

Bill No. 18 of 1961

PUBLISHED 29TH MAY, 1961.

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MISCELLANEOUS ENACTMENTS (AMENDMENT) BILL, 1961.

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Amendment of enactments.
3. Commonwealth War Graves Commission.

A BILL

Intituled

AN ORDINANCE TO AMEND CERTAIN ENACTMENTS.

Enacted by the Legislature of British Guiana:—

1. This Ordinance may be cited as the Miscellaneous Enactments (Amendment) Ordinance, 1961, and so far as it amends any Ordinance shall be construed as one with that Ordinance and any Ordinance amending such Ordinance. Short title.

2. The enactments specified in the first column of the schedule to this Ordinance shall be amended to the extent set out in the second the column thereof. Amendment of enactments. Schedule.

3. (1) Notwithstanding the change of name effected in section 2 of the War Graves Ordinance by virtue of the preceding section, the alteration in the name of the Commission shall not prejudice or affect any rights or obligations of the Commission or anything which remains to be done or forborne to be done under or by virtue of its previous name, and the Commission may exercise by its new name all existing rights, powers and privileges. Commonwealth War Graves Commission Cap. 356.

(2) Any reference to the Commission by its previous name in any enactment, instrument or document of any kind shall be construed as a reference to the Commission by its new name.

SCHEDULE

Section 2.

1. Enactment	Amendment
Law Reform (Miscellaneous Provisions) Ordinance, Chapter 4. Section 13	In subsection (1) the words "satisfaction of the" shall be deleted.
2. Interpretation Ordinance, Chapter 5. Section 37 (as amended by Ordinance No. 16 of 1960).	In subsection (5) after the words "in force" there shall be inserted the words "or which may hereafter be enacted".
3. Criminal Law (Offences) Ordinance, Chapter 10. Section 21	For section 21 the following section shall be substituted — "21. Where any person is convicted of an indictable offence, not being an indictable offence punish-

able with death, the Court may, in its discretion, according to the circumstances of the case, substitute for a punishment prescribed by this Ordinance, or by any statute for the time being in force, for the offence a different punishment as follows —

- (a) a fine;
- (b) if it thinks proper, according to the circumstances of the case, order that, in addition to, or in the case of any misdemeanour in lieu of, any other punishment, the person convicted shall enter into his own recognisance, with or without sureties, for keeping the peace and being of good behaviour and that in default of entering into the recognisance, he be imprisoned, in addition to the term (if any) of imprisonment to which he may be sentenced, for any term not exceeding six months."

4. Summary Jurisdiction
(Procedure) Ordinance,
Chapter 15

After section 52 the following section shall be inserted —

"Payment of amount due on warrant of commitment.

52A. If any person against whom an order is made for the payment of a sum of money and in respect of whom a warrant of commitment is issued under section 52 of this Ordinance, pays or tenders to the police or other constable charged with the execution of the warrant the sum of money adjudged to be paid by the order, together with all other costs, charges and expenses, or produces to the police or other constable a receipt of the clerk for them, the police or other constable shall cease to execute the warrant, and the amounts aforesaid shall be paid to the clerk."

5. (a) Evidence Ordinance,
Chapter 25. Section 43

For subsection (4) the following subsection shall be substituted —

"(4) In this section the expression "Government Analyst" shall be construed to include an assistant analyst, a radiologist, and in cases not involving homicide the Government Bacteriologist and Pathologist."

(b) Evidence Ordinance,
Chapter 25. Section 71

For the proviso the following
proviso shall be substituted —

“Provided that —

- (i) the judge shall determine whether the witness is of competent understanding to give that evidence;
- (ii) where the evidence of a child admitted by virtue of this section is given by the prosecution, the accused shall not be liable to be convicted of the offence unless the evidence is corroborated by some other material evidence in support thereof implicating him.”

(c) Evidence Ordinance,
Chapter 25. Section 90

In the proviso to subsection (1) the words “outside British Guiana” shall be substituted for the words “beyond the seas”.

(d) Evidence Ordinance,
Chapter 25. Section 95

For subsection (4) the following
subsection shall be substituted —

“(4) It shall be sufficient evidence of absence from British Guiana, within the meaning of this section, to prove that the deponent was on board of a vessel or aircraft on its outward journey from British Guiana bound for some port or place beyond British Guiana, and that on inquiry being made for the deponent before trial at his last or most usual place of abode or business he could not be found.”

6. Old Age Pensions Ordinance, Chapter 63.
Section 10

For subsection (2) the following
subsection shall be substituted—

“(2) The Governor in Council may direct that the time prescribed in the preceding subsection in respect of persons resident in any specified area, or in respect of any specified class of persons or, for good reason shown, in respect of any specified person, shall be extended.”

7. Labour Ordinance, Chapter 103.
Section 39A (as amended by Ordinance No. 8 of 1960).

In subsection (1), after the word “Crown”, there shall be inserted the words “secrecy concerning”.

8. Holidays with Pay Ordinance, Chapter 108.
Section 7

In paragraph (d) for the figure “9” there shall be substituted the figure “10”.

9. Mental Hospital Ordinance, Chapter 140.
Section 10

For subsection (1) the following
subsection shall be substituted —

“(1) The magistrate of the judicial district in which any person alleged to be of unsound

mind is or is residing, upon the information given in Form No. 1 in the schedule to the magistrate aforesaid on the oath of any informant that such informant has good cause to believe and does believe that such person is of unsound mind and a proper subject for confinement, may in any convenient place examine such person and in the same or in some other place may hold an inquiry as to the state of mind of such person."

10. Local Government Ordinance, Chapter 150.

The following section shall be inserted after section 139 —

"Recovery of interest.

139A. The provisions of sections 120 to 139 (both inclusive) of this Part shall apply to the recovery of any interest that becomes payable under subsection (4) of section 117 of this Ordinance as they apply to the recovery of rates."

11. Drainage and Irrigation Ordinance, Chapter 192.
Section 68 ..

In subsection (1) for the words "authorised or required by" there shall be substituted the words "required or considered by the Board to be necessary for the purpose of".

12. Rice Marketing Ordinance, Chapter 249. ..

After section 23A the following section shall be inserted —

"Receipts or acknowledgments to be given on payment of milling fees.

23B. (1) E v e r y manufacturer shall give to every rice farmer who pays any sum of money for or on account of milling fees, a receipt or acknowledgement for such fees or portion of fees so paid.

(2) E v e r y manufacturer who contravenes the provisions of subsection (1) of this section shall be guilty of an offence against this Ordinance."

13. River Navigation Ordinance, Chapter 270.
Section 13 ..

At the end the following proviso shall be inserted —

"Provided that any regulation made under section 7 of this Ordinance for the carrying of lights shall apply to boats belonging to Amerindians when such boats are being used by them upon those portions of the rivers of the Colony below the first falls."

14. Motor Vehicles Insurance (Third Party Risks) Ordinance, Chapter 281.
Section 3 After subsection (4), there shall be inserted the following subsection —
- “(5) A person who by virtue of an order of a court under this section is disqualified from holding or obtaining a driver’s certificate may appeal against the order in the same manner as against a conviction, and the court may, if it thinks fit, notwithstanding the provisions of the Summary Jurisdiction (Appeals) Ordinance, declare that the disqualification shall operate until the appeal is finally determined.”
15. Customs Ordinance, Chapter 309.
Section 2 In the definition of “Officer” the word “and” after the words “Customs and Excise” shall be deleted and after the words “Police Force,” there shall be inserted the words “and any other person authorised in writing by the Comptroller to be an officer.”
16. (a) Patents and Designs Ordinance, Chapter 342.
Section 2 The following definition shall be substituted for the definition of the expression “examiner” —
“examiner” means any skilled person appointed by the Registrar for the purposes of this Ordinance to whom the Registrar refers questions concerning patents;’
- (b) Patents and Designs Ordinance, Chapter 342.
Section 80 The following subsection shall be substituted for subsection (1)—
“(1) The Registrar may appoint any person as an examiner.”
17. War Graves Ordinance, Chapter 356.
Section 2 For the definition of the expression “the Commission” there shall be substituted the following definition —
“the Commission” means the Commonwealth War Graves Commission;’
18. Nonpareil Park (Lease to the Indian Education Trust of British Guiana) Ordinance
No. 3 of 1960 In the schedule the figures “5915” shall be substituted for the figures “5951”,

OBJECTS AND REASONS

The object of the Bill is to effect minor amendments to a number of enactments. These amendments do not involve any matters of policy and being of a formal nature do not justify special legislation to deal with them individually.

The following note explains the reason for each of the amendments in the Schedule —

1. **Law Reform (Miscellaneous Provisions) Ordinance, Chapter 4.**

While no interest is payable as of right on an accruing debt, section 13(1) provides that a court may, in giving judgment, award interest at a rate not exceeding 6% p.a. between the date when the cause of action arose and the date of the satisfaction of the judgment. Section 13(2) provides that every judgment debt shall carry interest at the rate of 4%. The result is that a judgment debt may be caught by both subsections in so far as interest from judgment to satisfaction is concerned. The proposed amendment seeks to avoid the ambiguity by providing that subsection (1) shall be concerned with interest from the date of the cause of action until judgment, and subsection (2) with interest from judgment until the satisfaction of the judgment.

2. **Interpretation Ordinance, Chapter 5.**

This amendment seeks to correct a drafting error to provide that where a power to make an appointment is conferred, the power to remove, suspend, re-appoint or re-instate shall not be confined to powers of appointment in enactments now in existence but shall extend to such powers in all future enactments.

3. **Criminal Law (Offences) Ordinance, Chapter 10.**

The amendment seeks to re-enact section 21 to enable a fine to be imposed in the case of any conviction on indictment.

4. **Summary Jurisdiction (Procedure) Ordinance, Chapter 15.**

The amendment seeks to make it clear that the police or other constable charged with the execution of a commitment warrant for the non-payment of any sum of money adjudged to be paid by the order of a magistrate's court, has power to receive the money and in doing so shall cease to execute the warrant.

5. **Evidence Ordinance, Chapter 25.**

(a) Under section 43 any document purporting to be a report signed by the Government Analyst is receivable as "prima facie" evidence of the results of any examination or analysis carried out by him, at a preliminary enquiry or at any proceeding in a magistrate's court. The amendment seeks to extend section 43 to include the radiologist and the Government Bacteriologist and Pathologist but in the latter case only in respect of matters not involving homicide.

(b) It is considered desirable that there should be express provision dealing with the necessity for there to be corroboration of the evidence given by a child on behalf of the prosecution in a criminal cause or matter. This principle is observed as a rule of practice but it is considered desirable that express provision should be made in section 71.

(c) The amendment to the proviso in subsection (1) of section 90 seeks to provide more appropriate words in the Ordinance. It is considered that the expression "beyond the seas" may not be applicable in all cases on account of the geographical position of British Guiana, for instance, in respect of countries adjacent to British Guiana in South America.

(d) The provisions of subsection (4) of section 95 are only expressly applicable to leaving British Guiana by sea. The amendment

seeks to bring the provision up-to-date and to simplify the method of proving absence from British Guiana in cases of departure by sea.

6. Old Age Pensions Ordinance, Chapter 63.

Whereas payment of a pension has not been claimed within 3 months of the due date it is necessary for the Governor in Council to extend, by order, the time within which payment can be obtained. The amendment seeks to empower the Governor in Council to extend the time by a direction so that this function may be delegated to an appropriate officer.

7. Labour Ordinance, Chapter 103.

The amendment seeks to correct a drafting error by adding the words "secrecy concerning" to complete a provision that officers of the Labour Department on leaving the service of the Crown shall not disclose any secrets that have come to their knowledge in the course of their duties.

8. Holidays with Pay Ordinance, Chapter 108.

The power to make regulations under this Ordinance is now contained in section 10 as a result of a renumbering of the section. This amendment seeks to effect a consequential amendment to section 7(d).

9. Mental Hospital Ordinance, Chapter 140.

Doubts have been expressed whether under subsection (1) of section 10, only the magistrate of the judicial district in which a person alleged to be of unsound mind is living has jurisdiction to hold an inquiry into the state of mind of that person. The amendment seeks to confer this power also on the magistrate of the judicial district where the person alleged to be of unsound mind happens to be so as to provide for those cases where it is not possible for an inquiry to be held by the magistrate of the judicial district in which that person is living.

10. Local Government Ordinance, Chapter 150.

Interest may be charged on rates that are payable under section 117(4)(b) of this Ordinance, but there is no provision for its recovery. The amendment seeks to provide that the provisions with respect to recovery of rates shall also apply to interest.

11. Drainage and Irrigation Ordinance, Chapter 192.

Where a survey of land is specifically authorised, as for instance in section 11(3), officers of the Board are empowered under section 68 to enter for the purpose of carrying it out. Where plans and specifications are required to be prepared under section 23 of the Ordinance it is equally necessary to survey lands to obtain data for the preparation of such plans but no power exists to do so. The amendment seeks to make it clear that officers have power to enter lands whenever it is considered by the Board to be necessary to do so for the purpose of any survey connected with the administration of the Ordinance.

12. Rice Marketing Ordinance, Chapter 249.

Instances have occurred where rice farmers have had to pay rice manufacturers twice for the milling of padi because, on account of rice manufacturers not giving receipts for milling fees, rice farmers were unable to prove that they had already paid their milling fees. This amendment seeks to require a manufacturer of rice to give receipts for fees paid to him for the milling of padi.

13. **River Navigation Ordinance, Chapter 270.**

Section 13 exempts from the provisions of the Ordinance boats belonging to and used by Amerindians solely for their own purposes. Regulation 51 of the River Navigation Regulations made under this Ordinance provides for the carrying of lights by vessels and boats but owing to the amount of traffic on the lower reaches of rivers, it is considered unsafe that the Amerindian exemption should extend to the carrying of lights by boats on such lower reaches. This amendment seeks to modify the exemption accordingly.

14. **Motor Vehicles Insurance (Third Party Risks) Ordinance, Chapter 281.**

A judicial decision has held that a disqualification from holding or obtaining a driving licence is suspended by notice of appeal. It is considered desirable that a magistrate may, pending the appeal, declare a disqualification operative notwithstanding that an appeal has been filed. This amendment seeks to provide accordingly.

15. **Customs Ordinance, Chapter 309.**

In remote parts of the country it is sometimes expedient for certain persons who are neither members of the Customs Department nor of the Police Force to perform the functions of customs officers. The amendment seeks to redefine "officer" to include persons specifically authorised to be customs officers by the Comptroller of Customs.

16. **Patents and Designs Ordinance, Chapter 342.**

It is more practicable to make an *ad hoc* appointment for each application for a patent rather than having a panel of examiners whose knowledge in a particular field might never be required. The amendment seeks to provide accordingly and also to vest the power of appointment in the Registrar instead of the Governor.

17. **War Graves Ordinance, Chapter 356.**

The title of the Imperial War Graves Commission has been altered to the Commonwealth War Graves Commission. The amendment seeks to provide accordingly.

18. **Nonpariel Park (Lease to the Indian Education Trust of British Guiana) Ordinance No. 3 of 1960.**

This amendment seeks to correct an error in the schedule to the Ordinance.

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(Leg. Bill No. 18/1961).