



GUYANA

BILL No. 4 of 1990

DEFENCE (AMENDMENT) BILL 1990

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Insertion of new PART IXA in the Principal Act.
3. Repeal of section 215 of the Principal Act.
4. Insertion of new Third Schedule in the Principal Act.

A BILL

Intituled

AN ACT to amend the Defence Act to provide for the establishment of the Coast Guard, to set out the duties of its members and to provide for matters incidental thereto.

A. D. 1990 Enacted by the Parliament of Guyana :—

Short title. 1. This Act, which amends the Defence Act, may be cited as the
Cap. 15:01 Defence (Amendment) Act 1990.

Insertion of 2. The Principal Act is hereby amended by the insertion, after
new Part Part IX, of the following part as Part IXA —
IXA in the
Principal
Act.

“Part IXA

The Coast Guard

Establishment 208A. (1) There is hereby established the Coast Guard
and special which shall comprise those officers and soldiers of the Force
duties of serving as members of the Maritime Corps of the Force or,
Coast Guard. after the enactment of this Part, appointed to or from the Force as members of the Coast Guard.

(2) The members of the Coast Guard shall be primarily employed as a coast-watching force, maintaining a state of readiness to function as a specialised service, enforcing or assisting in the enforcement of all applicable laws on and under the high seas and waters subject to the jurisdiction of Guyana.*

(3) Without prejudice to the generality of subsection (2) the members of the Coast Guard shall —

- (a) enforce the provisions of every law relating to —
- (i) the regulation of any river, harbour or port of Guyana.
 - (ii) quarantine;
 - (iii) immigration;
 - (iv) fisheries;
 - (v) the territorial sea, continental shelf, exclusive economic zone and fishery zone of Guyana;

(vi) safety at sea;

(vii) narcotic **drugs** and psychotropic substances,

including the provisions of the laws ^{Third Schedule} mentioned in the Third Schedule;

(b) detect and prevent the contravention of laws relating to revenue and customs;

(c) prevent persons from boarding, holding or clinging to any vessel without the permission of the master of the vessel, and, if necessary, remove any such person from the vessel.

(4) For the purposes of carrying out their duties the members of the Coast Guard shall have the same powers, authorities and privileges as are conferred by law on, and shall be liable to all the responsibilities of, members of the Police Force.

208B. (1) Any member of the Coast Guard may—

- (a) cause any vessel within the territorial sea or in any port, harbour, bay, river, roadstead or creek in Guyana that he reasonably suspects is being used or employed in any unlawful operation or enterprise, to be boarded, or stopped and boarded and searched;
- (b) after demand and refusal of any key in respect of any vessel, break open any receptacle or break down any door, if he reasonably suspects that there is on board the vessel any merchandise or other property that has been stolen or unlawfully obtained or any article prohibited to be exported or imported;
- (c) direct, for the purposes of any lawful examination, investigation or inquiry, that the vessel be taken to such place as he may specify;
- (d) remain on board any such vessel for such reasonable time as he thinks necessary;
- (e) deliver, any property that he reasonably suspects to have been stolen or unlawfully

Powers of members of Coast Guard with respect to vessels.

Cap. 16:01

obtained or any article prohibited to be imported or exported and the person in whose possession it is found, with all practicable speed, into the custody of a member of the Police Force to be dealt with in accordance with section 21 of the Police Act and otherwise according to law;

- (f) where it shall appear that a breach of any law has been committed rendering such vessel or merchandise or other property, or any part thereof, on board of such vessel liable to forfeiture, seize such vessel or such merchandise, or both, and deal with the seizure according to the aforesaid law.

(2) Any member of the Coast Guard acting in the execution of any of the provisions of this section may —

- (a) pursue and arrest without warrant or take any other lawful and appropriate action against, whether he has landed or not, any person upon reasonable suspicion of having committed or being about to commit a criminal offence, and a person arrested under this section without a warrant, shall be taken before a magistrate as soon as practicable after he is taken into custody;

Provided that he may, as soon as practicable after his arrest, be delivered or conveyed and delivered into custody of a member of the Police Force to be dealt with in accordance with section 21 of the Police Act and otherwise according to law;

- (b) take such steps as are reasonably justifiable in the circumstances of the case in order of compel compliance with any directions given in pursuance of any such provisions.

(3) Subject to section 208A (4) no member of the Coast Guard shall be liable for any loss or damage to any vessel referred to in subsection (1) or loss or injury to any person on board any such vessel, occasioned in the execution of his duty.

Obstruction of officer or soldier of the Force. 208 C. Any person who —

- (a) assaults, obstructs, resists or wilfully delays any officer or soldier of the Force acting in

execution of any of the provisions of this Part; or

- (b) fails to comply, without reasonable excuse, the proof whereof shall lie upon him, with any directions given in pursuance of such provisions,

shall be liable on summary conviction to a fine of one thousand dollars and to imprisonment for twelve months.

Powers under laws mentioned in Third Schedule, Third Schedule.

208D. (1) Any officer or soldier of the Force may in the pursuance of his duties as a member of the Coast Guard enforce or assist in the enforcement and administration of the laws mentioned in the Third Schedule, and may arrest without a warrant any person who commits an offence against any such laws, where a breach of such laws renders a person liable to arrest.

(2) A member of the Coast Guard who arrests any person pursuant to subsection (1) shall deliver the person into the custody of a member of the Police Force to be dealt with according to law.

Hazarding or loss of ship.

208E. Any person who being subject to military law under this Act causes or allows to be lost, stranded or hazarded, any ship belonging to the Force or being used by the Force shall, on conviction by court-martial, be liable, if he acts wilfully or with wilful neglect, to imprisonment or any less punishment; and in any other case to imprisonment for a term of two years or any less punishment, provided by this Act.

Provisions not in derogation.

208F. The provisions of this Part shall be in addition to and not in substitution, derogation or limitation of the provisions of any other written law."

3. Section 215 of the Principal Act is hereby repealed.

Repeal of section 215 of the Principal Act.

4. The Principal Act is hereby amended by the insertion after the Second Schedule of the following schedule as the Third Schedule —

Insertion of new Third Schedule in the Principal Act.

"THIRD SCHEDULE

ss. 208A (3)
208D (1)

1. Immigration Act

Cap. 14:02

2. Police Act

Cap. 16:01

“THIRD SCHEDULEss. 208A (3)
208D (1)

3. Law of Merchant, Shipping Act	Cap. 49:01
4. Carriage of Goods by Sea Act	Cap. 49:02
5. Passengers Act	Cap. 49:03
6. Transport and Harbours Act	Cap. 49:04
7. Government Wharves Act	Cap. 49:05
8. Government and Contract Steamer (Traffic) Act	Cap. 49:06
9. Shipping Casualties (Investigation and Prevention) Act	Cap. 49:07
10. Wrecks Removal Act	Cap. 49:08
11. River Navigation Act	Cap. 50:01
12. Demerara River Navigation Markers Act	Cap. 50:02
13. Fisheries Act	Cap. 71:08
14. Customs Act	Cap. 82:01
15. The Collision Regulations (Ships and Seaplanes on Water) and Signals of Distress (Ships) Order 1965	S. I. 1965 No. 1525 U.K.
16. Maritime Boundaries Act	No. 10 of 1977
17. Narcotic Drugs and Psychotropic Substances (Control) Act	No. 2 of 1988.”

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Defence Act, Cap. 15:01, to insert a new Part IXA therein to provide for the establishment of the Coast Guard. The Bill sets out the special duties, and powers with respect to vessels, of members of the Coast Guard. The Bill seeks to give to any officer or soldier of the Force the power of arrest without a warrant in respect of any of the legislation specified in the Third Schedule where a breach of such legislation renders a person liable to arrest.

Clause 3 seeks to repeal section 215 of the Defence Act, as the provisions of that section have been incorporated in the new Part IXA.

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and Minister of Legal Affairs.