

**THE OFFICIAL GAZETTE      3<sup>RD</sup> AUGUST, 2005**  
**LEGAL SUPPLEMENT - C**

---

**BILL No. 13 of 2005**

*Wednesday 3<sup>rd</sup> August, 2005*

PARLIAMENT OFFICE,  
Public Buildings,  
Georgetown,  
Guyana.  
3<sup>rd</sup> August, 2005.

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

*S. E. Isaacs,*  
Clerk of the National Assembly.



**GUYANA**

**BILL No. 13 of 2005**

**AMERINDIAN BILL 2005**

**ARRANGEMENT OF SECTIONS**

**PART I  
PRELIMINARY**

**SECTION**

1. Short title and commencement.
2. Interpretation.
3. Application of Act.

**PART.11  
ENTRY AND ACCESS**

4. Prosecutions.
5. Entry and access; scientific and other research.
6. Report; use of scientific and other research.
7. Conditional permission.
8. Official business.
9. Lawful travellers.

**PART III  
GOVERNANCE**

10. Village Councils.
11. Composition of Village Councils.
12. Office bearers.
13. Functions of Village Councils.
14. Powers of Village Council to make rules.
15. Rules.
16. Power of Village Council to investigate breaches of rules and impose fines.
17. Offences.
18. Taxes.
19. Register.
20. Functions and powers of the Toshao.
21. Justice of the peace.
22. Duties.
23. Death or incapacity of a Toshao
24. Payments.
25. Conflict of interest.
26. Resignation.
27. Petitions for removal.
28. Investigation.
29. Removal of members of the Village Council.
30. Return of documents etc.
31. Community accounts.
32. Community plan.
33. Audits.
34. Community general meeting.
35. District Council.
36. Functions of District Council.
37. Special provisions for Karasabai.

**PART IV  
NATIONAL TOSHAOS COUNCIL**

38. Establishment of National Tshaos Council.
39. Executive committee.

40. Secretariat.
41. Functions of National Toshias Council.
42. Meetings.
43. Procedure.

#### **PART V COMMUNITY LANDS**

44. Inalienability of Community lands.
45. Allocation of land to residents
46. Leases.
47. Consents required.
48. Mining.
49. Terms of agreement.
50. Refusal of Community consent for large scale mining.
51. Fees, tribute and royalties.
52. Traditional mining privileges.
53. Obligations of the Guyana Geology and Mines Commission.
54. Use of forest produce by residents.
55. Use of forest produce by non-residents.
56. Obligations of Guyana Forestry Commission.
57. Rights over State lands and State forests.
58. Protected areas.

#### **PART VI GRANTS OF COMMUNAL LAND TO AMERINDIAN COMMUNITIES AND AMERINDIAN GROUPS**

59. Extensions of land.
60. Grants of land.
61. Acknowledgement and investigation.
62. Decision.
63. Approval.
64. Appeal.

#### **PART VII ELECTIONS**

65. Toshias and Councillors elected by secret ballot.
66. Returning officer
67. Election clerks.
68. Election notice.
69. Electoral list.
70. Nominations.
71. Eligibility.

- 75. Complaints.
- 76. Investigation committee.
- 77. Complaint upheld.

**PART VIII  
OFFENCES**

- 78. Protection of Amerindian artefacts and monuments.
- 79. Multiple voting.
- 80. Additional penalties.

**PART IX  
MINISTER'S FUNCTIONS AND POWERS**

- 81. Minister to approve rule made by Village Council.
- 82. Regulations.
- 83. Amendments.
- 84. Repeal.

**PART X  
COMMUNITY COUNCIL**

- 85. Community Council.
- 86. Functions of a Community Council.
- 87. Authority of Community Council.
- 88. Elections for Community Council.
- 89. The Toshao of a Community Council *ex officio* member of a National Toshao Council.

**FIRST SCHEDULE.**

**SECOND SCHEDULE**

5

**A BILL  
Intituled**

AN ACT to provide for the recognition and protection of the collective rights of Amerindian Communities, the granting of land to Amerindian Communities and the promotion of good governance within Amerindian Communities.

A.D. 2005

Enacted by the Parliament of Guyana: -

**PART I  
PRELIMINARY**Short title  
and commence-  
ment.

1. This Act may be cited as the Amerindian Act 2005 and shall come into operation on such date as the Minister may by order appoint and the Minister may appoint different dates for different sections.

Interpretation.

2. In this Act -

**"Amerindian" means -**

(a) any citizen of Guyana who belongs to any of the native or aboriginal peoples; or

(b) a descendant of any person mentioned in paragraph (a);

**"Amerindian group" means a group of Amerindians organised as a traditional community with a common culture and occupying or using the State lands which they have traditionally occupied or used;**

**"Amerindian monument" means any structure of an archaeological nature, or any inscription, painting or other creation by an Amerindian, which is designated as an Amerindian monument by the Minister on the advice of the National Toshihos Council;**

**"Community" means a group of Amerindians occupying or using Community lands in which there is a Village Council;**

**"Community lands" means lands owned communally by a Community under title granted to a Village Council to hold for the benefit of the Community;**

"Councillor" means a member of a Village Council other than the Toshao;

"District" means an area under the authority of a District Council;

"District Council" means a District Council established by order under section 35;

"large scale mining" means mining activities in a mine which is the subject of a Mining License from which a minimum volume in excess of 1000m of material, inclusive of any overburden, is excavated or processed as an aggregate in any continuous twenty-four hour period;

"miner" means any person carrying out mining activities.

No. 20 of 1989

"mineral" has the same meaning as in section 2 of the Mining Act 1989;

"mining activities" includes exploration, prospecting, drilling, mining, extracting and appropriating any mineral;

"Minister" means the Minister responsible for Amerindian Affairs;

"resident" means an individual -

- (a) who is an Amerindian who was born in, lives in or has his principal place of residence within the Community or on State land provided that no Amerindian ceases to be a resident simply because he is temporarily away from the Community for employment, education or medical treatment; or -
- (b) who lives within the Community and is recognised as a resident by the membership rules of that Community;

"traditional mining privilege" means any privilege to carry out artisanal mining which an Amerindian possesses by virtue of being a member of an Amerindian Community or Amerindian group;

"traditional right" means any right or privilege, in existence at the date of the commencement of this Act, which is owned legally or by custom by an Amerindian Community or Amerindian group and

which is exercised sustainably in accordance with the spiritual relationship which the Amerindian Community or Amerindian group has with the land, but it does not include a traditional mining privilege;

Cap. 29:01

"Village Council" means a Village Council established under the authority of the Amerindian Act, the Annai District Council, Kanashen Village Council, Baramita Village Council and any Village Council established by order of the Minister under this Act,

"voter" means a person listed in the electoral list of the Community in which he exercises his right to vote.

Application of Act.

3. (1) This Act applies to all Communities and Amerindian groups.

(2) A Community may include in its name or in any description of itself the name of the native or aboriginal peoples to which it belongs, the name of the village or its location, any traditional name, or any term which is of cultural or social significance.

## PART II ENTRY AND ACCESS

Prosecutions.

4. Prosecutions in respect of offences under this Act shall be brought in a court of summary jurisdiction by a Toshao or by a councilor or anyone authorized by the Village Council.

Entry and access; scientific and other research.

5. (1) A person, other than a person referred to in section 8, who wishes to enter Community), lands shall apply for and obtain the permission of the Village Council.

First Schedule.

(2) A person who contravenes subsection (1) is guilty of an offence and liable to the penalties prescribed in paragraph (a) of the First Schedule.

(3) A person, other than a person referred to in section 8, who wishes to conduct any scientific, anthropological, archaeological or other research or Study within Community lands shall apply for and obtain in advance -

- (a) the permission of the Village Council;
- (b) all permits required under any other written law; and
- (c) the permission of the Minister;

First Schedule (4) A person who contravenes subsection (3) is guilty of an offence and is liable to the penalties prescribed in paragraph (b) of the First Schedule.

Report, use of scientific and other research.

6. (1) A person who carries out any research or study under section 5 (3) shall provide the Village Council and the Minister with -

- (a) a full written report of his findings;
- (b) a copy of all recordings made; and
- (c) a copy of any publication containing material derived from such research.

(2) A person who wishes to make use of any material derived from research or study under this section shall -

No. 11 of 1996

- (a) apply for and obtain the permission of the Village Council, the Minister, the Minister with responsibility for culture, and the Environmental Protection Agency established under the Environmental Protection Act 1996;
- (b) in good faith negotiate and enter into a benefit sharing agreement with the Village Council.

First Schedule

(3) A person who contravenes subsection 2(a) is guilty of an offence and is liable to the penalties prescribed in paragraph (a) of the First Schedule.

First Schedule

(4) A person who contravenes subsection (2) (b) is guilty of an offence and is liable to the penalties prescribed in paragraph (b) of the First Schedule.

Conditional permission.

7. (1) In granting permission to enter Community lands, or to carry out any research or study, a Village Council may attach reasonable conditions to its permission including restrictions on access to sacred sites, private homes and other areas of Community lands.

(2) If a person breaches any condition of a permission granted to him the Village Council may revoke his permission after affording him an opportunity to make representations.

First Schedule

(3) A person who remains within Community lands after his permission has been revoked is guilty of an offence and is liable to the penalties prescribed in paragraph (a) of the First Schedule.

First Schedule

(4) A person who continues to carry out research in Community lands after his permission has been revoked is guilty of an offence and is



liable to the penalties prescribed in paragraph (b) of the First Schedule.

(5) A permission granted by a Village Council under section 5 shall comply with the rules made by the Village Council under section 14.

Official  
business.

8. (1) A person who enters Community lands to conduct official business for the Government -

- (a) is deemed to have permission from the Village Council;
- (b) shall obtain any permission or consent required by any other written law;
- (c) shall inform the Village Council of the nature of his business and his expected length of stay-, and
- (d) shall comply with the rules made by the Village Council under section 14.

(2) Official business includes the inspection, maintenance and repair of airstrips, schools, health centres and other public buildings operated by the State.

Lawful  
travellers.

9. A person lawfully travelling through Community lands shall comply with the rules made by the Village Council under section 14.

### PART III GOVERNANCE

Village  
Councils.

10. (1) The Minister may by order establish a Village Council to administer a Community.

(2) A Village Council is a body corporate.

(3) In discharging its functions the Village Council shall act collectively.

Composition  
of Village  
Councils.

11. (1) A Village Council comprises a Toshao and Councillors.

(2) The number of Councillors, in addition to the Toshao, shall be calculated as follows -

- (a) Communities of not more than six hundred residents shall have a minimum of six and a maximum of

twelve Councillors;

- (b) Communities of more than six hundred residents but not more than two thousand residents shall have a minimum of eight and a maximum of sixteen Councillors;
- (c) Communities of more than two thousand residents shall have a minimum of ten and a maximum of twenty-two Councillors.

Office  
bearers.

12. (1) A Village Council shall appoint from among its members a deputy Toshao, a secretary and a treasurer.

(2) A Village Council may appoint from among its members other office bearers as may be appropriate for the size and interests of the Community.

(3) Notwithstanding the provisions of subsection (1) a Community which traditionally elects its deputy Toshao may continue to do so without further notice and the provisions of Part VII shall apply to the election of the deputy as they apply to the election of the Toshao.

Functions  
of Village  
Councils.

(13). (1) The functions of a Village Council are to -

- (a) represent the Community;
- (b) act in the best interests of the Community;
- (c) provide advice and strategic direction to the Community;
- (d) provide for the good governance and development of the Community;
- (e) hold for the benefit and use of the Community all rights, titles and interests in or over Community lands;
- (f) manage and regulate the use and occupation of Community lands;
- (g) promote the sustainable use, protection and conservation of Community lands and the resources on those lands;
- (h) encourage the preservation and growth of Amerindian culture;
- (i) ensure that places and artefacts located which hold sacred or cultural values to the Community are protected and cared for;
- (j) protect and preserve the Community's intellectual property and traditional knowledge;

- (k) nominate Councillors or other members of the Community to accompany the Toshao to meetings of the Regional Democratic Council or to attend other meetings on behalf of the Community;
- (l) ensure that proper accounts and financial records are properly kept.

(2) A Village Council may assign tasks but may not delegate its functions to any other person.

Powers of  
Village Council  
to make rules.

14. (1) Subject to the other provisions of this Act, a Village Council may, in the exercise of its functions, make rules governing;

- (a) qualification as a resident;
- (b) the occupation and use of Community lands;
- (c) access to sites of sacred or cultural significance;
- (d) the management, use, occupation, preservation, protection and conservation of Community lands and resources or any part thereof;
- (e) the protection and sustainable management of wildlife including restrictions on hunting, fishing, trapping, poisoning, setting fires and other interference with wildlife;
- (f) the development and regulation of agriculture;
- (g) the control, maintenance, protection and use of water supplies including the construction and regulation of wells which are owned by the Community or for which the Community is responsible;
- (h) the construction and maintenance of roads, bridges, ditches, fences and other local works;
- (i) the construction and maintenance of sewerage systems and other sanitary facilities; the regulation of the conduct of non-residents when within Community lands;
- (j) the regulation of the conduct of non-residents when within Community lands;
- (k) maintaining discipline, good order, the prevention of disorderly conduct and nuisance;
- (l) the granting of permission for business or trade on Community lands;
- (m) subject to the law governing intellectual property, access to research into and recording and publication of intellectual property and traditional knowledge which belongs to the Community;

- (n) the certification of products made by residents using traditional methods;
- (o) the voting procedure in a Community general meeting;
- (p) any other matter which falls within the functions of the Village Council.

(2) A Village Council may impose a fine of nineteen thousand dollars for the breach of any rule made under subsection (1).

**Rules.**

15. A rule and any amendment to a rule, made by a Village Council comes into effect when -

- (a) the Village Council has consulted the Community in general meeting and two-thirds of the members of the Community general meeting have given their approval; and
- (b) the rule has been approved by the Minister and published in the *Gazette*.

**Power of Village Council to investigate breaches of rules and impose fines.**

16. (1) If it is alleged that any person has breached a rule made by a Village Council that person may be required to appear before the Village Council.

(2) The Village Council shall inform the person of the allegation, investigate the matter and give the person a reasonable opportunity to be heard.

(3) If the Village Council is satisfied that the person has breached the rule, the Village Council may require him to pay a fine of not more than nineteen thousand dollars.

(4) A resident may elect to serve a period of community service not exceeding three consecutive hours of work per day for fourteen days in lieu of paying the prescribed fine.

**Offences.**

17. A person, who refuses to appear before a Village Council when required to do so under section 16(1) or who, although possessed of sufficient means so to do, fails to pay a fine imposed by the Village Council or to serve the substituted period of community service imposed by a Village Council under section 16(4) commits an offence and is liable on summary conviction (before a magistrate) to the penalties prescribed in paragraph (b) of the First Schedule.

**First Schedule.**

**Taxes.**

18. (1) The Village Council may levy taxes on residents.

(2) The Village Council may permit a resident to pay his tax by providing goods or services to the value of the tax due provided that any such permission is recorded in writing and a proper account is kept showing the value of the goods and services provided.

(3) A tax shall be submitted to the Minister for approval.

(4) The Minister may allow or disallow a tax, the means of assessment or collection of a tax or make any other alteration or variation as he thinks appropriate for the benefit of the Community but he may not increase a tax.

Register.

19. The Village Council shall -

- (a) keep a Register recording -
  - (i) the name of each resident;
  - (ii) the date of birth of each resident; and
  - (iii) the date of death of each resident;
- (b) provide the Minister with a copy of the previous year's Register no later than the 31<sup>st</sup> January of each year;
- (c) make the Register available to the Community each year during the month of December, and at any other time that the Village Council may decide, for the Community to inspect and notify the Village Council of any inaccuracies; and
- (d) keep the Register in a safe place and ensure that it is maintained and kept up to date.

Functions  
and powers  
of the Toshao.

20.(1) A Toshao -

- (a) is a member and the Chairman of a Village Council;
- (b) is a member of the National Toshaos Council;
- (c) is responsible for ensuring good governance including accountability and transparency within the Village Council; and
- (d) is responsible for keeping peace and order in the Community.

(2) A Toshao has the powers and immunities of a rural constable.

Justice of  
peace.

21.(1) A Toshao is *ex officio* a justice of the peace for the Community and he shall take the oath required to be taken by a justice of the peace before he performs the functions of a justice of the peace.

(2) As a justice of the peace a Toshao shall at all times act ministerially for the preservation of the peace, the prevention of crime and the detection of offenders, but he shall not act judicially as a justice either in any court or in any manner.

Duties.

22. A Toshao shall -

- (a) represent the interests of the Community at all times;
- (b) carry out his duties with honesty and integrity;
- (c) chair all meetings of the Village Council and ensure that all matters concerning the Community are adequately addressed;
- (d) participate on behalf of the Community in the National Toshaos Council;
- (e) on behalf of the Village Council, and subject to the rules of the meeting, attend and participate at meetings convened by the Regional Democratic Council or by the Minister;
- (f) provide the Community general meeting with a report of every meeting which he attends on their behalf,
- (g) provide the Minister with a copy of the residency rules made under section 14;
- (h) provide the Minister with a copy of the annual accounts prepared by the Village Council; and
- (i) report to the Minister on matters which affect the Community.

Death or  
incapacity of  
a Toshao.

23.(1) If a Toshao is temporarily absent, incapacitated or otherwise unable to carry out his functions the deputy Toshao shall act as Toshao.

(2) If a Toshao is incapacitated or otherwise unable to carry out his functions for more than four months or if a Toshao dies the Community general meeting may decide whether the deputy Toshao should be sworn in as Toshao or whether elections for a new Toshao should be held

(3) A deputy Toshao who is acting does not have the powers or immunities of a rural constable until he has been sworn in as a Toshao and he shall not exercise the functions of justice of the peace until he has taken the oath referred to in section 21.

Payments.

24. (1) The Minister shall set and pay a stipend to the Toshao.

(2) The Community may authorise a payment from the Community's funds to supplement the Toshao's stipend.

(3) A Toshao may accept paid employment while he is a Toshao but subject to subsection (2) he shall not accept any emolument, perquisite, payment, benefit or other inducement to carry out his functions as Toshao.

(4) The Community may authorise a payment from the Community's funds to a Councillor.

(5) A Councillor may accept paid employment while he is a Councillor but subject to subsection (4) he shall not accept any emolument, perquisite, payment, benefit or other inducement to carry out his functions as Councillor.

Conflict of interest.

25. (1) A member of a Village Council shall not put himself in a position where his duties to the Community shall conflict with his personal or other interests.

(2) A member of a Village Council who is a party to or otherwise involved in a proposed contract or arrangement with the Village Council or has an interest in any matter before the Village Council shall declare that involvement or interest to the Village Council and shall not take part in the discussion or decision making.

(3) A disclosure under subsection (2) shall be recorded in the minutes of the Village Council.

(4) If a Village Council becomes aware that a Toshao or Councillor has contravened this section the Village Council shall call a Community general meeting and report it to them.

Resignation.

26. (1) A Toshao or Councillor shall resign with immediate effect if-

- (a) he is convicted of a serious criminal offence involving violence or dishonesty;
- (b) he fails to attend three consecutive meetings of the Village Council without reasonable excuse;
- (c) he has been absent from the Community for thirty consecutive days without informing the Village Council;
- (d) he contravenes section 24 or section 25.

(2) A Village Council shall notify the Minister immediately if a Toshao or Councillor does not comply with subsection (1).

(3) Subject to subsection (1) a Toshao or Councillor may resign by giving not less than one month's written notice to the Village Council.

(4) A Village Council shall notify the Minister immediately upon the resignation of a Toshao or Councilor and shall send the Minister a copy of the letter of resignation.

Petitions for removal.

27(1). A Community general meeting may petition the Ministry to carry out an investigation on the grounds that a Toshao or a Councillor has failed to carry out his duties or has contravened any provision of this Act.

(2) The Minister shall carry out an investigation if at least fifty- one percent of the Community general meeting voted in favour of the petition.

(3) The Minister may carry out an investigation if fewer than fifty one percent of the Community general meeting voted in favour of the petition.

Investigation.

28. (1) The Minister shall appoint a committee of three persons to carry out an investigation under section 27.

(2) The National Tosaos Council and the Regional Democratic Council may each nominate a member to the committee.

(3) The Minister may suspend a Toshao or Councillor named in the petition with effect from the date of appointment of the committee.



(4) The committee shall give a Toshao or Councillor a reasonable opportunity to answer any allegations made against him in the petition.

(5) The committee shall make a report to the Minister within twenty-one days of being appointed and the Minister shall take this report into account in making his decision.

(6) Within one month of receiving the report the Minister shall send it to the Community general meeting with a notice stating -

- (a) whether the Toshao or Councillor named in the petition is removed or in the case of a Toshao or Councillor who has been suspended whether he is reinstated; and
- (b) the Minister's reasons for his decision.

(7) The Minister may discuss the report with the Community general meeting and make recommendations.

Removal of  
members of  
the Village  
Council.

29.(1) The Minister shall remove a Toshao or Councillor who fails to resign under section 26(1).

(2) The Minister may remove a Toshao or Councillor if a recommendation for his removal is made following a petition under section 27.

Return of  
documents  
etc.

30.(1) A Toshao or Councillor who ceases to be a member of the Village Council shall immediately restore to the Village Council all funds, documents, records, files, assets, accounts and other items which belong to the Village Council.

(2) The outgoing Toshao and Councillors shall hand over all funds, documents, records, files, assets, accounts and other items relating to the business of the Village Council to the newly elected Toshao and Councillors immediately following their swearing-in.

First Schedule.

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable to the penalties prescribed in paragraph (a) of the First Schedule.

Community  
account.

31. (1) A Council may maintain a bank account in the name of the Village Council at a licensed financial institution and all taxes, royalties, fees, rents, fines, grants and other Community income whatsoever shall be deposited in the account.

(2) All moneys mentioned in subsection (1) shall be deposited on behalf of the Community, for the benefit of the Community in respect of which moneys have been deposited.

Community plan.

32. (1) A Village Council shall submit each year for approval by the Community general meeting a Community plan of the activities proposed for the next twelve months and if the Community plan includes expenditure the Village Council shall give reasonable estimates of that expenditure including -

- (a) any administrative expenses;
- (b) the costs of any development projects or programmes; and
- (c) the costs of any goods and services to be provided to the Community.

(2) A Community general meeting may approve, disapprove or amend the Community plan in any way it sees fit for the overall benefit of the Community.

(3) A Village Council shall send the Minister and the Regional Executive Officer a copy of the approved Community plan and any subsequent changes approved by the Community general meeting.

(4) A Village Council may not make any payments which are not authorized in the Community plan or otherwise approved by a Community general meeting.

Audits.

33. (1) The Minister may arrange for a financial audit to be carried out of a Village Council by an independent auditor at any time during a Village Council's term of office provided that the Minister shall give the Village Council two weeks notice.

(2) The Minister shall give copies of the financial audit to the Village Council and the National Tshaos Council, and the Village Council shall call a Community general meeting immediately after it receives the financial audit and shall make it available to the Community general meeting.

(3) Not less than three months before the date of the Village Council elections the Minister shall arrange for a general audit to be carried out comprising -

- (a) a supplementary financial audit from the date of the last financial audit; and
- (b) an audit of the Village Council's records and documents.

(4) The Minister shall give copies of the general audit to the Village Council and the National Tshaos Council and the Village Council shall call a Community general meeting immediately after it receives the general audit and shall make it available to the Community general meeting.

(5) A Village Council shall make the financial audit and the general audit available to the Community general meeting immediately upon receiving each audit.

(6) The National Tshaos Council may nominate one of its members to observe the financial audit and the general audit.

Community  
general  
meeting.

34. (1) Except as delegated to a Village Council under this Act, the collective rights and powers of a Community are exercised by the Community.

(2) All decisions required to be made by a Community under this Act shall be made in a Community general meeting.

(3) A Village Council shall call a Community general meeting every quarter and if the Village Council fails to call a Community general meeting within four months of the previous Community general meeting then not less than ten residents who are eligible to vote at the Community general meeting may call the meeting instead.

(4) The notice period for a Community general meeting is at least fourteen days.

(5) A Village Council may call a meeting on less than fourteen days notice if the Village Council considers that the situation amounts to an emergency and requires an immediate response and -

- (a) the meeting shall deal only with the emergency and no other matter; and

- (b) any decision taken at the meeting shall be put to the next Community general meeting for ratification or comment.

(6) The Community general meeting shall act by consensus but if consensus cannot be achieved a vote may be taken and a decision made on the basis of the majority of votes cast unless this Act specifies otherwise.

(7) All residents are entitled to attend a Community general meeting.

(8) The quorum, entitlement to vote and voting procedures shall be in accordance with the rules made by the Village Council.

**Audits.**

35. (1) The Minister may by order establish a District Council if at least three Village Councils make such a request in writing to the Minister.

(2) The Minister may include in a District only those Communities whose Village Councils have made the request.

(3) A District Council comprises the Toshao and one Councillor from each Community in the District.

(4) A District Council may elect a Chairman, a secretary and a treasurer.

**Functions of District Councils.**

36. The functions of a District Council are -

- (a) to coordinate the activities of the Village Councils in the District;
- (b) to work for consistency in the rules made by the Village Councils;
- (c) to give advice to the Village Councils and Communities on issues of common interest;
- (d) to plan and develop programmes for the District on environmental protection and management, health care, education, transportation, culture, economic development and any other issues relating to the functions of the Village Councils;
- (e) to monitor compliance with and assist in the enforcement of rules made by Village Councils;
- (f) to build consensus and assist in resolving conflicts and disputes within the District.

Special provisions for Karasabai.

37.(1) All lands whose title is held by the Karasabai District Council are recognised as Community lands.

(2) The Karasabai District Council may exercise the functions of a Village Council over its Community lands subject to the approval of the Karasabal Community as expressed through the councils established by the Community.

(3) The Minister may by order recognise a council if requested to do so by the Karasabai Community and may specify in that order the portion of land which is under the jurisdiction of the council.

(4) Upon recognition a council becomes a Village Council and is subject to the provisions of this Act governing Village Councils.

(5) The Minister may at the request of the Karasabai Community and its councils accept a transfer of title back to the State on condition that the Minister establishes Village Councils among whom the Community lands are divided by the grant of separate titles.

(6) Subject to subsections (3),(4) and (5), the Karasabai District Council has the functions, powers and duties of a Village Council and its Toshao and Councillors are likewise subject to the obligations imposed on Toshihos and Councillors under this Act.

(7) The Toshao of the Karasabai District Council and the Toshihos of any Village Council recognised under subsection (3) are *ex officio* members of the National Toshihos Council.

(8) The Minister may by order and at the request of the Karasabai Community and its Village Councils reconstitute the Karasabai District Council as a District Council under sections 5 and 6 of this Act.

#### PART IV NATIONAL TOSHAOS COUNCIL

Establishment of National Toshihos Council.

38. There is hereby established a National Toshihos Council which is a body corporate comprising all Toshihos.

Executive Committee.

39.(1) The National Toshihos Council shall elect an executive committee comprising -

(a) one Toshao from each administrative region of the country; and

(b) not more than ten additional Tshaos.

(2) The executive committee may elect a Chairman and other office bearers.

Secretariat. 40. The Minister may establish a Secretariat for the National Tshaos Council.

Functions of National Tshaos Council.

41. The functions of the National Tshaos Council are -

- (a) to nominate in accordance with Article 212 S (2) of the Constitution persons to the Indigenous Peoples Commission;
- (b) at the request of the Minister to investigate allegations of improper conduct by any Tshao or Councillor or within any Village Council or District Council;
- (c) to promote good governance in Communities;
- (d) to prepare strategies and plans for reducing poverty and improving access to health and education in Communities;
- (e) to prepare strategies and plans for the protection, conservation and sustainable management of Community lands and natural resources;
- (f) to promote the recognition and use of Amerindian languages;
- (g) to provide advice to the Minister on -
  - (i) the protection of Amerindian culture and heritage including the identification and designation of Amerindian monuments;
  - (ii) the development of Communities;
  - (iii) the impact of legislation or policy on Communities and any changes that should be made to such legislation or policy;
- (h) to coordinate the activities of Amerindian Communities on a national basis;
- (i) to share, document and record the experiences of Communities; and
- (j) to send an observer to Village Council elections.

Meetings. 42.(1) The National Tshaos Council shall meet at least once every two years.

(2) The executive committee shall meet at least twice in each calendar year.

Procedure.

43.(1) The National Tosaos Council may determine its own procedure and may, subject to the approval of the Minister, make rules governing such procedure.

(2) The Minister is an ex officio member of the National Tosaos Council but may not vote.

#### PART V COMMUNITY LANDS

Inalienability of  
Community  
lands.

44.(1) A Village Council shall not dispose or attempt to dispose of any interest, right or title in Community lands except as provided in this Act.

(2) Any attempt to dispose of any right, title or interest in Community lands, except as provided in this Act, is void.

Allocation of  
land to  
residents.

45.(1) A resident shall apply in writing to the Village Council, in order to use a part of Community lands.

(2) The Village Council shall make a decision within thirty days of receiving the application.

(3) An allocation of Community lands -

- (a) may be indefinite; and
- (b) shall be consistent with the Community's recognition of traditional rights to use and occupy Community lands.

(4) An allocation of Community lands under subsection (3) expires if -

- (a) the resident to whom the land was allocated notifies the Village Council that he renounces the allocation; or
- (b) the land is abandoned according to the Community's traditional rules.

(5) If there is a dispute over the allocation of Community lands the Village Council shall be responsible for resolving it.

(6) If the Village Council is not able to resolve the dispute within two months of being notified of the dispute, the Village Council shall ask the Community general meeting to decide.

(7) If the Community general meeting is unable to reach a decision, the dispute shall be referred to the Minister who shall make a decision within one month following the submission of the dispute for resolution to the Minister whose decision shall be final.

(8) A Village Council shall keep a plan showing the occupation and use of Community lands.

Leases.

46. (1) A Village Council may grant leases of Community lands provided that -

- (a) the total amount of land leased does not exceed ten percent of Community lands;
- (b) the maximum term of a lease is fifty years;
- (c) the lease is granted at a market rent or above;
- (d) the purpose of the lease is for agriculture, tourism or other productive and sustainable use of the land, which is consistent with the Community's cultural attachment to the land; and
- (e) the Village Council obtains the advice and consents required under section 47.

(2) The following conditions are implied in every lease granted under this section -

- (a) a right to re-enter and determine the lease if the lease is in breach of any covenant of the lease;
- (b) a prohibition against subletting or assigning.

(3) A lease may not be extended or renewed.

(4) A lease may not be granted for residential purposes.

(5) The provisions of any other written law conferring security of tenure, restrictions on rent increases or other protection for tenants are excluded from any lease granted under this Act.

(6) The Village Council shall -

- (a) notify the Minister when a lease is granted; and
- (b) provide him with a copy of the lease and any subsequent amendments.

Consents  
required.

47. (1) Before granting or amending a lease a Village Council shall obtain the advice of the Minister.



(2) If a lease is to be granted to a non-resident or if a lease granted to a non-resident is to be amended, the Village Council shall call a Community general meeting.

(3) If a lease is to be granted to a resident or if a lease granted to a resident is to be amended, the Village Council shall call a community general meeting and obtain the consent of at least seventy-five percent of all residents entitled to vote and present at the Community general meeting.

(4) If the Village Council does not obtain the consents required by this section, the lease shall not be granted.

Mining.

48.(1) A miner who wishes to carry out mining activities on Community lands or in any river, creek, stream or other source of water within the boundaries of Community lands shall -

- (a) obtain any necessary permissions and comply with the requirements of the applicable written laws;
- (b) make available to the Community any information which the Village Council or Community reasonably requests;
- (c) give the Village Council a summary of the proposed mining activities including information on -
  - (i) the identity of each person who is involved;
  - (ii) a non-technical summary of the mining activities;
  - (iii) the site where the mining activities will be carried out;
  - (iv) the length of time the mining activities are expected to take;
  - (v) the likely impact of the activities on the Community and the Community lands;
  - (vi) any other matters which the Village Council on behalf of the Community requests and which are reasonably relevant;
- (d) attend any consultations which the Village council or Community requests;
- (e) negotiate with the Council on behalf of the Community in good faith all relevant issues;
- (f) subject to section 51 reach agreement with the Council on the amount of tribute to be paid; and

- (g) obtain the consent of at least four-fifths of the residents entitled to vote and present at a Community general meeting.

(2) The Guyana Geology and Mines Commission may facilitate the consultations to be held under subsection (1) but may not take part in any negotiations.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable to the penalties prescribed in paragraph (d) of the First Schedule.

First Schedule.

Terms of Agreement.

49. (1) A miner who receives the Community's consent under section 48 shall enter into a written agreement with the Village Council on behalf of the Community.

(2) An agreement made under subsection (1) contains the following implied terms -

- (a) subject to paragraph (b) the miner shall offer employment to residents at market rates;
- (b) the miner shall not offer employment to non-residents unless residents with the required skills are unavailable,
- (c) the miner shall purchase all food and materials from the Community if these are available at reasonably competitive prices;
- (d) the miner shall take all reasonable steps to avoid -
  - (i) damage to the environment;
  - (ii) pollution of ground water and surface water;
  - (iii) interference with agriculture;
  - (iv) damage to or disruption of flora and fauna;
  - (v) disruption of residents' normal activities;
- (e) the miner, his employees and agents shall comply with the rules made by the Village Council under section 14.

(3) If the Community so requires, the miner and the Community shall include in the agreement-

- (a) that the conduct of the miner, his employees and agents be good and shall include restrictions on the use of alcohol and the carrying of firearms;
- (b) requirements for reporting to the Village Council:

- (c) an environmental protection programme.
- (d) a waste disposal plan;
- (e) a mechanism for assessing and paying compensation;
- (f) a mechanism for identifying and resolving conflict;
- (g) a health programme including providing medical supplies to health workers for use by the Community; and
- (h) support for education in the Community including an employee education programme and financial contributions to the Community school and library.

Refusal of  
Community  
consent for  
large scale  
mining.

50. (1) If a Community refuses its consent in respect of large scale mining, a miner may carry out the mining activities if -

- (a) the Minister with responsibility for mining and the Minister declare that the mining activities are in the public interest;
- (b) subject to section 51(2) and (3), the Minister with responsibility for mining in consultation with the Minister determines the fee and the tribute to be paid by the miner to the Community; and
- (c) the miner gives the Minister with responsibility for mining a written undertaking that he will -
  - (i) comply with the rules made by the Village Council;
  - (ii) require his employees and agents to comply with the rules made by the Village Council; and
  - (iii) promptly pay fair compensation for any damage caused by his mining operations to Community lands or property owned by residents.

(2) If a Community which has refused its consent asks a miner to reopen negotiations, he shall do so in good faith.

Fees, tribute  
and royalties.

51.(1) A miner shall pay the Community tribute of at least seven percent of the value of any minerals obtained from Community lands from small or medium scale mining.

(2) A miner shall negotiate in good faith with a Community the amount of tribute to be paid for minerals obtained from Community lands from large scale mining.

(3) The Guyana Geology and Mines Commission shall transfer twenty per cent of the royalties from the mining activities to a fund designated by the Minister for the benefit of Amerindian Communities.

Traditional  
mining  
privileges.

52.(1) An Amerindian who wishes to exercise a traditional mining privilege shall -

- (a) obtain the consent of the Village council; and
- (b) comply with any obligations imposed by or under any other written law.

(2) An Amerindian who wishes to carry out mining activities which are not covered by a traditional mining privilege shall obtain the permits required by, and comply with the obligations imposed under, any other written law.

Obligations of  
the Guyana  
Geology and  
Mines  
Commission.

53. Subject to the other provisions of this Part, if the Guyana Geology and Mines Commission intends to issue a permit, concession, licence or other permission over or in -

- (a) any part of Community lands;
- (b) any land contiguous with Community lands; or
- (c) any rivers, creeks or waterways which pass through Community lands or any lands contiguous with Community lands, the Guyana Geology and Mines Commission shall first -
  - (i) notify the Community; and
  - (ii) satisfy itself that the impact of mining on the Community will not be harmful.

Use of forest  
produce by  
residents.

54.(1) A resident who wishes to use forest produce from Community lands shall obtain the permission of the Village Council and comply with any conditions attached to that permission.

(2) The Village Council may invite the Guyana Forestry Commission to monitor the use of forest produce by a resident.

Use of forest  
produce by  
non-residents.

55.(1) A person, other than a person referred to in section 54, who wishes to use forest produce from Community lands shall -

- (a) send the Village Council a written notice containing a request for a meeting and a detailed description of the proposed activity;
- (b) send the Minister, the Guyana Forestry Commission and the Environmental Protection Agency a copy of