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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. 14 of 1999

GUYANA LANDS AND SURVEYS COMMISSION BILL 1999

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CONSTITUTION AND PROCEDURE OF THE BOARD AND OTHER RELATED MATTERS.

A BILL
Intituled

AN ACT to provide for the establishment of the Guyana Lands and Surveys Commission, to provide for its functions and for other purposes connected therewith.

A. D. 1999

Enacted by the Parliament of Guyana:-

PART I
PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Guyana Lands and Surveys Commission Act 1999 and shall come into operation on such date as the President may, by order, appoint.

Interpretation.

2. In this Act -

"Board" means the Board of Directors of the Lands and Surveys Commission established by section 7;

"commencement date" means the date for the coming into operation of this Act;

"Commissioner" means the Commissioner of Lands and Surveys;

"land" includes land covered by water and the seabed within the outer limits of the territorial waters of Guyana;

"land surveys" includes hydrographic surveys;

"public Lands" means all Government lands within the meaning of the Lands Department Act and all State lands within the meaning of the State Lands Act.

Cap. 59:01

Cap. 62:01

PART II
ESTABLISHMENT AND FUNCTIONS OF THE GUYANA LANDS AND SURVEYS COMMISSION

Establishment
of the Guyana
Lands and
Surveys
Commission.

3. There is hereby established a body corporate to be known as the Guyana Lands and Surveys Commission (hereafter in this Act referred to as "the Commission").

Functions of
the Commission.

4. (1) The functions of the Commission are -

- (a) to have charge of and act as guardian over all public lands, rivers and creeks of Guyana;
- (b) to execute or cause to be executed geodetic, topographic, hydrographic and cadastral surveys in relation to the land and water resources of Guyana ;
- (c) to prepare and publish maps and charts of Guyana or parts thereof;
- (d) to establish and maintain the national survey control system, set standards for the collection of photogrammetric data and specify the technical requirements for land surveys;
- (e) to check, approve, record and, where required, certify all land surveys carried out in relation to any land in Guyana;
- (f) to provide access to land survey records and related information to any land surveyor or any other person, class or classes of persons for the time being directed by the Minister;
- (g) to receive and evaluate offers to purchase or let public lands and to issue, for and on behalf of the President, grants, leases and permits to occupy such lands, in accordance with any law regulating the administration and disposition of public lands;

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- (h) to set, monitor and enforce the terms and conditions subject to which public land is sold or let;
- (i) to make and maintain such records concerning public lands as are required by law;
- (j) to collect and account for all purchase monies and rents, payable in relation to the sale or lease of public lands, and such rates, taxes, fees, fines and charges as the Minister may direct or as may be prescribed by law;
- (k) to undertake land valuation of public land for the purposes of classifying public land in relation to setting reserve prices for the sale thereof or rental rates for the letting thereof;
- (l) to provide to the general public access to information from land records made and maintained in relation to public lands;
- (m) to establish and maintain liaison between all the agencies involved in the registration and storage of records relating to public land in any tenure, including the registration of deeds and title to land;
- (n) to formulate policy on geographic and land information and set standards in relation to digital data, establish the framework for a national network of geographic information systems and develop and maintain a parcel-based land information system;
- (o) to initiate studies into and formulate policy on the development of public lands, including the feasibility of specific land development projects;

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- Cap. 20:01
- (p) to establish and maintain liaison with the responsible agencies to promote and monitor, in relation to public lands, the provision and maintenance of drainage and irrigation systems, access roads and other infrastructure, through such measures as may be appropriate;
 - (q) to compile and maintain an inventory of all the land resources of Guyana, their quality, degree, pattern of utilisation and related matters;
 - (r) to prepare land use plans for Guyana or any part of Guyana, except any municipality which is subject to a planning scheme (or interim development control pending the preparation of a planning scheme) under the Town and Country Planning Act;
 - (s) to advise the Government on policy relating to public lands, land surveys and any other matters related to the functions of the Commission;
 - (t) to administer and enforce all laws relating to public lands and land surveys.

(2) The Commission may, with the prior approval of the Minister, do all such acts as may appear to it expedient for the purposes of discharging the functions specified in subsection (1).

5. The Commission may, subject to such conditions as it may think fit, by writing under its common seal delegate any of its functions under this Part to any person.

Delegation
of functions
by the
Commission.

6. In the discharge of its functions under this Act, the Commission shall, subject to the provisions of this Act, so far as practicable, co-operate fully with all Ministries, Government departments and agencies and other public authorities

Relationship
with other
authorities.

**PART III
THE BOARD**

The Board. 7. (1) The governing body of the Commission shall be the Board which shall be responsible for the discharge of the functions of the Commission.

Schedule. (2) The provisions of the Schedule shall have effect as to the constitution and procedure of the Board and otherwise in relation thereto.

Committees of the Board. 8. The Board may, for the discharge of the functions of the Commission, appoint Committees of the Board comprising members of the Board or non-members and may assign to them such functions as the Board may determine.

**PART IV
MANAGEMENT AND STAFF OF THE COMMISSION**

The Commissioner. 9. (1) The Commissioner, to be appointed by the Minister, shall be the Chief Executive Officer of the Commission and, subject to any general or special directions of the Board -

(a) shall be responsible for the execution of the policy of the Commission and answerable therefor to the Board; and

(b) shall be charged with the direction of the day-to-day business of the Commission and of its administration and the organisation and control of all the employees of the Commission.

(2) The Commissioner may delegate to an officer of the Commission any of his functions under this Act and may impose such conditions with respect to the exercise of such delegated functions as he may think fit, but nothing in this subsection shall be construed so as to absolve the Commissioner from ultimate responsibility for any act done by such officer in pursuance of any such delegation.

Staff of the Commission. 10. (1) The Commission may, from time to time, engage such employees as may be necessary for the proper and efficient discharge of the functions of the Commission.

(2) The Commission may engage the services of such consultants and advisers as the Board may, upon the recommendations of the Commissioner, determine.

(3) The employees, consultants and advisers of the Commission shall be engaged on such terms and conditions as the Board may, on the recommendations of the Commissioner, determine.

11. No member of the Board shall personally sponsor or recommend any application for the employment of any person under this Act and any Board member who infringes this section shall be liable to be removed from the Board.

Board members
not to sponsor
appointments.

12. (1) There shall be a Secretary of the Board.

Secretary.

(2) The Secretary shall act as Secretary to the Board at its meetings and shall, subject to the directions of the Board, arrange the business for and cause to be recorded and kept the minutes of the meetings of the Board.

(3) The Secretary shall also perform such functions as the Board may by writing direct or as the Commissioner may by writing delegate to him and shall be assisted in his functions by such of the employees of the Commission as the Board may, on the recommendations of the Commissioner, direct.

13. (1) The Commission shall have an Internal Auditor.

Internal Auditor.

(2) Subject to the provisions of this Act, the Internal Auditor shall be responsible to the Commissioner for the performance of his functions.

(3) As part of his functions under this Act, the Internal Auditor shall, at intervals of three months, prepare a report on the internal audit work carried out by him during the period of three months immediately preceding the preparation of the report, and submit the report to the Commissioner.

(4) Without prejudice to the provisions of subsection (3), the Internal Auditor shall make in each report such observations as appear to him necessary as to the conduct of the financial affairs of the Commission during the period to which the report relates.

(5) The Internal Auditor shall send a copy of each report prepared by him under this section to the Minister and also to the Minister of Finance, the Auditor-General and the Chairman and each of the other members of the Board.

14. (1) A land surveyor employed by the Commission may, with the approval of the Commission, make a survey of land for any private person during any time outside his normal working hours for which the land surveyor shall not claim payment from the Commission.

Private work
by surveyors
employed by
the Commission.

(2) Where the Commissioner of Inland Revenue so directs, the Commission shall furnish to the Commissioner of Inland Revenue any information from its records concerning private land surveys carried out by a land surveyor employed by the Commission pursuant to subsection (1).

Officers not to engage in business when on duty.

15. Subject to section (14), a land surveyor or any other officer or employee of the Commission may not undertake any other work or receive a fee for any other work executed during any time or times in relation to which that land surveyor, officer or employee claims payment or is in receipt of remuneration from the Commission.

PART V FINANCIAL PROVISIONS

Funds and resources of the Commission.

16. (1) The funds and resources of the Commission shall consist of -

- (a) any sums appropriated by Parliament for the purposes of the Commission;
- (b) any sums donated to the Commission by way of grants, gifts, bequests, donations by foreign States, International Organisations, multilateral funding agencies, private individuals, foundations, corporations or other entities;
- (c) any money paid to the Commission by way of proceeds from the sale or rental of public lands, or by way of administrative fees, service charges, penalties or fines and all other revenues which may become payable to the Commission pursuant to the provisions of any written law;
- (d) any sums allocated to the Commission from loan funds;
- (e) all trading income or monies earned or arising from any property, investments, mortgages and debentures acquired by or vested in the Commission;
- (f) any sums borrowed by the Commission for the purpose of meeting any of its obligations or discharging any of its functions under this Act;
- (g) all other sums payable or property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions.

(2) Where there is a deficiency in the funds of the Commission that deficiency shall be met out of monies provided by Parliament.

(3) No grant, gift, bequest or donation shall be accepted by the Commission without the approval of the Minister.

(4) The charges on any amount which may be allocated to the Commission from loan funds shall be met by the Commission except that all or any part of such charges may be met out of monies provided by Parliament.

(5) In this section "loan funds" means any sums made available from time to time to the Government by way of a loan.

17. The Commission shall conduct its affairs so as to secure that its revenues become at the earliest possible date, and continue thereafter, at least sufficient to enable it to meet its obligations and to discharge its functions under this Act and to derive surplus revenues.

Financial duties as to the conduct of activities.

18. The Commission shall prepare and submit estimates of its projected revenues and expenditure for the next following financial year to the Minister who shall submit them to the Minister of Finance with such modifications thereto, if any, as he considers necessary.

Estimates and income of expenditure.

19. The Commission shall maintain a general fund into which shall be paid all such monies as may, from time to time, be placed at the disposal of the Commission for the purposes of this Act by Parliament, and any other monies lawfully paid to the Commission; and out of this fund shall be met all the expenses incurred by the Commission in carrying out its functions under this Act and all other liabilities properly incurred by the Commission.

General fund.

20. The Commission shall maintain in a capital reserve fund a sum equal to the capital value of the assets transferred to and vested in the Commission pursuant to section 42 (1).

Capital reserve fund.

21. (1) The Commission shall maintain a reserve fund and shall, out of the net surplus for each financial year, transfer to that fund a sum equal to not less than such sum as may be fixed by the Minister.

Reserve fund.

(2) Subject to subsection (3), if the reserve fund is in any year insufficient to cover any net loss of the Commission recorded in its Profit and Loss Account, an amount equal to the deficiency is hereby charged on the Consolidated Fund.

(3) If in any succeeding year any net surplus accrues to the Commission, there shall be paid into the Consolidated Fund by the Commission, from time to time, a sum agreed with the Minister of Finance, together with interest thereon at a rate to be determined by the Minister of Finance until the amount is fully repaid.

(4) For the purposes of this section, net surplus shall be determined by deducting from gross income all expenses together with allowances for depreciation of assets, contributions to staff benefit funds, provision for bad and doubtful debts and the other contingencies and accounting provisions that are usually made by comparable institutions.

(5) If the reserve fund in any financial year exceeds a sum that may be fixed by the Minister, the Minister of Finance may, by order, subject to affirmative resolution of the National Assembly, require the whole or any part of the excess to be paid into the Consolidated Fund.

Estimates
of expenditure.

22. The Commission may from its funds make payments to meet all expenses properly incurred by it for the purposes of the exercise or discharge of its functions and may without prejudice to the generality of the foregoing, pay for -

- (a) the recurrent expenses of the Commission including the remuneration of members of the Board and personnel thereof; and
- (b) the capital expenses, including the cost of purchasing, maintenance and insurance of movable and immovable property of, or under the control of the Commission.

Rules for financial
operations.

23. (1) For the purposes of regulating and controlling the financial operations of the Commission, the Board may, with the approval of the Minister, make rules generally with respect to matters necessary for the proper keeping and control of the finances of the Commission.

(2) Without prejudice to the generality of subsection (1), rules made thereunder may -

- (a) prescribe the manner in which and the officers by whom payments are to be approved;
- (b) indicate the bank into which monies of the Commission are to be paid and the designation of any account with the bank;
- (c) prescribe the sum to be retained by the accounting officer to meet petty disbursements and immediate payments and the maximum sum that may be so disbursed for any one payment;

- (d) prescribe the method to be adopted in making payments out of the funds of the Commission; and
- (e) prescribe the level of authority required to write off bad and doubtful debts.

24. (1) The Commission may, with the approval of the Minister of Finance, borrow on the security of its assets any sums required by the Commission for meeting its current obligations or carrying out any of its functions under this Act.

Borrowing powers.

(2) The Commission may, from time to time, borrow by way of overdraft or unsecured borrowings for periods not exceeding twelve months any sums required for meeting its obligations or discharging its functions under this Act, provided that the Commission shall not exceed any limit of borrowings under this subsection that is imposed by the Minister of Finance.

25. (1) The Minister of Finance may, with the approval of the National Assembly, guarantee in a manner and on any conditions as the Minister of Finance may think fit the payment of the principal and interest on any authorised borrowings of the Commission.

Treasury guarantees of loans.

(2) Where the Minister of Finance is satisfied that there has been a default in the payment of any principal monies or interest guaranteed under this section, he shall direct the repayment out of the revenues of Guyana of the amount in respect of which there has been such default.

(3) The Commission shall make to the Accountant-General at the time and in the manner that the Minister of Finance may direct, payments of any amounts as may be so directed in or towards repayment of any sum issued in fulfillment of any guarantee given under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at the rate that the Minister of Finance may direct and different rates of interest may be directed as respects different sums and as respects interest for different periods.

26. Funds of the Commission not immediately required to be expended in the meeting of any obligations or the discharge of any functions of the Commission under this Act may be invested, from time to time, in securities approved by the Minister of Finance for investment by the Commission and the Commission may, from time to time, with the like approval, sell any or all of those securities.

Investment of funds.

27. The Commission shall be exempt from the payment of customs duty, consumption tax, capital gains tax, corporation tax, income tax, property tax, purchase tax or any other duty or tax whatever.

Exemption from taxation.

Accounts and
audit.

28. (1) The Commission shall keep proper books of account and records and such books and records shall be in such form as the Auditor-General may determine.

(2) The books and accounts of the Commission shall, within three months after the end of each financial year of the Commission, be audited by the Auditor-General or by an auditor authorised by him.

(3) The members of the Board, officers and other employees of the Commission shall grant to the Auditor-General or the auditor appointed to audit the accounts of the Commission under subsection (2) access to all books, documents, cash and securities of the Commission and shall give to the Auditor-General or the auditor on request all information within their knowledge in relation to the operations of the Commission.

(4) The Auditor-General or an auditor appointed under this section shall have power to summon and examine all persons whom the Auditor-General or the auditor thinks fit to examine for the purposes of obtaining information in connection with the examination and audit of the accounts of the Commission and respecting all other matters and things whatever necessary for the due performance of the functions vested in the Auditor-General or the auditor.

(5) Where a person summoned under subsection (4) is not a public officer or an officer or other employee of the Commission such person shall be entitled to payment for attendance upon the Auditor-General or the auditor as if he were a witness attending a legal proceeding in obedience to a summons issued at the instance of the State.

(6) Any person summoned under subsection (4) who, without reasonable excuse, makes default in obeying the summons commits an offence under this Act and is liable on summary conviction to a fine of not less than twenty thousand dollars nor more than forty thousand dollars or to imprisonment for eighteen months.

Bad and doubtful
debts.

29. The Commission may write off bad and doubtful debts.

PART VI GENERAL

Powers of the
Minister to give
directions to the
Commission.

30. (1) The Minister may give to the Commission in writing directions of a general character not being inconsistent with the provisions of this Act or with the contractual or other legal obligations of the Commission relating to the exercise by the Commission of its functions under this Act and the Commission shall give effect to such directions.

(2) In carrying out measures of re-organisation or development works which involve a substantial outlay on capital account, the Commission shall act in accordance with a general programme approved, from time to time, by the Minister.

(3) The Commission shall furnish to the Minister any information the Minister may request with respect to the business of the Commission and such returns as the Minister may require.

(4) The Commission shall also furnish to the Minister such facilities as to enable the verification of information furnished pursuant to this section.

(5) The power of the Minister to give directions to the Commission under this section shall extend to giving the Commission directions as to -

- (a) the disposal of capital assets; and
- (b) the application of the proceeds of such disposal,

and any direction given under this subsection may require the whole or any part of the revenues of the Commission to be paid into the Consolidated Fund.

31. The Commission may, with the approval of the Minister, enter into commercial operations regarding its land or buildings -

- (a) any service developed in connection with;
- (b) any product or by-product resulting from; and
- (c) any intellectual property resulting from,

the exercise of its functions under this Act;

Participation
in commercial
operations.

32. (1) The Commission shall, as soon as possible after the expiration of each financial year of the Commission but within six months after the termination of that year, cause to be submitted to the Minister an annual report of the Commission dealing generally with the operations of the Commission within that year which shall, without prejudice to the generality of the foregoing, include -

- (a) a copy of the audited accounts of the Commission together with the Auditor-General's report thereon;
- (b) a statement of all directions given to the Commission under section 30;
- (c) each report submitted by the Internal Auditor under section 13 in relation to that financial year; and

Annual report.

- (d) such other information as the Minister may request.

(2) A copy of the annual report shall be forwarded by the Commission to the Minister who shall, as soon as possible after receiving the annual report, cause it to be laid before the National Assembly.

Duty to provide information.

33. Where information is stored by means of a mechanical, electronic or other device, any duty imposed upon the Commission by this Act or any other written law to produce the document recording that information shall be construed as a duty to provide a document containing a clear written or graphical reproduction of the information.

Information, etc, obtained as member or co-opted member of Board, an officer or employee of Commission or person who has rendered or is rendering service to Commission as consultant or agent to be secret and confidential.

34. (1) A member or co-opted member of the Board, an officer or employee of the Commission or a person who has rendered or is rendering service to the Commission as consultant or agent -

- (a) shall regard, and deal with, as secret and confidential all information, documents or matters which, or knowledge of which, he may obtain; and
- (b) shall not make use of any information, documents or matters which, or knowledge of which, he may obtain for the benefit of himself or any other person or otherwise than for the purpose of his duties,

as such member or co-opted member of the Board, an officer or employee of the Commission or a person who has rendered or is rendering service to the Commission as consultant or agent.

(2) Nothing in subsection (1) shall be deemed to prevent -

- (a) a member or co-opted member of the Board;
- (b) an officer or employee of the Commission; or
- (c) a person who has rendered or is rendering service to the Commission as consultant or agent,

referred to in subsection (1) from disclosing, or to entitle such member or co-opted member of the Board, an officer or employee of the Commission or a person who has rendered or is rendering service to the Commission as

consultant or agent to refuse to disclose to any person the information, documents or matters referred to in subsection (1) for the purpose of the exercise or performance of his functions or when lawfully required to do so by any court or under any law.

(3) A member or co-opted member of the Board, an officer or employee of the Commission or a person who has rendered or is rendering service to the Commission as consultant or agent referred to in subsection (1) who contravenes any provision of this section shall on summary conviction be liable to a fine of not less than twenty thousand dollars nor more than forty thousand dollars and to imprisonment for eighteen months.

35. A member or co-opted member of the Board, an officer or employee of the Commission or a person who has rendered or is rendering service to the Commission as consultant or agent who, being required by or under any provision of this Act to furnish any information with respect to any matter or any return to any person or authority -

Penalty for furnishing false or misleading information.

- (a) knowingly or negligently furnishes information with respect to that matter; or
- (b) furnishes a return containing information,

which is false or misleading in any material particular shall, without prejudice to any other liability that he may incur thereby, be liable on summary conviction to a fine of not less than fifteen thousand dollars nor more than thirty thousand dollars and to imprisonment for twelve months.

36. The Commission shall institute and operate a human resources policy for the fair and considerate treatment of employees in all facets of their employment.

Human resources policy.

37. The minutes of meetings of the Board shall, if duly signed by -

Minutes of meetings of the Board.

- (a) the Chairman; or
- (b) the Commissioner,

presiding at a meeting of the Board and without proof of any matter or thing, be receivable in all legal proceedings as evidence of the proceedings of the Board of which minutes have been made.

38. The Limitation Act shall not apply to proceedings instituted by the Commission for the recovery of monies due to the Commission or any other property to which a claim is made by the Commission.

Exclusion of Limitation Act. Cap.7:02.

- Regulations. 39. The Commission may, with the approval of the Minister, make regulations which, in the opinion of the Board, are necessary or expedient for carrying into effect the purposes of this Act.
- General penalties. 40. Any person guilty of an offence under this Act for which no penalty is provided is liable on summary conviction to a fine of not less than twenty thousand dollars nor more than forty thousand dollars and to imprisonment for eighteen months.
- Commission to be successor to Lands and Surveys Department. 41. The Commission established by section 3 shall be the successor to the body hitherto known as the Lands and Surveys Department (hereafter in this Part referred to as "the Department") existing immediately before the coming into operation of this Act.
- Transfer of assets and liabilities. 42. (1) The movable and immovable property of the Department (including rights and interests), and of any offices of the Regional Democratic Councils hitherto utilised exclusively for lands and surveys functions are hereby transferred to the Commission and shall, without further assurance, vest in the Commission.
- (2) Liabilities incurred by the Government exclusively for the purposes of the Department or incurred therefor under agreements duly contracted in the carrying out of its functions by the Department before the commencement date shall, in so far as may be, discharged by, and enforceable against, the Commission as if the liabilities had been incurred by the Commission.
- (3) Nothing in subsection (1) or (2) applies to rights or liabilities under any contract of service.
- Transfer of records. 43. (1) All documents, maps, survey plans, registers, books and other records of the Department (however compiled, recorded or stored) relating to the operations of the Department, and any tape, disc or other device of medium relating to such records, are hereby transferred to and shall become the property of the Commission.
- (2) All documents, maps, survey plans, registers, books and other records of the Department held by or on behalf of any regional or subregional office of a Regional Democratic Council shall, on the commencement date, be deemed to be records of the Department for the purposes of subsection (1).
- Effect of existing agreements. 44. (1) On the commencement date, all contracts, agreements or undertakings made by the Department and in force immediately before that date shall have effect as contracts, agreements or undertakings by and with the Commission and may be enforced by and against the Commission accordingly.
- (2) For the purposes of giving effect to the provisions of this Part in relation to contractual rights and liabilities, all such contracts shall, as from the commencement date, be construed with all due adaptations and modifications.

45. Any proceedings commenced prior to the commencement date for the enforcement of any rights or liabilities which are transferred or attached to the Commission by virtue of the provisions of this Part may be continued by or against the Commission and such proceedings may be amended accordingly.

Continuance of pending proceedings.

46. (1) Before the commencement of this Act the Government and the Commission shall, with the approval of the Public Service Commission, notify the officers and employees of the Department that the Commission wishes to retain them as officers and employees after the commencement of this Act and such officers and employees shall be engaged on terms and conditions as may be agreed upon between the Commission and each person so employed and, which taken as a whole, are no less favourable than those applicable to him immediately before that date, and the Commission shall, in respect of the persons so employed, be the successor to the Government with regard to such officers' and employees' leave and superannuation rights and benefits, whether accrued, earned, inchoate or contingent.

Officers and employees of the Commission.

(2) For the purposes of every law, determination or agreement relating to the employment of each of the officers and employees of the Department retained under subsection (1), including the determination of and right to receive superannuation benefits, such employment shall be deemed to have been uninterrupted and the period of service of each such officer or employee with the Department, and every other period of service of that officer or employee that is recognised as continuous employment with the Government, shall be deemed to have been a period of service with the Commission.

(3) No officer or employee retained under subsection (1) shall be entitled to receive any payment or other benefit by reason of this Act.

47. Any reference to the Department or the Commissioner in any written law, including the Forests Act and the National Trust Act or in any instrument or document of any kind, subsisting or in force on the commencement date shall, after the commencement date, be construed and have effect as a reference to the Commission or the Commissioner, respectively.

References in existing written laws.

48. Sections 2, 3, 4, 5, 8 and 17 of the Lands Department Act, and section 29 of the Land Surveyors Act, are hereby repealed.

Repeals.
Cap. 59:01
Cap. 97:01

SCHEDULE

Section 7(2)

CONSTITUTION AND PROCEDURE OF THE BOARD AND OTHER RELATED MATTERS

- Constitution of the Board.**
1. The Board shall consist of a Chairman, the Commissioner and eleven other members all of whom shall be appointed by the Minister.
- Tenure of office of members of the Board.**
2. (1) All members of the Board other than the Commissioner shall, subject to subparagraphs (2) and (3), hold office for a period of three years.
- (2) A member of the Board, other than the Commissioner, may at any time resign his office by instrument in writing addressed to the Chairman of the Board and from the date of the receipt by the Chairman of the Board of the instrument, the member ceases to be a member of the Board.
- (3) The Chairman of the Board may at any time resign his office by instrument in writing addressed to the Minister and the resignation takes effect as from the date of receipt of the instrument by the Minister.
- (4) All members of the Board ceasing to hold office shall, subject to subparagraphs (2) and (3), be eligible for reappointment.
- (5) Where the office of a member of the Board, other than the Commissioner, becomes vacant before the expiration of his term of office under subparagraph (1), the Chairman of the Board shall notify the Minister and the Minister shall appoint another person in his place and to hold office for the unexpired portion of the term of office.
- (6) Subject to the provisions of this Act, where on the recommendation of the Chairman of the Board it appears to the Minister that any member of the Board for whatever reason is incapacitated from performing the duties of his office the Minister shall appoint another person in his place until such time as the Minister is satisfied that the incapacity of that person has terminated or until the term of such member expires whichever first occurs.
- Emoluments of members of the Board.**
3. There shall be paid to the Chairman and the other members of the Board, other than the Commissioner, such remuneration, if any, and subsistence, travelling and other allowances.
- Meetings of the Board.**
4. (1) The Board shall ordinarily meet for the dispatch of business at such times and at such places as the Board may determine, but shall meet at least once in every month.
- (2) A special meeting of the Board shall be called upon a written request signed by the Chairman or by a majority of the members of the Board addressed to the Secretary of the Board.

(3) At every meeting of the Board at which he is present, the Chairman shall preside and in his absence the Commissioner shall preside or in the absence of both the Chairman and the Commissioner, a member of the Board elected by the members present from among themselves shall preside.

(4) Questions proposed at a meeting of the Board shall be determined by a simple majority of the members present and voting and in the event of an equality of votes the person presiding shall have a second or casting vote.

(5) The quorum at any meeting of the Board shall be seven.

(6) The Board may at any time co-opt any person or persons to act as an adviser or advisers at any of its meetings so, however, that no person so co-opted shall be entitled to vote at any such meeting on any matter for decision by the Board.

(7) Any person co-opted under subparagraph (6) to attend any meeting of the Board shall be paid by the Board such remuneration, if any, as the Board may determine.

5. (1) A member of the Board who is in any way directly or indirectly interested in any matter before the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

Disclosure
of Interest.

(2) A disclosure under subparagraph (1) shall be recorded in the minutes of the Board, and the member -

- (a) shall not take part after the disclosure in any deliberation or decision of the Board with respect to that matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

(3) A member of the Board need not attend in person at a meeting of the Board in order to make any disclosure which he is required to make under this paragraph if he takes reasonable steps to ensure that the disclosure is brought to the attention of the Board.

(1) Any member of the Board who infringes subparagraph shall be liable to be removed from the Board.

Publication of membership.	6.	The names of the members of the Board as first constituted and every change in the membership thereof shall be published in the <u>Gazette</u> .
Protection of the members of the Board.	7.	No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done in good faith in the exercise or intended exercise of the Board's functions under this Act.

EXPLANATORY MEMORANDUM

This Bill seeks to convert the Lands and Surveys Department (hereafter in this Memorandum referred to as "the Department") constituted by the Lands Department Act, Cap. 59:01, as a department within the Ministry of Agriculture, into a statutory corporation which is semi-autonomous. Hence, the Bill provides for the establishment of a Guyana Lands and Surveys Commission (hereafter in this Memorandum referred to as "the Commission") to replace the Department.

The specific provisions of the Bill are outlined in the following paragraphs:

PART I - Clause 1 provides for the short title and commencement and clause 2 the interpretation of words and expressions.

PART II - Clause 3 provides for the establishment of the Commission as a body corporate. Clause 4 sets out the functions of the Commission. Several of these functions are equivalent to the functions allocated to the Department by the Lands Department Act, Cap. 59:01 and Land Surveyors' Act, Cap. 97:01 although they are stated more explicitly in this Bill. In addition, the functions have been expanded to include new responsibilities such as the valuation of public land for certain purposes, the establishment and maintenance of a national parcel-based land information system and land use planning for rural and hinterland areas. The functions, as set out in this Bill, reflect the output of a consultative process involving senior management of the Department and other governmental agencies. Clause 5 empowers the Commission to delegate any of its functions under this Part to any person. Clause 6 provides that in the discharge of its functions, the Commission shall co-operate fully with all Government departments, agencies and other public authorities.

PART III - Clause 7 provides for the establishment of the Board of Directors as the governing body of the Commission. To assist the Board of Directors in the performance of its functions, it is given the power by Clause 8 to appoint Committees.

PART IV - Clauses 9 and 10. The provisions of these clauses relate to the appointment of the Commissioner of Lands and Surveys who would be the Chief Executive Officer of the Commission and the appointment of the general staff of the Commission, respectively. Clause 11 provides that no member of the Board of Directors should sponsor appointments under this Act. Clauses 12 and 13. The provisions of these clauses relate to the appointment of a Secretary to the Commission and the appointment of an Internal Auditor who shall be responsible to the Commissioner of Lands and Surveys for the performance of his functions, respectively. Clause 14 permits land surveyors employed by the Commission to do private work under certain circumstances.

PART V - Clause 16 deals with the revenues of the Commission which include Parliamentary appropriations, donations, loans, trading income and other monies paid to the Commission. Clause 17 provides that the goals of the Commission shall be to achieve self-sufficiency and to derive a revenue surplus. Clause 18 provides for the submission by the Commission of annual estimates of revenue and expenditure to the Minister for approval and for onward transmission to the Minister of Finance.

Clauses 19, 20 and 21 deal with the funds to be maintained by the Commission. Clause 19 deals with the general fund into which all revenues, and from which all expenses, of the Commission must be paid. Clause 20 provides that a capital reserve fund shall be maintained equivalent to the amount originally transferred to the Commission by the Government upon its establishment. This is an innovation which does not appear in comparable legislation that is intended to protect Government's investment in the Commission. Clause 21 provides for the creation of a reserve fund into which any surplus of revenue over expenditure may be transferred. Provision has been made for the transfer by the Minister of Finance, with Parliamentary approval, of accrued surpluses on this fund into the Consolidated Fund. This provision, which is novel, is intended to permit the Government as the investor in the Commission, to take a "dividend" when this is feasible, for allocation to other public purposes.

Clause 22 confers upon the Commission powers of expenditure to meet the costs of performing its functions. Clause 23 provides for the Board of Directors to make, with the approval of the Minister, rules for regulating and controlling its financial operations. Clause 24 empowers the Commission to borrow funds, with the approval of the Minister of Finance, and to operate a short term unsecured over-draft facility within limits set by the Minister of Finance. Clause 25 provides for the guarantee of loans to the Commission by the Treasury. Clause 26 empowers the Commission to invest funds in securities approved by the Minister of Finance. Clause 27 exempts the Commission from taxation. Clause 28 makes provisions for the keeping of accounts by the Commission and their auditing by the Auditor-General or an auditor appointed by him. The powers of the Auditor-General or the auditor are spelt out and it is made an offence for any person not to obey a summons from the auditors. Clause 29 empowers the Commission to write off bad and doubtful debts, this being one of the things concerning which operating rules may be made under Clause 23.

PART VI - This Part, as its heading indicates, contains general or miscellaneous matters which do not properly belong to the other Parts of the Bill. Clause 30 deals with the powers of the Minister. It provides that the Minister may give to the Commission general directions, as to the policy it is to follow, and specific directions as to the disposal of capital assets, and the application of the proceeds of such disposal, with which it must comply. In addition, the Minister must approve

out by the Commission. The Commission is also under an obligation to provide the Minister with annual estimates, returns and other business-related information. Clause 31 empowers the Commission to enter into commercial operations with respect to its real property or any services, products and intellectual property resulting from its operations. This provision can be related to the provisions of Part V dealing with the revenues of the Commission and its financial obligations as to the conduct of its activities.

Clause 32 provides that the Commission shall submit an annual report on its activities and operations within six months after the end of each financial year of the Commission to the Minister who shall cause it to be laid before Parliament. Clause 33 legitimises the use of hard-copies of information stored mechanically or electronically. Clause 34 prohibits the disclosure of privileged information acquired in the course of work for the Commission by any member of the Board of Directors, officer or employee, consultant or agent of the Commission. Clause 35 prescribes the penalty for furnishing false and misleading information. Clause 36 provides that the Commission shall operate a human resources policy meeting specific requirements.

Clause 37 provides for the admissibility of minutes of Board meetings in legal proceedings. Clause 38 protects the Commission from the operation of the Limitation Act in proceedings to recover its money or other property. Clause 39 empowers the Commission, with the approval of the Minister, to make Regulations for the purpose of carrying the Act into effect. Clause 40 fixes general penalties for breaches of this Act.

Clause 41 provides that the Commission shall be successor to the Department existing immediately before the commencement of this Act. Clause 42 provides for the transfer to the Commission of the movable and immovable property of the Department, including regional and subregional offices occupied exclusively by lands and surveys functionaries, and of any liabilities incurred by the Government exclusively for the purposes of the Department. Clause 43 provides for the transfer of all the documents, maps, survey plans, registers, books and records of the Department to the Commission. Clause 44 provides that all existing contracts and agreements made by the Department shall bind the Commission.

Clause 45 provides for the continuation of pending proceedings by and against the Commission. Clause 46 provides for the terms and conditions which shall apply where persons employed by the Department continue in the employment of the Commission and ensures that such persons shall not be employed on conditions which are less favourable than their previous conditions of employment. Clause 47 saves all references in existing legislation to the Department and the Commissioner of Lands and Surveys by providing that these shall, when the Act comes into operation, be construed as references to the Commission and the Commissioner of Lands and Surveys, its Chief Executive Officer. Clause 48 repeals specific provisions of the Lands Department Act and the Land Surveyors Act.



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