



GUYANA

BILL No. 5 OF 1976

PUBLIC CORPORATIONS (AMENDMENT) BILL 1976

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement.
2. Repeal and re-enactment of section 3 of the Principal Act.
3. Amendment of section 4 of the Principal Act.
4. Amendment of section 8 of the Principal Act.
5. Amendment of section 15 of the Principal Act.
6. Amendment of section 17 of the Principal Act.
7. Amendment of section 46 of the Principal Act.
8. Repeal and re-enactment of section 54 of the Principal Act.
9. Insertion of section 54A in the Principal Act.
10. Amendment of section 4 of the Rice Marketing Act.

A BILL

Intituled

AN ACT to amend the Public Corporations Act and to make a consequential amendment to the Rice Marketing Act.

A.D. 1976. Enacted by the Parliament of Guyana:—

Short title
and com-
mencement.

1. (1) This Act may be cited as the Public Corporations (Amendment) Act 1976.

(2) Section 7 shall be deemed to have come into operation on 25th May, 1973.

(3) Section 8 shall be deemed to have come into operation at the time of the coming into operation of the Public Corporations (Amendment) Act 1972.

No. 11 of
1972.

(4) Section 9 shall be deemed to have come into operation at the time of the enactment of the Public Corporations Act.

Cap. 19:05.

Repeal and
re-enactment
of section
3 of the
Principal
Act.

2. Section 3 of the Principal Act is hereby repealed and the following section substituted therefor —

“Establish-
ment of the
Guyana
State Cor-
poration.

3. (1) There is established a public corporation to be known as the Guyana State Corporation which shall be a body corporate, consisting of —

- (a) the President of the Corporation who shall be the Minister;
- (b) the Vice President of the Corporation who shall be appointed by the Prime Minister by instrument in writing from among persons appearing to him to be qualified as having had experience of, and shown capacity in, matters relating to agriculture, industry, trade, commerce, banking, finance, science, education, social welfare or administration;
- (c) such number of Executive Chairmen appointed by the Prime Minister by instrument in writing from among persons appearing to him to be qualified as provided in paragraph (b);

- (d) not more than three other persons appointed by the Prime Minister;
 - (e) two persons appointed by the Prime Minister from among persons employed in public corporations and other bodies under the supervision and control of the Corporation.
- (2) The Vice President, the Executive Chairmen, and the other members of the Corporation mentioned in paragraphs (d) and (e) of subsection (1) may be appointed for any period not exceeding three years, but they may be removed from office at the pleasure of the Prime Minister.
- (3) Subject to this Act, or to any other law under which it is established, but notwithstanding anything to the contrary in the instrument constituting any body corporate hereinafter mentioned in this subsection, the Prime Minister may by writing under his hand assign an Executive Chairman responsibility for a particular public corporation, or a particular corporate body in which the controlling interest vests in the State or in any agency on behalf of the State, or any group of public corporations or corporate bodies, over which the Guyana State Corporation exercises powers of supervision and control.
- (4) Any member of the Corporation (other than the President) may at any time resign his office by writing under his hand addressed to the Prime Minister.
- (5) The names of the members of the Corporation as first constituted and every change in the membership thereof shall be published in the *Gazette*."

3. Section 4 of the Principal Act is hereby amended by the addition thereto of the following subsection as subsection (3) —

Amendment
of section
4 of the
Principal
Act.

"(3) The Secretary of the Guyana State Corpora-

tion may delegate to any other officer of the Corporation the power and authority to perform on his behalf such of his functions as the Secretary may determine.”.

Amendment
of section
8 of the
Principal
Act.

4. Section 8 of the Principal Act is hereby amended in the following respects —

- (a) by the substitution of the words “paragraphs (b), (c) and (d) of section 3 (1)” for the words “section 3(1) (b) and section 3(1) (d)”;
- (b) by the insertion of the words “and every Executive Chairman, respectively,” immediately after the words “Vice President,”.

Amendment
of section
15 of the
Principal
Act.

5. Section 15 of the Principal Act is hereby amended in the following respects —

- (a) by the substitution of the following paragraphs for paragraphs (a) and (d), respectively, of subsection (2) —
 - “(a) The Executive Chairman assigned responsibility for the corporation under section 3(3) and he shall be the Chairman of the Corporation;
 - (b) one person appointed by the President of the Guyana State Corporation from among persons employed by the corporation.”;
- (b) by the substitution of the following subsection for subsection (4) —
 - “(4) The members of a corporation mentioned in subsection (2) (d) and (e) hold office for any period not exceeding three years, but are liable to be removed from office at the pleasure of the President of the Guyana State Corporation.”; and
- (c) by the substitution of the following subsection for subsection (6) —
 - “(6) The names of the members of a corporation as first constituted and every change in the membership thereof shall be published in the *Gazette*.”;

6. Section 17 of the Principal Act is hereby amended in the following respects —

Amendment
of section
17 of the
Principal
Act.

- (a) by the substitution of the following subsection for subsection (4) —

“(4) Except in the case of documents required by law to be under seal and save as otherwise provided by subsection (5), documents made by, and decisions of, the corporation may be signified under the hand of the chairman, or deputy chairman, or the secretary of the Corporation.”; and

- (b) by the renumbering of subsection (5) as subsection (6) and by the insertion of the following subsection as subsection (5) —

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

7. Section 46(2) of the Principal Act is hereby amended by the substitution of the words “Minister may by the order establishing the corporation or by a subsequent order” for the words “order may” in the proviso thereto.

Amendment
of section
46 of the
Principal
Act.

8. Section 54 of the Principal Act is hereby repealed and the following section substituted therefor —

Repeal and
re-enact-
ment of
section 54
of the
Principal
Act

“Super-annuation benefits of public officers and teachers employed in public corporations.”

54. (1) Where, with the approval of the appropriate authority, an officer —
- (a) is seconded or temporarily transferred from a pensionable office within the meaning of the Pensions Act to an office with a corporation, section 5 of that Act shall apply to him as if his service in the last-mentioned office were service in a public office;

- (b) is transferred from a pensionable office within the meaning of the Pensions Act to a substantive appointment in an office with a corporation, his service with the corporation shall be other public service within the meaning of, and for the purposes of, such provisions in relation thereto as are contained in, the Pensions Act.
- (2) Where a teacher who has done qualifying service within the meaning of the Teachers' Pensions Act is, with the approval of the appropriate authority —
- (a) seconded or temporarily transferred from his pensionable office as a teacher to an office with a corporation, section 5 of the Pensions Act (as it applies *mutatis mutandis* to a teacher by section 7C of the Teachers' Pensions Act as provided for by section 38 thereof) shall apply to him as it applies in the case of a public officer;
 - (b) is transferred from his pensionable office as a teacher to a substantive appointment in an office with a corporation, his service with the corporation shall be treated as if it were other public service within the meaning of and for the purposes of, such provisions in relation thereto as are contained in, the Pensions Act and as if he were a public officer to whom the Pensions Act applies.
- (3) In this section, "appropriate authority" means the person or authority vested by law with power to appoint the officer to the pensionable office held by him (and to which the Pensions Act applies) or to appoint the teacher to the office held by him as a teacher, as the case may be."

Insertion
of section
54A in the
Principal
Act.

9. The Principal Act is hereby amended by the insertion of the following section immediately after section 54 —

“54A. Save where other provisions is made by a corporation for the payment of pension, gratuity or other allowance in respect of their service with a corporation to officers and other employees of the corporation on their retirement therefrom, the amount of the pension, gratuity or other allowance payable by the corporation to any such officer or employee in respect of such service shall be computed in accordance with the law or other rules applicable to the grant of pension, gratuity or other allowance to public officers as if for that purpose the service of the officer or other employee with the corporation were service in the public service.”

Payment
of super-
annuation
benefits
by a cor-
poration.

10. Section 4 of the Rice Marketing Act is hereby amended in the following respects —

Amendment
of section
4 of the
Rice
Marketing
Act.
Cap. 72:01.

(a) by the substitution of the following paragraph for paragraph (d) of subsection (1) —

“(d) one person appointed by the President of the Guyana State Corporation from among persons employed by the Board; and”;

(b) by the substitution of the following subsection for subsection (5) —

“(5) The members of the Board mentioned in subsection (1) (d) and (e) hold office for any period not exceeding three years, but they are liable to be removed from office at the pleasure of the President of the Guyana State Corporation.”

EXPLANATORY MEMORANDUM

Clause 2 of the Bill seeks to amend section 3 of the Public Corporations Act to effect certain changes in the structure of the Guyana State Corporation. Because of the increasing responsibilities of the Guyana State Corporation arising out of the establishment of public corporations and the Government's acquisition of interests in other undertakings it is proposed that there should be Executive Chairmen who will be assigned responsibility for particular corporations or other corporate bodies in which the State has acquired a controlling interest, or groups of public corporations or such corporate bodies. The Executive Chairmen will form part of the structure of the reorganised Guyana State Corporation.

Clause 3 contains provision for the amendment of the Principal Act to enable the Secretary of the Guyana State Corporation to delegate such of his functions as he may determine.

Clause 5 seeks to make provision for the restructuring of public corporations. The Executive Chairmen will be the Chairmen of public corporations for which they are assigned responsibility and the workers' representative will be appointed by the President of the Guyana State Corporation.

A consequential amendment to section 4 of the Rice Marketing Act is provided for in clause 10 in respect of the Guyana Rice Board.

Corporations established under the Public Corporations Act are required by section 17 to affix the seal of the Corporation to particular documents in respect of certain transactions. **Clause 6** of the Bill seeks to amend the said section 17 to enable, in certain specified cases, particular documents to be executed by authorised officers of a corporation and without the necessity to affix the seal of the corporation.

Section 46 of the Principal Act provides that the order establishing a public corporation may exclude the application of provisions of the Act to the corporation.

Clause 7 seeks to enable this to be done by a subsequent order as well.

Clause 8 of the Bill seeks to repeal and re-enact section 54 of the Principal Act to extend the scope of the provision to preserve the superannuation rights of teachers who accept employment in public corporations established under the Act.

Clause 9 of the Bill seeks to make provision for the manner in which the superannuation benefits of persons employed in public corporations should be computed. The same formula which is used in computing the superannuation benefits payable to officers in the public service will apply in the case of persons employed in public corporations.

L. F. S. Burnham,
Prime Minister.