

EAL No 76/1971.



GUYANA.

ACT NO. 2 OF 1971.

BAUXITE NATIONALISATION ACT, 1971.

I assent.


President.

4th March, 1971.

Arrangement of Sections

Section

PART I — PRELIMINARY

1. Short title and commencement.
2. Interpretation.

PART II — AMENDMENT OF THE CONSTITUTION

3. Amendment of article 8 of the Constitution.

PART III — ACQUISITION OF BAUXITE UNDERTAKING

4. Conclusion of negotiations for State participation.
5. Nationalisation order.

PART IV — TERMS OF NATIONALISATION

6. Nationalised undertaking and the Company.
7. General effect of vesting.
8. Payment of compensation.
9. Claims for compensation.
10. Staff.

AN ACT to amend the Constitution to provide for such public ownership and control of bauxite undertakings in Guyana as may be necessary to secure the interests of the people and to promote the development of the national economy, and for matters connected therewith and incidental thereto.

A.D. 1971. Enacted by the Parliament of Guyana :—

PART I — PRELIMINARY

Short title
and com-
mencement.

1. (1) This Act may be cited as the Bauxite Nationalisation Act, 1971.

(2) The provisions of Part II (section 3) shall come into operation on such date as the President may by order appoint.

(3) The provisions of Parts III and IV (sections 4 to 10 inclusive) shall come into operation on such date, not being prior to the coming into operation of Part II, as the President may by order appoint.

Interpre-
tation.

2. In this Act, unless the context otherwise requires —

“designated bauxite undertaking” means any undertaking whose operations in Guyana include the extraction of bauxite and which is designated in a certificate issued by the Minister under section 4 as a bauxite undertaking to which that certificate applies;

“Minister” means the Minister assigned responsibility for mines.

“profits” means the difference between revenue and the expenditure incurred in earning that revenue including depreciation allowed for income tax purposes.

PART II — AMENDMENT OF THE CONSTITUTION

Amendment
of article 8
of the Con-
stitution.

3. Article 8 of the Constitution is hereby modified so as to have effect in relation to the compulsory acquisition of property for which provision is made under Parts III and IV as if —

(a) the following subparagraph were substituted for subparagraph (a) of paragraph (1) thereof —

‘(a) requiring the payment of reasonable compensation;’; and

- (b) the following paragraph were added to article 8 as paragraph (6) thereof —

‘(6) For the purposes of this article compensation shall be deemed to be reasonable if paid in the manner and on the basis provided for under Part IV of the Bauxite Nationalisation Act, 1971.’

PART III — ACQUISITION OF BAUXITE UNDERTAKING

4. (1) Section 5 shall have effect in relation to a designated bauxite undertaking on the issue by the Minister of a certificate under his hand stating that negotiations for the participation of the State in that undertaking on just and equitable terms have been concluded, whether before or after the enactment of this Act, without agreement being reached for such participation.

Conclusion of negotiations for State participation.

(2) A certificate issued by the Minister under subsection (1) shall be published in the Gazette as soon as practicable after the issue thereof, and the certificate shall be conclusive of the facts stated therein.

5. (1) The President may by order declare that, with effect from such day as may be specified in the order (hereinafter referred to as “the vesting day”), any designated bauxite undertaking shall be nationalised.

Nationalisation order.

(2) On the vesting day the provisions of Part IV (sections 6 to 10 inclusive) shall apply to the designated bauxite undertaking and the order made under subsection (1) shall have effect accordingly.

PART IV — TERMS OF NATIONALISATION

6. In this Part, references to ‘the nationalised undertaking’ shall be construed as references to the designated bauxite undertaking to which the order made under section 5 relates, and references to ‘the Company’ shall be construed as references to the company carrying on that designated bauxite undertaking immediately prior to the vesting day.

Nationalised undertaking and the Company.

7. (1) All the assets of the Company in Guyana, whether or not relating to the extraction of bauxite and including all interests in and rights over any property but excluding such assets as may be specified for the purposes of this section in an order made by the Minister prior to the vesting day, shall, without further assurance, be transferred to and vest in the State.

General effect of vesting.

(2) Such liabilities of the Company as may be specified for the purposes of this section in an order made by the Minister, being liabilities of the Company subsisting immediately before the vesting day, shall, subject to the provisions of any law imposing limitations on the liability of the State, be deemed to be liabilities of the State.

(3) In so far as they relate to assets and liabilities of the Company which become assets and liabilities of the State by virtue of this Act, all contracts, deeds, bonds, agreements and other instruments of whatever nature subsisting or affecting the Company shall, subject to the provisions of any law imposing limitations on the liability of the State, be of full force and effect against or in favour of the State as if in the place of the Company the State had been named therein or had been a party thereto and where immovable property has, by virtue of this Act, vested in the State the Registrar of Deeds shall take due notice thereof and shall make such annotations on the records as may be necessary.

(4) If, on the vesting day, any action, appeal or other proceeding of whatever nature is pending by or against the Company for the enforcement of any rights or liabilities which are transferred or attach to the State by virtue of this Act such action, appeal or other proceeding shall not abate, be discontinued or be in any way prejudicially affected by reason of such transfer or attachment or of anything contained in this Act, but the action, appeal or other proceeding may be continued, prosecuted or enforced by or against the Attorney General, and such action, appeal or other proceeding may be amended accordingly.

Payment of
compensa-
tion.

8. (1) The State shall pay compensation to the Company for the property of the Company acquired by the State under this Act and such compensation shall be determined and paid in the manner provided in subsections (2) and (3), or in such other manner as may be agreed in writing between the State and the Company.

(2) The valuation of any property of the Company for the purpose of the payment of compensation under this Act shall be based on the depreciated value of the property for income tax purposes at 31st December immediately preceding the vesting day together with any increase in the value of such property between that date and the vesting day otherwise than by virtue of revaluation or reappraisal.

(3) Compensation payable under this Act shall be paid by the State in annual instalments out of the annual profits arising from the carrying on of the nationalised undertaking by or on behalf of the State:

Provided that any annual instalment of compensation payable out of such profits shall not be less than one-eighth of the profits for the preceding year after payment of tax.

Claims for
compensa-
tion.

9. Any person claiming compensation for which provision is made in section 8 may apply to the High Court for the determination of that person's interest in or right over the property in respect of which such compensation is claimed and the amount of such compensation.

10. (1) Subject to subsection (2), any person employed by the ^{Staff.} Company exclusively in connection with the operations of the nationalised undertaking immediately before the vesting day shall continue to be employed in relation to that undertaking after the vesting day on such terms and conditions as may be agreed on between him and the Guyana Development Corporation being terms and conditions which taken as a whole are no less favourable than those applicable to him immediately before the vesting day, and, for the purposes of this Act and until otherwise provided by law, any person so employed shall, notwithstanding section 10 of the Public Corporations Ordinance, No. 23 of 1962, be deemed to be employed by the Guyana Development Corporation in respect of the undertaking.

(2) The Guyana Development Corporation shall be the successor of the Company in respect of the leave and superannuation rights or benefits (whether earned, accrued, inchoate or contingent) of any person, deemed to be so employed by the Corporation.

Passed by the National Assembly on the 1st of March, 1971.


Clerk of the National Assembly.

(Bill No. 4/1971)