

LAWS OF GUYANA

**PROTOCOLS TO THE AGREEMENT ESTABLISHING THE
CARIBBEAN COURT OF JUSTICE ACT**

CHAPTER 3:11

**Act
25 of 2007**

Current Authorised Pages

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Note

on

Subsidiary Legislation

This Chapter contains no subsidiary legislation.

CHAPTER 3:11

PROTOCOLS TO THE AGREEMENT ESTABLISHING THE CARIBBEAN COURT OF JUSTICE ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement.
2. Interpretation.
3. Protocols to have the force of law.
4. Amendment of the Protocols.

SCHEDULE I – Protocol to the Agreement Establishing the Caribbean Court of Justice relating to the Tenure of Judges, Rules of Court, Financial Arrangements and Withdrawal from Agreement as well as the Relationship between Provisions on the Original Jurisdiction of the Caribbean Court of Justice and the Constitutions of State Parties.

SCHEDULE II – Protocol to the Agreement Establishing the Caribbean Court of Justice relating to Security of Tenure of Members of the Regional Judicial and Legal Services Commission.

SCHEDULE III – Protocol to the Agreement Establishing the Caribbean Court of Justice relating to the Tenure of Office of Judges of the Court.

25 of 2007

**AN ACT to give effect to certain Protocols to the Agreement
Establishing the Caribbean Court of Justice and for
matters connected therewith.**

[23RD JULY, 2002]

Short title.

1. (1) This Act may be cited as the Protocols to the Agreement Establishing the Caribbean Court of Justice Act.

(2) This Act shall be deemed to have come into force –

- (i) in respect of the Protocol in Schedule I, in accordance with Article XII of that Protocol;
- (ii) in respect of the Protocol in Schedule II, on the 6th July 2006; and
- (iii) in respect of the Protocol in Schedule III, on the 7th June, 2007.

Interpretation.

2. In this Act „Protocol` means

- (i) the Protocol to the Agreement Establishing the Caribbean Court of Justice relating to the Tenure of Judges, Rules of Court, Financial Arrangements and Withdrawal from Agreement as well as the Relationship between Provisions on the Original Jurisdiction of the Caribbean Court of Justice and the Constitutions of State Parties in **Schedule I**;
- (ii) Protocol to the Agreement Establishing the Caribbean Court of Justice relating to Security of Tenure of Members of the Regional Judicial and Legal Services

- Commission in **Schedule II**;
- (iii) Protocol to the Agreement Establishing the Caribbean Court of Justice relating to the Tenure of Office of Judges of the Court in **Schedule III**.

Protocols to
have the force
of law.

3. The Protocols shall have the force of law in Guyana.

Amendment of
the Protocols.

4. (1) Where Guyana becomes a party to any agreement to amend a Protocol, the Minister may, by order, amend Schedule I, Schedule II or, as the case may be, Schedule III by including therein the amendment.

(2) An order made under subsection (1) may contain consequential, supplemental or ancillary provisions (including provisions amending this Act) as appear to the Minister to be necessary or expedient for the purpose of giving effect to the amendment of the Protocol.

(3) Where a Protocol in Schedule I, Schedule II or, as the case may be, Schedule III is amended pursuant to this section, any reference in this Act or any other instrument to the Protocol shall, unless the context otherwise requires, be construed as a reference to the Protocol as so amended.

(4) Every order made under this section shall be subject to negative resolution of the National Assembly.

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SCHEDULE I

**PROTOCOL TO THE AGREEMENT ESTABLISHING THE
CARIBBEAN COURT OF JUSTICE RELATING TO THE
TENURE OF JUDGES, RULES OF COURT, FINANCIAL
ARRANGEMENTS AND WITHDRAWAL FROM
AGREEMENT AS WELL AS THE RELATIONSHIP
BETWEEN PROVISIONS ON THE ORIGINAL
JURISDICTION OF THE CARIBBEAN COURT OF
JUSTICE AND THE CONSTITUTIONS OF STATES
PARTIES**

The **Contracting Parties** to the Agreement Establishing the Caribbean Court of Justice (hereinafter called **the Agreement**):

Recalling Article XXXII of the Agreement;

Desiring to effect certain amendments to the Agreement in order to

- (a) Modify the provisions respecting the tenure of the Judges of the Court;
- (b) Ensure that sound arrangements for the administration and financial sustainability of the Court are provided for;
- (c) Clarify the circumstances governing withdrawal from the Agreement; and
- (d) Make abundantly clear the relationship between the original jurisdiction of the Caribbean Court of

Justice and the constitutional order in
their respective jurisdictions.

Agree as follows:

Article I

Tenure of Office of Judges

Paragraph 5 of Article IX of the Agreement shall be reworded
to read as follows:

5. (1) Subject to Article IV, paragraph 6, the President shall be removed from office by the Heads of Government on the recommendation of the Commission, if the question of the removal of the President has been referred by the Heads of Government to a tribunal and the tribunal has advised the Commission that the President ought to be removed from office for inability or misbehaviour referred to in paragraph 4.

(2) Subject to Article IV, paragraph 7, a Judge other than the President shall be removed from office by the Commission if the question of the removal of the Judge has been referred by the Commission to a tribunal; and the tribunal has advised the Commission that the Judge ought to be removed from office for inability or misbehaviour referred to in paragraph 4.

Article II

Rules of the Court Governing Original Jurisdiction

In Article XXI of the Agreement, insert in paragraph I,
immediately before the word “five” the words “not less

than two nor more than". The provision as amended shall read as follows:

1. The President shall, in consultation with **not less than two nor more than** five other Judges of the Court selected by him, establish rules for the exercise of the original jurisdiction of the Court.`

Article III Appellate Jurisdiction of the Court

In Article XXV of the Agreement, insert in paragraph 7 (1), immediately before the word `five` the words `not less than two nor more than`. The provision as amended shall read as follows:

1. The President shall, in consultation with not less than two nor more than five other Judges of the Court selected by him, make Rules of Court for regulating the practice and procedure of the Court in the exercise of the appellate jurisdiction conferred on the Court and, in relation to appeals brought before the Court, the practice and procedure of any Court in respect of such appeals.`

Article IV Financial Provisions

Appendix II shall be deleted and Article XXVIII amended to read as follows:

1. The expenses of the Court and of the Commission, including the cost of the maintenance of the seat of the Court and the remuneration and allowances and other payments

referred to in Article XXVII and this Article, shall be borne by the Contracting Parties in such proportions as may be agreed by the Contracting Parties and as set out in the Annex to the Revised Agreement Establishing the Caribbean Court of Justice Trust Fund. The assessed contributions to be paid by a Contracting Party shall be charged by law on the Consolidated Fund or public revenues of that Contracting Party.

2. Subject to this Agreement and with the approval of the Heads of Government, the Commission shall determine the terms and conditions and other benefits of the President and other Judges of the Court.

3. The salaries and allowances payable to the President and the other Judges of the Court and their other terms and conditions of service shall not be altered to their disadvantage during their tenure of office. For the purposes of this paragraph, in so far as the terms and conditions of service of any Judge of the Court depend upon the option of that Judge, the terms for which that Judge opts shall be taken to be more advantageous to that Judge than any other terms and conditions for which the Judge might have opted.

4. There shall be paid to the members of the Commission, other than the Chairman and to the Members of the Board of Trustees of the Caribbean Court of Justice Trust Fund, the actual travelling expenses and subsistence allowance at such rate per day as the Heads of Government of the Contracting Parties may, from time to time, decide for the purpose of performing official duties as a member of the Commission.

Article V Relationship to Constitutional Order

The provisions regarding the original jurisdiction set out in

this Agreement shall not be construed to require a Contracting Party to enact legislation that is inconsistent with its constitutional structure or the nature of its legal system.

Article VI Withdrawal

Article XXXVII of the Agreement shall be amended to read as follows:

1. A Contracting Party may withdraw from this Agreement by giving notice in writing to the Depositary who shall promptly notify the other Contracting Parties accordingly and the withdrawal shall take effect five years after the date on which the notice was received by the Depositary, unless the Contracting Party before the withdrawal becomes effective notifies the Depositary in writing of the cancellation of its notice of withdrawal.

2. A Contracting Party that withdraws from this Agreement undertakes to honour any financial or other obligations duly assumed as a Contracting Party; this includes any matter relating to an appeal filed before withdrawal becomes effective. `

Article VII Signature

This Protocol shall be open for signature by the Contracting Parties to the Agreement.

Article VIII Ratification

This Protocol shall be subject to ratification. Instruments of

Ratification shall be deposited with the Depositary who shall transmit certified copies to the Government of each Contracting Party.

Article IX

Relationship between this Protocol and the Agreement

This Protocol shall be read as one with the Agreement.

Article XI

Accession

1. This Protocol shall, after it has entered into force, be open for accession by any Caribbean country that is eligible to become a Contracting Party to the Agreement establishing the Caribbean Court of Justice in accordance with Article II of that Agreement.

2. A Caribbean country referred to in paragraph 1 may accede to this Protocol if at the same time it ratifies or accedes to the Agreement establishing the Caribbean Court of Justice in accordance with the provisions of Article II of that Agreement.

3. Instruments of Accession shall be deposited with the Depositary who shall transmit certified copies to the Government of each Contracting Party. Accession shall take effect one month after the date of deposit.

Article XII

Entry into Force

This Protocol shall enter into force in accordance with Article XXXII, paragraph 2 of the Agreement one month after the

date on which the last instrument of Ratification or Accession
is deposited with the Secretary-General.

IN WITNESS WHEREOF the undermentioned
representatives duly authorised in that behalf have executed
this Protocol for their respective Governments.

Done at.....on the.....day
of.....2005

Signed by
for the Government of Antigua and Barbuda on the
day of 2005 at

Signed by
for the Government of Barbados on the day of
2005 at

Signed by
for the Government of Belize on the day of
2005 at

Signed by
for the Government of Bahamas on the day of
2005 at

Signed by
for the Government of the Commonwealth of Dominica on
the day of 2005 at

Signed by

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the Caribbean Court of Justice*

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for the Government of Grenada on the day of
2005 at

Signed by
for the Government of The Cooperative Republic of Guyana
on the day of 2005 at

Signed by
for the Government of Haiti on the day of
2005 at

Signed by
for the Government of Jamaica on the day of
2005 at

Signed by
for the Government of Montserrat on the day of
2005 at

Signed by
for the Government of St. Kitts and Nevis on the day of
2005 at

Signed by
for the Government of Saint Lucia on the day of
2005 at

Signed by
for the Government of St. Vincent and the Grenadines on the
day of 2005 at Signed by

for the Government of The Republic of Suriname on the
day of 2005 at

Signed by
for the Government of The Republic of Trinidad and Tobago
on the
day of 2005 at

ss.1 and 2

SCHEDULE II

PROTOCOL TO THE AGREEMENT ESTABLISHING THE CARIBBEAN COURT OF JUSTICE RELATING TO THE SECURITY OF TENURE OF MEMEBERS OF THE REGIONAL JUDICIAL AND LEGAL SERVICES COMMISSION

PREAMBLE

The Contracting Parties,

Noting that the Agreement Establishing the Court of Justice,
hereinafter referred to as "the Agreement", entered into the
force on 23 July 2002;

Conscious that security of tenure of the members of the
Regional Judicial and Legal Services Commission is necessary
to protect their independence and impartiality;

Desirous of providing for the security of tenure of members of
the commission,

Have agreed as follows:

ARTICLE I

USE OF TERMS

In this Protocol –

,Chairman` means the Chairman of the Commission;

,Commission` means the Regional Judicial and Legal Services Commission established by the Agreement;

,Contracting Party` means a states Party to the Agreement;

,Courts` means the Caribbean Court of Justice;

,Secretary-General` means the Secretary-General of the Caribbean Community;

ARTICLE II REMOVAL FROM

OFFICE OF

MEMBERS OF THE COMMISSION

1. Subject to Article V of the Agreement, a member of the Commission, other than the chairman-
 - (a) May be removed from office only for inability to perform the functions of his office, whether arising from illness or any other cause or for misbehaviour, and shall not be so removed except in accordance with this Article; and
 - (b) Shall be removed from office by the Heads of Government, if the question of the removal of that member has been referred by the Heads of Government to a tribunal and the tribunal has

advised that the member ought to be removed from office for inability or misbehaviour referred to in sub paragraph (a).

2. If at least three Heads of Government jointly represent to the other Heads that the question of removing a member, other than the chairman, from office ought to be investigated, then –
 - (a) The Chairman shall appoint a tribunal which shall consist of three persons, selected by the Chairman after such consultation as may be considered expedient, from among persons who hold or have held office as a Judge of a court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth, or in a State exercising civil law jurisprudence common to Contraction Parties, or a court having jurisdiction in appeals from any such court; and
 - (b) The tribunal shall enquire into the matter and advise the Chairman whether or not the member ought to be removed from office.
3. The provisions of any law relating to the holding of commissions of inquiry in the Contracting Party where the inquiry is held shall apply as nearly as may be in relation to tribunals appointed under paragraph 2 or; as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under the law.
4. Where the question of removing a member of the

Commission from office has been referred to a tribunal under paragraph 2, the Heads of Government shall suspend such member from performing the functions of his office, and any such suspension shall cease to have effect if the tribunal advises the Heads of Government that the member ought not to be removed from office.

ARTICLE III

SIGNATURE

This Protocol shall be open for signature by the Contracting Parties to the Agreement.

ARTICLE IV

ENTRY INTO FORCE

This protocol shall enter into force immediately upon signature of at least three Contracting Parties.

ARTICLE V

ACCESSION

1. A Contracting Party to the Agreement may accede to this Protocol.
2. Instruments of accession shall be deposited with the Secretary-General who shall transmit certified copies to the Governments of the Contracting Parties.

ARTICLE VI

AMENDMENTS

1. Consultations in respect of any amendment to this Protocol may be initiated by the Government of a Contracting Party.
2. Amendments shall enter into force upon their acceptance by all of the Contracting Parties.

ARTICLE VII

DEPOSITARY

This Protocol and any amendment thereto shall be deposited with the Secretary-General who shall transmit certified copies to the Contracting Parties.

ARTICLE VIII

WITHDRAWAL

A Contracting Party that withdraws from the Agreement shall be deemed to have withdrawn from this Protocol.

IN WITNESS WHEREOF the undermentioned representatives duly authorised in that behalf have executed this Protocol for their respective Governments.

Done at.....on the.....day
of.....2006

Signed by
for the Government of Antigua and Barbuda on the

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the Caribbean Court of Justice*

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day of 2006 at

Signed by
for the Government of Barbados on the day of
2006 at

Signed by
for the Government of Belize on the day of
2006 at

Signed by
for the Government of the Commonwealth of Dominica on
the day of 2006 at

Signed by
for the Government of Grenada on the day of
2006 at

Signed by
for the Government of The Cooperative Republic of Guyana
on the day of 2006 at

Signed by
for the Government of Jamaica on the day of
2006 at

Signed by
for the Government of Montserrat on the day of
2006 at

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the Caribbean Court of Justice*

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Signed by
for the Government St. Kitts and Nevis of on the day of
2006 at

Signed by
for the Government of Saint Lucia
on the day of 2006 at

Signed by
for the Government of St. Vincent and the Grenadines on the
day of 2006 at

Signed by
for the Government of The Republic of Suriname on the
day of 2006 at

Signed by
for the Government of The Republic of Trinidad and Tobago
on the
day of 2006 at

ss.1 and 2

SCHEDULE III

**PROTOCOL TO THE AGREEMENT ESTABLISHING THE
CARIBBEAN COURT OF JUSTICE RELATING TO THE
TENURE OF OFFICE OF JUDGES OF THE COURT**

The Contracting Parties,

NOTING that the Agreement establishing the Caribbean

Court of Justice (hereinafter referred to as „the Agreement”) entered into force on 23 July 2002 and that the Court was inaugurated on 16 April 2005;

BEARING IN MIND that Article IV of the Agreement provides that the Judges of the Court shall be the President and not more than nine other Judges of whom at least three shall possess expertise in international law including international trade law;

TAKING INTO ACCOUNT that the current composition of the Court is the President and six other Judges and that Article IX of the Agreement provides that a Judge of the Court shall hold office until he attains the age of seventy-two years;

COGNIZANT that the Court is integral to the deepening of the regional integration process and will play a critical role in the organisation of the CARICOM Single Market and Economy.

COGNIZANT ALSO that the current composition of the Court underscores the special need for the relevant institutional capacity to be maintained, especially during its evolutionary phase, that is, until the Court is constituted in accordance with paragraph 1 of Article IV of the Agreement.

HEREBY AGREE AS FOLLOWS:

ARTICLE I INTERPRETATION AND CONSTRUCTION

The provisions of this Protocol shall be read and construed as
one with the Agreement.

ARTICLE II

SPECIAL PROVISION RELATING TO TENURE OF JUDGES

1. Notwithstanding paragraphs 2 and 3 of Article IX of the Agreement, the Commission may, if it appears to the Commission at any time during the evolutionary phase of the Court that special circumstances so require, extend the tenure in office of a Judge of the Court by a period.

- (a) in the case of the President, that is not beyond the date on which he attains the age of seventy-five years or the date on which he completes seven years in office, whichever of those events first occurs;
- (b) in the case of any other Judge of the Court, that is not beyond the date on which he attains the age of seventy-five years.

Where the Commission is considering an extension of the tenure of the President under this Article, the Chairman of the Commission shall take no part in any deliberations or decision of the Commission relating to the matter.

2. The provisions of paragraph 2 and 3 of Article IX of the Agreement relating to the continuance in office of the President or any other Judge for the purpose of delivering judgment or dealing with part heard proceedings, shall apply at the end of any extension of tenure granted to the President or a Judge pursuant to paragraph 1 hereof.

3. Save as otherwise provided in this Protocol, the provisions of the Agreement and any Protocol thereto shall

apply to the President or any other Judge holding office pursuant to this Protocol.

4. For the purposes of paragraph 1, the evolutionary phase of the Court means the period ending with the appointment of the maximum number of Judges as provided for in paragraph 1 of Article IV of the Agreement.

ARTICLE III SIGNATURE

This Protocol shall be open for signature by the Contracting Parties.

ARTICLE IV RATIFICATION

This Protocol shall be subject to ratification by the Contracting Parties in accordance with their respective constitutional procedures.

ARTICLE V PROVISIONAL APPLICATION

This Protocol shall be provisionally applied upon signature by all the Contracting Parties.

ARTICLE VI INTO FORCE

This Protocol shall enter in force one month after the date of deposit of the last instrument of ratification by the

Contracting Parties.

IN WITNESS WHEREOF the undersigned duly
authorized in that behalf by their respective Governments
have executed this Protocol.

Signed by
For the Government of Antigua and Barbuda on the day
of
2007 at

Signed by
For the Government of Barbados on the day of
2007 at

Signed by
For the Government of Belize on the day of
2007 at

Signed by
For the Government of the Commonwealth of Dominica on
the day of 2007 at

Signed by
For the Government of Grenada on the day of
2007 at

Signed by

LAWS OF GUYANA

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the Caribbean Court of Justice*

Cap. 3:11

25

For the Government of the Cooperative Republic of Guyana
on the day of 2007
at

Signed by
For the Government of Jamaica on the day of
2007 at

Signed by
For the Government of St. Kitts and Nevis on the day of
2007 at

Signed by
For the Government of Saint Lucia on the day of
2007 at

Signed by
For the Government of St. Vincent and the Grenadines on the
day of 2007 at

Signed by
For the Government of the Republic of Suriname on the
day of 2007 at

Signed by
For the Government of the Republic of Trinidad and Tobago
on the day of 2007 at
