

LAWS OF GUYANA

SEA DEFENCES ACT

CHAPTER 64:01

Act

2 of 1883

Amended by

6	of	1899	10	of	1919
23	of	1899	28	of	1940
15	of	1906	15	of	1975
18	of	1907	7	of	1988
9	of	1913	30	of	1992
3	of	1914			
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of
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1929 Ed.
c. 118
1953 ed.
c. 190

CHAPTER 64:01
SEA DEFENCES ACT

2 of 1883

**An Act to secure the Maintenance of the Sea, River, and
Outer Dams of Estates.**

[9th JUNE, 1883]

Short title.

1. This Act may be cited as the Sea Defences Act.

Interpretation.
[15 of 1975]
7 of 1988
30 of 1992]

2. In this Act—

“the Chief Officer” means the Chief Hydraulics Officer and includes anyone performing the duties of the holder of that office;

“estate” includes any plantation or estate, or any piece of land abutting on or near the sea shore, or any river or creek, or the bank of a river or creek;

“the Hydraulics Division” means the Hydraulics Division of the Ministry and includes the Chief Officer, every officer of the Hydraulics Division and everyone employed by the Chief Officer or by any officer of the Hydraulics Division;

“the time limited” means the time mentioned in any notice given by the Chief Officer within which the proprietor of an estate is required to complete any works, and, where there is an appeal, means the time fixed by the Minister;

“works” means any work for repairing, strengthening, heightening, or protecting any existing dam, and includes—

- (a) any work for constructing or protecting a new dam; and
- (b) groynes and construction of any material and every description of work or arrangement intended to protect an estate or any land from submersion or flooding; and
- (c) the removal of anything which, in the opinion of the Chief Officer, ought to be removed for the protection or conservation of the foreshore.

SUPERVISION OF DEFENCES

Inspection of
plantation
dams.

3. The Chief Officer and everyone authorised by him in writing may at all times enter on any estate and inspect the sea, river, and outer dams thereof.

Execution of
necessary work by
proprietor.

4. (1) When the Chief Officer is of opinion that any sea, river, or outer dam of an estate is in bad order or insufficient, or is improperly constructed, either as regards position or material, or is not sufficiently protected, he may require the proprietor of the estate to execute any work he considers ought to be executed.

(2) When the dam has been completed, whether in obedience to an order of the Chief Officer or otherwise, he may serve a notice on the proprietor of the estate, as hereinafter provided, requiring him from time to time to execute any works necessary for the maintenance of the dam in good order.

Procedure on
requisition to
execute work.

5. (1) When the Chief Officer requires the proprietor of an estate to execute works he shall cause a notice in writing signed by him and addressed to the proprietor of the estate, without naming the proprietor, to be served on the proprietor.

(2) The notice shall state shortly the nature and description of the works to be executed and, save in the case of a notice to maintain a dam under subsection (2) of the last preceding section, the time within which they shall be executed.

(3) The notice shall, save in the case of a notice to maintain a dam as aforesaid, also state the estimated cost of executing the works set forth in the notice.

Default in
commencing works.

6. (1) Where the proprietor of an estate fails

within the time limited to commence the execution of the works or any of them so required as aforesaid, or, in the case of works required to be done under section 4(2), where he fails to execute them when and as soon as they become necessary, the Chief Officer shall apply to the Minister for directions and the Minister may make any order on the application the circumstances require.

(2) The Hydraulics Division shall execute any works the Minister directs.

No alteration in line of dam without permission of Minister.

7. (1) No deviation from the existing line of a sea, river, front, or outer dam of an estate shall be made unless the permission of the Minister has been first obtained, and the Minister may refuse the permission or attach thereto any terms or conditions to him seeming expedient.

(2) If any deviation aforesaid is attempted without first obtaining the permission, the Attorney-General shall be entitled to obtain, on motion *ex parte*, an order prohibiting the attempt and requiring the removal of any work already begun or executed in contravention of this section.

(3) In the event of non-compliance by anyone with any of the terms or conditions attached to any permission aforesaid, the Attorney-General may obtain, on motion *ex parte*, from the High Court in its civil jurisdiction an order to enforce compliance.

(4) No power *ad litem* shall be necessary in any proceeding under this section.

(5) The proprietor of an estate shall be deemed to have attempted to deviate from the line of an existing outer dam, within the meaning of this section, if he constructs or begins to construct a dam intended, in

the opinion of the Chief Officer, ultimately to be used as an outer dam.

Power to proprietor to raise money for protection from water.

8. (1) The proprietor of any right or interest in an estate who desires to secure the estate in which he is interested from inroads of the sea or of a river or creek, or from being flooded by water, may apply by petition to the Minister either for an advance by way of loan to defray the expense of any necessary permanent works, or for an order authorising the Hydraulics Division to execute the permanent works and charging the cost thereof on the estate.

(2) Where Parliament provides the funds wherefrom the advance is made or cost defrayed, the Minister may grant the application aforesaid on any terms and conditions to him seeming meet.

Where calamity occurs to an estate.

9. Where an occurrence whereby an estate is in danger of being or is submerged or flooded takes place and is, in the opinion of the Minister, a calamity which it is expedient in the public interest to remedy or mitigate, he may, if Parliament provides the necessary funds, grant thereout to the proprietor of the estate so situated any sum of money to the Minister seeming meet, and the sum shall be expended, under the supervision of the Hydraulics Division, in the execution of the works directed by the Minister.

Execution of works for protection of a district.
7 of 1988
30 of 1992]

10. Where in order to protect the foreshore of a district the Minister or the Chief Officer deems it expedient to execute works that are intended for the protection of more than one estate or of any district, the following regulations shall be observed:

- (a) the Hydraulics Division shall prepare plans and specifications

of the proposed works together with an estimate of their cost;

- (b) the Hydraulics Division shall also prepare a statement showing the estates, and any railway, canal, building, or immovable property of any kind not a plantation, which it is proposed shall be made liable to contribute to the cost of the execution or maintenance of any of the works and the proportion or manner in which it is proposed to assess the amount to be paid by each of those estates and any railway, canal, building, or immovable property of any kind, not a plantation;
- (c) a copy of the documents and plans hereinbefore in this section required to be prepared shall be kept at the office of the Hydraulics Division in Georgetown and, if any portion of the district is in the county of Berbice, another copy shall be lodged at the office of the department in New Amsterdam;
- (d) a notice containing a short description of the nature and position of the proposed works, the amount of the total estimated cost, and the names of the estates; and any railway, canal, building, or immovable property

of any kind not being a plantation, which it is proposed shall be made liable, and an intimation that the documents and plans have been lodged and are open for inspection, shall be given by publication in the *Gazette* and at least one other newspaper published in Guyana;

- (e) the documents and plans shall remain open for the inspection of everyone wishing to see them on every day (not a public holiday) during office hours for one month after the date of the first publication of the notice;
- (f) anyone who objects to the execution of any of the proposed works, or to the proportion or manner in which it is proposed to assess an estate wherein he is interested shall, within the period of one month aforesaid, lodge in the Hydraulics Division his objections in writing and the grounds on which he bases them; and
- (g) after the expiration of the period of one month the Hydraulics Division shall transmit the documents and plans and the objections (if any) with a full report thereon to the Minister.

Decision as to works to be executed and apportionment of costs thereof.

11. The Minister, after considering the expediency of executing the proposed works mentioned in the last preceding section, with all the objections thereto and after hearing, if he considers it necessary to do so, any of those interested may make any order to him seeming meet and, if Parliament provides the necessary funds, may direct that any works be executed for the protection of the foreshore to him appearing proper, and may order and direct that the cost of the execution and maintenance thereof shall be repayable by the proprietors of the estate situate in the district intended to be protected in the proportions and the manner the Minister thinks fit.

Power to take material for execution of works.

12. (1) Where the Hydraulics Division executes any works under this Act for the protection of an estate, the Division may dig earth, cut wood, and take material of every kind from or on the plantation necessary for any of the works.

(2) If any material is taken by the Division and the proprietor of the estate or his authorised agent objects to the material being taken or objects to the place from or the manner in which any of the material is being taken, he may apply to the Chief Officer for that officer's personal directions, and the Chief Officer shall have full power to give any directions the exigencies of the case appear to him to require.

PROTECTION OF FORESHORE

Regulations for the protection of foreshore. [30 of 1992 6 of 1997]

13. (1) Subject to affirmative resolution of the National Assembly, the Minister may make regulations for all or any of the following purposes, that is to say, for—

- (a) protecting the growth of underwood, shrubs, and trees, on

or near the foreshore or between high and low water marks;

- (b) the protection of the land and soil between high and low water marks; and
- (c) generally, conserving the foreshore.

(2) The regulations may apply to the whole or any part of Guyana.

(3) There may be annexed to the breach of any of the regulations a penalty not exceeding thirty thousand dollars and such penalty shall be recoverable under the Summary Jurisdiction Acts.

Prohibition of acts endangering foreshore.

14. The proprietor of an estate shall not, if the Chief Officer deems it necessary for the protection of a foreshore and gives him notice to abstain from so doing—

- (a) cut, or allow to be cut, any courida or other trees, or any underwood or shrubs, growing on either side of any sea-, river-, or outer dam of his estate; or
- (b) remove, or allow to be removed, from the foreshore of his estate any shell, sand, soil, or other material, or any dead trees, shrubs, or other debris.

Notice board on foreshore forbidding damage.

15. (1) When the Chief Officer gives notice to the proprietor of an estate under the last preceding section to

[30 of 1992
6 of 1997]

abstain from doing any of the acts specified in that section, the proprietor shall, within seven days from the receipt of the notice, cause notice boards to be erected at not less than two places on the foreshore of his estate stating that those acts are forbidden.

(2) Anyone who—

- (a) cuts any courida or other trees, or any underwood or shrubs, growing on either side of any sea-, river-, or outer dam on any estate; or
- (b) removes any shell, soil, or other material, or any dead trees, shrubs, or other debris from any estate,

upon the foreshore whereof is erected a notice board stating that the doing of any act aforesaid is forbidden, shall be liable on summary conviction to a fine of twelve thousand dollars.

Acts for protection
of a foreshore.
[28 of 1940].

16. Every proprietor of an estate shall, if the Chief Officer for the protection of a foreshore gives him notice to do so—

- (a) execute all works deemed necessary by the Chief Officer and approved by the Minister for retaining, between high and low water marks on the foreshore of his estate, any bank of sand, shell, mud, or other substance;
- (b) take any steps, by sowing seed, planting shoots, or otherwise, that the Chief Officer deems

necessary to promote the growth of courida or other trees, underwood, or shrubs, between high and low water marks on the foreshore of his estate;

- (c) remove any dead trees, shrubs, or other debris from the foreshore of his estate;
- (d) subject to section 14, excavate and remove from the foreshore of his estate all stumps of courida or other trees which he fells or permits to be felled after the 1st January, 1941.

APPEALS

Appeal from requirement of Chief Officer.

17. (1) Everyone aggrieved by any requirement of the Chief Officer or any action of the Hydraulics Division under this Act, or who considers that the time limited in any notice for the commencement or completion of any works is too short, may appeal by way of petition to the Minister.

(2) The order of the Minister on the petition shall be final and binding on all persons interested.

LOANS FOR WORKS

Repayment of loan for execution of works.

18. (1) The Minister may direct that any money advanced by way of loan or expended in the execution of any works under this Act shall be repaid in the manner, at the times, by the instalments, and with interest at the rate deemed expedient by the Minister.

(2) Where the cost of any works executed by the Hydraulics Division under this Act exceeds the estimated cost by more than one-third thereof, the Minister, if he deems it expedient to do so and if Parliament provides the necessary funds, may direct that the amount expended in excess of the amount of the estimated costs and one-third added shall be paid out of those funds.

Preferent lien
for the amount of
loan.

19. (1) All money advanced by way of loan, and all moneys expended by the Ministry, under this Act, other than grants made under section 9, shall be deemed a debt due to the State, and for the repayment thereof the State shall have a preferent lien on the estate after debts due to the State, and the lien shall continue notwithstanding any devolution or transport of that estate.

(2) All the moneys aforesaid may be recovered by parate execution at the instance of the Accountant General against the proprietor of the estate without naming him.

(3) When a sum is repayable by instalments, on the failure to pay any instalment or interest within ten days after it becomes due, the whole amount then remaining unpaid with the interest thereon shall immediately become due and payable.

(4) A certificate signed by the Accountant General that a specified amount is due under this Act from the proprietor of the estate shall, without any proof of the signature, be received in all courts as proof of the fact until the contrary is proved.

MISCELLANEOUS PROVISIONS

Service of notices.

20. (1) Any notice required to be given or served under this Act may be given or served by handing it to the owner of the estate to which it refers, or to his agent or representative or the person in charge of that estate, or, if the owner, or his agent or representative, or the person aforesaid, cannot be found, by affixing the notice to the principal building on the estate or, if there be no building thereon, then to some tree or other conspicuous object thereon.

(2) A declaration made before a justice of the peace by the person serving the notice endorsed on a duplicate or copy thereof that the notice was duly served and stating the mode of service shall be deemed in all courts of justice to be *prima facie* evidence that the notice was duly given and served.

Proof of order of Minister.

21. The production of a copy of an order or direction of the Minister, certified as a correct copy by the Permanent Secretary, or the production of the *Gazette* containing the official intimation of an order or direction of the Minister under this Act, shall be conclusive proof of that order or direction having been made or given and that it was in all respects rightly made or given and is binding upon all persons.

Execution of works by Chief Officer.

22. Any work or thing which the proprietor of an estate is required under this Act to execute or do, if he refuses or neglects to execute or do it within the time specified in the notice given by the Chief Officer, may be executed and done by that officer, who shall therefor have the powers conferred by section 12, and section 19 shall apply to the cost of any work or thing so executed or done by him.

Limitation of
right of action to
certain public
officers.
[7 of 1988
30 of 1992]

23. (1) No one other than the officers of government hereinbefore mentioned shall have any right of action for anything done, or in respect of anything omitted to be done which might or ought to have been done, under this Act.

(2) Anyone who desires the Chief Officer to take any action under this Act shall apply by petition to the Minister.

Obstruction of
officer acting
under
the Act.
[30 of 1992
6 of 1997]

24. Everyone who wilfully obstructs any member of the Hydraulics Division acting under this Act shall be liable to a fine of twenty-two thousand five hundred dollars.

Damaging defences.
[30 of 1992
6 of 1997]

25. Everyone who—

- (a) wilfully damages any dam or defence against the sea or any water; or
- (b) unlawfully takes for his own benefit any of the material of a dam or defence,

shall be liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two months.

General penalty.
[30 of 1992
6 of 1997]

26. Everyone who infringes any of the provisions of this Act shall be liable on summary conviction to a fine of twenty-two thousand five hundred dollars.

Operation of
Act.

27. This Act shall be in force throughout Guyana subject to the special provisions of any Act for the time being in force affecting any specific part thereof.