



I assent.

Deprasad
Governor,

4 March, 1955

BRITISH GUIANA

ORDINANCE No. 13 OF 1955

AN ORDINANCE to amend the British Guiana Credit Corporation Ordinance, 1954.

Enacted by the Legislature of British Guiana:—

1. This Ordinance may be cited as the British Guiana Credit Corporation (Amendment) Ordinance, 1955, and shall be construed and read as one with the British Guiana Credit Corporation Ordinance, 1954, hereinafter referred to as the Principal Ordinance.

2. Section 13 of the Principal Ordinance is hereby repealed and the following substituted therefor —

“Execution
of docu-
ments.

13. Any transport, mortgage, lease assignment, transfer, agreement, or other document requiring to be executed by the Corporation, or any cheque, bill of exchange or order for the payment of money requiring to be executed by the Corporation shall be deemed to be duly executed if signed by a person or persons specially or generally authorised by resolution of the Corporation so to sign.”

A.D. 1955
Short title.

No. 13 of
1954

Repeal and
re-enact-
ment of
section 13
of the
Principal
Ordin-
ance.

Amendment of section 30 of the Principal Ordinance.

3. Section 30 of the Principal Ordinance is hereby amended—

- (a) by re-numbering the section as subsection (1);
- (b) by the addition thereto of the following subsections —

“(2) Where a loan is granted under this Ordinance and the repayment of the sum of money lent is secured by a charge in favour of the Corporation, such charge shall be in accordance with the provisions of this Ordinance on such movable property as the Corporation may approve.

(3) For the purpose of effecting the security referred to in subsection (2) of this section for the loan and the interest payable thereon, it shall be lawful for a borrower obtaining a loan to create by instrument in writing in favour of the Corporation a charge on movable property belonging to him on the date of the charge.

(4) The property affected by the charge under subsection (3) of this section shall be such movable property specified in the instrument creating the charge as the Corporation may approve.

Second Schedule.

(5) The provisions contained in the second schedule to this Ordinance shall apply to every instrument created under subsection (3) of this section.”

Amendment of section 53 (1) of the Principal Ordinance.

4. Subsection (1) of section 53 of the Principal Ordinance is hereby amended —

- (a) by the substitution for the words “from the end of each calendar year” of the words “from the 30th June in each year (commencing from the 30th June, 1955)”;
- (b) by the substitution for the words “throughout the preceding calendar year” in paragraph (a) of the words “throughout the preceding period of twelve months ending on the 30th June in such year”.

Amendment of schedule to the Principal Ordinance.

5. The Principal Ordinance is hereby amended by redesignating the schedule thereto as the first schedule.

Insertion of second and third schedules to the Principal Ordinance.

6. The following schedules shall be added to the Principal Ordinance as the second and third schedules thereof respectively—

"SECOND SCHEDULE

Section 30.

(PROVISIONS WHICH APPLY TO EVERY CHARGE CREATED UNDER SUBSECTION (3) OF SECTION 30 OF THIS ORDINANCE).

1. A charge shall, so long as it continues in force, confer the following rights and impose the following obligations, on the Corporation, that is to say:—

Rights conferred and obligations imposed by a charge on the Corporation.

- (a) a right to take possession of any of the property subject to the charge upon the happening of any of the following events, that is to say —
- (i) if the borrower shall fail to pay the Corporation any money which shall for the time being be owing under the charge within four days after the same or any instalment thereof shall become due; or
 - (ii) if the borrower shall fail to discharge any of the obligations imposed upon him by any provision of this schedule; or
 - (iii) if the borrower shall become insolvent or make any arrangement or composition with his creditors; or
 - (iv) if any distress or execution be issued or levied against or upon any of the property of the borrower; or
 - (v) the death of the borrower; or
 - (vi) if the borrower does any act prohibited by this Ordinance or any Regulations made under this Ordinance;
- (b) where possession of any property has been so taken, a right, after an interval of five clear days or such less time as may be allowed by the instrument, to sell the property either at auction or, if the instrument so provides, by private treaty, and either for a lump sum payment or payment by instalments;
- (c) an obligation, in the event of such power of sale being exercised, to apply the proceeds of sale in or towards the discharge of the moneys and liabilities secured by the discharge, and the cost of seizure and

sale, and to pay the surplus (if any) of the proceeds to the borrower.

2. A charge shall, so long as it continues in force, impose on the borrower the following obligations, that is to say:—

Obligations imposed by a charge on a borrower.

- (a) if required by the Corporation to insure and keep insured, so long as the charge continues in force, the property subject to the charge for a sum of money not less than the value of the said property and to assign the policy of insurance to the Corporation;
- (b) to keep in good and substantial repair and condition the buildings, erections, plant, machinery and other property and equipment subject to the charge;
- (c) not to sell or again encumber or charge any property subject to the charge, so long as the charge continues;
- (d) to pay punctually as the same shall become due and payable any land rent, rate or tax payable by him in respect of the land on which the property stands, and upon demand in writing by the Corporation to produce his last receipts for such rent, rate or tax;
- (e) not to have execution issued against his goods under any judgment at law;
- (f) not to remove, dismantle or in any way alter any buildings, erections, plant, machinery, equipment or other property subject to the charge without the prior consent in writing of the Corporation.

Penalty for sale of security.

3. Every person who sells any property subject to the charge shall be guilty of an offence and shall be liable on conviction under the Summary Jurisdiction Ordinances to a fine not exceeding five hundred¹ dollars or to imprisonment for a term not exceeding six months.

Charge not to be defeated by sale, etc. of property subject to it.

4. A charge created under this Ordinance shall not be liable to be defeated by any sale of, or by a subsequent charge of any nature created upon, the property specified in the instrument creating it and, upon the borrower committing an act of insolvency, the Corporation shall be at liberty to take possession of the property subject to the charge and sell the same in accordance with subparagraph (b) of paragraph 1 of this Schedule.

Charge not to be affected by Bills of Sale Ordinance Cap. 67.

5. A charge created under this Ordinance shall have effect notwithstanding anything contained in the Bills of Sale Ordinance, and an instrument made under this Ordinance shall not be deemed to be a bill of sale within the meaning of that Ordinance.

Property charged not affected by order or disposition section of the Insolvency Ordinance.

6. So long as a charge created under this Ordinance continues in force, property subject to the charge shall not be property divisible amongst the borrower's creditors in case of his insolvency as being at the commencement of the insolvency in the possession, order or disposition of the insolvent in his trade or business by the consent and permission of the Corporation, except that any surplus after the proceeds of sale of such property have been applied in or towards the discharge of the moneys and liabilities secured by the charge shall be payable by the Corporation to the borrower's assignee in insolvency.

Mode of executing instrument creating charge.

7. Every instrument creating a charge under this Ordinance shall be signed by the borrower and attested by two witnesses, if the borrower can read and write the English language, and in case of a borrower who cannot read and write the English language, the instrument shall be made by affixing the borrower's mark thereto in the presence of two witnesses or a magistrate, a justice of the peace or a police officer who shall attest the same after reading over and explaining the contents thereof to the borrower.

Filing of instrument in Deeds Registry. Cap. 177.

8. The instrument to create a charge shall be signed also by an officer duly authorised by the Corporation and shall be filed by the Corporation with the Registrar of Deeds appointed under the Deeds Registry Ordinance and the charge shall take effect as from the moment when it is so filed.

Registrar to file instrument on certificate of witness, etc.

9. The instrument shall be accepted and filed by the Registrar of Deeds upon a certificate thereon by one of the witnesses to the signature of the borrower, or by the person or one of the persons in whose presence the borrower made his mark, to the effect that he knows the borrower and that the instrument was read over and explained by him to the borrower who appeared perfectly to understand the same and signed it or made his mark thereto.

Penalty for false certificate.

10. Every person who makes a false certificate for the purposes of the last preceding paragraph shall be guilty of an offence and shall on conviction thereof under the Summary Jurisdiction Ordinance be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Penalty for fraudulent offer of security.

11. (1) No person shall offer to the Corporation as security for a loan applied for under this Ordinance any property which is not his own or which is already the subject of a charge created otherwise than in accordance with this Ordinance, and every person shall on application for a loan disclose to the Corporation to which he applies for such loan the existence of any charge on the property offered as such security.

(2) Every person who contravenes this provision shall be liable on conviction under the Summary Jurisdiction Ordinances to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Form of instrument of charge.

12. An instrument to create a charge under this Ordinance shall, subject to the provisions of paragraph 13, be in the form and terms set out in the third schedule to this Ordinance and may be made with such other lawful terms and conditions as the parties may think fit.

Notice of provisions of this schedule to form part of instrument of charge.

13. A copy of the foregoing provisions of this schedule shall be printed on every instrument of charge created under section 30 of this Ordinance.

THIRD SCHEDULE.

Second schedule Paragraph 12.

(INSTRUMENT CREATING CHARGE UNDER THIS ORDINANCE.)

THIS INSTRUMENT is made the day of 19..... Between..... of (hereinafter called the borrower) of the one part and..... of (hereinafter called the Corporation) of the other part :

1. In consideration of the sum of..... dollars now advanced to the borrower by the Corporation, the borrower hereby charges all the movable property particulars whereof are hereinafter set forth with the payment to the Corporation of the said sum of.....dollars together with interest upon the said sum of.....dollars and the costs of realisation and enforcement of this security.

2. The loan secured by this charge and the interest thereon shall be repayable as follows :—

(Here fill in terms of repayment).

DESCRIPTION OF PROPERTY SUBJECT TO THIS CHARGE.

(Here enumerate and describe so as to identify the movable property charged).

IN WITNESS WHEREOF the parties have signed this instrument at..... in the County of in the Colony of British Guiana in the presence of the following witnesses:-

.....
Borrower.

.....
for and on behalf of the British Guiana Credit Corporation.

Witnesses to the signature or mark of borrower:

- 1.
- 2.

7. Section sixty-one of the Principal Ordinance is hereby amended —

Amendment of section 61 of the Principal Ordinance.

- (a) by the substitution for the word "Schedule" in the marginal note thereto of the word "Schedules"; and
- (b) by the substitution for the words "in the Schedule" of the words "in any of the Schedules".

Passed by the Legislative Council this twenty second day of February, nineteen hundred and fifty-five.

[Handwritten Signature]
Clerk of the Legislature.

(Leg. Bill No. 4/1955)