

THE OFFICIAL GAZETTE – 15TH SEPTEMBER, 1984 LEGAL SUPPLEMENT – C

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.

1984—09—10.

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

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



GUYANA

BILL No. 12 of 1984

GUYANA MANUFACTURING AND INDUSTRIAL DEVELOPMENT

AGENCY BILL 1984

ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title and commencement.
2. Interpretation.

PART II

ESTABLISHMENT AND FUNCTIONS OF AGENCY

3. Establishment of Agency.
4. Functions of Agency.
5. Power to delegate.
6. Procedure of Agency.
7. Power to obtain information.
8. Power to enter and make enquiries.
9. Authorised officer to produce written authorisation.
10. Secrecy of information furnished to Agency.

PART III

STAFF OF AGENCY

11. Officers and other employees of Agency.
12. Superannuation benefits of public officers and teachers employed with Agency.
13. Provision for superannuation benefits by Agency.

PART IV

FINANCIAL PROVISIONS

14. Funds and resources of Agency.
15. Charging of fees by Agency.
16. Borrowing powers of Agency.
17. Investments by Agency.
18. Exemption from tax, duty, etc.

PART V

OFFENCES AND PENALTIES

19. Offences.
20. Penalties.

PART VI

MISCELLANEOUS

21. Protection of members of Agency.
22. Power of the Minister to give directions.
23. Limitation provisions excluded.
24. Minutes receivable in evidence.
25. Accounts and audit.
26. Annual report.
27. Performance of functions of Agency by the Minister in certain cases.
28. Power to make regulations.
29. Power of Agency to make rules.

SCHEDULE.

A BILL

Intituled

AN ACT to provide for the establishment and functions of the Guyana Manufacturing and Industrial Development Agency and for matters connected therewith.

Enacted by the Parliament of Guyana:—

A.D. 1984

PART I

PRELIMINARY

1. This Act may be cited as the Guyana Manufacturing and Industrial Development Agency Act 1984 and shall come into operation on such date as the Minister may appoint by order.

Short title
and com-
mencement.

2. In this Act —

Interpreta-
tion.

- (a) “Agency” means the Guyana Manufacturing and Industrial Development Agency established by section 3;
- (b) “authorised officer” means any employee of the Agency who is duly authorised in writing by the Agency to exact the performance of, or to perform, the act referred to.

PART II

ESTABLISHMENT AND FUNCTIONS OF AGENCY

Establishment of Agency.

3. (1) There is hereby established a body to be known as the Guyana Manufacturing and Industrial Development Agency consisting of a chairman and such number of other members, not exceeding four, to be appointed by the Minister by instrument in writing from among persons appearing to him to be qualified as having experience of, and shown capacity in, such matters which the Minister considers will be beneficial in the functioning of the Agency and, without prejudice to the generality of the foregoing, in particular, in matters relating to industry, engineering, banking, finance, science, trade, commerce, law, management or administration.

(2) The Agency shall be a body corporate.

(3) The names of the members of the Agency as first constituted and every change in the membership thereof shall be published in the *Gazette*.

(4) The terms and conditions of appointment of each of the members of the Agency shall be such as may be determined by the Minister.

(5) The seal of the Agency shall be kept in the custody of the chairman, vice-chairman or the secretary of the Agency and shall be authenticated by the signature of the chairman, or the vice-chairman, and the secretary of the Agency.

(6) Every document purporting to be an instrument duly executed under the seal of the Agency shall be received in evidence and deemed, without further proof, to be so executed unless the contrary is proved.

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

Functions of Agency.

4. (1) The functions of the Agency shall be to take all steps, necessary or desirable, for the establishment, promotion and development of manufacturing and industry in Guyana.

(2) Without prejudice to the generality of the provisions of subsection (1), the Agency shall, in particular, exercise the functions specified in the Schedule.

(3) The Minister may, by order, which shall be subject to affirmative resolution of the National Assembly, amend any entry in the Schedule or delete any entry therefrom or include therein any entry relating to manufacturing or industry.

5. The Agency may delegate to any of its members the power and authority to carry out on its behalf such of its functions as the Agency may determine. ^{Power to delegate.}

6. (1) The Minister may make regulations to regulate the procedure and business of the Agency, including the quorum for its meetings. ^{Procedure of Agency.}

(2) Subject to any regulations that may be made under subsection (1), the Agency shall have power to regulate its own procedure and business and may make rules for that purpose.

7. (1) Subject to subsections (3) and (4) and notwithstanding anything to the contrary in any other law, it shall be lawful for the Agency to request any person to supply to the Agency such information as the Agency deems necessary to carry out the functions conferred upon it by this Act either by such person being interviewed personally by an authorised officer or by way of the completion by that person of a form or a questionnaire left with him or sent to his last known address by the Agency. ^{Power to obtain information}

(2) Any person having the custody or charge of —

- (a) any public records or documents; or
- (b) any records or documents of any person from which, in the opinion of any authorised officer, information necessary to the Agency for the carrying out of its functions can be obtained,

shall grant to an authorised officer, access to the records or documents for his purpose of obtaining such information therefrom.

(3) A person shall not be required to supply information under this Act which involves the disclosure of any working processes or manufacturing or commercial secrets in or relating to the undertaking of which he is the owner or in the conduct or supervision of which he is engaged.

(4) Where a person to whom a request has been made under subsection (1) satisfies the Minister, by representation made to the Minister in writing within seven days of the receipt of such request, that undue hardship is imposed upon him by reason of that request, the Minister may direct that such request be waived or be modified to such extent as he thinks fit.

Power to enter and make enquiries.

8. Any authorised officer may, for any purpose connected with the carrying out of the functions of the Agency, enter at all reasonable times any dwelling house or any premises where persons are employed or any premises where it appears to him likely that persons are employed and make such enquiries (not being enquiries relating to working processes or manufacturing or commercial secrets) as may be necessary for the performance of his duties in relation to such functions.

Authorised officer to produce written authorisation.

9. An authorised officer shall before exercising any of the powers conferred upon him by this Act produce the written authorisation of the Agency, authorising him to exercise that power, to such persons as may be directly affected by the proposed exercise by him of that power.

Secrecy of information furnished to Agency.

10. (1) Except for the purpose of a prosecution under this Act or for the purpose of the exercise of his functions —

- (a) any return, or part thereof, made for any of the purposes of this Act;
- (b) any answer given to any question put for any of the purposes of this Act;
- (c) any report, abstract, or other document, containing particulars comprised in any such return or answer so arranged as to enable identification of such particulars with any person, undertaking or business; or
- (d) any other information which he has acquired in the course of the exercise of his functions,

shall not be published or disclosed by any member, or officer or other employee, of the Agency while he is, or after he has ceased to be, such member or officer or employee, to any person not employed in the execution of a duty under this Act, unless the previous consent in writing thereto has been obtained —

- (i) where the person making such return, giving such answer or otherwise making available the information is an employee in an undertaking or a business, from the owner for the time being of the undertaking or business; and
- (ii) in other cases, from the person making such return, giving such answer or otherwise furnishing the information:

Provided that nothing in this section shall be deemed to prevent or restrict the publication or disclosure of any report, abstract or other document referred to in paragraph

(c) without the consent required under this section where —

- (a) the particulars in such report, abstract or other document enable identification merely by reason of the fact that the particulars relate to the undertaking or business of a person who is the only individual engaged in that category of undertaking or business; or
- (b) such publication or disclosure is lawfully required in any court or tribunal or under the provisions of any other written law.

(2) Notwithstanding anything contained in this Act or any other written law, every member or officer or other employee of the Agency shall while he is, and after he has ceased to be, such member or officer or other employee maintain secrecy concerning any working processes or manufacturing or commercial secrets which may come to his knowledge in the course of the exercise of his functions.

PART III

STAFF OF AGENCY

11. (1) There shall be a chief executive officer of the Agency having such designation as may be determined by the Minister.

Officers and
other em-
ployees
of Agency.

(2) The staff of the Agency shall consist of, in addition to the chief executive officer, a secretary and such other officers and other employees as may be requisite for the proper carrying out of the functions of the Agency.

(3) The officers and other employees of the Agency referred to in subsections (1) and (2) shall be appointed by the Minister and the power to remove, and to exercise disciplinary control over, any person so appointed shall be vested in the Minister.

(4) Subject to the other provisions of this Act, the terms and conditions of appointment of any officer or other employee of the Agency shall be such as may be determined by the Minister.

(5) The Minister may appoint a committee consisting of such number of members, not exceeding three, as he thinks fit to be known as the Appointments Committee for the Guyana Manufacturing and Industrial Development Agency (hereinafter referred to as the Appointments Committee) and delegate to the Appointments Committee any or all of the powers conferred upon him by this section.

(6) The Appointments Committee may consist of the members of the Agency only or of the members of the Agency and others or of

persons who are not members of the Agency only and shall exercise and perform the functions delegated to it by the Minister under subsection (5).

(7) The terms and conditions of appointment of the members of the Appointments Committee shall be such as may be determined by the Minister.

(8) If the office of the secretary of the Agency is vacant or if he is for any reason unable to perform the functions of his office, the Minister may assign a public officer in his Ministry to carry out the functions of the office of the secretary of the Agency.

(9) The Agency may at any time retain the services of professional persons and may pay such remuneration or fees in respect of their services as the Agency may, with the approval of the Minister, determine.

Superannuation benefits of public officers and teachers employed with Agency.

12. (1) Where, with the approval of the appropriate authority, an officer —

- (a) is seconded or temporarily transferred from a pensionable office within the meaning of the Pensions Act to an office with the Agency, section 5 of that Act shall apply to him as if his service in the office with the Agency were service in a public office;
- (b) is transferred from a pensionable office within the meaning of the Pensions Act to a substantive appointment in an office with the Agency, his service with the Agency shall be other public service within the meaning of, and for the purposes of, such provisions in relation thereto as are contained in the Pensions Act.

Cap. 27:02.

(2) Where a teacher who has done qualifying service within the meaning of the Teachers' Pensions Act is, with the approval of the appropriate authority, —

Cap. 39:03.

- (a) seconded or temporarily transferred from his pensionable office as a teacher to an office with the Agency, section 5 of the Pensions Act (as it applies *mutatis mutandis* to a teacher under section 7C of the Teachers' Pensions (Amendment) Act 1971) shall apply to him as it applies in the case of a public officer;
- (b) transferred from his pensionable office as a teacher to a substantive appointment in an office with the Agency, his service with the

No. 9 of 1971.

Agency shall be treated as if it were other public service within the meaning of, and for the purposes of, such provisions in relation thereto as are contained in the Pensions Act and as if he were a public officer to whom the Pensions Act applies.

(3) In this section “appropriate authority” means the person or authority vested by law with power to appoint the officer to the pensionable office held by him (and to which the Pensions Act applies) or to appoint the teacher to the office held by him as a teacher, as the case may be.

13. The Agency may make provision for the payment of pension, gratuity or other allowance to officers and other employees of the Agency, in respect of their service with it, on their retirement therefrom. Provision for superannuation benefit by Agency.

PART IV

FINANCIAL PROVISIONS

14. (1) The funds and resources of the Agency shall consist of — Funds and resources of Agency.

- (a) such sums as may be provided by or under an appropriation law;
- (b) such fees as may be charged by the Agency for services rendered by it;
- (c) such sums as may be allocated from time to time to the Agency from loan funds;
- (d) moneys earned or arising from any property or investments of the Agency;
- (e) all other sums or property which may in any manner be received by, or become payable to, or vested in, the Agency in the performance of its functions or in respect of any matter incidental thereto.

(2) For the purposes of this section, the expression “loan funds” means such sums as may be made available from time to time, by the Government by way of loan.

15. The Agency may, with the approval of the Minister, charge fees for any services rendered by it. Charging of fees by Agency

Borrowing
powers of
Agency.

16. The Agency may, with the approval of the Minister, borrow sums required by it for meeting any of its obligations or discharging any of its functions.

Investments
by Agency.

17. Moneys standing to the credit of the Agency may from time to time be invested in such securities as may be determined by the Agency and the Agency may, from time to time, sell any or all of such securities.

Exemption
from tax,
duty, etc.
Cap. 81:01.
Cap. 82:01.
Cap. 80:02.

18. (1) The Agency shall be exempt from payment of income tax under the Income Tax Act, import or export duties of customs under the Customs Act and consumption tax, in respect of goods imported by it into Guyana, under the Consumption Tax Act.

(2) The Minister responsible for finance may, by order, which shall be subject to affirmative resolution of the National Assembly, exempt the Agency from payment wholly or partly of any tax or duty, not being a tax or duty referred to in subsection (1), or rate, levy or other charge, payable under any written law for the time being in force.

PART V

OFFENCES AND PENALTIES

Offences.

19. (1) Any person, being or having been a member, or officer or other employee, of the Agency, who —

(a) by virtue of his holding any such office or employment becomes or had become possessed of any information which might exert an influence upon or affect the market value of any property and, before such information is made public by the authority competent to do so, directly or indirectly uses the information for personal gain; or

(b) contravenes the provisions of section 10, shall be guilty of an offence.

(2) Any person who without lawful authority seeks the disclosure by any member, or officer or other employee, of the Agency of information obtained pursuant to this Act, in excess of the authority of that member or officer or other employee, shall be guilty of an offence.

(3) Any person who, being in possession of any information which to his knowledge has been disclosed in con-

travention of this Act, publishes or communicates such information to any person shall be guilty of an offence.

(4) Any person who —

- (a) hinders or obstructs any authorised officer in the exercise of any of his powers or the discharge of any of his duties under this Act;
- (b) without lawful excuse refuses or fails to supply the particulars required in any return, form, questionnaire or other document lawfully left with or sent to him or who refuses or fails to answer any question or inquiry addressed to him under the authority of this Act;
- (c) knowingly or negligently makes in any return, form, questionnaire or other document completed or supplied pursuant to this Act or in any answer to any question asked of him under the authority of this Act, any statement which is untrue in any material particular; or
- (d) without lawful authority —
 - (i) suppresses from the Agency; or
 - (ii) with intent to deprive the Agency of the benefit thereof, destroys, defaces or mutilates,
any return, form, questionnaire or other document containing particulars collected or requested under this Act; or
- (e) writes or makes on any return, form, questionnaire or other document issued for the purpose of this Act and furnished to an authorised officer, any indecent, obscene or insulting remarks, drawing or any other matter,

shall be guilty of an offence.

20. Every person who is guilty of an offence under this Act shall be liable on summary conviction therefor to a fine of not less than two hundred dollars nor more than five thousand dollars and imprisonment for one year and in the event of a continuing offence to a further fine of five hundred dollars for each day during which the offence continues. Penalties.

PART VI

MISCELLANEOUS

Protection of
members of
Agency.

21.(1) Subject to subsection (2), no action, suit, prosecution or other proceedings shall be brought or instituted personally against a member of the Agency in respect of any act done *bona fide* in pursuance of the execution or intended execution of his function under this Act.

(2) Where a member of the Agency is exempt from, liability by reason only of subsection (1), the Agency shall be liable to the extent that it would be if such member was a servant or agent of the Agency, so, however, that if in any case, the Agency is not liable for any of the abovementioned acts, then, subsection (1) shall not operate to exempt such member as therein stated.

Power of the
Minister to
give direc-
tions.

22.(1) The Minister may give to the Agency directions of a general character as to the policy to be followed by the Agency in the exercise of its functions and the Agency shall give effect to any such directions.

(2) The Agency shall provide such facilities to the Minister as will enable him to verify any information furnished in pursuance of this section.

Limitation
provisions
excluded.

23. No statute of limitation shall apply to any action or suit brought by the Agency or in respect of any property owned by the Agency.

Minutes
receivable
in evidence.

24. Any minutes made of a meeting of the Agency shall, if duly signed by the chairman or the vice-chairman or other person presiding at the meeting, without further proof of any other matter or thing, be receivable in all legal proceedings as *prima facie* evidence of the proceedings of the Agency, of which the minutes have been made, and of the meeting of the Agency, in respect of the proceeding of which the minutes have been so made, having been duly convened and held.

Accounts
and audit.

25.(1) The Agency shall keep accounts of its transactions to the satisfaction of the Minister and the accounts shall be audited annually by an auditor appointed by the Minister.

(2) The members, and officers and other employees, of the Agency shall grant to the auditor appointed under subsection (1) access to all books, documents, cash and securities

of the Agency and shall give to him on request all such information as may be within their knowledge in relation to the functioning of the Agency.

(3) The Agency may write off bad debts.

26. (1) The Agency shall, not later than six months after the end of each calendar year, submit to the Minister a report containing — Annual report.

(a) an account of its functioning throughout the preceding calendar year in such detail as the Minister may direct;

(b) a statement of the accounts of the Agency audited in accordance with section 25.

(2) A copy of the report mentioned in subsection (1) together with a copy of the report of the auditor shall be laid before the National Assembly not later than nine months after the end of each calendar year.

27. During any period when there is no member of the Agency in office or when the number of members of the Agency in office is less than the number of members required for a quorum for a meeting of the Agency, the functions conferred upon the Agency by the provisions of this Act, other than provisions which shall be inapplicable in any such case, shall be exercised and performed by the Minister. Performance of functions of Agency by the Minister in certain cases

28. The Minister may make regulations for carrying into effect the purposes of this Act. Power to make regulations.

(2) Without prejudice to the generality of the foregoing, the regulations made under subsection (1) may in particular provide for the procedure and business of the Agency, including the quorum for its meetings.

29. The Agency may, subject to this Act and any regulations made thereunder, make rules to provide for all or any of the following matters — Power of Agency to make rules.

(a) the procedure and business of the Agency;

(b) the charging of fees for services rendered by the Agency;

(c) generally for the exercise of its functions.

SCHEDULE

Section 4

FUNCTIONS OF AGENCY

To advise the Minister on the formulation of appropriate manufacturing and industrial development policies that may be necessary, from time to time, to stimulate the orderly and balanced development of the manufacturing sector.

2. To advise the Minister on the fiscal, infrastructural, manpower planning, technology and other relevant arrangements that may be instituted from time to time to ensure the continued growth, efficiency and viability of the manufacturing sector.
3. To assist manufacturers in upgrading production techniques, with particular reference to appropriate technology, the efficiency of quality control, standards and management systems, and the optimal utilisation of indigenous raw materials, among others.
4. To identify and compile information on investment opportunities, indigenous raw material resources and local and external market opportunities for the benefit of manufacturers and investors.
5. To provide consultancy and other supporting services for manufacturers in such areas as project preparation, human resource development, training, technology, management and marketing.
6. To develop and maintain such data base and information systems as will, among other things, provide manufacturers with the timely and accurate information they need to enhance the efficiency of their operations, expand exports and facilitate investment decisions.
7. To implement and manage such manufacturing activities and projects as are assigned to it by the Minister.
8. To undertake and facilitate research and development activities aimed at improving performance in the manufacturing sector.

9. To monitor and evaluate periodically the performance of the manufacturing sector with a view to advising the Minister, from time to time, on the need for policy adjustments or new initiatives.
10. To do all things necessary and give all necessary encouragement and assistance to manufacturers and investors to promote the expansion and sustained development of the manufacturing sector.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the Guyana Manufacturing and Industrial Development Agency, to define its functions, and to make provision in respect of other connected matters. As proposed, the main function of the Agency will be to take all steps, necessary or desirable, for the establishment, promotion and development of manufacturing and industry in Guyana. The funds of the Agency will consist mainly of the moneys provided to it by the Government as grant or loan, and the fees which the Agency is sought to be authorised to charge for services rendered by it. Provision for the protection of the confidentiality of information received by the Agency is also sought to be made.

H. D. Hoyte,
Prime Minister

(BILL No. 12/1984)
(A : 30/51/0)