

CHAPTER 67:02

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SCHEDULE

CHAPTER 67:02

GUYANA FORESTRY COMMISSION ACT

2 of 1979

An Act to provide for the establishment and the functions of the Guyana Forestry Commission and for purposes connected therewith.

[18TH, JANUARY, 1979]

Short title.

1. This Act may be cited as the Guyana Forestry Commission Act.

Interpretation.
[4 of 1982]

2. In this Act—

“Commission” means the Guyana Forestry Commission established by section 3;

“Commissioner” means the Commissioner of Forests.

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ESTABLISHMENT OF THE GUYANA
FORESTRY COMMISSION

3. There is hereby established a body corporate to be known as the Guyana Forestry Commission and the provisions of the Schedule shall have effect as to the constitution and proceedings of, and otherwise in relation to, the Commission.

Establishment and incorporation of the Guyana Forestry Commission. Schedule.

4. (1) It shall be the function of the Commission—

Functions of the Commission. [14 of 1981]

(a) to formulate, advise the Government on, and implement the forest policy of the Government as determined by the Government;

(b) to be responsible for the management and control of the exploitation of the forests of Guyana so as to ensure an optimum yield of forest produce and the maintenance or improvement of the environment;

(c) to determine or assist in determining the location, distribution, volume, quality and most valuable use of the forest resource;

(d) to undertake economic studies and prepare plans for the development of forestry and forest industries;

(e) to advise on lands that are to be permanently designated as forest reserves for the practice of forestry;

(f) to identify, establish, maintain and manage forests, including national parks, wildlife areas and nature reserves, for the purposes of production, protection of the environment, education, recreation, the provision of amenities, and matters of scientific, historical or special value:

Provided that the functions conferred on the Commission by this paragraph shall not derogate from the functions conferred on the National Trust and the National Parks Commission by the National Trust Act and the National Parks Commission Act, respectively.

c. 20:03
c. 20:06

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(g) to promote the use of all timber species and to investigate the markets therefor;

(h) to regulate the production and marketing of forest produce and to provide a timber inspection service for quality control;

(i) to provide goods and services in order to promote economic, social and technological development and to impose, collect and recover all rents, fees, levies, royalties, stumpages, tolls and other charges therefor;

(j) to undertake research and investigations in all aspects of forestry;

(k) to recommend to the Minister suitable personnel for selection for training in forestry and to provide training in forestry, where appropriate;

(l) to recommend to the Minister suitable institutions for the training of personnel in forestry;

(m) to provide or assist in providing access to forested areas;

(n) to collect, prepare, publish and distribute statistics relating to forestry, wildlife and national parks, to publish reports and papers; to hold conferences and seminars and to render advice to the forest industry;

(o) to exercise functions in relation to wild life and national parks in connection with environmental and ecological studies;

(p) to assist in the prevention and control of forest fires, pollution of the environment, erosion of soil, diseases and destruction of the flora and fauna;

(q) to grant permissions and permits relating to the felling and removal of timber and the occupation of forest lands;

(r) to enforce conditions of agreements for the sale of timber, timber concessions, forest permissions, licences and permits;

(s) to convert, remove and sell by auction or tender or in any other manner whatsoever, timber or other forest produce from State Forests, timber reserves or other State Lands;

(t) to perform any other function consistent with its functions under this Act which the Minister may assign to the Commission.

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(2) Where the exercise of any function by the Commission under this Act or any other law is subject to the approval of the Minister, it shall not be necessary to obtain that approval if the Minister is the Chairman of the Commission.

5. (1) The Commission may employ at such remuneration and on such other terms and conditions it thinks fit (including the payment of pensions, gratuities or other like benefits by reference to the service of its officers and other employees) a Commissioner of Forests, a Secretary and such other officers and other employees as the Commission considers necessary for the purpose of carrying out its functions:

Employment
of the staff of
the Commis-
sion.
[4 of 1982]

Provided that—

(a) no salary in excess of such amount as may be specified in directions issued by the Minister shall be assigned to any office without the prior approval of the Minister;

(b) no appointment shall be made to any office to which a salary, in excess of such amount as may be specified in such directions, is assigned without the prior approval of the Minister;

(c) no provision shall be made for the payment of any pensions, gratuities or other like benefits to the officers and other employees of the Commission by reference to their service, without the approval of the Minister.

(2) The Commissioner shall be the Chief Executive Officer of the Commission and, subject to any general or special directions of the Commission, shall be responsible for the execution of the policy of the Commission and answerable therefor to the Commission.

(3) The Commission may, at any time, retain the services of experts and other professional persons and may pay such remuneration in respect thereof as the Commission, with the approval of the Minister, may determine.

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c. 27:02 (4) Where a public officer is seconded or temporarily transferred from a pensionable office within the meaning of the Pensions Act to an office with the Commission, section 5 of that Act shall apply to him as if his service with the Commission were service in a public office.

(5) Where a public officer is appointed to an office with the Commission, his service with the Commission shall be other public service within the meaning of, and for the purpose of such provisions applicable in relation thereto as are contained in the Pensions Act (including the Pensions Regulations 1957).

(6) Subsections (4) and (5) shall, as they apply in relation to a public officer, apply *mutatis mutandis* in relation to a teacher to whom the Teachers' Pension Act applies and who is employed by the Commission.

FINANCIAL PROVISIONS

Funds and resources of the Commission.

6. (1) The funds and resources of the Commission consist of—

- (a) such sums as may be provided by Parliament;
- (b) such sums as may be allocated to the Commission from loan funds;
- (c) all sums received by or falling due to the Commission in respect of the repayment of any loan made by the Commission and the interest payable in respect of any such loan;
- (d) moneys earned or arising from any property, investments, mortgages and debentures acquired by or vested in the Commission;
- (e) any property, mortgages, debentures, or investments acquired by or vested in the Commission;
- (f) sums borrowed by the Commission for the purpose of meeting any of its obligations or discharging any of its functions;
- (g) all other sums or property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions.

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(2) The charges on any amount which may be allocated to the Commission from loan funds shall be met by the Commission except that all or any part of such charges may be met out of moneys provided by Parliament.

(3) Where there is a deficiency in the funds of the Commission such deficiency shall be met out of moneys provided by Parliament.

(4) For the purposes of this section, the expression "loan funds" means such sums as may be made available from time to time to the Government by way of a loan.

7. The Commission may, with the approval of the Minister responsible for finance, borrow such sums as may be required by the Commission for meeting any of its obligations or carrying out any of its functions.

Borrowing powers of the Commission.

8. Moneys standing at the credit of the Commission may, from time to time, be invested in securities approved either generally or specifically by the Minister, and the Commission may, from time to time, with the like approval sell all or any of such securities.

Investments.

9. (1) With the approval of the National Assembly, the Minister responsible for finance may guarantee, in such manner and on such conditions as he may think fit, the payment of the principal and interest on any authorised borrowings of the Commission.

Guarantee by the Minister of Finance of borrowing by the Commission and repayment of sums paid to meet guarantees.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under this section, he shall direct the repayment out of the revenues of Guyana of the amount in respect of which there has been such default.

(3) The Commission shall make to the Accountant General at such time and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards repayment of any such sum issued in fulfilment of any guarantee given under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such

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rate as the Minister responsible for finance may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

Power of Commission to make loans.

10. Subject to such conditions as it may deem fit to impose in particular cases the Commission may, out of its funds and resources, make loans in accordance with the provisions of this Act in that behalf, in the performance of its functions.

Interest on loans made by the Commission.

11. In making loans under this Act the Commission may charge interest at such rate as it may deem fit in any particular case.

Repayment of loans made by the Commission.

12. Subject to sections 13, 14 and 21(6), every loan made by the Commission shall be repaid to the Commission in accordance with the terms and conditions under which the loan was made and the moneys so paid shall thereupon be taken into the accounts of the Commission.

Suspension of payment of principal and interest and power to extend time, compound or release loans.

13. The Commission, with the approval of the Minister, may—

(a) postpone, for any time not exceeding five years, the payment of any sum due for principal and interest or for either principal or interest to the Commission in respect of a loan made by it upon such terms and conditions for the carrying out of the purposes for which the loan was made and for the ultimate repayment of such principal or payment of such interest as it may deem necessary;

(b) from time to time extend the period for the repayment of any loan, or compound or release any loan or any part thereof subject to such terms and conditions as it may deem fit.

Payment of loan before due date.

14. The Commission may at any time accept payment of the whole or any part of the amount representing the principal of a loan and interest thereon, before the time when the payment is due, upon such terms and conditions as it may think fit.

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15. (1) Where the Commission has made a loan of money under this Act, it may—

Examination as to application of moneys lent.

(a) from time to time, make or cause to be made such examination as may be necessary to ensure that the loan is being applied to the purposes for which it was made;

(b) require financial statements in such detail as it may determine to be submitted by the person, body or authority in receipt of the loan biennially or at shorter intervals at the discretion of the Commission and such person, body or authority shall comply with the requirement.

(2) The Commission may authorise in writing any of its officers or any other person to make such examination, and the person, body or authority in receipt of the loan shall produce to such officer or person all the relevant books, documents, and other matters and things necessary for the purposes of the examination.

(3) Any person who contravenes subsection (1) (b) or subsection (2) is guilty of an offence.

16. Where upon any examination made under section 15 it appears to the Commission that any sum being the whole or any part of the loan has not been applied for the purposes for which the loan was made, it may order that any such sum be, within the time mentioned in the order, applied to such purpose or that the sum together with any interest due thereon on the date of the order be repaid to the Commission within the time mentioned in the order, and any sum with the interest thereon so ordered to be repaid to the Commission thereupon becomes a debt due to the Commission.

Order of Commission upon such examination.

17. (1) If any loan made under this Act or any part of the loan has been misapplied, the Commission may—

Misapplication of loan secured by mortgage or otherwise.

(a) where the loan has been secured by mortgage, by notice in writing addressed to the mortgagor, recall the loan or any part thereof and may require the loan or that part together with any interest due on the loan or part thereof on the date of the notice to be repaid on a date to be specified in the notice

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and in default of payment on the specified date any security given for the purpose of the loan may thereupon be realised;

(b) where the loan has been secured otherwise than by way of mortgage, by notice addressed to the borrower, require the loan or any part thereof together with any interest due on the loan or part thereof on the date of the notice to be repaid on a date to be specified in the notice and in default of payment on the specified date any security given for the purpose of the loan may thereupon be realised.

(2) The powers conferred by subsection (1) are in addition to the powers conferred by any other provisions of this Act.

Enforcement
of securities.

18. Where any property mortgaged as security for a loan under this Act is sold for the purpose of the enforcement of the security, the Commission may buy such property and may either manage and hold such property or sell or otherwise dispose of it as the Commission may deem fit.

Charge on
property and
priority of
loan.

19. Where a loan is made by the Commission on the security of a mortgage of any property, whether with or without any other security, the property from and after the date of the mortgage, shall be charged with the payment of the loan and interest as in the mortgage mentioned, in priority, save so far as otherwise specified in the mortgage, to every other debt, mortgage or charge whatsoever affecting the property, except for any existing lien in favour of the State or any loan due to any creditor not assenting to such priority which has been made in good faith before the loan made by the Commission and which has been secured by a duly registered mortgage of the property.

Reserve Fund.

20. (1) The Commission shall maintain a reserve fund and shall, out of the net surplus for each year, transfer to that fund a sum equal to not less than such sum as may be fixed by the Minister.

(2) If the reserve fund is in any year insufficient to cover any net loss of the Commission recorded in its Profit and Loss Account, an amount equivalent to the deficiency is hereby charged on the Consolidated Fund:

Provided that if in any succeeding year any net surplus accrues to the Commission there shall be paid into the Consolidated Fund by the Commission, from time to time, such sum as may be agreed with the Minister responsible for finance together with interest thereon at such rate to be determined by him until the aforesaid amount is fully repaid.

(3) For the purposes of this section, net surplus shall be determined by deducting from gross income all expenses together with allowances for depreciation of assets, contributions to staff benefit funds, provision for bad and doubtful debts, and such other contingencies and accounting provisions as are usually made by comparable institutions.

21. (1) The Commission shall keep accounts of its transactions to the satisfaction of the Minister and such accounts shall be audited annually by an auditor appointed by the Minister.

Accounts and
audit.
[6 of 1997]

(2) The Minister may, at any time, appoint an auditor to examine the accounts of the Commission and to report thereon to the Minister.

(3) The members, officers and other employees of the Commission shall grant to the auditor appointed to audit the accounts of the Commission under subsection (1) or (2) access to all books, documents, cash and securities of the Commission and shall give to him on request all such information as may be within their knowledge in relation to the operations of the Commission.

(4) An auditor appointed under this section shall have power to summon and examine all persons whom he shall think fit to examine for the purpose of obtaining information in connection with the examination and audit of the accounts of the Commission and respecting all other matters and things whatever necessary for the due performance of the functions vested in him: and if any person summoned as aforesaid is not a public officer or an officer or other employee of the Commission he is entitled to payment for his attendance as if he were a witness attending a legal proceeding in obedience to a summons issued at the instance of the State.

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(5) Any person summoned under subsection (4) who, without reasonable excuse, makes default in obeying the summons is liable on summary conviction to a fine of two thousand seven hundred and fifty dollars, or in default of payment, to imprisonment for one month.

(6) The Commission may write off bad debts.

Report.

22. (1) The Commission shall not later than six months after the end of each calendar year submit to the Minister a report containing—

(a) an account of its transactions throughout the preceding calendar year in such detail as the Minister may direct; and

(b) a statement of the accounts of the Commission audited in accordance with section 21.

(2) A copy of the report together with a copy of the auditor's report shall be printed and laid before the National Assembly.

(3) Where the accounts of the Commission are kept by reference to a financial year different from the calendar year the expression "calendar year" in this section shall be read with respect to the Commission as if the expression "financial year" were substituted therefor.

Limitation provisions excluded.

23. The Limitation Act shall not apply to proceedings instituted by the Commission for the recovery of monies due to the Commission or any other property to which a claim is made by the Commission.

Recovery of monies due to the Commission.

24. Any sum due to the Commission may be recovered by parate or summary execution and the right of recovery conferred by this section is in addition to any other procedure available to the Commission under any other law.

Charges on movable and immovable property.

25. (1) Every instrument or charge to secure a loan made by the Commission shall prepared by the Commission and the borrower shall pay the legal charges and all necessary disbursements in connection therewith.

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(2) Where the charge is created on immovable property the Registrar of Deeds shall, upon notice being served on him, annotate the charge against the title issued in respect of the property in the same manner as if it were subject to a mortgage passed before the High Court.

MISCELLANEOUS

26. The Commission may at any time retain the services of professional persons and may pay such remuneration in respect thereof as the Commission may determine.

Services of professionals.

27. Any person who—

- (a) obtains a loan from the Commission under this Act by means of any false representation;
- (b) wilfully applies any loan made to him by the Commission under this Act to any purpose other than the purpose for which the loan was made;
- (c) having obtained a loan from the Commission under this Act, wilfully destroys any security given in relation to the loan,

Offences in relation to loans.
[6 of 1997]

is liable on summary conviction to a fine of twenty-seven thousand five hundred dollars and to imprisonment for twelve months.

28. In any criminal proceeding in respect of an offence under section 27 (b), the onus of proving that he acted in good faith and without knowledge that he was not entitled so to apply the loan or any part thereof shall be upon the person charged.

Burden of proof in cases of misapplication of loans.

29. Any minutes made of meetings of the Commission shall if duly signed by the Chairman or the Deputy Chairman or the Commissioner presiding at a meeting of the Commission and without proof of any other matter or thing, be receivable in all legal proceedings as *prima facie* evidence of the proceedings of the Commission of which minutes have been made and every meeting of the Commission in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

Minutes receivable in evidence in legal proceedings.
[4 of 1982]

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Exemption
from taxation.

30. The Minister responsible for finance may, by order which shall be subject to affirmative resolution of the National Assembly, exempt the Commission from liability for any tax, duty, rate, levy or other charge due to the revenues of Guyana.

Power of the
Minister to
give directions
to the
Commission.

31. (1) The Minister may give to the Commission directions of a general character as to the policy to be followed by the Commission in the performance of its functions and the Commission shall give effect to those directions.

(2) In carrying out such measures of reorganisation or such works of development as involve a substantial outlay on capital account, the Commission shall act in accordance with a general programme approved, from time to time, by the Minister.

(3) In the exercise of its functions in relation to training, education and research, the Commission shall act in accordance with a general programme approved by the Minister.

(4) The Commission shall afford to the Minister information requested by him with respect to the business of the Commission and shall furnish him with annual estimates, and such returns as he may require.

(5) The Commission shall provide the Minister with such facilities as will enable the verification of information furnished in pursuance of this section.

(6) The power of the Minister to give directions to the Commission under this section shall extend to giving to the Commission directions as to—

- (a) the disposal of capital assets;
- (b) the application of the proceeds of such disposals.

(7) Any direction given under subsection (6) may require the whole or any part of the revenues of the Commission to be paid into the Consolidated Fund.

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32. Any person guilty of an offence under this Act for which no special penalty is provided is liable on summary conviction to a fine of eight thousand two hundred and fifty dollars and to imprisonment for three months.

Penalties.
[6 of 1997]

33. The Commission, with the approval of the Minister, may make regulations which, in the opinion of the Commission, are necessary or expedient for the carrying into effect of the purposes of this Act.

Regulations.

SCHEDULE

s. 3

1. (1) The Commission shall consist of—

Constitution
of the
Commission.

(a) the Chairman who shall be appointed by the Minister, but if no person is so appointed, the Minister shall be the Chairman of the Commission:

(b) the Commissioner;

(c) not more than twelve other persons appointed by the Minister.

(2) The persons appointed by the Minister as members of the Commission pursuant to subparagraph (1) shall be persons who, in his opinion, are qualified for appointment by reason of their experience of, and shown capacity in, matters relating to the functions of the Commission in the performance of its functions.

2. The names of the members of the Commission as first constituted and every change in the membership thereof shall be notified in the *Gazette*.

Gazetting of
appointments.

3. (1) The seal of the Commission shall be kept in the custody of the Chairman of the Commission or the Secretary and shall be authenticated by the signatures of the Chairman or the Deputy Chairman or the Commissioner, and the Secretary of the Commission, or in such other manner as may be authorised by resolution of the Commission.

Custody and
authentication
of the seal of
the commis-
sion.

LAWS OF GUYANA

(2) Every document purporting to be an instrument under the seal of the Commission shall be received in evidence and deemed, without further proof to be so executed, unless the contrary is proved.

(3) All documents, other than those required to be under seal, made by, and all decisions of, the Commission may be signified under the hand of the Chairman or the Deputy Chairman or the Commissioner or the Secretary.

Meetings of
the Commis-
sion.

4. (1) The Commission shall meet at such times as may be necessary or expedient for the transaction of business, and the meetings shall be held at such places and times and on such days as the Commission may determine.

(2) The Chairman may at any time summon a special meeting of the Commission.

(3) The Chairman, or in his absence the Deputy Chairman, shall preside at all meetings of the Commission, and in the absence of the Chairman and the Deputy Chairman from a meeting of the Commission, the Commissioner shall act as Chairman at the meeting.

(4) Five members of the Commission shall constitute a quorum for the transaction of business at meetings of the Commission.

(5) Minutes in proper form of every meeting of the Commission shall be kept by the Secretary and shall be confirmed by the Chairman or the Deputy Chairman, or the Commissioner, as the case may be, as soon as practicable thereafter at a subsequent meeting.

(6) The Commission may co-opt one or more persons to attend any meeting of the Commission at which the Commission is dealing with a particular matter, for the purpose of assisting or advising the Commission, but any such co-opted person shall not be entitled to vote at the meeting.

(7) Subject to the provisions of this Act, the Commission may regulate its own proceedings.

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5. (1) The Commission may appoint committees as it may deem fit to examine and report to it on any matter arising out of or connected with any of its functions.

Committees and powers to delegate functions.

(2) Any such committee shall consist of at least two members of the Commission together with such other persons, whether members of the Commission or not, whose assistance or advice the Commission may desire.

(3) Where persons, not being members of the Commission, are members of a committee appointed under this paragraph, the Commission shall pay to each of such persons in respect of his membership of such committee such remuneration and allowances, if any, as the Minister may determine and such sums shall properly be payable out of the funds and resources of the Commission.

(4) The Commission may reject the report of any such committee or adopt it whether wholly or with modifications, additions or adaptations as the Commission may think fit.

(5) Subject to the provisions of this Act, the Commission may delegate to any committee or member or officer of the Commission the authority to carry out on its behalf such functions as the Commission may determine.

6. (1) Any member of the Commission whose interest is likely to be affected, whether directly or indirectly, by a decision of the Commission on any matter whatsoever, shall disclose the nature of the interest at the first meeting of the Commission at which he is present after the relevant facts have come to his knowledge.

Disclosure of interest by member of the Commission.

(2) A disclosure under subparagraph (1) shall be recorded in the minutes of the meeting of the Commission and, after the disclosure, the member of the Commission making the disclosure shall, unless the Commission otherwise directs, not be present at or take part in the deliberation or vote at any meeting during the time when that matter is being decided by the Commission.

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(3) For the purposes of this paragraph, where the interest of parents, spouse or children of any member of the Commission is likely to be affected directly or indirectly by a decision of the Commission on any matter, such interest shall be deemed to be the interest of that member.

(4) The Minister may revoke the appointment of any member of the Commission who contravenes or fails to comply with the provisions of this paragraph.

Protection of members of the Commission.

7. (1) No member of the Commission is liable for any act done or omitted to be done by the Commission in good faith in the course of carrying out its functions.

(2) Where a member of the Commission is exempt from liability by reason only of the provisions of this paragraph, the Commission is liable to the extent that it would be if the member were a servant or agent of the Commission.

Remuneration of members of the Commission.

8. The Commission shall pay to each of its members (other than the Minister or the Commissioner) in respect of his office such remuneration and allowances, if any, as the Minister may determine, and to the Chairman (if he is not the Minister) and to the Deputy Chairman, in respect of his office such remuneration and allowances, if any (in addition to any remuneration and allowances to which he may be entitled in respect of his office as a member), as may be so determined.
