolder, written submissions dated 18 April 2002 in 216-M/2000 identify the impugned substantive appointments as made on 2 October 2000 and the originating motion as dated 21 November 2000. They name Kissoon, Carl Singh, Chang and Claudette Singh, and identify Appeal No. 1 of 2000 as the pending appeal. These are the applicants' submissions, not a final ruling that the appointments were invalid; see also note 19. The September–October 2000 appointments

22. Report of the Special Select Committee on the Report of the Constitution Reform Commission, presented 1 November 1999, p 42, recommendations 9.9.3.4–9.9.3.6: appointments of judges, a consensual mechanism for the Chancellor and Chief Justice, and extension of tenure. These separate recommendations predate both the Full Court's order of 29 February 2000 and the September–October 2000 appointment controversy. The order is pivotal to the litigation sequence, not the commencement of the wider reform process. The 1999 parliamentary report

23. Fourth Report of the Oversight Committee on Constitutional Reform, 8 April 2000, annexed minutes, paras 5.2.2.1–5.2.2.27 and 5.3.7. The scanned compilation places parts of the appointment discussion out of sequence: see PDF pp 29–33 and 42; the express warnings appear at paras 5.2.2.11–12. The reform deliberations

24. High Court (Amendment) Act 2007, Act No. 21 of 2007, s 2, amending High Court Act, Cap. 3:02, s 66. Passed 2 August and assented to 14 August 2007. Ramlal J stated at p 22 that assent was unknown to him because the Gazette copy he had seen lacked the President's signature. His uncertainty should not be mistaken for a ruling that the Act was unassented to or invalid; he used the amendment as evidence of the separate offices. Administration of the High Court

25. Supreme Court of Judicature, Annual Report 2017, Retirements in 2017, records Carl Singh's twelve years as acting Chancellor and retirement in March 2017. The article distinguishes his substantive Chief Justiceship from the functions of Chancellor performed under article 127(2). Carl Singh's acting service

26. Department of Public Information, Mechanism for appointment of Chancellor, Chief Justice to be examined during national consultation — Attorney General, 24 October 2022, identifies Carl Singh as the last substantive Chief Justice. It identifies Bernard and Singh as the last substantive holders of the respective offices. The presidential statement announcing the election-inquiry commissioners, published by DPI on 21 June 2022, dates Singh's Chief Justiceship to 2001 and his acting Chancellorship to 2005–2017. Bernard's own recollection, reported by INews Guyana on 20 February 2014, places the Full Court welcome for both appointments in May 2001. These mutually supporting accounts justify using 2001 for Singh's succession, rather than the 2005 date given in the judiciary's 2017 report, which coincides with his acting Chancellorship. His exact appointment or swearing-in day has not been verified from the commission. The article does not infer that he was sworn on Bernard's reported appointment date. See note 16. Carl Singh as substantive Chief Justice; Official biography of Carl Singh

27. Committee for the Defence of the Constitution Inc. v Attorney General of Guyana, High Court of Guyana, No. 993-S/A of 2006 (Demerara), William Ramlal J, 16 November 2007, unreported. The 32-page signed judgment supplied for this article has now been examined directly; page references are to its printed pagination. See pp 20–23 on separate responsibilities, administrative autonomy and the 2007 amendment; pp 23–26 on article 127(2), the contextual limits of article 232 and resumption of the substantive Chief Justice's functions; pp 26–27 on eligibility and seniority; p 28 on the Judicial Service Commission's composition as distinct from quorum; pp 27–29 on validity of appointment, unlawful functions and duration; and pp 30–32 for the ten numbered declarations, refusal of a stay and costs. Declaration 7 refuses the requested invalidity declaration; declaration 8 identifies continuity and lawful endpoints; declarations 9–10 address prolonged inaction and article 122A(1). No contested presidential revocation or comprehensive article 197 tenure question was determined. The judgment does not establish any later appellate disposition or stay. George Barclay's Guyana Chronicle Courts page of 21 November 2007 remains a contemporary reproduction of the declarations, not the primary basis of this revised account. Compare Byron's 2017 address, pp 10–11, and Bulkan, pp 206–209. The declarations made by Ramlal J

28. Stabroek News, Judicial Service Commission members sworn in, 11 December 2007, reporting the previous day's swearing-in of Ian Chang as acting Chief Justice and referring to Carl Singh as substantive Chief Justice already sworn to act as Chancellor. See also Chancellor, Chief Justice talks end in deadlock, 1 December 2007, on the talks of 30 November. The article states the documented resulting arrangement without asserting an intervening revocation and reappointment. Chang sworn as acting Chief Justice

29. Sir Dennis Byron, The Importance of an Independent and Impartial Judiciary — Placing the Spotlight on Judicial Accountability, address to the 37th Annual Bar Association Dinner, Georgetown, 11 November 2017, pp 8–11. The discussion of the Committee case appears at pp 10–11, identifying Civil Action No. 993-S/A of 2006. This is an extra-judicial address, not a judgment in appointment proceedings. Sir Dennis Byron on acting appointments

30. Stabroek News, Ruling on Chancellor/Chief Justice threatens functioning of judiciary, 24 November 2007, reporting that the Government had appealed. No appellate disposition has been verified for this article; the High Court decision is accordingly not described as affirmed on appeal or as a final appellate determination. The Government appeal in 2007

31. Office of the President, Justice Yonette Cummings-Edwards sworn-in, 16 December 2015, recording her appointment to perform the Chief Justice's functions following Ian Chang's departure on pre-retirement leave the previous day. Chang and Cummings Edwards

32. Bar Association of Guyana, Statement on the appointment of the Chancellor and Chief Justice, 19 February 2018, addressing the existing acting appointments and the distinction between art 127(1) and art 127(2). The 2017 appointments

33. Demerara Waves, Ali sees no need to consult opposition leader Mohamed on chief justice, chancellor appointments, 1 July 2026. This identifies George-Wiltshire and Singh as acting office-holders and reports the continuing dispute; the article does not adopt either political party's legal position. Continuing absence of agreement

34. Department of Public Information, Justice George-Wiltshire to serve as Acting Chancellor, Justice Singh as Acting Chief Justice — President Ali, 24 October 2025. This records the President's announcement of Cummings-Edwards's request for pre-retirement leave from 27 October followed by early retirement; it is evidence of the official announcement, not a judicial finding about the preceding events. The October 2025 announcement

35. Department of Public Information, Justices George-Wiltshire, Singh sworn in to perform duties of Chancellor, Chief Justice, 4 August 2025; appointments effective that day. The 2025 appointments

36. Caribbean Association of Judicial Officers, CAJO News, Issue 22 (January 2026), p 61, Guyana judiciary contribution, Assumption of Duty — Acting Chancellor Roxane George and Acting Chief Justice Navindra Singh: annual leave, swearing-in on 4 August 2025, and pre-retirement leave effective 27 October 2025. The judiciary account of the 2025 transition

37. Supreme Court of Judicature, Remarks by the Honourable Chancellor (ag) at the Opening of Law Year 2026, posted 16 January 2026. See also the July 2026 report of the continuing proposal for substantive appointments in the following note. The position in 2026

38. Stabroek News, CCJ President calls for appointment of Chancellor, CJ before end of year, 11 April 2022, reporting the address delivered on 9 April 2022. Justice Saunders on the impasse

39. Village Voice News, Free Them From Fear — Jonas Stresses Importance of Confirming Judicial Appointments, 22 August 2026, reporting Timothy Jonas SC's interview with the Guyana Business Journal. The article engages the reported general legal proposition that acting office-holders may be replaced by other acting appointees; it does not adopt the report's allegations about individual judges. An illustration of the current public argument

40. Stabroek News, Former judge loses lawsuit for benefits due to acting appointment, 30 April 2019, reporting Harnanan J's decision in Jainarayan Singh Jr's benefits claim. The report identifies the appointment under art 128(2), the revocation provision in art 128(3), and the express saving in art 197(8). The High Court decision is under appeal to the Court of Appeal. The complete judgment and appeal papers have not been examined for this article. The distinct position of an acting Puisne Judge

41. Interpretation and General Clauses Act, Cap. 2:01, ss 26(1) and 29(1)(a)–(c), including the opening qualification and proviso; read with Constitution art 232(9), which incorporates the Act as in force immediately before the Constitution's commencement, with necessary adaptations. Section 29's relevant provisions derive from Act No. 4 of 1972. A general incidental power is subject to the particular constitutional scheme. Incidental appointment powers

42. Rees v Crane [1994] 2 AC 173, 187–188, 193–196; the principle and disposition are also recounted by the Privy Council in Hearing on the Report of the Tribunal to the Governor of the Cayman Islands — Madam Justice Levers [2010] UKPC 24, [22]–[25]. These concern judicial suspension and procedural fairness under other constitutions, not the interpretation of Guyana's article 127(2). Suspension and procedural fairness

43. Re Resolution to Amend the Constitution [1981] 1 SCR 753, 888, adopting Jennings's three questions concerning precedent, the participants' acceptance of an obligation, and the reason for the rule. This is comparative Commonwealth authority, not a determination of a Guyanese convention. Identifying a constitutional convention

44. R (Miller) v Secretary of State for Exiting the European Union [2017] UKSC 5, [141]–[146], on judicial recognition and non-enforcement of political conventions. Read here with the supremacy provision in Guyana's Constitution, art 8, and the express requirements of arts 127 and 164. The legal limits of convention

45. Guyana Elections Commission, People's Progressive Party/Civic Wins 2025 General and Regional Elections, press release, 6 September 2025: PPP/C 36 seats, WIN 16, APNU 12, FGM 1. The discussion calculates the article 164 threshold against those 65 elected seats; it does not predict any party's voting intentions. The parliamentary arithmetic

46. Judicial Review Act 2010, Act No. 23 of 2010, now Cap. 3:06, ss 2–5, 7–10, 13–16 and 18–23. Section 4(1)(b) permits public-interest applications; s 14 expressly refers to a person adversely affected; s 18(3) abolishes informations in the nature of quo warranto. The special costs provision in s 7(5) concerns applications under s 4(2). Judicial Review Act

47. Supreme Court of Guyana Civil Procedure Rules 2016, rr 8.01–8.04, 56.01–56.05 and 59.01, especially rr 56.01(2)–(4), 56.02 and 56.04. These distinguish the originating process, constitutional service, public-interest standing, publication, participation and costs. Rule 59.01 addresses State proceedings and enforcement. Any proceedings must also comply with applicable filing directions and case-specific orders. Civil Procedure Rules 2016

48. McEwan and others v Attorney General of Guyana [2018] CCJ 30 (AJ), paragraphs 86–89 (Saunders PCCJ): SASOD's standing, genuine public interest and the separate question of costs. Judgment reproduced by the Human Dignity Trust. McEwan judgment

49. Zulfikar Mustapha v Attorney General of Guyana [2019] CCJ 9 (AJ), paragraphs 13–15 and 23–29 (Saunders PCCJ); compare paragraphs 49–53 (Rajnauth-Lee JCCJ) on reasons. The case concerns article 161(2), whose wording and express fallback differ from article 127. It is binding authority on constitutional review and the duties identified in that appointment process, not a decision compelling substantive judicial appointments. Mustapha judgment

50. Attorney General v Dumas [2017] UKPC 12, paragraphs 13–19 and 31–35: public-interest constitutional review outside a personal Bill of Rights claim, and the distinction between presidential immunity and review of the validity of presidential acts. Persuasive authority from Trinidad and Tobago. Dumas judgment

51. Vinceroy Jordan v Attorney General, No. 2022-HC-DEM-CIV-FDA-865, Younge J, 26 April 2023. Paragraphs 41, 43 and 45 are reproduced in Selwyn Pieters, The imperative for appointment of a substantive Chancellor of the Judiciary and a substantive Chief Justice in Guyana, 21 December 2024. That account reports appeals by both sides, then unperfected. Kaieteur News, 27 April 2023, reports the absence of a finding of the particular presidential breach alleged. The article relies on these accessible online accounts and the judgment extracts reproduced by counsel. The linked full judgment could not be retrieved; the sealed order and appeal papers have not been independently examined, and no later appellate disposition or stay has been verified. The discussion is accordingly confined to the reported declarations and procedural history, without treating the case as a final appellate settlement or attributing an unverified coercive order to the Court. Jordan: counsel's account and appeal information; Contemporary report; Identified judgment

52. Maya Leaders Alliance and others v Attorney General of Belize [2015] CCJ 15 (AJ), paragraphs 5–6 and 9; in particular paragraph 9 of the reproduced consent order, retaining jurisdiction and fixing a reporting date. The consent basis is material: the example supports consideration of a remedial technique, not an assertion that contested appointment negotiations must be supervised in the same way. Maya Leaders Alliance judgment

53. Christopher Jones v Attorney General and Clifton Hicken, No. 2022-HC-DEM-CIV-FDA-705, George CJ (Ag.), 11 August 2022. Selwyn Pieters, Constitutional Law Cases engaging the Courts in Guyana 2022, 2 September 2022, reproduces necessity and impossibility reasoning and records an appeal. Stabroek News, 17 August 2022, reports the appeal and its challenge to reliance on article 111. The article relies on these accessible online accounts and the reasoning reproduced by counsel. The linked full judgment could not be retrieved; the sealed order and appeal papers have not been independently examined, and no subsequent appellate disposition or stay has been verified. Reliance is confined to the reported reasoning and procedural history, without treating the case as a final appellate settlement or asserting unverified operative orders. The article also distinguishes the article 211 appointment considered in Jones from the substantive judicial appointments governed by article 127. Jones and Hicken: counsel's account; Appeal report; Identified judgment

54. Republic of Fiji Islands v Prasad [2001] FJCA 2, 1 March 2001, section on necessity, PDF pp 14–16 in this reproduction of the PacLII judgment. The Court reproduces Mitchell v Director of Public Prosecutions [1986] LRC (Const) 35, 88–89 (Haynes P, Grenada Court of Appeal). Mitchell is cited here through Prasad; it should not be confused with the distinct Privy Council litigation concerning Grenada's constitutional order. Prasad judgment and the Mitchell formulation

55. Constitution (Amendment) (No. 4) Bill 2001, Bill No. 7 of 2001, published 30 May 2001, clause 13(a), Gazette p 68: proposed presidential appointment after two months without agreement, taking the Opposition Leader's views into account. Compare enacted Act No. 6 of 2001, s 13, which contains no such proviso. The contrast is textual; no conclusion is asserted about the complete reasons for the omission. The proposed 2001 fallback

56. Panton v Minister of Finance [2001] UKPC 33, (2001) 59 WIR 418, paragraph 16, referring to The Judges v Attorney-General for Saskatchewan (1937) 53 TLR 464. The passage concerns the rare judicial rule of necessity in adjudication. It is not an executive power to dispense with constitutional appointment conditions. Full judgment reproduced by CaseNode. Panton judgment

57. Bribery Commissioner v Ranasinghe [1965] AC 172; (1964) 66 NLR 73, especially 80–82 in the official Sri Lankan reproduction. An ordinary legislative provision affecting constitutionally protected judicial appointment machinery required compliance with the constitutional amendment procedure. The article applies this persuasive Commonwealth principle alongside Guyana's express article 164(3). Ranasinghe judgment

58. Constitution (Amendment) Act 2015, Act No. 2 of 2015, s 2; National Assembly Debates, 4th Sitting, 9 July 2015, pp 12–15, especially p 15, where Basil Williams advanced the article 164(1) basis. Compare Anil Nandlall's contrary argument, published by Demerara Waves on 8 July 2015. The Judiciary was already included in the Third Schedule. This is parliamentary practice and a contested legal argument; no judicial determination settling the entrenchment of article 222A has been identified. Financial autonomy: legislation and parliamentary debate; Hansard; Contrary view