

**PARLIAMENT OFFICE,
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Georgetown,
Guyana.**

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



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

BILL NO. 10 OF 1996

REVENUE AUTHORITY BILL 1996

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A BILL

Intituled

AN ACT to establish and define the functions of a Revenue Authority; to define the functions of the Governing Board of the Authority; to transfer from the Government to the Authority the functions and powers of the Inland Revenue Department and the Customs Department; to transfer from the Government to the Authority the assets used by the said Departments and the liabilities to which they were subject; and provide for matters connected therewith or incidental thereto.

Enacted by the Parliament of Guyana.

A.D. 1996

PART I

Preliminary

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| <p>1. This Act may be cited as the Revenue Authority Act 1996, and shall come into operation on such date as the Minister may, by order, appoint.</p> | <p>Short title and commencement.</p> |
| <p>2. In this Act -</p> <p>(a) "appointed date" means the date referred to in section 1;</p> <p>(b) "Authority" means the Revenue Authority established by section 9;</p> <p>(c) "Chairman" means the Chairman of the Governing Board;</p> | <p>Interpretation.</p> |

- (d) "Commissioner-General" means the
Commissioner-General appointed under
section 21;
- (e) "Department" means the Inland Revenue
Department or the Customs
Department;
- (f) "Governing Board" means the Governing
Board of the Authority constituted
under section 11;
- (g) "member" means a member of the Governing
Board appointed under section 11;
- (h) "revenue" means taxes, duties, fees,
levies, fines and other monies
charged or collected pursuant to such
laws as the Minister may by order
specify under section 10 (1);
- (i) "Secretary" means the Secretary of the
Authority appointed under section
22.

(2) Wherever in this Act reference is made to
the property, rights, liabilities and obligation
of the Departments, such reference shall be read
and construed as a reference to the property,
rights, liabilities and obligations of the
Government, in so far as such property, rights,
liabilities and obligations relate to the
Departments.

PART II

Disengagement of Departments of Inland

Revenue and of Customs and

Incidental Matters

3. When the Minister is satisfied that all necessary arrangements have been made for disengagement of the Departments from the Government, he shall issue the order under section 1 bringing this Act into operation.

Disengagement of Departments.

4. (1) On the appointed date there shall be transferred to, and vest in, or subsist against, the Authority by virtue of this Act and without further assurance -

Transfer of assets and liabilities of Departments to Authority.

- (a) the affairs of the Departments; and
- (b) subject to this Act, all property, rights, liabilities and obligations which immediately before the appointed date were the property, rights, liabilities and obligations of the Departments.

(2) Except as provided in this Act, every deed, bond or agreement (other than an agreement for personal service) to which either of the Departments was a party immediately before the commencement of this Act, whether in writing or not, and whether or not of such nature that rights, liabilities and obligations thereunder could be assigned, shall, unless its subject-matter or terms

make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the assignment thereof, as if -

- (a) the Authority had been a party thereto;
- (b) for any reference to either of the Departments there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to the Authority;
- (c) for any reference to any officer of either of the Departments not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the Authority as the Governing Board shall designate.

(3) Subject to subsection (2), documents other than those referred to in that subsection which refer specifically or generally to either of the Departments shall be construed in accordance with the said subsection as far as applicable.

5. Where under this Act, any property, rights, liabilities or obligations of either of the Departments are deemed transferred in respect of which transfer any written law provides for registration, the Department concerned shall make an application in writing to the appropriate authority for the registration of such transfer and such authority shall make such entries in the appropriate register as shall give effect to such transfer and, where appropriate, issue to the transferee concerned a certificate of title in respect of the said property or make necessary amendments to the register, as the case may be, and if presented therefor, make endorsement on the deeds relating to the title, right or obligation concerned, and no registration fee, stamp duty or other duties shall be payable in respect of it.

b. (1) Before the appointed date, the Government shall notify such of the employees of the Departments as it wishes to retain for the purpose of transfer to the Authority and such employees shall be engaged on terms and conditions as may be agreed upon between the Authority and the person so employed, and, which taken as a whole are no less favourable than those applicable to him immediately before that date and shall in respect of any person so employed be the successor of the Government with regard to his leave or superannuation rights or benefits whether accrued, earned, inchoate or contingent.

(2) Employees not engaged under subsection (1) shall, before the appointed date, be notified to that effect by the Government and may be retained by the Government.

Registration of property transferred by Departments.

Employees Departments.

Legal proceedings.

7. (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in, or subsists against, the Authority by virtue of this Act, the Authority and all other persons affected thereby shall, as from the commencement of this Act, have the same rights, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Authority.

(2) All legal proceedings and claims which before the commencement of this Act are pending in respect of revenue, to which the laws specified by the Minister under section 10 apply, shall be continued or enforced by or against the Authority in the same manner as they would have been continued or enforced if this Act had not been enacted.

(3) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred, suffered by, or subsisted against either of the Departments may be instituted by or against the Authority.

References to Commissioner or Comptroller.

8. On or after the appointed date, references in any written law or any other legal document to the Commissioner of Inland Revenue or the Comptroller of Customs shall be read and construed as references to the Commissioner-General of the Authority:

Provided that the office of Commissioner of Inland Revenue and the office of Comptroller of Customs which existed on the date immediately preceding the appointed date shall be retained, each office being immediately subordinate to that of the Commissioner-General:

Provided further that the Commissioner-General may delegate to any officer of the Authority such of his duties as he deems fit.

PART III

Revenue Authority

9. There is hereby established the Revenue Authority which shall be a body corporate.

Establishment of Authority.

10. (1) The functions of the Authority are -

Functions of Authority.

(a) to assess, charge, levy and collect all revenue due to the Government under such laws as the Minister may, by order specify;

(b) to ensure that Guyana's best interests are adequately safeguarded in the negotiation of international taxation agreements;

(c) to promote compliance with the written laws relating to revenue and create in the society full awareness of the obligations and rights of revenue payers;

(d) to advise the Minister on all matters relating to revenue;

(e) to perform such other functions in relation to revenue as the Minister may direct.

(2) For the purpose of the discharge of its functions under this Act the Authority may, subject to the provisions of this Act, do anything and enter into any transaction which is necessary to ensure the proper performance of its functions and, without prejudice to the generality of the foregoing it will -

- (a) develop and maintain systems, whether by computer or other means, for the collection, storage and retrieval of information relevant to the functions of the Authority;
- (b) establish and maintain legal services including employment of attorneys-at-law for prosecuting persons charged with offences against written laws relating to revenue or for any purpose connected with assessment and collection of revenue;
- (c) design and conduct training programmes for revenue officers so as to upgrade their knowledge and skills;
- (d) establish and maintain public relations services;
- (e) establish and implement a written code of conduct for all employees of the Authority;

(f) make arrangements for the inspection and internal audit of the operations and accounts of

11. (f) There is hereby established the Governing Board of the Authority, which shall consist of the following members -

Establishment and composition of Governing Board.

- (a) a Chairman appointed by the
- (b) the Commissioner-General;
- (c) the Governor of the Bank of Guyana or his representative;
- (d) the Director of the Office of the Budget, Ministry of Finance or his representative;
- (e) two other persons with knowledge and experience in taxation, finance, commerce, economics, law or administration appointed by the Minister.

(2) The appointment of the members and every change in the appointment shall be published in the Gazette.

12. (1) The Governing Board shall be responsible for -

Functions of Governing Board.

- (a) the approval and review of the policy of the Authority;
- (b) the monitoring of the performance of the Authority in carrying out its functions; and
- (c) the discipline and control of all members of staff of the Authority appointed under this Act.

(2) The Minister may give to the Governing Board such general directives with respect to the carrying out of its functions under this Act as he considers necessary or expedient and the Board shall give effect to such directives, but only the Authority shall have power to give effect to such laws as the Minister may by order specify under section 10 (1).

Tenure of office and vacancy.

13. (1) A member, other than an ex-officio member, shall hold office for one year from the date of appointment and may be re-appointed for such further period as may be determined by the Minister.

(2) A member, other than an ex-officio member, may resign upon giving one month's notice in writing to the Minister.

(3) The office of a member shall become vacant -

(a) upon his death;

(b) if he is absent without reasonable excuse from three consecutive meetings of the Governing Board of which he has had notice;

(c) if he is an undischarged bankrupt; or

(d) if he contravenes section 19.

Seal of Authority.

14. (1) The seal of the Authority shall be such device as may be determined by the Governing Board and shall be kept by the Secretary to the Authority.

(2) The Governing Board may use a wafer or rubber stamp in lieu of the seal.

(3) The affixing of the seal shall be authenticated by the Chairman and the Secretary or some other person authorised in that behalf by a resolution of the Governing Board.

(4) Any contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be under seal may be entered into or executed without seal on behalf of the Authority by the Secretary or any other person generally or specifically authorised by the Governing Board in that behalf.

(5) Any document purporting to be a document under the seal of the Authority or issued on behalf of the Authority shall be received in evidence and shall be deemed to be executed or issued, as the case may be, without further proof, unless the contrary is proved.

15. A member shall be paid such remuneration or allowances as the Minister may determine.

Remuneration and allowances.

16. (1) Subject to the other provisions of this Act, the Governing Board may regulate its own procedure.

Proceedings of Governing Board.

(2) The Governing Board shall meet for the transaction of business at least once every month at such places and at such times as the Chairman may determine.

(3) Upon giving notice of not less than fourteen days, a meeting of the Governing Board may be called by the Chairman and shall be called if not less than three members so request in writing:

Provided that if the urgency of any particular matter does not permit, the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) Three members shall form a quorum at any meeting of the Governing Board.

(5) The Chairman shall preside at every meeting of the Governing Board and in his absence the members present may elect a member from among themselves to preside at that meeting.

(6) A decision of the Governing Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Governing Board may invite any persons whose presence is in its opinion desirable to attend and to participate in the deliberations of a meeting of the Governing Board but such person shall have no vote.

(8) The validity of any proceedings, act or decision of the Governing Board shall not be affected by any vacancy in the membership of the Governing Board or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

(9) The Governing Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every meeting of any committee established by the Board.

Committees
of Govern-
ing Board.

17. (1) The Governing Board may, for the purpose of performing its functions under this Act,

establish committees of members and of officers of the Authority and delegate to any such committee such of its functions as it thinks fit."

(2) Subject to any specific or general direction of the Governing Board, any committee established under subsection (1) may regulate its own procedure.

(3) A committee may invite any person whose presence is in its opinion desirable to attend and participate in the deliberations of a meeting of a committee but such person shall have no vote.

18. (1) The Authority may, with the approval of the Minister, make such provisions as it thinks appropriate for the payment of pension, gratuity or other allowance in respect of the service of the officers and employees of the Authority on their retirement therefrom.

(2) Where a public officer, or any other person employed by the Government, is transferred to the Authority as an officer or employee, or vice versa, he shall be entitled to have his aggregate service in the public service, under the Government and as an officer or employee of the Authority counted for the purpose of superannuation benefits and he shall, on his ultimate retirement, be entitled to receive such benefits calculated in accordance with the Pensions Act, in respect of the aggregate of such service, from the Authority or the Government as the case may be, with, or in connection with, which he was last employed.

Superannuation benefits.

Disclosure of interest.

19. (1) If any person is present at a meeting of the Governing Board or any committee of the Board at which any matter is the subject of consideration and in which matter that person or his spouse is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

Protection of members and officers and employees of Authority.

20. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member, officer, or employee of the Authority in respect of any act done bona fide by him in the execution or intended execution of his lawful duties:

Provided that where any such person is exempt from such liability by reason only of the provisions of this section, the Authority shall be liable to the extent that it would be if the member were a servant or agent of the Authority or the officer or employee were an agent of the Authority.

PART IV Administration

Commissioner-General.

21. (1) There shall be a Commissioner-General of the Authority who shall be appointed by the President on such terms and conditions as are specified in his instrument of appointment.

(2) The Commissioner-General shall be the chief executive of the Authority and, subject to the general supervision and control of the Governing Board, shall be responsible -

- (a) for the day-to-day operations of the Authority;
- (b) for the management of funds, property and affairs of the Authority; and
- (c) for the administration, organisation and control of the staff of the Authority.

(3) The Commissioner-General shall be removable by the President.

22. (1) There shall be a Secretary to the Authority who shall be appointed by the Governing Board.

Secretary and other staff.

(2) The Secretary shall be responsible for the administration of the day-to-day affairs of the Governing Board under the general supervision of the Commissioner-General.

(3) The Governing Board shall, subject to the approval of the Minister, appoint such other staff as may be required by the Authority for the efficient performance of its functions.

(4) Terms and conditions of all persons employed by the Authority shall be determined by the Governing Board, subject to the approval of the Minister.

(5) Except as may otherwise be determined by the Governing Board in any particular case, the Commissioner of Inland Revenue and the Comptroller of Customs or in their absence their immediate

deputies, shall be entitled to attend and participate in the deliberations of any meeting of the Governing Board but shall have no right to vote.

(6) Members of staff appointed under subsection (3) shall exercise such functions and perform such duties as are conferred upon them by the laws specified by the Minister under section 10 or as are delegated or assigned to them by the Commissioner-General.

(7) The Governing Board may, subject to the approval of the Minister, delegate to the Commissioner-General such of its functions under subsection (3) of this section as it may deem necessary or desirable.

(8) Any functions delegated under subsection (7) of this section may be so delegated subject to such conditions or restrictions as the Governing Board may either generally or specifically impose.

(9) The Governing Board may at any time, with the approval of the Minister, retain the services of professional persons and experts and may pay such remuneration in respect thereof as the Board may determine with the approval of the Minister.

Prohibition of publication or disclosure of information to unauthorised persons.

23. (1) No person shall, without the consent in writing given by or on behalf of the Authority, publish or disclose to any person other than in the course of his duties, or when lawfully required to do so by any court or under any law, the contents of any document, communication or information whatsoever, which relates to, and which has come to

his knowledge in the course of, his duties under this Act.

(2) Any person who knowingly contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding two hundred thousand dollars and to imprisonment for a term not exceeding five years.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding one hundred thousand dollars and to imprisonment for a term not exceeding three years.

(4) Nothing in this section or in any other written law shall prevent the passing of information between the Departments or between the Departments and the Governing Board or between the Departments and the Authority.

Financial and Other Provisions

24. All revenues collected by, or due and payable to, the Authority under this Act shall be paid into the Consolidated Fund.

Revenue to be paid into Consolidated Fund.

Funds of Authority.

(1) The funds of the Authority shall consist of -

- (a) such moneys as may -
 - (i) be appropriated by Parliament for the purpose of the Authority;
 - (ii) be paid to the Authority by way of grants or donations;
 - (iii) vest in or accrue to the Authority;
- (b) all moneys received by the Authority for services rendered by the Authority to the Government as its agent; and
- (c) all other moneys and other property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its functions.

(2) There shall be paid from the funds of the Authority -

- (a) the salaries and allowances of the staffs of the Authority;
- (b) The fees and such reasonable travelling, transport and subsistence allowance for members or members of any committee of the Governing Board when engaged on the business of the Board at such

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Funds of Authority

rates as the Board may determine; and

- (c) any other expenses incurred by the Authority in the performance of its duties.

26. The financial year of the Authority shall be the period of twelve months ending on 31st December in each year.

Financial Year.

27. (1) The Governing Board shall cause to be kept proper books of account and other records relating to the affairs of the Authority; and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform with established accounting principles.

Accounts.

(2) The accounts of the Authority shall be audited annually by the Auditor General.

28. (1) As soon as practicable, but not later than six months after the expiry of the financial year, the Governing Board shall submit to the Minister a report concerning its activities during that financial year.

Annual report.

(2) The report referred to in subsection (1) shall include information on the financial affairs, operations and performance of the Authority and there shall be appended to the report-

- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure; and
- (c) such other information as the Minister may require.

(3) The Minister shall cause a copy of the report together with the annual statements of account and the Auditor General's reports thereon or on the accounts to be laid before the National Assembly, and publish it as soon as reasonably practicable thereafter.

Annual estimates.

29. The governing Board shall before the date specified by the Minister in any year submit to the Minister for his approval estimates of revenue and expenditure of the Authority for the ensuing financial year.

Exemption from taxation.

30. (1) The Authority, its assets, property, income and its operations and transactions authorised by this Act, shall be exempt from all taxation including customs duties, consumption tax, capital gains tax, corporation tax, income tax, property tax and purchase tax and the Authority shall be exempt from payment of any tax or duty whatsoever.

(2) No taxation of any kind shall be levied on any obligations or security issued by the Authority.

Savings.

31. Subject to the provisions of this Act, any right of any person, including a right of appeal, subsisting against the Commissioner of Inland Revenue, or the Comptroller of Customs immediately before the commencement of this Act shall after such commencement be treated as subsisting against the Commissioner-General in so far as that right relates to the duties of the Commissioner-General under this Act.

Regulations.

32. The Minister may make such regulations, as may be necessary for carrying out the provisions of this Act, and in particular but without prejudice to the generality of the foregoing -

- (a) respecting the terms and conditions of service, including pensions, gratuities, and other retirement benefits, of the officers and employees of the Authority;
- (b) prescribing the procedure for the appointment of the officers and employees of the Authority;
- (c) prescribing the code of conduct and discipline;
- (d) respecting the administration and management of the funds of the Authority.

EXPLANATORY MEMORANDUM

This Bill as stated in the Long Title seeks to establish the Revenue Authority, to define the functions and powers of the Governing Board of the Authority and to transfer from the Government to the Authority the functions and powers of the Departments of Inland Revenue and of Customs. It also transfers from the Government to the Authority the assets used by the said Departments and the liabilities to which they were subject.

B. Jagdeo,
Minister

B. Jagdeo
Senior Minister of Finance