

# **BILL No. 5 of 1986**

*SATURDAY, 15TH MARCH, 1986*

PARLIAMENT OFFICE,  
Public Buildings,  
Georgetown,  
Guyana.

1986—02—28.

The following Bill which has been introduced in the National Assembly is published for general information.

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



**GUYANA**

**BILL No. 5 of 1986**

**BANKING LAWS (AMENDMENT) BILL 1986**

**ARRANGEMENT OF SECTIONS**

**SECTION**

## **PART I**

### **Preliminary**

1. Short title.

## **PART II**

### **Amendment of Banking Act**

2. Repeal and re-enactment of section 7 of Banking Act.
3. Amendment of section 12 of Banking Act.
4. Insertion of new sections 14A and 14B in Banking Act.
5. Amendment of section 15 of Banking Act.

## **PART III**

### **Amendment of Bank of Guyana Act.**

6. Insertion of new section 40A in Bank of Guyana Act.

## A BILL

## Intituled

AN ACT to amend the Banking Act and the Bank of Guyana Act.

A.D. 1986. Enacted by the Parliament of Guyana:—

## PART I

## Preliminary

Short title.

1. This Act may be cited as the Banking Laws (Amendment) Act 1986.

## PART II

## Amendment of Banking Act

Repeal and re-enactment of section 7 of Banking Act.

Cap. 85:01.

2. Section 7 of the Banking Act is hereby repealed and the following section substituted therefor —

'Licensing requirements.

7.(1) No company incorporated in Guyana shall be granted, or shall hold, a licence unless its capital, subject to any variation made by the Minister under subsection (5), is not less than an amount equal to ten per cent of the aggregate of its demand and time liabilities or one million dollars, whichever is the greater.

(2) No company incorporated outside Guyana shall be granted a licence, after the date on which the Banking Laws (Amendment) Act 1986 comes into operation (hereinafter referred to as the commencement date), unless, subject to any variation made by the Minister under subsection (5), —

- (a) its capital is not less than an amount equivalent to ten million dollars; and
- (b) the company has, prior to the issue of the licence, given an undertaking to the satisfaction of the Minister to provide and keep within Guyana, at all times during the period when the licence is in force, out of its funds from outside Guyana, an assigned capital, for its branch or branches in Guyana, of not less than an amount equivalent to seven per cent of the aggregate of its demand and time liabilities arising from its banking busi-

ness in Guyana or one million dollars, whichever is the greater.

(3) No company incorporated outside Guyana shall after the commencement date hold a licence, whether the licence has been granted before or after the commencement date, unless, subject to any variation made by the Minister under subsection (5), —

- (a) its capital is not less than an amount equivalent to ten million dollars; and
- (b) the company —
  - (i) where the licence has been granted before the commencement date, within a period of three months from the commencement date, or such further time as may be allowed by the Bank; and
  - (ii) where the licence has been granted after the commencement date, within such time as may be specified in the licence,

and at all times thereafter during the period when the licence is in force, provides and keeps within Guyana, out of its funds from outside Guyana, an assigned capital, for its branch or branches in Guyana, of not less than an amount equivalent to seven per cent of the aggregate of its demand and time liabilities arising from its banking business in Guyana or one million dollars, whichever is the greater.

(4) No company, whether incorporated in Guyana or outside Guyana, shall be granted, or shall hold, a licence unless, in addition to complying with the provisions of subsection (1), (2) or (3), as the case may be, it has —

- (a) complied with all the conditions for carrying on banking business in Guyana provided for in its Memorandum and Articles of Association or such other similar document concerning the company;
- (b) duly made all payments required under the terms of the licence.

(5) The Minister may, after consultation with the Bank, by notice published in the Gazette, vary the limits of the requirements specified in subsection (1), (2) or (3) either generally or in relation to any company.

(6) Where any licensed company, whether incorporated in or outside Guyana, and carrying on banking business in Guyana immediately before the commencement date, does not have the minimum capital specified in subsection (1) or (3) (a), as the case may be, it shall comply with that requirement within three months from the commencement date of such further time as may be allowed by the Bank, and, subject to the other provisions of this Act, it shall be lawful for the licensed company to carry on banking business in Guyana, during the aforesaid period of three months of further time allowed by the Bank.

(7) The Bank may, at such intervals as may be determined by it, review the adequacy of the capital, in the case of a licensed company incorporated in Guyana, or assigned incorporated outside Guyana, having regard to its demand and time liabilities and direct the licensed company to take such measures as the Bank deems fit to ensure that the licensed company has complied with the requirements of subsection (1) or (3) (b), as the case may be, including any such requirement as varied by notice under subsection (5).

(8) Any notice under subsection (5), with reference to the requirement of subsection (1) or requirements of subsection (3), or direction under subsection (7) shall be complied with within such period, being not less than thirty days, from the date on which the notice is published in the *Gazette* of the direction is served on the licensed company, as may be specified therein.

(9) For the purposes of this section —

- (a) in computing the capital of a company the following shall be taken into account —
  - (i) the capital stock actually paid up in cash and remaining unimpaired by losses or otherwise; and
  - (ii) in the case of a licensed company, the sum in the reserve fund maintained by it pursuant to section 16(1) and the balances maintained by it on deposit with the Bank pursuant to sections 40 and 40A of the Bank of Guyana Act, and any sum in any other reserve fund maintained by it and recognised, for the purposes of this section, by the Bank by notice published in the *Gazette*.

- (b) the expressions “demand liabilities” and “time liabilities” have the meanings assigned to them by section 17(3).’.

3. Section 12 of the Banking Act is hereby amended — Amendment of section 12 of Banking Act.

- (a) by the insertion, in subsection (1)(a), before the word “grant”, of the words “except as permitted under subsection (1A),”;
- (b) by the insertion, in subsection (1)(c) (ii), after the words “companies Act,” of the words “,but does not include a private company owned or controlled by the State or any agency on behalf of the State”;
- (c) by the insertion, after subsection (1), of the following subsection as subsection (1A) —

“(1A) The Minister may, by order, make provision whereby any transaction referred to in subsection (1)(a) may be made by a bank with reference to a person on such basis, being less restrictive than that provided by subsection (1)(a), as may be specified in the order, if the Minister is satisfied on the application of the bank, and after consultation with the bank, that the bank has made arrangements whereby the liquidation of such transaction will be effected by such person in such circumstances, and subject to such terms and conditions, as will adequately protect the interests of the shareholders of, and depositors in, the bank.”.

4. The Banking Act is hereby amended by the insertion, insertion of new section 14A and 14B in Banking Act. after section 14, of the following sections as sections 14A and 14B —

“Liquidation of certain other transactions.

14A. Where the undertaking of any bank, being a company incorporated outside of Guyana, has been assigned to, or taken over by, a bank being a company incorporated in Guyana, whether before or after the commencement of the Banking Laws (Amendment) Act 1986, and any transaction, which as a consequence devolved upon the bank second mentioned, is incompatible with section 12(1)(a) or (c), the bank second mentioned shall —

- (a) where the assignment or taking over was prior to such commencement within three months after such commencement; or
- (b) where the assignment or taking over is after such commencement, within three months after such assignment or taking over,

submit a statement of every such transaction to the Bank and shall, as soon as practicable, liquidate every such transaction.

Enforcement  
of certain  
transactions.

14B. Nothing in section 12 or 13 shall be deemed to prevent a bank from enforcing any transaction referred to therein against any person who is a party thereto or against whom it could have been otherwise enforced.”.

Amendment  
of section 15  
of Banking  
Act.

5. Section 15 of the Banking Act is hereby amended by the substitution, for the words “13 or 14”, of the words “13, 14 or 14A”.

### PART III

#### Amendment of the Bank of Guyana Act

Insertion of  
new section  
40A in Bank  
of Guyana  
Act.

6. The Bank of Guyana Act is hereby amended by the insertion after section 40, of the following section as section 40A —

Cap. 85:02.

“(Part of  
minimum  
balances to  
be maintain-  
ed in foreign  
currency.

40A.(1) Twenty-five per cent, or such other lower per centage 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.

(2) Any such bank, as is referred to in subsection (1), operating in Guyana immediately before the commencement of the Banking Laws (Amendment) Act 1986 and continuing thereafter to operate in Guyana shall, in respect of balance maintained by it on deposit with the Bank under section 40 immediately before such commencement, comply with the provisions of subsection (1) within a period of three months from

such commencement or such further time as may be allowed by the Bank.

(3) 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.”.

Cap. 88:01.

### EXPLANATORY MEMORANDUM

This Bill seeks to amend the Banking Act, Cap. 85:01, to achieve the following objectives:—

- (i) by the repeal and re-enactment of section 7, to increase the minimum capital requirement under that section from the present five hundred thousand dollars to ten per cent of the aggregate of the demand and time liabilities or one million dollars whichever is the greater, in the case of banking companies incorporated in Guyana, and from two million dollars to ten million dollars in the case of banking companies incorporated outside Guyana. In computing the capital of a bank for the above purpose, it is proposed that not only the capital stock actually paid up in cash and remaining unimpaired by losses or otherwise, but also the sum in the reserve fund maintained under section 16 of the Banking Act, the balances maintained by it on deposit with the Bank of Guyana under section 40 of the Bank of Guyana Act, Cap. 85:02, and any sum in any other reserve fund maintained by the bank and recognised for the aforesaid purpose by the Bank of Guyana by notice published in the *Gazette*, should be taken into account. It is also proposed that in a case where the Bank is a company incorporated outside Guyana it should provide and keep within Guyana, out of its funds from outside Guyana an assigned capital for its branch or branches in Guyana. The assigned capital has to be not less than seven per cent of the aggregate of the bank's demand and time liabilities in Guyana, subject to a minimum of one million dollars. These amendments will apply also to banks already operating in Guyana, but, as proposed in the Bill, these banks will have a period of three months or such further time as may be allowed by the bank to comply with the amended provisions; and
- (ii) by the amendment of section 12 and by the insertion of new section 14A to remove certain anomalies arising consequent upon the taken over by Guyanese banks, with much reduced capital, of the

banking business of the Royal Bank of Canada Limited and the Chase Manhattan Bank Limited.

2. The Bank of Guyana Act, Cap. 85:02, is proposed to be amended by this Bill by the insertion of new section 40A in the Act to require a foreign bank in Guyana to maintain in specified foreign currency, part of the balances on deposit required to be maintained by it by section 40 of that Act. As proposed by the Bill foreign banks already operating in Guyana will have to comply with this new provision within three months of the coming into operation of the amendment Act or within such further time as may be allowed by the Bank of Guyana to exempt a bank from the provisions of this section having regard to the amount that the bank has deposited in a blocked account under section 34 of the Exchange Control Act, Cap. 86:01.

*Carl B. Greenidge,*  
Minister of Finance.

(ST: 34/2/15)

(Bill No. 5/1986).