

BILL No. 12 OF 1981

Saturday, 12th December, 1981



GUYANA

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GUYANA GOLD BOARD BILL 1981

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FIRST SCHEDULE

SECOND SCHEDULE

A BILL

Intituled

AN ACT to provide for the establishment, constitution, and functions of the Guyana Gold Board and for matters connected therewith.

A.D. 1981 Enacted by the Parliament of Guyana:—

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|-------------------------------|---|
| Short title and commencement, | 1. This Act may be cited as the Guyana Gold Board Act 1981 and shall come into operation on such date as the Minister may appoint by order. |
| Interpretation.
Cap. 65:01 | 2. In this Act —
“Board” means the Board established by section 3;
“claim” has the meaning assigned to it by the Mining Act;
“gold” means raw gold, and includes unrefined gold amalgam, slimes and scrapings containing gold, and smelted gold that is not manufactured into any article of commerce;
“producer” includes —
(a) any holder or licensee of a claim;
(b) any holder of a prospecting licence who has obtained gold during prospecting operations; or |

(c) any tributor who has lawfully obtained gold from a claim on which he is working under a contract whereby all or part of any gold won by him becomes his property. /

3. There is hereby established the Guyana Gold Board which shall be a body corporate and the provisions of the first schedule shall have effect as to the constitution of the Board and otherwise in relation thereto. Establishment of the Board.
First Schedule.

4. It shall be the function of the Board Functions of the Board.

- a) to carry on the business of trading in gold;
- b) to secure at all times an adequate supply of gold and to ensure its equitable distribution in Guyana at fair prices;
- c) subject to this Act, to purchase all gold produced in Guyana;
- d) subject to this Act, to sell all gold in Guyana and to sell gold outside Guyana;
- e) to engage in other related commercial or industrial activities.

(2) The Board shall not have power to buy or sell gold in contravention of the provisions of section 2 of Article IV of the Articles of Agreement of the International Monetary Fund set out in the First Schedule to the International Financial Organisations Act. Cap. 76:01

5. The Board shall, from time to time, with the approval of the Minister, by notice in the *Gazette*, fix the price at which the Board shall purchase or sell gold in Guyana. Fixing the price of gold.

6. Every producer who wins or obtains gold during operations as a producer shall, within twenty-eight days after his winning or obtaining such gold, or such longer period as the Board may allow, sell such gold to the Board or to any agent authorised in writing by the Board in that behalf: Producers to sell gold to the Board.

Provided that where application is made to the Board by a producer in the manner prescribed, the Board may authorised that producer to retain a small quantity of gold for his personal use and not for trade.

7. Every person, not being a producer, who has gold in his possession shall, within twenty-eight days after the coming into operation of this Act, sell such gold to the Board or to any agent authorised in writing by the Board in that behalf; Other persons in possession of gold

Provided that this section shall not apply to any person who—

- Cap. 80:01
- a) is lawfully in possession of gold as the holder of a goldsmith's licence under section 59 of the Tax Act or as a duly registered dentist under any law for the time being in force in Guyana; or
 - b) is in possession of gold not obtained in Guyana and who is in transit in Guyana, the onus of proof thereof being on the person in possession of such gold.

Gold to be sold to and purchased from the Board.

8 No person shall sell any gold to, or purchase any gold from, any person other than the Board or export any gold.

Exemptions.

9. (1) Notwithstanding the provisions of sections 7 and 8, where application is made to the Board by any person in the prescribed manner the Board may authorise that person to have in his possession or to sell or export such quantity of gold as the Board may allow subject to such conditions as the Board may think fit to impose.

Cap. 65:01
Cap. 80:01

(2) Nothing in this Act shall be construed as prohibiting any transaction in a mining district within the meaning of the Mining Act whereby a person who is duly authorised under the Tax Act to sell, barter or expose for sale goods at any place in the mining district (hereinafter in this section referred to as "the licensee") advances money or supplies goods on credit to a miner in consideration of payment being made therefor with gold won or obtained in the course of prospecting for, exploiting and processing, gold and precious stone :

Provided that the licensee shall

- (a) within ten days of receipt thereof inform the Board of such receipt, and
 - (b) on demand sell all gold so received to the Board at the price fixed under section 5.
- (3) Every transaction mentioned in subsection (2) shall be recorded by the licensee in a book kept by him for that purpose stating the amount of money advanced or the description and the amount of the goods supplied and the cost thereof, and the amount of gold received by him as payment therefor.

- (4) The book required to be kept by the licensee pursuant to sub-section (3) shall be produced for inspection to any officer of the Board or to any other person authorised by the Board in that behalf.
- (5) Every officer of the Board or any other person authorised for the purpose of subsection (4) shall, if required to do so by the licensee, produce evidence of his appointment or authority before exercising the power conferred by subsection (4).
- (6) In this section —
“miner” means any person who prospected for, locates claims for, exploits and processes gold and precious stones.

10. (1) Any member of the Board whose interest is likely to be affected whether directly or indirectly by a decision of the Board on any matter whatsoever, shall disclose the nature of the interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.

Disclosure of interest by member of the Board

- (2) A disclosure under subsection (1) shall be recorded in the minutes of the Board, and after the disclosure, the member of the Board making the disclosure shall, unless the Board otherwise directs, not be present or take part in the deliberation or vote at any meeting during the time when such matter is being decided by the Board.
- (3) For the purpose of this section, where the interest of parents, spouse or children of any member of the Board is likely to be affected directly or indirectly by a decision of the Board on any matter, such interest shall be deemed to be the interest of that matter, such interest shall be deemed to be the interest of that member.
- (4) The Minister may revoke the appointment of any member who contravenes or fails to comply with the provision of this section.

11. (1) The Board may, with the approval of the Minister, appoint a General Secretary, a Secretary and such other officers and other employees at such remuneration and on such other terms and conditions as the Board, with the approval of the Minister, may determine.

Employment of Officers and other employees of the Board.

- (2) The Board may, at any time, retain the services of experts and other professional persons and may pay such remuneration in respect thereof as the Board, with the approval of the Minister, may determine.
- (3) Where a public officer is seconded or temporarily transferred from a pensionable office within the meaning of the

Cap. 27:02

- Cap. 27:02 Pensions Act to an office with the Board, section 5 of that Act shall apply to him as if his service with the Board were service in a public office.
- (4) Where a public officer is appointed to an office with the Board, his service with the Board shall be other public service within the meaning of, and for the purpose of such provisions applicable in relation thereto as are contained in the Pensions Act (including the Pensions Regulations 1957).
- Cap. 27:02 1
- Cap. 39:05 (5) Where a teacher who has done qualifying service within the meaning of the Teachers' Pensions Act is, with the approval of the appropriate authority —
- (a) seconded or temporarily transferred from his office as a teacher to an office the power of appointment to which is vested by this Act in the Board, section 5 of the Pension Act (as applied to a teacher by section 7C of the Teachers' Pension Act) shall apply to him;
- (b) transferred from his office as a teacher to a substantive appointment in an office the power of appointment to which is vested by this Act in the Board, his service with the Board shall be treated as if it were other public service within the meaning of, and for the purpose of such provisions applicable in relation thereto as are contained in, the Pensions Act (including the Pensions Regulations 1957) and as if the teacher were an officer to whom the Pensions Act applies.
- (6) 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.
- Funds of the Board 12. (1) The Board shall maintain a fund into which shall be paid all such monies as may, from time to time, be appropriated for its purpose by Parliament and such other monies as may lawfully be paid to the Board, and out of the fund shall be paid all expenses incurred by the Board in carrying out its functions under this Act and all other liabilities properly incurred by the Board.
- (2) The Board shall manage, administer and keep proper accounts of the funds.
- Borrowing Powers of the Board 13. The Board may, with the approval of the Minister responsible for finance, borrow sums required by the Board for meeting any of its obligation or discharging any of its functions.
- Investments 14. Monies standing to the credit of the Board may, from time to time, be invested in securities approved either generally or specifically

by the Minister, and the Board may from time to time with the like approval sell all or any of such securities.

15. (1) The accounts of the Board shall be audited annually by an auditor appointed by the Minister. Audit and Accounts of the Board
- (2) The Minister may at any time appoint an auditor to examine the accounts of the Board and to report thereon to him.
- (3) The members, officers and other employees of the Board shall grant to the auditor so appointed access to all books, documents, cash and securities of the Board and shall give to him on request all such information as may be within their knowledge in relation to the operations of the Board:
- (4) An auditor appointed under this section has 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 Board and respecting all other matters and things whatever necessary for the due performance of the functions vested in him; and if any person summoned as aforesaid is not a public officer as a member or any officer or other employee of the Board he is entitled to be paid for his attendance as if he were a witness attending a legal proceeding in obedience to the summons issued at the instance of the State.
- (5) Any person summoned under subsection (4) who, without reasonable excuse, makes default in obeying such summons is liable on summary conviction to a fine of fifty dollars or, in default of payment thereof, to imprisonment for one month.
16. (1) The Board 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 transactions throughout the preceding calendar year in such detail as the Minister may direct; and
- b) a statement of the accounts of the Board audited in accordance with section 15.
- (2) A copy of the report together with a copy of the auditor's report shall be laid before the National Assembly.
17. (1) The Minister may, after consultation with the Board, give to the Board directions of a general or special character as to the policy to be followed by the Board in the performance of its functions as appears to the Minister to be requisite in the public interest, and the Board shall give effect to any such directions. Power of the Minister to give directions to the Board.

- (2) The Board shall afford to the Minister facilities for obtaining information with respect to the property and activities of the Board and furnish him with returns, accounts and other information with respect thereto in such manner and at such time as he may require.
18. The Limitation Act does not apply to proceedings instituted by the Board.
19. Monies due to the Board may be recovered by parate execution without prejudice to any other right of recovery available to the Board by virtue of any other law.
20. (1) If any officer has reasonable causes to suspect that an offence against section 6, 7, 8 or 9 has been or is being committed and that evidence of the commission of the offence is to be found at any premises or other place then, upon oath made by the officer before a magistrate or justice of the peace of the fact of the suspicion, the magistrate or justice of the peace may, by warrant under his hand, authorise the officer, with all necessary assistance and by force if required and at any hour of the day or night, to enter the said premises or other place at any time within one month after the date of the warrant and to search the said premises or other place.
- (2) A person authorised by any warrant as aforesaid to search any premises or other place may search every person found therein or whom he has reasonable cause to believe to have recently left those premises or that other place and may seize any gold found therein or on any such person and any other article which he has reasonable cause to believe to be evidence of the commission of any offence against this Act; Provided that no female shall be searched in pursuance of any warrant issued under this section, except by a female.
- (3) Any officer who has reasonable cause to suspect that any person is unlawfully in possession of, or removing, any gold may stop and search that person and any vehicle or other conveyance in his possession or under his control, or in which he is, and any package under his control; and if any gold is found upon him or in any such vehicle, conveyance or package may seize and detain the same and arrest and detain the person until he can be brought before a magistrate and dealt with according to law: Provided that no female shall be searched except by a female.
- (4) In this section "officer" means every member of the Police Force, and any person employed by the Board and authorised in writing for the purpose of this section by the General Manager of the Board.

Exclusion of application of Limitation Act Cap. 7:02

Parate execution

Search of premises and persons

21. Any person who — Offences and Penalties
- (a) Contravenes or fails to comply with the provisions of sections 6, 7, 8, or 9; or
 - (b) obstructs any officer of the Board, or any other person authorised by the Board to perform any function on its behalf, in the exercise of his functions under this Act; or
 - (c) breaches any condition imposed by the Board under section
 - (i) to a fine of two thousand five hundred dollars for the first conviction;
 - (ii) to a fine of two thousand five hundred dollars and to imprisonment for twenty four months on the second or any subsequent conviction,
 and to forfeiture of the gold in respect of which the offence was committed.
22. The Minister may make regulations for the purpose of carrying Regulations out the provisions of this Act.
23. The provisions specified in the first column of the Second Schedule Amendment of other laws. Second Schedule. are hereby amended in the manner specified in the second column thereto.

FIRST SCHEDULE

CONSTITUTION

s.3

1. The Board shall consist of not less than three and not more than seven persons, including the General Manager, appointed by the Minister from among persons appearing to him to be qualified for appointment by reason of their experience of, and shown capacity in, industry, trade, commerce and marketing. Constitution of the Board
2. The names of all members of the Board as first constituted and every change in the membership of the Board shall be published in the *Gazette*. Gazetting of appointments
3.
 - (1) The seal of the Board shall be kept in the custody of the Chairman of the Board or the Secretary and shall be authenticated by the signatures of the Chairman, or Deputy Chairman, or the General Manager, and the Secretary of the Board.
 - (2) Every document purporting to be an instrument duly executed under the seal of the Board shall be received in evidence and deemed, without further proof, to be so executed, unless the contrary is proved.

- (3) The documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the Chairman, or the Deputy Chairman, or the General Manager, or the Secretary.

Meetings of
the Board
and the pro-
cedure
thereat

4. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business, and the meetings shall be held at such places and time and on such days as the Board may determine.
- (2) The Chairman may at any time summon a special meeting of the Board and shall summon a special meeting within seven days of the receipt of a written requisition for that purpose addressed to him by any three members of the Board.
- (3) The Chairman, or in his absence the Deputy Chairman, shall preside at all meetings of the Board, and in the absence of the Chairman and the Deputy Chairman from a meeting of the Board the General Manager shall act as Chairman at the meeting.
- (4) Three members of the Board shall constitute a quorum.
- (5) Minutes in proper form of every meeting of the Board shall be kept by the Secretary and shall be confirmed by the Chairman, or the Deputy Chairman or the General Manager, as the case may be, as soon as practicable thereafter at a subsequent meeting.
- (6) The Board may co-opt any one or more persons to attend any meeting of the Board at which the Board is dealing with a particular matter, for the purpose of assisting or advising the Board, but no such co-opted person shall have any right to vote at the meeting.
- (7) Subject to the provisions of this schedule, the Board may regulate its own proceedings.

Committees
and powers
of delegation.

5. (1) The Board may appoint committees as it may think fit to examine and report to it on any matter whatsoever arising out of or connected with any of its functions.
- (2) Any such committee shall consist of at least two members of the Board together with such other persons, whether members of the Board or not, whose assistance or advice the Board may desire.
- (3) Where persons, not being members of the Board, are members of a committee appointed under this paragraph, the Board shall pay to each of such persons, in respect of his membership of such committee such remuneration and allowances, if any, allowances as the Minister may determine

and such sum shall properly be payable out of the funds and resources of the Board.

- (4) The Board may reject the report of any such committee or adopt it either wholly or with modifications, additions or adaptations as the Board may think fit.
- (5) Subject to the provisions of this Act, the Board may delegate to any committee or member of the Board the power and authority to carry out on its behalf such functions as the Board may determine.
6. (1) No member of the Board is liable for any act done or omitted ^{Protection} to be done by the Board in good faith in the course of carrying out its functions. _{of members.}
- (2) Where a member of the Board is exempt from liability by reason only of the provisions of this paragraph, the Board is liable to the extent that it would be if the member were a servant or agent of the Board.
7. The Board shall pay to each of its member (other than the ^{Remuneration} General Manager) in respect of his office such, if any, remuneration and allowances as the Minister may determine, and to the Chairman and to the Deputy Chairman, in respect of his office such, if any, remuneration and allowances to which he may be entitled in respect of his office as a member as may be determined. _{of member of the Board.}

s. 23

SECOND SCHEDULE

Provision	Amendment
Tax Act Cap. 80: 01	
Section 58	<p>(a) Delete subsection (18);</p> <p>(b) renumber subsections (19), (20), (21) and (22), as subsections (18), (19), (20) and (21) respectively;</p> <p>(c) Substitute the words "subsection (17)" for the words "subsection (17) and (18)" in the renumbered subsection (18);</p> <p>(d) in subsection (1) to (20) (inclusive), substitute the words "valuable minerals" for the words "gold" wherever that word appears;</p>

Provi ion	Amendment
	(e) in the renumbered subsection (21) delete the words "the expression "gold" means raw gold and valuable minerals, and";
Section 59	(a) in subsection (1), for the words "holder of a licence to trade in gold" substitute the words "Guyana Gold Board";
	(b) in subsection (4), delete the words "and the duties of traders therein." and insert the words "or any other Law" after the words "Mining Act".
Mining Act Cap. 65:01	
Section 61	Delete the word "gold"
Section 79	In subsection (1) —
	(a) substitute the following paragraph for paragraph (c) therein — "(c) the conveyance, detention, sale and purchase of silver, valuable minerals, precious stones, metals, minerals, mineral oil, asphalt, coal, or other substance of a like nature and the conveyance and detention of gold;";
	(b) delete the word "gold", in paragraph (p).
Section 82	(a) delete every reference therein to the word "gold"; and
	(b) insert the following subsection as subsection (4) —
	"(4) The foregoing provisions of this section shall, as they apply in relation to the substances mentioned therein, apply <i>mutatis mutandis</i> in relation to gold removed, conveyed or otherwise dealt with contrary to this Act".

EXPLANATORY MEMORANDUM

THIS BILL seeks to establish the Guyana Gold Board and to enable the Board to be the sole trader in raw gold in Guyana.

Clause 6 imposes a requirement for persons who produce raw gold to sell such gold to the Board.

Clause 7 seeks to make it compulsory for persons who are not producers of raw gold to sell any raw gold in their possession to the Board.

Clause 8 prohibits dealings in raw gold otherwise than with the Board, as well as the exportation of raw gold.

Clause 9 seeks to provide an exception to clauses 7 and 8.

Clause 10 seeks to make it compulsory for a member of the Board to disclose any interest of his which is likely to be affected by a decision of the Board.

Clause 11 provides for the employment of officers and other employees by the Board.

Clause 12, 13, 14 and 15 make provision in respect of the finance of the Board.

Clause 16 imposes a requirement for the Board to submit an Annual Report to the Minister and for the report to be laid before the National Assembly.

Clause 17 empowers the Minister to give directions to the Board.

Clause 18 provides for the exclusion of the provision of the Limitation Act being raised against the Board.

Clause 19 seeks to empower the Board to recover by means of private execution any monies due to the Board.

Clause 20 empowers officers of the Board to carry out searches of premises and persons and to effect the seizure of gold.

Clause 21 sets out offences against the Act.

Clause 22 empowers the Board to make regulations.

Clause 23 provides for consequential amendments to other laws.

H. O. Jack,
Minister of Energy and Mines.

(Bill No. 12/1981)

(EM: 22/21)