

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana,
27th November, 1978.

The following Bill which will be introduced in the National Assembly published for general information.

F. A. Narain,
Clerk of the National Assembly.



GUYANA

BILL No. 25 of 1978

GUYANA PETROLEUM CORPORATION BILL 1978

ARRANGEMENT OF SECTIONS

SECTION

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SCHEDULE

A BILL

Intituled

AN ACT to establish the Guyana Petroleum Corporation and to make provision with respect to the functions of the Corporation and other matters incidental thereto.

Enacted by the Parliament of Guyana:—

- | | |
|----------------------------------|---|
| Short title and commencement. | 1. This Act may be cited as the Guyana Petroleum Corporation Act 1978 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint. |
| Interpretation. | 2. In this Act —
“the Corporation” means the body corporate established by section 3; |
| Cap. 65:95 | “petroleum” has the meaning assigned to it in the Petroleum (Production) Act;
“petroleum products” means any product derived wholly from petroleum by way of a refining process. |
| Constitution of the Corporation. | 3. There is hereby established a corporation to be known as the Guyana Petroleum Corporation which shall be a body corporate consisting of a Board to which the provisions of the Schedule shall apply. |
| Functions. | 4.(1) Subject to this Act, it shall be the function of the Corporation to — |

- (a) promote the economic development in Guyana of the petroleum industry;
- (b) secure a sufficiency of supply of petroleum products to the well being of the community, their equitable distribution and their availability at fair prices;
- (c) exercise supervision and control over any other body corporate whose principal functions are the production or distribution of petroleum or petroleum products and in which the controlling interest is vested in the State or in any agency on behalf of the State as the Minister may by order specify; and
- (d) carry out such other functions as may be conferred upon it by any other law.

(2) For the purpose of carrying out the functions mentioned in subsection (1) the Corporation may —

- (a) search for and get petroleum existing in its natural condition in strata in any part of the world;
- (b) move, store and treat petroleum and anything derived from it;
- (c) buy, sell and otherwise deal in petroleum and anything derived from it;
- (d) carry out for any Ministry or State enterprise such services connected with petroleum as that Ministry or enterprise may request the Corporation to perform on its behalf;
- (e) without prejudice to the generality of the preceding paragraph, do anything required for the purpose of giving effect to agreements entered into by the Minister with a view to securing participation by the Government or by the Corporation or any other body on behalf of the Government, in activities connected with petroleum beneath controlled waters;
- (f) provide any person with advice or assistance of any kind, including research services and training facilities, as respects any matter in which the Corporation has skill or experience;

- (g) make recommendations to the Minister responsible for consumer protection in respect of the regulation or prohibition of the importation, exportation, distribution, sale or purchase of petroleum or petroleum products or for controlling the prices at which such may be sold;
- (h) do anything which the Corporation considers is calculated to facilitate, or is conducive or incidental to, the performance of any of the functions of the Corporation.

(3) Without prejudice to the generality of the powers conferred by subsection (2) these powers include in particular power —

- (a) to provide and operate pipe-lines, tanker-ships and refineries in connection with petroleum;
- (b) to carry out research in connection with petroleum or anything derived from it and to promote activities for the purpose of turning to account the results of such research.

(4) It is hereby declared that the preceding provisions of this section relate only to the capacity of the Corporation as a body corporate and that nothing in these provisions authorises the Corporation to disregard any enactment or rule of law.

(5) The Corporation shall not, except with the consent of the Minister and in accordance with any conditions specified in the instrument signifying his consent, exercise its powers —

- (a) to search for or get petroleum in any area outside Guyana and controlled waters;
- (b) to refine crude liquid petroleum or to treat, buy, sell or otherwise deal in anything derived from petroleum;
- (c) to promote or participate in the formation of, or acquire or relinquish membership of, or any interest in or security issued by, a body corporate;
- (d) to borrow or lend money, to charge any of its actual or future assets or to guarantee the performance by another person of any obligation,

and the Minister shall not give his consent for the exercise of any power mentioned in paragraph (c) or (d) except with the approval of the Minister responsible for finance.

(6) In this section "controlled waters" means the territorial sea of Guyana and that ~~the~~ area of the sea adjacent thereto in which rights are exercisable by Guyana with respect to the sea bed and subsoil and their natural resources.

5.(1) The Minister may give to the Corporation directions of a general or of a special character as to the policy to be followed by the Corporation in the exercise and performance of its functions and the Corporation shall give effect to the directions. Directions of Minister.

(2) The Corporation shall, at the request of the Minister, prepare studies and reports on any matter relating to the production, importation or distribution of petroleum or petroleum products and shall recommend to the Minister the making of such arrangements as it considers desirable for co-operation with governmental or other agencies outside Guyana in respect of such matters.

6.(1) The Corporation may employ at such remuneration and on such terms and conditions (including the payment of pension, gratuities or other like benefits by reference to the service of its officers and employees) as it thinks fit, a General Manager, a Secretary and such other officers and employees as it deems necessary for the purpose of carrying out the functions of the Corporation. Employment of staff. *Ok*

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 post without the prior approval of the Minister;
- (b) no appointment shall be made to any post 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; and
- (c) no provision shall be made for the payment of any pensions, gratuities or other like benefits to the secretary, officers, or servants or to others by reference to their service without the prior approval of the Minister.

(2) Subject to subsection (1) the General Manager shall be the chief executive officer of the Corporation and subject to any general or special directions of the Corporation shall be responsible for the administration of the business of the Corporation (including the recruitment, appointment and disciplining of staff) and answerable therefor to the Corporation.

See below

Payment of
super-
annuation
benefits by
the Corpora-
tion.
Cap. 19:05

General
financial
duties.

7. Sections 54 and 54A of the Public Corporations Act shall apply *mutatis mutandis* to the Corporation as if the references in those sections to a public corporation were references to the Corporation.

8.(1) The Corporation shall keep accounts of its transactions to the satisfaction of the Minister and such accounts shall be examined by the Auditor General and annual financial statements in a form approved by the Minister shall be presented to the Auditor General for audit within four months after the close of each financial year.

(2) The members, officers and employees of the Corporation shall grant at all reasonable times to the Auditor General or his duly authorised representative access to all books, records, vouchers, documents, returns, cash, securities, stores and other property of the Corporation and shall give to him on request all such information as may be within their knowledge in relation to the operation of the Corporation.

(3) The Auditor General 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 Corporation 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 Corporation or of any public corporation or other body corporate in which the controlling interest vests in the state 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.

(4) Any person summoned under subsection (3) who without reasonable excuse makes default in obeying the summons shall be liable on summary conviction to a fine of one thousand dollars or, in default of payment, to imprisonment for six months.

(5) The Auditor General in the exercise of his duties under this section shall on the request of the Minister, authorise any person publicly carrying on the profession of accountant to inspect, examine or audit the books and accounts of the Corporation and such person shall report thereon to the Auditor General in such manner as the Auditor General may direct and the Auditor General shall transmit the report promptly to the Minister.

(6) The Corporation may write off bad debts with the approval of the Minister.

9.(1) For the purpose of meeting current requirements, the Corporation is authorised to borrow in whole or in part, by means of advances sums not exceeding such amounts as the Minister in consultation with the Minister responsible for finance, may authorise.

Borrowing
and investment
powers. *invest*

(2) With the approval of the National Assembly, the Minister responsible for finance, after consultation with the Minister, may in writing in the name of the Government guarantee on such conditions as he may think fit, the payment of the principal and of interest on any authorised borrowings of the Corporation.

(3) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal monies or interest guaranteed under the provisions of this section, the amount shall be charged on the Consolidated Fund and he shall direct the repayment out of the Consolidated Fund of the amount in respect of which there has been such default.

(4) The Corporation shall make to the Accountant General, at such times and in such manner as the Minister may, after consultation with the Minister responsible for finance, direct, payments of such amounts as may be so directed in or towards repayment of any 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 sum so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

(5) The power to give guarantees conferred by subsection (1) is in addition to any like power conferred by any other law.

(6) Monies standing at the credit of the Corporation may, from time to time, be invested in securities approved either generally or specially by the Minister, and the Corporation may, from time to time, with like approval, sell all or any of such securities.

10.(1) The funds and resources of the Corporation consist of —

Funds
and re-
sources of
the Corpora-
tion.

- (a) such sums as may be provided by or under an appropriation law;
- (b) such sums as may be allocated from time to time to the Corporation from loan funds;

- (c) all sums from time to time received by or falling due to the Corporation in respect of the repayment of any loan made by the Corporation and the interest payable in respect of any such loan;
- (d) monies earned or arising from any property, investments, mortgages and debentures acquired by or vested in the Corporation;
- (e) any property, mortgages, debentures, or investments acquired by or vested in the Corporation;
- (f) sums borrowed by the Corporation 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 Corporation in respect of any matter incidental to its powers and duties.

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

(3) 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 loan.

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

Reports.

11. So soon as its accounts have been audited, the Corporation shall submit to the Minister a report on its operation throughout the financial year to which the accounts relate together with a statement of those accounts and he shall cause such report and statement to be laid in the National Assembly.

Exemption from licence fee.

12. No fees shall be payable by the Corporation in respect of the application for, or the issue of, licences to search for and get petroleum.

Regulations.

13. The Minister may make such regulations as in his opinion are necessary or expedient for carrying into effect the purposes of this Act.

Reports Corporation. to the 14.(1) Without prejudice to section 13 the Corporation may require of any person undertaking in Guyana to search for or
to the Corporation

the getting of petroleum the submission to the Corporation of reports relating to the works carried out by that person for the purpose and the results thereof.

(2) Any person who without lawful excuse fails to comply with any request made of him by the Corporation under subsection (1) shall be liable on summary conviction to a fine of not less than five hundred nor more than one thousand dollars.

15. The Minister may if he considers it to be in the public interest, by order which shall be subject to negative resolution, appoint a date with effect from which the Corporation shall become subject to the supervision and control of the Guyana State Corporation and with effect from that date and during the continuance in force of such order references in sections 6, 8, 9 and 11 to the Minister shall be construed and have effect as references to the Guyana State Corporation.

Order in
part of
the super-
vision and
control of
the Corpora-
tion.

CCHEDULE

1. The Board of the Corporation shall in addition to the General Manager consist of not more than eight other persons appointed by the Minister (hereinafter referred to as appointed members) from amongst persons appearing to him to be qualified as having had experience of, or having shown capacity, in matters relating to petroleum, commerce, finance administration or organisation of workers or possessing such specialised knowledge or ability as would contribute to the efficiency of the corporation. LU

2. Of the appointed members one shall be designated Chairman.

3. An appointed member shall, subject to paragraphs 4, 5 and 6 hold office for such period not exceeding three years as the Minister may direct in the instrument of appointment but such member shall be eligible for re-appointment.

4. An appointed member (other than the Chairman) of the Corporation may at any time resign his office in writing addressed to the Chairman.

5. The Chairman may at any time resign his office by instrument in writing addressed to the Minister.

6. The Minister may at any time revoke the appointment of any appointed member.

7. There shall be paid to the appointed members such remuneration, if any (whether by way of salaries or allowances) as the Minister may determine.

8. The Board may co-opt any one or more persons to attend any particular meeting of the Corporation for the purpose of assisting or advising the Corporation in any matter with which the Corporation is dealing, but no co-opted person shall have the right to vote.

9. subject to sub-paragraph (2) shall all be the duty of a member of the Board who is in any way interested in any contract or arrangement to be entered into or proposed for consideration by the Board to declare the nature of his interest at the meeting at which such contract or arrangement is under consideration and in respect thereof such member shall not have a right to vote nor shall his presence be counted in ascertaining the constitution of a quorum at that time of the meeting.

10.(1) Subject to subparagraph (2) no action, suit, prosecution or other proceedings shall be brought or instituted personally against a member of the Board in respect of any act done *bona fide* in pursuance of the execution or intended execution of his duties as a member.

(2) Where a member of the Board is exempt from liability by reason only of subparagraph (1) the Corporation is liable to the extent that it would be if the member was a servant or agent of the Corporation, so, however, that if in any case the Corporation is not liable for any of the abovementioned acts, then subparagraph (1) does not operate to exempt such member as therein stated.

11. The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the Gazette.

EXPLANATORY MEMORANDUM

The ever increasing importance of petroleum in the life of the nation demands particular attention to be given to the production and the regulation of the availability of that commodity. In that behalf this Bill seeks to establish a petroleum corporation with the principal functions of pursuing the production of petroleum and regulating the availability of petroleum products in Guyana.

To enable it to carry out these functions the corporation is empowered to make recommendations to the relevant authority as to the maintenance of supplies of petroleum products in Guyana and to exercise supervision and control over other State agencies which are principally concerned with petroleum and its products.

H. O. Jack,
Minister of Energy and Natural Resources.

(Bill No. 25/1978

(SENR: 8/47)