

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.

29th April, 1995

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

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

GUYANA

BILL No. 9 of 1995

BANK OF GUYANA BILL 1995

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**A BILL
Intituled**

AN ACT to revise and amend the law relating to the Bank of Guyana and to provide for related and consequential matters.

A.D. 1995

Enacted by the Parliament of Guyana:-

**PART I
PRELIMINARY**

Short title and
commencement.

1. This Act may be cited as the Bank of Guyana Act 1995 and shall come into operation on such date as the Minister may by order appoint.

Interpretation.

2. In this Act -

No. 1 of
1995.

(a) "the Bank" means the Bank of Guyana established by section 3;

(b) "bank" has the meaning assigned to it in section 2 of the Financial Institutions Act 1995;

(c) "Board" means the Board of Directors of the Bank constituted under this Act;

(d) "central bank" means a banking institution exercising responsibility for the issue of currency and the regulation of the money supply of a country;

(e) "Director" means a member of the Board appointed pursuant to section 10;

(f) "financial institution" and "licensed financial institution" have the meanings assigned to them in section 2 of the Financial Institutions Act 1995;

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1995.

(g) "foreign" means pertaining to a country other than Guyana;

(h) "foreign exchange" means foreign currencies and claims in and to foreign currencies;

(i) "Governor" means the Governor of the Bank;

(j) "issue" includes re-issue;

(k) "person" means any individual or company, and includes any group of persons acting in concert;

(l) "specified financial institution" means any institution not being a financial institution, which is so specified by the Bank for the purposes of this Act;

(m) "specified public entity" means any local government authority or municipality, or any body corporate established by law or any agency, board or other institution established by Government to perform functions on behalf of the Government, specified by the Bank for the purposes of this Act.

PART II

ESTABLISHMENT AND OBJECTIVES OF THE BANK

3.(1) There shall be established a central bank to be known as the Bank of Guyana which shall be an autonomous institution governed by this Act.

Establishment and
purpose of the
Bank.

(2) The Bank may exercise any of its functions entrusted to it by or in accordance with this Act or any other Act or by or under any international agreement to which Guyana is a party or which is otherwise binding on Guyana, and may do any other banking business incidental or ancillary to or consequential upon the performance of its functions.

4.(1) The Bank shall be a body corporate.

Incorporation and
place of
business.

(2) The Bank shall have its principal place of business in the City of Georgetown or at such other place within Guyana as the Board may decide.

(3) The Bank may establish branches in any location within Guyana or elsewhere as it considers necessary.

(4) The Bank may appoint agents or correspondents within and outside Guyana.

5. Within the context of the economic policy of the Government, the Bank shall be guided in all its actions by the objective of fostering domestic price stability through the promotion of stable credit and exchange conditions, as well as sound financial intermediation conducive to the growth of the economy of Guyana.

Principal
objectives.

Employment of
officers.

6.(1) The Bank may employ such officers, other employees, and agents at such remuneration and on such terms and conditions as it considers necessary or appropriate for the proper conduct of its business.

Cap. 27:02

(2) Where an officer in the public service is seconded or temporarily transferred for duty to an office in the Bank from a pensionable office within the meaning of the Pensions Act, section 5 of that Act shall apply to him as if his service in the Bank were service in a civil capacity under the Government.

Cap. 27:02

(3) Where an officer in the public service has been transferred to any office in the Bank, regulation 21 of the Pensions Regulations (as contained in the Schedule to the Pensions Act) shall apply to him as if service with the Bank were other public service within the meaning of that Act, and the Pensions Act shall apply to him as if his service with the Bank were other public service within the meaning of that Act not being service under any of the Scheduled Governments as defined in regulation 2 of the Pensions Regulations, and regulation 21 of those Regulations shall apply accordingly to the person so transferred..

PART III CAPITAL AND RESERVES

Capital.

7.(1) The Bank shall have an authorised capital of six million dollars of which the sum of four and one-half million dollars shall be subscribed and paid by the Government as soon as and in such amounts as the Bank may require.

(2) The balance of one and one-half million dollars shall be subscribed and paid by the Government at such time or times as the Government shall decide after considering the recommendations of the Bank in that regard.

General Reserve
Fund.

8.(1) The Bank shall establish a General Reserve Fund into which shall be paid fifty per cent of the net profit made by the Bank during each financial year, and the remainder of such profit after deducting any sum paid into reserve under this subsection shall be paid by the Bank to the Accountant General for the Consolidated Fund:

Provided that whenever the General Reserve amounts to not less than one-third of the authorised capital of the Bank, ten per cent of the net profit of the Bank shall be paid into the General Reserve Fund and the remainder shall be paid by the Bank to the Ac-

countant General for the Consolidated Fund.

(2) For the purposes of this section, net profit shall be determined by deducting from gross income all expenses together with allowance for depreciation of assets, contributions to staff benefit funds, provision for bad and doubtful debts, and such other contingencies and accounting provisions as are usually made by banks.

(3) If the General Reserve Fund is in any year insufficient to cover any net loss of the Bank recorded in its Profit and Loss Account, an amount equivalent to the deficiency is hereby appropriated and shall be debited to the account of the Government with the Bank. Such debit shall be made in the form of a transfer from the Consolidated Fund, or interest-bearing marketable obligations issued by the Government.

PART IV ADMINISTRATION

9. There shall be a Board of Directors of the Bank, constituted as provided in section 10, which shall be the policy-making organ of the Bank.

Board of
Directors.

10.(1) The Board of Directors shall consist of the following persons -

Composition of
the Board.

- (a) the Governor who shall serve as Chairman of the Board;
- (b) the Deputy Governor who shall serve as Deputy Chairman; and
- (c) not less than two nor more than three other Directors of the Board.

(2) The Governor shall be appointed by the President by instrument under the Public Seal and the other Directors of the Bank shall be appointed by the Minister.

(3) The term of office of every Director referred to in subsection (1) (which for purposes of this subsection shall include the Governor and the Deputy Governor) shall be specified in the instrument appointing him and shall be for a period not exceeding five years.

(4) If a Director of the Board referred to in subsection 1(c)

suffers an incapacity, which is likely to be prolonged, the Minister, may, subject to section 14, appoint a person to act for such Director during the period of incapacity and any person so appointed shall have the full powers of that Director until such time as the Minister determines that the incapacity has ceased.

Meetings of the
Board.

11.(1) The Board shall meet at least once in every month. In addition, the Governor may convene meetings of the Board whenever he considers that the business of the Bank so requires.

(2) The Governor shall summon a special meeting of the Board within seven days of a request for that purpose addressed to him by any two of the Directors referred to in section 10(1)(c).

(3) The Secretary to the Treasury, or an alternate designated by the Minister to act for him in his absence, may attend and participate in all meetings of the Board, but shall not have the right to vote at such meetings.

(4) A quorum for any meeting of the Board shall be three Directors.

(5) Decisions of the Board shall be adopted by a majority of the votes, provided that in any case in which the voting is equal, the Chairman presiding at the meeting shall have a second or casting vote.

Governor.

12.(1) The Governor shall be the Chief Executive Officer of the Bank and, subject to the general policy decisions of the Board, shall be responsible for the management of the Bank including the organization, appointment and dismissal of the staff in accordance with the general terms and conditions of service established by the Board.

(2) The Governor shall be the principal representative of the Bank and shall, in that capacity have the authority -

- (a) to represent the Bank in its relations with other institutions and with the Government;
- (b) to sign individually or jointly with other persons contracts concluded by the Bank, notes or securities issued by the Bank, reports, balance sheets and other financial statements, correspondence and other documents of the Bank;

- (c) to delegate his powers provided for in paragraphs (a) and (b) to other officers of the Bank.

13.(1) The Minister shall appoint a Deputy Governor of the Bank whose term of office shall not exceed five years and who shall serve as Deputy Chairman of the Board and perform such functions as may be assigned to him from time to time by the Governor and shall act for the Governor whenever the Governor is unable to perform the functions of his office whether by reason of illness or any other cause whatsoever.

Deputy
Governor,
Banking
Manager.

(2) The Minister shall appoint a Banking Manager whose term of office shall not exceed five years and who shall perform such functions as may be assigned to him from time to time by the Governor and shall not act for the Deputy Governor whenever the Deputy Governor is unable to perform the functions of his office whether by reason of illness or any other cause whatsoever.

14. (1) No person shall be appointed a Director who -

- (a) is a member of the National Assembly;
- (b) is an officer in the public service; or
- (c) is a director, officer or other employee of a financial institution.

General
disqualifications
for member
of the
Board.

(2) The President may terminate the appointment of the Governor and the Minister may terminate the appointment of any other Director if the Governor or such Director -

- (a) by writing under his hand addressed to the person who appointed him, resigns his office;
- (b) becomes subject to any of the disqualifications specified in subsection (1);
- (c) becomes bankrupt or insolvent, compounds with his creditors or benefits under the law for the relief of bankrupt or makes any assignment in whole or in part of his income from the Bank for the benefit of creditors;
- (d) is convicted of an offence involving dishonesty, fraud or moral turpitude;

- (e) becomes permanently incapable of performing his duties;
- (f) engages in any act in the performance of his duties which constitutes a wilful breach of his duties as Governor, Deputy Governor or Director, or results in a personal financial gain to him; or
- (g) in the case of a person holding a professional licence, has been disqualified or suspended from engaging in the practice of that profession for reasons of professional misconduct by order or action of any competent authority issued or taken in respect to that person.

(3) The Minister may terminate the appointment of a Director of the Board referred to in section 10(1)(c) who absents himself from three consecutive meetings of the Board without leave from the Board.

Special
disqualifications
for Governor,
Deputy
Governor
and Banking
Manager.

15. (1) The Governor, the Deputy Governor and the Banking Manager shall owe their duty entirely to the Bank and shall not engage in any paid employment or professional or business activity outside the duties of their respective offices, except as permitted under subsection (2).

(2) Notwithstanding subsection (1), the Governor, the Deputy Governor and the Banking Manager may, with the approval of the Minister -

- (a) serve on any committee or commission appointed by the Government to inquire into any matter affecting currency or banking or into any economic or financial matters relating to Guyana;
- (b) serve on any international financial institution of which Guyana is or becomes a member;
- (c) serve on the Board of any specified public entity.

(3) If the Governor, Deputy Governor or Banking Manager engages in any paid employment, or professional or business activity outside the duties of his office contrary to subsection (1), the President in the case of the Governor and the Minister in the case of the Deputy Governor or the Banking Manager may terminate his appointment.

16. (1) The Governor, the Deputy Governor and the Banking Manager shall be paid by the Bank such salaries and allowances as may be determined from time to time by the Minister, but the salary and allowances payable to any such person may not be reduced during his term of office.

Remuneration.

(2) The Directors of the Board referred to in section 10(1)(c) and any person appointed to act for any Director under section 10(4) shall be paid by the Bank such fees as may be determined from time to time by the Minister.

17. (1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any law, a Director, officer, or other employee of the Bank, shall not disclose to any person any information which he has acquired in the performance of his duties or the exercise of his functions.

Preservation of
Secrecy.

(2) Any person who contravenes subsection (1) shall be liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for six months.

PART V

CURRENCY

18. (1) The unit of currency of Guyana shall be a dollar to be known as the Guyana dollar which shall be divided into 100 cents.

Currency
of Guyana.

(2) The symbol "G\$" may be used as the abbreviated reference to the Guyana dollar.

19. In accordance with the Articles of Agreement of the International Monetary Fund (providing for exchange arrangements of a member's choice) the Guyana dollar exchange rate shall be determined by market forces under arrangements such as are specified in section 9 of the Dealers in Foreign Currency (Licensing) Act 1989 and such rate shall not be quoted by the Bank.

Exchange
rate.No. 19 of
1989.

20. (1) All monetary obligations or transactions in Guyana (whether imposed or authorised by a law or otherwise) shall be deemed to be expressed and recorded, and shall be settled in Guyana dollars unless otherwise provided for by law or agreed between the parties:

Use of
Guyana
dollar.

Provided that a party shall not agree to settle, or settle under any agreement, any monetary obligation or transaction in Guyana in any currency other than Guyana dollars (hereinafter in this section referred to as "foreign currency") except with the permission of the Bank, after consultation with the Minister.

(2) A permission under the proviso to subsection (1) may be given by the Bank, after consultation with the Minister to any person in respect of a single obligation or transaction or any class of obligations or transactions and may be given subject to such conditions as may be specified by the Bank, after consultation with the Minister.

(3) Any person who contravenes subsection (1), or any condition specified by the Bank under subsection (2), shall be liable, on summary conviction, to a fine of thirty thousand dollars or fifty per cent of the equivalent amount in Guyana dollars of the amount of foreign currency involved in the contravention, whichever is the greater; and any agreement, for settling any monetary obligation or transaction in a foreign currency, entered into without the permission of the Bank under the proviso to subsection (1) shall have effect as if for any amount payable thereunder in a foreign currency, the equivalent amount in Guyana dollars were payable.

(4) For the purpose of subsection (3) the equivalent amount in Guyana dollars shall be computed in accordance with the buying rate for the foreign currency, referred to in that subsection, determined by the Bank under section 29, with reference to the date on which the amount became payable.

Issue of notes
and coins, legal
tender, and
withdrawal.

21. (1) The Bank shall have the sole right to issue notes and coins in Guyana and subject as aforesaid, only such notes and coins issued by the Bank shall be legal tender in Guyana.

(2) The Bank may determine that any issue or denomination of notes or coins issued by the Bank shall cease to be legal tender with effect from any date. The Bank shall cause notice of such determination to be published in the Gazette and any such notice shall give holders of the notes and coins to be withdrawn a reasonable time within which such notes or coins shall be exchanged by the Bank at their face value for other currency which is legal tender.

(3) Legal tender notes shall be accepted throughout Guyana without limitation as to amount in settlement of any public or private

debt or monetary obligation.

(4) Legal tender coins shall be accepted throughout Guyana in settlement of any public or private debt or monetary obligation up to a limit of ten dollars for coins of denominations of twenty-five cents and above and up to a limit of two dollars for coins of lower denominations.

22. (1) The Bank shall at all times hold assets of an amount in the value sufficient to cover fully the value of the total amount of its notes and coins for the time being in circulation.

Assets to cover currency issue, reserves of external assets.

(2) The Bank shall maintain at all times a reserve of external assets of not less than one hundred per cent of the total amount of its notes and coins for the time being in circulation.

(3) The reserve of external assets shall consist of all or any of the following -

- (a) gold in any form;
- (b) foreign exchange in the form of -
 - (i) demand or time deposits with foreign central banks or with the Bank's agents or correspondents abroad;
 - (ii) documents or instruments customarily used for the making of payments or transfers in international transactions;
- (c) securities of, or securities guaranteed by, foreign governments or international financial institutions;
- (d) Guyana's reserve tranche position in the International Monetary Fund;
- (e) Guyana's holdings of special drawing rights in the International Monetary Fund.

23. (1) The denominations, inscriptions, form, material and other characteristics of the notes and coins shall be determined by the Bank with the approval of the Minister.

Characteristics of currency.

(2) The Bank shall publish in the Gazette the denominations and other characteristics of notes and coins issued by it.

Exchange of
mutilated
notes and
coins.

24. The Bank may prescribe the conditions under which mutilated, defaced or otherwise defective notes or coins may be exchanged at the Bank.

Bills and notes
payable to
bearer on
demand.

25. (1) Except as provided by subsection (2), no person shall for the purpose of putting such instrument into circulation draw, exchange, make or issue any bill of exchange, promissory note or other instrument for the payment of money payable to bearer on demand or borrow, owe or take up any sums of money for any bill of exchange, promissory note or other instrument for the payment of money payable only to bearer on demand.

(2) Cheques or drafts payable to bearer on demand, may, in the usual course of commercial practice be drawn on financial institutions or their agents by other financial institutions or their customers.

(3) Subsection (1) shall not apply to bank note issued before the commencement of this Act by banks duly authorised to issue such notes.

Penalty
for
offences
under
section 25.

26. (1) Notwithstanding anything to the contrary in any other law, any person contravening section 25 shall be liable on summary conviction to a fine of fifty thousand dollars or to a fine equal to twice the amount of the bill, note or other instrument in respect of which the offence is committed, whichever is the greater.

(2) Subject to article 187 of the Constitution, a prosecution under this section shall not be instituted except by the Bank, or by any agent duly authorized by the Bank in writing.

PART VI

FOREIGN EXCHANGE TRANSACTIONS

Dealing in
gold or
silver.

27. The Bank may import, export, buy, sell, hold or otherwise deal in gold or silver in any form under such terms and conditions as it may determine, provided that the buying and selling rates involved in such transactions shall be in accordance with international agreements to which Guyana is a party or which are otherwise binding on Guyana.

28. (1) The Bank may buy, sell, or otherwise deal in foreign exchange in any form.

Permitted
foreign
exchange
transactions.

(2) The Bank may hold balances, denominated in foreign currencies, with foreign central banks or with the Bank's agents or correspondents abroad and, in its discretion, may invest balances in marketable foreign securities.

(3) The Bank may act as agent for and accept deposits from -

- (a) foreign central banks, or foreign banking or financial institutions;
- (b) foreign governments or agencies of foreign governments;
- (c) international financial institutions.

(4) The Bank may make arrangements or enter into agreements with any foreign central bank or foreign banking or financial institution to borrow in such manner, at such rates of interest and upon such terms and conditions as it may think fit, any foreign currency which the Bank may think it expedient to acquire.

29. The Minister, in consultation with the Bank, shall specify the policies, principles and criteria governing the exchange rate system in Guyana, and the Bank shall be responsible for the day-to-day administration of such system, the Bank determining the terms and conditions under which it will engage in transactions in foreign exchange, provided that the buying and selling rates involved in such transactions shall be in accordance with international agreements to which Guyana is a party or which are otherwise binding on Guyana.

Terms of
transactions
in foreign
exchange.

30. The Bank may engage in transactions in foreign exchange only with -

- (a) banks;
- (b) foreign currency dealers licensed under the Dealers in Foreign Currency (Licensing) Act 1989;
- (c) the Government;
- (d) any specified public entity;

Institutions
with which
Bank may
deal in
foreign
exchange.

No. 19 of
1989.

- (e) foreign central banks or foreign financial institutions;
- (f) foreign governments or agencies of foreign governments;
- (g) international financial institutions.

Exchange
Control.
Cap. 86:01

31. The Bank may exercise any powers or functions conferred upon or entrusted to the Bank by or under the Exchange Control Act, or any other law for the time being in force relating to exchange control.

Payments
agreements.

32. The Bank may administer any payments agreement entered into by or on behalf of Guyana.

Fiscal agent
for Govern-
ment's trans-
actions with
international
financial
institutions.

33. The Bank shall be the fiscal agent for all the transactions of the Government with international financial institutions of which Guyana is or becomes a member.

Depository.

34. The Bank shall act as depository for the Guyana dollar holdings of international financial institutions of which Guyana is or becomes a member.

PART VII

RELATIONS WITH BANKS AND OTHER FINANCIAL INSTITUTIONS

Supervision
of financial
institutions.

35. The Bank shall have exclusive responsibility for the supervision and regulation of licensed financial institutions under this Act and the Financial Institutions Act 1995.

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1995

Banker to
banks.

36. (1) The Bank shall open accounts for and accept deposits from, collect money and other monetary claims for and on account of banks, and generally act as banker to banks, and may perform such services for other financial institutions.

(2) The Bank may provide additional services to banks operating in Guyana, including inter bank clearings and the provision of safe-deposit facilities.

Rediscounts.

37. The Bank may purchase from, sell to and rediscount on behalf of banks bills of exchange, promissory notes and other credit

instruments, bearing at least the endorsement of a bank maturing within one hundred and eighty days from the date of rediscount or acquisition by the Bank and issued or made for the purpose of financing -

- (a) the importation or exportation of goods and products;
- (b) the trading of goods and products within Guyana;
- (c) the storage of goods and products which are not perishable and which are duly insured or deposited under conditions assuring their preservation in warehouses approved for the purposes of the Customs Act or in other places approved by the Bank;
- (d) industrial or agricultural production, provided that if the Bank finds it to be in the interest of the national economy, the Bank may from time to time declare acceptable for the purposes of this section instruments relating to industrial or agricultural production maturing within two hundred and seventy days; and provided further that the Bank may require the credit instruments accepted by it under this section to be secured by a pledge, hypothecation or assignment of the related products or crops.

Cap. 82:01

38. The Bank may grant loans or advances for fixed periods, not exceeding three months, to banks which pledge the following as collateral security for such loans or advances -

Loans.

- (a) the credit instruments referred to in section 37;
- (b) negotiable securities of the Government of Guyana.

39. Subject to sections 37 and 38, the Bank may determine the general terms and conditions under which it extends credit to banks. In particular, the Bank shall determine and announce the rates of interest it will charge for rediscounting eligible paper under section 37, and granting loans or advances to banks under section 38.

Conditions
for credit
transactions.

40. (1) The Bank may require financial institutions to maintain minimum balances with the Bank as reserves against their deposit and other liabilities.

Reserve
requirements.

- (2) The Bank may prescribe different ratios for different types

of liabilities and may further prescribe the method of computing the amount of the required reserves.

(3) The Bank may impose on any financial institution which fails to maintain sufficient minimum balances required under subsection (1) or (2) a penalty established in relation to the current rate of interest on treasury bills of the Government with a maturity of three months.

(4) Any determination of, or change in, the minimum reserve requirements under subsection (1) or (2), by the Bank shall take effect only after the expiration of thirty days prior written notice to the financial institutions of the intention of the Bank to take such action.

Part of minimum balances to be maintained in foreign currency.

41. (1) Twenty-five per cent, or such other lower percentage as the Bank may specify from time to time by notice published in the *Gazette*, of the minimum balances required by section 40 to be maintained by a bank on deposit with the Bank, shall, in the case of a bank which is a company incorporated outside Guyana, be deposited in such foreign currency as the Bank may from time to time specify either generally or with reference to that bank, in a separate account which shall be maintained in that foreign currency.

Cap. 86:01

(2) The Bank may, having regard to the amount which a Bank referred to in subsection (1) has deposited in a blocked account under section 34 of the Exchange Control Act, exempt that bank from the provisions of this section.

Liquid asset requirement.

42. The Bank may specify, by thirty days prior written notice to all licensed financial institutions, the percentage of liabilities which licensed financial institutions are required to maintain as liquid assets under section 21 of the Financial Institutions Act 1995:

Provided, that any increase in such percentage shall not exceed five percentage points in any one thirty day period.

Requests for information.

43. (1) In addition to any other powers which it may exercise under this Act or any other law, the Bank may, from time to time, by notice delivered in writing, demand any financial information that it may require for the discharge of its functions and responsibilities under this Act from any financial institution or specified financial institution. The Bank shall have the authority to examine the accounts, books and records of any institution to which it has given written notice pursuant to this subsection

and such institution shall comply with the demand within five days of the receipt thereof, or be guilty of an offence and liable upon summary conviction to a fine of fifty thousand dollars.

(2) The Bank may require any financial institution or specified financial institution to submit to the Bank, at such times and in such form as the Bank may specify such report of its condition or operations as may be necessary for the discharge of its functions and responsibilities under this Act.

(3) Where any such institution refuses to submit accounts, books, records, and reports as required under subsection (1) or (2) it shall be guilty of an offence and liable upon summary conviction to a fine of fifty thousand dollars.

(4) Any information obtained by the Bank under subsection (1) or (2) may be used by the Bank in the preparation of any reports required to be made under this Act, provided that the Bank shall not disclose the financial affairs of any person without the prior written consent of that person.

PART VIII

RELATIONS WITH THE GOVERNMENT

44. (1) The Bank may act as a fiscal agent and trustee of, and as banker to the Government.

Fiscal agent
and banker
to the
Government.

(2) The Bank may also perform the functions of fiscal agent and trustee of, and banker to any specified public entity in accordance with, and within the scope determined by, any special arrangements made between the Bank and the specified public entity concerned.

45. (1) The Bank in its capacity as fiscal agent and trustee of, and banker to the Government or any specified public entity may -

Functions
as fiscal agent.

- (a) be the official depository of the Government or specified public entity concerned for any funds whether held in Guyana or elsewhere and accept deposits and effect payments for the account of the Government or the specified public entity, provided that the Bank may, after consultation with the Government or the specified public entity, select any other bank to act in

its name and for its account as the depository of the Government or the specified public entity in the places where the Bank maintains no office or branch;

- (b) maintain and operate special accounts, including trustees accounts, in accordance with arrangements made between the Bank and the Government or with the specified public entity concerned;
- (c) service the public debt, including the issuing of, payment of interest on, and redemption of, bonds and other securities of the Government;
- (d) pay, remit, collect or accept for deposit or custody funds in Guyana or elsewhere;
- (e) purchase, sell, transfer or accept for custody cheques, bills of exchange and securities;
- (f) collect the proceeds, whether principal or interest, resulting from the sale for, or accruing to the interest of the Government or a specified public entity of securities or other property;
- (g) purchase, sell, transfer or accept for custody gold, silver or foreign exchange.

Direct
advances
to the
Government.

46. (1) With a view to offsetting fluctuations between receipts and payments of the Government, the Bank may, subject to any limitation that the National Assembly may by resolution prescribe, make direct advances to the Government.

(2) Such direct advances -

- (a) shall not, during any financial year of the Bank, be outstanding for a total of more than three hundred and fifty days;
- (b) shall bear interest at such rate as may be determined by the Bank in agreement with the Minister, such rate in no event being less than three per cent per annum.

47. The Bank may purchase or sell negotiable securities issued by the Government:

Credit operations with Government securities.

Provided that the amount of negotiable securities owned by the Bank under the authority of this section shall not at any time exceed any limitation that the National Assembly may by resolution prescribe.

48. Except as provided in sections 8(3), 45, 47 and 51(2) the Bank shall not extend any credit directly or indirectly to the Government or any specified public entity.

Prohibition of other credit to the Government.

49. (1) It shall be the duty of the Bank to advise the Government on any matter which in its opinion is likely to affect the achievement of the principal objectives of the Bank as defined in section 5.

Bank as adviser to the Government.

(2) The Bank may advise the Government on any matter within the jurisdiction of the Bank whenever necessary and the Government may request the Bank to render advice on particular measures, situations or transactions, or on monetary, banking, and credit conditions in Guyana.

(3) The Government and the specified public entities shall furnish the Bank at such time and in such manner as the Bank may request with such information as the Bank may require for the proper discharge of its functions and responsibilities.

50. (1) Subject to the provisions of this section, the Bank may in such manner and on such terms and subject to such conditions as may be agreed between it and a lending agency -

Guarantee by the Bank of the discharge of certain obligations by the Government or a corporation.

- (a) guarantee the discharge by the Government or a corporation of its obligations under any agreement which may be entered into by the Government or the corporation, as the case may be, with a lending agency in respect of any borrowing by it from the lending agency;
- (b) assume such other obligations as may be agreed between the Government, or the corporation, and the lending agency in relation to or pursuant to any such agreement.

(2) A guarantee given by the Bank under subsection (1) shall be given in writing.

(3) The aggregate amount of the liability of the Bank in respect of guarantees given under subsection (1) shall not at any time exceed any maximum limit specified by the National Assembly by resolution and in force at the relevant time.

(4) The reference in subsection (3) to the liability of the Bank in respect of a guarantee shall be construed exclusively of any liability in respect of interest on any principal moneys the payment of which is subject to the guarantee.

(5) Where in the opinion of the Minister there is reasonable cause to believe -

(a) that a corporation is likely to fail or be unable to discharge any of its obligations under any agreement concluded by it with a lending agency in respect of any borrowing;

(b) that the Bank is or may become liable to pay any sum or fulfil any obligation pursuant to any guarantee given by it in respect of any such obligation of the corporation,

the Minister may, notwithstanding any rule of law or agreement to the contrary, give such directions in writing to the corporation as may from time to time be necessary or desirable to ensure that such arrangements are made by the corporation as will enable it to discharge its obligations under such agreement, or under this section, and the corporation shall comply with such directions.

(6) Where any sum is paid by the Bank in respect of any liability incurred by it under a guarantee given in exercise of the powers conferred by subsection (1) in respect of any borrowing by a corporation from a lending agency, the corporation shall repay such sum (together with interest thereon at such rate as the Minister may specify) to the Bank in such manner and at such time as the Minister may specify.

(7) Where a corporation fails or refuses to repay any sum payable by it to the Bank under subsection (6), within the time specified therefor by the Minister, that sum shall be charged on the Consolidated Fund with effect from the date on which the time so specified expires and

the Minister shall direct payment of the sum to issue out of the Consolidated Fund; and where any sum is so issued out of the Consolidated Fund the aforesaid corporation shall repay such sum (together with interest thereon at such rate as the Minister may specify) into the Consolidated fund in such manner and at such time as the Minister may specify.

(8) Where any sum is paid by the Bank in respect of any liability incurred by it under a guarantee given in exercise of the powers conferred by subsection (1) in respect of any borrowing by the Government from a lending agency, that sum shall be charged on the Consolidated Fund and the Minister shall direct payment of the sum to issue out of the Consolidated Fund.

(9) (a) In this section -

(i) "corporation" means any public corporation, or any corporate body in which the controlling interest vests in the State or in any agency on behalf of the State and includes a financial institution established under the Co-operative Financial Institutions Act;

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(ii) "lending agency" means any foreign banking or financial institution or any international financial organisation.

(b) For the purposes of this section, a borrowing by the Government or a corporation shall be deemed to include the obligation of the Government or the corporation to make payments to any person arising out of any contract lawfully.

PART IX MISCELLANEOUS PROVISIONS

51. (1) The gain arising from any change in the valuation of the Bank's assets or liabilities in, or denominated in, gold or foreign currencies, or any internationally recognised reserve assets as a result of alterations of the exchange rate of the currency of Guyana, or of any change in the values of such assets or liabilities with respect to the currency of Guyana, shall be credited to a Revaluation Account and neither the gain nor the loss arising from any such change shall be included in the computation of the annual profit or loss of the Bank.

Revaluation
of reserve.

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(2) The loss arising from any such change shall be set off against any credit balance in the Revaluation Account and, notwithstanding any other provision of this Act, if such balance is insufficient to cover such loss, the Government shall, in consultation with the Bank, issue to the Bank on such terms, including negotiability or non-negotiability, and at such rate or rates of interest or without interest as the Government may determine, securities to the extent of the deficiency and such securities shall carry such terms and conditions as are necessary to maintain the Bank's capital and reserves and avoid any impairment thereof.

(3) Any credit balance in the Revaluation Account at the end of each financial year of the Bank shall be applied first on behalf of the Government to the redemption of any outstanding securities issued under subsection (2).

(4) No credits or debits shall be made to the Revaluation Account except in accordance with the provisions of this section.

Issuance
of Bank
securities.

52. The Bank shall be authorised to issue its own securities on such terms and conditions as it may determine.

Loans to
employees.

53. The Bank may make loans to its officers and employees on such terms and conditions as may be approved by the Board.

Exemption
from
taxation.

54. The Bank shall be exempt from the provision of any law relating to income tax and from the payment of stamp duty.

Power to
make By-laws.

55. The Board may make By-laws under the seal of the Bank for the good order and management of the Bank.

Prohibited
operations.

56. The Bank shall not -

- (a) except as expressly authorised by this Act, engage in trade, own or acquire any direct interest in any commercial, agricultural, industrial or similar undertakings, except in the course of the satisfaction of debts due the Bank, provided that any such interest shall be disposed of at the earliest suitable opportunity;
- (b) purchase, acquire or lease real property except for its own business premises or for the use of its employees;
- (c) draw or accept bills payable otherwise than

(d) provide exchange rate guarantees in any form.

57. The Bank shall promote the training of persons in monetary matters, banking statistics, finance and other subjects, and with that object, may bear, or contribute towards the payment of the cost of training (whether in Guyana or elsewhere) of meritorious or promising employees of the Bank in any of the subjects aforesaid.

Economic
training.

58. The financial year of the Bank shall be the same as the financial year of the Government and the accounts of the Bank shall be closed at the end of each financial year.

Financial
year.

59. The Bank shall submit to the Minister half-yearly reports on the state of the national economy, with special reference to financial developments, and on the policies being followed by the Bank, including its objective of fostering domestic price stability under section 5.

Half-yearly
reports.

60. Within three months after the end of each financial year the Bank shall submit to the Minister a report on its operations throughout that year, together with the balance sheet and the profit and loss account as certified by the external auditors appointed in accordance with section 62.

Annual
reports.

61. (1) After submission to the Minister, the Bank shall publish the annual report together with the balance sheet and the profit and loss account referred to in section 60.

Publication
of reports,
etc.

(2) The Bank shall, as soon as practicable after the close of business on the second and fourth Wednesday in every month -

(a) transmit to the Minister a statement showing its assets and liabilities at the close of business on that day; and

(b) publish a copy of the said statement in the *Gazette*.

(3) The Bank may also issue such other publications as it considers to be in the public interest.

62. Notwithstanding anything in section 33 of the Financial Administration and Audit Act, the power of the Auditor General to audit the accounts of public corporations shall not extend to the audit of the accounts of the Bank unless requested by the Minister to do so and the Minister shall appoint external auditors annually to audit the accounts of the Bank and certify the annual balance sheet and the profit and loss

Audit.

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account of the Bank. The fees for such audit shall be determined by the Minister and paid by the Bank.

Regulations.

63. The Bank may make regulations as may be required from time to time for carrying into effect the provisions of this Act.

Repeal
Cap. 85:02

64. The Bank of Guyana Act is hereby repealed.

EXPLANATORY MEMORANDUM

This Bill repeals and re-enacts the Bank of Guyana Act, Cap. 85:02. As over fifty per cent of the Act is substantially amended, a repeal and re-enactment has been resorted to as being more beneficial generally to the Administration and other users of the Act.

The proposed amendments are designed to conform the Act to the Financial Institutions Act 1995, to abolish obsolete provisions of the Act, to enhance the Bank's supervisory authority over regulated financial institutions, and to otherwise make certain changes in the exercise of the Banks central banking and other monetary policy functions.

Clause 5 redefines the objective of the Bank as that of promoting domestic price stability.

Clause 8 specifies that deficiencies in the General Reserve Fund will be remedied by transfers from the Consolidated Fund or interest-bearing marketable Government securities.

Clause 10 fixes the composition of the Board of Directors, their terms of office and states by whom they shall be appointed. It also provides for the appointment of a person to act for an incapacitated Director.

Clause 12 provides that the Governor shall be the Chief Executive Officer of the Bank and, subject to the general policy decisions of the Board, shall be responsible for the management of the Bank and shall sign notes or securities issued by the Bank, reports and other documents.

Clause 13 authorises the Minister to appoint the Deputy Governor.

Clause 14 specifies the general disqualifications for a member of the Board, including receipt of personal financial gain from office as well as disqualifications from holding a professional licence in the practice of any profession such as law or accounting.

Clause 19 stipulates that the Guyana dollar exchange rate shall be determined by market forces.

Clause 20 specifies the currency in which a party shall settle any monetary obligation or transaction. This clause confers on the Bank, rather than the Minister, primary responsibility for the administration of this section.

Clause 22 stipulates that the Bank shall maintain at all times a reserve of external assets of not less than one hundred per cent of the total amount of its currency in circulation.

Clause 29 provides that the Minister, in consultation with the Bank, shall establish the general foreign exchange regime (e.g. fixed versus floating rate) while the administration of the regime, including the conduct of foreign exchange transactions, shall be the responsibility of the Bank.

Clause 30 provides that the Bank may engage in foreign exchange transactions with foreign currency dealers under the Dealers in Foreign Currency (Licensing) Act 1989.

Clause 35 provides that the Bank will have exclusive responsibility for the supervision and regulation of financial institutions under the Act and the Financial Institutions Act 1995.

Clause 40 provides that the Bank may require financial institutions to maintain minimum balances with the Bank as reserve against their deposit and other liabilities, and prescribes a penalty interest charge for failure to maintain sufficient reserve.

Clause 42 provides that the Bank may by written notice to all licensed financial institutions specify the percentage of liabilities which they are required to maintain as liquid assets under section 21 of the Financial Institutions Act 1995.

Clause 43 empowers the Bank to request financial institutions and entities designated as "specify financial institutions" to provide such information and reports as are necessary to permit the Bank to perform its central banking, bank supervision and other functions under this Act.

Clause 47 provides that the Bank may purchase or sell negotiable securities issued by the Government but clause 48 puts a limit on the extension of credit with the Government or a public entity.

Clause 50 empowers the Bank to guarantee the discharge of certain obligations by the Government or a corporation subject to specified limitations and conditions.

Clause 51 provides for the set off of losses resulting from revaluations of the Bank's assets against the credit balance in the Revaluation Account and requires the Government to issue securities to the Bank to offset any negative balance in the Revaluation Account established under this clause.

Clause 52 authorises the Bank to issue its own securities on such terms and conditions as it may determine.

Clause 56 prohibits the Bank from engaging in commercial or other private sector enterprises, including the provision of exchange rate guarantees in any form and the extension of credit to any private persons, other than loans to banks under clause 38.

A. Ally,
Senior Minister of Finance.