

LAWS OF GUYANA

CIVIL LAW OF GUYANA ACT

CHAPTER 6:01

Act

15 of 1916

Amended by

26 of 1949

17 of 1959

22 of 1960

11 of 1971

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on

Subsidiary Legislation

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1929 Ed.

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1953 Ed.

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CHAPTER 6:01

CIVIL LAW OF GUYANA ACT

15 of 1916

An Act to codify certain portions of the Roman-Dutch Law of the State and in other matters to substitute the English Common Law and Principles of Equity, along with certain English Statutory Provisions for the Roman-Dutch Law.

[1st JANUARY, 1917]

Short title.

1. This Act may be cited as the Civil Law of Guyana Act.

Interpretation.

2. (1) From and after the 1st January, 1917, hereinafter in this Act referred to as "the date aforesaid," save as provided by this or any other Act, unless the context otherwise determines, wherever the words "movable property" are used in an Act, or in any written law, or in a document, they shall ordinarily be deemed to mean and include personal property, inclusive of choses in action but exclusive of chattels real, as understood by the common law of England, and *vice versa*, and wherever the words "immovable property" are so used they shall ordinarily be deemed to mean and include both real property and "chattels real" as understood by the common law of England, and *vice versa*.

Roman-Dutch terms.

(2) Wherever in an Act, or in another written law, or in a document, any term of Roman-Dutch law is used, the corresponding term of English law, if any, with any words of qualification required, shall be understood and construed in lieu thereof, unless the context otherwise determines.

Saving of existing rights.

(3) Nothing in this Act contained shall be held to deprive any person of any right of ownership, or other right,

title, or interest in any property, movable or immovable, or of any other right acquired before the date aforesaid; and where in any matter whatsoever any right is founded upon a rule or custom of Roman-Dutch law or procedure for which there is no equivalent in the English common law, or where the English common law in the opinion of the High Court is not applicable owing to any special local conditions for which no provision is made by this or any other Act, effect may be given to the Roman-Dutch rule or procedure to the extent the High Court deems advisable in the interests of equity if that Court is so advised.

Alteration of
law.
[26 of 1947]
Abrogation of
Roman Dutch
Law.

3. From and after the date aforesaid —

(a) the law of Guyana relating to wills, *fideicommissa*, trusts, suretyship, donations or gifts (both as regards movable and immovable property), liens or rights of retention, tacit and legal hypothecs or mortgages, partnership, agency, mandate, powers of attorney and appointment, hiring and lease, landlord and tenant, negotiable instruments, bailments, carriers, torts, or delicts, quasi-delicts, every description whatsoever of contracts and obligations whether mercantile or otherwise, all questions relating to husband and wife, marriage, separation, and divorce (save as to the rights acquired and obligations contracted by marriage in community of goods or subject to ante-nuptial contract prior to the Married Persons (Property) Act), parent and child, guardian and ward, minors or infants, lunatics, persons of unsound mind, master and servant, the presumptions and rules as to continuance of life and proof of death, movable or personal property, immovable or real property and chattels real, and all matters relating to any of the aforesaid subjects, and the law of Guyana relating to all other matters whatsoever, whether *ejusdem generis* with the foregoing or not, shall cease to be Roman-Dutch law, and as regards all matters arising and all rights acquired or accruing after the date aforesaid, the Roman-Dutch law shall cease to apply to Guyana;

c. 45:04

Introduction of
English
common law.

(b) the common law of Guyana shall be the common law of England as at the date aforesaid including therewith the doctrines of equity as then administered or at any time hereafter administered by the courts of justice in England, and the High Court shall administer the doctrines of equity in the same manner as the High Court of Justice in England administers them at the date aforesaid or at any time hereafter;

Exclusion of
English law of
property.

(c) the English common law of real property shall not apply to immovable property in Guyana;

Law of
movable and
immovable
property to be
the same
subject to
certain
provisions.

(d) there shall be as heretofore one common law for both immovable and movable property, and all questions relating to immovable property within Guyana and to movable property subject to the law of Guyana shall be adjudged, determined, construed and enforced, as far as possible, according to the principles of the common law of England applicable to personal property:

Provided that—

Full ownership
of immovable
property
preserved.

(i) immovable property may be held as heretofore in full ownership, which shall be the only ownership of immovable property recognised by the common law and shall not be subject to any rule of succession by primogeniture or preference of males to females, or to any other incident attached to land tenure or to estates in lands in England and not attached to personal property in England;

Mortgages, real
servitudes and
oppositions.

(ii) the law and practice relating to conventional mortgages or hypothecs of movable or immovable property, and to easements, profits *a prendre*, or

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- | | |
|--|---|
| Specific performance. | <p>real servitudes, and the right of opposition in the case of both transports and mortgages, shall be the law and practice now administered in those matters by the Supreme Court;</p> <p>(iii) the relief by judgment for specific performance shall be granted in the case of immovable property on the same principles on which it is granted in England in the case of contracts relating to land or to interests in land;</p> |
| Evidence in writing (Statute of Frauds). | <p>(iv) no action shall be brought whereby to charge anyone upon—</p> <p style="padding-left: 40px;">any lease of immovable property for a period exceeding one year, or</p> <p style="padding-left: 40px;">any contract or agreement for the sale, mortgage, or lease of immovable property or any interest in or concerning immovable property, or</p> <p style="padding-left: 40px;">any declaration, creation or assignment of any trust relating to immovable property, unless the agreement or some memorandum or note thereof is in writing and signed by the party to be charged or some other person thereunto by him lawfully authorised;</p> |
| Sale by auction of immovable property | <p>(v) the particulars or conditions of sale by auction of immovable property shall</p> |

(Auctions of
Land Act 1867).

state whether that property will be sold without reserve, or subject to a reserved price, or whether a right to bid is reserved; if it is stated that the property will be sold without reserve, or to that effect, then the seller may not employ anyone to bid at the sale, nor may the auctioneer take knowingly any bidding from that person; and where any sale by auction of immovable property is declared, either in the particulars or conditions of sale, to be subject to a right of the seller to bid, the seller, or any one person on his behalf, may bid at that auction in any manner he thinks proper.

Vesting
foreshore, sea-
bed and
minerals
thereunder in
the State.
[11 of 1971]

4. (1) From and after the date aforesaid, the foreshore of Guyana (that is to say, the part of the shore of the sea and of tidal navigable rivers which is covered by the medium high tide between the spring tides and the neap tides), the soil under tidal waters, and the sea-bed within the territorial waters of Guyana (hereafter in this section called "the lands"), shall be deemed to be State lands and may be dealt with in the same manner in which State lands are now dealt with under the State Lands Act or under any later Act.

c. 62:01

c. 65:01

(2) Gold, silver, precious stones, valuable minerals, as defined by the Mining Act, mineral oil, asphalt, coal, bauxite, and all other mineral substances found upon the lands shall be deemed to be vested in the State, and no one shall explore, prospect, mine for, remove, or appropriate any of those minerals except in accordance with the Mining Act, or any other Act or regulations applying thereto, subject to the penalties provided for offences against the Acts or regulations aforesaid.

(3) No one shall remove any sand, shell, clay, gravel, shingle, or other mineral substance, or any seaweed or vegetation, from the lands without the permission of the Minister responsible for sea defences subject to the like penalties.

(4) Except as provided in the two next ensuing subsections all acts of ownership by the State over the lands and minerals aforesaid, and all grants, leases, or licences shall be subject to any existing public rights under the common law of England.

Determination
of public rights.

(5) Whenever the Minister is satisfied that any act of ownership or any grant, lease, or licence of the lands cannot be exercised without a substantial infringement of some public right, a description of the lands and a statement of the purposes for which they are to be used shall be published in the *Gazette* during a period of six weeks, and the Minister shall thereafter fix a day for the hearing of objections in writing or by counsel to that act, grant, lease, or licence before him and duly consider any objections.

(6) If the Minister considers the objections insufficiently founded, or if no objections are made he may with the approval of the National Assembly declare that any lands so required are freed and discharged from any public rights until the purpose of the act, grant, lease, or licence is terminated.

Saving of
existing rights.

(7) Nothing in this section contained shall be construed as vesting in the State any land forming part of the foreshore or a sea-bed over which a private right has been established by virtue of any law or custom and whether by prescription or otherwise.

Foreshore.

(8) From and after the date aforesaid the ownership of the foreshore and of all lands covered by public navigable rivers, or (to the extent to which those lands now or

hereafter are vested in the State under the common law or by written law) by arms of the sea, or by territorial waters, shall be vested in the State upon the same terms, as to the use and enjoyment thereof by the public for navigation and fishing, and by the owners of the adjoining lands for access to the sea for purposes of navigation, and upon the same terms for all other purposes, as in England.

Rules for
intestate
succession. (22
& 23 Car. II.
C.10, adapted).
[22 of 1960
12 of 1983]

5. (1) There shall be for the whole of Guyana only one law of succession to the estate of every person, male or female, married or single, dying intestate after the date of this Act, that is to say, after all debts, funeral expenses, and just expenses of every sort have been first allowed and deducted, namely—

- (a) if there are descendants, one-third part of the surplusage shall be allotted to the widow or widower and all the residue by equal portions to the children of the intestate, their descendants taking *per stirpes*, in case any or all of those children are then dead:

Provided that if any child shall have any estate by a settlement of the intestate, or shall be advanced by the intestate in his life-time, that child shall bring the estate or amount advanced into hotchpot or so much of it as shall make the estate of all the children to be equal or so near as can be estimated;

- (b) if there are no descendants, then one moiety shall be allotted to the widow or widower of the intestate and the residue shall be distributed equally among the next of kin of the intestate who are in equal degree, the children, but not the grandchildren, of deceased brothers and sisters taking

per stirpes, no other representation being admitted among collaterals:

Provided that—

- (i) if there are no next of kin of the second or third degrees, the widow or widower shall take the whole estate to the exclusion of the next of kin of remoter degree; and
- (ii) brothers and sisters shall take before the grandparents although of the same degree; and
- (iii) kindred of the half-blood shall rank with those of the whole blood;
- (c) if there is no widow or widower, the whole estate shall be divided equally among the children, the grandchildren of any deceased child or children taking *per stirpes*;
- (d) if there is no widow or widower and no descendant of the intestate the whole estate shall be distributed among the next of kin of the intestate who are in equal degree, their descendants taking *per stirpes*;
- (e) the father and mother shall rank equally as of the same degree, and the

(1 Jas. II, c. 17, s.7)

father shall not take in exclusion of the mother, but each shall be entitled if of the same degree to a separate and equal share, and if, after the death of either parent, any of the children die intestate without wife or children, every brother and sister and their representatives shall have an equal share with the surviving parent;

- (f) the husband of the survivor shall not be entitled to any preference or to any greater interest than the wife would have where the wife is the survivor, but shall take a like share, and a wife's estate shall be subject in all respects to the same rules of distribution as a husband's estate;
- (g) if the estate does not exceed in value four hundred and eighty dollars, the surviving spouse, if any, whether there are descendants or not of the intestate, shall take the whole estate absolutely and exclusively, and, if the estate exceeds four hundred and eighty dollars, whether there are descendants or not of the intestate, shall be entitled to four hundred and eighty dollars as a just charge, without prejudice to or diminution of his or her share as above provided, and the residue shall be treated as if it were the whole estate;
- (h) the degrees of kindred shall be reckoned by counting every generation from the intestate up to the

Intestate
Estates Act,
1890.
(Modified)

common ancestor and down thence to the person in question.

(2) The rules of succession to both immovable and movable property shall be the same, and no distinction shall be made between movable and immovable property for purposes of distribution.

(3) No special rule of succession in the county of Berbice pursuant to any law, customs or charter shall be valid or enforceable after the date aforesaid.

(4) In any matter not provided for by this section the common law of England shall apply.

(5) Any claim which might have been made by or on behalf of the State to exclude a surviving spouse on failure of blood relations of the deceased under the common law of Berbice or under the common law of Demerara and Essequibo shall cease to be valid or enforceable.

Escheat.

c. 46:01

(6)(a) In the absence of all blood relations, including all persons entitled to succeed to the estate of a deceased person under section 11 of the Legitimacy Act and in the absence of a surviving wife or husband of a deceased person, his residuary estate shall belong to the State as *bona vacantia* and in lieu of any right to escheat.

(b) the President may, at any time, out of the whole or any part of the property devolving on the State as aforesaid, provide for —

- (i) dependants, whether kindred or not, of the intestate;
- (ii) persons other than dependants for whom the intestate might reasonably have been expected to make

provision; and

- (iii) other persons who would have succeeded to the estate of the deceased but for their own, or their ancestors', or the deceased's illegitimacy.

(c) The personal representative of a deceased person may, before transferring any property to the State as *bona vacantia*, publish a notice in the *Gazette* and in a daily newspaper circulating in the district or county in which the deceased ordinarily resided, calling on all persons desiring to claim any of the property to lodge their claim with the personal representative within three months from the date of the publication of the notice in the *Gazette*.

(d) The personal representative of a deceased person may, before transferring any property to the State as *bona vacantia*, apply to the Court for the opinion, advice or direction of the Court on any question respecting the ascertainment of any claim to any property of the deceased or the transfer of such property to the State.

(e) The personal representative of a deceased person who, before transferring any property to the State as *bona vacantia*, publishes notices in accordance with paragraph (c) and acts in accordance with any opinion, advice or direction of the Court, shall be deemed, so far as regards his own responsibility, to have discharged his obligations and his duty as personal representative in the subject matter of the application:

Provided that this paragraph shall not extend to indemnify any personal representative in respect of any act done in accordance with the opinion, advice or direction of the Court, if he has been guilty of any fraud or wilful concealment or misrepresentation in obtaining that opinion,

advice or direction.

(f) No proceedings may be brought against the State in respect of any property disposed of in pursuance of paragraph (b).

13:01

(g) In this subsection the expression “personal representative of a deceased person” includes the Public Trustee acting in the capacity of a personal representative with respect to any intestacy, and section 13 of the Public Trustee Act shall have no application to monies received by the Public Trustee acting as aforesaid.

(7) In determining relationships for the purposes of this section no regard shall be had to whether any person is born in wedlock or out of wedlock and a person born out of wedlock shall be entitled to the same rights under this section as a person born in wedlock:

Provided that a man shall not, as the father of a child born out of wedlock and dying intestate, be entitled to take any interest under this section in the estate of the child unless, before the death of the child –

- (i) he had been adjudged to be the father of the child by a court of competent jurisdiction; or
- (ii) he had acknowledged the child to be his own and had contributed towards the maintenance of the child.

WILLS, CHARITIES AND GIFTS

Wills.
c. 12:02
(7W.IV. and 1
Vic c.26)

6. Where the Wills Act, and any other Act now or hereafter dealing with wills or testaments, is silent, the Wills Act, 1837, of the United Kingdom except section 7 thereof so far as it relates to personal property, shall be part of the law of

Guyana and shall apply to both movable and immovable property as if the provisions dealing with personal property were specifically enacted to apply to both movable and immovable property, and in the absence of any provision by Act the English common law, including the rule against perpetuities, shall apply:

Provided always that—

- (a) although no descendant or ascendant of any person dying after the date aforesaid shall have any right to claim any legitimate portion, effect shall be given to any testamentary direction bequeathing a legitimate portion to any ascendant or descendant as a valid bequest of that part of the estate which would constitute a legitimate portion for the descendant or ascendant under the Roman-Dutch law;
- (b) no person by will or otherwise shall so settle or dispose of any property that the rents or profits shall be accumulated for a longer term than the life of that person, or the term of twenty-one years from the death of that person, or during the minority of anyone living or *en ventre sa mere* at the time of the death of that person, or during the minority of anyone who would be entitled under the will or other document if of full age; and any accumulation in excess thereof shall go to the person who would be entitled but for that direction; but of the debts or for raising a portion for

the child of anyone;

- (c) no person by will or other document shall so settle or dispose of any property that the rents or profits thereof shall be wholly or partially accumulated for the purchase of land only for any longer period than during the minority of anyone who would be entitled to receive the rents or profits under the will or other document if of full age.

Charities.
(43 Eliz. c.4)

7. The law as to charities shall be the common law of England:

Provided that—

- (a) no bequest or gift, whether testamentary or otherwise, shall be held void by reason only that it is for a superstitious use or purpose; and
- (b) by “charities” shall be ordinarily understood charities within the meaning, purview, and interpretation of the preamble to the Act of the forty-third year of Queen Elizabeth, chapter four, as preserved by section 13 of the Mortmain and Charitable Uses Act, 1888, of the United Kingdom.

Voluntary
conveyances
and
settlements.
(13 Eliz. c. 5)
(27 Eliz. c. 4)

8. Voluntary conveyances or settlements, or other voluntary dispositions of property, whether movable or immovable, that is to say, conveyances, settlements, or dispositions, made otherwise than on valuable consideration and in good faith lawfully conveyed to, or made in favour of, a person who is without notice of any fraudulent intent, shall

be void as against existing creditors.

MARRIAGE

Annus luctus
abolished.

9. The obligation of observing the *annus luctus*, and any other limitation of the right of a widow or widower under Roman-Dutch to re-marry, are hereby abolished.

TRUSTS

Trusts and
Trustees.
(56 & 57 Vic. c.
53)

10. Subject to this or any other Act, the Trustee Act, 1893, of the United Kingdom shall be part of the law of Guyana so far as the same is applicable:

Provided that—

- (a) the High Court may exercise any power which the High Court of Justice in England may exercise under that Act;
- (b) a trustee may, in addition to the securities set out in section 1 of the aforesaid Act invest any trust moneys in the Government savings bank of Guyana, or in any bonds or inscribed stock issued by the authority of the Government of Guyana, and guaranteed by resolution of the National Assembly or by the Government of the United Kingdom, or in any municipal bonds issued with the consent of the Government of Guyana or in any colonial stock registered in the United Kingdom in accordance with the provisions of the Colonial Stock Acts, 1877 and 1892, of the United Kingdom or in any investment sanctioned by a judge of the High Court on application by any trustee;

- (c) a trustee shall be entitled to fair and reasonable compensation for his services, and for his time expended, in and about the trust estate allowed by a judge of the High Court or allowed by any Act to an administrator in like cases, and any judge may on summary application fix the amount of the compensation although the trust estate is not before the Court in any action;

(Trustee Act, 1894.)

- (d) a trustee shall not be liable for breach of trust by reason only of his continuing to hold an investment which has ceased to be an investment authorised by the instrument of trust or by the general law.

Legal rate of interest in existing contracts.

11. (1) Where interest is now payable upon any contract, expressed or implied, for payment of the legal or current rate of interest, or where upon any debt or sum of money interest is now payable by any rule of law, the same rate of interest shall be recoverable as if this provision had not been enacted.

Rate of interest where no rate fixed.

(2) In all proceedings before any court of justice founded upon contract in which no rate of interest is specifically stated, the court shall award interest, if it so thinks fit, at the rate of six per cent per annum and no more.

English law to prevail in insurance cases.

12. In every suit, action, and cause having reference to questions of fire and life assurance which are henceforth brought in the High Court, or in any other competent court in Guyana, the law administered for the time being by the High Court of Justice in England, so far as that law is not repugnant to, or in conflict with, any Act now in force in Guyana, shall be the law to be administered by the High Court or other competent court.

MISCELLANEOUS

Laesio enormis
and Roman
Dutch pleas
abolished; law
of parate
execution and
notaries public
retained.

13. (1) The doctrine or action of *laesio enormis* is hereby abolished.

(2) The pleas founded upon the benefits of excussion and division and all other pleas founded upon the Roman-Dutch or Roman law and not recognised by the English common law are hereby abolished and it shall be no longer necessary to exclude them expressly in any surety bond or other document.

(3) The law and procedure relating to parate execution and to notaries public shall continue as at present.

Deeds.

14. Where by the English common law, or by any Act or other written law now or hereafter applying to Guyana, any matter is required to be evidenced by deed, a document notorially executed shall be held to be as valid and effectual for all purposes as if sealed and delivered as a deed.

Habeas corpus.
(31 Ca. II., c. 2.)

15. The common law right to the writ of *habeas corpus*, as confirmed and regulated by the *Habeas Corpus* Act, 1679, of the United Kingdom shall be part of the law and procedure of Guyana and, subject to any rules of the High Court, shall be granted and issued as nearly as possible in accordance with the practice and procedure for the time being in force in regard to that writ in the High Court of Justice in England.

Assignment of
debts and
choses in
action.
(S.C. of
Judicature Act,
1873, s. 25(6).)

16. Any absolute assignment, by writing under the hand of the assignor (not purporting to be by way of charge only), of any debt or other legal chose in action, of which express notice in writing has been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim that debt or chose in action, shall be and be deemed to have been effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this Act had not passed), to pass and

transfer the legal right to the debt or chose in action from the date of that notice, and all legal and other remedies therefor and the power to give a good discharge therefor, without the concurrence of the assignor:

Provided that if the debtor, trustee, or other person liable in respect of the debt or chose in action has had notice that the assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to the debt or chose in action, he shall be entitled, if he think fit, to call upon the several persons making claim thereto to interplead concerning it, or he may, if he think fit, pay it into the High Court under and in conformity with any rules of court.

Promise and agreement by
parol.
(Statute of
Frauds, s.4.)

17. No action shall be brought whereby to charge any heir, executor or administrator, upon any special promise to answer damages out of his own estate, or whereby to charge the defendant upon any special promise to answer for the debt, default, or miscarriage of another, or to charge anyone upon any agreement made upon consideration of marriage, or upon any agreement which is not to be performed within the space of one year from the making thereof, unless the agreement upon which the action is brought or some memorandum or note thereof, is in writing and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorised.

Action against
executors.
(3 and 4 W. IV
c. 41, s. 2.)

18. An action may be maintained against the executors or administrators of anyone deceased for any wrong committed by him in his lifetime to another in respect of his property if the injury has been committed within six months before his death and if the action is brought within six months after letters of administration have been granted.

Person of
unsound mind.
[26 of 1949

19. (1) Where anyone has been adjudged to be of unsound mind and a proper subject for confinement under the provisions of the Mental Hospital Act, a judge of the High

17 of 1959]
Cap. 140
1953 Ed.

Court may, on application by the Attorney-General, or by a wife, husband, blood relation, creditor, or duly appointed agent or attorney of the person so adjudged, make an order as to the custody of the person so adjudged, and thereupon that order shall supersede any order of committal or removal made under the Act aforesaid and if any previous order of committal or removal has been made, the judge shall cause the Attorney-General to be notified of the application and shall fix a day for hearing his objection (if any) thereto.

53 Vic., c. 5

(2) On the application of any of the persons mentioned in the preceding subsection, the judge may also, in respect of the estate or property in Guyana of any of those hereinafter mentioned, and whether they are or are not resident or domiciled in Guyana, make any of the orders, or exercise or direct to be exercised any of the powers, which a judge in lunacy may make or exercise or direct to be exercised under the Lunacy Act, 1890, of the United Kingdom and any Act amending it.

(3) The persons in respect of whose estate or property in Guyana any order may be made or power exercised under the last preceding subsection are as follows—

(a) any lunatic or person of unsound mind—

- (i) so adjudged under the Mental Hospital Act;
- (ii) so found by inquisition within the meaning of the Lunacy Act, 1890, of the United Kingdom whether so adjudged under the Mental Hospital Act or not;
- (iii) not so found or

Cap. 140
1953 Ed.

adjudged, for the protection or administration of whose property any order has been made by a court of competent jurisdiction in any part of the United Kingdom or in any colony or dependency thereof;

(b) anyone lawfully detained as a lunatic or person of unsound mind though not so found;

(c) anyone with regard to whom it is proved to the satisfaction of the judge by affidavit or otherwise that—

(i) he is, through mental infirmity arising from disease or age, incapable of managing his affairs;

(ii) he is of unsound mind and incapable of managing his affairs:

(iii) he is or has been a criminal lunatic and continues to be insane and in confinement.

(4) The practice and procedure of the High Court under this section and the costs in relation thereto shall be regulated by rules of court made under the High Court Act.

c. 3:02

20. (1) All Acts, regulations, or rules, purporting to

Declaration.

confer any franchise, vote, appointing or nominating power, or any right to be elected, appointed, or nominated to any government, municipal, or other public office of honour or emolument, shall apply and since the year 1838 have applied equally to all British subjects or Commonwealth citizens of every race or origin within Guyana without any distinction whatsoever, and every British subject or Commonwealth citizens possessing the qualifications (if any) prescribed thereunder for exercising that power or holding that office shall exercise or hold it, as the case may be, independently of race or origin.

(2) All Acts, regulations, or rules, purporting to confer upon British subjects or Commonwealth citizens any right of trade, commerce, land holding, land transfer, lease or mortgage of movable or immovable property, or any right of association, or purporting to regulate the exercise thereof, shall apply and since the year 1838 have always applied to all British subjects or Commonwealth citizens resident within Guyana.

(3) From and after the commencement of this Act, all regulations and rules referred to in subsections (1) and (2) of this section shall apply to all persons of East Indian race or origin (not being subjects of any non- Indian foreign state) whether those persons are British subjects, or British protected persons, or subjects of any Indian native state.

(4) No British subject and no one of East Indian race or origin (not being a subject of a non-Indian foreign state) shall be subject to any legal, political, or other disability, disqualification, or incapacity by reason only of his race or place of origin.

Monopolies.

21. The provisions of law contained in the Schedule (being provisions relating to monopolies) shall have effect in Guyana.

Royal
prerogative.

22. Except as specifically enacted, nothing in this Act contained shall be deemed to limit or restrict the royal prerogative as hitherto enjoyed by the British Crown under the Roman-Dutch law of Guyana, and except as aforesaid that prerogative shall as from the date aforesaid comprehend all the pre-eminence and all the special dignities, liberties, privileges, and powers conferred upon the Crown by the common law of England.

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SCHEDULE

PROVISIONS RELATING TO MONOPOLIES

1. All monopolies and all commissions, grants, licences, charters, and letters patents heretofore made or granted, or hereafter to be made or granted to any person or persons, bodies politic or corporate whatsoever, of or for the sole buying, selling, making, working, or using of anything within Guyana, or of any other monopolies, or of power, liberty, or faculty, to dispense with any others, or to give licence or toleration to do, use, or exercise anything against the tenor or purport of any law or statute; or to give or make any warrant for any such dispensation, licence, or toleration to be had or made; or to agree or compound with any others for any penalty or forfeiture limited by any statute; or of any grant or promise of the benefit, profit, or commodity of any forfeiture, penalty, or sum of money that is or shall be due by any statute before judgment thereupon had; and all proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things whatsoever, any way tending to the instituting, erecting, strengthening, furthering, or countenancing of the same, or any of them, are altogether contrary to the laws of Guyana, and so are and shall be utterly void.

Monopolies,
&c., shall be
tried by the
common law.

2. All monopolies, and all such commissions, grants, licences, charters, letters patents, proclamations, inhibitions, restraints, warrants of assistance, and all other matters and

things tending as aforesaid, and the force and validity of them, and every of them, ought to be, and shall be hereafter examined, heard, tried, and determined, by and according to the common law, and not otherwise.

All persons disabled to use monopolies, &c.

3. All persons whatsoever shall stand and be incapable of having, using, exercising or putting into effect any monopoly, or any such commission, grant, licence, charter, letters patents, proclamation, inhibition, restraint, warrant of assistance, or other matter or thing tending as aforesaid or any liberty, power, or faculty grounded or pretended to be grounded upon them or any of them.

The party grieved by pretext of a monopoly, &c., shall recover treble damages and double costs.

4. If any person shall be hindered, grieved, disturbed, or disquieted, or his or their goods or chattels any way seized, attached, distrained, taken, carried away, or detained by occasion or pretext of any monopoly, or of any such commission, grant, licence, power, liberty, faculty, letters patents, proclamation, inhibition, restraint, warrant of assistance, or other matter or thing tending as aforesaid, and will sue to be relieved in or for any of the premises, that in every such case the same person shall and may have his remedy for the same at the common law by action in the High Court to be grounded upon this statute; wherein such person shall recover three times so much as the damages which he sustained by means or occasion of being so hindered, grieved, disturbed, or disquieted, or by means of having his goods or chattels seized, attached, distrained, taken, carried away, or detained, and double costs.

Validity of patents for fourteen years or under, to "true and first inventor".

5. Any declaration before mentioned shall not extend to any letters patents and grants of privilege for the term of fourteen years or under, hereafter to be made, of the sole working or making of any manner of new manufactures within this realm to the true and first inventor and inventors of such manufactures, which others at the time of making such letters patents and grants shall not use, so as also they be not contrary to the law nor mischievous to the state by raising

prices of commodities at home, or hurt of trade, or generally inconvenient: the said fourteen years to be accounted from the date of the first letters patents or grant of such privilege hereafter to be made, but that the same shall of such force as they should be if this act had never been made, and of none other.

Proviso.

6. Nothing contained in any of the provisions of the Schedule shall in any wise extend or be prejudicial to any grant or privilege, power, or authority whatsoever heretofore made, granted, allowed, or confirmed by any enactment now in force, so long as the same shall so continue in force.

ENGLISH STATUTES ADAPTED, INCORPORATED, OR
REFERRED TO IN THIS ACT

Adapted by section 3 (d)(iv)	Statute of Frauds, 1677, (29 Chas. II. c. 3).
(v)	Auctions of Land Act, 1867.
Adapted by section 5.	Statute of Distributions 1670, (22 and 23 Chas, II. c. 10); 1 James II, c. 17, s. 7; Intestate Estates Act, 1890.
Incorporated by section 6.	Wills Act, 1837, (except section 7).
Adapted by section 6.	Thelusson Act, 1798. Accumulations Act, 1892.
Incorporated by section 7.	Preamble to 43 Eliz. c. 4.
Adapted by Section 8.	{ (13 Eliz. c. 5.) (27 Eliz. c.4.) } as to voluntary conveyances and settlements.
Incorporated by section 10.	Trustee Acts, 1893 and 1894.

Referred to in section 10.	Colonial Stock Acts, 1877 and 1892.
Incorporated by section 15.	<i>Habeas Corpus</i> Act, 1679, (31 Car. II. c. 2).
Adapted by section 16.	Supreme Court of Judicature Act, 1873, s. 25(6).
Adapted by section 17.	Statute of Frauds, 1677.
Adapted by section 18.	3 and 4 W. 4 c. 41.
Adapted by section 19.	Lunacy Act, 1890, and amending Acts.
