

PARLIAMENT OFFICE,
Public Buildings,
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.



GUYANA

BILL No. 15 of 1997

BANK OF GUYANA BILL 1997.

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A Bill

Intituled

AN ACT to revise and amend the law relating to the Bank of Guyana and to provide for related and consequential matters.

A.D.1997

Enacted by the Parliament of Guyana:-

PART I

PRELIMINARY

Short title

and commencement.

1. This Act may be cited as the Bank of Guyana Act 1997 and shall come into operation on such date as the Minister may by order appoint.

Interpretation.

2. In this Act -

(a) "the Bank" means the Bank of Guyana established by section 3;

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(b) "bank" has the meaning assigned to it in section 2 of the Financial Institutions Act 1995;

(c) "Board" means the Board of Directors of the Bank constituted under section 9;

- (d) "central bank" means a banking institution exercising responsibility for the issue of currency and the regulation of the money supply of a country;
- (e) "Director" means a member of the Board appointed pursuant to section 9;
- (f) "financial institution" and "licensed financial institution" have the meanings assigned to them in section 2 of the Financial Institutions Act 1995;
- (g) "foreign" means pertaining to a country other than Guyana;
- (h) "foreign exchange" means foreign currencies and claims in and to foreign currencies;
- (i) "Governor" means the Governor of the Bank;
- (j) "issue" includes re-issue;
- (k) "person" means any individual or company, and includes any group of persons acting in concert;

(1) "specified financial institution" means any institution, not being a financial institution, which is so specified by the Bank for the purposes of this Act;

(m) "specified public entity" means any local government authority or municipality, or any body corporate established by law or any agency, board or other institution established by the Government to perform functions on behalf of the Government, specified by the Bank for the purposes of this Act.

PART II

ESTABLISHMENT AND OBJECTIVES OF THE BANK

Establishment
and purpose of
the Bank.

3.(1) There shall be established a central bank to be known as the Bank of Guyana which shall be an autonomous institution governed by this Act.

(2) The Bank may exercise any of its functions entrusted to it by or in accordance with this Act or any other Act or by or under any international agreement to which Guyana is a party or which is otherwise binding on Guyana, and may do any other banking business incidental or

ancillary to or consequential upon the performance of its functions.

4. (1) The Bank shall be a body corporate.

Incorporation
and place of
business.

(2) The Bank shall have its principal place of business in the City of Georgetown or at such other place within Guyana as the Board may decide.

(3) The Bank may establish branches in any location within Guyana or elsewhere as it considers necessary.

(4) The Bank may appoint agents or correspondents within and outside Guyana.

5. Within the context of the economic policy of the Government, the Bank shall be guided in all its actions by the objective of fostering domestic price stability through the promotion of stable credit and exchange conditions, as well as sound financial intermediation conducive to the growth of the economy of Guyana.

Principal objectives.

PART III

CAPITAL AND RESERVES

Capital.

6. (1) The Bank shall have an authorised capital of one thousand million dollars of which the sum of five hundred million dollars shall be subscribed and paid by the Government as soon as and in such amounts as the Bank may require.

(2) The balance of five hundred million dollars shall be subscribed and paid by the Government at such time or times as the Government shall decide after considering the recommendations of the Bank in that regard.

General Reserve Fund.

7. (1) The Bank shall establish a General Reserve Fund into which shall be paid fifty per cent of the net profit made by the Bank during each financial year, and the remainder of such profit after deducting any sum paid into reserve under this subsection shall be paid by the Bank to the Accountant General for the Consolidated Fund:

Provided that whenever the General Reserve amounts to not less than one-third of the authorised capital of the Bank, ten percent of the net profit of the Bank shall be paid into the General Reserve Fund and the remainder shall be paid by the Bank to the Accountant General for the Consolidated Fund.

(2) For the purposes of this section, net profit shall be determined by deducting from gross income all expenses together with allowance for depreciation of assets, contributions to staff benefit funds, provision for bad and doubtful debts, and such other contingencies and accounting provisions as are usually made by banks.

(3) If the General Reserve Fund is in any year insufficient to cover any net loss of the Bank recorded in its Profit and Loss Account, an amount equivalent to the deficiency is hereby appropriated and shall be debited to the account of the Government with the Bank. Such debit shall be made in the form of a transfer from the Consolidated Fund, or interest-bearing marketable obligations issued by the Government.

PART IV

ADMINISTRATION

8. There shall be a Board of Directors of the Bank, constituted as provided in section 9, which shall be the policy-making organ of the Bank. Board of Directors.

9.(1) The Board of Directors shall consist of the following persons - Composition of the Board and tenure of Directors.

- (a) the Governor who shall serve as Chairman of the Board;

(b) the Deputy Governor who shall serve as Deputy Chairman; and

(c) not less than two nor more than four other Directors of the Board.

(2) The Governor shall be appointed by the President by instrument under the Public Seal and the other Directors of the Bank shall be appointed by the Minister.

(3) The term of office of every Director referred to in subsection (1) (which for purposes of this subsection shall include the Governor and the Deputy Governor) shall be specified in the instrument appointing him and shall be for a period not exceeding five years.

(4) The terms of office of Directors appointed under subsection 1(c) shall be so staggered that every twelve months the term of one Director shall come to an end, and the appointment of the Governor and the Deputy Governor as such shall be so made that the term of office of the Deputy Governor shall come to an end twelve months before that of the Governor.

(5) Every Director is eligible for reappointment on the expiration of his term of office for such period not exceeding five years as the President in the case of the

Governor or as the Minister in the case of every other Director may determine.

(6) If a Director of the Board referred to in subsection 1(c) suffers any incapacity, which is likely to be prolonged, the Minister may, subject to section 14, appoint a person to act for such Director during the period of incapacity and any person so appointed shall have the full powers of that Director until such time as the Minister determines that the incapacity has ceased.

10.(1) The Board shall meet at least once in every month. In addition, the Governor may convene meetings of the Board whenever he considers that the business of the Bank so requires.

Meetings of the
Board.

(2) The Governor shall summon a special meeting of the Board within seven days of a request for that purpose addressed to him by any two of the Directors referred to in section 9(1)(c).

(3) The Secretary to the Treasury, or an alternate designated by the Minister to act for him in his absence, may attend and participate in all meetings of the Board, but shall not have the right to vote at such meetings.

(4) A quorum for any meeting of the Board shall be three Directors.

(5) Decisions of the Board shall be adopted by a majority of the votes, provided that in any case in which the voting is equal, the Chairman presiding at the meeting shall have a second or casting vote.

Governor.

11. (1) The Governor shall be the Chief Executive Officer of the Bank and, subject to the general policy decisions of the Board, shall be responsible for the management of the Bank including the organization, appointment and dismissal of the staff in accordance with the general terms and conditions of service established by the Board.

(2) The Governor shall be the principal representative of the Bank and shall, in that capacity, have the authority to ensure the proper discharge of the Bank's functions under this Act and, without prejudice to the generality of this power, the Governor shall have authority-

- (a) to represent the Bank in its relations with other institutions and with the Government;

(b) to sign individually or jointly with other persons contracts concluded by the Bank, notes or securities issued by the Bank, reports, balance sheets and other financial statements, correspondence and other documents of the Bank;

(c) to determine the terms and conditions governing the employment of employees of the Bank;

(d) to employ advisers and determine the terms and conditions governing their employment;

(e) to delegate his powers provided for in paragraphs (a) and (b) to other officers of the Bank.

(3) The Governor shall, in exercising his power under subsections (2) (c) and (d), make his best endeavours, after consultation with the Board, to ensure that the terms and conditions of employment governing Bank employees are such as to attract persons with the requisite qualifications and experience for the relevant positions.

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Deputy Governor.

12. The Minister shall appoint a Deputy Governor of the Bank whose term of office shall not exceed five years and who shall serve as Deputy Chairman of the Board and perform such functions as may be assigned to him from time to time by the Governor and shall act for the Governor whenever the Governor is unable to perform the functions of his office whether by reason of illness or any other cause whatsoever.

Employment of officers.

13. (1) The Bank may employ such officers, other employees and agents at such remuneration and on such terms and conditions as it considers necessary or appropriate for the proper conduct of its business.

Cap. 27:02

(2) Where an officer in the public service is seconded or temporarily transferred for duty to an office in the Bank from a pensionable office within the meaning of the Pensions Act, section 5 of that Act shall apply to him as if his service in the Bank were service in a civil capacity under the Government.

Cap. 27:02

(3) Where an officer in the public service has been transferred to any office in the Bank, regulation 21 of the Pensions Regulations (as contained in the Schedule to the Pensions Act) shall apply to him as if service with the Bank were other public service within the meaning of that Act,

and the Pensions Act shall apply to him as if his service with the Bank were other public service within the meaning of that Act not being service under any of the Scheduled Governments as defined in regulation 2 of the Pensions Regulations, and regulation 21 of those Regulations shall apply accordingly to the person so transferred.

14. (1) No person shall be appointed a Director who -

General disqualifications for members of the Board.

- (a) is a member of the National Assembly;
- (b) is an officer in the public service; or
- (c) is a director, officer or other employee of a financial institution.

(2) The President may terminate the appointment of the Governor and the Minister may terminate the appointment of any other Director if the Governor or such Director -

- (a) by writing under his hand addressed to the person who appointed him, resigns his office;
- (b) becomes subject to any of the disqualifications specified in subsection (1);

(c) becomes bankrupt or insolvent, compounds with his creditors or benefits under the law for the relief of bankrupt persons or makes any assignment in whole or in part of his income from the Bank for the benefit of creditors;

(d) is convicted of an offence involving dishonesty, fraud or moral turpitude;

(e) becomes permanently incapable of performing his duties;

(f) engages in any act in the performance of his duties which constitutes a wilful breach of his duties as Governor, Deputy Governor or Director, or results in a personal financial gain to him; or

(g) in the case of a person holding a professional licence, has been disqualified or suspended from engaging in the practice of that profession for reasons of professional misconduct by order or action of any competent authority issued or taken in respect to that person.

(3) The Minister may terminate the appointment of a Director of the Board referred to in section 9(1)(c) who absents himself from three consecutive meetings of the Board without leave from the Board.

15. (1) The Governor and the Deputy Governor shall owe their duty entirely to the Bank and shall not engage in any paid employment, or professional or business activity outside the duties of their respective offices, except as permitted under subsection (2).

Special disqualifications for Governor and Deputy Governor.

(2) Notwithstanding subsection (1), the Governor and the Deputy Governor, may with the approval of the Minister -

- (a) serve on any committee or commission appointed by the Government to inquire into any matter affecting currency or banking or into any economic or financial matters relating to Guyana;
- (b) serve on any international financial institution of which Guyana is or becomes a member;
- (c) serve on the Board of any specified public entity.

(3) If the Governor or Deputy Governor engages in any paid employment, or professional or business activity outside the duties of his office contrary to subsection (1), the President in the case of the Governor and the Minister in the case of the Deputy Governor may terminate his appointment.

Remuneration.

16. (1) The Governor and the Deputy Governor shall be paid by the Bank such salaries and allowances as may be determined from time to time by the Minister, but the salary and allowances payable to any such person may not be reduced during his term of office.

(2) The Directors of the Board referred to in section 9(1)(c) and any person appointed to act for any Director under section 9(6) shall be paid by the Bank such fees as may be determined from time to time by the Minister.

Preservation
of secrecy.

17. (1) Any information obtained by the Bank under this Act shall be confidential and shall be used by the Bank solely for the performance of its functions under this Act.

(2) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any law, a Director, officer, or other employee or agent of

the Bank, shall not disclose to any person any information which he has acquired in the performance of his duties or the exercise of his functions.

(3) Any person who contravenes subsections (1) or (2) shall be liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for six months.

PART V

CURRENCY

18. (1) The unit of currency of Guyana shall be a dollar to be known as the Guyana dollar. Currency of
Guyana.

(2) The symbol "G\$" may be used as the abbreviated reference to the Guyana dollar.

19. (1) In accordance with the Articles of Agreement of the International Monetary Fund (providing for exchange arrangements of a member's choice) the rate of exchange of the Guyana dollar in all currencies shall be determined on the basis of prevailing market conditions. Exchange rate.

(2) The Bank shall determine its rates of exchange with reference to the prevailing market rates and conditions and make them available upon request.

Use of Guyana
dollar.

20.(1) All monetary obligations or transactions in Guyana (whether imposed or authorised by a law or otherwise) shall be deemed to be expressed and recorded, and shall be settled, in Guyana dollars unless otherwise provided for by law or agreed between the parties:

Provided that a party shall not agree to settle, or settle under any agreement, any monetary obligation or transaction in Guyana in any currency other than Guyana dollars (hereafter in this section referred to as "foreign currency") except with the permission of the Bank, after consultation with the Minister.

(2) A permission under the proviso to subsection (1) may be given by the Bank, after consultation with the Minister, to any person in respect of a single obligation or transaction or any class of obligations or transactions and may be given subject to such conditions as may be specified by the Bank, after consultation with the Minister.

(3) Any person who contravenes subsection (1), or any condition specified by the Bank under subsection (2), shall be liable, on summary conviction, to a fine of thirty thousand dollars or fifty per cent of the equivalent amount in Guyana dollars of the amount of foreign currency involved in the contravention, whichever is the greater; and any

agreement, for settling any monetary obligation or transaction in a foreign currency, entered into without the permission of the Bank under the proviso to subsection (1) shall have effect as if for any amount payable thereunder in a foreign currency, the equivalent amount in Guyana dollars were payable.

(4) For the purposes of subsection (3) the equivalent amount in Guyana dollars shall be computed in accordance with the buying rate for the foreign currency, referred to in that subsection, determined by the Bank under section 29, with reference to the date on which the amount became payable.

21. (1) The Bank shall have the sole right to issue notes and coins in Guyana and subject as aforesaid, only such notes and coins issued by the Bank shall be legal tender in Guyana .

Issue of notes and
coins, legal tender,
and withdrawal.

(2) The Bank may determine that any issue or denomination of notes or coins issued by the Bank shall cease to be legal tender with effect from any date. The Bank shall cause notice of such determination to be published in the Gazette and any such notice shall give holders of the notes and coins to be withdrawn a reasonable time within which such notes or coins shall be exchanged by

the Bank at their face value for other currency which is legal tender.

(3) Legal tender notes shall be accepted throughout Guyana without limitation as to amount in settlement of any public or private debt or monetary obligation.

(4) Legal tender coins shall be accepted throughout Guyana in settlement of any public or private debt or monetary obligation up to a limit of-

(a) one hundred dollars for coins of denomination of one dollar;

(b) two hundred and fifty dollars for coins of denomination of five dollars;

(c) five hundred dollars for coins of denomination of ten dollars.

Assets to cover
currency issue,
reserves of
external assets.

22.(1) The Bank shall at all times hold assets of an amount in the value sufficient to cover fully the value of the total amount of its notes and coins for the time being in circulation.

(2) The Bank shall maintain at all times a reserve of external assets of not less than one hundred per cent of the

total amount of its notes and coins for the time being in circulation.

(3) The reserve of external assets shall consist of all or any of the following -

(a) gold in any form;

(b) foreign exchange in the form of -

(I) demand or time deposits with foreign central banks or with the Bank's agents or correspondents abroad;

(ii) documents or instruments customarily used for the making of payments or transfers in international transactions;

(c) securities of, or securities guaranteed by, foreign governments or international financial institutions;

(d) Guyana 's reserve tranche position in the International Monetary Fund;

(e) Guyana 's holdings of special drawing rights
in the International Monetary Fund.

Characteristics
of currency.

23.(1) The denominations, inscriptions, form, material and other characteristics of the notes and coins shall be determined by the Bank with the approval of the Minister.

(2) The Bank shall publish in the Gazette the denominations and other characteristics of notes and coins issued by it.

Exchange of
mutilated notes
and coins.

24. The Bank may prescribe the conditions under which mutilated, defaced or otherwise defective notes or coins may be exchanged at the Bank.

Cheques, bills and
notes payable to
bearer on demand.

25.(1) Except as provided by subsection (2), no person shall for the purpose of putting such instrument into circulation draw, exchange, make or issue any bill of exchange, promissory note or other instrument for the payment of money payable to bearer on demand or borrow, owe or take up any sums of money or any bill of exchange, promissory note or other instrument for the payment of money payable only to bearer on demand.

(2) Cheques or drafts payable to bearer on demand, may, in the usual course of commercial practice be drawn on

financial institutions or their agents by other financial institutions or their customers.

(3) Subsection (1) shall not apply to bank notes issued before the commencement of this Act by banks duly authorised to issue such notes.

26. (1) Notwithstanding anything to the contrary in any other law, any person contravening section 25 shall be liable on summary conviction to a fine of fifty thousand dollars or to a fine equal to twice the amount of the bill, note or other instrument in respect of which the offence is committed, whichever is the greater.

Penalty for offences under section 25.

(2) Subject to article 187 of the Constitution, a prosecution under this section shall not be instituted except by the Bank, or by any agent duly authorised by the Bank in writing.

PART VI

FOREIGN EXCHANGE TRANSACTIONS

27. The Bank may import, export, buy, sell, hold or otherwise deal in gold or silver in any form under such terms and conditions as it may determine, provided that the buying and selling rates involved in such transactions shall

Dealing in gold or silver.

be in accordance with international agreements to which Guyana is a party or which are otherwise binding on Guyana.

Permitted foreign
exchange transactions and
management of external
reserves.

28.(1) The Bank may buy, sell, or otherwise deal in foreign exchange in any form.

(2) The Bank shall be responsible for the custody and administration of the reserves of external assets of Guyana referred to in section 22(3). The Bank may own, hold and manage, balances denominated in foreign currencies, and balances in gold with foreign central banks or with the Bank's agents or correspondents abroad and, in its discretion, may invest balances in marketable foreign assets including securities.

(3) The Bank may act as agent for and accept deposits from -

- (a) foreign central banks, or foreign banking or financial institutions;
- (b) foreign governments or agencies of foreign governments;
- (c) international financial institutions.

(4) The Bank may make arrangements or enter into agreements with any foreign central bank or foreign banking or financial institution to borrow in such manner, at such

rates of interest and upon such terms and conditions as it may think fit, any foreign currency which the Bank may think it expedient to acquire.

29. The Minister, in consultation with the Bank, shall specify the policies, principles and criteria governing the exchange rate system in Guyana, and the Bank shall be responsible for the day-to-day administration of such system, the Bank determining the terms and conditions under which it will engage in transactions in foreign exchange, provided that the buying and selling rates involved in such transactions shall be in accordance with international agreements to which Guyana is a party or which are otherwise binding on Guyana.

Terms of transactions
foreign exchange.

30. The Bank may engage in transactions in foreign exchange only with -

Institutions with
which Bank may deal
in foreign exchange.

(a) banks;

(b) foreign currency dealers licensed under the Dealers in Foreign Currency (Licensing) Act 1989;

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(c) the Government;

- (d) any specified public entity;
- (e) foreign central banks or foreign financial institutions;
- (f) foreign governments or agencies of foreign governments;
- (g) international financial institutions.

Foreign exchange.

31. The Bank may exercise any power or functions conferred upon or entrusted to the Bank by or under any law for the time being in force relating to dealings in foreign exchange or gold.

Payments agreements.

32. The Bank may administer any payments agreement entered into by or on behalf of Guyana .

Fiscal agent

for Government's
transactions with

international financial
institutions.

33. The Bank shall be the fiscal agent for all the transactions of the Government with international financial institutions of which Guyana is or becomes a member.

Preparation of balance of
payments accounts.

34(1) The Bank shall be responsible for the preparation of the balance of payments accounts and the external assets and liabilities position of the country.

(2) In addition to any other powers which it may exercise under this Act or any other law, the Bank may, from time to time, by notice in writing, demand from any person any financial information on foreign transactions that it may require for the discharge of its functions and responsibilities under this Act and the Bank may require such person to submit to the Bank, at such times and in such manner or form as the Bank may specify, such reports of such person's foreign operations as may be necessary and such person shall comply with the demand within the period specified in the notice.

(3) Any person from whom information is demanded under subsection (2) who-

- (a) fails or neglects to supply the information within the time specified;
- (b) supplies information which he knows or has reason to believe is false in any material particular; or
- (c) wilfully or recklessly withholds any material information,

shall be guilty of an offence and shall be liable upon summary conviction to a fine of not more than one hundred and seventy-five thousand dollars for each day the offence continues.

Depository. 35. The Bank shall act as depository for the Guyana dollar holdings of international financial institutions of which Guyana is or becomes a member.

PART VII

RELATIONS WITH BANKS AND OTHER LICENSED

FINANCIAL INSTITUTIONS

Supervision of
licenced
financial institutions.

36. The Bank shall have exclusive responsibility for the supervision and regulation of licensed financial institutions under this Act and the Financial Institutions Act 1995.

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Banker to banks and other
licenced financial
institutions.

37. (1) The Bank shall open accounts for and accept deposits from, collect money and other monetary claims for and on account of banks and other licensed financial institutions which accept deposits, and generally act as banker to banks, and may perform such services for other licensed financial institutions which accept deposits.

(2) The Bank may provide additional services to banks and other licensed financial institutions which accept deposits operating in Guyana including inter-bank clearings and the provision of safe deposit facilities.

38. The Bank may purchase from, sell to and rediscount Rediscounts. on behalf of, banks and other licensed financial institutions which accept deposits, bills of exchange, promissory notes and other credit instruments, bearing at least the endorsement of a bank or other licensed financial institution which accepts deposits maturing within one hundred and eighty days from the date of rediscount or acquisition by the Bank and issued or made for the purpose of financing -

- (a) the importation or exportation of goods and products;
- (b) the trading of goods and products within Guyana ;
- (c) the storage of goods and products which are not perishable and which are duly insured or deposited under conditions assuring their preservation in warehouses approved for the purpose of the Customs Act or in other places approved by the Bank;
- (d) industrial or agricultural production, provided that if the Bank finds it to be in the interest of the national economy, the

Bank may from time to time declare acceptable for the purposes of this section instruments relating to industrial or agricultural production maturing within two hundred and seventy days; and provided further that the Bank may require the credit instruments accepted by it under this section to be secured by a pledge, hypothecation or assignment of the related products or crops.

LOANS. 39. (1) The Bank may grant loans or advances for fixed periods, not exceeding three months, to banks and other licensed financial institutions which accept deposits and which pledge the following as collateral security for such loans or advances -

- (a) the credit instruments referred to in section 38;
- (b) negotiable securities of the Government of Guyana .

(2) The Bank shall not, except as specified in section 47, provide any credit or guarantees, directly or indirectly, to any persons other than banks and other licensed financial institutions which accept deposits.

40. Subject to sections 38 and 39, the Bank may determine the general terms and conditions under which it extends credit to banks and other licensed financial institutions which accept deposits. In particular, the Bank shall determine and announce the rates of interest it will charge for rediscounting eligible paper under section 38, and granting loans or advances under section 39.

Conditions for
credit transactions.

41.(1) The Bank may require licensed financial institutions which accept deposits to maintain minimum balances with the Bank as reserves against their deposit and other liabilities.

Reserve requirement
and penalty.

(2) The Bank may prescribe different ratios for different types of liabilities and may further prescribe the method of computing the amount of the required reserves.

(3) The Bank may impose on any licensed financial institution which accepts deposits and which fails to maintain sufficient minimum balances required under subsection (1) or (2), a penalty established in relation to the current rate of interest on treasury bills of the Government with a maturity of three months.

(4) Any determination of, or change in, the minimum reserve requirements under subsection (1) or (2) by the Bank shall take effect only after the expiration of such period

of prior written notice, as the Bank may determine, to all licensed financial institutions which accept deposits.

Liquid asset
requirement.

42.(1) The Bank may specify, by such period of prior written notice, as the Bank may determine, to all licensed financial institutions which accept deposits, the percentage of liabilities which such licensed financial institutions are required to maintain as liquid assets under section 21

No.1 of 1995 of the Financial Institutions Act 1995:

Provided, that any increase in such percentage shall not exceed five percentage points in any one thirty day period.

Requests for information.

43.(1) In addition to any other powers which it may exercise under this Act or any other law, the Bank may, from time to time, by notice delivered in writing, demand any information that it may require for the discharge of its functions and responsibilities under this Act from any licensed financial institution, specified financial institution or any holding company, subsidiary or other affiliate of a licensed financial institution. The Bank shall have the authority to examine the accounts, books and records including the minutes of all meetings, of any licensed financial institution, or any holding company, subsidiary or other affiliate of a licensed financial

institution to which it has given written notice pursuant to this subsection and such institution shall comply with the demand within five days of the receipt thereof.

(2) The Bank may require any licensed financial institution or specified financial institution to submit to the Bank, at such times and in such form as the Bank may specify, such report of its condition or operations as may be necessary for the discharge of its functions and responsibilities under this Act.

(3) Any such institution or company which refuses to submit accounts, books and records, and reports, as required under subsection (1) or (2), shall be guilty of an offence and liable upon summary conviction to a fine of not more than one hundred and seventy-five thousand dollars for each day the offence continues.

(4) Any information obtained by the Bank under subsections (1) or (2) may be used by the Bank in the preparation of any reports required to be made under this Act.

PART VIII

RELATIONS WITH THE GOVERNMENT

Fiscal agent and banker
to the Government.

44.(1) The Bank may act as a fiscal agent and trustee of, and as banker to, the Government.

(2) The Bank may also perform the functions of fiscal agent and trustee of, and banker to, any specified public entity in accordance with, and within the scope determined by, any special arrangements made between the Bank and the specified public entity concerned.

Functions as
fiscal agent.

45.(1) The Bank in its capacity as fiscal agent and trustee of, and banker to, the Government or any specified public entity may -

- (a) be the official depository of the Government or specified public entity concerned for any funds whether held in Guyana or elsewhere and accept deposits and effect payments for the account of the Government or the specified public entity, provided that the Bank may, after consultation with the Government or the specified public entity, select any other bank to act in its name and for its account as the depository of the

Government or the specified public entity in the places where the Bank maintains no office or branch;

- (b) maintain and operate special accounts, including trustee accounts, in accordance with arrangements made between the Bank and the Government or with the specified public entity concerned;
- (c) service the public debt, including the issuing of, payment of interest on, and redemption of, bonds and other securities of the Government; and account for holdings of such securities in a book-entry form;
- (d) pay, remit, collect or accept for deposit or custody funds in Guyana or elsewhere;
- (e) purchase, sell, transfer or accept for custody cheques and bills of exchange;
- (f) collect the proceeds, whether principal or interest, resulting from the sale for, or accruing to, the interest of the Government

or a specified public entity of securities or other property;

(g) purchase, sell, transfer or accept for custody gold, silver or foreign exchange.

(h) maintain a book-entry system of accounts for securities issued by the Government.

Credit operations with
Government securities.

46. The Bank may purchase or sell negotiable securities issued by the Government:

Provided, that the Bank may not, except as otherwise specifically permitted under sections 7(3) or 49(2), purchase or sell such securities from or to the Government.

Restrictions on
credit to the
Government.

47. Except as provided in sections 7(3), 45, 46 and 49(2), the Bank shall not extend any credit directly or indirectly to the Government or any specified public entity.

Bank as adviser
to the Government.

48. (1) It shall be the duty of the Bank to advise the Government on any matter which in its opinion is likely to affect the achievement of the principal objectives of the Bank as defined in section 5.

(2) The Bank may advise the Government on any matter

within the jurisdiction of the Bank whenever necessary and the Government may request the Bank to render advice on particular measures, situations or transactions, or on monetary, banking, and credit conditions in Guyana .

(3) The Government and the specified public entities shall furnish the Bank at such time and in such manner as the Bank may request with such information as the Bank may require for the proper discharge of its functions and responsibilities.

PART IX

MISCELLANEOUS PROVISIONS

49. (1) The gain arising from any change in the valuation of the Bank's assets or liabilities in, or denominated in, gold or foreign currencies, or any internationally recognized reserve assets as a result of alterations of the exchange rate of the currency of Guyana, or of any change in the values of such assets or liabilities with respect to the currency of Guyana, shall be credited to a Revaluation Account and neither the gain nor the loss arising from any such change shall be included in the computation of the annual profit or loss of the Bank.

Revaluation of
reserve.

(2) The loss arising from any such change shall be set off against any credit balance in the Revaluation Account and, notwithstanding any other provision of this Act,

if such balance is insufficient to cover such loss, the Government shall, in consultation with the Bank, issue to the Bank on such terms, including negotiability or non-negotiability, and at such rate or rates of interest or without interest as the Government may determine, securities to the extent of the deficiency and such securities shall carry such terms and conditions as are necessary to maintain the Bank's capital and reserves and avoid any impairment thereof.

(3) Any credit balance in the Revaluation Account at the end of each financial year of the Bank shall be applied first on behalf of the Government to the redemption of any outstanding securities issued under subsection (2).

(4) No credits or debits shall be made to the Revaluation Account except in accordance with the provisions of this section.

50. The Bank shall be authorised to issue its own securities on such terms and conditions as it may determine, and may buy and sell in the open market outright or under

repurchase agreements, securities issued by the Government as well as securities issued by the Bank.

51. The Bank may make loans to its officers and employees on such terms and conditions as may be approved by the Board.

Loans to employees.

52. The Bank shall be exempt from the provision of any law relating to income tax and from the payment of stamp duty.

Exemption from taxation.

53. The Board may make By-laws under the seal of the Bank for the good order and management of the Bank.

Power to make By-Laws.

54. The Bank shall not -

Prohibited operations.

- (a) except as expressly authorised by this Act, engage in trade, own or acquire any direct interest in any commercial, agricultural, industrial or similar undertakings, except in the course of the satisfaction of debts due the Bank, provided that any such interest shall be disposed of at the earliest suitable opportunity;

- (b) purchase, acquire or lease real property except for its own business premises or for the use of its employees;
- (c) draw or accept bills payable otherwise than on demand;
- (d) provide exchange rate guarantees in any form.

Training.

55. The Bank shall promote the training of persons in monetary matters, banking statistics, finance and other subjects, and with that object, may bear, or contribute towards the payment of the cost of training (whether in Guyana or elsewhere) of meritorious or promising employees of the Bank in any of the subjects aforesaid.

Financial year.

56. The financial year of the Bank shall be the same as the financial year of the Government and the accounts of the Bank shall be closed at the end of each financial year.

Half-yearly
reports.

57. The Bank shall submit to the Minister half-yearly reports on the state of the national economy, with special reference to financial developments, and on the policies being followed by the Bank, including its objective of

fostering domestic price stability under section 5.

58. Within three months after the end of each financial year the Bank shall submit to the Minister a report on its operations throughout that year, together with the balance sheet and the profit and loss account as certified by the external auditors appointed in accordance with section 60.

Annual reports.

59. (1) After submission to the Minister, the Bank shall publish the annual report together with the balance sheet and the profit and loss account referred to in section 58.

Publication of reports, etc.

(2) The Bank shall, as soon as practicable after the close of business on the second and fourth Wednesday in every month-

(a) transmit to the Minister a statement showing its assets and liabilities at the close of business on that day; and

(b) publish a copy of the said statement in the Gazette.

(3) The Bank may also issue such other publications as it considers to be in the public interest.

Audit. 60. Notwithstanding anything in section 33 of the Financial Administration and Audit Act, the power of the Auditor General to audit the accounts of public corporations shall not extend to the audit of the accounts of the Bank unless requested by the Minister to do so and the Minister shall appoint external auditors annually to audit the accounts of the Bank and certify the annual balance sheet and the profit and loss account of the Bank. The fees for such audit shall be determined by the Minister and paid by the Bank.

Regulations. 61. The Bank may make regulations as may be required from time to time for carrying into effect the provisions of this Act.

Repeal. 62. The Bank of Guyana Act 1995 is hereby repealed.
Act No. 11 of 1995

Transitional Provisions. 63. (1) Notwithstanding the repeal of the Bank of Guyana Act 1995 by section 62, the Board constituted under section 10 of the Bank of Guyana Act 1995 shall, subject to the power of the Minister to revoke at any time the appointment of the Directors thereof appointed under Section 10 (1) (c) of the said Act, continue to function as such on and after the coming into operation of this Act as though the Chairman and other Directors were appointed under section 9 of this Act, and shall have and discharge all the powers vested in

it under this Act, and in respect of all pending matters on the day immediately preceding the coming into operation of this Act, shall have and discharge all the powers vested in it under the Bank of Guyana Act 1995, and that Act shall stand unrepealed to the extent necessary to facilitate the discharge of the functions of the Board in respect of the aforesaid matters.

aforesaid matters.

(2) The assets and liabilities of the Bank established under the Bank of Guyana Act 1995 shall be transferred with effect from the coming into operation of this Act to the Bank established under this Act.

(3) All contracts, deeds, bonds, overdrafts, guarantees, agreements or other instruments or other documents, which were subsisting immediately before the coming into operation of this Act and relating to the assets and liabilities of the Bank established under the Bank of Guyana Act 1995, shall be of full force and effect against or in favour of the Bank established under this Act and be enforceable as fully and effectually as if, instead of the Bank established under the Bank of Guyana Act 1995, the Bank established under this Act had been named therein or had been a party thereto.

(4) All actions or other proceedings commenced before the coming into operation of this Act for the enforcement of

any right relating to any asset or liability which is transferred by this Act to the Bank established under this Act, and to which the Bank established under the Bank of Guyana Act 1995 is a party, may be continued by or against the Bank established under this Act, and such actions or other proceedings may be amended accordingly.

(5) Notwithstanding anything contained in this Act or any other written law or contract, the appointments of all the officers and employees employed by the Bank established under the Bank of Guyana Act 1995 immediately before the coming into operation of this Act shall be continued in the employment of the Bank established under this Act.

EXPLANATORY MEMORANDUM

This Bill repeals and re-enacts the Bank of Guyana Act 1995, No. 11 of 1995. As the Act is substantially amended, a repeal and re-enactment has been resorted to as being more beneficial generally to the Administration and other users of the Act.

The proposed amendments will significantly enhance the role and purpose of the Bank within Guyana's economic and financial system. The amendments seek to impart greater autonomy to the Bank in terms of its constitution, administration and operations (Clauses 6, 9, 34, 47 and 50). The Bank will be able to conduct its affairs in an effective manner, thus promoting the creation of a non-inflationary macroeconomic environment and a stable financial system.

The Bank's authorised and paid up capital has remained unchanged since its establishment in 1965 and has been eroded substantially over the years. Clause 6 now provides that the Bank shall have an authorised capital of one thousand million dollars which would increase the grossly inadequate capital base of the Bank and bolster its financial position.

To strengthen the policy making capabilities of the Bank and for the efficient discharge of its responsibilities

as a modern central bank, clause 9 increases from 3 to 4 the maximum number of Directors, other than the Governor and Deputy Governor, who can be appointed to the Board of Directors of the bank. To assure continuity by preventing the whole Board from being changed at the same time, clause 9 also provides that the duration of the terms of the Director, other than the Governor and Deputy Governor, shall be so staggered that each appointment shall cease a year apart.

To assist the Bank in conducting its business efficiently and in meeting its principal objective, clause 11(3) empowers the Governor, after consultation with the Board, to determine the terms and conditions of employment of employees of the Bank and advisors. In this manner the Bank will be able to attract and retain appropriately qualified staff in order to efficiently discharge its functions.

Clause 34 contains, inter alia, provisions under which the Bank will be responsible for the preparation of balance of payments accounts and statements of the external assets and liabilities position of Guyana. It also provides for an obligation to supply information to the Bank of Guyana. This provision will enable the Bank to improve the quality and timeliness of statistics on Guyana's external sector.

Clause 47 redefines the Bank's relationship with the Government and specified public entities and reaffirms the Bank's independence in matters of monetary management. The Bank under this clause will have no general power to provide credit or guarantees, directly or indirectly, to the Government or specified public entities. Clause 50 gives the Bank the power to issue its own securities and to purchase or sell Government securities in the open market in the discharge of its monetary policy.

B. Jagdeo,
Minister of Finance.