

LAWS OF GUYANA

HYDRO-ELECTRIC POWER ACT

CHAPTER 56:03

Act

48 of 1956

Amended by

10 of 1988

31 of 1997

2 of 2002

14 of 2013

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**Note on
Revision**

By virtue of section 7 of the Guyana Energy Agency Act, Cap. 56:04, the functions conferred on the President by this Act are now to be exercised by the Minister and the functions conferred on the Chief Works Officer and the Engineer shall be exercised by the Chief Executive Officer of the Agency or any other officer as may be specified.

CHAPTER 56:03
HYDRO-ELECTRIC POWER ACT
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CHAPTER 56:03

HYDRO-ELECTRIC POWER ACT

48 of 1956

14 of 2013

An Act to make provision for the grant of licences authorising the utilisation of the waters of Guyana for the purpose of generating electrical energy, and for the management, conservation and preservation of the environment surrounding hydroelectricity generating facilities or areas intended as compensation for residual impacts from hydroelectricity generating facilities and for matters connected therewith.

[1st DECEMBER, 1956]

Short title.

1. This Act may be cited as the Hydro-Electric Power Act.

Interpretation.

14 of 2013

2. In this Act—

“biodiversity offset” means measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development, and persisting after appropriate prevention and mitigation have been taken with the goal to achieve no net loss and preferably a net gain of biodiversity on the ground with respect to species composition, habitat structure,

ecosystem function and people's use and cultural values associated with biodiversity";

"divert" or "diversion" means any taking or removing of water from any river, and shall include any retardation or acceleration of the flow thereof;

"Engineer" means the Engineer appointed by the President under section 22;

"hydroelectric offset reserve area" means the identified portions of land and water set aside by reason of their physical and biological values and ecosystem function, to be managed to enhance biological diversity, sustenance, people's use and cultural value, habitat structure and protect against negative anthropogenic impact":

"licence" means a licence granted under this Act for any of the purposes specified in section 6(1);

"licensee" means a person to whom a licence is granted under this Act and includes his heirs, executors, administrators, successors and permitted assigns;

"point of diversion" means the actual point or place on the natural course of a river at which a licensee is authorised to divert water from that river, and shall include any substituted point at which he is authorised to divert as aforesaid;

"public lands" means any lands or any interest in any lands which are the property of the State and any other lands or any interest therein which have been or may be placed under the control and management of the Chief Works and Hydraulics Officer;

"public undertaking" means an undertaking established and operated wholly or mainly for the supply of energy to meet a public demand;

“Regulations” means regulations made in pursuance of the powers conferred by this Act;

“river” includes all natural water-courses or sources of water-supply, and all streams, lakes, creeks, springs and ravines;

“State water-power” means any water-power in lakes, falls, rivers or streams which can be used for the purpose of generating electricity;

“undertaking” means the undertaking required or proposed to be established or carried on in pursuance of this Act by the State, or by an applicant, licensee or other person for the development of any State water-power or for the transmission, distribution or utilization of the force or energy produced from such water-power; and shall include, in so far as authorised or required in any case—

- (i) the storage, pondage, penning back, regulation, augmentation, carriage, diversion and use of water or of the flow thereof;
- (ii) the generation of energy at any plant which is used as an auxiliary to the water-power plant;
- (iii) the surveying, laying out, construction, maintaining and operating of works, including dams, flumes, penstocks, power stations, transmission lines, terminal stations, and substations;
- (iv) the surveying of any lands, carrying on of investigations and collection of data;
- (v) the acquisition and use of lands and properties or any interest therein;
- (vi) the administration and management of the required lands, works and properties; and the business connected therewith;

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(viA) the taking of all appropriate measures for the management, conservation and preservation of the environment, flora, fauna, aquatic life and ecological habitat of areas surrounding hydro-electricity generating facilities or areas intended as compensation for residual impacts from hydro-electricity generating facilities;

(vii) matters incidental to any of the foregoing;

“water-power” includes any force or energy of whatever form or nature contained in or capable of being produced or generated from any flowing, or falling water in such quantity as to make it of commercial value and in a manner consistent with the conservation and preservation of the environment surrounding hydroelectricity generating facilities or areas

intended as compensation for residual impacts from hydroelectricity generating facilities;

“watershed” means “the area or region drained by a river, river system, or other body of water.

“works” includes anything done, made or constructed in connection with or in relation, or incidental, to the diversion, storage and the use of water for generating, and the generation of, electrical energy and any measures taken for the management, conservation and preservation of the environment surrounding hydroelectricity generating facilities or areas intended as compensation for residual impacts from hydroelectricity generating facilities;

Application of Act

3. This Act shall apply—

- (a) to all State water-powers;
- (b) to all public lands required in connection with the development or

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working of such water-powers or for purposes incidental thereto;

(c) to all lands and properties which may be acquired or authorised to be acquired under the terms and for the purposes of this Act, in connection with State water-powers;

(d) to the power or energy produced or producible from the waters on or within the said lands, whether the power or energy derived therefrom or any portion thereof is distributed upon or utilised on public lands or not;

(e) to all undertakings established or carried on in respect of any State water-powers; and

(f) to all matters incidental thereto.

Title to water powers in State.

4. Subject to any rights, lawfully held, the property in and the sole right to the use of all State water-powers are hereby declared to be vested in and shall remain in the State.

Essential lands also remain State property. [1 of 1972]

5. (1) Lands—

(a) upon or within which there is water-power; or

(b) required for the protection of water-power; or

(c) required for the purposes of any undertaking;

and the water-powers and waters thereon, shall not be open

to entry, and except as hereinafter otherwise provided, no interest therein shall be leased or otherwise granted or conveyed by the State; and any grant or conveyance hereafter made of any such lands or any interest therein, except in pursuance of this Act, shall not vest in the grantee any exclusive or other property or interest with respect to such lands.

(2) No right of entry, permit, licence, lease or other concession shall be made for or of any lands within a game sanctuary or fish sanctuary or State forest until the Chief Works and Hydraulics Officer or the Conservator of Forests, as the case may be, has reported upon the effect of such right of entry, permit, licence, lease or other concession upon the game sanctuary, fish sanctuary or State forest concerned, and the President has decided whether it is necessary to insert any provision or provisions in such right of entry permit, licence, lease or other concession to protect the use and enjoyment of such game sanctuary, fish sanctuary or State forest.

(3) Where small areas only of any parcel or sub-division of any public lands are required to be submerged along the bank of any stream in connection with an undertaking, and where it has not been found practicable or expedient to make surveys for the purpose of setting out the exact limits of the area to be flooded, the President may dispose of such parcel or sub-division in accordance with the provisions of any other Act or Regulations applicable to the disposal of such lands, reserving, however, the right at any time to raise the water surface to such elevation as may be required in connection with such undertaking.

6. (1) Subject to this Act the President may grant a licence to any person, on such terms and conditions as he may think fit, and in the manner prescribed, authorising him —

- (a) to divert, store and use for the purpose of generating electrical

Power of
President to
grant licence
authorising the
use of water
power for the
generation of
electrical
energy.
[2 of 2002
14 of 2013]

energy such quantity of the waters of any river as may be specified in the licence;

- (b) to construct, erect, lay down and maintain works and plant for the generation, and distribution of electrical energy;
- (c) to generate and distribute electrical energy and to utilise such energy for purposes specified in the licence;

Provided that such licence shall be granted subject to the taking of all appropriate measures for the conservation and preservation of the environment, flora, fauna, aquatic life and ecological habitat of areas surrounding hydroelectricity generating facilities.

(2) Any licence granted under this Act shall be applicable to specified areas (hereinafter referred to as licensed areas) and any such area shall be defined or described in the licence.

(3) Subject to the Regulations, any licence for a public undertaking granted under this Act may specify the price at which electrical energy may be sold to consumers or the various rates at which such energy may be sold to different classes of consumers or the various rates at which such energy may be sold for different uses:

Provided that such price or rates as the case may be shall be subject to review during the currency of the licence every five years from the date of its commencement, or at any time thereafter on the representation of the licensee:

Provided further that, prior to granting a final licence to a public undertaking, the Minister shall be satisfied –

- (a) that the governing bodies of both the public undertaking and any public supplier to which the public undertaking proposes to sell electricity for transmission and distribution to consumers have approved the terms and conditions upon which such electricity shall be purchased by the

c. 57:01 public supplier, and such terms and conditions insofar as they relate to rates have further been approved by the Commission in the exercise of its authority under section 35(1) of the Public Utilities Commission Act; and

(b) that the terms and conditions so approved are commercially prudent and viable, shall not adversely affect and shall enhance the system-wide capacity, reliability and efficiency of the public supplier, and are compatible with national energy policy.

(4) For the purposes of this section –

c. 57:01 (a) “Commission” has the same meaning as in section 3 of the Public Utilities Commission Act;

c. 56:01 (b) “governing body” and “public supplier” have the same meanings as in section 2 of the Electricity Sector Reform Act.

Terms of
licence.
[1 of 1972]

7. (1) A licence may, at the discretion of the President, be granted for any term not exceeding fifty years and shall provide for the payment of such rent and royalty as may be specified in the licence.

(2) Not less than twenty-four months prior to the termination of any licence, the licensee may apply in writing to the Chief Works and Hydraulics Officer for a renewal of his licence, and if he shall have paid all the rents and royalties and observed and performed all the terms and conditions on the part of the licensee to be observed and performed up to the expiration of the licence the President may grant a renewal of the licence for a term not exceeding fifty years.

(3) Upon the filing of such application for the renewal of his licence the licensee shall be given preference over other applicants for a licence to use and occupy the

waters and lands included in his licence during a further term:

Provided always that the licensee has complied with all the requirements of his licence and of the Regulations from time to time in force to the satisfaction of the Chief Works and Hydraulics Officer and that his proposed use and development of the site is in the opinion of the President at least as desirable in the public interest as that of any other pending applicant.

Expropriation of lands where required by the State.
[1 of 1972]

c. 62:02

8. If any land or any interest therein is required by the State for any undertaking or is necessary for creating, protecting or developing any water-power, the Minister may direct the Chief Works and Hydraulics Officer on behalf of the State to acquire by expropriation the title to such land or interest therein as may be required, and thereupon the provisions of the State Lands Resumption Act, in so far as applicable, shall apply as if included in this Act.

Cancellation of entries, leases, etc., in certain cases, and payment of compensation.
[1 of 1972]

9. (1) If any State lands specified in a grant, lease or licence, which are required or any interest in which is required for an undertaking, are occupied or held in a manner inconsistent with the carrying out of such undertaking, the President may order and direct the cancellation of such grant, lease or licence or agreement in whole or in part, or may direct that the terms thereof be so modified as to reserve to the State such lands or such rights in the said lands as may be required for such undertaking.

Compensation to grantee.

(2) In every case of cancellation or modification under the preceding subsection compensation shall be paid out of moneys provided by Parliament to the permittee, entrant, lessee, licensee or party to such agreement or other form of conveyance:

62:05

Provided that sections 18 and 20 of the Acquisition of Lands for Public Purposes Act shall apply for the purpose of assessing compensation to be paid under this Act as

though those sections were set out in full in, and formed part of this Act.

Chief Works and Hydraulics Officer to fix amount.

(3) The Chief Works and Hydraulics Officer shall in each case fix the amount of the compensation to be paid, subject to appeal by the permittee, entrant, lessee, licensee or party, to the High Court.

Licensee to pay amount of compensation.

10. Where compensation has been paid out of public moneys under section 8 or section 9 in respect of any undertaking the President may require as a term of any licence issued for such undertaking that the licensee shall pay to the Accountant General a sum equal to the entire amount of such compensation or such portion thereof as may be specified in the licence.

Joint development of two or more water-powers. [1 of 1972]

11. Where two or more State water-powers are so situated that they can be more economically and satisfactorily utilised by being developed jointly and operated under one control, and –

- (a) if such water-powers have not been granted by the State, the President may order that they be disposed of in such manner and subject to such conditions as will, in his opinion, secure such joint development and single control; or
- (b) if the right to develop one or more of such water-powers has been granted to or is held by any person, and if the President is of the opinion that the public interest will best be served by reserving the remaining water-power or water-powers so as to bring about the joint development and single control of all such water-powers,

the President may order the said remaining water-power or water-powers to be reserved for such period or periods as he may deem necessary in order to secure such joint development and single control, and may authorise the Chief Works and Hydraulics Officer to enter into an agreement with the person holding the water-power or water-powers first mentioned for the purposes aforesaid, and may prescribe the terms, conditions and covenants to be included in such agreement.

Cancellation of licence.
[1 of 1972
14 of 2013]

12. (1) The President may, upon application by the Chief Works and Hydraulics Officer, by order, cancel in whole or in part any licence granted under this Act on any of the following grounds:

- (a) failure by the licensee for three consecutive years to make beneficial use of the water authorised to be used;
- (b) failure by the licensee for three consecutive years or more to pay the rent or royalty due in respect of the licence;
- (c) wilful and persistent waste of water; (d) wilful diversion or use of more water than the licensee is at the time entitled to divert or use;
- (e) wilful contravention of this Act;
- (f) non-compliance with or non-observance of any term or condition contained in the licence;
- (g) wilful refusal by the licensee to obey any reasonable order of the Engineer given under the authority of this Act;

- (h) the construction, maintenance, operation or use by the licensee of any works which are not authorised under his licence or any works, the plans of which are not approved by the President.
- (i) failure by the licensee to take all appropriate measures for the conservation and preservation of the environment, flora, fauna, aquatic life and ecological habitat of areas surrounding hydro-electricity generating facilities."

(2) A notice signed by the Chief Works and Hydraulics Officer stating that it is proposed to cancel the licence and giving grounds upon which it is alleged that the licence is liable to cancellation shall be sent to the licensee at his registered address at least sixty days before the date when it is proposed to make the order cancelling the licence. If the licensee before the date for the making of the proposed order as aforesaid files with the Chief Works and Hydraulics Officer notice of objections to the cancellation, the President shall upon such hearing as he may deem expedient, determine whether the objections are substantiated, and shall make such order as to him seems just.

13. At any time after the expiration of one-half of the original term of the licence, granted for a public undertaking, upon twenty-four months' notice to that effect having been given by the Chief Works and Hydraulics Officer to the licensee, or upon the cancellation of the licence, the Minister may take over the undertaking of the licensee paying therefor compensation in accordance with the principles set out in section 14; except that where the undertaking is being taken over otherwise than upon cancellation of the licence the Minister or the arbitrators, as the case may be, may, in valuing the undertaking, add to the amount determined in accordance with section 14(2) a bonus equal to three-quarters of one per cent of such amount for each and every full year of the unexpired term of the licence:

Provided that in no case shall such bonus be less than five per cent of such amount.

Power to take over under-taking before expiry of term or upon cancellation of licence.

Vesting of property at expiration of licence.

14. (1) Upon the expiry of the licence and on the failure of the licensee to be granted a renewal thereof in accordance with section 7(2), the undertaking shall become the property of the State and the Minister, or such person as he may designate in that behalf, may immediately and without further proceeding enter upon, possess, occupy, operate and control the same.

(2) Compensation for the said undertaking shall be arrived at by first taking as a basis the figure previously fixed in accordance with section 17 as the actual cost of the said undertaking, then adjusting this figure so as to make allowance for any variation in the purchasing power of a dollar as shown by the official trade index or other local statistics most applicable to the case in hand, and finally deducting an amount equivalent to the actual loss in value of the undertaking due to its physical or functional depreciation or to other causes.

(3) Unless the Minister and the licensee agree upon the compensation to be paid for the said undertaking at least six months prior to the expiry of the said licence, the matter shall be determined by arbitration.

Power of the Engineer to order surveys, etc.
[1 of 1972]

15. (1) Subject to confirmation by the Chief Works and Hydraulics Officer in the event of any objection by the licensee, the Engineer may direct or order —

- (a) such surveys and such other proceedings as may in his opinion, be required to ascertain the public lands or any other lands or any interests in any lands which it may be necessary to reserve or acquire for any undertaking, and the decision of the Engineer as to the lands or interests therein, that may in any case be required shall be final;

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- (b) a survey of all streams and all necessary investigations with respect to water-powers to determine the total utilised and available water-power and the maximum which can be made available by storage, regulation or other artificial means;
 - (c) that the volume or discharge of any stream or body of water, or of the economic availability or usefulness thereof for power purposes be ascertained;
 - (d) that the flow or quantity of water used and of the output of electrical or other form of energy produced from the use of water by any licensee or other person be ascertained;
 - (e) the establishment of gauges, weirs, meters or other devices for water or water-power measurements or for measuring the output of electrical or other form of energy.

(2) The records and plans of such surveys and investigations shall be kept on file in the office of the Chief Works and Hydraulics Officer and in the Engineer's Office and may be published in such form and to such extent as the Engineer may determine.

(3) The Engineer or any person appointed by him for the purpose, shall have free access, in connection with any of the matters herein set out, to all works, books, plans or records in so far as they relate to any undertaking and may take such observations, make such measurements, and do such other things of, upon, within or with respect to

the said undertaking, books, plans or records as may be considered necessary or expedient for—

- (a) ascertaining the quantity of water stored, diverted or used, or capable of being stored, diverted or used;
- (b) ascertaining the amount of power developed or capable of being developed;
- (c) ascertaining the condition of the works, or any of them;
- (d) determining whether the conditions to be observed or performed by any licensee, lessee, or other person, or any of them, are being satisfactorily observed and performed;
- (e) any other purpose connected with the administration of this Act.

(4) The Chief Works and Hydraulics Officer may enter into any agreements with any person for the making of river measurements, the carrying out of investigations, and the collection and publication of data respecting water and power resources and the best methods of utilising the same; but nothing in this subsection shall affect licences for the determination of river flows in force at the commencement of this Act.

Plans of
proposed works
to be approved
by Minister.
[1 of 1972]

16. (1) Before the commencement of any works in connection with an undertaking there shall be filed with the Chief Works and Hydraulics Officer in triplicate plans and specifications of the proposed works in the prescribed forms and containing the prescribed particulars.

(2) No works shall be constructed, maintained or

operated until general plans and specifications in connection therewith are approved by the Minister.

- Actual first cost to be stated. **17.** Upon completion of the works necessary to put the undertaking into operation and upon completion of any substantial addition thereto, a sum shall be fixed which in conformity with this Act shall represent the actual cost of the undertaking or of such addition or both. In the event that the Minister and the licensee cannot agree upon the said sum within ninety days after the completion of the said undertaking or of such addition or both, the Minister shall refer the matter to the High Court for determination.
- Rights acquired under licence. **18.** A licence shall entitle the licensee subject to the terms thereof and the obligations imposed by this Act and the Regulations, to divert and use beneficially the quantity of water for the purpose and during the periods of times set out therein, and to construct, maintain and operate any works necessary for the use of the water, and to the rights mentioned in the licence, and in respect thereto, to all the other rights conferred by this Act.
- Rights not to be prejudiced by subsequent grants. **19.** The right of a licensee to divert water shall not be prejudiced by subsequent grants at higher points on the river or any tributary thereof.
- Beneficial use of water. **20.** Every licence shall be for the beneficial use of the quantity of water permitted to be taken and used, and notwithstanding the quantity granted by his licence, no licensee shall, to the prejudice of others, divert more water from any river than can for the time being be beneficially used by him.
- Waiver of term of licence by President. **21.** Whenever it may appear to the President that the performance of any term or condition of a licence would cause unnecessary hardship to the licensee the President may waive the performance of such term or condition in any particular instance:

Provided that no such waiver shall be assumed or deemed to extend to the performance of any term or condition other than that to which such waiver specifically relates or to be a general waiver of the performance of any such term or condition.

Appointment of engineer.

22. A person with the necessary qualifications shall be appointed to be Engineer for the purposes of this Act, and the Minister shall from time to time assign to him duties to be performed under this Act, the Regulations or a licence.

Power of President to make regulations. [6 of 1997 14 of 2013]

23. (1) The President may make regulations for carrying out the provisions and purpose of this Act and in respect of any matter which is by this Act to be prescribed, and without restricting the generality of the foregoing as to the following matters:

- (a) the storage, pondage, regulation, diversion, carriage or utilisation of any water for power purposes and for the protection of any sources of the water supply;
- (b) the development of water-powers and the transmission, distribution, sale, exchange, disposal or use of electrical energy generated therefrom, on, through or over public lands or any other lands;
- (c) the construction, maintenance, operation, purchase and taking over of all works which may be deemed necessary or desirable for any of the purposes set out in this Act, whether on, over or through public lands or any other lands, and for the regulation and control, in the interest of all water users, of the flow of water

which may, from time to time pass through, by or over any such works;

- (d) the use and occupancy of public lands and other lands or of any interest therein for any of the purposes set out in this Act;
- (e) the withdrawal from disposal under any other Act of any public lands or of any interests therein required for any purposes under this Act;
- (f) the granting and administering of rights, powers and privileges in or with respect to water-powers or undertakings, and the administering of such rights, powers and privileges theretofore acquired;
- (g) the prescribing of conditions upon which the works, lands and properties held in respect of any undertaking may be taken over upon the expiration of the term of any agreement, lease or licence or upon the termination thereof for non-compliance with any of the covenants, terms or conditions contained in such agreement, lease or licence or for any other reason;
- (h) the construction by or at the instance of the State of regulation or storage works for regulating or augmenting the flow of water required for power and other purposes, for the purchase or taking over of works already constructed and for the dividing and

collecting of the cost of constructing, maintaining, and operating from time to time such works among all persons benefiting or in a position to benefit therefrom;

- (i) the securing of such power output at any site, within the limits of its capacity, as may be required to supply the public demand; and the securing of the maximum power resources of all streams;
- (j) the fixing of fees or charges in respect of any proceeding under this Act or the Regulations;
- (k) the regulating of the passage of logs, timber and other products of the forest through or over any dams or other works erected under the authority of this Act;
- (l) the appraisal, for any of the purposes of this Act of the works, lands and properties required or used in connection with any undertaking;
- (m) the regulating and controlling of the stock and bond issues of persons establishing or conducting public undertakings, the regulating and controlling of the service given to the public by persons engaged in supplying water- power, the regulating and controlling of the rates or charges for such service, the appointment of a board or commission, which may regulate and

control the said stock and bond issues, service, rates and charges and the appointment of a person to act with any existing authority constituted for the purposes of the regulating and controlling of the said matters or any of them;

- (n) the prescribing of the manner in which accounts shall be kept for the purposes of this Act by persons conducting or managing public undertakings, and requiring the submitting of statements and reports, annual or otherwise, by such persons;
- (o) the prescribing of the forms to be used in proceedings under this Act;
- (p) the procedure to be observed with respect to applications and the granting of licences; and
- (q) any purpose deemed necessary for giving full effect to this Act.
- (qa) “the establishment of a hydroelectric offset area authority or similar authorities and the creation of hydroelectric offset reserve areas and rules for the establishment, management and operation of hydroelectric offset reserve areas for the conservation and preservation of the environment surrounding hydroelectricity generating facilities.

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Hydro-Electric Act

(2) There may be annexed to the breach of any regulation a penalty not exceeding **one million dollars**.

Licensee to have office in Georgetown

24. (1) A licensee shall at all times have an office in Georgetown, and shall state the full registered address of the office on every document issued by him.

(2) All process notices and other documents shall be sufficiently served on or delivered to a licensee if delivered at his office during the prescribed hours.

Licence not to be assigned without the consent of the President.

25. (1) A licensee shall not be capable of assigning or transferring his licence or of parting with the possession of any part of the licensed area without the consent of the President.

(2) Anything in subsection (1) to the contrary notwithstanding the licensee shall, subject to the approval of the President, have the right to mortgage his undertaking or any part thereof and the approval of any mortgage to secured debentures in the manner aforesaid shall constitute authority for the exercise of any rights and remedies thereunder or otherwise available at law without any further approval being required.

(3) Where approval of any mortgage has been given in accordance with the preceding subsection any purchaser at a judicial or foreclosure sale thereunder shall be subject to all the conditions of the licence and to all the provisions of this Act.

OFFENCES

Offences.
[6 of 1997
14 of 2013]

26. (1) Any person who —

- (a) wilfully or maliciously hinders, obstructs or causes or procures to be hindered or obstructed any licensee or his servants, agents or contractors in the lawful exercise of any of the powers and authorities by this Act or the Regulations conferred;
- (b) wilfully or maliciously lets off or discharges water from the works of any licensee so that the licensee loses the use of the water;

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- (c) unlawfully interferes with the works of any licensee;
 - (d) molests, interferes with or obstructs any officer in the discharge or performance of any duty or the exercise of any authority under this Act;
 - (e) injures, molests or interferes with any gauges, benchmarks, weirs, other measuring devices, structures or appliances, cables, boats, instruments or tools belonging to or placed in position by any applicant, licensee or official of the Government, or who moors, makes fast or in any other way attaches any raft, vessel, boat, barge, timber or other body to any of the aforesaid devices;
 - (f) unlawfully obstructs the flow of any river;
 - (g) wilfully interferes with any headgate, ditch or controlling works which the Engineer has regulated,

shall be liable on summary conviction to a fine **not exceeding one million dollars.**

(2) The following acts are prohibited within hydroelectric offset reserve areas –

- (a) mining, mineral locating, logging, farming and agricultural activity of any kind;
- (b) hunting, destroying, disturbing, or mere possession of any plants or animals or products except by indigenous peoples for traditional use;

- (c) dumping of any waste products detrimental to the hydroelectric offset reserve area, or to the plants and animals or inhabitants therein;
 - (d) mutilating, defacing or destroying objects of natural beauty, or objects of interest to cultural communities of scenic value;
 - (e) damaging and leaving roads and trails in a damaged condition;
 - (f) squatting, adverse possession or opportunistic settlement or otherwise occupying any land;
 - (g) constructing or maintaining any kind of structure, fence or enclosure;
 - (h) leaving in exposed or unsanitary conditions refuse or debris, or depositing in ground or in bodies of water;
 - (i) altering, removing, destroying or defacing boundary marks or signs; and
 - (j) any other acts so designated by the Minister on the advice of the competent Hydroelectric Offset Area Authority, or any other act prohibited to satisfy obligations of the State under local or international laws.
- (3) Anyone who commits any of the acts in subsection (2) (a) to (j) commits an offence and shall be liable on summary conviction to a fine not exceeding ten million dollars.
- (4) The Minister on the advice of the competent Hydroelectric Offset Area Authority may by regulations –

- (a) amend the list of offences in subsections (2) (a) to (j) for actions that contravene the objectives of this Act and the Hydroelectricity Offset Reserve Area Regulations made under it;
- (b) fix the amount of the fine for a prescribed offence, but the amount shall not exceed ten million dollars.
- (5) All new offences shall be gazetted and published weekly in a national newspaper of wide circulation for no less than three consecutive weeks.
- (6) No person shall be liable for any newly created offence until three months after the last date of its publication in the *Gazette*.

Penalty for unlawful diversion of water.
[6 of 1997]

27. Any person who wilfully and without authority diverts water from any river or works, or any licensee or other person who diverts a greater quantity of water than he is entitled to shall be liable to a fine of six hundred and fifty dollars for each day or fraction of a day for each cubic foot per second or fraction of a cubic foot per second of water improperly diverted, and to imprisonment for thirty days.

Pollution or obstruction of river an offence.
[6 of 1997]

28. A person shall not throw, and an owner or occupier of a mill shall not suffer or permit to be thrown into any river above any point of diversion, slabs, bark, sawdust, waste stuff, or other refuse of any mill, or stumps, roots,

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shrubs, tanbark, driftwood or waste wood, or leached ashes, or fell or cause to be felled, in or across such river, timber or growing or standing trees or allow the same to remain in or across such river; and any person contravening this section shall be liable on summary conviction to a fine of twenty-six thousand dollars.

Penalties enforceable under the Summary Jurisdiction Acts.

29. All penalties under this Act shall be enforceable under the Summary Jurisdiction Acts.

Reference to High Court.

30. Where any matter has been referred to the High Court under this Act that matter shall be heard and determined by a judge of the High Court in chambers on application by summons made in that behalf, and the determination thereof by the Court shall be final and binding on all the parties.

Arbitration.

c. 7:03

31. Except where otherwise expressly provided in this Act if any question or dispute shall arise regarding a licence or any matter or thing connected therewith or the powers, duties or liabilities of the licensee thereunder, or the amount of payment of any rent or royalty, then and in all such cases the matter in difference shall be referred to the arbitration of two persons (one to be appointed by the licensee and the other by the Minister) or their umpire and this shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act.

32. [Repealed by 31 of 1997].

SUBSIDIARY LEGISLATION

HYDRO-ELECTRIC POWER REGULATIONS

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Reg. 8/1957

HYDRO-ELECTRIC POWER REGULATIONS*made under section 23*

Citation.

1. These Regulations may be cited as the Hydro-Electric Power Regulations.

Interpretation.

2. In these Regulations –

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“applicant” means any person who filed an application for a licence under these Regulations;

“final licence” means a licence issued under regulation 22, and “final licensee” means the lawful holder of a “final licence”;

“initial development” means such portion of the development of the undertaking as is specified in the interim licence as being required to be completed before a final licence may be issued;

“interim licence” means a licence issued in accordance with the provisions of regulation 11, and “interim licensee” means the lawful holder of an interim licence.

SURVEY PERMIT

Survey
Permit.
[1 of 1972]

3. (1) Any person desirous of applying for a licence to divert, store or use the waters of any river for the purpose of generating electrical energy may apply to the Chief Works and Hydraulics Officer for a survey permit empowering him to enter upon any public lands for the purpose of making such surveys and investigations as may be necessary for the preparation of plans accompanying his application, but for no other purpose, and the Chief Works and Hydraulics Officer may grant to such person a survey permit as aforesaid.

(2) A survey permit may be granted for any period not exceeding one year and may be renewed by the Chief Works and Hydraulics Officer on application made to him for further periods not exceeding one year each.

(3) The grant of a survey permit shall not confer any priority over other applicants for the diversion of any water-power nor any special claim or right whatsoever in respect of the said water-power.

THE APPLICATION

Application.
[1 of 1972]

4. (1) Every person desirous of diverting, storing or using the waters of any river for the purpose of generating electrical energy may file with the Chief Works and Hydraulics Officer an application to the President for a licence under the Act.

(2) Every applicant for a licence shall file with the Chief Works and Hydraulics Officer a statement giving or accompanied by the following information –

Name, address,
etc.

(a) the name of the applicant;

(b) his address and occupation;

River, etc.

(c) the name of a clear description of the river, lake, or other water-course from which the water is to be diverted or used;

Place of
diversion.

(d) the place where the water is to be diverted from or in the said water-course, referred if possible to an established survey mark; also the place where the water is to be returned or released;

Riverflow.

(e) the maximum quantity of water, expressed in cubic feet per second, which it is estimated will be ultimately diverted or used under the licence applied for;

Head.

(f) the estimated average head in feet which will be available for the production of power according to the

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Minimum horse-power.	(g) plan of development now proposed; the estimated minimum amount of energy expressed in horse-power which will be developed on the turbine shaft within five years from the date of the application or within such other period as the applicant may state to be required for the completion of his initial development;
Maximum horse-power.	(h) the estimated maximum amount of energy expressed in horse-power which it is estimated will ultimately be developed on the turbine shaft from the waters applied for;
Works – general description.	(i) briefly the character and extent of all principal works which it is proposed to construct for diverting, conveying, or using the water or water-power, including dams, raceways, canals, tunnels, pipe lines and other water conduits, power-houses and transmission lines; (In reference to every dam give its approximate maximum length and height, also its proposed type, and the material to be used in its construction);
Storage reservoirs.	(j) if storage is involved, the location of each lake, basin or other place in which it is desired to store water; also, with reference to each such place the approximate number of acres of land which it is proposed to flood, the approximate area in acres of the surface of the reservoir when filled,

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- Lands required.
- (k) the estimated vertical storage range in feet, and the total capacity of storage contemplated in acre-feet;
a reasonably accurate description of the area in acres of the lands which require to be occupied or used in the construction, maintenance or operation of the proposed works, noting separately lands required for rights of way and lands which are to be flooded –
(i) within State lands,
(ii) within Government lands,
(iii) within privately owned lands;
- Plans.
- (l) general layout plans and data prepared in accordance with the provisions of regulation 7;
- Neighbouring works.
- (m) the nearest neighbouring works or structures completed or in course of construction, both above and below the place of the proposed diversion, for diverting or using water for any purpose from the same source of supply and the approximate distance and direction of each such works from the proposed works; also the names and the location of any other works or structures whatever (including bridges, railways and canals) which might affect or be affected by the construction, maintenance or operation of the proposed works;
- River-flow data.
- (n) the approximate discharge in cubic feet per second, at or near the place of

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- diversion of the river, lake or other source from which the water is to be diverted at high, medium and low water stages respectively, also copies of any existing measurements of the flow of the stream in the applicant's possession and a reference to all other such measurements of which the applicant has knowledge;
- The undertaking.
- (o) briefly an outline of the undertaking in respect of which the licence is desired, including the use to which the power is to be applied, any sale, delivery or transfer thereof otherwise than to the applicant which is contemplated, the area, if any, within which such sale, delivery or transfer is to be exercised, the probable demand for power within such area and an estimate of the capital cost of the entire undertaking;
- Financial standing.
- (p) the financial standing of the applicant with reference to his ability to carry out the proposed undertaking;
- Incorporation data.
- (q) if the applicant be an incorporated company, the statement shall, in addition to the foregoing information, set forth –
- (i) the names of the directors and officers of the company, and their places of residence;
 - (ii) the head office of the company in Guyana;
 - (iii) the amount of capital authorized, also the amounts of

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subscribed, and of paid-up capital, specifying in regard to the latter –

- (A) how much has been paid in cash, and
 - (B) in what manner the balance has been paid for, also the proposed method for raising further funds, if required, for the construction and operation of the proposed works;
- (iv) copy of the special instrument of incorporation or the memorandum of association and a statement setting out the particular sections or parts thereof which authorized the company to make the application and to carry out the proposed undertaking.

(3) All elevations given in connection with the plans or other information filed by any applicant should be referred to mean sea-level datum, or to a datum acceptable to the Chief Works and Hydraulics Officer.

Filing fee.
[1 of 1972]

5. Forthwith upon the filing by the applicant of such data as is required by these Regulations he shall pay to the Chief Works and Hydraulics Officer a fee of one hundred dollars (\$100.00).

Chief Works
and Hydraulics
Officer may
require further
information.
[1 of 1972]

6. The Chief Works and Hydraulics Officer may, at any time while an application is pending, irrespective of any other requirement of these Regulations, call for such additional plans, descriptions, measurements, specifications, or other data (whether related directly or indirectly to the proposed works and undertaking) as he considers necessary, and the same shall be furnished by and at the expense of the

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applicant; provided that no further filing fee shall be payable in respect of such additional data.

General layout
plans.
[1 of 1972]

7. (1) The general layout plans and data shall be such as in conjunction with the data already available will enable the Chief Works and Hydraulics Officer to determine whether the proposed works are of suitable design to accomplish the purpose intended, whether the proposed development is in general accord with the most beneficial utilization of the resources of the stream, and whether the proposed undertaking is feasible and practicable and in the public interest, and such plans shall further conform to any requirements of the Chief Works and Hydraulics Officer not inconsistent with these Regulations.

(2) The said plans and specifications must be carefully prepared, being based upon actual and thorough surveys and investigations on the ground. They must be in sufficient detail to enable the Chief Works and Hydraulics Officer to determine exactly what is proposed to be done by the applicant, and must show the position of the proposed works with reference to surrounding objects, so that the exact scope of what is desired may be readily located and ascertained. They shall show what provision is made for navigation, logging, and other interests. They should ordinarily include the following items but the applicant may be excused by the Chief Works and Hydraulics Officer in writing from supplying some part or parts of the information called for by this regulation:

General map.

(a) a general map with scale so selected as to clearly define the location of all dams, reservoirs, conduits, power-houses and other works, except transmission lines;

Dam-site.

(b) a cross-section of each dam-site along the centre line of the proposed dam

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|---------------------------|--|
| Principal structures. | <p>with graphical log of each boring, test pit, or other exploration, and a brief statement of the character and dip of the underlying material;</p> <p>(c) plans, elevations and cross-sections of the dams showing spillways, sluiceways or sluicepipes and other outlet or control works, also of the other principal structures which may be required;</p> |
| Contours – site of works. | <p>(d) a satisfactory contour map showing the proposed power-house and other works;</p> |
| Contours – conduits. | <p>(e) a satisfactory contour map of the entire water conduit location and also plans, elevations and cross-section of each type of water conduit;</p> |
| Contours – reservoirs. | <p>(f) a satisfactory contour map of each reservoir site showing the amount of flooding involved, the location and character of each proposed dam and of other contingent works;</p> |
| Transmission. | <p>(g) a map of the survey of the proposed final location of the centre line of all main transmission lines to and including the receiving stations;</p> |
| Lands occupied. | <p>(h) said plans or maps shall in every case show the location and area of the lands which are required to be occupied, used, or flooded in connection with the proposed works;</p> <p>(i) a general report outlining and</p> |

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General report, covering –	describing the plan by which the applicant proposes to develop the water-power. Such report shall set out –
Scope of project.	<ul style="list-style-type: none"> (i) the dams, weirs, tunnels, races, flumes, sluices, pits and other structures or works which it is proposed to build or make in connection therewith; (ii) the form in which the power developed is to be used, i.e., whether for direct mechanical connection, generation of electricity or otherwise, and for what purpose it is to be used; (iii) any other data necessary to a full understanding of the nature of the undertaking;
Physical data.	<ul style="list-style-type: none"> (iv) the natural height of the fall or rapid; (v) the extreme high and low water levels at the power dam site and the power station site, and of all bodies of water proposed to be used as storage reservoirs; (vi) The flow of water in cubic feet per second at the high, low and average stages of same; (vii) The estimated capacity in horse-power of the fall or rapid in its natural condition at the average low stage of water; (viii) The area and available capacity of each proposed storage reservoir; (ix) The estimated percentage of stream-flow to be made available from storage;

Construction data.

- (x) all other data necessary to a full consideration of the natural features of the site or sites of the proposed works;
- (xi) the estimated total average effective head it is proposed to develop;
- (xii) the height and full description of any dams or weirs, which it is proposed to construct;
- (xiii) the increase in the level of the water to be brought about, and the area and character of lands to be flooded by such dams or weirs;
- (xiv) the effective discharging capacity of such dams or weirs and the type of the proposed control works;
- (xv) the length and full description of the proposed water conduits;
- (xvi) a full description of the power station including the type, number and rated capacity of the water-wheels and generators proposed to be used, both in the initial and in the final development;
- (xvii) the probable load factor of the power system;
- (xviii) the length in miles and a full description of all main transmission lines;
- (xix) all other data necessary to a full consideration of the proposed works;
- (j) the report mentioned in the last preceding paragraph shall in all cases

Estimates of

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cost.

be accompanied by preliminary estimates of cost;

Field notes.

- (k) copies of field notes of the entire survey of water conduits, transmission lines, exterior boundaries, powerhouse and reservoir sites, or of such parts thereof as the Chief Works and Hydraulics Officer may require, tied in wherever possible to the existing system of the Land Surveys;

Neighbouring works.

- (l) if there are other works already constructed or in course of construction in the neighbourhood of the proposed works, for diverting or using water from the same or tributary streams, the said plans shall indicate the location and give the distance from the proposed works, of the nearest of such other existing works both above and below the proposed works, and, if a power development, the normal elevation of the head-water and tail-water thereof, or if other than a power development, the elevation of the sill of the head-gate or head-gates, such elevations in every case to be referred to the same system of elevations as are used to designate elevations at the site of the proposed works; and if there are any other works or structures, such as bridges, railways, highways and canals, or any other public or private works whatsoever which might affect or be affected by the construction,

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maintenance or operation of the proposed works, the said plans shall indicate the location and set out the governing elevations of such other works or structures.

(3) The said maps, plans and specifications shall be signed by a professional engineer of recognized standing, satisfactory to the Chief Works and Hydraulics Officer, and shall be filed with the Chief Works and Hydraulics Officer. Elevations should be tied in to mean sea-level datum or to a datum acceptable to the Chief Works and Hydraulics Officer.

PUBLICATION AND OBJECTIONS

Publication of applications.
[1 of 1972]

8. (1) Forthwith upon the filing by the applicant of such data as is required by these Regulations and in every case before the issue of a licence in favour of the applicant, the Chief Works and Hydraulics Officer shall cause to be published, in three successive issues of the *Gazette* a notice of the application.

(2) Such notice shall be marked at the top in plain letters "Hydro-Electric Power Application", and shall be in a form approved by the Chief Works and Hydraulics Officer, and shall give substantially the following information:

- (a) Name and Address of applicant;
- (b) Date of application;
- (c) Name or clear description of source of supply;
- (d) Place of diversion clearly described;
- (e) If storage or pondage of water is contemplated, the place of storage,

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the capacity of the intended reservoir,
and a general description of the lands
which will be flooded;

- (f) Maximum horse-power capacity of proposed plant;
- (g) Nature of the undertaking and utilization of the power;
- (h) A statement that the application has been filed with the Chief Works and Hydraulics Officer, and that objections may be filed by any interested party with the Chief Works and Hydraulics Officer;
- (i) Such other information as the Chief Works and Hydraulics Officer may decide.

Objections.
[1 of 1972]

9. (1) Any person may, within twenty-one days after publication of the first advertisement, lodge with the Chief Works and Hydraulics Officer a petition to the President objecting to the grant of the licence.

(2) Every petition shall state shortly the grounds of objection to the grant of a licence and shall set out the address of the petitioner.

(3) The petitioner shall lodge with his grounds of objection a statutory declaration containing the material facts on which he relies in support of his grounds of objection.

(4) The petitioner shall, within two days after lodging the petition and statutory declaration, deliver a copy thereof at the registered address of the applicant.

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Answer of
applicant.
[1 of 1972]

10. (1) The applicant may, within fourteen days after delivery of the petition, lodge with the Chief Works and Hydraulics Officer –

- (a) an answer to the petition stating shortly the grounds on which he relies; and
- (b) a statutory declaration setting forth the material facts in support of such grounds.

Determination
of application
by President.

11. Any objection entered in accordance with these Regulations shall be considered by the President and shall be determined as he shall consider fit, and, subject thereto, the President may issue an interim licence to the applicant for carrying out the said development.

THE INTERIM LICENCE

Terms of
interim licence.
[1 of 1972]

12. Every interim licence for the development of a water-power or storage undertaking under these Regulations shall set out particulars and lay down requirements, in so far as applicable to the case, with respect to the following matters:

Recitals.

- (a) a recital or recitals giving –
 - (i) the name and address of the interim licensee and date of his application;
 - (ii) the name and location of the power or storage site, the statement that lands or waters are required to be used or occupied in carrying out the undertaking, and briefly the nature of the works and

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- undertaking proposed for the development of the said site; also a reference to any plans or data on file and where filed in which the said works and undertaking are more fully shown or described;
- (iii) the date of each permit and extension thereof which may have been issued in favour of the interim licensee and a statement whether the requirements thereof and of the Regulations have been fully complied with by such interim licensee;
- (b) the time within which an initial development of the site capable of producing and having available for beneficial use a stated minimum amount of horse-power measured on the turbine shaft, or in the case of a storage undertaking, capable of storing a specified quantity of water, shall be completed, such initial development in every case to represent substantial progress towards the completion of the entire development of the site as outlined in the plans approved by the Chief Works and Hydraulics Officer;
- (c) a general statement with respect to the lands which the interim licensee may, for the time being and subject to the provisions hereinafter set out, enter upon, use or occupy for making

Time for completion of initial development.

Use of lands.

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- Temporary user.
- (d) surveys and investigations and constructing works;
the amounts of river-flow, if any, which may be temporarily diverted, used or stored under the interim licence, pending the issue of a final licence;
- Rentals and royalties.
- (e) the sum or sums to be paid as rentals or royalties for the lands occupied or the waters used during the life of the interim licence, also the times and the manner of the payment thereof;
- Bond.
- (f) the amount of the bond, if any, required to be deposited by the interim licensee as security for the performance of the terms and conditions of the interim licence;
- Final licence on fulfilment.
- (g) the issue in favour of the interim licensee upon the completion of his initial development and observance and fulfilment by him of all the terms and conditions required by the said interim licence and under these Regulations to be by him observed or fulfilled of a final licence for the use or storage of water, for the development of energy therefrom, for the utilization of such energy, and for the use or occupation of lands which, in the opinion of the President are required for the proper maintenance and operation of the works; and a statement of the principal terms, which, subject always to these

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Regulations, will be embodied in such final licence when issued, including –

- (i) the maximum flow or quantity of water which may be diverted from time to time at the place of diversion, and used from time to time at the place of use, respectively, under such final licence; and if storage is involved, the maximum capacity of storage permissible from time to time at each storage site; subject in either case to the control and regulation of the stream-flow and of users on the stream as hereinafter provided;
- (ii) a brief description of the undertaking in respect of which such final licence is to be issued, including the use which may be made of the power or storage, whether power maybe sold or delivered to or used by other than the applicant, and if so, the territory within which such sale, delivery, or transfer of the right of use may be exercised;
- (iii) the term of the final licence;
- (iv) the sum or sums to be paid as rentals or royalties during the period of the final licence for waters used or stored and for the lands occupied, respectively, or for any other privilege granted;

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Special terms. (h) any other special terms and conditions which, subject always to these Regulations, may be imposed by the President.

Incorporation of terms. 13. Every interim or final licence shall be deemed to incorporate and shall be subject to the provisions of the Regulations in force at the time of the issue of such interim or final licence insofar as applicable to the said or interim or final licence without restatement of the said provisions in such interim or final licence, and shall also be subject to such other stipulations, provisos and conditions, not inconsistent with these Regulations, as the President may impose.

Commencement of construction. 14. Forthwith after the execution of the interim licence the interim licensee shall commence the construction of the said works and shall thereafter without interruption, except such as may be occasioned by act of God or other major cause beyond the control of the interim licensee (other than want of funds) carry on and complete the construction of the said works according to the plans and specifications as so approved, and subject to the terms of the interim licence and of these Regulations.

Temporary nature of rights. 15. Only such interim rights of entry upon or of use or occupation of any lands shall be acquired by virtue of any interim licence executed under these Regulations as may, in the opinion of the President, be necessary for the purpose of making surveys, preparing maps and plans, constructing works and otherwise carrying out the terms of the interim licence. The president may, from time to time, as plans and information are filed showing the extent and scope of the works and undertaking of the interim licensee with greater precision than was possible when the interim licence was executed, designate, allot, amend and limit the areas of the said lands which the interim licensee is permitted to enter upon, use or occupy for the purpose aforesaid.

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[Subsidiary]*Hydro-Electric Power Regulations*Change in plans.
[1 of 1972]

16. The interim licensee, before making any material change in the plans as approved, or in the works constructed or under construction in pursuance of his licence or in the location thereof authorized, shall submit a complete and satisfactory statement and plans of such proposed change to the Chief Works and Hydraulics Officer, and shall not proceed to carry out the same until such proposed change has been authorized.

Inspection
during
construction.
[1 of 1972]

17. (1) The Chief Works and Hydraulics Officer, or the Engineer or any person authorized by either for that purpose shall have free access at all times to all parts of the lands being occupied or of the works being constructed by any interim licensee for the purpose of ascertaining whether the terms and conditions of the interim licence are being satisfactorily carried out by the interim licensee, and in particular whether the construction of the work is in accordance with the plans and specifications approved as hereinbefore provided; also for the purpose of checking and taking note of construction-cost data; for which purposes the contractor or any sub-contractor shall give the person so authorized for the purpose access to figures in the possession of such contractor or sub-contractor at all reasonable times.

(2) The interim licensee shall abide by, conform to and carry out all reasonable written instructions of any person inspecting under paragraph (1) regarding the construction of all works in accordance with the plans and specifications approved as hereinbefore provided, and in case of dispute, regarding the reasonableness of such written instructions, or regarding the requirements of the plans and specifications, the President's decision shall be final and conclusive; and in case the interim licensee does not abide by or conform to and carry out the said written instructions the President may cause the interim licensee to suspend all operations with respect to works herein mentioned until the President gives instructions to resume the same, and in the case of continued refusal by the interim licensee the President

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may cancel the interim licence.

Reports.
[1 of 1972]

18. The interim licensee shall submit such reports of progress during construction of the said works as the Chief Works and Hydraulics Officer may from time to time require.

Amendment of
interim licence.

19. Subject to these Regulations, the terms of any interim licence may be amended by a supplementary licence granted by the President; and plans and specifications previously approved may be amended with the consent in writing of the President, but any such amendment shall affect only the portion specifically covered in such supplementary licence or writing, and shall in no case operate to alter or amend or in any way whatsoever be a waiver of any other part, condition or provision of the original interim licence.

Default by
interim
licensee.
[1 of 1972]

20. (1) If the interim licensee fails to commence the actual construction of the initial development in good faith within the time required under his interim licence or fails to make substantial and satisfactory progress in the first year of the period allowed for the construction of the said initial development, the President may cancel the interim licence.

(2) If the interim licensee fails to expend on the initial development within any of the stated periods set out in his interim licence, the amount required by such licence to be so expended, or fails to complete the said development within the time specified, or fails to comply with any other term or condition of his interim licence or of these Regulations, his interim licence shall be subject to cancellation by the President after a full report has been made on the matter by the Chief Works and Hydraulics Officer and after sixty days' notice has been given to the interim licensee.

(3) If such failure occurs subsequently to the time when the licensee has expended on the initial development one-fourth of the total amount that the licence requires shall be expended, the interim licensee may appeal from the

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decision of the President to the High Court.

Completion of
initial
development.
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21. (1) As soon as the interim licensee has completed his initial development and otherwise fulfilled the terms of his interim licence he shall file in the office of the Chief Works and Hydraulics Officer written notice of such completion and fulfilment.

(2) The Chief Works and Hydraulics Officer shall thereupon, except in the cases provided for in the next following paragraph cause an inspection, and if necessary a survey, of the works constructed or used and of the lands and waters used or occupied in connection with the undertaking to be made.

(3) In those cases where the Chief Works and Hydraulics Officer deems inspection unnecessary he may require the interim licensee to file not later than sixty days after the expiry of the time fixed for such completion, proof of the said completion and fulfilment by a statutory declaration.

(4) Upon compliance on the part of the licensee with the requirements of the foregoing paragraphs, the Chief Works and Hydraulics Officer shall determine a date which, for the purposes of these Regulations, shall be the date of completion of the initial development.

THE FINAL LICENCE

Grant of final
licence.

22. (1) Upon the completion of the initial development according to the plans previously approved and upon fulfilment and compliance otherwise with all the terms and conditions of his interim licence and of such of the provisions of these Regulations as are applicable to his case, the interim licensee shall be entitled to the issue in his favour by the President of a final licence authorizing the diversion, use, or storage of water at the site in question, for the development of energy therefrom, for the utilization of such energy, and for

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the occupation or use of the lands which, in the opinion of the President, are required for the proper maintenance and operation of the works.

Terms of final licence.

23. The final licence shall embody the terms which were set out in the interim licence for incorporation into such final licence, and such other terms and conditions, not inconsistent with the regulations in force at the time of the issue of such final licence, as the President may impose, including in so far as applicable, the following particulars:

Recitals.

(a) a recital clause or clauses, giving –

- (i) the name and address of the licensee;
- (ii) the name and location of the power-site, with particular reference to the waters of the State whose use is required in its development;
- (iii) a reference to the interim licence which authorised the construction of the works and any amending licence issued, and a statement whether or not the conditions thereof have been fully complied with;

Waters granted.

- (b) the maximum flow or quantity of water which may be diverted from time to time at the place of diversion, and used from time to time at the place of use, respectively, under the licence; and, if storage is involved, the maximum capacity of storage permissible from time to time at each storage site, subject in either case to the control and regulation of the

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Works authorised.	<p>stream-flow and of storage in the interests of all the users on the stream as hereinafter provided;</p> <p>(c) a statement setting forth clearly the position and extent of the works authorised to be maintained and operated under the licence;</p>
Lands required.	<p>(d) an accurate description of the lands which may be entered upon, used or occupied for the maintenance and operation of the said works, setting out separately lands in any of the following classes:</p> <p>(i) lands not covered by water required for main diverting works, power-houses, etc.;</p> <p>(ii) lands covered by water required for the said purposes;</p> <p>(iii) lands required only to be flooded in connection with the storage or pondage of water;</p> <p>(iv) lands required only for the rights of way for water conduits, transmission lines, etc.;</p> <p>(v) lands, if any, required for substations, distributing stations, terminal stations, etc.;</p>
Undertaking	<p>(e) a brief description of the undertaking in respect of which the licence is</p>

authorised.

issued, including the use which may be made of the power, whether the power may be sold or delivered to or used by other than the licensee, and if so the territory within which such sale, delivery or transfer of the right of use may be exercised;

(f) the term of the final licence;

Term.

(g) the sum or sums to be paid as rentals or royalties during the period of the licence for waters used or stored and for the lands occupied respectively; or for any other privileges granted.

Annual rental.

Term of final licence.

24. Every licence shall be limited to such term not exceeding fifty years from the time fixed in the original interim licence for the completion of the initial development, as may be agreed upon between the President and the licensee.

ACTUAL COST

Assessment of actual cost.

25. For the purposes of the Act the actual cost of any undertaking or of any addition thereto shall be arrived at by taking into account the actual legitimate cost of any works in use and useful for the purposes of the undertaking at the time that any particular inquiry is being made, and shall ordinarily include—

(a) the cost of engineering services appertaining to the construction of such development and works,

(b) interest during construction,

(c) taxes and insurance during

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construction,

- (d) contractor's profit,
- (e) the purchase of equipment,
- (f) the cost of roads, railways, clearings, or other essential works undertaken and carried on solely in the construction of such development or works and not independently profitable,
- (g) such other expenditures as are necessary and inherent items of construction;

but shall in no case include—

- (i) promotion expenses,
- (ii) the cost of underwriting, selling, or disposing of stocks and bonds.

RENTALS AND ROYALTIES

Payment of
rental.

26. The annual rental shall begin to run from the date on which the interim licence is issued. The first payment thereof shall be for the part of the year between the said date and the end of the then current calendar year. Subsequent rentals shall be payable in advance on or before the second day of January in each year during which the interim or final licence is in force.

Payment of
royalty.

27. (1) The licensee shall from the date on which the Chief Works and Hydraulics Officer certifies the completion of the initial development (being a date from and after the

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[1 of 1972] date fixed in the interim licence for this said completion) pay such amounts (hereinafter called "royalty") calculated in accordance with the terms of the licence and these Regulations.

(2) Payments of royalty shall be due quarterly in arrears on the first day of April, the first day of July, the first day of October and the first day of January.

Revision of royalty.
c. 89:01

28. The royalty rate shall be subject to revision every five years after the first quarterly payment provided that no upward revision of the said rate may be made if the licensee has submitted his accounts for examination by an accountant qualified to be appointed auditor of a company under section 121(8) of the Companies Act, and it is established to the satisfaction of the President that the proposed revised rate would not be justified in all the circumstances of the case:

Provided that the President may in any particular case approve a fixed sum for royalties for the term of the licence.

Keeping of records and statistics.
[1 of 1972]

29. The licensee shall keep all necessary records and statistics of the undertakings and shall supply to the Chief Works and Hydraulics Officer all such data and information as may be required by him; and shall permit any duly authorised representative of the Chief Works and Hydraulics officer to inspect such meters and instruments of the licensee as he may deem necessary for the purpose of ascertaining the royalty payable.

Non-payment of royalty.
[1 of 1972]

30. (1) If the royalty is not paid within sixty days of the date it becomes due, interest at the rate of six per cent *per annum* shall be added thereto, and the total amount shall bear interest compounded annually at six per cent *per annum* from the latest date until paid.

(2) The royalty together with the six per cent

added by way of penalty and interest as above provided shall be the first lien or charge upon the entire water-power development, the property, assets, rents and revenues of the licensee.

(3) If any royalty remains unpaid for more than one year after the latest date when it becomes payable, the licensee shall be given notice thereof by the Chief Works and Hydraulics Officer and if not paid within sixty days after such notice has been given, the Chief Works and Hydraulics Officer may—

(a) request the Attorney-General to sue in any court of competent jurisdiction for the amount thereof together with the six per cent penalty and interest as above provided;

(b) take such action as is provided for cases of default under the Act or these Regulations.

(4) The acceptance of any payment shall not be deemed to be a waiver of any antecedent or then subsisting breach of any of the terms or conditions which have been accepted by the licensee.

31. All payments required to be made by the licensee shall be made to the Chief Works and Hydraulics Officer.

Payments made to Chief Works and Hydraulics Officer.
[1 of 1972]

RIGHTS AND DUTIES OF LICENSEES

32. Every licence shall be valid and effective to authorize entry upon and use or occupation of any lands specified therein only in such manner and to such extent and for such length of time as may be necessary for the purpose of

Use of lands.
[1 of 1972]

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58 Cap. 56:03

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constructing, maintaining and operating the works authorized to be constructed, maintained and operated under this licence, and the licensee shall carry on operations under the licence to the satisfaction of the Chief Works and Hydraulics Officer.

Licence not conferring rights to minerals. [1 of 1972]

33. A licence shall not confer on the licensee the right to any gold, silver, or other metals, minerals, ores, bauxite, rock, gems, or precious stones, coal or mineral oil in or under the land licensed which shall be saved and reserved to the State with the right to enter upon the land licensed to search and mine therefor, subject however, to the right of the licensee to receive compensation for any loss or damage to buildings occasioned by such searching and mining, the amount of such compensation to be assessed by the Chief Works and Hydraulics Officer.

Free access to landing places to be maintained.

34. The licensee shall not by any operations under this licence impair the free access to any landing place in actual use at the date on which the licence was granted in any river or waterway, nor in any way interfere with or prevent any person whomsoever going to or from such landing place as aforesaid or any person now or hereafter holding lands on the banks thereof using any river or waterway for drainage purposes or for any other purpose for which such person or persons may lawfully use the same.

Limited right to cut timber.

35. The licensee may cut such timber from the said lands as he shall require for the purpose of constructing, maintaining and operating the works authorised under this licence subject to any Act or Regulations for the time being in force relating to timber on State land or State forest and payment of royalty thereon but no further and shall furnish true and proper returns of the timber so cut to the Conservator of Forests.

36. If at any time during the term of a licence any

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Resumption of
lands for
public
purposes.

part or parts of the licensed area are required for the purposes of any township or village, road or railway or for any other public purpose whatsoever it shall be lawful for the President (the licensee having been notified and having thereafter received six calendar months previous notice of the intention of the President in that behalf) to cause to be withdrawn the part or parts of land so required and the licensee shall be entitled to compensation to be assessed by the President for all damage caused to him as a result of such withdrawal.

Licensee to
observe certain
standards.

37. Every licensee shall at all times install and use first-quality, modern, standard works, plant and equipment, giving consideration to requisite suitability of design, safety, strength, durability, efficiency, and all other relevant factors whatsoever, and shall maintain the same in good repair and condition, and shall exercise all due skill and diligence so as to secure satisfactory operations thereof.

Inspection of
accounts.
[1 of 1972]

38. (1) The Chief Works and Hydraulics Officer or any person appointed by him for the purpose shall have free access to all parts of the works, lands and property of the licensee and all books, plans, records or accounts used in connection with or affecting the undertaking hereunder, and may from time to time make measurements and observations and take such other steps for carrying out any enquiry as may be considered necessary or expedient in the operations under this licence.

(2) The findings of the Chief Works and Hydraulics Officer with respect to the quantity of water diverted, used or stored, or capable of being diverted, used, or stored or the amount of power developed or capable of being developed under the authority of the licence shall be conclusive and binding upon the licensee.

Change

39. Every licensee, before making any material change in any existing works or in his location, shall submit a

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in plans.
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complete and satisfactory statement and plans of such proposed change to the Chief Works and Hydraulics Officer, and shall not proceed to carry out such change until the same has been approved.

Direction to
install meters,
etc.

40. Every licensee shall when required by the Chief Works and Hydraulics Officer so to do, install such meters, measuring wires, gauges or other approved devices as may be adequate for determining the amount of water used or power developed in the operation of the works, or determining the flow of the stream from which water is being diverted, and for determining the amount of water held in or drawn from storage.

Failure to meet
public demand.
[1 of 1972]

41. Upon a report being made by the Chief Works and Hydraulics Officer that a licensee has not developed the amount of power for which there is a public demand and which could be reasonably developed from the flow of water granted under his licence or controlled by him, the President may order such licensee to develop and render available for public use the additional amount of power for which there is, in the opinion of the President, a public demand, up to the full extent possible from the amount of water granted under such licence or controlled by such licensee and within a period to be fixed by the President, which period shall not be less than two years after such licensee or the person in charge of the existing works shall have been notified of such order; and in default of compliance with such order the provisions of the Act for the cancellation of licences shall apply in respect of such default.

Securing of
enlarged
development.
[1 of 1972]

42. (1) The President may authorise the Chief Works and Hydraulics Officer where it has been reported that an enlarged or more comprehensive development of any water-power may be established at or near the site occupied by the licensee, to offer to the licensee a further licence in addition to the existing licence for the carrying out of such enlarged or

more comprehensive development.

(2) If the licensee fails, within twelve months after such offer of a licence is made, to accept the same, and in good faith to begin and carry on to completion such new development, then in such case, the President may order the existing licence terminated:

Provided, however, that the licensee shall be subject to compensation as on the expiry of the licence.

Implied terms. 43. Every licence shall be deemed to have been executed on the condition that the licensee shall —

- (a) divert, use, or store the water authorised to be diverted, used, or stored by him in such a manner as not to interfere, in the opinion of the President, with the maximum advantageous development of the power and other resources of the river upon which his works are located;
- (b) conform to and comply with any orders in respect of the control or regulation of the flow of the waters of such river as may be made from time to time by the President or any person authorised by the President in that behalf;
- (c) at no time cause or permit the surface-level of the waters of such river or of any storage reservoir operated by him to be raised or lowered beyond the limits which shall be fixed from time

to time by the President or by a person authorised by the President in that behalf.

Expenditure returns.
[1 of 1972]

44. The licensee shall keep a true and detailed account of all expenditures made in respect of the works, lands and properties under this licence and shall file annually with the Chief Works and Hydraulics Officer on or before the 31st day of March a return for the year ending the 31st day of December preceding, based on the said account and being an accurate summary thereof, such return to be attested by the oath of the licensee.

Fair Wages Rules.

45. Every licensee shall pay to those persons employed in the construction, alteration, extension, maintenance and operation of the works authorised under this licence wages in accordance with the Fair Wages Rules or any Rules or Regulations replacing them and from time to time in force in Guyana in so far as they may be applicable to the licensee.

Observance of laws of navigation, etc.

46. Notwithstanding any rights granted or approval given under any licence, the licensee shall comply fully with the written laws of Guyana governing the preservation of the purity of the waters, or governing logging, forestry, fishing or other interests present or future which might be affected by any operations conducted under this licence.

SMALL WATER-POWERS

Water-powers not exceeding 500 horse-power.
[1 of 1972]

47. (1) Applications for the development of State water-powers, the capacity of which, under the average usable flow conditions, does not, in the opinion of the Chief Works and Hydraulics officer, exceed five hundred horse-power, and which are not deemed to be of primary importance for commercial or public utility purposes, may be dealt with under such special Regulations as the President

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may make from time to time, subject, however, to the following provisions:

- Term. (a) the licence-term shall not exceed twenty years, and renewals shall not exceed five years each;
- Renewal. (b) applications for renewal shall in every case follow the procedure in force at the time such application is made, and the renewal licence shall in every case be subject to the laws and regulations in force at the time such licence is issued;
- Expiry of term. (c) upon the expiry of any term or any renewal, if the licensee either has not applied for or has failed to secure a renewal licence, the water-power development and all works and structures connected therewith shall become the property of the State without compensation to the licensee; but with the privilege on the licensee's part of removing from the lands within such period after the said expiry as may be approved all works and structures erected or installed by the licensee in connection with such power development, which can with the consent of the Chief Works and Hydraulics Officer, be removed without damage to the said lands;
- Resumption of possession. (d) the President may at any time, upon giving the licensee one year's notice, cancel any licence granted under this

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regulation, and resume full possession and control of the water-power development and all works, lands, and structures connected therewith, or at the option of the President, of any part of such works and structures;

Compensation.

- (e) compensation, in such case, shall be paid to the licensee for the works, lands, and structures taken over, to the amount of the actual cost thereof, determined in accordance with these Regulations together with such percentage added to such amount by way of bonus, not greater than fifteen per cent nor less than three per cent of such amount, as may be determined by the Minister.

Water-powers not exceeding 100 horse-power.

(2) The Chief Works and Hydraulics Officer may receive applications for the development and use of any State water-powers, the capacity of which, under average usable flow conditions, does not exceed, in his opinion, one hundred horse-power, and which are not of primary importance for public utility or commercial purposes; and may issue licences for the development and use of any such water-powers, subject, however, to the provisions of subparagraphs (a), (b), (c), (d) and (e) of the preceding paragraph:

Provided that the compensation to be paid to the licensee under the said subparagraphs (d) and (e) for any works taken over if the licence should be terminated before the expiry of the term shall, in cases arising under this paragraph, be arrived at by agreement of the parties, or in the case of non-agreement, by the Minister.