

**THE OFFICIAL GAZETTE**  
**LEGAL SUPPLEMENT — C**

**7<sup>TH</sup> MAY, 2004**

**BILL No. 8 of 2004**

*Friday 7<sup>th</sup> May, 2004*

PARLIAMENT OFFICE  
Public Buildings,  
Georgetown,  
Guyana.

7<sup>th</sup> May, 2004.

The following Bill which will be passed in the National Assembly is published for general information.

*S.E. Isaacs,*  
Clerk of the National Assembly.



**GUYANA**

**BILL No. 8 of 2004**

**DRAINAGE AND IRRIGATION BILL 2004**

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**A BILL  
Intituled**

AN ACT to provide for the establishment of the National Drainage and Irrigation Authority for ensuring that water resources are located, evaluated, conserved and utilised for the greatest national advantage through appropriate water management strategies and water use planning, to provide that the drainage and irrigation systems are operated in a sustainable manner; to provide for increased farmer participation through water users associations, local government organs, farmer associations or private entities in the planning, development, operation, maintenance and management of the drainage and irrigation services; to define the powers and duties of the Authority, and for the matters related thereto or connected therewith.

A D 2004

Enacted by the Parliament of Guyana:-

**PART I  
PRELIMINARY**

Short title and commencement.

1. This Act may be cited as the Drainage and Irrigation Act 2004, and shall come into operation on such date as the Minister may, by order, appoint.

Interpretation.

2. In this Act -

- (a) "Appointments Committee" means the Appointments Committee of the Authority established under section 21;
- (b) "Authority" means the National Drainage and Irrigation Authority established by section 6;

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- (c) "Board" means the Board of Directors of the Authority constituted under section 7;
- (d) "capital costs" includes -
  - (i) all expenditure incurred in, and incidental to, the making of any survey and the preparation of any plan, specification and estimate;
  - (ii) all expenditure incurred on, and incidental to, the rehabilitation work and new work; and
  - (iii) the amount expended as compensation;
- (e) "cattle" means any horse, mare, gelding, colt, filly, mule, ass, buffalo, bull, cow, ox, steer, heifer, calf, sheep, goat, swine or any other livestock;
- (f) "chairperson" means the chairperson of the Board;
- (g) "Chief Executive Officer" means the Chief Executive Officer of the Authority appointed under section 20;
- (h) "director" means a director of the Board and includes the chairperson;
- (i) "drainage and irrigation" includes drainage, irrigation, flood control, access roads, dams and ways in agricultural areas;
- (j) "drainage and irrigation charges" means the service charges to cover the current operation, maintenance and management costs of the drainage and irrigation systems;

- (k) "entity" includes any association, body, person or corporation;
- (l) "flood control" means the tapping of potential flood waters by a conservancy but does not include sea and river defence areas covered by the Sea Defence Board;
- (m) "improved land" means the land which is drained or irrigated or the surface of which has been levelled, graded or raised;
- (n) "Management Committee" means the Management Committee established by paragraph 13 of the First Schedule;
- (o) "Minister" means the Minister responsible for drainage and irrigation;
- (p) "officer" means any officer of the Authority;
- (q) "proprietor" includes the person in possession of an estate, the attorney of a proprietor, the secretary of a company owning an estate and the manager of an estate;
- (r) "public goods elements" means the primary drainage canals and conservancies (in trapping potential flood waters) of the drainage and irrigation systems;
- (s) "private goods elements" means the primary irrigation canals, conservancies (in providing water for irrigation),



secondary drainage and irrigation canals (those channels linking the primary canals to farmland) and tertiary drainage and irrigation channels (on-farm systems) of the drainage and irrigation systems:

Cap. 5:01

First Schedule

Cap. 64:02

- (t) "Registrar" means the Registrar of Deeds appointed under the Deeds Registry Act;
- (u) "Secretary" means the secretary of the Authority appointed under paragraph 3 of the First Schedule;
- (v) "Sea Defence Board" means the Sea Defence Board constituted under the Sea Defence Act;
- (w) "service providers" includes water users' associations, local government organs, farmers associations and private contractors involved in the delivery of drainage and irrigation services;
- (x) "water users' association" means an association of farmers formed in accordance with section 17;
- (y) "working group" means a working group established under section 23;
- (z) "works" means any reservoir, canal, trench, drain, culvert, sluice, koker, koker runs or training walls of outfall channels, aqueduct, weir, dam, lock, syphon, stop off, paal off, fence, gate, barrier, bridge, road, watch house or

building used for housing sluice operations, rangers and pumping station attendants, which has been or which may hereafter be made, erected, constructed or used for the purpose of drainage or irrigation and includes any machinery, power station or pumping station used in connection with any of the foregoing.

Objects of the Act.

3. The objects of this Act are to -
- (a) frame an institutional structure in terms of water resources management strategy and water use planning for the primary purpose of locating, evaluating, conserving and distributing water resources of the country for agricultural purposes.
  - (b) establish the Authority as the regulatory and co-ordinating agency responsible for the operation, maintenance, control and management of the drainage and irrigation and flood control system and works and to effectively harmonise activities to enhance agricultural production;
  - (c) ensure that the existing drainage and irrigation system and flood control and any new expansions that are made, are operated and maintained in a sustainable manner.

- (d) provide for cost recovery for sustainable management of the primary and secondary elements of the drainage and irrigation system and flood control;
- (e) promote and provide support for the participation of Water Users' Associations, farmers associations and local government organs in the management, operation and maintenance of the drainage and irrigation systems and flood control;
- (f) promote participation of Water Users' Associations, farmers organisations and local government organs in the planning, design, management, operation and maintenance of the drainage and irrigation and flood control systems; and
- (g) promote and encourage the involvement of private sector in the construction, management, operation and maintenance of the drainage and irrigation and flood control systems.

Saving the  
declared  
drainage and  
irrigation areas.  
Cap. 64:03

4.(1) Notwithstanding the provisions of this Act, all the areas already declared as Drainage and Irrigation Areas under the provisions of Drainage and Irrigation Act shall continue to be so in effect and force and all publicly provided agricultural drainage and irrigation works in these areas and lands upon which they are located and the adjacent land shall be the property of the Authority.

Fourth Schedule

(2) The areas listed in the Fourth Schedule shall continue to be the declared Drainage and Irrigation Areas in terms of the last preceding subsection.

(3) The Authority shall collect charges for drainage and irrigation and flood control services from the owner or occupier of lands within the declared areas and at the rate approved under this Act and such owner or occupier shall be liable to pay such charges.

Powers of the Minister.

5.(1) The Minister may from time to time give the Authority directions of a special or general character in the exercise of the powers conferred by or the duties imposed on the Authority under this Act and the Authority shall give effect to those directions.

(2) In carrying out the development works that involve a substantial outlay on capital account the Authority shall act in accordance with a general programme, approved from time to time by the Minister.

(3) The Authority shall provide the Minister with any information the Minister requires with respect to the operations and functioning of the Authority.

## PART II ESTABLISHMENT, ORGANISATION, DUTIES AND COORDINATION

Establishment and incorporation of the Authority.

6. There is established a body corporate to be known as the National Drainage and Irrigation Authority.

Constitution of the Board.

7.(1) There shall be a Board of Directors of the Authority which, subject to the provisions of this Act, shall be responsible for the policy and the general administration of the affairs of the Authority.

(2) The Board shall consist of the following directors -

- (a) a Chairperson to be appointed by the Minister;
- (b) six directors to be nominated by the regions and approved by the Minister;
- (c) two directors to be nominated by water users' associations;
- (d) two directors to be nominated by the Rice Producers' Association;
- (e) the Ministry of Agriculture, the Ministry of Finance, the Ministry responsible for the sea defence, the Lands and Surveys Commission and the Guyana Sugar Corporation Limited shall each nominate one person to serve as an ex-officio director; and
- (f) one director to be nominated by the Minister.

(3) The Chief Executive Officer shall be an ex-officio director.

(4) The directors of the Authority may be appointed on such terms and conditions as the Minister may determine.

Functions of the Board.

8.(1) The Board is the governing body of the Authority and is responsible for -

- (a) keeping under review the national drainage and irrigation policy;
- (b) promoting and providing support for the establishment and development of water users' associations and farmers associations;
- (c) developing the institutional capacity of regional or local government organs in the management, operation and maintenance of the drainage and irrigation systems;
- (d) encouraging the participation of the private sector in the development, management, operation and maintenance of the drainage and irrigations systems;
- (e) the adoption of procurement procedures relating to supplies, contracts and tenders;
- (f) the approval, review, monitoring and evaluation of the annual and semi-annual financial and technical plans and budgets of the Authority;
- (g) the supervision and control of the functioning and activities of the Authority;

- (h) ensuring the co-ordination of plans, programmes and activities between the Authority, the Sea Defence Board, Conservancy Boards and other relevant entities;
- (i) giving general directions to the Chief Executive Officer;
- (j) undertaking anything incidental or conducive to the performance of any of the foregoing functions.

(2) The provisions of the First Schedule shall have effect as to the proceedings of, and otherwise in relation to, the Board.

Act to have  
overriding effect.  
No. 27 of 1977

9. Notwithstanding anything in the Mahaica-Mahaicony-Abary Agricultural Development Authority Act 1977 or any other written law, with effect from the commencement of this Act any function conferred on any other person including the power to collect drainage and irrigation charges in any agricultural area shall be performed and rates levied and charges collected by the Authority which shall have power to institute proceedings therefor.

Relationship with Sea  
Defence Board.

Cap. 64:02

10. In relation to drainage and irrigation, the function conferred on the Sea Defence Board under the Sea Defence Act regarding the construction of sea and river defence works and the care, maintenance and management of sea and river defences shall be conducted in consultation and collaboration with the Authority:

Provided that nothing in the foregoing provisions of this section shall be construed as requiring consultation and collaboration with the Authority in any case where the Minister responsible for the sea and river defence orders the Sea Defence Board to execute any emergency work under section 11 of the Sea Defence Act.

Relationship with  
Conservancy  
Boards.  
Cap. 53:03  
Cap. 50:04  
Cap. 50:05

11. In relation to drainage and irrigation, the conduct of maintenance works and operation and flood control responsibilities conferred under the East Demerara Water Conservancy Act, the Boerasaire Creek Act and the Creeks Act shall be conducted in consultation with the Authority.

Relationship with  
other entities and  
authorities.

12.(1) Save as otherwise provided by the provisions of this section, no entity shall implement any plan or make any alterations or changes either to its installations or in its operations that would affect the drainage and irrigation systems in any part of the country, without prior consultation with the Authority.

(2) In the conduct of consultations under subsection (1), the Authority shall consider all relevant matters, including the comments or representations from other governmental agencies or bodies that may be affected by the proposed plan, alterations or changes.



Guidelines for  
co-ordination.

13.(1) The Authority shall develop guidelines for co-ordination for maintaining communication and institutional linkages for the implementation of laws, policies and programmes regarding drainage and irrigation activities.

(2) The Authority, all other governmental agencies and other entities shall apply the guidelines referred to subsection (1).

### PART III FUNCTIONS OF THE AUTHORITY

General functions of  
the Authority.

14.(1) The general functions of the Authority are to -

- (a) recommend a national drainage and irrigation policy;
- (b) co-ordinate the operation and maintenance of drainage and irrigation activities through such measures as may be appropriate and to make suitable recommendations therefor;
- (c) manage, operate and maintain the drainage and irrigation systems and related access roads and facilities, constructed or acquired, by the Authority under this Act;
- (d) develop programmes and plans to locate, evaluate, conserve and distribute water resources for agricultural development and for the efficient management, operation, evaluation and monitoring of the drainage and irrigation systems;
- (e) implement a system of financing that separates public and private services of the drainage and irrigation systems and

divide drainage and irrigation infrastructure into related public and private categories with the result that the operation and maintenance of the private goods elements of the system are paid for by the direct users of the services and that upkeep of the public good elements of the system is supported by public revenue:

- (f) develop procedures, norms, standards including irrigation and environmental standards and operation schedules for the efficient operation and maintenance for the drainage and irrigation systems within the regions:
- (g) execute feasibility studies and appraisals for programmed works, to determine priorities and quality standards for plans for the drainage and irrigation systems:
- (h) carry out capital works or contract them to the private sector using competitive bidding procedures:
- (i) develop mechanisms and procedures for the efficient execution of maintenance and capital works:
- (j) set, monitor and enforce the terms and conditions subject to which contracts are entered into by the Authority:
- (k) undertake anything incidental or conducive to the performance of any of the foregoing functions.

(2) The Authority may enter into private contracts for the discharge of its functions.

(3) In the discharge of its functions under subsection (1) (c), (d), (e) and (f), the Authority shall encourage consultative mechanisms to ensure the involvement of relevant entities.

Establishment of regional offices.

15. The Authority may establish regional offices as it considers fit.

Delegation.

16.(1) The Authority may, either generally or on such terms and conditions as it thinks fit, delegate to any authority under the Local Democratic Organs Act 1980 or any other entity any functions as it may determine.

No. 12 of 1980

(2) The Authority under the Local Democratic Organs Act 1980 or an entity to which functions have been delegated by the Authority under subsection (1), shall, subject to such terms and conditions as are specified in the delegation, do all such things as are necessary for the carrying out of those functions.

(3) The Authority may establish the criteria that it shall follow when delegating its functions or authority.

**PART IV**  
**DELEGATION OF DRAINAGE AND IRRIGATION SERVICES**

Right of farmers  
to form  
association.

17. Farmers may establish themselves into water users' associations to actively participate in the planning, design, management, operation and maintenance of the drainage and irrigation systems.

Delegation of  
management,  
operation and  
maintenance of  
drainage and  
irrigation systems.

18. Without prejudice to section 16(1), the Authority may delegate the responsibility for the management, operation and maintenance of the drainage and irrigation systems to any service provider.

Strengthening of water  
users' association.

19. The Authority shall establish capacity-building programmes and provide support to strengthen the capacity for water users' associations farmer associations or local government organs to perform their functions in relation to the management, operation and maintenance of the drainage and irrigation systems effectively.

**PART V**  
**ADMINISTRATIVE POWERS AND RESPONSIBILITIES**

Chief Executive  
Officer.

20.(1) The Minister shall appoint the Chief Executive Officer of the Authority on such remuneration and allowances and other terms and conditions of service as the Minister may determine.

(2) The Chief Executive Officer shall implement the programmes of the Authority and shall be directly responsible to the Chairperson of the Board in the discharge of his functions.

(3) The Chief Executive Officer shall be subject to any general or specific direction of the Board and shall ensure that the functions of the Authority are properly discharged and objectives achieved.

(4) Save as otherwise provided in this Act, the Chief Executive Officer may, either generally or on such terms and conditions as he thinks fit, delegate to any officer of the Authority, by instrument in writing such of his powers as he thinks fit.

Appointments  
Committee.

21.(1) There shall be a committee to be known as the Appointments Committee of the Authority consisting of the Chairperson and two other directors (other than the Chief Executive Officer) to be appointed by the Minister.

(2) Save as otherwise provided in this Act, the power to make appointments of, to remove and exercise disciplinary control over, the officers and employees of the Authority shall vest in the Appointments Committee.

(3) The Appointments Committee may delegate to the Chief Executive Officer the power to take disciplinary action against all or any class of the employees of the Authority for such misconduct, and to impose such penalties as may be specified by the Appointments Committee.

(4) Where any power delegated to the Chief Executive Officer under this section is exercised by the Chief Executive Officer, any person in respect of whom the power was exercised may appeal to the Appointments Committee in respect of the decision of the Chief Executive Officer.

(5) Subject to regulations made by the Minister, the Appointments Committee may regulate its own procedure.

Limitation of  
personal  
liability.

22.(1) Subject to subsection (2) no action, suit, prosecution or other proceeding shall be brought or instituted personally against a director, or an officer or employee or any of the committees of the Authority in respect of any act done bona fide in pursuance of the execution or intended execution of his duties under this Act.

(2) Where a director, an officer or employee or any of the committees of the Authority is exempt from liability by reason only of subsection (1), the director, an officer or employee or the committee, as the case may be, shall be liable to the extent that it would be if the director, an officer or employee or the committee as a servant or agent of the Authority, so however, that if in any case the Authority or the committee is not liable for any of the above mentioned acts, then subsection (1) does not operate to exempt such person as therein stated.

Appointment of  
working groups.

23.(1) The Board may appoint such working groups as it deems fit, to consider and assist on any matter arising out of, or connected with, the discharge of its functions under this Act.

(2) The Board may adopt any recommendations of a working group either wholly or with such modification or adaptation as the Board may determine.

Confidentiality

24.(1) Every director, officer or employee of the Authority shall -

- (a) regard and deal with as secret and confidential all information, documents and matters which or knowledge of which he may obtain as a director, officer or employee of the Authority, as the case may be, which relate to any of the proceedings or business of the Authority; and
- (b) not make use of any documents, matters or information which or knowledge of which he may obtain as a director, officer or employee of the Authority, as the case may be, for the benefit of himself or of any other person, or otherwise than for the purposes of the discharge of his duties as a director, officer or employee of the Authority.

(2) Any director, officer or employee of the Authority who contravenes any of the provisions of subsection (1), commits an offence and shall be liable on summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

**PART VI**  
**CONSTRUCTION, ACQUISITION AND MAINTENANCE OF WORKS**

Construction of new works.

25.(1) Where it appears to the Authority to be necessary or expedient that any new works be constructed to improve the drainage and irrigation within any area, the Authority shall cause a plan and specification of such work, together with an estimate of the cost thereof, to be prepared.

(2) All documents referred to in subsection (1) shall be available for inspection by members of the public during normal working hours, for a period of fifteen days from the date upon which they were made available.

(3) Any person or body or local government organ that is likely to be affected by such work, may, within the aforesaid period of fifteen days, address a letter of protest which shall state the grounds on which the objection is based.

(4) Upon the expiration of the period of inspection, the documents referred to in subsection (1) shall be submitted to the Minister for approval.

(5) The Minister may, after taking into account public comments regarding the construction, approve or amend the construction of the new work.

(6) If the Minister approves the construction of the new work he may, by order, direct the Authority to construct the said work and notice of such decision shall be published in the Gazette and at least one daily newspaper.

(7) If the Minister for any reason considers it inexpedient that the works be constructed, the Authority shall be so informed and notice of such decision shall be published in a daily newspaper.



(8) Where the Minister approves the construction of the new work, the Authority shall, within thirty days deposit the documents with the Registrar of Deeds duly authenticated by the signature of the Chief Executive Officer of the Authority and the Registrar of Deeds shall file the same as of records in the Deeds Registry.

(9) With effect from the time any plan referred to in subsection (8) is deposited with the Registrar of Deeds, all lands wherein or whereon (together with the adjoining areas mentioned in section 26) any works marked or delineated upon such plan are to be constructed shall become (together with the adjoining areas mentioned in section 26) the property of the Authority and shall be subject to the payment of drainage and irrigation rates.

Certain lands  
adjacent to works  
to vest in  
Authority.  
Cap. 262  
1953 Ed  
Cap. 64:02

26.(1) Save as provided by section 13(2) of the Railways Purchase Ordinance and by section 12(1) of the Sea Defence Act, and subject to subsection (2), all lands within twelve feet of the toe of any dam or within a like distance of any part of any work, power house or watch house marked or delineated on any deposited plan, and being the property of the Authority shall, with effect from the time such plan is deposited with the Registrar of Deeds vest in the Authority free from encumbrance and shall be the property of the Authority.

(2) Where a fence is adjacent to a work (other than a fence) the distance of twelve feet referred to in subsection (1) shall be measured from the work:

Provided that where, at the commencement of this subsection the distance between a work (other than a fence) and an adjacent fence is greater than twelve feet, the land between the work and the fence shall nevertheless continue to vest in the Authority and shall continue to be the property of the Authority.

Erection of fences.

27. After the commencement of this Act no fence shall be erected at a distance greater than twelve feet from an adjacent work (other than a fence).

Right to enter opposition to apply to compensation only.

28. (1) Where any plan is deposited with the Registrar of Deeds under section 25, any person who would have a right to oppose if transport of the land referred to in section 25 were about to be passed by the owner thereof shall have the same right to enter opposition to the registration but opposition shall be deemed to apply only to the payment of the compensation to the parties interested.

(2) When the matters alleged in the opposition are disputed by any of the persons claiming the compensation or any part thereof, the person so claiming may enter a defence to the opposition and thereafter the proceedings shall continue as in ordinary opposition suits; and the court shall have full power to make any order in relation to the opposition suit both as to granting time or otherwise appearing to the court to be necessary in order to have the questions at issue between the parties determined.

Powers of Authority in connection with construction of works.

29.(1) When the Authority has deposited the plan for the construction of new works with the Registrar of Deeds the directors and the employees or agents of the Authority, together with such animals, vehicles and boats as may reasonably be required, shall be entitled at all times to enter upon and pass over any part of such area for the purpose of constructing the works authorised in respect of the area described in the plan.

(2) For the purposes of the construction of any work the Authority may take and remove earth or other materials from any where:

Provided that earth or materials shall not be taken from any cultivated land or cultivated pasture or from any improved land if obtainable elsewhere in the nearby area and such activity is in compliance with the requirements of section 11 of the Environmental Protection Act No. 11 of 1996.

No. 11 of 1996

Special powers in case of threatened flood.

30.(1) If at any time it appears to the Authority that there is an imminent danger of the lands, or any part of the lands, within any area being flooded the Authority shall forthwith report that fact to the Minister.

(2) The Minister may, in considering the report made under the preceding subsection, direct the Authority to take such action or construct or erect such works as may in the opinion of the Authority be necessary to avert the threatened flood or to mitigate the results should such flooding occur.

(3) For the purposes of complying with the order made under this section, directors and employees of the Authority, together with animals, vehicles and boats may enter, or be taken upon any land to dig any trench, drain or canal therein and may construct or erect any work thereon.

(4) As soon as conveniently possible after the completion of any work constructed or erected under this section, the Authority shall cause plans to be prepared in respect of any lands upon which such work has been conducted and shall submit the said plans to the Minister.

(5) Upon receipt of any plan submitted under subsection (4) the Minister may, by order, direct that the lands marked or delineated on the said plan shall vest in the Authority.

(6) The Authority shall forthwith deposit with the Registrar of Deeds a copy of such plan duly authenticated by the Chief Executive Officer and the Registrar shall file the same as of record in the Deeds Registry and shall make such annotations on the record as may be necessary.

(7) With effect from the time any such plan is deposited with the Registrar of Deeds under subsection (6) all lands wherein or whereon any works marked or delineated upon such plan are constructed together with the adjoining areas referred to in section 26 shall forthwith vest in the Authority and shall be the property of the Authority.

Acquisition of works.

31.(1) Where the Authority considers it desirable that any work not constructed and maintained by the Authority shall vest in and shall become the property of the Authority on the ground that such work is required by the Authority for the purposes of drainage and irrigation, the Authority shall cause plans to be prepared on which such work is marked or delineated.

(2) The Authority shall cause one copy of the plan to be deposited in the office of the concerned regional democratic council.

(3) Section 26 shall mutatis mutandis apply to procedure under this section.

(4) If the Minister approves that the work shall vest in and become the property of the Authority, he may by order direct that the work shall vest in and become the property of the Authority free from encumbrance.

(5) If the Minister for any reason considers it expedient that the work shall vest in and become the property of the Authority, the Authority shall be so informed.

Existing works to vest in the Authority.

32.(1) The Authority shall cause plans to be prepared on which are marked or delineated all drainage and irrigation works which have been constructed, reconstructed or maintained out of rates collected under the Drainage and Irrigation Act or out of moneys provided by Parliament.

Cap. 64:02

(2) One copy of each plan shall be authenticated by the signature of the Chief Executive Officer and shall be deposited with the Registrar of Deeds who

shall file the same as of record in the Deeds Registry and shall make such annotations on the records as may be necessary.

(3) With effect from the time any such plan is deposited with the Registrar of Deeds in accordance with this section the land whereon and wherein all works marked or delineated on such plan are constructed together with the adjoining areas referred in section 26 shall forthwith vest in the Authority free from encumbrance and shall be the property of the Authority.

Power of Authority to remove and rebuild or alter certain works.

33. If in the opinion of the Authority it is reasonably necessary for the efficient construction or operation of any work that any bridge, culvert, koker, sluice, aqueduct or weir (not being the property of the Authority) be removed or altered the Authority may remove and rebuild, or alter, as the case may be, any such structure.

## PART VII COMPENSATION

Right to be paid compensation.

34. Any person shall be entitled to compensation from the Authority in respect of such land or loss or damage as the case may be, who -

- (a) is deprived of any land by reason of its becoming vested in the Authority under Part VI: or
- (b) suffers actual loss or damage after the commencement of this Act which is caused by the construction or acquisition

of any new work or by the making of any survey under this Act.

Amount of compensation.

35. The amount of compensation to be paid to any person shall be the current market value of the land acquired from, and in the case of buildings, structures and trees growing on the said land, the current replacement value or the amount of the actual loss or damage sustained by, such person:

Provided that in any case where it is possible to remove any structure, plant or machinery from any land and to re-erect it elsewhere the amount of compensation to be paid in respect of such structure, plant or machinery may, at the discretion of the Authority, be the actual cost of dismantling, removing and re-erecting the same at current prices.

Right of claimant to require Authority to acquire whole estate in certain cases.

36. In any case where the value of a portion of any estate which becomes vested in the Authority under this Act -

- (a) exceeds two-thirds of the value of the whole estate; and
- (b) in the circumstances of the case the portion not acquired by the Authority cannot be beneficially occupied,

the person claiming compensation may require the Authority to acquire and pay compensation in respect of the whole estate.

Power of  
magistrate to  
assess

37.(1) When the amount to be paid as compensation under this Part cannot be agreed upon by the Authority and the person claiming compensation such person may lodge a complaint in the magistrate's court claiming compensation from the Authority and the magistrate shall assess the amount of compensation to be paid in accordance with this Part.

(2) For the purposes of this section the magistrate shall have the same powers, authority and jurisdiction, and the procedure shall be the same, as if the matter were a proceeding to recover a debt in a magistrate's court without limit as to the amount.

Right of appeal  
from decision of  
magistrate.

38. If either the Authority or the person claiming compensation is dissatisfied with the decision of the magistrate under the last preceding section, an appeal may be made by the dissatisfied party in the manner, and subject to the conditions, provided by the Summary Jurisdiction (Appeals) Act in regard to civil cases.

Cap. 3:04

Interpretation

39. Save where the context otherwise requires, in this Part the expression "land" includes all buildings and structures erected on such land and anything growing thereon.



**PART VIII**  
**FINANCIAL PROVISIONS AND ACCOUNTABILITY**

Funds and resources  
of the Authority.

40.(1) The funds and resources of the Authority shall consist of -

- (a) such sums which the Authority shall collect from the users of its services as rates and charges, payments from maintaining, repairing or replacing any works, charges due for services provided for private elements, being irrigation and agricultural drainage, or fees due from the users of properties under the administration and control of the Authority;
- (b) any sums donated to the Authority by way of grants, gifts, bequests or donations by foreign states, international organisations, multilateral lending agencies, private individuals, foundations, corporations or other entities;
- (c) fees paid for any process of distress or by way of fines, penalties and all other revenues which may become payable to the Authority pursuant to the provisions of any written law;
- (d) such amounts borrowed by the Authority under section 43;
- (e) such sums as may be allocated from time to time to the Authority from loan funds;

- (f) all monies earned or arising from any property, investments;
- (g) mortgages and debentures acquired by or vested in the Authority;
- (h) all monies transferred or vested in the Authority from the Drainage and Irrigation Board;
- (i) such amounts as may be appropriated annually by Parliament or otherwise made available to the Authority by the Government for the upkeep of the public good elements, being flood control and general drainage or for special purposes;
- (j) all other sums, moneys or property which may in any manner become payable to or vested in the Authority in respect of any miscellaneous services or matter incidental to its functions.

(2) Save and except for moneys invested in accordance with section 41 all funds of the Authority which do not have to be used immediately to defray expenses, as provided for in section 44, shall be deposited by the Authority into a Hydraulic fund managed and administered by the Board in a bank approved by the Minister.

(3) The fund established under subsection (2) shall be instituted in such a manner so as to earmark in separate accounts, by or among and within each region, as considered appropriate.

(4) The Authority shall account to the Accountant General for all moneys received by the Authority under this Act.

(5) For the purposes of this section "loan funds" means any sums made available to the Government by way of loan or grant.

Investment of  
funds.

41. Without prejudice to provisions of section 40(2), the Authority may, from time to time with the approval of the Minister responsible for Finance, invest moneys which are not required immediately to defray expenses in carrying out its functions under this Act in such a manner as it considers fit, but so as to preserve the principal and earn a reasonable rate or return.

Exemption  
from taxes.

42.(1) The Authority shall be exempt from stamp duty, corporation tax, customs duties, value added taxes, motor vehicle taxes, fees, charges, assessments levies and imposts on any income or profits or on assets which are required for use by the Authority.

(2) The Minister responsible for Finance may, by order, exempt the Authority 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.

Borrowing  
powers.

43.(1) Subject to subsection (2), the Authority may borrow, on the security of its assets, any sums required by the Authority for meeting its obligations and discharges or for the efficient exercise of any of its functions.

(2) Borrowing shall be effected with the approval of the Minister responsible for finance as to the amount, the sources of borrowing and the terms and conditions of the loan.

(3) The Authority may not pledge its assets as security for any loan without the approval of the Minister.

(4) The Authority is a statutory authority for the purposes of the Guarantee of Loans (Public Corps and Companies) Act.

Cap. 77:01

Application of  
funds.

44.(1) The Authority may from its funds make payments to meet all expenses properly incurred by it for the purpose of the exercise of its functions and, without prejudice to the generality of the foregoing, may pay for any of the following matters -

- (a) activities, including training to support and encourage the formation of water users' associations or the formation of associations of farmers responsible for the operation and maintenance of the drainage and irrigation systems;
- (b) the operating expenses of the Authority, including the remuneration of staff and directors thereof;

- (c) the capital expenses, including the purchase, maintenance and insurance of real and personal property of, or under the administration and control of the Authority;
- (d) any other expenses properly incurred by the Authority for the purpose of the exercise or discharge of its functions:

Project funds.

45. (1) The Authority is authorised to receive and disburse direct financial assistance or other support for specific projects or activities.

(2) The Authority shall keep separate accounts with respect to sums received and disbursed for projects carried out by it in the performance of its functions under this Act, including a current account for current expenditure and a capital account for capital expenditure.

Rules for financial operations.

46. (1) The Board may, by resolution, make rules for the system of accounting, consistent with sound accounting and financial standards.

(2) Without prejudice to the generality of section 14(1)(e) and for the purpose of regulating and controlling the financial operations of the Authority, the Authority may, with the approval of the Minister, make rules for the system of accounting as aforesaid in respect of -

- (a) the methods to be adopted in making payments out of the funds and resources of the Authority;

- (b) the manner in which and the officers by whom payments are to be approved;
- (c) the sum to be retained by the accounting officers to meet petty disbursements and immediate payments and the maximum sum that may be so disbursed for any one payment;
- (d) generally as to matters necessary for the proper administration and control of the finances of the Authority.

Accounts and audit.

47.(1) The Authority shall cause to be kept proper accounts and other records of its transactions, and the funds and the accounts shall be audited annually by the Auditor General, or by an auditor appointed in each year by the Board with the written consent of the Auditor General.

(2) The Directors of the Board, the Chief Executive Officer, the Secretary, and the employees of the Authority shall grant at all reasonable times to the auditor appointed under subsection (1) access to all books, documents, cash, returns, securities, stores and other property of the Authority, and shall give to the auditor on request all information within their knowledge in relation to the financial operations of the Authority.

(3) An auditor appointed under this section shall have power to summon and examine any person whom the auditor thinks fit to examine for purposes of obtaining information in connection with the examination and audit of

the accounts of the Authority any other matter and things whatever necessary for the due performance of the functions vested in him.

(4) Any person summoned under subsection (3), who without reasonable excuse, makes default in obeying the summons shall be guilty of an offence and liable on summary conviction to a fine of two thousand dollars and imprisonment for three months.

48.(1) The Authority shall not later than six months after the end of each financial year submit to the Minister an annual report containing -

- (i) an account of its functioning throughout the preceding financial year in such detail as the Minister may direct;
- (ii) an audited statement of accounts of the Authority audited relating to that calendar year in accordance with section 47;
- (iii) a report on specific projects, programmes or activities under sections 44 and 45;
- (iv) any general directions given to the Authority by the Minister pursuant to section 5.

(2) Where the accounts of the Authority are kept by reference to a financial year different from the calendar year, the expression "calendar year" in

this section shall be read with respect to the Authority as if the expression "financial year" were substituted therefor.

Budgets.

49.(1) The Authority shall not later than ninety days before the end of each financial year, or such earlier time as required by the Minister responsible for finance, prepare and submit to the Minister an annual budget for the next financial year, containing a revenue and expenditure budget, a capital budget, a cash flow projection, and the contracts to be financed indicating separately the amounts that may be required to be expended in foreign currencies, in such form as the Minister directs or as required by the Minister responsible for Finance.

(2) The Minister shall consult with the Authority on the budget and, when approved by him, the budget shall be transmitted to the Minister responsible for finance not later than forty days before the end of each financial year.

(3) The Authority shall prepare three-year roll over work-plans and projected budgets on an annual basis, which shall be submitted to the Minister together with the annual budget.

#### **PART IX GENERAL FINANCIAL PROVISIONS**

Assessment of  
drainage and  
irrigation  
charges.

50.(1) The Authority, with the approval of the Minister, shall in respect of each year fix rates and charges for drainage and irrigation services provided by it.



(2) In fixing charges under subsection (1), the Authority may fix different rate for drainage and irrigation services provided for different areas, different farming patterns or forms of land use.

(3) In fixing rates under this section, the Authority shall pay due regard to the following matters -

- (a) the cost of operating and maintaining the drainage and irrigation systems on a national and regional basis and by locality where appropriate;
- (b) the annual current operation and maintenance costs and the long term rehabilitation costs;
- (c) the cost of the administration of the Authority;
- (d) such other appropriate factors as the Minister may require the Authority to consider with a view to ensure the efficient and adequate drainage and irrigation systems:

Provided that no plot whereupon any church, temple, mosque, chapel, registered burial and cremation ground or school or other building devoted to the purposes of religion or education is erected shall be liable to assessment under this section.

Power the Minister to approve or vary charges

51. The Authority shall submit the rates assessed in accordance with section 50 to the Minister who may vary or approve any such charges with due consideration to the financial sustainability of the Authority.

Publication of charges

52.(1) The Authority shall publish all rates as finally approved by the Minister in the Gazette and in at least one daily newspaper of national circulation, specifying the rates assessed for each area.

(2) Each notice shall contain a statement that the rates therein may be varied by the Minister.

Power of Minister to modify charges.

53. The Minister shall have power at any time to modify any rate fixed by the Authority and approved by him under this Act.

Charges payable in equal moieties.

54.(1) All charges may be paid in equal moieties which shall be due for payment on the 1<sup>st</sup> February and the 1<sup>st</sup> July, respectively, in the year following the date of the annual assessment.

(2) Each moiety shall be paid on or before the last day of the month in which payment is due and failure to pay the first moiety on or before the last day of February in any year shall render the whole amount immediately payable.

Unpaid charges may bear interest.

55. The Authority may, at its discretion, direct that any unpaid charges shall bear interest at a rate per annum determined by the Authority from

the date payment becomes due up to the date of payment or enforcement under the provisions of this Act, as the case may be.

State or Government lands occupied by lessee or licensee to be rateable.

56. (1) State or Government lands held under any lease or occupied or used under any licence or permission shall be liable to be charged but only the right, title or interest of the lessee, licensee or permittee of such land shall be taken in execution.

(2) Where during the year or any part of the year to which the annual charge assessed and approved as aforesaid relates, State or Government lands which were not assessed at the time of the assessment of the annual charge are held under any lease, or are occupied under any licence or permission, such lands shall be assessed and shall be liable to be charged to the amount of such annual charge as aforesaid in respect of the year or the part of the year as the case may be.

Payment and recovery of charges.

57.(1) All charges, together with interest, if any, in respect of an estate shall be paid by the proprietor to the Authority or to an officer directly authorised by the Authority in that behalf, and in default of payment by the proprietor the Authority may recover the charges with interest (if any) and cost by parate or summary execution (except as hereinafter provided) against the proprietor of that estate without naming him or by an action in the magistrate's court or in the High Court, and all proceedings and process shall be at the instance of the Authority.

(2) The whole or any part of the charges and interest (if any) due in respect of an estate may be enforced against the estate and any other estate belonging to the same proprietor.

(3) The provisions of the Limitation Act and the Title to Land (Prescription and Limitation) Act or any other statute or limitation shall not, in so far as they prescribe a period of limitation within which a sum of money may be recovered, apply to a claim by the Authority for a sum of money and whether or not such sum would have been irrecoverable prior to the enactment of this subsection by virtue of either of the said enactments.

(4) Where by virtue of subsection (3), a sum of money is claimed as charges due in respect of an estate from the proprietor thereof for a period when he was not the proprietor any sum of money paid by him in satisfaction of that claim shall, subject to any agreement to the contrary, be deemed to be money paid by him at the request of the person who was the proprietor during the said period.

Warrant of distress.

58.(1) Where the amount of the charges due in respect of an estate does not exceed the sum of ten thousand dollars the same shall not be recovered by parate or summary execution in the first instance, but the Authority may make application to the magistrate of the magisterial district in which the estate is situate, who may grant a warrant of distress for the recovery of the amount, whereunder and by virtue whereof the movable property upon that estate

or in any house or houses thereon may be levied on and sold for the amount of the charges and interest (if any) and costs.

(2) The movable property as aforesaid shall be sold in a public place by a person duly authorised by the magistrate, and notice of the sale shall be given in the manner directed by the magistrate not less than eight clear days previously, and the proceeds thereof, after payment of costs, shall be applied in payment of the charges and interest (if any) and the surplus, if any, shall be paid over to the proprietors.

(3) A magistrate may at any time revoke or suspend the operation of a warrant.

(4) Every warrant of distress issued under this section shall be in the form in the Second Schedule.

Second Schedule

(5) Every warrant of distress issued under this section shall be executed in the same manner as warrants of distress issued by a magistrate in the exercise of his summary jurisdiction.

(6) Process for parate or summary execution shall be for any charges where the amount thereof does not exceed the sum of ten thousand dollars if there is produced with the summation a certificate signed on behalf of the Authority to the effect that there is no movable property whereon to levy, or that that property has proved insufficient, or in any case where a levy has been made, if there is produced a return to the same effect by the officer making the levy.

(7) All fees for the process of parate or summary execution, travelling expenses and administrative fees, including fees for summation and service, endorsement of the writ of execution, act of levy, inventory and advertisement of sale, transport, commission and all other related matters not hereinafter enumerated shall be recoverable as costs in the matter of that process.

Power of Minister  
to vary and  
prescribe  
additional fees.

59. The Minister may, by order, substitute other fees for those prescribed and prescribe fees for any process in respect of which no fee has been prescribed; until fees are prescribed the fees in the Fourth Schedule to the repealed Drainage and Irrigation Act shall apply.

Cap. 64:03

#### **PART X OFFENCES AND PROSECUTION**

Contravention of the Act.

60.(1) No person shall contravene any provision of this Act or any regulations made hereunder.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall, subject to this Act, be liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for three months unless stated otherwise in this Act.

Unlawful obstruction  
and damages.

61. Any person who -

- (a) obstructs, resists or assaults any member of the Authority or any person employed by the Authority or by any agent of the Authority acting in the execution of his duty under this Act; or
- (b) wilfully performs any act where the efficient operation of any work is impaired; or
- (c) maliciously damages any work or any part thereto; or
- (d) unlawfully abstracts any water from any work or unlawfully obstructs or otherwise interferes with the flow of any water within the drainage and irrigation system maintained by the Authority.

shall be guilty of an offence and shall be liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for three months.

Trespass by cattle.

62.(1) Any person who, having the custody or control of cattle, permits such cattle to trespass upon any work or upon any of the lands adjacent to any work, being the lands vested in the Authority by virtue of the application of the provisions of this Act shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for three months:

Provided that it shall be a good defence to a charge made under this section to prove that the trespass was not due to the wilful act or neglect of the person charged or of his servants or agents.

(2) Any cattle found trespassing upon any work or land specified in the preceding subsection may be seized and impounded by any member of the police force or of the rural constabulary, or by any person authorised in writing in that behalf by the Authority.

(3) Any cattle impounded under this section shall be impounded in the nearest pound and the provisions of the Pounds Act shall apply to that impounding.

(4) Any swine found straying upon any work or land specified in subsection (1) may be destroyed by any person authorised to impound cattle by that subsection and the carcasses of the swine shall be the property of the Authority.

Cap. 71:04

Liability to  
pay  
expenses

63.(1) Where the Authority incurs expense in repairing any injury done to the property of the Authority by any act which is an offence under this Act, or where any property of the Authority is damaged by any such act and any person convicted thereof the magistrate shall order the offender to pay to the Authority the amount of such expense or damage.

(2) A certificate duly signed by the Chief Executive Officer of the Authority shall be prima facie evidence of the amount of the expense or the damage incurred or suffered by the Authority.



(3) An order made under this section shall be of the same force and effect and shall be enforceable in the same manner as if it were a judgment of a magistrate's court in civil action.

#### PART XI MISCELLANEOUS

Conflict of  
interest.

64.(1) Where any director, or any officer or employee of the Authority, has any actual reasonably perceived interest in a matter which would otherwise come before such individual as part of the consideration or other action to be taken by the Authority, whether such interest is direct or indirect or arises because of a potential financial interest or an immediate family relationship, such director or such officer or employee shall declare the nature of such interest at the first practicable opportunity.

(2) Without prejudice to the generality of the foregoing, any director whose interest is likely to be affected, whether directly or indirectly, pecuniary or otherwise, 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 that matter is presented.

(3) For the purposes of this section, the interests of a director and immediate family relationship includes the interests of a parent, spouse or child of any director.

Protection of  
confidential  
information.

65.(1) No director, or any officer or employee of the Authority who has acquired information in performing any of his functions or duties under this Act shall without express consent of the Chairperson or Chief Executive Officer disclose to any person any such information except -

- (a) to a director, or an officer or employee of the Authority for the purpose of the performance of his duties or the exercise of his functions under this Act;
- (b) when he is required to do so in accordance with the provisions of this Act; or
- (c) when he is lawfully required to make disclosure by a court of competent jurisdiction.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of twelve thousand dollars and to imprisonment for three months.

Duty to provide  
information.

66. Where information is stored by means of a mechanical, electronic or other device, any duty imposed upon the Authority 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.

Prosecution of offences.

67. Any offence under this Act or the regulations may be prosecuted and enforced in a court of summary jurisdiction.

Regulations.

68.(1) The Authority, with the approval of the Minister, may make regulations for the proper execution and carrying out of the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Authority may make regulations for -

- (a) the amount of fees or charges or a system for fixing fees or charges for drainage and irrigation services or any other matter under this Act;
- (b) the recovery of fees or charges payable under paragraph (a);
- (c) the recovery of costs and expenses incurred in carrying out any work done as a consequence of any default by any person in complying with this Act or regulations;
- (d) procedures related to supplies, contracts and tenders, variation of contracts and payment procedures;
- (e) procedures for performance appraisals, reward management and salary systems;
- (f) procedures for operation and maintenance at the national and regional level;

- (g) compensation for damage or destruction of any property in the exercise of any powers conferred by this Act;
- (h) the distribution, or restriction of the use of water;
- (i) the regulation of the drainage and irrigation of any area;
- (j) the prevention of pollution of water contained in, or passing through any work;
- (k) generally to give effect to the objects and purposes of this Act.

Power to enter upon lands for purposes of survey.

69.(1) For the purposes of any survey required or considered by the Authority to be necessary for the purpose of this Act, the directors and officers and employees of the Authority, together with such cattle, vehicles and boats as may reasonably be required for the purposes of such survey, may enter, or be taken, upon any lands in Guyana.

(2) For the purposes of any survey made under this section the Authority may erect or set up such trigonometrical stations, beacons, puals or poles and do all such things as may be reasonably necessary for such survey.

Power of Authority to require proprietor to maintain certain properties on his estate.

70.(1) Where the proprietor of any estate wilfully or negligently fails to repair or maintain any dam, sluice, koker, canal or trench on his estate and such failure endangers the safety, or materially impairs the efficiency, of any work being the property of the Authority, the Authority may, by notice in writing,

require the said proprietor forthwith to effect such repairs to his dam, sluice, koker, canal or trench as may be specified in the said notice.

(2) Where any proprietor-

- (a) fails within such time as is prescribed in any notice under the preceding subsection to commence repairs specified in the notice: or
  - (b) having commenced effecting the repairs specified in any notice unreasonably delays completing such repairs.
- the Authority may itself effect the necessary repairs.

as the case may be, and any expenditure incurred by the Authority under this subsection shall be recoverable from the proprietor of the estate concerned.

Right of Authority  
to institute  
proceedings  
without payment  
of fees.

71. No fees shall be charged in respect of any action, proceeding, prosecution or process instituted or ordered under this Act, or under the regulations made hereunder, by, or on the application of the Authority.

Signature of Chief  
Executive Officer to  
be prima facie  
evidence.

72. The signature the Chief Executive Officer subscribed to any document containing a statement of the amount of charges due shall without proof of any other matter or thing be held to be in all courts prima facie evidence of the amount claimed being due and correct.

**PART XII  
TRANSITIONAL PROVISIONS**

Savings, debts  
and claims of  
Drainage and  
Irrigation Board.  
Cap. 64:01

73. (1) All debts and moneys due from or to the Drainage and Irrigation Board established by, the Drainage and Irrigation Act repealed by this Act, or any person on their behalf, shall be payable and paid by or to the Authority and shall be recoverable from or by the Authority by the same ways and means, and subject to the same conditions, as the same would or might have been recoverable from or by the Drainage and Irrigation Board had this Act not been enacted.

(2) For the purposes of this section, all debts and moneys due from or to the Drainage and Irrigation Board includes all assessments and all notices published or served under the Drainage and Irrigation Act repealed by this Act in relation to charges payable to the Drainage and Irrigation Board.

(3) Any payment of charges made in advance under the Drainage and Irrigation Act repealed by this Act shall be deemed to be payment of such charges made in advance under this Act.

Transfer of  
assets and  
liabilities.

74. (1) The movable and immovable assets of the Drainage and Irrigation Board are hereby transferred to and vested in, without further assurance, in the Authority.

(2) Liabilities incurred by the Government, exclusively for the purposes of the Drainage and Irrigation Board, or incurred therefor under

agreements duly contracted in carrying out its functions by the Board, before the commencement of this Act shall, be discharged by, and enforceable against, the Authority as if the said liabilities had been incurred by the Authority.

Existing  
agreements.

75. All deeds, grants, purchases, sales, covenants, agreements, contracts, obligations, undertakings and liabilities which have been executed, made or entered into by the Drainage and Irrigation Board and in force immediately before the commencement of this Act shall have effect as if the same had been executed, made or entered into by or with the Authority and may be enforced by or against the Authority accordingly.

Continuation of  
pending  
proceedings.

76. All proceedings for the enforcement of any rights and liabilities accrued before the commencement of this Act and which are transferred or attached to the Authority by virtue of the provisions of this Part may be continued by or against the Authority, and the proceedings may be amended accordingly.

Transfer of  
records.

77. (1) All documents, books, papers, plans, or other records belonging to the Drainage and Irrigation Board, howsoever stored, are hereby transferred to and become the property of the Authority.

(2) All persons who, at the commencement of this Act, have in their possession or under their control any documents, books, papers, plans

or other records belonging to the Drainage and Irrigation Board, howsoever stored, shall be liable to account and deliver up the same to the Authority, or such person as the Authority may appoint to receive the same.

Bank accounts of  
authorities, Boards  
repealed by this  
Act.

78. (1) Where any authority or board established by any Act repealed by this Act has an account with any bank in Guyana the said account shall, with effect from the commencement of this Act, be transferred to the name of the Authority as the holder of such account and any sum standing to the credit of any such board or authority shall, with effect from the commencement of this Act, vest in the Authority as fully and effectually as if all operations in connection with the said account had been transacted, or entered into, by the Authority by name.

(2) Any sum transferred from any authority or board to the Authority under this section shall be credited by the Authority to the account of the regional drainage and irrigation area over which a regional office has been established pursuant to this Act.

Staff of  
existing  
body.

79. Where, from the commencement of this Act, the Authority continues to employ any person employed in the Drainage and Irrigation Board before the commencement of this Act, the person shall be employed on such terms and conditions as agreed between the Authority and the person:



Provided that any such person who is employed by the Authority shall be employed on terms and conditions which, taken as a whole, are no less favorable than those applicable to the person immediately before the commencement of this Act.

Modified  
application of  
the (Principal)  
Act,  
No. 16 of 1995

80.(1) Notwithstanding the provisions of this Act the provisions of the Drainage and Irrigation (Declaration of Areas) Act 1995 shall remain in force in so far it relates to the application of the terms of the Subsidiary Agreement between the Government of Guyana and GUYSUCO.

(2) The capital costs (within the meaning of the expression in this Act) of the construction of the works to be carried out under the Subsidiary Agreement shall be defrayed out of moneys provided by and in accordance with the said Subsidiary Agreement:

Provided that GUYSUCO shall reimburse the Government for any additional funds provided by Government under the Agreement for the construction of the works if the cost of the construction thereof exceeds the estimated cost thereof.

References to  
existing body.

81. Any references to the Drainage and Irrigation Board in any written law, instrument or document of any kind, subsisting or in force on the commencement of this Act shall be construed and have effect as a reference to the Authority.

Savings.  
Cap. 64:03

82. Notwithstanding anything contained in this Act, any regulations made under the Drainage and Irrigation Act shall continue in force until such time as new regulations under this Act are made to replace those regulations.

Repeal.  
Cap. 64:03

83. (1) The Drainage and Irrigation Act is hereby repealed.

(2) Where any provision of any law specified in the Third Schedule is in conflict or inconsistent with a provision of this Act, the provision of this Act shall prevail and the Minister shall by order repeal such provision which is inconsistent or in conflict with the provision of this Act.

**FIRST SCHEDULE**

s.6

**PROCEDURAL PROVISIONS OF THE BOARD**

Duration of office.

1. The Chairperson and every director except the Chief Executive Officer shall be appointed for a term not exceeding two years, and under such terms and conditions of service as the Minister may fix in the instrument of appointment and may be eligible for re-appointment.

Vice-Chairperson.

2. The Board shall select from among its directors a Vice-Chairperson.

Secretary.

3. There shall be a secretary to the Board and such other employees of the Authority as the Authority deems necessary for the purposes of carrying out its functions.

Reporting.

4. The Secretary shall report to the Chief Executive Officer.

Remuneration.

5. The remuneration and other terms and conditions of appointment of the secretary and other officers and employees of the Authority shall be such as may be determined by the Authority with the approval of the Minister.

## Resignation.

6. The Chairperson may resign from office by an instrument in writing addressed to the Minister, and any other member of the Board may resign from office by an instrument in writing addressed to the Chairperson.

## Co-option of members.

7. The Board may co-opt any person to attend any particular meeting to assist the Board in dealing with any matter, but no such co-opted person shall have the right to vote.

## Removal of member of Board.

8. (1) The Minister may remove the chairperson or any director of the Board if the chairperson or that director-

- (a) becomes incapable of carrying out his duties;
- (b) becomes bankrupt or compounds with his creditors;
- (c) is convicted of any offence;
- (d) is guilty of misconduct;
- (e) fails to comply with paragraph 9:

Provided that the Chairperson or that director shall not be removed under subparagraph (d) unless he has been given a reasonable opportunity of being heard.

(2) It shall be an implied term of the appointment of the chairperson or any director of the Board that the appointment shall

terminate if he is convicted for any offence under this Act or any other offence, the commission of which involves dishonesty.

Disclosure of interest.

9. (1) Any director who has an interest, directly or indirectly, in any matter before the Board -
- (a) shall disclose the nature of the interest to the Board;  
and
  - (b) shall not take part in any deliberations or decisions of the Board with respect to that matter.
- (2) A disclosure under this section shall be recorded in the minutes of the Board.

Gazetting of appointments.

10. The names of the Chairperson and all directors first constituted and every change in the composition thereof shall be published in the Gazette.

Demitting office.

11. A director who-
- (a) resigns from the Board in accordance with paragraph 6; or
  - (b) is absent, except on leave granted by the Board, from two consecutive meetings of the Board held during two consecutive quarters, or during any

period of three months.

shall cease to be a director of the Board.

Meetings of the  
Board.

12. (1) The Board shall meet at least once in each quarter and at such other times, and at such place, as the Chairperson considers necessary for the efficient performance of its functions.

(2) The Chairperson may at any time summon a special meeting of the Board.

(3) In the absence of the Chairperson and Vice-Chairperson from a meeting of the Board, the Chief Executive Officer shall preside at the meeting.

(4) Eight members shall constitute a quorum for the transaction of business at meetings of the Board.

(5) Minutes in proper form of every meeting of the Board shall be kept by the Secretary and shall be confirmed by the members of the Board.

(6) The Board may regulate its own procedure.

Management  
Committee.

13. (1) The Minister shall establish a committee to be known as the Management Committee consisting of the Chairperson, who shall preside over the meetings of the Committee, the Chief Executive Officer, a representative of the Ministry of Finance and two other directors:

- (2) Subject to the provisions of section 21, it shall be the function of the Management Committee to -
- (a) make recommendations relating to short term policy of the Authority with a view to improve the efficiency and effectiveness of the discharge of the functions of the Authority;
  - (b) monitor, review and evaluate the plans, programmes and activities of the Authority;
  - (c) facilitate the collaboration with other agencies and bodies, including Water Users' Associations or Associations of Farmers responsible for the operation and maintenance of secondary drainage and irrigation systems;
- (3) The Board may give to the Management Committee directions of a general character relating to the exercise and performance of its functions and the Management Committee shall give effect to such directions.
- (4) Subject to any rules made by the Board, the Management Committee may regulate its own procedure.

Water Management  
Committee.

14. (1) The Authority may establish Water Management Committees within each region.

(2) The functions of the Committee shall be -

- (a) to collaborate with relevant institutions, agencies and service providers, including Water User Associations, Associations of Farmers, local government organs or service providers and other persons involved in the operation and maintenance of the drainage and irrigation and flood control system; and
- (b) to improve co-ordination and working relations between the Authority and service providers.

(3) The general membership shall consist of representative of institutions, agencies and service providers within each region.

(4) The members of the Water Management Committee shall appoint a Chairman and a Secretary to the Committee.

Seal of the Authority.

15. (1) The seal of the Authority shall be kept in the custody of the Secretary of the Authority and may be affixed to instruments in the presence of the Chairperson, or in the Chairperson's absence, the Chief Executive Officer.



(2) The seal of the Authority shall be authenticated by the signatures of the Chairperson or the Chief Executive Officer of the Authority or in such manner as may be authorised by resolution of the Board.

(3) All documents other than those required by law to be made under seal and all decisions of the Board may be authenticated under the hand of the Chairperson or, in the Chairperson's absence, the Vice Chairperson or Secretary.

SECOND SCHEDULE

5. 58(4)

FORM

FORM OF WARRANT OF DISTRESS

..... Drainage and Irrigation Area.

To.....and all other constables.

Whereas application has been duly made to me on behalf of Drainage and Irrigation Board for a warrant of distress against the movable property upon or in (here describe the premises) in the said area for the purpose of levying the sum of ..... dollars due in respect of rates under the Drainage and Irrigation Act 2004, with costs, and whereas proof has been duly given to me by the said Authority that the said amount is due in respect of rates under this Act:

This is therefore to require and command you to levy the said sum of .....dollars with costs upon the said movable property accordingly to law.

Dated this..... day of .....2004

(Signed).....

.....Magistrate

District.

**THIRD SCHEDULE 5.83**

<b>CITATION</b>	<b>SHORT TITLE</b>
Chapter 64:03	Drainage & Irrigation
Chapter 64:01	Sea Defences Act
Chapter 64:02	Sea Defence Act
Chapter 55:03	East Demerara Water Conservancy Act
Act No. 12 of 1980	Local Democratic Organs Act
Act No. 3 of 1985	Mahaica-Mahaicony-Abary Agricultural Development Authority Act
Chapter 50:05	Boerasarie Creek Act
Chapter 50:04	Creeks Act
Chapter 50:06	Hobaboe Creek (Diversion) Act

## FOURTH SCHEDULE

THE DECLARED DRAINAGE AND IRRIGATION AREAS  
(SECTION 4)

The following areas already declared as Drainage and Irrigation Areas under the provisions of the Drainage and Irrigation Act (chapter 64 : 03 of Laws of Guyana) shall continue to be so under the provisions of section 4.

DECLARED D & I AREAS	REFERENCE
Contract 1	Around 1976 but need to check
Contract 2	Around 1976 but need to check
Somerset & Berks/Cozier	
Canals Polder	C.64:03, sixth schedule. Cap.174 or 1929 Ed
Potosi/Kamuni	Ordinance 4 of 1954 7 of 1966A
La Retraite	O. 3/1962
Northern Klien Pouderoeyen	O. in C. 24/4/1953
Vreed-en-Hoop/La Jalouste	O. in C. 20/2/1928
Den Amstel/Fellowship	O. 1/1960
Vergenoeger/Bonasika	Ordinance 4 of 1954 7 of 1966A
Kent Dam Settlement	
Craig/Good Success	Ordinance 4 of 1954 7 of 1966A
Garden of Eden	No reference in D & I Act, need to check
Plaisance	O. in C. 24/12/1927
Triumph/B.V.	Ordinance 30 of 1958
Buxton/Friendship	O. in C. 24/12/1972
Golden Grove	Cap. 193, 1953 Ed. Second schedule
Ann's Grove	Cap. 193, 1953 Ed. Second schedule
Mahaica County District	O. in C. 12/8/1929
Helena Coun., District	O. in C. 24/12/1927
Cane Grove	9 of 1961. O. 80/1961
MMA/ADA	O. 7/1975
Mahaicony/Abary (MARDS)	Cap. 193, 1953 Ed. Third schedule
Park/Abay	Cap. 193, 1953 Ed. Third schedule
Lots 52-74	Cap. 195, 1953 Ed. Second schedule
Crabwood Creek	O. in C. 11/1974 33/1953
Sisters Village	Cap. 193, 1953 Ed. Third schedule
Lots 1-25	O. in C. 16/12/1929
Gibraltar/Courtland	Cap. 193, 1953 Ed. Third schedule
Fryish	O. in C. 24/12/1927
Rose Hall Village	Ordinance 10 of 1966A
Bloomfield/Whim	O. in C. 11/1947 33/1953
Lancaster/Manchester	O. in C. 24/12/1927
Ulverston/Salton	O. in C. 24/12/1927
Limlair/Kildonan	O. in C. 16/12/1929
Black Bush Polder	Ordinance 15 of 1961
Manarabisi Cattle Pasture	Ordinance 15 of 1959

## EXPLANATORY MEMORANDUM

This Bill which would repeal the Drainage and Irrigation Act, Chapter 64:03 read in conjunction with the Act No. 13 of 1994: "Drainage and Irrigation (Amendment) Act 1994" seeks to establish a National Drainage and Irrigation Authority as a semi-autonomous body. The purport of the Bill is to establish an effective mechanism for the management and financing of the drainage irrigation and flood control system to prevent its deterioration and ensure sustained use.

Clause 1 sets out the short title and commencement date. Clause 2 provides interpretation of major expressions and words.

Clause 5 confers a power in the Minister to give directions to the Authority in the exercise of its functions and hence for the Authority to provide any information which the Minister may require.

Clause 6 provides for the establishment of a National Drainage and Irrigation Authority as a body corporate. Clause 7 appoints a Board of Directors consisting of a chairperson and over fifteen other members.

Clause 14 sets out the scope of the functions and powers of the Authority and authorises it to implement a system of financing that separates the public and private services of drainage and irrigation system.

Clause 16 empowers the Authority to delegate any of its functions to any entity.

Clause 18 provides for the delegation of drainage and irrigation systems management to any service provider. Clause 19 requires the Authority to establish capacity building programmes to strengthen the capacity of Water Users' Associations, farmers associations or local government organs.

Clause 20 provides for the appointment of a Chief Executive Officer whose responsibility is to ensure the implementation of the programmes of the Authority. Clause 21 establishes an Appointments Committee for appointment, termination and disciplinary control in respect of the employees of the Authority.

Clause 25 prescribes the procedure that the Authority should adopt with regards to the construction of new drainage and irrigation works.

Clauses 34 to 38 allow the Authority to pay compensation for lands acquired or the loss and damage to the property owner as a consequence of the construction of works or surveys.

Clause 40 identifies the financial resources and funds of the Authority which include amounts appropriated annually or by special purposes out of public funds. Clause 46 authorises the Board to make rules for the system of accounting for the Authority consistent with sound accounting and financial standards.

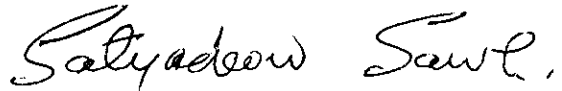
Clauses 47, 48 and 49 require the conduct of an annual audit, the preparation of an annual report and a budget.

Clauses 50 and 51 provide for the assessment of charges in respect of drainage and irrigation services by the Authority and the powers of the Minister to vary or approve the assessed charges. Clause 52 requires the publication of the approved charges in the Gazette and in daily newspapers. Clause 58 provides for the execution of a warrant of distress and the procedure to be adopted in cases where the charges due are below a certain amount.

Clauses 60 to 63 establish offences for the actions of persons and establish liability of offenders.

Clause 64 provides for the members of the Board, officers or other personnel of the Authority to disclose their interest in matters related to their functions with the Authority. Clause 67 provides for prosecution and penalties for offences. Clause 68 empowers the Authority, with approval of the Minister, to make regulations. Clause 69 enables the Authority to enter upon any land in Guyana and take appropriate measures for the conduct of any survey considered necessary by the Authority.

Clause 73 provides that debts of the existing Drainage and Irrigation Board shall be paid by, and claims made by the Authority. Clause 74 provides for the transfer of assets and liabilities. Clause 75 enjoins the Authority to accept all the existing agreements of the Drainage and Irrigation Board with immediate effect. Clause 80 saves the Drainage and Irrigation (Declaration of Areas) Act, No. 16 of 1995 in so far it relates to the application of the terms of the Subsidiary Agreements between the Government of Guyana and GUYSUIC. Clause 82 saves the regulations made under the repealed Drainage and Irrigation Act,



**Minister of Fisheries, Crops and Livestock and  
acting Minister of Agriculture.**