

Bill No. 24 of 1962 (L.A)

13 OCT 1962

PUBLISHED 29TH SEPTEMBER, 1962.

No. 322

Legislature,
Public Buildings,
Georgetown,
12th October, 1962.

The Public Corporations Bill, 1962, originally published on the 29th of September, 1962, was passed by the Legislative Assembly on the 12th of October, 1962, with the undermentioned amendments.

The Bill which will be considered by the Senate is published for general information with the amendments incorporated.

I. CRUM EWING,
Clerk of the Legislature.

AMENDMENTS

- Clause 13* — (i) *Substituted* — The words "Subject to the provisions of subsection (2) of this section, no" for the word "No" in the first line of subsection (1).
- (ii) *Inserted* — The words "subsection (1) of" between the words "of" and "this" in the second line of subsection (2).
- (iii) *Inserted* — The words "so, however, that if in any case a corporation is not liable for any of the abovementioned acts, then the provisions of subsection (1) of this section shall not operate to exempt any such member as therein stated" after the word "corporation" in the last line of subsection (2).
- Clause 34* — *Inserted* — The following subsections —
- "(4) Any order made under this section shall be laid before the Legislative Assembly within fourteen days after it is made, and if the Legislative Assembly, within the period of thirty days beginning with the day on which any such order is laid before it, resolves that the order be annulled, it shall be thereby annulled, and the order so annulled shall thenceforth become void and of no effect but without prejudice to the validity of anything previously done under the order or to the making of a new order.
- (5) In reckoning for the purposes of the last foregoing subsection any period of days, no account shall be taken of any time during which the Legislature is dissolved or prorogued or during which the Legislative Assembly is adjourned for more than seven days."
- Clause 35* — *Inserted* — (i) The words "of the Crown or of the Colony" after the word "property" in the last line of subsection (1).
- (ii) The words "pursuant to the preceding subsection" after the word "corporation" in the first line of subsection (2).
- Clause 48* — *Deleted*.
- Clauses 49 to 54* — *Re-numbered* as Clauses 48 to 53.

Bill No. 24 of 1962. (L.A.)
PUBLIC CORPORATIONS BILL, 1962.

Arrangement of Sections

Section

1. Short title.
 2. Interpretation.
- Establishment of Public Corporations.**
3. Establishment and constitution of public corporations.
 4. Functions of corporations.
 5. Incorporation.
 6. General powers of corporation to transact business.
 7. Procedure and meetings.
 8. Power to appoint committees.
 9. Power to delegate.
 10. Appointment and remuneration of officers and servants.
 11. Power of corporation to make rules.
 12. Protection of corporation.
 13. Protection of members of corporation.
 14. Remuneration of members.
 15. Disclosure by member of a corporation of interest in transaction with corporation, and disqualification from voting, etc.
 16. Powers of Council of Ministers.
 17. Disposal of capital assets.
- Financial.**
18. Funds and resources of the corporation.
 19. Borrowing powers.
 20. Guarantee by Council of Ministers of borrowings by corporation and repayment of sums issued to meet guarantees.
 21. Investments.
 22. Power of corporation to make loans.
 23. Other powers of expenditure.
 24. Interest on loans made by a corporation.
 25. Repayment of loans made by a corporation.
 26. Suspension of payment of principal and interest and power to extend time, or compound or release loan.
 27. Payment of loan before due date.
 28. Examination as to application of moneys lent.
 29. Order of corporation upon such examination.
 30. Misapplication of loan secured by mortgage or otherwise.
 31. Enforcement of securities.
 32. Accounts and audit.
 33. Report.
- Application of Ordinance.**
34. Creation of new corporations.
 35. Vesting of property.
 36. Re-constitution of existing corporations.
- Miscellaneous.**
37. Charge on property and priority of loan.
 38. Limitation provisions excluded.
 39. Recovery of claims.
 40. Charges on movable and immovable property.
 41. Services of professional men.
 42. Public officers and officers and servants of other corporations established under this Ordinance.
 43. Exemption from stamp duty and fees.
 44. Income Tax provisions.
 45. Merger.

- 46. Emergency powers.
- 47. Offences in case of loans.
- 48. Burden of proof in case of misapplication of loans.
- 49. Minutes receivable in evidence.
- 50. Punishment for offences.
- 51. Dissolution.
- 52. Regulations.
- 53. Orders.

A BILL

Intituled

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF PUBLIC CORPORATIONS AND FOR PURPOSES CONNECTED THEREWITH.

Enacted by the Legislature of British Guiana:—

A.D. 1962.

1. This Ordinance may be cited as the Public Corporations Ordinance, 1962.

Short title.

2. In this Ordinance—

Interpretation.

“appropriation law” includes a law providing for recurrent and/or for developmental expenditure;

“chairman” means chairman of a corporation;

“corporation” means a public corporation established under this Ordinance;

“deputy chairman” means deputy chairman of a corporation;

“director” means any person occupying the position of director by whatever name called;

“financial year” means a period of twelve months ending with such day as the Minister for the time being charged with responsibility for finance may decide but so that the first financial year may be shortened or extended as the case may be for a period not exceeding six months;

“member” means a member of the corporation and includes chairman and deputy chairman;

“official member” means a person who is the holder of an office of emolument in the service of the Crown in a civil capacity in respect of the Government of British Guiana and is appointed a member of the corporation under the provisions of subsection (3) of section 3 of this Ordinance.

Provided that no member of a corporation shall be deemed by reason of that fact only to hold an office of emolument under the Crown;

“pension” in relation to any person means a pension whether contributory or not, of any kind whatsoever payable to or in respect of him and includes a return of contributions to a pension fund, with or without interest thereon, or any other addition thereto;

“pension fund” means a fund established for the purpose of paying pensions;

“prescribed” means prescribed by regulations made under this Ordinance;

“Registrar” means the Registrar of the Supreme Court;

“statute of limitation” includes the Limitation Ordinance and the Title to Land (Prescription and Limitation) Ordinance as amended from time to time;

Cap. 26.

Cap. 184.

“subsidiary” in relation to a corporation, means any undertaking more than one half of the issued share capital whereof is held directly or through a nominee of the corporation, and any undertaking in relation to which the corporation have a power directly or indirectly to appoint the majority of the directors.

Establishment of Public Corporations.

3. (1) There may be established by the Council of Ministers public corporations having such powers as may be provided by or under the provisions of this Ordinance.

Establishment and constitution of public corporations.

(2) A corporation shall consist of one official member and of such number of other members as the Council of Ministers may from time to time determine.

(3) The official member and other members of a corporation shall be appointed by a Minister by instrument in writing from amongst 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 and social welfare or administration.

(4) A chairman and deputy chairman shall be appointed by a Minister from among the members of the corporation.

(5) A member of a corporation may be appointed for any period not exceeding three years but shall be liable to be removed from office at the pleasure of the Council of Ministers.

(6) Any member of a corporation other than the official member may at any time resign his office by instrument in writing addressed to the chairman thereof, and upon the date of the receipt by the chairman of such instrument such member shall cease to be a member of the corporation.

(7) The appointment, removal, death or resignation of any member of a corporation shall be notified in the Gazette.

Functions of corporations.

4. (1) It shall be the duty of a corporation to stimulate, facilitate and undertake the purposes for which they are established.

(2) A corporation shall have power for the purpose of the discharge of their duty under subsection (1) of this section—

(a) to carry on all activities the carrying on whereof appears to them to be requisite, advantageous or convenient for or in connection with the discharge and exercise of their duties, functions and powers including the acquisition of interests in other undertakings of a like nature;

(b) to promote the carrying on of any such activities by other bodies or persons, and for that purpose to establish or expand, or promote the establishment or expansion of, other bodies to carry on any such activities either under the control or partial control of the corporation or independently, and to give assistance to such bodies or to other bodies or persons appearing to the corporation to have facilities for the carrying on of any such activities, including financial assistance by the taking up of share or loan capital or by loan or otherwise;

(c) to carry on such activities in association with other persons, bodies or authorities or as managing agents or otherwise on their behalf.

Incorporation.

5. (1) A corporation shall be a body corporate having perpetual succession and a common seal, with power to hold both movable and immovable property.

(2) The seal of the corporation shall be kept in the custody of the chairman or the deputy chairman or of the secretary of the corporation and may be affixed to instruments pursuant to a resolution of the corporation and in the presence of the chairman, or deputy chairman and the secretary.

(3) The seal of the corporation shall be authenticated by the signature of the chairman, or deputy chairman, and the secretary of the corporation, and such seal shall be officially and judicially noticed.

(4) All documents, other than those required by law to be under seal, made by, and all decisions of, the corporation may be signified under the hand of the chairman, or deputy chairman, or the secretary of the corporation.

(5) The corporation may sue and be sued in their corporate name and may for all purposes be described by such name, and service upon the corporation of any notice, order, or other document shall be executed by delivering the same or by sending it by registered post addressed to the secretary of the corporation at the office of the corporation.

General powers of corporation to transact business.

6. A corporation shall have power to do anything and to enter into any transaction (whether or not involving expenditure, borrowing, granting of loans or investment of money, the acquisition of any property or rights, or the disposal of any property or rights) which in their opinion is calculated to facilitate the proper discharge of their functions or is incidental or conducive thereto.

7. (1) A corporation shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such place and time and on such days as the corporation may determine. Procedure and meetings.

(2) The chairman may at any time call a special meeting of the corporation and shall call a special meeting within seven days of a requisition for that purpose addressed to him by any three members of the corporation.

(3) The chairman, or in his absence the deputy chairman, shall preside at all meetings of the corporation.

(4) In the absence of a chairman and deputy chairman at a meeting of the corporation the members present at the meeting shall elect one of their number to act as chairman at such meeting.

(5) Three members of the corporation shall form a quorum.

(6) The decisions of the corporation shall be by a majority of votes and, in addition to an original vote, in any case in which the voting is equal the chairman or deputy chairman or other member presiding at the meeting shall have a casting vote.

(7) Minutes in proper form of each meeting shall be kept by the secretary and shall be confirmed by the chairman or the deputy chairman or other member elected to preside at the meeting (as the case may be) as soon as practicable thereafter at a subsequent meeting.

(8) The corporation may co-opt any one or more persons to attend any particular meeting of the corporation at which they are dealing with a particular matter, for the purpose of assisting or advising the corporation, but no such co-opted person shall have any right to vote.

(9) Subject to the provisions of this section, the corporation shall have power to regulate their own proceedings.

8. (1) A corporation may appoint a committee of the corporation to examine and report to them on any matter whatsoever arising out of or connected with any of their powers and duties. Power to appoint committees.

(2) Any such committee shall consist of at least two members of the corporation together with such other persons, whether members of the corporation or not, whose assistance or advice the corporation may desire.

(3) Where persons, not being members of the corporation, are members of a committee appointed under this section, or where any person is co-opted under the provisions of subsection (8) of section 7 of this Ordinance, the corporation may by resolution declare the remuneration and allowances of such persons, and such sums shall properly be payable out of the funds and resources of the corporation.

(4) The corporation may by resolution reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations as the corporation may think fit.

9. Subject to the provisions of this Ordinance, a corporation may delegate to any member or committee of the corporation the power and authority to carry out on their behalf such duties as the corporation may determine. Power to delegate.

10. The corporation shall appoint and employ at such remuneration and on such terms and conditions as they think fit a secretary and such officers and servants as they deem necessary for the proper carrying out of the duties of the corporation: Appointment and remuneration of officers and servants.

Provided that—

- (a) no salary in excess of the rate of six thousand dollars per annum shall be assigned to any post without the prior approval of a Minister;
- (b) no appointment shall be made to any post to which a salary in excess of the rate of seven thousand two hundred dollars per annum is assigned without the prior approval of a Minister; and
- (c) no provision shall be made for the payment of any pensions, gratuities or other like benefits to any secretary, officers, or servants or to others by reference to their service without the prior approval of a Minister.

Power of corporation to make rules.

11. A corporation, with the approval of a Minister, may, subject to the express provisions of this Ordinance, make rules—

- (a) governing the proceedings of the corporation and the manner and transaction of their business;
- (b) prescribing the manner in which documents, cheques, and instruments of any description shall be signed or executed on behalf of the corporation;
- (c) prescribing the circumstances in which members of the corporation may receive travelling and subsistence allowances and fixing the rates of such allowances;
- (d) imposing fees in such cases as may be determined by the corporation;
- (e) generally for the exercise of their powers and duties.

Protection of corporation.

12. No act done or proceeding taken under this Ordinance shall be questioned on the ground—

- (a) of the existence of any vacancy in the membership of, or any defect in the constitution of, the corporation; or
- (b) of the contravention by a member of the corporation of the provisions of section 15 of this Ordinance; or
- (c) of any omission, defect or irregularity not affecting the merits of the case.

Protection of members of corporation.

13. (1) Subject to the provisions of subsection (2) of this section, no action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of a corporation in respect of any act done *bona fide* in pursuance or execution or intended execution of his duties.

(2) Where any member of a corporation is exempt from liability by reason only of the provisions of subsection (1) of this section the corporation shall be liable to the extent that they would be if the said member was a servant or agent of the corporation, so, however, that if in any case a corporation is not liable for any of the above-mentioned acts, then the provisions of subsection (1) of this section shall not operate to exempt any such member as therein stated.

Remuneration of members.

14. A corporation shall pay to each member of the corporation, in respect of his office as such, such, if any, remuneration and allowances as a Minister may determine, and to the chairman and to the deputy chairman, in respect of his office as such, such, if any, remuneration and allowances (in addition to any remuneration or allowances to which he may be entitled in respect of his office as a member) as may be so determined.

Disclosure by member of corporation of interest in transaction with corporation, and disqualification from voting, etc.

15. (1) Subject to the provisions of this section, it shall be the duty of a member of a corporation who is in any way, whether directly or indirectly, interested in an application to the corporation for a loan or in a company or firm in receipt of such a loan, or in a contract or proposed contract or in any arrangement or proposed arrangement with the corporation, to declare the nature of his interest at a meeting of the corporation.

(2) In the case of such application or proposed contract or arrangement the declaration required by this section to be made by a member of a corporation shall be made at the meeting of the corporation at which the question of granting or refusing the application or entering into the contract or arrangement is first taken into consideration, or if such member was not at the date of that meeting interested in the application or proposed contract or arrangement at the next meeting of the corporation held after he became so interested and in a case where such member acquires an interest in any company or firm in receipt of a loan from the corporation or becomes interested in a contract or arrangement with the corporation after it is made, the said declaration shall be made at the first meeting of the corporation held after such member acquires such interest or becomes so interested.

(3) For the purpose of this section, a general notice given to the other members of a corporation by a member to the effect that he is also a member of a specified company or firm and is to be regarded as interested in any application for a loan from the corporation or in any contract or arrangement which may, after the date of the notice, be made by or with the company or firm, shall be deemed to be a sufficient declaration of interest in relation to any application or contract or arrangement so made:

Provided that no such notice shall be of effect unless either it is given at a meeting of the corporation or the member of the corporation concerned takes reasonable steps to secure that it is brought up and read at the next meeting of the corporation after it is given.

(4) A member of a corporation shall not vote in respect of any application to the corporation for a loan in which he is interested, either directly or indirectly, or in respect of any contract or arrangement in which he is interested, either directly or indirectly, and if he shall do so his vote shall not be counted, nor shall he be counted in the quorum present at the meeting.

(5) Any member of a corporation who fails to comply with the provisions of subsections (1), (2) and (3) of this section or contravenes the provisions of subsection (4) of this section shall be guilty of an offence against this Ordinance.

16. (1) The Council of Ministers may give to a corporation directions of a general character as to the policy to be followed in the exercise and performance of their functions and the corporation shall give effect to any such directions.

Powers of Council of Ministers.

(2) In carrying out such measures of reorganisation or such works of development as involve substantial outlay on capital account, and in dealing with subsidiaries, a corporation shall act in accordance with a general programme settled from time to time in consultation with the Minister charged with responsibility for development and planning.

(3) In the exercise and performance of their functions as to training, education and research, a corporation shall act in accordance with a general programme settled as aforesaid.

(4) A corporation shall afford to the Council of Ministers or to a Minister named by the Council of Ministers facilities for obtaining information with respect to the business of the corporation and shall furnish annual estimates, and such returns and other information as the Council of Ministers or the named Minister may require.

(5) A corporation shall provide such facilities to the Council of Ministers or to a Minister named by the Council of Ministers as will enable the verification of information furnished in pursuance of the provisions of this section.

17. (1) The power of the Council of Ministers to give directions to a corporation shall extend to the giving to them of specific directions—

Disposal of capital assets.

- (a) as to the disposal of capital assets; or
- (b) as to the application of proceeds of such disposals.

(2) Any direction given under the preceding subsection may require the whole or any part of the revenues of a corporation to be paid into the general revenue.

Financial.

18. (1) The funds and resources of a corporation shall consist of—

Funds and resources of the corporation.

- (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 their obligations or discharging any of their 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 their powers and duties.

(2) The charges on any amount which may be allocated to a corporation from loan funds shall be met by the corporation:

Provided that all or any part of such charges may be met from the general revenue subject to the approval of the Legislature.

(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 charged upon the general revenue of British Guiana and shall be met from such sums as may be voted by the Legislature.

Borrowing powers.

19. (1) Subject to the provisions of subsection (2) of this section, a corporation may borrow sums required by them for meeting any of their obligations or discharging any of their functions.

(2) The power of a corporation to borrow shall be exercisable only with the approval of a Minister, as to the amount, as to the sources of the borrowing and as to the terms on which the borrowing may be effected. An approval given in any respect for the purposes of this subsection may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

Guarantee by the Council of Ministers of borrowings by corporation and repayment of sums issued to meet guarantees.

20. (1) With the approval of the Legislative Assembly, the Council of Ministers may guarantee, in such manner and on such conditions as they may think fit, the payment of the principal and of interest on any authorised borrowings of a corporation.

(2) Where the Council of Ministers are satisfied that there has been default in the repayment of any principal monies or interest guaranteed under the provisions of this section, they shall direct the repayment out of the general assets and revenue of the amount in respect of which there has been such default.

(3) The corporation shall make to the Accountant-General, at such times and in such manner as the Council of Ministers may direct, payments of such amounts as may be so directed in or towards repayment of any sums 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 sums so issued at such rate as the Council of Ministers may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

Investments.

21. Monies standing to the credit of a corporation may from time to time be invested in securities approved either generally or specifically by the Council of Ministers, and the corporation may, from time to time, with the like approval sell any or all of such securities.

Power of corporation to make loans.

22. Subject to such conditions as they may deem fit to impose in particular cases a corporation may, out of their funds and resources, make loans in accordance with the provisions of this Ordinance in that behalf, in the execution of their duty or in the discharge of their functions.

Other powers of expenditure.

23. In addition to the provisions of section 22 of this Ordinance a corporation may from their funds and resources—

- (a) pay any expenses lawfully incurred by them including survey, legal and other fees and costs;
- (b) pay any other expense, cost, or expenditure properly incurred or accepted by them in pursuance of their purposes;
- (c) purchase plant, equipment, stores and any other materials and acquire land and erect buildings and carry out any other works and undertakings in the execution of their duty or in the discharge of their functions, in contemplation of loans to be made for those purposes under the provisions of section 22 of this Ordinance, so, however, that any sums expended by a corporation under this paragraph shall be set off against the loans in contemplation of which they were expended upon the actual making of such loans.

Interest on loans made by the corporation.

24. In making loans under the provisions of this Ordinance a corporation may charge such rate of interest as they may deem fit in any particular case.

Repayment of loans made by the corporation.

25. Subject to the provisions of sections 26 and 27 and of subsection (3) of section 32 of this Ordinance every loan shall be repaid to a corporation in accordance with the terms and conditions under which such loan was made and the monies so paid shall thereupon be taken into the accounts of the corporation.

26. The corporation, with the approval of a Minister, may—
- (a) postpone, for any time not exceeding five years, the payment of any sum due for principal and interest or for either principal or interest to them in respect of a loan made by them upon such terms and conditions for the carrying out of the purposes for which such loan was made and for the ultimate repayment of such principal or payment of such interest as they may deem necessary;
 - (b) from time to time extend the period for the repayment of any loan, or compound or release any loan or any part thereof subject to such terms and conditions as they may deem fit.
- Suspension of payment of principal and interest and power to extend time, compound or release.
27. A corporation may at any time accept payment of the whole or any part of the amount representing the principal of a loan and interest thereon, before the time when such payment is due, upon such terms and conditions as they may think fit.
- Payment of loan before due date.
28. (1) Where a corporation have made a loan of money under the provisions of this Ordinance they may—
- (a) from time to time, make or cause to be made such examination as may be necessary to ensure that the loan is being applied to the purposes for which it was made;
 - (b) require financial statements in such detail as they may determine to be submitted by the person, body or authority in receipt of the loan bi-annually or at shorter intervals at the discretion of the corporation and such person, body or authority shall comply with such requirement.
- (2) A corporation may authorise in writing any of their officers or any other person to make such examination, and the person, body or authority in receipt of the loan shall produce to such officer or person all the relevant books, documents and other matters and things necessary for the purposes of the examination.
- (3) Any person who contravenes the provisions of paragraph (b) of subsection (1) of this section, or the provisions of subsection (2) of this section, shall be guilty of an offence against this Ordinance.
- Examination as to application of monies lent.
29. Where upon any examination made under the provisions of section 28 of this Ordinance it appears to a corporation that any sum being the whole or any part of the loan has not been applied for the purposes for which the loan was made they may order that any such sum be, within the time mentioned in the order, applied to such purposes or that such sum together with any interest due thereon on the date of the order be repaid to the corporation within the time mentioned in the order, and any sum with the interest thereon so ordered to be repaid to the corporation shall thereupon become a debt due to the corporation.
- Order of corporation upon such examination.
30. (1) If any loan made under the provisions of this Ordinance or any part of such loan has been misapplied a corporation may—
- (a) where such loan has been secured by mortgage, by notice in writing addressed to the mortgager, recall the said loan or any part thereof and may require the loan or that part together with any interest due on such loan or part thereof on the date of the notice to be repaid on a date to be specified in the notice and in default of payment on such specified date any security given for the purpose of the loan may thereupon be realised;
 - (b) where such loan has been secured otherwise than by way of mortgage, by notice addressed to the borrower, require the loan or any part thereof together with any interest due on such loan or part thereof on the date of the notice to be repaid on a date to be specified in the notice and in default of payment on such specified date any security given for the purpose of the loan may thereupon be realised.
- (2) The powers conferred by subsection (1) of this section shall be in addition to the powers conferred by any other provisions of this Ordinance.
- Misapplication of loan secured by mortgage or otherwise.

Enforcement
of securities.

31. Where any property mortgaged as security for a loan under the provisions of this Ordinance is sold for the purpose of the enforcement of the security a corporation may buy such property and may either manage and hold such property or sell or otherwise dispose of it as they may deem fit.

Accounts and
audit.

32. (1) A corporation shall keep accounts of their transactions to the satisfaction of the Council of Ministers and such accounts shall be audited annually by an auditor appointed by the Council of Ministers.

(2) The members, officers and servants of a corporation shall grant to the auditor appointed to audit the accounts of the corporation under the provisions of subsection (1) of this section access to all books, documents, cash and securities 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) A corporation may write off bad debts.

Report.

33. (1) A corporation shall not later than six months from the end of each calendar year submit to the Council of Ministers a report containing—

(a) an account of their transactions throughout the preceding calendar year in such detail as the Council of Ministers may direct; and

(b) a statement of the accounts of the corporation audited in accordance with the provisions of section 32 of this Ordinance.

(2) A copy of the report together with a copy of the auditor's report shall be printed and laid before the Legislative Assembly.

(3) Where the accounts of a corporation are kept by reference to a financial year different from the calendar year the expression "calendar year" in this section shall be read with respect to such corporation as if the expression "financial year" were substituted therefor.

Application of Ordinance.

Creation of
new corpora-
tions.

34. (1) The Council of Ministers may by order establish a public corporation and may designate the name and style by which such corporation shall be known.

(2) Upon the coming into operation of an order under this section the provisions of this Ordinance shall apply to the corporation so established:

Provided that the order may provide for the exclusion of any of the provisions of the Ordinance from application to a corporation.

(3) An order made under this section shall prescribe the powers, purposes, functions and duties of the corporation and may contain such other provisions as will enable the corporation to undertake and exercise its functions.

(4) Any order made under this section shall be laid before the Legislative Assembly within fourteen days after it is made, and if the Legislative Assembly, within the period of thirty days beginning with the day on which any such order is laid before it, resolves that the order be annulled, it shall be thereby annulled, and the order so annulled shall thenceforth become void and of no effect but without prejudice to the validity of anything previously done under the order or to the making of a new order.

(5) In reckoning for the purposes of the last foregoing subsection any period of days, no account shall be taken of any time during which the Legislature is dissolved or prorogued or during which the Legislative Assembly is adjourned for more than seven days.

Vesting of
property.

35. (1) Where an order is made under the preceding section it may contain provision vesting in the corporation movable or immovable property of the Crown or of the Colony.

(2) Where an order vests immovable property in the corporation pursuant to the preceding subsection such order shall be treated for all purposes as if it were a transport or other document effecting the conveyance of immovable property and the Registrar of Deeds shall take due notice thereof and shall make such annotations on the records as may be necessary.

Reconstitu-
tion of
existing cor-
porations.

36. (1) An incorporated body may be re-constituted by order under section 34 of this Ordinance and shall thereupon be deemed to have been constituted under the provisions of this Ordinance which shall thenceforth apply thereto.

(2) An order re-constituting an incorporated body may contain such provisions relating to vesting of property, transfer of assets and liabilities, monetary arrangements, the preservation of rights and liabilities existing immediately prior to the re-constitution as well as such other provisions as are in the opinion of the Council of Ministers necessary or expedient to enable the provisions of this Ordinance to have full effect in relation to that body.

(3) All claims by and against an incorporated body re-constituted under the provisions of this Ordinance may be brought in the name of the corporation established by the re-constituting order.

Miscellaneous.

37. Where a loan is made by a corporation on the security of a mortgage of any property, whether with or without any other security the property, from and after the date of the mortgage, shall be charged with the payment of such loan and interest as in the mortgage mentioned, in priority, save so far as otherwise specified in the mortgage, to every other debt, mortgage or charge whatsoever affecting the property, except for any existing lien in favour of the Crown or the Colony or any loan due to any creditor not assenting to such priority which has been made in good faith before the loan made by the corporation and which has been secured by a duly registered mortgage of the property.

Charge on property and priority of loan.

38. No statute of limitation shall apply to a claim brought by a corporation or in respect of movable or immovable property owned by a corporation.

Limitation provisions excluded.

39. Any sum due to a corporation may be recovered by parate or summary execution and the right of recovery hereby granted shall be in addition to any other procedure available to the corporation under any other law.

Recovery of claims.

40. (1) A charge on movable or immovable property may be made in favour of a corporation in such manner and upon such terms and conditions, including payment of fees and stamp duty, as the Council of Ministers may prescribe and where such charge is created on immovable property the Registrar shall upon such notice as may be prescribed annotate the said charge against the title issued in respect of the said property in the same manner as if the said property were subject to a mortgage passed before the Court.

Charges on movable and immovable property.

(2) A charge created under the provisions of this section may be determined in such manner as the Council of Ministers may prescribe and the Registrar shall take due notice thereof and shall make such annotations on the records as may be necessary.

41. A corporation may at any time retain the services of professional persons and may pay such remuneration in respect thereof as the Board of the corporation may determine.

Services of professional men.

42. (1) Where an officer in the public service who holds a pensionable office within the meaning of the Pensions (Consolidation) Ordinance, 1957, is appointed to be an officer or servant of a corporation, the corporation shall pay to the Government an annual pension contribution at such rate per centum of the officer's annual emoluments from the the corporation as may from time be approved by the Minister charged with responsibility for finance and the service of such person while in the employment of a corporation shall be deemed to be service in a pensionable office as aforesaid and shall be subject to the provisions of the Pensions (Consolidation) Ordinance, 1957, as amended from time to time.

Public officers and officers and servants of other corporations established under this Ordinance. Cap. 73.

No. 38 of 1957.

(2) The Council of Ministers may prescribe terms and conditions upon which an officer or servant of a corporation may serve other corporations established under this Ordinance and may also provide for the preservation of rights acquired in the service of a corporation, and for the grant of pensions, gratuities and other benefits to such persons and for matters incidental thereto.

(3) For the purposes of this section the expression "corporation" shall be deemed to include a subsidiary thereof.

43. Nothing in this Ordinance shall be deemed to exempt a corporation from liability for any tax, duty, rate, levy or other charge whatsoever:

Exemption from stamp duty and fees.

Provided that the Council of Ministers may provide such an exemption by order approved by a resolution of the Legislative Assembly.

Income Tax provisions. Cap. 299.

44. (1) This section shall be construed and read as one with the Income Tax Ordinance as amended from time to time.

(2) A corporation may by order of the Council of Ministers approved by resolution of the Legislative Assembly be exempted wholly or partly from payment of income tax payable under the provisions of any Ordinance for the time being in force.

Merger.

45. (1) The Council of Ministers may by order approved by resolution of the Legislative Assembly provide for the merger of two or more corporations established under this Ordinance.

(2) An order made pursuant to the provisions of the preceding subsection may extend to the property or interests of a subsidiary of a corporation.

Emergency powers.

46. (1) In time of war whether actual or imminent, or of great national emergency, the Council of Ministers may by order require that the whole or any part of the undertaking of or any property or rights of, or under the control of a corporation shall be placed at the disposal of a Minister, or of such persons as may be specified by the order.

(2) So long as any such order is in force, a corporation shall comply with any directions which may be given to them by or under the direction of the Council of Ministers.

(3) Any person who suffers direct injury or loss, owing to the operation of an order of the Council of Ministers under this section, shall be entitled to receive such compensation from the Council of Ministers as may be determined in the absence of agreement by the Supreme Court upon motion moved for that purpose against the Attorney General or any other officer designated by order of the Council of Ministers.

(4) Any expense incurred by the Council of Ministers in the exercise of their powers under this section shall be paid out of moneys provided by the Legislature.

Offences in case of loans.

47. Any person who—

- (a) obtains a loan from a corporation under the provisions of this Ordinance by means of any false representation;
- (b) wilfully applies any loan made to him by a corporation under the provisions of this Ordinance to any purpose other than the purpose for which the loan was made;
- (c) having obtained a loan from a corporation under the provisions of this Ordinance, wilfully destroys any security given in relation to any such loan,

shall be guilty of an offence against this Ordinance, and shall be liable on summary conviction before a magistrate to a fine not exceeding five hundred dollars, or to imprisonment with or without hard labour for a term not exceeding twelve months, or to both such fine and imprisonment.

Burden of proof in cases of misapplication of loans.

48. In any criminal proceeding in respect of an offence under paragraph (b) of section 47 of this Ordinance the onus of proving that he acted in good faith and without knowledge that he was not entitled so to apply the loan or any part thereof shall be upon the person charged.

Minutes receivable in evidence.

49. Any minutes made of meetings of the corporation shall, if duly signed by the chairman, without proof of any other matter or thing receivable in all legal proceedings as *prima facie* evidence of the proceedings of the corporation of which minutes have been made and every meeting of the corporation in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

Punishment for offences.

50. Any person guilty of an offence against this Ordinance or regulations made thereunder for which no special penalty is provided shall be liable on summary conviction before a Magistrate to a fine not exceeding one hundred dollars or in default of payment thereof to imprisonment with or without hard labour for a term not exceeding six months.

Dissolution.

51. (1) The Council of Ministers may by order approved by resolution of the Legislative Assembly dissolve a corporation.

(2) An order dissolving a corporation may include any provision which in the opinion of the Council of Ministers is necessary for the disposal or otherwise of the assets of a corporation, for meeting liabilities existing at the date of the order and for matters incidental thereto.

52. The Council of Ministers may make such regulations as in their opinion are necessary or expedient for carrying into effect the purposes of this Ordinance and in particular, but without prejudice to the generality of the foregoing provisions, may in respect of a corporation make regulations with respect to—

Regulations.

- (a) the carrying on of transactions between the corporation and any person, authority or body resident overseas;
- (b) accounting methods and procedures;
- (c) the recruitment and discipline of staff;
- (d) the procedure to be followed upon the merger of corporations established under this Ordinance;
- (e) the acquisition by a corporation of interests in and dealings with subsidiaries; and
- (f) service of process by and upon a corporation.

53. Where provision is made that an order made under this Ordinance in respect of any matter shall be subject to the approval of the Legislative Assembly such an order may include provisions relating to matters which may be provided for without the approval of the Legislative Assembly and in such event the approval shall be confined to those provisions of the order which require such approval.

Orders by
the Council
of Ministers.

Passed by the Legislative Assembly on the 12th October, 1962.

I. CRUM EWING,

(Bill 24/1962 (L.A.)).

Clerk of the Legislature.

OBJECTS AND REASONS

From time to time public corporations have been created in British Guiana and upon each occasion an Ordinance has been enacted to provide for the grant of legal personality and for the exercise of the particular functions and duties of a corporation so created. The object of this Bill is to provide a general law relating to public corporations and to provide that such a corporation may be established under its provisions by order of the Council of Ministers whereupon the provisions of the Ordinance shall apply to the new corporation. A corporation so established shall have legal personality.

2. The legislation will enable the more active participation by Government in the life of the community by providing machinery to supplement existing activity. A public corporation established under the Ordinance may have undertakings of its own but special provision is made for its association with other enterprises and for the grant of assistance by way of loans or otherwise to other enterprises which have within their scope objects similar to those in respect of which a corporation is established under the Ordinance. Provision is made for the Council of Ministers to give directions to a corporation. This provision is intended to ensure that all corporations function with due regard to the interests of community of which they form a part and in accordance with sound economic planning.

3. Funds of corporations established under the provisions which it is sought to enact are to be provided from moneys voted by the Legislature and from loans and other credits, some of which may originate from sources other than public sources. The purposes for which corporations may be established are not restricted but in each case ultimate policy control of a corporation will vest in the Council of Ministers. In the actual working of corporation the executive authority will be a Board constituted under the provisions of the Ordinance.

4. The legislation will enable existing corporations to be re-constituted under it and it provides for the merger of corporations. It will ensure in future a uniformity in the law relating to public corporations which will make the principles applicable to them easy to learn and to apply and will ensure that experience gained in the service of one corporation will be useful in the service of another.

5. Public corporations established under the Ordinance will as a general rule be subject to law in the same manner as other corporations but special provision is made for the Legislature to approve of their being exempted from payment of stamp duty fees and levies and from income tax. Sums recoverable by a corporation will be recoverable by parate execution—a remedy available to public bodies. Statutes of

limitation will not apply to corporations established under the new law. Special provision is made for the creation of charges in favour of a corporation by the grant of a regulation making power to the Council of Ministers.

6. The disposal of the assets of a corporation is subject to the directions of the Council of Ministers. Directions concerning their revenues may extend to payment of their revenues into the general revenue. Directions may extend to subsidiaries of a corporation.

7. A rule making power is vested in corporations established under the law to enable their business to be efficiently carried out while a general power to make regulations is vested in the Council of Ministers to enable effect to be given to the provisions of the Ordinance itself.

8. A corporation may be dissolved by order approved by resolution of the Legislature.