

BILL No. 29 of 1997

Friday, 12th September, 1997

PARLIAMENT OFFICE.
Public Buildings.
Georgetown.
Guyana.

12th September, 1997

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. 29 of 1997

GUYANA ENERGY AGENCY BILL 1997

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A BILL

INTITULED

AN ACT to make provision for the establishment of the Guyana Energy Agency and for specifying its functions and for matters connected therewith.

A.D. 1997 Enacted by the Parliament of Guyana:-

PART I

PRELIMINARY

Short title and commencement.

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

Interpretation.

- 2. In this Act -
 - (a) "Agency" means the Guyana Energy Agency established by section 3;
 - (b) "Board" means the Energy Agency Board established by section 18;
 - (c) "Chief Executive Officer" means the Chief Executive Officer of the Agency;
 - (d) "energy" includes power and fuel;
 - (e) "member" means a member of the Agency and includes the Chief Executive Officer;
 - (f) "plant" means fixtures, implements or machinery used in any industrial process;
 - (g) "power" includes hydro-power, thermal power and power generated from every other source;
 - (h) "source of energy" means every source from which energy is generated or brought into existence and includes material or process used for generation or bringing into existence of energy;
 - (i) "vehicle" means every description of vehicle propelled by means of a mechanism contained

within itself, whether constructed or adapted for use on a road or not, and includes a steam traction engine, steam roller and an aircraft.

PART II

GUYANA ENERGY AGENCY

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| <p>3. (1) There is hereby established a body corporate to be known as the Guyana Energy Agency.</p> <p>(2) The Agency shall consist of -</p> <p>(a) a Chief Executive Officer;</p> <p>(b) a Deputy Chief Executive Officer;</p> <p>(c) such heads of divisions of the Agency, not exceeding five, as may be designated by the Minister.</p> | <p>Establishment and Constitution of Guyana Energy Agency.</p> |
| <p>4. (1) The Chief Executive Officer and Deputy Chief Executive Officer shall be full time officers of the Agency and shall be appointed by the Minister, and their remuneration and other terms and conditions of appointment shall be such as may be determined by the Minister.</p> <p>(2) The heads of divisions of the Agency designated as members thereof (hereinafter referred to as "designated members") shall hold office for such period, not exceeding three years, as may be specified by the Minister.</p> | <p>Term of office of members and their remuneration and other terms and conditions of appointment.</p> |

- (3) Notwithstanding anything in subsection (2), the Minister may terminate the appointment of any designated member of the Agency for failure or inability to discharge the functions of his office or for misconduct or in the public interest.
- (4) The appointment of any designated member shall not be terminated under subsection (3) unless a reasonable opportunity of being heard has been given to such member.
- (5) A designated member may at any time resign by written notice to that effect to the Minister.
- (6) A designated member, not being a member whose appointment was terminated under subsection (3) for misconduct, shall be eligible for re-appointment if found suitable, notwithstanding the expiry of his term of appointment or that his appointment was terminated on an earlier occasion.
- (7) A designated member shall be paid such allowances as may be determined by the Minister and, subject to the provisions of this section, the other terms and conditions of ^{his} appointment, shall be such as may be determined by the Minister.

Functions of
Agency.

5. (1) It shall be the function of the Agency to advise and to make recommendations to the Minister regarding any

measures necessary to secure the efficient management of energy and the source of energy in the public interest and to develop and encourage the development and utilisation of sources of energy other than sources presently in use.

- (2) Without prejudice to the generality of the provisions of subsection (1), the Agency shall -
- (a) upon the request of the Minister, develop a national energy policy and secure its implementation, either by direct involvement or through other persons;
 - (b) carry out research into -
 - (i) all sources of energy including those sources presently used in Guyana for the generation of energy, and
 - (ii) securing more efficient utilisation of energy and sources of energy;
 - (c) monitor the performance of the energy sector in Guyana, including the production, importation, distribution and utilisation of petroleum and petroleum products;
 - (d) disseminate information relating to energy management, including energy conservation and the development and utilisation of alternative sources of energy;

(e) perform other functions that are conferred on it by this Act or functions relating to energy management assigned to it by the Minister.

(3) In the discharge of its functions under this Act, the Agency may establish pilot projects or, with the approval of the Minister, establish commercial enterprises, including companies, either by itself or in association with any other person or persons, and for that purpose raise capital in the same manner as any commercial enterprise.

Advisory functions
of Agency.

6. (1) The Agency shall study and keep under review matters relating to the exploration for, production, recovery, processing, transmission, transportation, distribution, sale, purchase, exchange and disposal of energy and sources of energy within and outside Guyana, shall report thereon to the Minister and shall recommend to the Minister such measures as it considers necessary or in the public interest for the control, supervision, conservation, use, marketing and development of energy and sources of energy.

(2) The Agency shall, at the request of the Minister, prepare studies and reports on any matter relating to energy or any source of energy, including research into

alternative sources of energy, or the application of such research, and shall recommend to the Minister the making of such arrangements as it considers desirable for co-operation with governmental or other agencies in or outside Guyana in respect of matters relating to energy and sources of energy.

- (3) The Agency shall, at the request of the Minister assigned authority for administration of the Electricity Sector Reform Act 1997, tender any advice needed by him or required ^{under that} Act in the discharge of his functions.

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- (4) In the discharge of its functions under this section, the Agency shall, wherever appropriate, utilise agencies of the Government to obtain technical, economic and statistical advice.

7. (1) The functions conferred on the President and on the Minister by the Hydro-Electric Power Act shall, with effect from the commencement of this Act, be exercised by the Agency and the provisions of that Act relating to the functions of the President and the Minister shall be read and construed and have effect as if references therein to the President or Minister were references to the Agency.

Exercise of
functions under
Hydro-Electric
Power Act
Cap. 56:03

(2) The functions conferred on the Chief Works Officer and the Engineer by the Hydro-Electric Power Act and any regulations made thereunder shall, notwithstanding anything in any other written law, with effect from the commencement of this Act, be exercised by the Chief Executive Officer or such officer of the Agency as may be specified by the Chief Executive Officer, and the provisions of that Act relating to the functions of the Chief Works Officer and the Engineer shall be read and construed and have effect accordingly.

(3) Section 32 of the Hydro-Electric Power Act is hereby repealed.

Power of Agency to make rules.

8. (1) Subject to subsection (2), the Agency, with the approval of the Minister, may, for the purpose of formulating and implementing measures calculated to improve the situation in Guyana with regard to energy and sources of energy, make rules for all or any of the following -

- (a) regulating or prohibiting the production, supply, acquisition or use of energy or sources of energy;
- (b) prescribing technical efficiency standards of plant, equipment, appliances and vehicles that consume or produce energy;
- (c) prohibiting or restricting the import, manufacture or use of plant, equipment, appliances and vehicles that do not comply with prescribed technical efficiency standards in respect of energy consumption or production, or use a type of fuel which, in the opinion of the Agency, is inappropriate in the context of energy conservation or the utilisation of alternative sources of energy;
- (d) prescribing technical standards, procedures and guidelines for the storage, production, processing and distribution of energy or sources of energy or for technical persons employed therein;
- (e) prescribing incentives, financial or otherwise, for the development and utilisation of alternative sources of energy, including the conversion to an alternative source of energy of plant, equipment, appliances, vehicles or other energy-consuming machinery or for the

modification thereof, or for building for the purpose of reducing energy consumption;

(f) generally for carrying out the purposes and provisions of this Act.

(2) For the removal of doubt it is hereby declared that the rule-making authority of the Agency under subsection (1) does not extend to making rules for the administration of the Electricity Sector Reform Act 1997, or the Public Utilities Commission Act 1997.

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(3) Rules made under this section are subject to negative resolution of the National Assembly.

Instructions

by Minister.

9. The Minister, after consultation with the Agency, may issue instructions to any person in respect of energy and any matter connected therewith and any person to whom any such instruction is issued shall comply with the instruction within ^{a reasonable} time specified by the Minister.

Power to compel information and preservation of secrecy.

10. (1) The Agency may request any producer, importer, distributor, processor, or any consumer of energy or any source of energy to provide any information in respect of his or its production, importation, distribution, processing or consumption of that energy or source

of energy that the Agency considers necessary for the performance of its functions, and the person to whom such request is made shall comply with the request within a reasonable time to be specified by the Agency.

(2) Except for the purpose of the discharge of his functions or when lawfully required to do so by any court or under the provisions of any law, a member or officer or other employee of the Agency shall not disclose any information which he has acquired in the course of the discharge of his functions.

(3) Any person who fails or neglects to provide any information when lawfully required to do so under subsection (1) or contravenes the provisions of subsection (2) shall be liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for one year.

11. (1) The Agency may appoint committees consisting of its members, or its members and other persons, and delegate to any such committee any of its functions.

Committees of
Agency.

(2) Without prejudice to the provisions of subsection (1), the Agency may appoint a committee consisting of its members, or its members and other persons, to report to the Agency, or advise it, on any matter specified by the Agency.

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- (3) The remuneration payable to the members of committees appointed by the Agency and other terms and conditions of their appointment shall be such as may be determined by the Agency with the approval of the Minister.

Chief
Executive
Officer.

12. (1) The Chief Executive Officer shall be responsible for implementing the decisions of the Agency.
- (2) Without prejudice to the provisions of subsection (1), and subject to the general policy decisions of the Agency, the Chief Executive Officer shall be responsible for the management of the Agency, including the organisation and discipline of the staff in accordance with the general terms and condition of service established by the Agency with the approval of the Minister.
- (3) If the Chief Executive Officer is absent or is unable to act or if the office is vacant, the Deputy Chief Executive Officer shall have, and discharge, the functions of the Chief Executive Officer.

Employment of
staff of Agency.

13. (1) The Agency may, with the approval of the Minister, employ at such remuneration and on such other terms and conditions as it thinks fit, a Secretary, heads of divisions and such other officers and employees as the Agency may require.

- (2) The Agency may delegate to the Chief Executive Officer the power conferred on it by subsection (1) in respect of any class of employees, subject to such terms and conditions, if any, specified by it.

14. The Agency may, at any time, retain the services of experts and other professional persons (including consultants) having specialised knowledge relevant to the Agency's functions and may pay such persons such remuneration in respect thereof as the Agency, with the approval of the Minister, may determine.

Employment
of experts.

15. (1) The Agency shall meet at such times as may be necessary or expedient for the transaction of its business, and the meetings shall be held at such places and times and on such days as the Agency may determine.

Meetings and
procedure of
Agency.

- (2) One-third of all the members of the Agency shall constitute the quorum for any of the meetings of the Agency.

- (3) The Minister may make regulations to prescribe the procedure of the Agency and, subject to the provisions of this Act and such regulations, the Agency may regulate its own procedure and may make rules for that purpose.

Fees for services.

16.

The Agency may charge and recover fees for any services rendered by it, including the conduct of any study or the granting of any permission.

Funds and resources of Agency.

17. (1)

The funds and resources of the Agency shall consist of -

- (a) sums paid to, or recovered by, the Agency under any provisions of this Act;
- (b) income earned by the Agency from any of its operations, commercial or otherwise;
- (c) sums provided to the Agency by or under any appropriation law;
- (d) sums allocated, from time to time, to the Agency from loan funds;
- (e) sums received by way of grant, gift or bequest from any person or agency;
- (f) any property or investment acquired by, or vested in, the Agency;
- (g) moneys earned or arising from any property or investment acquired by, or vested in, the Agency;
- (h) sums borrowed by the Agency for the purpose of meeting any of its obligations or the performance of any of its functions; and
- (i) all other sums or property which may in any manner become payable to or vested in the Agency in respect of any matter pertaining to or incidental to its functions.



- (2) The Agency may, with the approval of the Minister, borrow sums required by it for meeting any of its obligations or performing any of its functions, and such approval may be either general or limited to a particular borrowing and may be either unconditional or subject to such terms and conditions as may be specified by the Minister.
- (3) The charges on any amount which may be allocated to the Agency from loan funds shall be met by the Agency, except that all or any part of such charges may be met out of moneys provided by or under any appropriation law.
- (4) For the purposes of this section, the expression "loan funds" means such sums as may be made available from time to time to the Government by way of loan.

PART III

ENERGY AGENCY BOARD

18. (1) There is hereby established a body to be known as the Energy Agency Board. Establishment and constitution of Energy Agency Board.
- (2) The Board shall consist of -
- (a) the Chief Executive Officer of the Agency;
 - (b) the Deputy Chief Executive Officer of the Agency;

(c) any additional number of persons, not exceeding five, as may be specified by the Minister.

(3) The members of the Board shall be appointed by the Minister, and the members so appointed by the Minister under subsection (2)(c) shall be appointed from among governmental and private sector organisations or institutions with a particular interest or expertise in matters of energy policy, which organisations or institutions shall be consulted by the Minister prior to making such appointments.

(4) The Minister shall appoint one member of the Board to be the Chairman and another member of the Board to be the Vice-Chairman of the Board.

(5) Where the Chairman of the Board is, for any reason, unable to carry out his functions under this Act or if the office is vacant, the Vice Chairman of the Board shall have and discharge the functions of the Chairman for the period of the inability of the Chairman to carry out his functions under this Act.

Term of
office of
members of Board.

19.

The appointment of a member of the Board appointed under section 18 (2) (c) may be terminated by the Minister if, in the opinion of the Minister, such member has ceased to represent the interest or provide the requisite expertise of the organisation or institution from which he was appointed:

Provided that the appointment of a member of the Board shall not be terminated by the Minister under this subsection unless a reasonable opportunity of being heard has been given to such member.

20. A member of the Board shall be paid expenses at rates determined by the Minister. Expenses of members of Board.
21. (1) The Secretary of the Agency shall be secretary of the Board. Secretary and other employees of the Board.
- (2) The Chief Executive Officer of the Agency shall make available to the Board the services of such other staff and such other facilities as are necessary for the proper and efficient discharge of the functions of the Board.
22. The Board shall meet whenever necessary to ensure the proper discharge of its functions under this Act or whenever directed by the Minister or by the Chief Executive Officer of the Agency and, subject to the approval of the Minister, the Board may regulate its own procedure. Meetings and procedure of Board.

Functions
of
Board.

- 23. (1) The Board shall serve as a Board of Directors for the Agency, to which matters affecting the performance by the Agency of its functions under this Act shall be referred by the Minister or the Agency, as the case may be.
- (2) The Board shall, as soon as possible after receipt of any matter referred to it by the Minister or the Agency, consider the matter expeditiously and communicate to the Minister or the Agency, as the case may be, in writing, the advice or opinion of the Board thereon.

Preservation
of secrecy.

- 24. The provisions of section 10(2), and the penalty prescribed for the contravention thereof by section 10(3), shall mutatis mutandis apply to the members of the Board and to the officers and other employees referred to in section 21.

PART IV

MISCELLANEOUS

Power of the
Minister to
give directions.

- 25. (1) The Minister ^{shall} give to the Agency directions as to the policy to be followed by the Agency in the performance of its functions.

- (2) Without prejudice to the provisions of subsection (1), the Minister may give directions to the Agency about the priorities and in relation to its functions and management of its finance and assets.
- (3) Any direction given to the Agency by the Minister under subsection (1) or (2) shall be given effect to by the Agency.
- (4) The Agency shall provide such facilities to the Minister as will enable him to verify information furnished in pursuance of this section.
26. The Minister may in writing delegate any function conferred upon him by this Act, other than the power to make subsidiary legislation, to any person employed by the Government. **Power to delegate functions of the Minister.**
27. The names of the members of the Agency and of the Board as first constituted, and every change in the membership thereof, shall be published in the Gazette. **Notification of appointment of members of Agency and members of Board.**
28. (1) The Agency shall keep accounts of its transactions to the satisfaction of the Minister, and such accounts shall be audited annually by the Auditor General. **Accounts and audit.**

- (2) The Minister may, at any time, request the Auditor General to examine the accounts of the Agency for any particular purpose or in regard to any particular matter, and to report thereon to the Minister.
- (3) The members, officers and employees of the Agency, and of any company or other organisation established by it, shall grant to the Auditor General, for the purposes of audit under subsection (1) or (2), access to all books, documents, cash and securities of the Agency and of such company or other organisation, and shall give to him on request all such information as may be within their knowledge in relation to the operation of the Agency or such company or organisation.
- (4) The Auditor General shall have power to summon and examine all persons whom he shall think fit to examine for the purpose of obtaining information in connection with the examination and audit of the accounts of the Agency and respecting all other matters and things necessary for the due performance of the functions vested in him; and if any person summoned as aforesaid is not a public officer or an officer or employee of the Agency, he shall be entitled to payment for his attendance as if he were a witness attending a legal proceeding in obedience to a summons issued at the instance of the State.

- (5) Any person summoned under subsection (4), who without reasonable excuse makes default in obeying the summons, shall be liable on summary conviction to a fine of five thousand dollars and, in default of payment, to imprisonment for one month.
- (6) The Agency shall pay to the Auditor General for performing the functions under subsection (1) or (2) such fees as may be determined by the Minister assigned responsibility for finance.
29. The Agency may, with the approval of the Minister, write off bad debts. Writing off bad debts.
30. (1) The Agency shall, not later than six months from the end of each calendar year, submit to the Minister a report containing - Reports.
- (a) an account of their transactions throughout the preceding calendar year in such detail as the Minister may direct;
- (b) A statement of accounts of the Agency audited in accordance with section 28.
- (2) A copy of the report referred to in subsection (1), together with a copy of the Auditor General's report, shall be laid before the National Assembly.

- (3) The Agency shall submit to the Minister reports at such intervals, and as regards such matters relating to the operations of the Agency and in such detail, as the Minister may specify.

- Superannuation benefits.

31. (1) The Agency may, with the approval of the Minister, make such provisions as it deems appropriate for the payment of pension, gratuity or other allowances in respect of the service of its officers (including the Chief Executive Officer and Deputy Chief Executive Officer) and other employees on their retirement from their employment with the Agency.

- No. 21 of 1988

(2) Section 28 of the Public Corporations Act 1988 shall mutatis mutandis apply to public officers, persons (not being public officers) holding appointments in the public service and teachers, referred to therein, who are seconded, temporarily transferred or transferred to the Agency, as if the Agency were a public corporation.

- Repeal of Energy Act 1981 and consequential provisions.

32. (1) In this section "appointed day" means the date on which this Act comes into operation.

(2) With effect from the appointed day -

 - (a) the Energy Act 1981 shall stand repealed; and
 - (b) the Guyana National Energy Authority (hereinafter referred to as "the Authority"), and
- No. 2 of 1981

the Energy Advisory Council (hereinafter referred to as "the Council") established by that Act shall stand dissolved, and the appointment of all the members thereof shall stand terminated.

- (3) (a) All the assets (including rights and interests) which, on the day immediately before the appointed day, were vested in or belonged to the aforesaid Authority shall, with effect from the appointed day, by virtue of this section and without further assurance, stand transferred to and vested in the Agency.
- (b) The assets of the Authority transferred to and vested in the Agency under this subsection shall include -
- (i) all the furniture and other furnishings, office and communications equipment, motor vehicles and other means of transportation owned by the Authority;
 - (ii) all books, documents and other records, including electronically stored data and other material owned by or in the possession of the Authority;
 - (iii) all material prepared by the Authority or any employee of the Authority on its behalf or in connection with its functions;

- (iv) copyright and rights to other intellectual property vested in the Authority;
 - (v) cash in hand, amounts held in bank accounts in the name of the Authority; and
 - (vi) all sums or property which in any manner were received by, or became payable to or vested in, the Authority in the performance of its functions or in respect of any matter incidental thereto.
- (4) The liabilities of the Authority as on the day immediately before the appointed day shall, with effect from the appointed day, stand transferred to the Agency and shall be discharged by, and enforceable against, the Agency as if the said liabilities had been incurred by the Agency.
- (5) Nothing in subsections (3) and (4) shall apply to rights and liabilities under any contract of service.
- (6) Without prejudice to the provisions of subsection (4), all contracts, deeds, bonds, overdrafts, guarantee agreements or other instruments or other documents which were subsisting immediately before the appointed day and affected the Authority shall, as from

that day, in so far as they relate to the undertakings or the property of the Authority, be of full force and effect against or in favor of the Agency and be enforceable as fully and effectively as if, instead of the Authority, the Agency had been named therein and had been a party thereto.

- (7) Where immovable property has, by virtue of this section, vested in the Agency, the Registrar of Deeds shall take due notice thereof and shall make such annotations on the records as may be necessary.
- (8) Any proceedings commenced by or against the Authority prior to the appointed day for the enforcement of any right or liability which is transferred or attached to the Agency by virtue of this section, and pending immediately before that day in any court or before any authority, may be continued by or against the Agency.
- (9) Notwithstanding anything contained in this Act or any other written law or contract to the contrary, the appointment of all the officers and employees employed by the Authority or the Council immediately before the appointed day shall stand terminated with effect from that day:

Provided that any person whose appointment stands terminated under this subsection may, if such person applies for employment by the Agency in any position before the appointed day, and after consultation with the Minister the Agency is satisfied that such person is a fit and proper person for such employment, continue in employment in a position in the Agency on such terms and conditions as may be agreed upon between him and the Agency, and in respect of any person so continued in employment by the Agency, the Agency shall be the successor of the Authority or Council, as the case may be, with regard to his leave or superannuation rights or benefits, whether accrued, earned, inchoate or contingent.

Power of the
Minister to make
regulations.

33. (1) The Minister may make regulations for carrying out the purposes of this Act.
- (2) Without prejudice to the generality of the foregoing, and in particular, such regulations may provide for all or any of the following matters -
- (a) the procedure of the Agency;
 - (b) any other matter that is required to be, or may be, prescribed by the Minister under this Act by regulations.

EXPLANATORY MEMORANDUM

This bill seeks to establish the Guyana Energy Agency (hereinafter referred to as "the Agency") and a new Energy Board and to prescribe their functions and procedures.

The functions of the Agency are mainly dealt with in clauses 5 to 8 (inclusive) of the Bill. Some of the main functions of the Agency under the Bill are to secure efficient management of energy and the sources of energy in the public interest, to develop and encourage the development and utilisation of alternative sources of energy, and to develop a national energy policy and secure its implementation either by direct involvement or through other persons.

The Agency is sought to be empowered to establish pilot projects and to establish, with the approval of the Minister, commercial enterprises and raise capital for the same.

Cap. 56:03

The functions conferred on the President and Minister under the Hydro-Electric Power Act are proposed to be transferred to the Agency. Similarly, the functions conferred on the Chief Works Officer and certain other

officers under the Act are proposed to be transferred to the Chief Executive Officer of the Agency.

Under clause 3(2) of the Bill, the Agency will consist of a Chief Executive Officer, Deputy Chief Executive Officer, and not exceeding five divisional heads of the Agency to be designated by the Minister.

6. As the functions now conferred on the Guyana National Energy Authority and Energy Advisory Council by the Energy Act 1981 are proposed to be assumed by the Agency and the new Energy Agency Board, respectively, it is proposed to repeal that Act and to make consequential provisions.

No. 2 of 1981

SAMUEL A. HINDS
President.